

Unofficial Translation

KINGDOM OF CAMBODIA
Nation - Religion - King

Royal Government

SUB-DECREE
ON
INSURANCE

Adopted by the Council of Ministers on September 21, 2001

The Royal Government

- x Seen the Constitution of the Kingdom of Cambodia;
- x Seen the Royal Decree No. NS/RKT 1198/72 dated November 30, 1998, on the Appointment of the Royal Government of Cambodia;
- x Seen the Royal Kram No. 02/NS/94 dated July 20, 1994 promulgating the Law on the Organization and Functioning of the Council of Ministers;
x Seen the Royal Kram on Insurance;
- x Seen the Sub-Decree No. 04/ANKr/BK dated January 20, 2000, on the Organization and Functioning of the Ministry of Economy and Finance;

Article 4: The Ministry of Economy and Finance shall be responsible for the controls and supervisions over the insurance business in accordance with the provisions of this sub-decree.

CHAPTER II: INSURANCE CONTRACT

Section 1: General

Article 5: Parties to the insurance contract include:

1. Insurers
2. Insured persons

The insurers refer to insurance companies, agents and brokers.

The insured refers to a person who enters an insurance contract with an insurer.

Article 6: The insured has the following obligations:

1. Paying the insurance premium in full amount to the insurance company as agreed;
2. Upon an occurrence of any claim, the insured shall immediately give notice to the insurance company;
3. Cooperating to provide the information and documents relating to the claim at the insurance company's requirements.

Article 7: The insurance company has obligations:

1. to indemnify for any loss or damage upon the claim occurrence, which is accidentally caused by coincidence, natural disasters, and any reasons which are not willful act of the insured;
2. to timely pay the claim according to the degree of damage and the sum insured.

Article 8: To enter into an insurance contract, the insured shall submit to the insurance company a proposal for insurance or directly come to make declaration at the insurance company or through the insurance agent. Based on this proposal and declaration, the insurance company shall issue an insurance policy which requires the insurance company to bear a liability to indemnify for any loss or damage which may eventually occur.

The insurance policy is a document reflecting the form of a specific insurance contract and creating the evidence of the contract. Such document shall be signed by the insurance company or agent. When entering into the insurance contract, the insured may make a discussion with the insurance company to opt to enter into a short-term or long-term contract as agreed.

Article 9: In case of necessity and urgency that the contract cannot be made and the insurance policy cannot be issued, the insurance may be

1. Any third party who properly obeys the traffic law and sustains a physical injury or property damage caused by the commercial motor vehicles on the road shall be timely and properly indemnified by the insurance company for loss or damage according to the degree of such damage.
2. All parties shall endeavor to reach an agreement by indicating in writing the agreement on the cause of such accident and properly and sufficiently filling out a report of such accident.
3. If such agreement cannot be reached, all parties shall seek an intervention from traffic police to make an accident observation note and graph. The parties concerned shall negotiate on claim settlement based on these two documents. In the case that an accident occurs in a remote area where there has no ground traffic, the motor vehicle owner or driver shall contact local competent authorities to certify the accident report.
4. In the event that the parties concerned still disagreed, the disagreeing party may make a complaint to the court where such accident occurred for the settlement under the laws.

Article 36: When it is required by competent authorities, each motor vehicle owner shall prove the insurance certificate.

Article 37:

Section 3: Insurance for Passenger Transport

Article 42: The insurance for passenger transport is beneficial to the protection of rights and interests of passengers being transported by various transport means. Such insurance requires the owner of transport means to comply with transport standards; i.e., not loading with people more than the authorized number of seats, and to regularly take care of his/her own transport means in good manner.

Article 43: All types of transport means holding licenses to operate the transport business in the Kingdom of Cambodia shall have liability insurance for passengers being transported on their own means of transport.

Article 44: The insurance policy provided in Article 43 of this sub-decree shall be issued by an insurance company duly registered in the commercial register and licensed to operate the insurance business in the Kingdom of Cambodia.

