

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

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**Proposed law:**

**LAW**

**ON**

**ACCESS TO INFORMATION**

## Chapter 1

### General Provisions

#### Article 1- Objectives

This law aims to:

1. Provide rights of access to information held by the Royal Government and public or private institutions pursuant to the principles set forth in Article 41 of the Constitution and which was guaranteed by international laws such as the International Covenant on Civil and Political Rights including the United Nations Convention Against Corruption.
2. Create obligations of the public or private bodies to maintain and publish information and documents of public interest and/or that affects the public.
3. Create rights that bring about amendments to any records carrying the information about individuals and that information is not full, inaccurate, not-up-to-date or conducive to confusion.
4. Promote transparency, accountability and effective governance in public or private bodies by empowering and educating all people to:
  - Understand their rights related to this law and exercise their rights to contact with the public or private bodies.
  - Understand about the roles and operations of the public or private bodies.
  - Make effective consideration and participate in decision-making process of the public Or private bodis which affecting their rights.
5. Create an independent body to safeguard the rights of individuals to fully access information.

#### Article 2- Definition

Unless otherwise provided, the following terms of this law shall mean:

- **“Body”** means public or private bodies as defined.
- **“Royal Government”** means the Royal Government of the Kingdom of Cambodia.
- **“Information Officer”** means an individual with specific responsibility under this law and appointed by each public or private body.
- **“Officials”** mean individuals employed by relevant body whether permanent or temporary and full-time or part-time employees.
- **“Minister”** means Minister of Ministry of Information.
- **“Individuals”** means physical persons of any race or nationality or entities of legal natures.
- **“Personal information”** means pieces of information including information that forms part of data list or a comment whether or not it is true and recorded in the form of documents or others regarding individuals that can be identified through that information or comment.
- **“Public or private body”** mean any institution or authority or company that:
  - a. is established by or under the Constitution;
  - b. is created by law, Sub-degree or Proclamation (Prakas);
  - c. ministry included Khum/Sangkat, district/Khan, provincial/municipal and Phnom Penh administration;
  - d. part of any hierachic level or any branch institution of the Royal Government;
  - e. is held, controlled or sustainably financed by the administration of any certain level  
or
  - f. carries out a statutory and public function;
  - g. contracted by public body to undertake statutory duty or public function appointed by the Minister through the regulations to fulfil its public function.

If the body or authority listed in items (f) and (g) is public body whose scope of roles defined by law or their public function.

- **“Publish”** means make available in a form generally accessible to public including printing, broadcasting and electronic forms of dissemination.
- **“Record”** includes any recorded information, regardless of its form, source, date of creation, or official status of those information, whether or not it was created by the body that holds it and whether or not it is classified as any types.
- **“Record of public or private body”** means a record belonging to a body whether it was created by that body or other bodies.
- **“Requester”** means individual making requests for information.
- **“Minister in charge”** means:
  - a. Related to the Minister in charged of relevant ministries or
  - b. Related to a public or private body, the Minister who manages aspects of law that or pursuant to the provisions that create that public body.

### **Article 3- Interpretation**

When interpreting this law, every individual or body (including courts) shall use a reasonable interpretation to promote the purposes stated in Article 1 of this law. All discretionary powers provided by this law shall be used as much as possible to facilitate and promote the access to information in a timely manner.

### **Article 4- The law applying to courts**

1. All courts and tribunals are public bodies.
2. Individuals holding judicial positions (judges, prosecutors, arbitrators or members of the tribunal) are not public body, and as such, cannot be regarded as public body.
3. Courts’Registration Office or other offices and staff of the courts’registration office and other officers are considered parts of the courts (including courts’clerks) while performing functions of those offices.

However, this law shall not apply to any request for courts’ or tribunals’ records unless they are related to administrative issues or judgments of the courts or tribunals.

### **Article 5- Relationship with other laws**

This law shall override other laws that prohibit or prevent the disclosure of the public or private body’s records and become a supreme law on “the disclosure of information”.

## **Chapter 2**

### **Duty to Publish Records**

#### **Article 6- Duty to publish**

1. Every public or private body shall, in the public interest, publish and disseminate in an accessible form but not limited to, at least annually, key information and documents related to that public or private body including:
  - a. a description of its structure, functions, duties and finances;

- b. relevant details concerning any services it provides directly to the public;
- c. a description of the powers and duties of its senior officers, and the procedure in which it follows in making decisions;
- d. annual budget with information about expenditure on each item in the current fiscal year;
- e. Accounts audited on the previous fiscal years;
- f. any regulations, policies, laws, guides or manuals regarding the implementation of its functions;
- g. any request or complaints procedures available to the public regarding acts or failures to act by that body, along with a summary of any requests, complaints or other direct actions by the public and that body's response;
- h. simple guides containing adequate information about its record-keeping systems, the types and forms of information and/or the publications and the procedures to be followed in making the request for information or requesting for correcting the information;
- i. the content of all decisions and/or policies it has adopted which affect the public, along with the reasons for them, any authoritative interpretations of them, and any important background material;
- j. any mechanisms or procedures by which the public may make representations or influence the formulation of policy or the exercise of powers by that body.

2. The Ministry of Information shall guarantee to publish a telephone directory for common use in the public which included information related to the address of the post office street, fax number and phone number and e-mail (if available) of the chief of the information office of all public bodies at its own costs.

#### **Article 7- Obligation to publish**

1- All public or private bodies shall provide the following information for public scrutiny at their offices.

- a. All decisions which have direct impact on a private individual, including any dissenting opinion and order relating thereto;
- b. Work-plans, projects and plans for the year and the following year (once the report is done thereafter);
- c. Publications with summary or references under article 6 (a), (b) or (c);
- d. Contract of the concession, agreement or bilateral agreement of joint venture investment with any private bodies for the provision of public services;
- e. All resolutions by the Ministry of Information related to public bodies;
- f. Other information of this kind defined by the Ministry of Information.

2- Each person shall have the right to inspect or receive copies of information mentioned in item 1 whether or not he/she is interested in the relevant issues. The Law may define that the fee will be charged for provision of the copy of information listed in item 1, but that such service fee must not exceed the actual expense made by the public body.

#### **Article 8- Obligation of the courts to publish**

1. The courts shall make available all decisions they have made in the past five years for the public inspection and copy at courts' registered offices. Whether they are interested or not, individuals have the rights either to inspect or receive copies of the decisions. The Law may define that the fee will be charged for provision of the copy of information but that such service fee must not exceed the actual expenses made by the courts.

2. All decisions and orders made by the courts of Cambodia after the Law comes into force shall be made available for public inspection.

**Article 9- Obligation of the Government to publish**

The Royal Government of Cambodia shall immediately publish information to the public about draft laws, regulations, policies and other documents of public interests as soon as those documents reach the Office of the Council of Ministers.

**Article 10- Failures to publish or provide**

Individuals, who think that a body does not publish or makes available its necessary information under articles 6, 7, 8 or 9 for public inspection, shall have the rights to lodge a complaint to the information Commissioner.

