

KINGDOM OF CAMBODIA

Nation Religion King



Royal Government of Cambodia

No. 45 SD.P

SUB-DECREE

On

**The Organization and Functioning of the Telecommunication Regulator of Cambodia
The Royal Government**

- Having seen the Constitution of the Kingdom of Cambodia
- Having seen the Royal Decree numbered NS/RD/0913/903 dated September 24, 2013 upon appointment of the Royal Government of Cambodia;
- Having seen the Royal Decree numbered NS/RD/1213/1393 dated December 21, 2013 upon composition adjustment and supplement of the Royal government of Cambodia;
- Having seen the Royal sub-decree numbered 02/NS/94 dated July 20, 1994 promulgating the law on organization and progression of the council of ministers;
- Having seen the Royal sub-decree numbered NS/RSD/0196/20 dated January 24, 1996 promulgating the law on establishment of the Ministry of Posts and Telecommunications;
- Having seen the Royal sub-decree numbered NS/RSD/1215/017 dated December 17, 2015 promulgating the law on Telecommunications;
- Having seen the Sub-decree numbered 114 SD.P dated September 07, 2015 upon setting management structure and position in management structure of national and sub-national ministries/institutions;
- Having seen the Sub-decree numbered 20 SD.P dated April 30, 1996 upon organization and progression of the ministries and secretariats;
- Referring to the proposal of the Posts and Telecommunications Minister;

HAVE HEREBY DECIDED

Chapter 1 General Provisions

Article 1:-

This sub-decree defines the Organization and Functioning of Telecommunication Regulator of Cambodia (TRC)

Chapter 2 Functions, Duties and Structure of the Telecommunication Regulator of Cambodia

Article 2-

TRC fulfills its functions with autonomous administration and regulation as well as being independent from telecommunication operators and individuals associated with telecommunications sector.

Article 3:-

TRC shall be led by 1 (one) chairman ranking equal to the secretary of state and several members ranking equivalent with under-secretary of state as necessary.

Chairman and members of TRC have a mandate of 3 (three) years. Such mandate may be renewed at the request by the Minister of Posts and Telecommunications (MPTC) to the head of the royal government.

TRC members have to perform functions and duties handed over by the TRC chairman unless any functions and duties stipulated within article 13 of this sub-decree.

SECTION 1

Functions and Duties of Chairman and Members of Telecommunication Regulator of Cambodia

Article 4:-

TRC chairman has full rights to manage and implement works stipulated within the law on telecommunications and any provisions pertaining to regulations on telecommunications sector. TRC chairman has following functions and duties:

- Manage daily tasks of TRC
- Lead meetings of TRC
- Arrange strategy and planning of regulation in order to contribute to the development of telecommunications sector submitted to the MPTC Minister for inspection and approval
- Entering contracts and conventions on behalf of MPTC approved by MPTC Minister
- As the representative to the TRC in relation with any third persons such as national and international institutions as well as private sectors to strengthen and expand transaction on regulations in telecommunications sector.

- Ensuring the promotion and implementation of all decisions made by TRC
- As the representative of TRC before the court
- Manage budgets and properties of TRC in accordance with applicable procedures and regulations
- Supervise officers and staffs of TRC
- Make annual financial report to the MPTC minister and Economy and Finance Minister in order to monitor and make decision; and
- Implement other tasks according to instruction of the MPTC minister.

Article 5:-

The Chairman of TRC may have several national and international experts who have high skill capacities and experiences in order to serve as technical advisers.

Article 6:-

TRC members shall have functions and duties as below:

- Act as assistant to the chairman in mediation and leadership of department tasks subordinated to TRC according to appointment by the chairman of TRC
- Attend meetings as convened by the chairman of TRC
- Perform as acting chairman in case that authorized by the chairman; and
- Implement other tasks according to instruction of the chairman of TRC

SECTION 2

Candidacy of Chairman and Members of Telecommunication Regulator of Cambodia

Article 7:-

Individuals who may be selected as the chairman and members of TRC shall have following qualifications:

- Native Khmer Nationality
- At least 35 years of age (thirty five) on the date of appointment
- Shall have Bachelor Diploma with adequate qualification and proper in fulfillment of their obligations including 10-year (ten) experience for one or several skills such as Telecommunication, Information Technology, Law, Public Administration, Economy and Commerce or other sections as actual requirement
- Work capacity, honest and virtue; and
- Have never been or ever been convicted by any misdemeanor or criminal offense but have already given rehabilitation.

