

Sub-Decree
On
The Provisional Fines for the Offenses Related to the Law on Auditing and Accounting

.....
Royal Government

- Having seen the Constitution of the Kingdom of Cambodia
- Having seen the Royal Decree No. NS/RKT/0918/925 dated 06 September 2018 on the Appointment of the Royal Government of Cambodia
- Having seen the Royal Decree No. NS/RKT/0320/421 dated 30 March 2020 on the Appointment and Cabinet Reshuffle of the composition of the Royal Government of Cambodia
- Having seen the Royal Decree No. NS/RKT/0618/012 dated 28 June 2018 on the promulgation of the law on the organization of the Council of Ministers
- Having seen the Royal Kram No. NS/RKT/0196/18 dated 24 January 1996 on the promulgation of the law on the establishment of the Ministry of Economy and Finance
- Having seen Royal Kram No. NS/RKT/0416/006 dated 11 April 2016 on the promulgation of the Law on the Auditing and Accounting
- Having seen sub-decree No.20 អនក្រឹត្យ ប្រកាស. dated 30 April 1996 on the organization and functioning of the Ministries and Secretariat General
- Having seen the sub-decree No. 488 អនក្រឹត្យប្រកាស. dated 16 October 2013 on the organization and functioning of the Ministry of Economy and Finance
- Having seen the sub-decree No. 75 អនក្រឹត្យ ប្រកាស. dated 25 May 2017 on the revisions of sub-decree No. 488 អនក្រឹត្យប្រកាស. dated 16 October 2013 on the organization and functioning of the Ministry of Economy and Finance
- Having seen the Sub-decree No. 185 អនក្រឹត្យ ប្រកាស. dated 25 October 2017 on the organization and functioning of the National Accounting Council
- Referring to the request of the President of the National Accounting Council

Decided

Chapter 1
General Provisions

Article 1.

This Sub-decree determines the financial fines of provisional fines on offenses related to the Law on Auditing and Accounting and management mechanism of provisional fines aims to promote the responsibility of enterprises, Not-for-profit entities, accountants and auditors in order to ensure the effectiveness of the enforcement of the Law on Auditing and Accounting.

Article 2.

This sub-decree shall have applicability over;

1. Enterprises or legal entities that have registered with the Ministry of Commerce, and/or the General Department of Taxation as the medium and large taxpayer's enterprises.
2. All Not-for-Profit Entities that have registered with competent ministries and institutions.

3. All accountants and auditors who are members of Cambodian institutes of professional accountants and auditors and obtained the license for the professional accounting and/or auditing recognized by the NAC.

Article 3.

Terminologies use in this sub-decree shall be defined as the following;

- Not holding the accounting book shall be referred to the absence of keeping the accounting records and the booking record or determined accounting book without the financial operation records. Accounting records including; invoices, receipts/billsLedgers or account-book are included the sale records, purchase records, bill and receipts records.
- Violator refers to enterprises or not-for-profit entities or accountants or auditors who act violating the offenses provided in the Law on Auditing and Accounting.
- Accountant and/or auditor who is the natural person shall be the person who is a member of a professional institute of accountants and auditors of Cambodia and obtained the license issued by the NAC.
- Accountant and/or auditor who are the legal person shall be accounting and auditing firms which obtains the license of accounting and/or auditing professional practice issued by the NAC.
- Large and medium taxpayer enterprise shall be referred to the enterprise that is being determined by the existing Prakas issued by the Ministry of Economics and Finance.
- Recidivism is the act of repetition(s) made by the enterprise or not-for-profit entities or accountant or auditor whom had been received the provisional fine but continues to act contravening against the fined offense.
- The owner of the granted license shall be referred to the person has obtained the license of the professional accounting and/or auditing practice issued by the NAC.

Chapter 2

Offenses and the Provisional Fines

Part 1

For Enterprises

Article 4.

Larger Taxpayer Enterprises shall be punishable with a financial provisional fine if any of the following offenses committed;

- A. The using of the accounting calendar year contravening to the law on auditing and accounting without the authorization issued shall be fined at the amount of 2,000,000 (Two million) Riel.
- B. The using of any language other than Khmer language in the accounting book and in the standard of financial report shall be fined at the amount of 2,000,000 (Two million) Riel.
- C. The using of any foreign currency other than Riel currency in the accounting book and the standard of financial report, without any authorization shall be fined at the amount of 2,000,000 (Two million) Riel.
- D. The act of not or being late submitting the financial report to the Secretariat General of the National Accounting Council as determined by the NAC, shall be fined at amount of 2,000,000 (Two million) Riel.
- E. The act of holding the accounting book shall be fined at the amount of 10,000,000 (Ten million) Riel.
- F. Having no financial report arrangement in accordance with the applicable Accounting Standard shall be fined at the amount of 10,000,000 (Ten million) Riel.