Article 45: Upon an occurrence of an accident pertaining to passengers who are getting on, traveling on or getting off the transport means, the driver or owner of the transport means shall

3. Estimated financial statement of first three accounting periods;
4. List of shareholders' names and table of each shareholder's share;
5. Curriculum vitae of key officers and managers to be appointed and criminal records of such officers and managers;
6. Principles and operation project;
7. Information of locations determined by the company to do the business;
8. Samples of the insurance policy, endorsement, and printed letters used for distribution to the general public or for advertisement relating to each operation; and
9. Other necessary documents according to each insurance business class, required by the Ministry of Economy and Finance.

Article 48: Every application for license of any foreign insurance company shall be accompanied with other documents in addition to the documents specified in items 1-9 of the preceding article. Such documents include:

1. Balance sheet and profit and loss account of last three accounting periods;
2. Letter of appointment of legal entity or natural person qualified to be a mandatory;
3. Information of place where the foreign company requested to locate its branch office in the Kingdom of Cambodia;
4. Translation of a certificate issued by competent authorities certified that the company has legally operated in the home -country.

Article 49: The first license to be issued to all types of insurance companies shall be valid for 5 years from the date of issuance. As for the business license for renewal shall be valid for 3 years from the date of issuance. These licenses are not alienable.

Article 50: Within one month at the latest prior to the invalidity of the license, the concerned insurance company shall submit an application for renewal to the Ministry of Economy and Finance. During this period, the insurance company has rights to operate its usual business up to the date the Ministry of Economy and Finance considers and decides whether to grant a new license or postpone the business for any reason.

Article 51: In case of documents falsification or providing false information pertaining to the application for the first license or the license renewal, the Ministry of Economy and Finance has

maintenance of solvency margin in a particular account at a commercial bank licensed by the

6. Criminal record issued by the country of origin and curriculum vitae of persons who manage the branch office.
7. Other necessary documents required by the Ministry of Economy and Finance according to each business class.

Article 55: The deposit stated in Article 53, 85 and 86 of this sub-decree may be in Riel or foreign currency and/or letter of guaranty of the Royal Government of Cambodia.

Article 56: All classes of insurance companies shall have adequate fund to ensure solvency margin. Solvency margin is a reserved fund for claims settlement unexpectedly occurred or the settlement of claim which is more than the reserve fund the company created from the insurance premium collected. The minimum of solvency margin shall be defined according to the significance of each type of the insurance company as follows:

1. For the life or general insurance company, the minimum of solvency margin shall be:
 - a. Fifty percent (50%) of the duly registered capital for the initial operation year;
 - b. 13,300 million Riels when total insurance premium revenue does not exceed 66,500 million Riels after deduction of total reinsurance premium of previous fiscal years;
 - c. Twenty percent (20%) of total insurance premium gained in previous fiscal year when the total premium insurance gained is of from 66,500 million Riels to 332,500 million Riels after deducting total reinsurance premium of previous year; and
 - d. 66,500 million Riels plus ten percent (10%) of insurance premium surplus which is more than 332,500 million Riels generated by deducting the total reinsurance premium of previous year from the total insurance premium.
2. For the life and general insurance companies, the solvency margin specified in point (1) of this article, to whatever extent, shall be at least 26,600 million Riels.

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Article 58: Establishment of branch or representative office of the State insurance company that have had the license in areas in the Kingdom of Cambodia shall be approved in advance by the Ministry of Economy and Finance.

Article 59: The insurance company shall be under the scope as follows:

1. Property insurance includes insurance on property loss and damage, liability,

reinsurance company at the minimum insurance premium rate defined by the Ministry of Economy and Finance as provided in article 89 of this sub-decree.

Article 68: Should it is found that an insurance company is in the insolvent circumstance that it cannot sufficiently secure its contract or cannot insure the degree of coming risks, the Ministry of Economy and Finance shall remind in writing and absolutely instruct such company to develop a clear financial program so that the company can be restored to an original state. If such insurance company is unable to restore under the above absolute orders the Ministry of Economy and Finance has the rights to forbid the use of the company's assets in the Kingdom of Cambodia until a final settlement is reached.

Article 69: With approval from the Ministry of Economy and Finance, all insurance companies may transfer partly or totally the unexpired insurance portfolios which are acceptable to one insurance company or more.

Article 70: If a life insurance company has been dissolved and declared bankrupt in accordance with laws, the life insurance contract and reserved fund under its possession shall be transferred to other life insurance companies. In the event that the concerned company is unable to take this measure the Ministry of Economy and Finance shall point out one or more names of life insurance companies to accept the currency of such life insurance contract.

