

Kingdom of Cambodia
Nation Religion King

Royal Government of Cambodia
No. 79 អនក្រឹត្យ

Sub-Decree
On
Provisional fines for the violation of the Law on Accounting and Auditing

It is hereby decided
Chapter 1
General Provisions

Article 1.-

This Sub-decree defines the amounts of provisional fines for the violation of the Law on Accounting and Auditing, and the mechanism for managing the provisional fines to promote the responsibilities of non-profit enterprises, accountants and auditors for the effective enforcement of the Law on Accounting and Auditing.

Article 2.-

This Sub-decree shall apply to:

- The enterprises and legal entities registered with the Ministry of Commerce and/or the General Department of Taxation as large and medium taxpayer enterprises.
- All non-profit entities registered with the specialized ministries and institutions.
- All accountants and auditors who are members of the Kampuchea Institute of Certified Public Accountants and Auditors and have obtained accounting and/or auditing profession licenses from the **NAC**.

Article 3.-

The terms used in this Sub-decree shall be defined as follows:

- Failure to hold accounting books refers to the failure to retain accounting documents and record those transactions into accounting journals or books as defined. The accounting documents include, but are not limited to, invoices, payment receipts, and vouchers. The accounting journals or books include, but are not limited, to the purchase book, sales book, payment receipt book, and payment book.
- Offender refers to a non-profit enterprise, organization, accountant, or auditor who violates the Law on Accounting and Auditing.
- Accountant and/or auditor as a natural person refers to a member of the Kampuchea Institute of Certified Public Accountants and Auditors who has obtained the accounting and/or auditing profession licenses from the **NAC**
- Accountant and/or auditor as a legal entity refers to an accounting and auditing enterprise which has obtained accounting and/or auditing profession licenses from the **NAC**.
- Large and medium taxpayer enterprise refers to an enterprise categorized by a Prakas of the Minister of Economy and Finance.
- Persistent disobedience refers to an offense committed by a non-profit enterprise or organization, accountant or auditor who has once been penalized with the requirement to pay provisional fine, but still committed the same action.
- License holder refers to an individual who has obtained an accounting and/or auditing profession license from the **NAC**.

Chapter 2

Offenses and Provisional Fines

Section 1

Enterprises

Article 4.-

The large taxpayer enterprises shall be subject to a provisional fine for the following offenses:

- A- Unauthorized use of accounting dates in a way different from the Law on

- Accounting and Auditing shall be subject to a provisional fine of 2,000,000 (two million) riels.
- B- Failure to use Khmer language in the accounting book and financial statement shall be subject to a provisional fine of 2,000,000 (two million) riels.
 - C- Unauthorized use of any currency other than Khmer riel in the accounting book and financial statement shall be subject to a provisional fine of 2,000,000 (two million) riels.
 - D- Any failure or delay in submitting a financial statement to the General Secretariat of the **NAC** shall be subject to a provisional fine of 2,000,000 (two million) riels.
 - E- Failure to hold the accounting book shall be subject to a provisional fine of 10,000,000 (ten million) riels.
 - F- Failure to prepare a financial statement in accordance with the accounting standards in force shall be subject to a provisional fine of 10,000,000 (ten million) riels.
 - G- Failure to submit a financial statement for an independent audit shall be subject to a provisional fine of 20,000,000 (twenty million) riels.
 - H- Failure to submit a financial statement in accordance with the accounting standards in force to fulfill the tax obligations shall be subject to a provisional fine of 10,000,000 (ten million) riels.
 - I- Failure to retain accounting documents in accordance with the law shall be subject to a provisional fine of 10,000,000 (ten million) riels.

Article 5.-

The medium-taxpayer enterprises shall be subject to a provisional fine for the following offenses:

- A- Unauthorized use of accounting dates in a way different from the Law on Accounting and Auditing shall be subject to a provisional fine of 1,500,000 (one million five hundred thousand) riels.
- B- Failure to use Khmer language in the accounting book and financial statement shall be subject to a provisional fine of 1,500,000 (one million five hundred thousand) riels.
- C- Unauthorized use of any currency other than Khmer riel in the accounting book and financial statement shall be subject to a provisional fine of

- 1,500,000 (one million five hundred thousand) riels.
- D- Any failure or delay in submitting a financial statement to the General Secretariat of the **NAC** shall be subject to a provisional fine of 2,000,000 (two million) riels.
 - E- Failure to hold the accounting book shall be subject to a provisional fine of 10,000,000 (ten million) riels.
 - F- Failure to prepare the financial statement in accordance with the accounting standard in force shall be subject to a provisional fine of 8,000,000 (eight million) riels.
 - G- Failure to submit the financial statement for an independent audit shall be subject to a provisional fine of 16,000,000 (sixteen million) riels.
 - H- Failure to submit the financial statement in accordance with the accounting standard in force to fulfill the tax obligations shall be subject to a provisional fine of 8,000,000 (eight million) riels.
 - I- Failure to retain accounting documents in accordance with the law shall be subject to a provisional fine of 8,000,000 (eight million) riels.