- G. Failing to have the independent financial report audited shall be fined at the amount of 20,000,000 (Twenty million) Riel.
- H. The act of not using the Standard of Financial Report in accordance existing accounting standard to the fulfillment of the requirements of the taxes obligation shall be fined at the amount of 10,000,000 (Ten million) Riel.
- I. Has not kept accounting recorded documents as provided in the law shall be fined at the amount of 10,000,000 (Ten million) Riel.

Article 5.

For Medium Taxpayer Enterprises shall be punishable with a financial provisional fine if any of the following offenses committed;

- A. of the Accounting calendar year contravening to the law on auditing and accounting without the authorization issued shall be fined at the amount of 1,500,000 (One million and five hundred thousand) Riel.
- B. The using of any language other than Khmer language in the accounting book and the standard of financial report shall be fined at the amount of 1,500,000 (One million and five hundred thousand) Riel.
- C. The using of any foreign currency other than Riel currency in the accounting book and the standard of financial report, without any authorization shall be fined at the amount of 1,500,000 (One million and five hundred thousand) Riel.
- D. The act of not or being late submitting the financial report to the Secretariat General of the National Accounting Council as determined by the NAC, shall be fined at amount of 2,000,000 (Two million) Riel.
- E. The act of hold the accounting book shall be fined at the amount of 10,000,000 (Ten million) Riel.
- F. Having no financial report arrangement in accordance with the applicable Accounting Standard shall be fined at the amount of 8,000,000 (Eight million) Riel.
- G. Failing to have the independent financial report audited shall be fined at the amount of 16,000,000 (Sixteen million) Riel.
- H. The act of not using the Standard of Financial Report in accordance existing accounting standard to the fulfillment of the requirements of the taxes obligation shall be fined at the amount of 8,000,000 (Eight million) Riel.
- I. Has not maintained accounting recorded documents as provided in the law shall be fined at the amount of 8,000,000 (Eight million) Riel.

Part 2

For Not-for-Profit Entities

Article 6.

For Not-for-Profit Entities shall be punishable with a financial provisional fine if any of the following offenses committed;

- A. The using of the Accounting calendar year contravening to the law on auditing and accounting without the authorization issued shall be fined at the amount of 800,000 (Eight hundred thousand) Riel.
- B. The using of any language other than Khmer language in the accounting book and the standard of financial report shall be fined at the amount of 800,000 (Eight hundred thousand) Riel.

- C. The using of any foreign currency other than Riel currency in the accounting book and the standard of financial report, without any authorization shall be fined at the amount of 800,000 (Eight hundred thousand) Riel.
- D. The act of not or being late submitting the financial report to the Secretariat General of the National Accounting Council as determined by the NAC, shall be fined at amount of 1,200,000 (One million and twelve hundred thousand) Riel).
- E. The act of hold the accounting book shall be fined at the amount of 6,400,000 (Six million and four hundred thousand) Riel.
- F. Having no financial report arrangement in accordance with the applicable Accounting Standard shall be fined at the amount of 6,400,000 (Six million and four hundred thousand) Riel.
- G. Failing to have the independent financial report audited shall be fined at the amount of 1,6000,000 (One million and six hundred thousand) Riel.
- H. The act of not using the Standard of Financial Report in accordance existing accounting standard to the fulfillment of the requirements of the taxes obligation shall be fined at the amount of 4,800,000 (Four million and eight hundred thousand) Riel.
- I. Has not kept accounting recorded documents as provided in the law shall be fined at the amount of 8,000,000 (Eight million) Riel.

Part 3
For Accountants and Auditors

Article 7.

Accountant who is a natural person shall be punishable with a provisional fine if any of the following offenses committed;

- A. Acted contravening to the provisions of Paragraph of article 8 of the Law on Auditing and Accounting shall be punishable with provisional fine at the amount of 5,000,000 (Five Million) Riel.
- B. For being late to make the annual payment of fee charge on the issuance of license of the professional accountants, he/she shall be punishable with the provisional fine at the amount of 100,000 (One hundred thousand) Riel per day from the date of the expiration of validity of the license.
- C. Being late to request for the renewal of the license of the professional accountant, he/she shall be punishable with the provisional fine at the amount of 100,000 (One hundred thousand) Riel per day from the date of the expiration of validity of the license.

