

**Draft Law
on
Financial Regime and Property Management
for Subnational Administrations**

CHAPTER 1 GENERAL REGULATIONS

Article 1

The objective of this law is to prescribe the financial regime and property management of the sub-national administrations of Kingdom of Cambodia.

Article 2

This law aims to establish the sources of financial resource for the sub-national administrations by the provision of sufficient capacity for sustainable local democratic development and strengthening implementation of the Royal Government's decentralization and deconcentration policy for poverty reduction.

Article 3

This Law has scope to apply for financial regime and property management of the Capital, Provinces, Municipalities, Districts and Khans Administration.

This law has no scope to apply for financial regime and property management of commune/sangkat administration, except for any provisions that are defined in this law.

Article 4

The administration of the Capital, Province, Municipality, District and Khan, hereafter called “subnational administrations”, is the public legal entity.

Within the framework of this law, the term “subnational administrations” refer to the administrations of the Capital, Province, Municipality, District and khan.

Article 5

Subnational administrations shall comply, in managing their financial affairs and budgets, with the principles specified in Articles 2, 5 and 6 of the Public Finance System Law.

CHAPTER 2 THE AUTHORITY AND MANAGEMENT OF FINANCE AND PROPERTY OF SUBNATIONAL ADMINISTRATIONS

Article 6

Each Council shall represent and perform its functions on behalf of the citizens and be responsible for managing public financial affairs in order to promote democratic development in a sustainable manner in its jurisdiction. The Council shall manage and undertake its public financial management transparently and accountably to its citizens and to the Royal Government for which the Ministry of Economy and Finance plays a role as the état-major (Leading Agency).

Article 7

The **Council** of the subnational administration shall be responsible for the financial and property management of the subnational administration as follows:

- (1) To review and approve the subnational administration's development plan, three-year rolling investment programme, and the medium-term expenditure framework;
- (2) To review and approve the budget strategy plan and draft annual budget presented by the Governor, with the right to make changes to the proposed budget, as long as these changes do not breach any law, regulations or budget principles;
- (3) To review and approve any amendment to the budget at the request of the Governor;
- (4) To review and approve the year-end financial statements;
- (5) To approve the disposal of the subnational administration's assets in accordance with established rules and regulations;
- (6) To monitor the financial and budget management performance of the Governor;
- (7) To review and approve any contracts or agreements that create financial commitments or benefits beyond the current financial year.

Article 8

The Governors of Boards of Governors of capital, province, municipal, district and khan shall represent ministries and other agencies of the Royal Government within each council's jurisdiction. The Governor of Board of Governors on behalf of the council, in financial affair, is the directed executor through by law and council's decision in the implementation of this law.

Article 9

The **Governors** of Boards of Governors of subnational administrations shall be responsible for the following:

- To formulate the development plan, three-year investment programme, and the medium-term expenditure framework and update these annually;
- To prepare the budget strategy plan and annual budget.
- To implement the subnational administration's annual work plan and budget as approved by the Council in compliance with established financial management rules and procedures;
- To report to the Council, on a regular basis, on the implementation of the annual work plan and budget;
- To prepare the subnational administration's annual financial report, revenue and expenditure statements and other reports, and present these to the Council for review within the established time frame;
- To report to the Ministry of Economy and Finance and other relevant ministries and agencies on regular basis with regard to the financial performance and position of the subnational administration, after securing the Council's approval of such reports;
- To manage the public property within Council's jurisdiction and safeguard any property assigned to the Council by the national government in accordance with the legal framework and established regulations.

Article 10

The Chief of Finance of the subnational administration's Council has the responsibility to assist the Council and Governor of Board of Governors directly to fulfill the responsibilities identified in Articles 7 and 9.

The Chief of Finance shall perform the abovementioned functions in coordination with the Chief Administrator and in collaboration with other units of the subnational administration.

The Chief of Finance of subnational administration's Council shall be deemed responsible under the authority of the Governor of Board of Governors of subnational administration.

The Chief of Finance shall be proposed by the Minister of Interior and appointed by the Council upon approval by the Minister of Economy and Finance.

The selection process and required qualifications for the Chief of Finance shall be prescribed by inter-ministerial Prakas of the Minister of Interior and the Minister of Economy and Finance.

Article 11

Under the provisions of Chapter 3 of this law covering the financial affair, the Governor of the Board of Governors is the Direct Budget Holder and responsible for preparing and executing budget of subnational administration.

In budget execution, pursuant to the provisions of public finance law, the Governor of the Board of Governors shall, on behalf of the Council, order the collection of revenue, make spending commitments, and order payments based on the subnational administration's approved budget. The Governor is also responsible to manage, open and close the administrative account.

