

LAW BEARING UPON COMMERCIAL REGULATIONS AND THE COMMERCIAL REGISTER

This law is enacted by the National Assembly of the Kingdom of Cambodia
on May 3, 1995 during the Fourth Session of the First Legislature.

CHAPTER I: GENERAL PROVISIONS

ARTICLE 1:

Merchants are people or legal entities who conduct acts of commerce and make this their usual profession.

Commerce is the activity of buying and selling merchandise or services, engaged in regularly, for the dual purposes of exchange and profit.

ARTICLE 2:

The following are considered to be acts of commerce:

- x Purchases for resale, including immovable property;
- x The activities of businesses engaged in trading, manufacturing, factoring, transporting, printing, and other services;
- x Operations of banking and exchange;
- x The furnishing of intermediary services, agencies, employment offices, cultural services, and public performances and exhibitions;
- x The operations of construction businesses, purchases, chartering of ships for internal or external navigation, terrestrial, maritime or aerial transport and shipping;
- x The different types of insurance;
- x Fishing, exploitation of forests and mining.

ARTICLE 3:

The following are not considered to be acts of commerce:

- x Acts of production not followed by sale;
- x Acts of production or services of a family character;
- x Artistic production of pure creativity;
- x Individual instruction, or instruction delivered by authorized associations.

ARTICLE 4:

Artisans whose activity is of familial character are not considered to be merchants.

ARTICLE 5:

Persons who only sell the merchandise of their merchant spouses are not considered to be merchants.

Employees who only sell the merchandise of their merchant employers are not considered to be merchants.

ARTICLE 6:

The spouse is considered a merchant only if he operates a separate business that is itself enrolled in the Commercial Register.

Nonetheless, the consent of the spouse is necessary for that merchant.

ARTICLE 7:

Minors, unless they are emancipated, cannot be merchants under the present Law.

ARTICLE 8:

The rights and obligations of the merchant are governed by the Commercial Laws in the absence of proof to the contrary.

ARTICLE 9:

The capacity to exercise acts of commerce can be nullified for the following reasons:

- x Bankruptcy;
- x The decision of the court to prohibit the exercise of a commercial activity;
- x Incompatibility between commercial and public employment.

CHAPTER II: THE COMMERCIAL REGISTER

SECTION 1: ITS MAINTENANCE AND OBJECTIVE

ARTICLE 10:

A register for enrolling merchants and commercial companies, called "The Commercial Register", is maintained at the Office of the Clerk of the Commercial Court.

ARTICLE 11:

The Clerk of the Commercial Court is responsible for maintaining this Register under the supervision of the Presiding Judge of the Commercial Court.

ARTICLE 12:

The merchants and commercial companies which have their domicile, branch office, subsidiary or agency in the Kingdom of Cambodia are required to enroll in this Register, except those merchants exempt from taxation on profits.

ARTICLE 13:

All references concerning merchants and companies exercising acts of commerce shall be recorded in this Register.

SECTION 2: MERCHANTS HAVING THEIR PRINCIPAL ESTABLISHMENT IN THE KINGDOM OF CAMBODIA

ARTICLE 14:

At least 15 days prior to opening their business, merchants must enroll in the Commercial Register at the office of the Clerk of the Commercial Court in the jurisdiction in which they are conducting their business.

The merchants must submit to the Office of Clerk a declaration in duplicate with the signature or thumbprint of the interested party.

This declaration shall be written on a model form provided by the Clerk. It includes:

1. Family name and first name of the merchant and identity document number.
2. Name used in business, or pseudonym.
3. Date and place of birth and personal address of the merchant.
4. Original nationality and, where the interested party has acquired another nationality, the manner and date of that acquisition must also be indicated.
5. The objective of the business.
6. The place of the business and the addresses of establishments or branches of commercial assets set up in the Kingdom of Cambodia.
7. The commercial mark of the establishment, sample signature of the interested party, and the imprint of the model seal.
8. The identity of the agent empowered to enroll at the Commercial Register.
9. The business establishments which the applicant has previously operated or which the applicant currently operates within the jurisdiction of other Commercial Courts.
10. The sworn declaration of the applicant that she has not been found guilty in any Commercial, Civil, or criminal matters.
11. The authorization to practice when the occupation is regulated or when the object of business requires it.

The Clerk shall transcribe into the Commercial Register the contents of the declaration and return to the applicant one of the two copies, the bottom of which is the certification "has been copied".

ARTICLE 15:

The following shall also be mentioned in the Commercial Register:

1. Any change or modification relevant to the facts which the preceding article requires be entered into the Commercial Register.
2. Judgments or judicial orders determining the divorce of the merchant.
3. Patents of inventions used or the trademarks used by the merchant.
4. Judgments or judicial orders appointing administrators to assist the merchant or judgments or judicial orders or interdictions prohibiting commercial activities as well as judgments or judicial orders lifting such interdictions.
5. Liens or mortgages issued on the goods necessary for the business.
6. Declarative judgments of bankruptcy or court-ordered liquidation.
7. The transfer of commercial assets.

ARTICLE 16:

The references above shall be provided by the merchant himself or herself. But in the instances cited in numbers 2, 4 and 6 of Article 15, the Clerk of the Commercial Court or the Court which has rendered the judgment or the judicial order may enroll such references in the Commercial Register where the concerned merchant is enrolled.