**Article 11- Guidance about obligation to publish**

The Commissioner shall publish a guide on minimum standards and best practices regarding the obligation of public or private bodies to publish pursuant to articles 7, 8 and 9. Upon request, the Commissioner shall also provide advice to a public or private body regarding the obligation to publish.

**Chapter 3**

**Measures to Promote Openness**

**Article 12- Guide for using this law**

- 1- Twelve months after this law comes into force, the Commissioner shall compile a clear and simple guide, in an accessible form, containing practical information to facilitate the effective exercise of rights under this Law.
- 2- The guide shall be written in both Khmer and English.
- 3- The guide shall be updated on a regular basis, as necessary

**Article 13- Record-keeping**

- 1- Every public or private body is under an obligation to maintain its records in a manner which facilitates the rights to access information, as provided for in this Law, and in accordance with the Code of Practice stipulated in item 2;
- 2- The Commissioner shall, after appropriate consultation with the Minister and relevant parties, issue a Code of Conduct relating to the keeping, management and disposal of records, as well as the transfer of records to the National Archives. The Code of Coduct shall be from time to time updated as the Commissioner considers as necessary;
- 3- The Minister shall issue ministerial orders on a yearly basis to require the public or private bodies respect and comply with the Code of Conduct.

**Article 14- Reports to Minister and Information Commissioner**

- 1- The chief of Information Office of all bodies shall annually submit to the Minister and Information Commissioner a report on the activities of their bodies on December 31<sup>st</sup> (Annual report) to promote the compliance of this law. The annual report shall include information about:
  - a. the number of requests for information received, granted in full or in part, and refused;

- b. how often and for which section of this Law were relied upon to refuse, in part or in full, requests for information;
- c. number and status of appeals from refusals to communicate information;
- d. Service fees received from requests for information;
- e. its activities pursuant to article 6 (duty to publish);
- f. its activities pursuant to article 13 (maintenance of records);
- g. its activities pursuant to section 16 (training of officials).

2- The Commissioner shall sequentially arrange annual information obtained from each body and annually submit a summary report to the parliament in every two years after acknowledging the receipt of report from each body.

3- Each body shall publish annual report directly on its website after the summary report was submitted to parliament as per item 2 above. Copy of annual report of all bodies shall be made publicly available at their offices free of charge.

4- Each public body shall update its website on a regular basis, and disclose it to the public.

#### **Article 15- Chief of Information Office**

1- Every public or private body shall appoint the chief of Information Office. The body shall ensure that the public have easy access to relevant information concerning the chief of Information Office, including his or her name, function and contact details.

2- The chief of Information Office shall have the following responsibilities to:

- a. promote the best possible practices within his/her body in relation to record maintenance in the National Archives;
- b. serve as a central contact for the body for receiving requests for information;
- c. assist individuals seeking to obtain information, including assistance in preparing information request in accordance with this law;
- d. have comprehensive knowledge of types of available information held by the body;
- e. take main responsibility within body for researching information, issuing decisions on provision of information, response to requests for information and making information available;
- f. assist other officials in the body in researching for records containing information, which serves as a subject of requests;
- g. together with chiefs of other relevant offices of public bodies, decide which information or record should or should not take exemptions.

3- In his or her duties, the chief of Information Office of the body may receive assistance from several deputy information officers as necessary.

4- Chief of the body shall provide assistance to the chief of Information Office in researching for information, which is subject to the requests of the Chief of Information Office.

#### **Article 16- Training of officials**

Every public or private body shall ensure the provision of appropriate training for its officials on the rights to access to information and the effective implementation of this Law.

## Chapter 4

### Access to Records

#### Article 17- Freedom to obtain information

Everyone shall have the rights and freedom to access to information as stipulated in the provisions of this Law including the rights to obtain information which owned by public and private bodies.

#### Article 18- Rights of access

1- Any person can make a request for information held by a public or private body. Any person making such a request shall be entitled to legitimate rights in accordance to the provisions of this Law:

- a. to be informed whether or not that body holds a record containing that information he/she requested or from which source that information can be sought, and
- b. to inform to other sources to provide such records to requester if the body does not hold such record.

2- For the record which determines by the law to be kept as confidential, twenty five years after the record has been created such record shall be transferred to the National Archives, where documents can be made available freely for individuals to inspect.

3- For the purpose of this Law, a public or private body holds record if:

- a. the body has physical management over that record (rather than on behalf of other person) or
- b. Another person maintains the record on behalf of the body.

3- Subject to this Law, the right of the requester to obtain information stated in item 1 above is not affected by:

- a. the reasons that the requester gives for requesting information or
- b. belief of the chief of information office in what constitutes the reasons for the request.

#### Article 19- Request for information

1- A request for information can be made verbally or in writing to a public official through electronic system or Post Office or a legal representative. A written request for information, which is delivered through the Post Office or by hands to the public body, shall include:

- a. Name of the requester;
- b. Address, telephone number or email (or a combination of these) so that the body can contact the individual requester;
- c. Nature of information being requested.

2- Subject to item 1 above, the Minister may encourage the use of a simple and uncomplicated legal standard forms to make a request for information and shall send that legal standard forms to the chief of Information Office of the relevant public or private body to process the information request in a sequential and timely manner.

3- Officials of public or private bodies who receive a request for information must transfer the request to the chief of Information Office within 24 hours after the receipt of the request.

4- Where a request for information pursuant to Article 7 does not comply with the requirement stated in items 1 and 5 of this article, shall render such reasonable assistance, free of charge, to enable the request to comply with item 1 above.

5- An individual who is unable, because of illiteracy or disability, to make a written request for information pursuant to item 1 is encouraged to make an oral request, and the official who receives an oral request shall, subject to article 4, put into written form, including the name and position of the chief of Office within that public or private body, and give a copy thereof to the person who made the request.

6- An official who receives the request for information may transfer the request to the chief of Information Office of the body for the purpose to comply with items 4 and 6 of this Article.

7- Officials of the public or private body, including the chief of Information Office, who receive requests for information, shall provide the requester a receipt documenting the request made verbally or in writing at the public or private body and through electronic system or letter to acknowledge the receipt of the request.

#### **Article 20- Time Limits for responding to requests**

1- Subject to item 3, a public or private body must respond to a request for information as soon as reasonably possible and in any event within 15 working days of receipt of the request. The chief of Information Office shall be mainly responsible for responding the request within this time limit.

2- Where a request for information relates to information which reasonably appears to be necessary to safeguard the life or liberty of a person (including a person detained by the body), a response must be provided within 48 hours.

3- where the request is for a large number of records or requires a search through a large number of records, and where compliance within fifteen working days would unreasonably interfere with the activities of the body, a public or private body shall:

- a. provide as many documents as reasonably possible within 15 days;
- b. extend the period in item 1 to the extent strictly necessary, and in any case to not more than 10 days by notice in writing (or via phone if the requester does not give mail address or email) within the initial 15 day period;
- c. provide all additional records during the extension period.

4- Failure to comply with provisions of this article is deemed to be a refusal of the request.

#### **Article 21- Response by public body**

1- The response under article 20 shall be made in writing to be signed by the Information Officer of the public or private body concerned and be provided for the requestor through mail, fax, email or delivery by hands following the procedures suggested by the requestor.

