

KINGDOM OF CAMBODIA

Nation – Religion – King

LOGO

Ministry of Information

Preliminary Draft

**LAW
ON
ACCESS TO INFORMATION**

**CHAPTER 1
GENERAL PROVISION**

Article 1 –

The purpose of this law is to ensure the public's right to and freedom of access to information.

This law provides for duties of public institutions to provide and disseminate information publicly, in conformity with the Constitution of the Kingdom of Cambodia and article 19 of the Universal Declaration of Human Rights.

Article 2 –

This law has the following objectives:

- a) To promote and ensure the fulfillment of public institutions' obligations of broadly providing and disseminating information to the public;*
- b) To ensure public participations in political, economic, social, and cultural affairs of the nation, as described in article 35 of the Constitution of the Kingdom of Cambodia;*
- c) To provide information to the public as part of an awareness of responsibilities, activities, actions and decisions taken by the Royal Government of the Kingdom of Cambodia in order to strengthen accountability and truth before the public;*
- d) To assist the public in following up the public institutions' working activities to ensure that public funds shall be used as planned;*
- e) To promote the good management of various documents and databases of public institutions so as to make policies of providing services to the public;*
- f) To encourage public institutions to fulfill their duties with good quality, effectiveness, transparency, and accountability;*
- g) To reduce the confidential information as much as possible.*

Article 3 –

This law is applicable to all pieces of information, which shall be provided by public institutions both at national [administration](#) and subnational [administration](#) across the Kingdom of Cambodia, with the exception of a certain number of confidential information [laid down by this law](#).

Article 4 –

Technical terms used in this law include the followings:

- **Information:** [refers to all piece of official](#) documents under the possession of public institutions;
- **Public Information:** [refers to](#) the information that public institutions have to widely disseminate to the public without request;
- [Personal Privacy Information](#)
- [Professional Confidential Information:](#)
- **Personal Information:** [refers to](#) the information about any person (including information forming list of data) whether it's true or untrue and recorded or not recorded in the original form of documents;
- **Confidential Information:** [refers to](#) the information that public institutions cannot disclose to applicant;
- **Official:** [refers to](#) a person who fulfills its functions in public institutions, whether on permanent or temporary basis and fulltime or part-time basis;
- **Official in Charge of Information:** [refers to](#) an official appointed by public institutions having function of managing documents and providing information services to the public;
- **Information Office:** [refers to](#) a place, established by public institutions, where information is provided to applicant;
- **Public Institutions:** [refer to](#) ministries, secretariats of state or such other units, as well as subordinate local administrative authorities and provinces/capital, municipalities/districts/khans, communes/sangkats created by the law, royal decree, sub-decree, prakas or other regulations, in accordance with the Constitution of the Kingdom of Cambodia;
- **Applicant:** [refers to](#) a person who makes a request for information;
- **National Administrations:** [refer to](#) ministries, institutions or equivalent public entities, and subordinate specialized departments;
- **Subnational Administrations:** refer to capitals/provinces, municipalities/districts/khans, and communes/[sangkats](#) under the authority of each council.
- **Information Damaging to National Security:**
 - a) Refers to all kind of confidential information endangering territorial integrity and stability, which is vital for the Kingdom of Cambodia; and
 - b) Refers to all kind of confidential information of the royal armed force and the national police where the disclosure of which shall be harmful to the fulfillment of missions and the operation of armed force in the Kingdom of Cambodia;

- **Public Servant:** refers to a person who works for national or subnational administrations;
- **Public Order:** refers to all kinds of confidential information where the disclosure of which will lead to confusion, turmoil and violence that cause social instability and disorder.

CHAPTER 2

RIGHTS AND OBLIGATIONS OF PROVIDING INFORMATION

Article 5 –

All persons have the right to and freedom of access to information held by public institutions under the provisions of this law.

Article 6 –

All public institutions shall abide by the principle of maximum disclosure. Forward this end, they shall regularly update and broadly disseminate information about action plans, budgeting, fulfillment of tasks, responsibilities, and other decisions in connection with national and public interests such as:

- a) Organization and functioning of all public institutions, including working activities and other achievements;
- b) Public institutions' development plan of infrastructures and all sectors;
- c) Detailed information about services mechanism, together with list of fees of the public services to be provided by public institutions to the public;
- d) Laws, regulations, policies, decisions, and duties of public institutions relating to rights, freedoms, obligations, and public interests;
- e) All aspects of functioning and procedures at courts, including administrative affairs, which are of the interest of and have direct connection with the public, except for a certain number of prohibited provisions;
- f) Annual budget plan attached with detailed information on spending budget in current fiscal year and audited financial statement of the previous year;
- g) Official requests or complaints mechanism establishing for the public in connection with action or omission of public institutions, together with summary of the requested complaint or other direct actions of members or response of public institutions.