SECTION 3: COMPANIES HAVING THEIR HEAD OFFICES IN THE KINGDOM OF CAMBODIA

ARTICLE 17:

All companies engaging in a commercial activity, whatever be the terms of their formation and their duration, shall be enrolled in the Commercial Register. Enrollment shall be required of the managers or the directors in the month in which the company is established and fifteen days

ARTICLE

ARTICLE 27:

Every declaration subsequent to registration shall reproduce the number of the initial declaration and that of the Analytic Index assigned during enrollment.

ARTICLE 28:

When a merchant ceases to conduct his or her business, or when a company is dissolved, a cancellation of the registration shall occur.

This cancellation shall be implemented officially through a decision by the Judge in charge of monitoring the Register, if it has not been requested by the merchant or his or her heir, or by the person responsible for winding up and removing the name from the Register.

ARTICLE 29:

All persons may have the Clerk deliver a certificate indicating evidence of their Registrations in the Commercial Register. If there is no registration, the Clerk shall deliver a certificate of non registration.

The failure or refusal to deliver a certificate for a period of one week from the day of the request shall result in disciplinary sanctions for the Clerk, in addition to the imposition of damages.

The copy delivered by the Court Clerk shall indicate declaratory judgments of bankruptcy or court-ordered liquidations when there is subsequent rehabilitation. Mention also shall not be made of judgments or judicial orders prohibiting commercial activities or judgments or judicial orders nominating an administrator when such prohibition has been lifted.

PART 6: THE REGISTER - ITS FORM AND COMPOSITION

ARTICLE 30:

The Commercial Register maintained by the office of the Clerk of the Commercial Court shall consist of two parts:

1. A Chronological Register.
2. An Analytic Index.

ARTICLE 31:

The declarations shall be enrolled at the end of the Chronological Register in the order of their deposit with the Clerk and under the number which has been assigned to them.

A receipt of acknowledgment, detached from the end of the Chronological Register and called the "Abstract," shall be delivered confirming the fact of deposit and indicating:

1. The serial number of the declaration.
2. The date, hour of deposit, and the location of the Commercial Court.
3. The family names, first names and trade name or company name and the domicile of the declarants.

The Analytic Index is maintained in the form of a table recording the date and hour of the deposit, the registration number, the company name, the company objective and the

company's registered capital. Every commercial establishment subject to a separate registration number shall be registered in a list to which the Clerk adds the number of the initial enrollment declaration.

ARTICLE 32:

ARTICLE 38:

Enrollment in and cancellation from the Commercial Register shall be published by the Court Clerk in the Official Journal. The references to be published are as follows:

- a. For merchants:
 1. Registration number.
 2. Family name, name, pseudonym, and name of spouse.
 3. Activities, place and date of commencement of activities.
 4. Commercial marks.

- b. For companies:
 1. Registration number.
 2. Name.
 3. Amount of registered capital.
 4. Place of office.
 5. Activities and starting date.
 6. Form of company.

SECTION 7:

ARTICLE 43:

Any merchant or any manager of a commercial company who has intentionally made use of a fraudulent document in his or her business connections shall be sentenced to imprisonment from one to five years and a fine from one million to ten million riels.

ARTICLE 44:

In the event of repeat offenses, the ~~pena~~ provided in Articles 40, 42 and 43 shall be carried out to the maximum. Any merchant or manager of a commercial company who repeatedly violates the provisions of Article 42 (1) shall be condemned to imprisonment for a period ranging from three months to one year.

ARTICLE 45:

Anyone who solicits or receives a possession ~~sum~~ of money by using the power of his or her position is subject to the punishments provided for under the law in force.

ARTICLE 46:

The fines provided in the present law are paid to the state budget.

CHAPTER III: BOOKKEEPING RTEQUIREMENTS

ARTICLE 52:

Prices shall be established in the national currency (riels) except in cases where otherwise authorized by the Ministry of Commerce.

ARTICLE 53:

Every purchase or sale transaction between merchants in an amount equal to or greater than ten million riels or its equivalent in foreign currencies shall be the object of a transaction by check or by negotiable instrument.

CHAPTER IV: TRANSITIONAL PROVISIONS

ARTICLE 54:

During the period in which the Kingdom of Cambodia has no Commercial Court, the organization and maintenance of the Commercial Register and the governance of the capacity to conduct commerce as provided in this Law shall be entrusted to the Ministry of Commerce.

ARTICLE 55:

During the period in which the Kingdom of Cambodia has no Commercial Court, the ordinary courts of the Kingdom of Cambodia shall be competent in all commercial matters.

ARTICLE 56:

Every ministry concerned shall encourage every merchant and every commercial company to register once this Law enters into force.

ARTICLE 57:

At the end of this transition period, the Ministry of Commerce and the Commercial Court shall cooperate in regard to the transfer of the Commercial Register to the Clerk of the Commercial Court.

ARTICLE 58:

Every merchant and commercial company conducting activities prior to the promulgation of this Law is required to apply for registration to the Commercial Register within six months. If necessary, the Ministry of Commerce may prolong this date for another six months.

CHAPTER V: FINAL PROVISIONS

ARTICLE 59:

All provisions contrary to this Law shall be void.