2- The response shall show the decisions of the public or private body about:

- a. Reception of the request;
- b. Refusal of the request based on exception;
- c. Refusal of the request based on the fact that records with the requested information were not found or;
- d. Request is partially accepted and partially rejected.

3- The response must state:

- a. the fee to be charged (if any) in accordance with article 20 relating to any part of the request to be accepted or the form of information provided if that information cannot be included in the response;
- b. Adequate and detailed reasons for the refusal if any part of the request is not granted;



- c. That the public body: "cannot say whether or not it holds a record containing the relevant information" and gives adequate and detailed reasons for it if there is a refusal to say whether the public or private body holds or does not hold the record containing the relevant information;
- d. The right to appeal of the requestor.

4- Relating to the request or part of the request that is accepted:

- a. Provide information with a response if possible (e.g. if a record containing written information and if the record containing less than 20 pages or if the information can be held in electronic form or;
- b. If the information granted and the response can not apply, the response must describe how the requestor may receive information and the information must be granted soon.

5- If the record containing the information is left out and replaced with a copy, the public body can allow the requestor to inspect the record and fill it out again.

#### **Article 22- Severability of exceptions**

1- If a record contains some information which is subject to an exception and other information, which is not subject to an exception, any information in the record which is not subject to an exception shall be communicated.

2- The Information Officer of a public or private body shall make photocopy of a record and leave out any part of the record in compliance with item 1 above.

3- Only Information Officer or Minister in charge shall decide to communicate a record in part.

4- In case a photocopy of the record as per item 2 above, the requestor shall be informed:

- a. That the record is a copy.
- b. About the reasons of the removal and
- c. About the provisions of this law, which consider any removed part as an exception.

#### **Article 23- Maintenance of a record until final decision is made on the request**

If the cheif of Information Office of a public or private body receives a request for a record of the body the cheif of Information Office shall reasonably take all necessary steps to maintain that record without leaving out any information containing in the record until the requestor receives a response and:

1. A time limit for complaining with the Information Commissioner, appealing to a court or appeal court against the decisions of the court shall expire.

2. The appealing to a court or appeal court against the decisions of the court or lawsuit proceedings in accordance with legal processes are finally determined subject to the longest point.

#### **Article 24- Fees**

1- A request for information shall be free of charge.

2- The communication or disclosure of information of a public or private body pursuant to a request under article 19 may be made conditional upon payment pursuant to items 6 and 7. The fee is listed in the Article 80.

3- If the information can not prepared in written , the fee shall be reasonable and not exceed the actual cost of searching for, preparing and communicating the information.

4- If the information is communicated in an electronic form, the fee shall match with the number of records granted pursuant to Article 80.

5- It is not imperative that payment be made before the information is communicated. If a private company or NGO requests for the information and the private company or NGO shall transfer the fee into the public or private body's account within 7 days from the date the information communicated.

6- If the requestor has not paid the fee, the body may refuse to process a subsequent request for information of that requestor.

7- Payment of a fee shall not be required for a requests for and obtains personal information.

8- The Minister may, after consultation with the Commissioner, make regulations providing:

- a. for the manner in which fees are to be adjusted as provided for in Article 80.
- b. that no fee is to be charged in cases of which statute of limitation is ended, and
- c. that any fee cannot exceed a certain maximum.

#### **Article 25- Means of communicating or receiving information**

1- Where a request indicates a preference as to the form of communication of information, a public or private body communicating information shall communicate the information as requested under item 2 of this Article.

2- A request may indicate the following preferences as to the form of information containing in a record:

- a. a true copy of the record in permanent or other form;
- b. an opportunity to inspect the record available at the body;
- c. an opportunity to copy the record, using his or her own equipment;
- d. a written transcript of the words contained in a sound or visual form;
- e. a transcript of the content of a record, in print, sound or visual form where such transcript is capable of being produced using equipment normally available to the body; or
- f. a transcript of the record from shorthand or other codified form.

3- A public or private body shall not be required to communicate information in the form indicated by the person making the request, where to do so would unreasonably interfere with the effective operation of the body or be detrimental to the preservation of the record.

4- Where a record exists in more than one language, communication of the record shall, from among those languages, be given in accordance with the language preference of the person making the request.

#### **Article 26- Duty if a record is not held or not available**

1- Where an Information Officer believes that the request relates to information that is not contained in any record held by the body, the official may transfer the request to the Information Officer in order to comply with legal procedures. The Information Officer shall notify the requestor (by means of response under article 19) that the record cannot be communicated.

2- The notification under item 1 above shall contain complete information about all steps taken to research for the record needed or to determine whether or not the record is available including communication with individuals involving in researching for the record in place of the Information Officer.

3- If, after notification is given, the required record is found the requestor shall receive that record, except the access is refused under another article of this law.

4- As soon as all relevant researches are completed, where an Information Officer believes that the request relates to information that is not contained in any record held by the public or private body, but is likely contained in any record held by another public or private body, the official may transfer the request to the Information Officer of that public or private body as soon as possible and notify the requestor accordingly.

5- Where a request is transferred pursuant to item 4, the time limit for responding to requests under article 16 shall begin to run from the date of transfer. The transfer shall be made between the initial 15 days of the response period.

#### **Article 27- Vexatious, repetitive or unreasonable requests**

1- A public or private body is not required to comply with a request for information, which is vexatious or where it has recently complied with a substantially similar request from the same person.

2- A public or private body is not required to comply with a request for information where to do so would unreasonably divert its resources. In this case, the body shall comply with a request for information only in a situation where the information can be communicated easily and does not unreasonably divert its resources.

3- If a public or private body refuses to communicate information based on item 2 thereof, the requestor may file a complaint with the Information Commissioner pursuant to Article 46.

#### **Article 28- Information Office**

1- As soon as practicable, after the commencing of this law, but not later than (3) three months after this date, the Minister shall publish a report about the addresses of the Royal Government of Cambodia's offices nationwide that serve as information office for the purpose of this Chapter.

2- The person who is granted the right to examine the original records or has access to records that are not in written forms as per Article 21 shall inspect or access the records available at the information office (with reasonable equipment for communicating information in any form requested) that is nearest to his/her normal residence.

3- The Information Office shall be served by people from the Ministry of Information (or Information Commissioner).

4- None of the following concerns under this article are applied to prevent the public body or Minister that receives a request from a requestor accessing in a special form from communicating that document in any form other than the requested one pursuant to Article 21 (3).

5- The person who accesses document at the Information Office shall not be required to pay the fee he/she has to pay in case he/she accesses the document in any place nearest to the place where records are normally kept.

### **Chapter 5**

#### **Exceptions**

#### **Article 29- Information already publicly available**

Notwithstanding any provision in this section, a public or private body may not refuse to communicate information where the information is already publicly available.

### **Article 30- Severability**

If a request for information relates to a record containing information which, subject to this section, falls within the scope of an exception, any information in the record which is not subject to an exception shall, to the extent it may reasonably be severed from the rest of the information, be communicated to the requestor.

### **Article 31- Information that affects the national security and defense**

A body may refuse to indicate whether or not it holds a record, or refuse to communicate information or records, where to do so would, or would be likely to, cause serious damages to the defense or national security of the Kingdom of Cambodia.