Article 8:-

In its own mandate, the chairman and members of TRC will be incompatible to the constitutional council members, senate members, national assembly members, or royal government members.

Article 9:-

The Chairman and members including all officers of TRC cannot have direct shares or economic benefit or role with telecommunication operators or individual associated with telecommunications sector or applicants who apply for permit, certificate or license but can be purchasers or consumers of telecommunication operators or individual associated to telecommunications sector.

In its mandate, the chairman and all members of TRC including spouses or children cannot be employed or given any position as adviser or consultant and cannot have shares or benefit in money with the communication operators or any individual related to the telecommunication sector.

The director or members of TRC shall take responsibility with offense committed by them.

Article 10:-

The position of the chairman or members of TRC shall be considered as vacancy whenever the bearer:

- Deceased
- Resigning from position in official letter
- Retiring
- Losing work capacity either spiritually or physically certified from competent ministries/institutions
- Having serious fault and lack of responsibility in fulfillment of their obligations; and
- Having been convicted by any misdemeanor or criminal offense.

Article 11:-

In case that the position of chairman or members of TRC is in vacancy before the expired date, the MPTC Minister shall assign a new composition and submit to the head of royal government in order to propose appointing and completing the mandate of such vacant director or members.

Alternate director or members shall fulfill functions and duties until the mandate termination of such director or members that is being taken place.

Article 12:-

Within 2 (two) years from their mandate expiration or resignation, the director and members of TRC shall not be permitted to work or involve with any position as adviser or expert or

consultant to the telecommunication operators or any individual associated with such telecommunications sector.

Article 13:-

The chairman and members of TRC shall organize a plenary session in order to make decision on the following cases:

- Provision, variation, suspension or revocation of any permits, certificates or licenses;
- Issuance of additional decision on several cases pursuant to article 5, paragraph (F) of the law on telecommunications;
- Develop a plan to regulate the telecommunication sector according to applicable procedure and regulation;
- Taking actions pursuant to article 63, article 69 and article 102 of law on telecommunications;
- Public procurement in accordance with applicable procedures and regulations;
- Annual budget plan of TRC in accordance with applicable procedures and regulations; and
- Conflict resolution.

Convening a plenary session and decision approval has been made in line with provisions stipulated within article 23, article 24 and article 26 of this sub-decree.

SECTION 3

Organization Chart of the Telecommunication Regulator of Cambodia

Article 14:-

TRC has following structure:

- Department of Administration, Personnel and International Relation
- Department of Planning and Finance
- Department of Telecommunication Regulation
- Department of Radio Frequency Regulation
- Department of Competition and Consumer Protection
- Department of Internal Audit and
- Provincial branches of TRC

Each department will be led by 1 (one) director and a maximum of 3 (three) to 5 (five) deputy directors. Each department shall have several subordinate bureaus as necessary. The organization and progression of each department's subordinate bureaus shall be defined by the proclamation of the MPTC minister at the request of the TRC chairman.

Organization chart of TRC is at the appendix of this sub-decree.

Article 15:-

The Department of Administration, Personnel and International Relation has following functions and duties:

- Mediate general tasks of TRC
- Supervise and track all circulars of administrative formalities and documents of TRC
- Manage receiving book and forward letters and documents properly and clearly
- Manage circular administrative formalities and documents as well as maintain documents and announce the royal decree, sub-decree, circular, proclamation, decision and other relevant documents in good manner and safe and provide the required documents upon the request of leaders
- Organize and mediate and make record of TRC meetings
- Arrange general order, security and the safety of TRC
- Manage properties, equipment inventory and transportation means of TRC
- Ensure the effectiveness and safety of administrative works and social activities of TRC
- Study, research and mediate administrative activities of TRC
- Draft other administrative letters and documents
- Manage and equip information technology service
- Supply and repair office equipment
- Organize project and inspect construction work and repair all types of buildings of TRC
- Arrange protocols
- Establishing relations with the state or private institutions
- Manage and develop capacity plan of the TRC official pursuant to applicable laws and regulations
- Fulfill functions as a focal point to international affairs
- Organize, inspect, track and suggest all documents related to international cooperation tasks
- Organize bilateral and multilateral cooperation project subjected to regulation on telecommunications sector
- Study and research on documents pertaining to international organizations in telecommunications sector
- Participate every activity related to international organizations
- Organize and cooperate with relevant units for domestic international meetings
- Summarize report on task activities of TRC
- Organize action plan and annual budget project of the department
- Make report on action plan monthly, quarterly, semester, 9-month and annually
- Implement other tasks as delivered by the TRC chairman