Article 7 –

All public institutions shall facilitate access and shall be open in providing all kinds of information to the public upon request without any discrimination, comprehensible formalities and within established timeframes, and reasonable fees, excepting the confidential information under prohibited provisions.

Article 8 –

Public institutions shall perform the following obligations:

- a) To create an information office within each institution, both at national and sub-national level, by providing financial supports, materials and proper means to officials in charge of information, in order to facilitate the provision of information to the public with effectiveness.*
- b) Each information office shall be leaded by a vice-president of institution, who has expertise and experiences in the field of information under responsibility of the institution, and by subordinate official in charge of information as deemed necessary.*
- c) The appointment of officials in charge of information shall be determined by the decision of public institutions.*
- d) To train officials in charge of information to gain more expertise and capacity in relation to the right to access to information, so that this law shall be implemented effectively.*
- e) To encourage specialized units under the institution itself to cooperate and take responsibility for the search of information for providing to the public, upon request of the chief of information office.*

Article 9 –

Officials in charge of information shall have the following duties:

- a) To be a spokesman of the institution, for which s/he is currently working, in response to the public;*
- b) To be responsible before the head of institution for the proper provision of all piece of information to the public;*
- c) To be a focal coordinator in his/her institution and in communication with the public for receiving request for information from the public;*
- d) To closely cooperate with all specialized units of his/her institution in searching for, collecting and compiling documents, and assisting in searches of records upon request of applicant;*
- e) To assist all persons who seek for information, including provide support for preparing application forms for requesting for information and other procedures set out by this law;*
- f) To cooperate with other relevant specialized units of his/her institution in classifying information which falls within the scope of the confidential information or records which fall or not within the scope of exemption;*
- g) To be responsible for preparing communication plans of information and public dissemination of the implementation, responsibilities, duties, and achievements of public institutions.*

CHAPTER 3
PROCEDURES OF REQUESTING AND PROVIDING INFORMATION

Article 10 –

All persons whether natural persons or legal persons shall be entitled to request all kinds of information from public institutions without any discrimination.

Article 11 –

A request for information shall be made in writing with its detailed descriptions about the requested information and its forms to be addressed to public institutions.

Procedures and formalities for requesting information shall be determined as follows:

1. Formalities for requesting for information:
 - Name, sex, age, nationality, occupation;
 - Current address and electronic address (if any);
 - List of detailed information to be requested.
2. Applicant who has no ability to fill out application forms by him/herself due to illiteracy or disability may make a request for information orally. Officials in charge of information who received such a request shall gratuitously assist in writing information upon request accordingly and note his/her name in a certified copy and applicant's receipt.
3. Applicant may submit a written request for information directly or via its authorized representative to officials of public institution or officials in charge of information, or may send it by post or by email to public institutions possessing that information.
4. Officials of public institutions or officials in charge of information who received a request for information shall duly register and issue receipts to the applicant;
5. Applicant shall take receipts from the officials of public institution or officials in charge of information right after filing application forms. For those making requests for information by post or by email, receipts shall be issued based on the type of means of the request.
6. Officials of public institution who received a request for information shall forward such a request to officials in charge of information within 24 (twenty four) hours of working days.
7. In the event that a request for information is wrongly addressed to competent institutions possessing information, officials in charge of information shall return such a request to the applicant as soon as possible and shall give more information as much as possible about the public institutions holding the requested information.

Article 12 –

Public institutions shall provide precise information with its nature and form as requested by applicant, including but not limited to:

1. A true copy of documented information from original documents;

2. A copy of documented information can be in writing, audio, picture, video, disk, or other forms;
3. Records in form of code numbers, acronyms, braille or other symbols;
4. In case a request for information is made in multi-languages, public institutions may provide information in Khmer or in language as its original format to applicant.

Article 13 –

Officials in charge of information shall promptly examine a requests for information and give a written response to its applicant by notifying if there is or no such requested information or if it's the confidential information, which is prohibited by law from revealing publicly. The response shall be given no later than 5 (five) working days, commencing from the date of receiving the request.

A positive response shall be indicated therein the public service fees applicable for receiving the information.

Article 14 –

Public institutions shall provide information to applicant as follows:

1. To provide information to the applicant within 15 (fifteen) working days, starting from the date of receiving an official response from the applicant, mentioning his/her agreement on service fees, as specified in Article 13 of this Law;
2. In the event that the provision of information cannot be done within the duration as described in the above item 1, public institutions may continue such delay for a period of no longer than 40 (forty) working days, by giving the reasons in writing of such delay back to the applicant.