### **Article 32- Health and safety**

A public body may refuse to indicate whether or not it holds a record, or refuse to communicate information or records, where to do so would, or would be likely to, endanger the life, health or safety of any individual.

### **Article 33- Legal privilege**

A public or private body may refuse to indicate whether or not it holds a record, or refuse to communicate information or records, where the information is privileged from production in legal proceedings, unless the person entitled to the privilege has waived it.

### **Article 34- Law enforcement**

A public or private body may refuse to indicate whether or not it holds a record, or refuse to communicate information or records, where to do so would, or would be likely to, cause serious damages to:

- 1- the prevention or detection of crime;
- 2- the apprehension or prosecution of offenders;
- 3- the administration of justice;
- 4- the assessment or collection of any tax or duty;
- 5- the operation of immigration controls or;
- 6- the assessment by public body of whether civil or criminal proceedings, or regulatory action pursuant to any enactment, would be justified.

### **Article 35- Public economic interests**

1- A public or private body may refuse to indicate whether or not it holds a record, or refuse to communicate information or records, where to do so would, or would be likely to, cause serious damages to:

- a. the ability of the Royal Government to manage the economy of Cambodia;
- b. legitimate financial or commercial interests of any body.

2- Item 1 does not apply insofar as the request relates to the results of any product or environmental testing, and the information concerned reveals a serious public safety or environmental risk.

### **Article 36- Protection of confidential information and commercial information**

- 1- A public or private body may refuse to communicate information or reveal records if:
  - a. The information is obtained from a third party and the communication of such information can constitute the basis for the loss of trust and confidence.
  - b. The information is obtained secretly from a third party and:

- The information of trade secrets;
- communication of that information may or is likely cause serious damage to financial or commercial interests of that third party.

### **Article 37- Policy and internal operations**

1- A public or private body may refuse to indicate whether or not it holds a record, or refuse to communicate information or records, where to do so would, or would be likely to:

- a. cause serious damages to the effective formulation of policies of the Royal Government ;
- b. significantly undermine the deliberative process in a public or private body;
- c. seriously frustrate the success of a policy, by premature disclosure of that policy or;
- d. significantly undermine the effectiveness of an examination or auditing procedure of a body.

2- Item 1 does not apply to facts, analysis on facts, technical data or statistical information.

### **Article 38- Protection of records that affects privacy of individuals**

1- A body may refuse to indicate whether or not it holds a record, or refuse to communicate information or records, where to do so would involve the unreasonable disclosure of personal information about a natural third party.

2- The refusal under item 1 may not be made based on only reasons of inclusion of issues related to a natural third party in the document.

3- The refusal under item 1 does not apply if the personal information reveals or confirms the commitment of criminal offenses the third party has not been convicted.

4- Item 1 does not apply if:

- a. The third party effectively consented to the disclosure of the information
- b. The person making the request is the guardian of the third party or the next of kin of a deceased third party
- c. The third party has been deceased for more than 10 years or
- d. The individual is or was an official of a public body and the information relates to his or her function as a public official.

5- If any part of the record containing personal information unreasonable for disclosure can be severed or removed from the remaining part of the document, the body will cut off the personal information and will communicate the remaining part of the record to the requestor.

6- Under this Article, “unreasonable” includes financial information, health and medical records, criminal and arrest records and tax records of a natural third party.

### **Article 39- Time limits**

1- The provisions of Articles 31-36 apply only inasmuch as the harm they envisage would, or would be likely to, occur at or after the time at which the request is considered.

2- The refusal to communicate information pursuant to Articles 31, 34, 35 and 36 (b) does apply to a record which is more than 25 years old.

### **Article 40- Public economic interests**

Subject to this Chapter, a public or private body may refuse to indicate whether or not it holds a record, or refuse to communicate information, where to do so would, or would be likely to, cause

serious damages to the ability of the Royal Government to manage the economy of the Kingdom of Cambodia and legitimate financial or commercial interests of any body.

Such refusal does not apply insofar as the request relates to the results of any product or environmental testing or environmental impact assessment and information relating to public safety.

## **Chapter 6**

### **Information Commissioner**

#### **Article 41- Appointment of the information Commissioner**

1- The Commissioner shall be elected based on a two-third majority vote (2/3) of the National Assembly and after a process in accordance with the following principles:

- a. participation by the public and civil society in the nomination of candidates;
- b. transparency and openness in the selection process, and
- c. the publication of a shortlist of candidates.

2- No-one may be appointed Commissioner if he or she:

- a. holds an official position, or is an employee of a political party, or holds an elected or appointed position in national, provincial or local government or
- b. In the period of carrying judicial penalty, after due process in accordance with internationally accepted legal principles, of a violent crime and/or a crime of dishonesty or theft, for which he or she has not been pardoned.

3- The Commissioner shall hold office for a term of seven years, and may be reappointed to serve a maximum of two (2) terms, but may be removed only if he/she is convicted of a criminal offense or consecutively fails to fulfill his/her duties under this law. Removal of the Commissioner shall require a two-thirds majority vote (2/3) of the National Assembly.

#### **Article 42- Independence and powers of the Commissioner**

1. The Commissioner shall enjoy operational and administrative autonomy from any other person or entity, including the Royal Government and any of its agencies, except as specifically provided for by law.

2. The Commissioner shall have all powers, direct or incidental, as necessary to undertake his or her functions as provided for in this law, including full legal personality, and the power to acquire, hold, rent and dispose of property.

#### **Article 43- Office of the information Commissioner**

1- The Commissioner may appoint such chief of office and employees as necessary to enable him or her to perform his or her duties and functions.

2- The Commissioner and his staff shall set up an information commissioner office ("Office"). The Office shall be divided into two parts: "Inspection Unit" and "Executive Unit". The Commissioner shall order and oversee the two units.

#### **Article 44- Commissioner's general duties**

1- In addition to any other powers and responsibilities provided for in this Law, the Commissioner may:

- a. monitor and report on the compliance by public or private bodies with their obligations under this law;
- b. make recommendations for general reforms of public or private bodies and make direct instructions to a specific body as necessary;
- c. provide training to public officials on the right to information and effective implementation of this law and co-operate with training activities provided by public or private bodies;
- d. refer to the appropriate authorities cases which reasonably disclose evidence of criminal offences under this law and;
- e. publicize the requirements of this law and the rights of individuals under it.

#### **Article 45- Commissioner's duties related to complaints**

- 1- The Commissioner shall investigate any official and unofficial complaints submitted to him/her by the public against a body relating to the publication and free flow of information in the Kingdom of Cambodia;
- 2- Deciding on complaints submitted by the public concerning the nondisclosure of information or records by a body;
- 3- Deciding on complaints submitted by the public concerning the refusal to disclose the existence of information or records by a body.

#### **Article 46- Transfer of duties**

The Commissioner may transfer his/her duties and responsibilities to any person in his/her office, except the final decisions on complaints. The Commissioner shall personally make all final decisions on complaints in accordance with laws and using his/her discretions. Especially, the Commissioner may transfer all of his/her duties under articles 42, 44 and 45 while, at the same time, may reserve his/her overall management roles on activities carried out by the Office staff according to those duties.