Article 12

The Governor of the Board of Governors may delegate in writing, decision-making authority on budgetary matters to any Deputy Governor of the Board of Governors. The delegated Budget Holder shall act under the Governor's responsibility and control the Direct Budget Holder and The delegated Budget Holder are required to provide a sample of their respective signatures with the Public Accountant.

Article 13:

Khans and Sangkats under the Capital shall have their budgets included in the Capital budget. Khan Governors and Sangkat Chiefs are delegated by the Capital Governor as Budget Holders for their respective budgets.

Sangkats which are under a Municipality shall have their budget included in the Municipality budget. Sangkat Chiefs are delegated by the Municipal Governor as Budget Holder for their respective budgets.

The modality, structure and procedure for integrating budgets of Khans and Sangkats into Capital budget and the Sangkat budget into a Municipal budget shall be prescribed by Prakas of the Minister of Economy and Finance after consultation with the Minister of Interior.

Article 14

Cash management of subnational administrations shall be ensured by the Public Accountant of the National Treasury following the order of Budget Holder from subnational administrations. The Public Accountant shall strictly obey (or follow) the appropriate principles of financial control and public accounting management.

Article 15

The Treasury of the subnational administration act as Public Accountant for the subnational administration and shall be responsible for the following tasks:

- Collect or receive revenues for subnational administrations;
- Execute payment orders issued by the Governor of the subnational administration;
- Manage and release funds for the subnational administration;
- Prepare financial reports on regular basis;
- File and safeguard all documents supporting transactions and accounting records of a subnational administration.

Article 16

The Director of the Department of Economy and Finance, the Director of the Treasury, the Director of the Tax Branch or Tax Office located within jurisdiction of the subnational administration are delegated recipients of authority from the Minister of Economy and Finance for the purpose of supporting the subnational administration's Council and Board of Governors in the implementation of this law.

CHAPTER 3
BUDGETS OF SUBNATIONAL ADMINISTRATIONS

SECTION 1
BUDGET MANAGEMENT PRINCIPLES

Article 17

Subnational administrations shall have financial resources and appropriate budgets to carry out their functions and responsibilities for the enhancement of democratic development within their respective jurisdictions. The draft budget of the Subnational Administration shall project and authorize all resources and responsibilities so as to ensure a balanced budget.

Subnational administrations budgets shall be in accordance with provisions of the Public Finance System Law.

Article 18

The budgets of subnational administrations shall be prepared and approved annually. The fiscal year of subnational administration budgets starts on 1 January and ends on 31 December.

The budgets of subnational administrations shall be prepared and approved with a real balance between revenues and expenditures and in accordance with the format and classification as defined by Prakas of the Minister of Economy and Finance.

Article 19

The subnational administration budget shall be formulated, adopted and executed in accordance with the following principles:

- Full information about budget formulation and adoption must be disclosed;
- All expenditures and revenues must be part of a unified budget;
- The budget shall include all expenditures and all revenues of the concerned subnational administration;
- Revenues must be collected and accounted for based on their gross amount such that no expenditure shall be offset from collected revenues;
- No revenue shall be earmarked for the payment of a specific expenditure unless such earmarking is permitted or required by separate regulations;
- Total planned expenditures must be fully covered by total expected revenues;
- No revenue or expenditure shall be collected or undertaken outside the approved budget.

Article 20

Each subnational administration shall prepare, adopt and implement a Medium Term Expenditure Framework.

The Medium Term Expenditure Framework shall specify realistic forecasts of the subnational administration's revenues for a medium term, along with the rule on how any such revenues shall be allocated to the various subnational administration categories of expenditures.

The format of the Medium Term Expenditure Framework, as well as the modalities of its formulation and adoption, shall be regulated by Prakas of the Minister of Economy and Finance.

Article 21

The subnational administrations have no rights to enter into loans, borrowing, publish bonds and/or other financial instruments and or undertake any other direct or indirect actions which give rise to a direct or indirect debt or financial obligation to the Royal Government of Cambodia.

Subnational administrations shall obtain prior agreement for grant financing from the Minister of Economy and Finance.

Article 22

Subnational administrations shall manage and use their budget in an effective manner, transparently and with accountability to its citizens and the Royal Government, for which the Ministry of Economy and Finance play a role as état-major (Leading Agency).