Section 2

Non-profit Organizations

Article 6.-

The non-profit organizations shall be subject to a provisional fine for the following offenses:

- A- Unauthorized use of accounting dates in a way different from the Law on Accounting and Auditing shall be subject to a provisional fine of 800,000 (eight hundred thousand) riels.
- B- Failure to use Khmer language in the accounting book and financial statement shall be subject to a provisional fine of 800,000 (eight hundred thousand) riels.
- C- Unauthorized use of any currency other than Khmer riel in the accounting book and financial statement shall be subject to a provisional fine of 800,000 (eight hundred thousand) riels.
- D- Any failure or delay in submitting a financial statement to the General Secretariat of the **NAC** shall be subject to a provisional fine of 1,200,000 (one million two hundred thousand) riels.

- E- Failure to hold the accounting book shall be subject to a provisional fine of 6,400,000 (six million four hundred thousand) riels.
- F- Failure to prepare the financial statement in accordance with the accounting standard in force shall be subject to a provisional fine of 6,400,000 (six million four hundred thousand) riels.
- G- Failure to submit the financial statement for an independent audit shall be subject to a provisional fine of 1,600,000 (one million six hundred thousand) riels.
- H- Failure to submit the financial statement in accordance with the accounting standard in force to fulfill the tax obligations shall be subject to a provisional fine of 4,800,000 (four million eight hundred thousand) riels.
- I- Failure to retain accounting documents in accordance with the law shall be subject to a provisional fine of 8,000,000 (eight million) riels.

Section 3

Accountant and Auditor

Article 7.-

An accountant as a natural person shall be subject to provisional fines for the following offenses:

- A- A violation of paragraph 2 of Article 28 of the Law on Accounting and Auditing shall be subject to a provisional fine of 5,000,000 (five million) riels.
- B- In the event of any delay in paying the annual accounting profession license fee, the holder shall be subject to a provisional fine of 100,000 (one hundred thousand) riels per day, counting from the day on which the license expired.
- C- In the event of any delay in requesting the renewal of the accounting profession license, the holder shall be subject to a provisional fine of 100,000 (one hundred thousand) riels per day, counting from the day on which the license expired.

Article 8.-

An accountant as a legal entity shall be subject to provisional fines for the following offenses:

- A- In the event of any delay in paying the annual accounting profession license fee, the holder shall be subject to a provisional fine of 150,000 (one hundred fifty thousand) riels per day, counting from the day on which the license expired.
- B- In the event of any delay in requesting the renewal of the accounting profession license, the holder shall be subject to a provisional fine of 150,000 (one hundred and fifty thousand) riels per day, counting from the day on which the license expired.

Article 9.-

An accountant as a natural person shall be subject to provisional fines for the following offenses:

- A- Failure to use Khmer language or unauthorized use of English language shall be subject to a provisional fine of 10,000,000 (ten million) riels.
- B- The preparation of an auditing report without compliance with the audit-related standards and the international conformation of Cambodia shall be subject to a provisional fine of 10,000,000 (ten million) riels.
- C- The provision of auditing services to non-profit enterprises or organizations without compliance with the conditions set forth in paragraph 1 of Article 15 of the Law on Accounting and Auditing shall be subject to a provisional fine of 20,000,000 (twenty million) riels.
- D- The provision of auditing services to non-profit enterprises or organizations without compliance with the conditions set forth in paragraph 2 of Article 15 of the Law on Accounting and Auditing shall be subject to a provisional fine of 20,000,000 (twenty million) riels.
- E- Failure to retain auditing evidence for at least ten years from the date on which the audit report was issued shall be subject to a provisional fine of 20,000,000 (twenty million) riels.
- F- The violation of paragraph 2 of Article 28 of the Law on Accounting and Auditing shall be subject to a provisional fine of 20,000,000 (twenty million) riels.
- G- Any delay in paying the annual auditing profession license fee shall be subject to a provisional fine of 150,000 (one hundred fifty thousand) riels per day, counting from the day on which the license expired.
- H- Any delay in requesting the renewal of the auditing profession license shall

be subject to a provisional fine of 150,000 (one hundred and fifty thousand) riels per day, counting from the day on which the license expired.

Article 10.-

An auditor as a legal entity shall be subject to a provisional fine for the following offenses:

- A- Any delay in paying the annual auditing profession license fee shall be subject to a provisional fine of 200,000 (two hundred thousand) riels per day, counting from the day on which the license expired.
- B- Any delay in requesting the renewal of the auditing profession license shall be subject to a provisional fine of 200,000 (two hundred thousand) riels per day, counting from the day on which the license expired.
- C- The provision of auditing services to non-profit enterprises or organizations without compliance with the conditions set forth in paragraph 1 of Article 15 of the Law on Accounting and Auditing shall be subject to a provisional fine of 20,000,000 (twenty million) riels.
- D- The provision of services to non-profit enterprises or organizations without compliance with the conditions set forth in paragraph 2 of Article 15 of the Law on Accounting and Auditing shall be subject to a provisional fine of 20,000,000 (twenty million) riels.
- E- The provision of auditing services to non-profit enterprises or organizations without compliance with the conditions set forth in paragraph 3 of Article 15 of the Law on Accounting and Auditing shall be subject to a provisional fine of 30,000,000 (thirty million) riels.