Article 16:-

The Department of Planning and Finance has following functions and duties:

- Organize development plan and budget strategy plan as well as annual budget plan of TRC
- Manage cash box
- Track and compromise budget mediation according to financial procedure and applicable regulations
- Arrange and propose principle for granting dividends, allowances and bonuses to the chairman, members, officers and staffs of TRC
- Supervise, make record, track and collect debt
- Manage accounting list of TRC
- Propose principle to ensure expenditure and payment
- Arrange financial report of TRC
- Make report on action plan of the department monthly, quarterly, semester, 9-month and annually
- Implement other tasks which delivered by the TRC chairman

Article 17:-

The Department of Telecommunication Regulation has following functions and duties:

- Regulate network connections between operators and operators, setting standard for utilization of infrastructure and network and provision of telecommunication service and equipment as well as national telecommunication plan and electronic address pursuant to legal policy and framework of telecommunications sector and other applicable legal standard documents of the Kingdom of Cambodia
- Strengthen law enforcement and provision involved with transaction as set forth within the first paragraph of this article
- Obtain, inspect, study, analyze, evaluate, track and mediate on application form for permit, certificate or license
- Provide consultancy related to registration and relevant information
- Provide conclusions and recommendations to TRC on application form for permit, certificate or license
- Provide, vary, suspend, transfer or revoke permit, certificate or license in accordance with decision made by TRC
- Organize and promote decision related to provision, variation, suspension, transfer and revocation of permit, certificate or license
- Create and maintain permit, certificate, and license as well as agreement on connection as well as the basic agreement
- Collect, inspect, track, study, analyze and evaluate on regulation related to transaction as specified in the first paragraph of such article at the regional and global level

- Organize additional instructions related to transaction as specified in the first paragraph of such article pursuant to laws on telecommunications and other provisions to TRC
- Inspect and propose for amendment, proclamation or legal standard letters associated with transaction as stated in the first paragraph of this article to TRC
- Collect, study, analyze, track and manage statistics associated with telecommunications sector
- Cooperate and promote statistics report associated with telecommunications sector
- Organize code of conduct and profession of telecommunications sector
- Cooperate, research, investigate and crackdown on illegal business contrary to code of conduct and conditions of transaction as stated in the first paragraph of this article
- Cooperate, instruct and promote the standard of telecommunications equipment and plan and electronic address pursuant to instruction of MPTC
- Report about outcome of research, investigation and crackdown on illegal business to TRC
- Propose to take action associated with violation of laws implementation on telecommunications and other provisions to TRC
- Organize action plan and annual budget project of the department
- Organize report on action plan of the department monthly, quarterly, 9-month and annually; and
- Implement other tasks as delivered by the TRC chairman.

Article 18:-

The Department of Radio Frequency Regulation has following functions and duties:

- Regulate radio frequency utilization and conditions practice stated in the radio frequency utilization list or radio frequency license pursuant to legal policy and framework of radio frequency spectrum and other applicable legal standard letters of the Kingdom of Cambodia
- Strengthen and practice laws and regulations associated with radio frequency and conditions of registration for radio frequency utilization and its license
- Receive, inspect, study, analyze, evaluate, track and mediate on application forms for registration of radio frequency utilization and its license
- Provide consultation related to registration and providing relevant information
- Provide conclusion and recommendation to TRC on application form for radio frequency license
- Provide, vary, suspend or revoke radio frequency license pursuant to the decision of TRC
- Organize and promote decisions related to provision, variation, suspension or revocation of radio frequency license
- Registration of radio frequency utilization