SECTION 2**SUBNATIONAL ADMINISTRATIONS RESPONSIBILITIES AND FINANCIAL RESOURCES****Article 23**

Budget expenditures of subnational administrations shall include:

- Administrative operations;
- Performance of obligatory functions;
- Performance of permissive functions; and
- Performance of other roles and responsibilities as determined by laws, sub-decrees and regulations in force.

Article 24

Subnational administration revenues shall include:

- Local source revenues;
- National source revenues;
- Other revenues as determined by law or sub-decrees

Article 25

Local source revenues shall include tax and non-tax revenues:

1. Local tax revenues are tax and duty revenues defined by the Taxation Law in the framework of tax law as being of exclusive benefit to the budgets of subnational administrations. The distribution and proportion of local tax and duty types to each subnational administration shall be determined by law.
2. Local non-tax revenues include:
 - Revenues generated from the rental of subnational property, as well as other revenues.
 - The distribution of local non-tax revenues to each subnational administration and the maximum amount of service fees and other non-tax revenues shall be determined by Prakas issued by the Ministry of Economy and Finance, Inter-ministerial Prakas or by sub-decree as proposed by the Minister of Economy and Finance, with agreement from the Minister of Interior.
 - Donations received from inside and outside of a Council's jurisdiction;
 - Other revenues as determined by law or government regulations.

Article 26

National source revenues are:

- Shared revenues;
- Funds transferred from the national budget, and
- Service fees for agent functions carried out by a Council on behalf of the ministries and agencies of the government.

Article 27

Shared revenues are revenues that are to be shared between the national administration and the relevant subnational administrations. The types and distributions of such shared revenues shall be determined by law or sub-decree proposed by the Minister of Economy and Finance in agreement with the Minister of Interior.

Article 28

Transfers from the national budget shall include both conditional transfers (grants) and unconditional transfers (grants).

Subnational administrations shall receive conditional and unconditional transfers (grants) from the national budget paid in installments each year.

Procedures and modalities for the determination and payment of transfers (grants) from national budget to subnational administrations shall be determined by sub-decree as proposed by the Minister of Economy and Finance and agreed to by the Minister of Interior.

Article 29

Conditional transfers (grants) for subnational administrations shall be used for:

- Administering, managing and implementing one or more obligatory functions transferred to the subnational administration Councils through delegation or assignment;
- Administering and implementing one or more permissive functions previously implemented by a government ministry or institution; or
- One or more other defined obligatory purposes.

Rules, procedures and modalities for the determination and payment of conditional transfers (grants) shall be determined by sub-decree as proposed by the Minister of Economy and Finance and agreed to by the Minister of Interior.

Article 30

Unconditional transfers (grants) for subnational administrations shall be used for:

- Fulfilling its legal duties;
- Fulfilling functions and duties related to establishing, promoting and sustaining democratic development;
- Covering administrative costs; and
- Administering and implementing permissive functions as chosen by the subnational administration.

Subnational administrations have the right to receive annually the conditional transfer (grant) from the state budget paid in installments each year based on transparent criteria and formula.

Rules, procedures and modalities for the determination and payment of unconditional transfers (grants) shall be determined by sub-decree as proposed by the Minister of Economy and Finance and agreed to by the Minister of Interior.

Article 31

The State shall establish the District/Municipality Fund with its separate account at the National Treasury in order to receive unconditional fund from the State budget and to mobilize funds from other sources for the benefit of District/Municipality budget.

The unconditional fund transferred from the State budget to the District/Municipality Fund shall be made in installments for each year based on specific formula or rate and predictable in medium term.

The allocation from the District/Municipality Fund to each District/municipality Administration shall be made annually based on transparent criteria and formula.

Operating rules for the District/Municipality Fund shall be determined by sub-decree as proposed by the Minister of Economy and Finance and agreed to by the Minister of Interior.

Article 32

Subnational administrations may derive revenue from fulfilling the role of agent for a specific function or functions in agreement with national line ministries and institutions.

Article 33

Subnational administrations acting as agent for the fulfillment of specific functions on behalf of the national government, government's ministries or institutions would do so on the basis of law, royal decree, sub-decree or Prakas.

Subnational administrations may discuss and agree with national line ministries, institutions, departments and technical units of national administration to act as agent for the fulfillment of specific functions on the basis of a signed contract or other agreement specifying the task(s), timing output(s) and fee(s) to be received for the function(s) implemented by (subnational administration) agent.

Rules, procedures and modalities for the use of resources to fulfill the abovementioned (agency) functions shall be determined by Prakas as proposed by the Minister of Economy and Finance and agreed to by the Minister of Interior.