Article 15 –

Public institutions may deny ~~providing~~ ~~supplying~~ information to applicant based on the following conditions:

1. Requested information is under confidential and prohibited as specified in Article 20 of this law by regulation ;
2. Requester failing to fully fill in the application forms as stated in article 11 ~~of chapter 3~~ of this law;
3. Applicant intends to disturb the operation of the public institutions.
4. Requested information has recently been provided by public institutions to applicant within a period of under four months;
5. Requested documents are possessed by enormous relevant institutions, which is impossible to provide such information in a timely manner within the timeframe as determined in article 14 of this law.

6. *Affecting the quality or the maintenance of the recorded information held by public institutions.*

Article 16 –

Applicant who truly wishes to obtain information and eventually is rejected by public institutions with clear reasoning as stated in articles 11 and 15 ~~of chapter 3~~ of this law may re-apply by selecting only crucial and indispensable information in order to enable officials in charge of information to perform his/her duties easily according with the timeframe as prescribed in article 14 ~~of chapter 3~~ of this law.

If public institutions fail to provide information within 40 (forty) days without giving proper reasons, applicant may appeal to competent institutions, as stated in article 22 ~~of chapter 6~~ of this law.

Article 17 –

Officials in charge of information shall examine a request for information under the scope of exceptions and classify which categories of information are or not under prohibited provisions.

Officials in charge of information shall be burden to provide information to applicant as follows:

1. *The information already disseminated publicly as specified in article 6 ~~of chapter 2~~ of this law or copy of the part thereof, which is not confidential information;*
2. *Notifying applicant about the fact of cutting out information deemed as confidential information by providing reasons of doing so and other reasons related to prohibitive provisions;*
3. *The information relating to duties and responsibilities of political officials of public institutions and civil servants of public administrations;*
4. *The information relating to trade the right holder has declaimed or agreed to grant to public institutions for public use purposes.*

Article 18 –

Officials in charge of information of all public institutions shall not evade obligations to provide information to the public on the pretext of such information falls within the scope of exceptions as specified in article 6 of chapter 2 and article 17 of chapter 3 of this law.

In case the requested information falls into the scope of exceptions, the article 17 ~~of chapter 3~~ shall be applicable.

Article 19 –

Public institutions shall provide supply information to the public by fixing reasonable fees as follows:

1. *Free of charge services for preparing application forms of requesting for information;*

2. The service fees for providing the copy of records - in writing, audio, picture, video, disk, or other forms - shall be fixed by the Inter-ministerial Prakas of the Ministry of Economy and Finance and other relevant institutions.

CHAPTER 4

CONFIDENTIAL INFORMATION

Article 20 –

Public institutions may deny ~~providing~~ ~~supplying~~ information to the public if the disclosure of such information would be:

1. Damaging to national security ~~and~~ ~~or~~ public order;
2. Affecting the international relations;
3. Damaging to public finance and national economy;
4. Affecting ~~case files investigation processes or legal proceedings~~ or confidentiality of the court;
5. Violating personal privacy of individual, including but not limited to a civil servant's case, health related case, and case files of ~~commercial~~ private rights litigation;
6. Endangering to law enforcement agencies or the fulfillment of their missions;
7. Harmful to legal documents and other prohibited provisions on confidential information of the Kingdom of Cambodia.

CHAPTER 5

PROTECTION FOR INFORMATION REVELATION

Article 21 –

All persons shall not be criminally, civilly and disciplinarily responsible for the denunciations of felony or misdemeanor they are aware of in the scope of work or during the completion of their missions, making before the judicial authorities or other competent authorities.

Article 22 –

Officials in charge of information shall not be criminally, civilly and disciplinarily responsible for the decision of providing information to the public made within their cope of work and position as officials in charge of information. This principle is not applicable in case where officials in charge of information fulfill their duties with bad faith, which is contrary to their competence and position granted by laws.

CHAPTER 6

APPEAL AND ENFORCEMENT OF DECISIONS

Article 23 –

Applicant shall have the right to appeal to the head of public institution where the request for information was addressed to if the requested for information is not provided in accordance with article 14 or was rejected by public institution without any proper reasons as stated in articles 15 and 17 of this law.

In the event that the applicant does not satisfy with the head of the concerned public institution's decisions, he/she may reject such decisions by appeal to the capital or provincial courts of first instance and continue to lodge an appeal against decisions of the capital or provincial courts of first instance in accordance legal proceedings.

Article 24 –

In the event that the lower courts or the higher courts orders public institutions to provide information upon request, procedures for providing of information shall be implemented in accordance with articles 13 and 14 ~~of chapter 3~~ of this law.

CHAPTER 7

PENALTIES

Article 25 –

Officials of public institution or officials in charge of information failing to fulfill their obligations as described in the provision of article 9, article 11, article 12, article 13, article 14, article 17, article 18 and article 23 of this law shall be liable for disciplinary sanctions without prejudice to criminal punishments.