#### **Article 47- Finances of the office and Commissioner**

- 1- The Office of the Information Commissioner shall prepare its annual budget and receive this budget from the Royal Government every year in an amount enough for performing its fundamental duties and roles under this law.
- 2- The Commissioner shall be paid a salary equal to the salary of a judge of the Supreme Court. This salary shall constitute part of the annual budget of the Information Commissioner's Office.
- 3- The Commissioner and his staff shall be entitled to be paid reasonable travel and living expenses incurred in the performance of his or her duties if travel is necessary. The Commissioner shall publish its expenditure table, which is accessible, and specific amount of money spent on the Commissioner's Office website and posted at the Commissioner's Office.

#### **Article 48- Reports of the Commissioner**

- 1- The Commissioner shall, within three (3) months after the termination of each financial year, submit to the National Assembly and Senate an annual report on compliance by public bodies with this Law, the activities of his or her office and audited accounts of the office during that financial year.
- 2- The Commissioner may from time to time send such other reports to the National Assembly and Senate as he or she deems appropriate.

### **Article 49- Protection of the Commissioner**

1- No criminal or civil proceedings lie against the Commissioner, or against any person acting on behalf of or under the direction of the Commissioner, for anything done, reported or said in good faith in the course of the exercise of any power or duty under this Law.

2- For the purposes of the law of defamation, libel or slander, anything said or any information supplied pursuant to an investigation under this Law is privileged, unless that information is shown to have been said or supplied with malice.

## **Chapter 7**

### **Enforcement by the Commissioner**

#### **Article 50- Complaints to the Commissioner**

1- Individual who requested for information may file a complaint to the Commissioner in order to decide of which public or private body fails to fulfilling their roles and responsibilities under Chapter 2 which includes:

1- refusing to indicate whether or not it holds a record, or to communicate Information in contrary to Article 18;

2- failing to respond to a request for information within the time limits as provided for in Article 20;

3- failing to provide a notice in written of its response to a request for information as provided for in Article 21;

4- charging an excessive fee in contrary to Article 80;

5- failing to communicate information in the form requested as set forth in Article 25.

#### **Article 51- Response to the complaint**

The Commissioner shall respond to all complaints submitted to him/her as provided for in Article 50.

#### **Article 52- Decisions**

1- If it is required to decide on the complaints under Article 50, the Commissioner shall make decisions as soon as is reasonably possible and in any case within 30 days.

2- Before making a decision, the Commissioner shall first conduct an investigation into the complaint. At the same time, the Commissioner shall:

a. provide detailed information about the complaint to the body, but not identify its name or contact details of the complainant within five working days upon the acknowledgement of the receipt of complaint;

b. give the body five (5) working days to provide its views for the Commissioner;

c. provide additional comments on the information he/she has received from the body for the complainant within two (2) working days after receiving those views and;

d. give the complainant five (5) working days to respond to those views in writing. The time limits for this referral shall be specified in each communication by the Commissioner.

3- If the body or complainant has not provided their views in writing within the time limits, the Commissioner shall carry out his/her decision-making process based on the evidence he/she has. If the



body or complainant is late in providing their views as mentioned in item 1 above, but still within the 30-day period and gives proper reasons for such delay, the Commissioner may use his/her discretions to decide whether or not the delayed submission of the views is accepted using the basic principles of fairness.

4- If the complainant is unable, because of illiteracy or disability, to give a response in writing to the views of the body, the Information Commissioner's office shall listen to the complainant's views and prepare them in writing, giving a copy thereof to the complainant.

5- In coming to a decision pursuant to item 3, the Commissioner may:

- a. reject the complaint;
- b. require the body to take such steps as may be necessary to bring it into compliance with its obligations under this law;
- c. require the body to compensate the complainant for any loss or other detriment suffered and/or;
- d. in cases of egregious or willful failures to comply with an obligation under Chapter 3, impose a fine on the body.

6- In making a decision on any complaint under article 45, the burden of proof shall be on the private body to show that commissioner acted in accordance with its obligations under Chapters 3 and 4 of this law.

7- The Commissioner shall serve notice of his or her decision, including any rights of appeal, on both the complainant and the body within thirty working (30) days for making decision under article 38 (1).

#### **Article 53- Other decisions**

1- If the Commissioner is required to respond to the complaint under article 50, he/she shall decide on such complaint under as soon as is reasonably possible, and in any case within thirty (30) days.

2- Before making a decision, the Commissioner shall first conduct an investigation into the complaint. At the same time, the Commissioner shall:

- a. give a notice on detailed information about the complaint to the body, but not identify its name or contact details of the complainant within five (5) working days upon the acknowledgement of the receipt of the complaint;
- b. give the body 10 working days (from the day of notice) to provide its views in writing for the Commissioner

3- If the body has not provided their views in writing within the time limits, the Commissioner shall carry out his/her decision-making process based on the evidence he/she has. If the body provides their views later than the time limits under item 2, but before the Commissioner makes his/her decision the submission of the views can not accepted.

4- In his or her decision pursuant to sub-section (1), the Commissioner may require the body to take such steps as may be necessary to bring it into compliance with its obligations under Chapter 2, including by:

- a. appointing or changing an information officer;
- b. publishing certain information and/or classifying categories of information;
- c. making certain changes to its practices in relation to the keeping, management and destruction of records, and/or the transfer of records to the National Archives;
- d. enhancing the provision of training on the right to information for its officials;
- e. providing him or her with an annual report;
- f. in cases of egregious or willful failures to comply with an obligation under Chapter 2, paying a fine.

5- The Commissioner shall serve notice of his or her decision, including any rights of appeal, on the public body with a copy of the original version for the complainant within thirty days for making decision under item 1.

**Article 54- Commissioner's powers to investigate**

1- In coming to a decision pursuant to article 52 or 53, the Commissioner shall have the power to conduct a full investigation, including by issuing orders requiring to present of evidence and compelling witnesses to testify.

2- The Commissioner may, during an investigation pursuant to item 1, examine any record to which this Law applies, and no such record may be withheld from the Commissioner on any grounds.

**Article 55- Commissioner's inability to respect the time limits**

1- If the commissioner cannot make a decision he/she has to necessarily make under article 52 or 53 within 30 days, because the records to be debated are plentiful or because the investigation is extensive he/she may delay the 30-day period to any period he/she finds necessary. However, the delay shall, in any rate, not exceed 15 days. Both the complainant and body shall be notified of such delay under this article before the end of the 30-day period.

2- The Commissioner shall decide, after 45 days, based on evidence he/she has in hands then.

**Article 56- Review of Commissioner's decisions and orders**

The complainant or the relevant body, may appeal the decision of the Commissioner under article 52 or 53 that is submitted for review of the Information Disclosure Tribunal within 28 days after the date on which the decision was made.

**Article 57- Binding nature of Commissioner's decisions**

1- If there is no application for review within a time limit the Commissioner's decision shall be respected and followed.