Chapter 3

Persistent Disobedience and Delay in the Payment of a Fine on its Due Date

Article 11.-

If an individual has once been penalized with the requirement to pay a provisional fine, but continues to commit the same instances of disobedience, he/she shall be subject to additional provisional fines as follows:

- The first instance of disobedience shall be subject to double the amount of the provisional fine first paid.

- The second instance of disobedience shall be subject to double the amount of the provisional fine paid for the first instance of persistence.
- The third instance of disobedience shall lead to the **NAC's** decision to suspend or nullify the accounting and/or auditing profession licenses for the accountant and auditor. The **NAC** will subsequently prepare a request to the relevant competent ministries to take legal action against the non-profit enterprises and organizations.

Article 12.-

If the offender fails to pay the provisional fine within 30 (thirty) days, the amount of the provisional fine will be increased twofold. If the provisional fine is not paid within more than 60 (sixty) days, the amount of the provisional fine will be increased threefold. If the provisional fine is not paid within more than 90 (ninety) days, the **NAC** will take legal action in accordance with the law.

The period of 30 (thirty) days, 60 (sixty) days, and 90 (ninety) days shall be counted from the day on which the offender received a notice on the payment of provisional fine from the **NAC**.

Chapter 4

Competent Institution, Provisional Fine Mechanism and Fine Management

Article 13.-

The provisional penalty shall be under the jurisdiction of the **NAC**. The Chairperson of the **NAC** shall be entitled to decide on behalf of the **NAC**. The General Secretariat of the **NAC** will propose and prepare a decision to impose a provisional penalty to the Chairperson of the **NAC** for review and decision.

Article 14.-

The formality and procedure for provisional penalties, payment of provisional fines, management of provisional fine payment receipts and the handling of provisional fines for the offenses defined in this Sub-decree shall be determined by an inter-ministerial Prakas between the Minister of Economy and Finance and the Minister of Justice.

The provisional fine shall be subject to inclusion in the national budget of the **NAC**.

Article 15.-

The payment of any provisional fine shall lead to legal action being extinguished.

If an individual refuses to pay the provisional fine, the Chairperson of the **NAC** may assign a delegation of the General Secretariat of the **NAC** to inspect the non-profit enterprises or organizations, accountant and/or auditor, and develop a case file of the offense to be submitted to the court in accordance with the law in force.

The competent authorities intentionally concealing the offenses of any individual shall be subject to disciplinary action, exclusive of criminal penalty.

Chapter 5

Appeal against the Provisional Penalty Decision

Article 16.-

Any individual dissatisfied with the provisional penalty decision made by the Chairperson of the **NAC** shall be entitled to submit an appeal to the **NAC** within 15 (fifteen) working days from the date on which he/she was notified of the provisional penalty decision of the Chairperson of the **NAC**.

Any individual dissatisfied with the decision on his/her appeal against the provisional penalty decision issued by the **NAC** shall be entitled to file a grievance with the Minister of Economy and Finance within 30 (thirty) working days from the date on which he/she was notified of the decision on the appeal against the provisional penalty.

If the individual remains dissatisfied with the decision of the Minister of Economy and Finance, he/she may file an appeal with the competent court within 30 days (thirty) working days from the date on which he/she received the decision of the Minister of Economy and Finance.

The complaint of the individual who is fined shall have no effect on suspending the enforcement of the decision of the Minister of Economy and Finance.

Article 17.-

The rules and procedures for settling the appeal against the provisional penalty decision shall be defined by a *Prakas* of the Ministry of Economy and Finance.

Chapter 6
Final Provision

Article 18.-

Any provisions contrary to this Sub-decree shall be abrogated.

Article 19.-

The Minister in charge of the Council of Ministers, the Minister of Economy and Finance, the secretaries of states of all ministries and the heads of all relevant institutions shall respectively implement this Sub-decree from the date of signature onwards.

Monday, the 11th day, of the waxing moon,

Month of Jyaishtha, Year of the Rat,

Tousaka, B.E 2564

Phnom Penh, June 1, 2020

Prime Minister

(Signed and stamped)

Samdech Akka Moha Sena Padei
Techo HUN SEN

Forwarded to

Samdech Akka Moha Sena Padei

Techo HUN SEN for signature.

Deputy Prime Minister

Minister of Economy and Finance

(Signed)

DR. AUN PORNMONIROTH.

CC:

- Ministry of Royal Palace
- General Secretariat of Constitutional Council
- General Secretariat of Senate
- General Secretariat of National Assembly
- Cabinet of Samdech Techo, the Prime Minister
- Cabinet of Samdech, His/Her Excellency, the Deputy Prime Minister
- As stimulated in Article 19
- Royal Gazette
- Records-Archives