

Ministry of Commerce

No.: 079 P.N.A.KBB.PRK

Prakas

On

**Formalities and Procedures for the Issuance of Interim Measures and/or Decisions
of the Competition Commission of Cambodia**

Minister of Commerce

- Having seen the Constitution of the Kingdom of Cambodia;
- Having seen Royal Decree No. NS/RKT/0918/925 dated 06 September 2018 on the Appointment of the Royal Government of Cambodia;
- Having seen Royal Decree No. NS/RKT/0320/421 dated 30 March 2020 on the Appointment and Adjustment of the Composition of the Royal Government of Cambodia;
- Having seen Royal Kram No. NS/RKM/0618/012 dated 28 June 2018 promulgating the Law on the Organization and Functioning of the Council of Ministers;
- Having seen Royal Kram No. NS/RKM/0196/16 dated 24 January 1996 promulgating the Law on the Establishment of the Ministry of Commerce;
- Having seen Royal Kram No. NS/RKM/1021/013 dated 05 October 2021 promulgating the Law on Competition;
- Having seen Sub-Decree No. 38 dated 16 March 2020 on the Organization and Functioning of the Ministry of Commerce;
- Having seen Sub-Decree No. 37 dated 17 February 2022 on the Organization and Functioning of the Cambodia Competition Commission;
- According to the necessity of the Ministry of Commerce.

Hereby Decides

Article 1.-

This Prakas sets out the formalities and procedures for any issuance of interim measures and/or decisions of the Cambodia Competition Commission “CCC” with the purpose to promote the implementation of the Law on Competition.

Article 2.-

This Prakas applies to all the formalities and procedures for the issuance of interim measures and/or decisions of the CCC for all infringements under the Law on Competition.

Article 3.-

The CCC has the authority to issue interim measures and/or decisions for infringements under the Law on Competition.

The Consumer Protection Competition and Fraud Repression Directorate-General “CCF” as the implementing body shall be in charge of enforcing the interim measures and/or decisions by the CCC for infringement under the Law on Competition.

Article 4.-

The formalities and procedures of the issuance of interim measure of the CCC shall be implemented as below:

1. At the request of investigating officials of CCF, with the reasonable grounds to believe that Article 7, Article 8, Article 9, and Article 11 of the Law on Competition have been, or are likely to be, violated, and where the CCC considers it is necessary as a matter of urgency for the issuance of interim measure as stipulated in Article 24 of the Law on Competition for the purpose of:
 - a. Preventing serious and irreparable damage to the economy or any Person; or
 - b. Protecting the public interest in cases of emergency.
2. An interim measure of the CCC stipulated under paragraph 1 above of this article may also require any Person:
 - a. To suspend the effect of, or desist from acting on, any Agreements which are suspected of violating Article 7, Article 8, Article 9, and Article 11 of this law;
 - b. To do, or refrain from doing, any activities but shall not require the payment of money.
3. The CCC may at any time withdraw an interim measure issued under paragraph 1 of this article for an acceptable reason.
4. Any interim measure issued under paragraph 1 of this article shall be ceased where:
 - a. The interim measure being withdrawn under paragraph 3 of this article; or
 - b. The CCC issues a decision in the case; or

- c. 1 (one) year from the date of the interim measure was issued or reissued for an acceptable reason.

Article 5.-

The formalities and procedures on the issuance of decision of the CCC will be implemented as below:

1. After receiving a request from the investigating officer of CCF at the conclusion of an investigation, the CCC may issue a decision to any Person concerning the violation of the Law on Competition in accordance with the following conditions:
 - a. The decision shall be issued to the relevant Person(s) subject to the decision only, and the decision must be made available to the public.
 - b. The decision shall specify:
 - A period of time by which the Person(s) must fulfil the obligations specified in the decision;
 - An expiration date of the decision.
2. The decision shall specify the following:
 - a. A description of the article(s) of this law which have been violated;
 - b. The name(s) and address(es) of the Person(s) and/or the legal representatives of the Person(s);
 - c. A statement regarding the due date for payment of any fines and details of those fines imposed pursuant to Article 35 of this law;
 - d. A detailed statement regarding any measures imposed under Article 37 of this law;
 - e. The reasons for the CCC deciding to issue the decision;

The CCC may issue a decision requiring the Person to take any other measures which the CCC considers necessary to correct the anti-competitive activities.

Article 6.-

Any Person dissatisfied with the interim measures and/or decisions of the CCC may file a petition to the CCC for a review on the interim measures and/or decisions no later than 15 (fifteen) days from the date of receiving the notification of interim measure and/or decision. The CCC shall decide on the petition no later than 30 (thirty) days from the date of receiving the petition; where there is a denial of the petition, the CCC shall specify the reasonable grounds.

If the CCC refuses to grant the request to file a petition to reviewing the interim measures and/or decisions, the Person may appeal to a competent court no later than 30 (thirty) days from the date of receiving a refusal notification.

Article 7.-

Any interim measures and/or decisions issued of the CCC may be subject to an appeal to a competent court no later than 30 (thirty) days from the date Person under investigation, violators, and the relevant Person receive a notification of the interim measures and/or decisions.

Article 8.-

An interim measure shall be effective immediately notwithstanding any appeal.

A decision shall be effective and not be subject for an appeal if:

- a. The period for appeal has expired; or
- b. The last competent court has rejected an appeal.

Article 9.-

If the Person under investigation, infringing Person, and the relevant Person fail to comply with an interim measure and/or decision of CCC, the investigating officer shall report to the CCC. The CCC may seek assistance from a competent court to enforce any interim measure and/or decision of the CCC.

Article 10.-

Investigating officers of CCF shall send notices and documents related to the interim measures and/or decisions of the CCC to the Person under investigation, violators, and the relevant Persons, to their houses/residences, head offices, or premises of conducting business in person or by mail, with citation, date, and signature or fingerprint of the handover of the documents.

In the event that the Person under investigation, violators, and the relevant Persons refuse to receive the notices and documents related to the interim measures and/or decisions, or there is no owner nor representative, the investigating officers of CCF shall post the notice at the head offices or premises of conducting business and commune/district hall. After the posting, all documents shall be deemed to have been officially received by the Person under investigation, violators, and the relevant Persons.

Article 11.-

In the event that the location for handing over the notice and relevant documents related to the interim measures and/or the decisions cannot be determined, the Investigating Officers of CCF shall publish the notice through the press, magazine, radio, television, website, newsletter, and social media of CCF within the period of 15 (fifteen) days.

Following the public releases as stated in the above paragraph, all documents shall be deemed to have been officially received by the Person under investigation, violators, and the relevant Persons.

Article 12.-

Any provisions contrary to this Prakas shall be abrogated.

Article 13.-

Members of the Cambodia Competition Commission, Chief of Cabinet, Delegate of the Royal Government in charge as the Director General of the Consumer Protection, Competition and Fraud Repression Directorate-General, and all Heads of relevant institutions shall implement this Prakas from the date of this signature.

[Buddhist Date ...]

Done in Phnom Penh, 22nd February 2023

Minister of Commerce

And Chairman of the Cambodia Competition Commission

[seal and signature]

PAN SORASAK

Recipients:

- Council of Ministers
- Cabinet of Samdech Akka Moha Sena Padei Techo Prime Minister
- Cabinet of Samdech, His Excellency and Her Excellency Deputy Prime Ministers
- Municipal and Provincial Administrations
- As stated in Article 13
- Royal Gazette
- Documentation and Archive