2- When the time limit for application for review is expired:

- a. Any fine ordered pursuant to article 52 (5) (d) or article 53 (4) (f) shall be paid by the body to the Commissioner, who shall transfer this money into the public revenue or to the Information Commissioner's office if the latter has not received its budget in full amount for the current financial year from the Royal Government;
- b. Any compensation ordered pursuant to article 52 (5) (c) shall be paid to the complainant immediately.

**Article 58- Failures to respect and follow**

Upon expiry of the 28-day period for application for review pursuant to article 56, if a public body continues failing to comply with a decision pursuant to article 52 or 53, or has failed to execute an order pursuant to article 62 (5), the Commissioner may certify that in writing to the Supreme Court. The Supreme Court shall issue an order for respect and execution of the decision by a necessary means, including a fine up to 20 million Riels on the public body and/or officers of that body.

## Chapter 8

### Information Disclosure Tribunal

#### Article 59- Structure and composition of the information Tribunal

1- An Information Disclosure Tribunal (“Tribunal”) shall be established with at least 15 members, including the President of the Tribunal, who is appointed pursuant to item 2.

2- Members of the Tribunal shall be elected by the Minister of Information from 3 groups in equal number:

- a. Lower judges;
- b. Lawyers specialized and experienced in human rights laws and especially accessible for information;
- c. Usually from among individuals having high profiles in communities regarding their morality, capacity in the fields of information and public administration.

After:

- a. Widely announcing about the vacancies across the Kingdom of Cambodia and calls for expression of interests and
- b. Allowing qualified candidates from public bodies and civil society organizations to stand for the elections and
- c. Transparency and openness in the election process as well as
- d. Publication of a shortlist of candidates

3- No-one may be appointed a member if he or she:

- a. holds an official position in, or is a member or an employee of a political party, or holds an elected or appointed position in national, provincial or local government or
- b. In the period of carrying judicial penalty after due process in accordance with internationally accepted legal principles, of a violent crime and/or a crime of dishonesty or theft, for which he or she has not been pardoned.

4- Members of the Tribunal shall be elected without discrimination against race or other reasons as stipulated In Article 31, paragraph 2, of the Constitution of The Kingdom of Cambodia.

5- All members of the Tribunal shall have the following qualifications:

- a. Aged 30 years old at least, but not older than 60 years old;
- b. Have high morale;
- c. Hold Bachelor Degree in Law or other equivalent law certificates recognized by the Bar Association of Cambodia.

6- The President of the Tribunal shall be elected by the votes of its members. The members, who stand for candidates as presidents of the Tribunal shall be judges of the lower courts. The President shall hold office for the term of three (3) years, except for his/her members.

7- A member shall hold office for the term of three (3) years and may be re-appointed using the same election process as mentioned in item 1.

8- The member of the Tribunal may be removed only if he/she is convicted of a criminal offense or consecutively fails to fulfill his/her duties under this law. Removal of a Tribunal's member by minister for consecutively fails to fulfil his/her duties shall require a majority vote of the other members of the Tribunal.

9- An incumbent member of the Tribunal vacates office upon death or incapability or resignation

or being convicted of a criminal offense or other events resulting in lost of legitimate rights as the member of the tribunal that member will be replaced during the mandat. A new member shall be elected in accordance with procedures provided for in this law to ensure the new member come from the same group pursuant to item 2: resignation of a member.

#### **Article 60- Administrative management of the Tribunal**

- 1- The Tribunal President shall take overall responsibility for administration of the tribunal and ensures timely and orderly management of the tribunal.
- 2- The tribunal shall have a register and may recruit staff to keep the register and other physical persons as needed to assist its members in performing their obligations, duties and responsibilities.
- 3- The tribunal shall be based in Phnom Penh. However, the tribunal team can sit anywhere else in the Kingdom of Cambodia to conduct appeal hearings when appropriate based on the locations of parties, witnesses and quantity of documents as well as financial resources of parties.
- 4- Each member shall be paid a salary equal to the salary of a judge of the Supreme Court.
- 5- The member shall be entitled to be paid reasonable travel expenses, if he/she is required to traveling outside Phnom Penh based on the receipt or determination prepared by the member and launched in its website.
- 6- The tribunal shall have a website. All decisions and other relevant information of the tribunal, its practices and procedures shall be posted on that website.
- 7- The tribunal shall prepare its annual budget with approval of its members before submitting it the Royal Government. The tribunal shall receive this budget from the Royal Government every year in an amount enough for performing its fundamental duties and roles under this law.

#### **Article 61- Roles and powers of the Tribunal**

- 1- The Tribunal's role is to decide an appeal against the Commissioner's decision. In making this decision, the Tribunal interprets and applies this law in the same manner as the courts do.
- 2- Members of the tribunal shall perform their roles independently. No one shall instruct about the roles of the tribunal.
- 3- Instead, the tribunal shall have powers to formulate its rules and procedures. In making its decisions, the Tribunal:
  - a. shall not bind to comply with technical aspects, law or evidence, and
  - b. shall follow strong legal formalities and complaint's substance.
4. The tribunal shall have powers to review the Commissioner's decision and re-open hearings about the whole dispute from the beginning. The tribunal may:
  - a. summon any person to give evidence;
  - b. listen to the experts of related aspects;
  - c. require a public body to publish information or record of disputes or related to the appeal.
- 5- During the conduct of the appeal hearings on the Commissioner's decision, the tribunal may:
  - a. state that the decision was correct or
  - b. reject the previous decision and replace it with a new decision.
- 6- The tribunal shall have all powers of the Commissioner pursuant to article 52 (6) and 53 (4) in requiring a body to implement in a way its finds necessary to comply with this law.

7- A member of the tribunal shall keep confidential any records and information it has received from a body for examination, except and until there is an approval for these records to be touched.

8- A request submitted to the tribunal and procedures resulting from the request shall be free of charge.

#### **Article 62- Request for review**

1- Individual or a public body affected by the Commissioner's decision made under article 52 or article 53 may submit his/her request for review "request" to the tribunal within 28 days after the date on which the decision was made. The individual or public body filing a request is called "requestor".

2- A request shall include:

- a. the requestor's name;
- b. address in a mail system, telephone number or email address (or all of these combined) so that the tribunal can contact the requestor;
- c. reasons the requestor believes the Commissioner's decision was not correct;
- d. a copy of the Commission's decision.

And the requestor shall send the request by mail or deliver it by hands to the registered office of the tribunal.

3- If the member has applied the law of procedures related to the request (especially the request sent in a standard form) the request shall be sent in compliance with such law.

4- An individual who is unable, because of illiteracy or disability, to make a request as per items 2 and 3, the registered office of the tribunal shall help him/her prepare it properly.

5- The registered office of the tribunal shall render assistance as requested for every individual and party regarding the procedures for completing the request form, legal aspects of the hearing and information of the tribunal and problems happened as a result of this law or rules of the tribunal, if they need help.

6- In making reviews by the tribunal of the decision made by the Commissioner pursuant to article 52, the burden of proof shall be on the public body to show that it acted in accordance with its obligations under Chapters 3 and 4 of this law.