- Create and maintain registry of radio frequency utilization and license
- Collect, monitor, track, study, analyze and evaluate on regulation related to effectiveness of local and global radio frequency utilization
- Arrange instructions related to radio frequency utilization pursuant to the law on telecommunications and other provision to TRC
- Monitor and raise proposal for amendment on national plan, proclamation or relevant legal standard letter and radio frequency to TRC
- Arrange other entries associated to radio frequency to MPTC in order for (Master international frequency register) with the international communication union
- Cooperate and compromise with radio frequency units of bordering countries on regulation of radio frequency spectrum under the leadership of MPTC
- Manage, maintain and utilize equipment and materials of TRC in order for monitoring and tracking the utilization of radio frequency
- Collect, study, analyze, track and manage statistics involving with radio frequency
- Cooperate and announce statistics report related to radio frequency
- Cooperate, instruct and promote communication radio standard pursuant to the instruction of MPTC
- Cooperate and inspect location of communication radio stations pursuant to the instruction of MPTC
- Cooperate and organize code of conduct of the telecommunications sector
- Cooperate, research, investigate and crack down illegal business operations contrary to code of conduct and conditions of radio frequency utilization
- Report outcome of research, investigation and suppression of violation for TRC
- Request for taking measures pertaining to the breach of practice on the law on telecommunications and other regulations for TRC
- Arrange action plan and annual budget project of the department
- Arrange report on work activities of the department monthly, semester, 9-month and annually and
- Perform other tasks as provided by TRC chairman

Article 19:-

The Department of Competition and Consumer Protection has following functions and duties:

- Monitor, track and evaluate competition action pursuant to honesty in the telecommunications market and shall report to MPTC for additional provision
- Monitor, track and evaluate rights practice of operators and consumers in accordance with the law on telecommunications and provision
- Monitor information on initial cost management, financial report audited by independent auditor acknowledged by the ministry of economy and finance as well as non-financial

- information granted by the telecommunication operators and individuals involving with the telecommunications sector every fiscal year
- Monitor, study and evaluate on agreement on transfer contact or mergers of company or sharing acquisition or putting surety related to telecommunications transaction
 - Monitor, study and analyze on succession related to telecommunications transaction and other activities to be reached performance of telecommunication operators and individuals involving with telecommunication sector
 - Strengthen law practice and provision related to competition and consumer protection
 - Monitor and propose amendments, proclamations or legal standard letters associated with competition and consumer protection to TRC
 - Monitor and raise proposal for amendment of proclamation and relevant legal standard letter related to competition and consumer protection for TRC
 - Cooperate, instruct and promote about provision related to completion and consumer protection
 - Cooperate and prepare code of conduct of the telecommunications sector
 - Accept complaint and cooperate investigation about transactions reached to consideration of irregular or violated actions based upon the law on telecommunications and other regulations
 - Monitor and resolve with any conflict involving with telecommunications sector pursuant to the law on telecommunications and other regulations
 - Cooperate, research, investigate and crackdown on illegal business contrary to code of conduct and technical condition, standard, quality of service and telecommunications equipment
 - Report immediately to TRC about any activity that may lead to violation on principle of competition and rights of consumers
 - Cooperate, monitor and suggest in order to take action and impose fine related to any person who commits violation with laws and regulations subjected to the telecommunications sector
 - Arrange action plan and annual budget project of the department
 - Arrange report on work activities of the department monthly, semester, 9-month and annually and
 - Perform other tasks as provided by the chairman of TRC

Article 20:-

The Department of TRC Internal Audit has following functions and duties:

- Conduct audit on compliance, management and finance of TRC according to internal audit plan and instruction of MPTC officers
- Organize annual internal audit plan to submit to the TRC chairman for monitoring and making decision

- Make report about its action plan quarterly, semester, 9-month and annually in order to send to the TRC chairman to monitor and suggest and
- Implement other tasks as stated in the Sub-decree No. 40 SD.P dated February 15, 2005 on organization and progression of internal audit in ministries/institutions and public enterprises and according to delivery of the MPTC Minister.

CHAPTER 3

Personnel of Telecommunication Regulator of Cambodia

Article 21:-

Permanent personnel of TRC are public framework civil servants appointed to work in TRC pursuant to applicable laws and legal regulation letters.

TRC shall be permitted to select contractor staffs who are binding to fulfill employment to meet its necessary requirement pursuant to applicable laws and legal regulation letters.

Officers of TRC shall remain under management of internal regulations approved by TRC

Public framework civil servants who fulfill obligations at TRC are given allowances and bonuses from the state budget pursuant to applicable laws and legal regulation letters.