Article 26 –

Whoever causes disruption, prevents or uses any means to obstruct the operation of officials of public institution or officials in charge of information in performing their duties as stated in article 15 ~~of chapter 3~~ of this law shall be liable to an imprisonment from 7 (seven) days to 1 (one) month and to a fine from 10,000 (ten thousand) Riels to 100,000 (one hundred thousands) Riels.

In case there is an act of violence committed against officials of public institution or officials in charge of information performing their duties as stipulated in the paragraph 1 of article 26 of this law shall be punishable by the provision of article 506 (Obstruction against the implementation of public works) of the Criminal Code.

Article 27 –

A direct inciting leading to cause disruption, prevent or use any means to obstruct the operation of officials of public institution or officials in charge of information in performing their duties as described in article 15 ~~of chapter 3~~ of this law shall be punishable by the provision of article 505 (Inciting to commit Rebellions ~~offense against public officials~~) of the criminal code.

Article 28 –

Whoever makes a lying denunciation to any public institutions or judicial authorities about an offense, causing the investigation to become useless, shall be liable to an imprisonment form 1 (one) month to 6 (six) months and to a fine from 100,000 (one hundred thousands) Riels to 1,000,000 (one million) Riels.

In case there is the provision of false information to civil authority or Khmer army possibly leading to damage the national defense in favor of foreign State's interests shall be punishable by the provision of article 448 (Provision of false information) of the Criminal Code.

Article 29 –

Whoever is obliged to provide supply or hold information of the public institution agrees to disclose confidential information to any incompetent persons in exchange for donation, gift, promise or any other interests, shall be punishable by the provision of article 32 (Corruption offenses) of the Law on Anti-Corruption.

Article 30 -

Whoever is obliged to provide supply or hold confidential information, due to his/her own personal situation, career, occupation or mission, discloses or reveals the confidential information to any incompetent persons to be known about secrets of the public institution shall be liable to an imprisonment from 2 (two) years to 5 (five) years and to a fine from 4,000,000 (four millions) Riels to 10,000,000 (ten millions) Riels and shall be subject to be punishable by additional penalties sanctions as described in article 483 (Additional Penalties Affecting the security of State) of the criminal code.

In the case that the confidential information is leaked by unintentional mistake or disobedience to internal rules shall be liable to an imprisonment from 6 (six) months to 2 (two) years and to a fine from 1,000,000 (one million) Riels to 4,000,000 (four millions) Riels.

Article 31 –

Whoever is obliged to provide supply or hold information provides or facilitates access to confidential information from any foreign States or international agencies, causing damage to the national security and economy shall be liable to an imprisonment from 7 (seven) years to 15 (fifteen) years and to a fine from 10,000,000 (ten millions) to 20,000,000 (twenty millions) Riels and shall be subject to be punishable by additional penalties sanctions as described in the article 450 (~~Type of a~~ Additional penalties sanctions) of the Criminal Code.

Article 32 –

Whoever has no competent to hold information or whoever has been performing his/her duties in holding the public institution's information intentionally keep or possess confidential information for personal purposes shall be liable to an imprisonment from 2 (two) years to 5 (five) years and to a fine from 4,000,000 (four millions) to 10,000,000 (ten millions) Riels.

Article 33 –

Whoever is obliged to hold public information causes damage or destroys such information shall be liable to an imprisonment from 2 (two) years to 5 (five) and to a fine from 4,000,000 (four millions) to 10,000,000 (ten millions) Riels, and shall be subject to be punishable by additional penalties sanctions as stated in the Article 483 (Additional Penalties Affecting Security of State) of the Criminal Code.

In case that the damage of such information is unintentionally caused during the performance of duties shall be liable to an imprisonment from 6 (six) months to 1 (one) year and to a fine from 1,000,000 (one million) to 2,000,000 (two millions) Riels.

CHAPTER 8 TRANSITIONAL PROVISION

Article 34 –

The Press Law promulgated by Royal Krom No. NS/RKM/0895/07 on September 1st, 1995, and the provision of other related laws, as well as other texts supporting the implementation of this law shall remain applicable until the replacement of new provisions.

Officials in charge of information ~~of and~~ municipal and provincial administration instituted by Joint Prakas No. 3527 PrK 443 PM.PrK dated 26 July 2012 of the Ministry of Interior and the Ministry of Information shall continuously perform their duties until replacing by a new office in charge of information created under the spirit of this law.

CHAPTER 9 FINAL PROVISION

Article 35 –

This law shall prevail in case of the provision of other laws contradict all provisions of this law.

Article 36 –

Any provisions that contradict this shall be deemed as null and void.