#### **Article 63- Pre-Trial procedures**

1- Upon receipt of an application form, the registered office of the tribunal shall:

- a. request and receive copies of documents of the Commissioner on the decision, which is subject of the application within five working days;
- b. record the date of hearing about the application. This date shall not be less than 6 weeks and not exceeding three months after the date of request;
- c. give facts the request has received to the individual or public bodies affected by the Commissioner's decision under the review ("appeal defendant") by phone, fax, email and/or deliver by hands the information based on the detailed information containing in the initial notice of the the first complaint lodged with the Commissioner within 2 working days upon the receipt of the copy of the Commissioner's document pursuant to (a);
- d. state detailed contact information of the appeal defendant;
- e. provide through mail a copy of the application form to the appeal defendant together with a letter notifying about actions that the appeal defendant has to or is allowed to take and the deadline for those actions such as date and time of hearing;

- f. give the appeal defendant 21 days starting from the notification date (e) to respond the request and send this response in writing to the tribunal. The response must have detailed contact information of the appeal defendant;
- g. provide a copy of the response of the appeal defendant to the requestor within 2 working days after the receipt thereof;
- h. send the Commissioner's documents, requests and responses to the tribunal's President within 2 working days upon the receipt of response or date of response if no response has been sent.

The Office shall do everything necessary to ensure that the schedule above is carried out and the review process has been conducted efficiently from the date of request till the hearing comes.

2- Three (3) members represent the tribunal to investigate and hear the request. The tribunal's President select three (3) members to conduct hearing of each request and manage resource allocation. At least one (1) of the jury members shall become a judge of lower court.

3- The tribunal's President selects three (3) members to conduct hearing of the request within 2 working days after receiving the documents from the registered office. The selected members shall immediately notify the President if there are legal reasons they cannot conduct hearing of the request such as conflict of interests. If there are legal and valid reasons on issues that might render the members unable to conduct hearing of the request the President shall select other President.

4- The tribunal shall meet at least two weeks (2) before the scheduled hearing date and shall:

- a. review the Commissioner's documents, requests and responses;
- b. request for arrangement of records it is going to review;
- c. summon witnesses or experts it requires to submit evidence in the hearing and
- d. carry out investigation activities it decides as necessary.

5- Any information communication between the tribunal and parties prior to the hearing shall be conducted through the Registrar Office. The Registrar Office shall take all reasonable measures to ensure that the information is communicated to the receiver.

#### **Article 64- Procedures during the hearing**

1- All three (3) members of the tribunal shall be present in the hearing. However, if any member is absent, the other member attending it may replace him/her or if the other member is not present, either, the hearing shall be postponed between 7 days after the date of the first hearing.

2- The hearing shall be held in public at all times pursuant to item 4.

3- Parties may be represented by lawyers or other individuals they explicitly give a written authorization to represent them.

4- During the hearing, the tribunal shall allow for claims and then the appeal defendant (or his/her representative) swear to follow the decision of the arbitrator. Then, the tribunal may ask the parties questions they need to ask. If the tribunal need to ask:

- a. about the body;
- b. about information containing in the records not communicated by the public body claiming that it is their exception and a subject of the courtcase proceeding ("the records to be debated"), and
- c. the response to questions may reveal information containing in the records to be debated.

The tribunal may close hearings for all individuals, except the public body and the representative of the public body, but only for the most necessary period to be implemented to enable the public body to respond to those questions. Then, the tribunal shall re-open the hearing.

5- Parties have the rights to inspect proofs and evidence presented to the tribunal, except the records to be debated. Parties have the rights to examine witnesses testifying in the tribunal. Nonetheless, parties are not required to answer questions that disclose the information records to be debated, except that the tribunal closes the hearing following the same procedures as the ones provided for in item 4.

6- If the request for review involves with the Commissioner's decision made pursuant to article 52 of this law, the tribunal shall notify the parties in the hearing that the burden of proof shall be on the public body to show that it acted in accordance with its obligations under Chapters 3 and 4 of this law.

7- After the hearing, the tribunal shall recess to consider its decision.

#### **Article 65- Decision of the Tribunal**

1- The tribunal shall make a decision as soon as is reasonably possible, and in any case within 30 days after the hearing.

2- The decision shall be made in writing and include:

- a. names of the three (3) members;
- b. names and addresses of the parties;
- c. summary of the proceedings;
- d. description of facts;
- e. substantiated reasons for making decision, if any and references to provisions of this laws, regulations and policies;
- f. decisions and orders of the tribunal;
- g. the date on which the decision was made;
- h. comments of disagreement, if any
- i. signature of each member.

3- Once the tribunal has made its decision, it shall give notice to the parties and invite them to the tribunal to read the decision.

4- There is only one member of the tribunal required to present during the the decision is read. This member shall read the decision and reasons to the parties. The member shall also read the disagreement. Then, the member shall hand out a copy stating the accuracy of the decision (including reasons and disagreement) to each party.

5- If any party does not attend to read the decision, the Registrar Office shall send that party a copy of the decision according to the address appearing on the request or response.

#### **Article 66- Appeals**

1- The party may have right to appeal to the Supreme Court against the tribunal's decision within 28 days after the date of decision.

2- Appeals may be made for one or more reasons out of the following reasons:

- a. the tribunal has points that it should not follow procedures under this law or any Prakas;
- b. the tribunal makes a decision using powers outside this law.

#### **Article 67- Enforcement**

Upon expiry of the 28-day period for appeal under article 66, the tribunal's decision shall become obligatory and enforced immediately.

Upon expiry of the 28-day period for appeal, if the tribunal's decision is not enforced, the tribunal may

certify that in writing to the Supreme Court, which shall issue an order for respect and execution of the decision by a necessary means, including a fine up to 20 million Riels on the public body and/or officers of that body.

## **Chapter 9**

### **Protection of Whistleblowers**

#### **Article 68- Whistleblowers**

1- No one may be subject to any legal, administrative or employment-related sanction, regardless of any breach of a legal or employment obligation, for releasing information on wrongdoing, or that which would disclose a serious threat to health, safety or the environment, as long as they acted in good faith and in the reasonable belief that the information was substantially true and disclosed evidence of wrongdoing or a serious threat to health, safety or the environment.

2- For purposes of item 1, wrongdoing includes the commission of a criminal offence, failure to comply with a legal obligation, a miscarriage of justice, corruption or dishonesty, or serious maladministration regarding a body.

#### **Article 69- Other protection**

In case a record is provided and this law requires communicating information or that the Minister or Information Officer issue an order for communicating information with a sincere belief that the law requires the information to be communicated:

- a. No legal action for defamation, libel slander, breach of confidentiality or violation of copyrights against the Royal Government, public body, Minister, Information Officer or any official for reasons of giving access or revealing records and
- b. no legal action for defamation, libel slander, breach of confidentiality in relation to publication related to or resulting from communicating a record against the writers or other individuals on the grounds that the writers and individuals provided the documents for the agency or Minister.

## **Chapter 10**

### **Criminal Responsibilities**

#### **Article 70- Good faith disclosure**

No one shall be subject to civil or criminal action, or any employment detriment, for anything done in good faith in the exercise, performance or supported performance of any power or duty in terms of this law, as long as they acted reasonably and in good faith. Especially, no one who provides records as requested shall be subject to civil or criminal action for their good faith performance.