Article 71: License given to an insurance company, agent and broker, and loss adjuster may be revoked at any time if each:

- does not fully meet the required conditions;
- or cannot accomplish within an agreed period all planned measures in accordance with redirection program;
- or is seriously fails in fulfillment of obligations required by the existing regulation.

The branch office of the foreign insurance company that is operating its business in the kingdom of Cambodia shall timely provide the Ministry of Economy and Finance with necessary information in respect of capital change, composition of shareholders, and bankruptcy of its parent company in the foreign country.

In the case that a license has been revoked from a foreign parent insurance company by competent authorities, the Ministry of Economy and Finance would also immediately revoke a license issued to such company's branch office in the Kingdom of Cambodia to have the branch office winded up under laws.

Reasons for decision to withdraw the license or postponement of operation shall be clearly specified in writing and sent to the concerned parent company.

Article 73: Apart from compliance with the Insurance Law, all types of insurance companies including branch offices of foreign insurance companies shall be subject to the provisions of relevant laws on management of commercial companies, public enterprises, the State-private joint ventures, taxation, and administration of the Kingdom of Cambodia.

Section 2: Insurance Agent, Broker and Loss Adjuster

Article 74: Each insurance company shall specify the scope of liability and functioning as well as other conditions of the insurance agent and broker operating the insurance business in accordance with the lawful agreement.

Article 75: A legal entity or natural person who intends to operate the insurance business as an insurance agent or broker or loss adjuster in the Kingdom of Cambodia shall submit the application form with attached documents required by and to the Ministry of Economy and Finance for the business license, and shall be apply for commercial registration under the laws.

Article 76: All insurance agents and brokers and loss adjuster cannot operate the insurance business in the Kingdom of Cambodia without a license granted by the Ministry of Economy and Finance.

Article 77: A license to be granted to the insurance agent and loss adjuster shall be valid for three (3) years from the date of issuance. These licenses are not alienable for any reason.

Article 78: A license granted to the insurance broker shall be valid for one (1) year from the date of issuance. This license is not alienable for any reason.

Article 79: Within one month at the latest prior to the invalidity of the license, the insurance agent and broker and loss adjuster shall submit an application for license renewal to the Ministry of Economy and Finance. During this period, the concerned company still has rights to operate its usual business up to the date of receiving a new license or a notice of rejection with or without condition from the Ministry of Economy and Finance following a comprehensive study of the application form for the license renewal.

Article 80: In case of documents falsification or providing false information pertaining to the application for the first license or the license renewal, the Ministry of Economy and Finance has the rights to refuse the consideration, suspend activities and/or finally revoke the license and may sue the Court according to de facto mistakes against the concerned company that is the applicant.

Article 81: Fees for the first license issuance and license renewal to be paid by the insurance agent and broker and loss adjuster shall be determined by a Prakas of the Ministry of Economy and Finance.

Article 82: A legal entity or natural person that obtained a license to act as an insurance agent on behalf of a insurance company or more shall give a notice of its business operation to the Ministry of Economy and Finance.

Article 83: Any loss or damage to the insured caused by misconduct of the insurance broker, the latter shall bear liability to settle a

1. Business Transaction:

- a. number of insurance policies issued to clients dividing into classes of business.
- b. inception date of each insurance policy.
- c. expiry date of each insurance policy.
- d. total sum insured.
- e. insurance premium rate.
- f. discount rate.

2. Claim Settlement

- a. number of insurance policies with loss records.
- b. nature of loss and claim amount paid.
- c. nature of loss occurred and outstanding claim amount.

CHAPTER VI: PENALTY

Article 98: Any person who violates Article 31, 40 or 43 of this Sub-decree shall be punished as provided in Article 52 of the insurance law.

Article 99: Any person who violates Article 46 of this Sub-decree shall be punished as provided in Article 54 of the insurance law.

Article 104: Any provisions contrary to this sub-decree shall be null and void.

Article 105: This sub-decree comes into effect from the date of signature onward.

The Prime Minister
Signed and sealed
Hun Sen

Copied to:

- The Cabinet of the King
- General Secretariat of the Senate
- General Secretariat of the National Assembly
- The Cabinet of Samdech Prime Minister
- Archives - records