Article 8.

An Accountant who is a legal person shall be punishable with a provisional fine if any of the following offenses committed;

- A. For being late to make the annual payment of fee charge on the issuance of license of the professional accountants, he/she shall be punishable with the provisional fine at the amount of 150,000 (One hundred fifty thousand) Riel per day from the date of the expiration of validity of the license.
- B. Being late to request for the renewal of the license of the professional accountant, he/she shall be punishable with the provisional fine at the amount of 150,000 (One hundred fifty thousand) Riel per day from the date of the expiration of validity the license.

Article 9.

An Auditor who is a natural person shall be punishable with a provisional fine if any of the

following offenses committed;

- A. Preparing the auditing financial report without using the Khmer and English language without the authorization shall be punishable with the provisional fine at the amount of 10,000,000 (Ten million) Riel.
- B. Preparing the auditing financial report inconsistent with the standard of auditing report and (CISCA) shall be punishable with the provisional fine with the provisional fine at the amount of 10,000,000 (Ten million) Riel.
- C. Provision of the auditing service to the enterprises or not-for-profit entities which are not confirmed with conditions determined under the provisions of the first para. of article 15 of the Law on Auditing and Accounting shall be punishable with provisional fine at the amount of 20,000,000 (twenty million) Riel.
- D. Provision of the auditing service to the enterprises or not-for-profit entities which are not confirmed with conditions determined under the provisions of the second para. of article 15 of the Law on Auditing and Accounting shall be punishable with provisional fine at the amount of 20,000,000 (twenty million) Riel.
- E. Failing to keep the audit evidence at least for the period of ten (10) years from the date of releasing the audited financial report shall be punishable with the provisional fine at the amount of 20,000,000 (twenty million) Riel.
- F. The act of violating against the provisions of para. 2 of article 28 of the Law on Auditing and Accounting shall be punishable with the provisional fine the amount of 20,000,000 (Twenty million) Riel.
- G. Being late to make payment for Annual Audit License shall be punishable with the provisional fine the amount of 150,000 (One Hundred and Fifty Thousand) Riel per day from the date of the expiration of validity of the license.
- H. Being late to request for the renewal of Audit License shall be punishable with the provisional fine the amount of 150,000 (One Hundred and Fifty Thousand) Riel per day from the date of the expiration of validity of the license

Article 10.

An auditor who is a legal person shall be punishable with a provisional fine if any of the following offenses committed;

- A. Being late to make payment for Annual Audit License shall be punishable with the provisional fine the amount of 200,000 (Two Hundred Thousand) Riel per day from the date of the expiration of validity of the license.
- B. Being late to request for the renewal of Audit License shall be punishable with the provisional fine the amount of 200,000 (Two Hundred Thousand) Riel per day from the date of the expiration of validity of the license
- C. Provision of the auditing service to the enterprises or not-for-profit entities which are not confirmed with conditions determined under the provisions of the First Para. of article 15 of the Law on Auditing and Accounting, shall be punishable with provisional fine at the amount of 20,000,000 (Twenty million) Riel.
- D. Provision of the auditing service to the enterprises or not-for-profit entities which are not confirmed with conditions determined under the provisions of the Second para. of article 15 of the Law on

Auditing and Accounting shall be punishable with provisional fine at the amount of 20,000,000 (twenty million) Riel.

- E. Provision of the auditing service to the enterprises or not-for-profit entities which are not confirmed with conditions determined under the provisions of the third Para. of article 15 of the Law on Auditing and Accounting shall be punishable with provisional fine at the amount of 30,000,000 (thirty million) Riel.

Chapter 3

In Case of Recidivism and the Late Payment Fine as Dated

Article 11.

In the case of a person who is deemed as violated and had been punished with a provisional fine once previously, and continued to retrieve the same fined offenses, the person shall be additionally punishable with a provisional fine with the amount as the followings;

- For the first recidivism, the amount of a fine shall be a double of the first paid amount of the fine.
- For the second recidivism, the amount of a fine shall be a double of the amount of fine made to the first recidivism.
- For the third recidivism, the NAC shall issue the decision to suspend or withdraw the license granted for the professional accountants and auditors. The NAC shall submit a letter of request to the relevant ministries and institutions to take legal action against said enterprises and not-for-profit entities.