#### **Article 71- Criminal offenses**

1. It is a criminal offence to willfully:
  - a. obstruct access to any record contrary to Chapter 3 of this law;
  - b. obstruct the performance by a public body of a duty under Chapter 3 of this law;
  - c. interfere with the work of the Commissioner or the work of the Commissioner's Office;
  - d. destroy records without lawful authority, except it is involved with the National Archives;



e. in spite of (d) destruction of documents containing information related to the latest request for information pursuant to Chapter 3 or containing information that (can be reasonably seen in advance to be) (likely) to be subject of a request for information.

2. Anyone who commits an offence under item 1, shall be liable on summary conviction, to a fine not exceeding 10 million Riels and/or to imprisonment for a period not exceeding two (2) years.

## **Chapter 11**

### **Other Conditions**

#### **Article 72- Other matters related to the body**

1- If a binding decision made by the Commissioner, the tribunal or Supreme Court ordering the body to communicate records and it is rejected by that body in its first response to the request, the person requesting the information and acting as a party in the case proceedings may claim for compensation for damages incurred as a result of the disclose records at the first request.

2- The damages claim may be made only if no compensation order is issued by the Commissioner, the tribunal or Supreme Court.

3- The damages claim may be lodged with a provincial/municipal court and follow normal procedures of the court thereof.

4- The claimant shall demonstrate his/her losses in cash. The losses include: fees for lawyer, loss of income, costs of travels to attend the hearing and loss of benefit and opportunity he/she might have had, if he/she had received the information. The cash amount of loss of benefits or opportunity may be estimated, but the loss in the estimated amount of money shall be based on reliable evidence.

## **Chapter 12**

### **Correction of Personal Information**

#### **Article 73- Request for correction**

1- In case an individual complaint that the records of a body communicate to him/her whether or not provided for under this law, and with the following characteristics:

- a. incomplete, out-of-date or misleading;
- b. have been used, are being used or available for the body to use for administrative purpose.

Such individual may make a request to the body for correction of those information records it has held.

2- The request for correction shall:

- a. be made in written format and
- b. be made as soon as possible by clearly stating:
  - the record being requested for correction and
  - the information claimed to be incomplete, inaccurate, out-of-date or misleading and
  - whether the information being requested for correction is incomplete, inaccurate, out-of-date or misleading and
  - the reasons given by the requestor for this request and
  - the correction that requestor has sought.

- c. state the contact address that can be used to send the notice to the requestor and
- d. be sent via mail or delivered by hands to the body the requestor believes has held the records.

3- Any request received by a public body shall be assigned to the Information Officers of such public body within 2 working days after the receipt of a request.

#### **Article 74- Information officers may correct**

- 1- In a case where the information officer of a body that receives a request for information finds:
  - a. the personal records containing information relevant to the request are available in the records of that body;
  - b. the information is incomplete, inaccurate, out-of-date or misleading;
  - c. the information was used or is being used or that body or another body may use for the administrative purpose.
- 2- Then, the information officer shall give a written notice to the requestor to inform him/her about the corrections.

#### **Article 75- Failure to enforce the decision**

- 1- After carrying out relevant searches, Information Officer of the public body receiving the request is of the opinion that the public body does not hold the records stated in the request, the Information Officer shall:
  - a. if he/she knows that another body holds such records, refer the request to that body or
  - b. give the requestor a written notice that the public body does not have such records and therefore cannot make corrections.
- 2- If the Information Officer of a public body that receives the request is of the opinion that:
  - a. the information containing in the records is incomplete, inaccurate, out-of-date or misleading;
  - b. the information containing in the records was not used or is not being used or is not available for that public body or another public body.

He/she may decide not to amend the records. In this case, the Information Officer shall not attach the request to the records and give the requestor a written notice that no amendment has been made on the records, but the request was well-recorded.

#### **Article 76- Timing for decision and notice**

All decisions and notices in this section are required to be made by information office as soon as reasonably possible, and in any case within 30 days after the receipt of a request.

### **Chapter 13**

#### **Other Provisions**

#### **Article 77- Ministerial orders**

- 1- The Minister may, by notice in the Royal Gazette and after consultation and agreement with the Commissioner, issue a ministerial order regarding:
  - a. additional forms of communication of information;

- b. training of officials and the Information Officer;
- c. fees for communication of information allowed under this law;
- d. reports to the Commissioner;
- e. any notice required by this law or
- f. any administrative or procedural matter necessary to give effect to this law.

2- Ministerial orders under item 1 must, before publication in the Royal Gazette, be laid before the National Assembly.

#### **Article 78- Service**

In the case where documents or records or notices required to be sent or delivered to any person under this law, the person or party that is required to send or deliver documents, records or notices shall be able to ensure that services or delivery are carried out. The acceptable methods for services or delivery

of documents, records or notices include:

- a. mailing a copy via fax and maintaining a copy acknowledging the receipt;
- b. sending through a messenger and maintaining the receipt thereof;
- c. delivery by hands and maintaining the receipt thereof.

#### **Article 79- Maintenance of records of documents related to Freedom of Information (FOI)**

Records of all information requests shall be maintained by the chief of Information Office of the body. For the purpose of this Chapter, records include:

- a. copies of requests;
- b. copies of responses;
- c. written records of investigations carried out and dates of those investigations;
- d. copies of receipts for payments of service fees made by the information requestors, if applicable;
- e. copies of confirmation letters acknowledging the receipts via fax, confirmation via emails or the acknowledgement of the receipt of the records.

#### **Article 80- Determining the service fees**

1- The fees for communication of information under article 24 for information in written and non-electronic forms are as follows:

- a. Less than 10 pages - free of charge
- b. 10-20 pages - 4,000 Riels
- c. 21-100 pages - 10,000 Riels
- d. 101-500 pages - 20,000 Riels
- e. 501-1000 pages - 40,000 Riels
- f. Over 1000 pages - not exceeding 60,000 Riels

2- Fee for communication of information under article 20 for information in the electronic form and the requestor asks to be communicated in the electronic form for each complete record disclosed in the form of electronic (whether via email, in PDF file) or disc or in other forms of electronic 2000 Riels.

3- Fee for communication of information under article 20 for information in the electronic form, but the requestor asks to be communicated in written form is the same as paragraph 1 above.

4- No fee is paid for inspection of the original records or records not in written form in the Information Communication Office. After inspection, if the requestor wants to make a photocopy of the records the service fee is the same as paragraph (1), (2) and (5) of this article.

5- Fee for communication of information not in the form of written or electronics (such as in the form of sound or video) shall be considered actual costs for the public body that communicates that information, but would not exceed 60,000 Riels.

## **Chapter 14**

### **Final Provisions**

#### **Article 81-**

Any provisions that are contrary to this law shall be deemed null and void.

#### **Article 82-**

This law is declared urgent.

This law is passed by the National Assembly of the Kingdom of Cambodia on....., 2012 during its... th ordinary session of the fourth legislature.

Phnom Penh, ....., 2012

The President of the National Assembly  
Signature and Seal:

**Heng Samrin**