Providing remuneration, benefit and other allowances out from national budget, for permanent personnel and contractor staffs of TRC must be decided principally by minister of MPTC and Minister of Ministry of Economic and Finance accordance with proposal of the chairman of TRC

Article 22:-

The Chairman of TRC shall have rights to select any officers who are not in public framework or contractor staffs in order to work at TRC based on necessary requirement and pursuant to applicable provisions. All these officers shall be governed by the statute of TRC

CHAPTER 4

Functioning of Telecommunication Regulator of Cambodia

Article 23:-

The Director and members of TRC shall work full-time

The Director and members of TRC at least 2 (two) of them shall have rights to propose organizing a plenary session

The plenary session of TRC will be held unless there is 2/3 (two third) quorum of members.

The plenary session will be held under the presidency of chairman or acting chairman of TRC

Article 24:-

Every plenary session will be held according to a convening notice made by the director of TRC specify about place, date and subject of plenary session and attached with agenda as well as notification at least 3 (three) days before the plenary session occurs except urgent case.

Article 25:-

The Chairman and members shall have voted on issues require approval from TRC Such approval shall be based on majority of votes. In case of equal votes, the voting of the chairman shall prevail. Approval of TRC will be valid unless presence of director or acting director.

Any absent member does not have the right to forward its representative to attend in the plenary session on its behalf.

Every decision made by TRC shall be written down as record and report of plenary session signed by the director and all members attended and secretary of plenary session appointed by the director.

The secretary of plenary session shall not have rights to vote.

Article 26:-

In order to make any decision, the director and members of TRC shall consider strictly and properly on all issues concerned pursuant to applicable laws and provisions.

Article 27:-

Before proclamation to put into utilization any of its decision, TRC shall inform about essence and conditions and shall give opportunity to individual concerned to show evidence and opinion expression. TRC shall inform within proper duration about time and place for such individual to have chance to give evidence and opinion expression.

Article 28:-

After TRC issues final decision, persons concerned shall have rights to claim to the competent court of the Kingdom of Cambodia. Such claim shall be implemented within 90 (ninety) days after the date of decision issuance.

Article 29:-

TRC has its separate symbol and stamp.

CHAPTER 5

Formality of Permit, Certificate and License

Article 30:-

TRC shall arrange Permit, Certificate and License in order based on some characteristics such as: type of transaction, duration, date of register and identification of legal or individual persons, technical specification of obtaining rights to use and conducting business as well as appendix such as: investment, business and financial plans.

CHAPTER 6

Resources

Chapter 31:-

The Resources of TRC includes:

- Resources provided by the state to TRC and
- Resources initiated by TRC itself.

Besides resources stated in the first paragraph above, TRC also has other resources pursuant to limitation of MPTC

CHAPTER 7

Transitional Provision

Article 32:-

During 30 (thirty) days after such sub-decree entered into force, regulator organization chart of Telecommunication of Cambodia will be replaced by organization chart stipulated in this sub-decree.

Article 33:-

After this sub-decree entered into force, TRC has rights to use budget for year 2016 and balance to be continued from Telecommunication Regulator of Cambodia.

CHAPTER 8

Final Provision

Article 34:-

Sub-decree No. 140 SD.P dated September 06, 2012 upon organization and progression of secretariat of Telecommunication Regulator of Cambodia and other provisions contrary to this sub-decree shall be null and void.

Article 35:-

Minister in charge of Council of Minister, the Minister of Ministry of Economy and Finance, Minister of Ministry of Civil Service, Minister of Ministry of Posts and Communications, Ministers of all ministries, directors of relevant institutions, director and members of TRC shall comply with this sub-decree from the date of signing onward.

Phnom Penh, March 16, 2016

Prime Minister

[Signature and Stamp]

Samdech Akka Moha Sena Padei Techo HUN SEN

Respect to

Samdech Akka Moha Sena Padei Techo, the Prime Minister to sign

Minister to the Ministry of Posts and Telecommunications

[Signature]

PRAK SOKHON

Recipient:

- Ministry of Royal Palace
- General Secretariat of Constitutional Council
- General Secretariat of Senate
- General Secretariat of National Assembly
- General Secretary of Royal government
- Cabinet of Samdech Prime Minister
- Cabinet of Samdech, H.E., Lok Chumteav, Deputy Prime Minister
- As article 35
- Royal Gazette
- Documents-Archives