Article 12.

Within a period of thirty (30) days from the date of receiving the recipe of payment of fines, and in the event that the person who deemed as a violator fails to make the payment of the fined amount, the amount of the fine shall be a double increased, and if the payment of the fine is made beyond the period of sixty (60) days, the amount of the fine shall be a triple. With the expiration of ninety (90) days, the Secretariat General of the National Accounting Council shall take legal action to the competent court.

The period of (30) days, (60) days, and (90) days starts from the date of receiving the recipe of payment of fines issued by the NAC.

Chapter 4

The Competent Institutions, Mechanisms of the Provisional Fines, and the Management of the Financial Fined

Article 13.

The provisional fines shall be in competency of the National Accounting Council. The chairman of National Accounting Council shall have the right make decision on behalf of the National Accounting Council.

The General Secretariat of National Accounting Council shall propose and prepare a decision to impose a provisional fine to the chairman of the National Accounting Council to review and approve.

Article 14.

The formality and procedure of the provisional fines, the payment of fines, the management of the receipts of the financial fined, and the arrangement of the of fines received from the violation of the offenses provided in this Sub-decree shall be determined by the Inter-ministerial Prakas made by the Minister of the Ministry of Economy and Finance and the Minister of the Ministry of Justice.

Financial fines received shall be the national budget revenue made by the NAC.

Article 15.

The payment of fine shall lead to the termination of the criminal action.

In the case that a person who refuses to pay the fine ordered, the chairman of the National Accounting Council may appoint a delegation of the General Secretariat of the National Accounting Council to inspect the company, enterprise or the not-for-profit entity, accountant and/or auditor, and file the case of the committed offenses to the court in accordance with the procedure of the applicable law.

With the criminal liability may be imposed, any competent official who acts with the intent to cover up the offense committed by the perpetrator shall be subject to the administrative sanctions.

Chapter 5

Appeal to the Decision of the Provisional Fines

Article 16.

The person who dissatisfied with the decision of the fine issued by the chairman of the National Accounting Council shall have the right to file the complaint to the National Accounting Council within the period of 15 (Fifteen) working-day from the date on which the person receives the notification on the provisional fines issued by the chairman of the National Accounting Council.

In the event that the person who is dissatisfied with the decision made by the National Accounting Council on the complaint filed, the person shall have the right to file the complaint against the decision to the Minister of Ministry of Economy and Finance within 30 (Thirty) working-day from the date the person receives the decision made.

If the person is still dissatisfied with the decision of the Minister of the Ministry of Economy and Finance, the person may appeal to the competent court within the period 30 working-day from the date the person receives aggrieved decision made by the Minister of the Ministry of Economy and Finance.

The complaint of the person whom has been ordered to pay the provisional fine which filed before the court shall not be applicable to suspend the execution the decision made by the Minister of the Ministry of Economy and Finance.

Article 17.

The rules and procedures of the complaint resolution on decision of the provisional fine shall be determined by the Prakas of the Minister of the Ministry of Economy and Finance.

Chapter 6

Final Provisions

Article 18.

Any provision stipulates contravening to this Sub-decree shall be invalidated.

Article 19.

The Minister in charge of the Council of Ministers, Minister of the Ministry of Economy and Finance and other Ministers of the ministries and Chairmen of all related institutions respectively, shall be responsible to implement this Sub-decree from the date of the signature, accordingly.

Monday 11 Kaet Month of Jest, Eksak B.E. 2564
Phnom Penh, date June 01, 2020

Prime Minister

Having obtained and submit to
Samdech Akkak Moha Sena Padei Techo Prime Minister for the Signature

Deputy Prime Minister,
Minister of the Ministry of Economy and Finance

Unofficial Translation made by Mr. *SOTHEARA YOEURNG*, Email: sotheara.legal.clc@gmail.com

Akkapandit Saphajar, Aun Pornmoniroth

Receiving places:

- Ministry of Royal Palace
- Secretariat General of the Constitutional Council
- Secretariat General of the Senate
- Secretariat General of the National Assembly
- Cabinet of Samdech Techno Prime Minister
- Cabinet of Samdech, His and Her Excellency and Deputy Prime Ministers
- Article 19
- Royal Gazette
- Documents and Archives