SECTION 3

BUDGET FORMULATION AND ADOPTION OF SUBNATIONAL ADMINISTRATIONS

Article 34

The budget strategy plan and draft budget of each subnational administration shall be prepared by the Governor of the Board of Governors and adopted by its Council in accordance with procedures defined by Prakas of the Minister Economy and Finance.

A consolidated sum of all draft subnational administration budgets constitute a budget envelop which shall be submitted for approval by the National Assembly and Senate within the framework for reviewing and approving the Annual Budget Law. The budget envelop constituting the sum of all subnational administrations shall be allocated to each Council by Prakas of Minister of Economy and Finance following approval of the Annual Budget Law by the National Assembly and Senate,

Article 35

The budgets of subnational administrations shall be prepared in accordance with the following calendar:

(1) Preparation of Budget Strategy Plan (from March to May):

The Minister of Economy and Finance shall issue the circulation on the preparation of budget strategy to; all ministries, institutions, and units to inform each Council about programmes and budget projections in their respective sectors that are expected (need) to be implemented within the jurisdiction of each Council. The Governor of a subnational

administration, on behalf of the Council, shall prepare the Budget Strategy Plan based on the **Development Plan, Investment Programme and Medium Term Expenditure Framework of each subnational administration and then submit the Budget Strategy Plan to the Council for review and approval** and then to the Department of Economy and Finance for consolidation and submission to the Ministry of Economy and Finance by 15th May.

(2) Preparation of Budget Envelop (from June to September):

In the first week of June, the Minister of Economy and Finance shall prepare a technical circular with guidelines for budget preparation specifying formats and procedures for budget preparation together with relevant supporting documentation will be issued to subnational administrations with instruction to prepare its detailed plan of revenues and expenditures. The Governor of the Board of Governors of each subnational administration shall prepare the draft detailed plan of revenues and expenditures based on the circular with technical guidelines for budget preparation and the subnational administration's priority policies including all financial (revenue) sources planned for the respective jurisdiction.

The draft budget of subnational administration shall be prepared under the responsibility of the Governor of each subnational administration with assistance from its Council's Chief Finance Officer and official(s) from the Department of Economy and Finance. The Governor, on behalf of its Council, shall disseminate the draft budget to the public to get feedback from the people and other stakeholders within its jurisdiction. Following further review and revision, the Governor shall then submit the draft budget to the Council for review and approval in a public meeting no later than 15th May.

For the purpose of District and Municipal budget preparation, the Minister of Economy and Finance shall delegate the Governor of Provincial administration to be responsible for providing technical support, with provincial department of Economy and Finance as the *état-major*, to ensure that District and Municipal budget preparation is done in accordance with provisions of this law and with all regulations and procedures as defined at the national level. The Governor of the Board of Governors shall report to the Council in its regular meeting about the technical support provided to Districts and Municipalities.

The Governor of the Board of Governors of Provincial administration shall ensure that the official(s) of the Provincial Department of Economy and Finance consolidates the Provincial budget, together with the District and Municipal budgets, into the format as defined by the Ministry of Economy and Finance. Enclosed with the draft budget(s) shall be descriptive explanation for the Province, Municipal and District. This shall all be submitted to the Ministry of Economy and Finance by no later than 15th July.

The Ministry of Economy and Finance shall aggregate the budgets of all subnational administrations for each fiscal year.

For the entire month of August, the Ministry of Economy and Finance shall conduct legality control checks and endorsements of the Capital, Provincial, Municipal and District budgets.

The Minister of Economy and Finance Ministry may delegate the function of conducting legality control checks to its competent unit or any authority at the subnational level as deemed necessary.

The process of legality control check shall include participation from the Governors of the Board of Governors of Capital, Province, Municipal and District administrations as representatives of the respective Councils as budget's owner; representative(s) from the Ministry of Interior and other officials as determined by the Ministry of Economy and Finance. In the process of legality control checks, the Ministry of Economy and Finance or its delegated authority shall check and verify that the subnational administration budgets are in compliance with the following principles of legality control:

- Budgets are formulated in accordance with defined format, budget classification, modality and procedures;
- Participation of local people and stakeholders in the budgeting process;
- Appropriations are in accordance with mandatory expenditures;
- Draft budget was planned in accordance with any conditions, including earmarks, attached to the use of resources from specific sources;
- Balance of budget revenues and budget expenditures is assured; and
- Proper deliberation and approval of the budget by the Council's in a public meeting.

In case the Ministry of Economy and Finance or the Ministry of Economy and Finance's delegated authority review and find that subnational administration budget is not in line with legality control checks as defined above, the Ministry of Economy and Finance or the Ministry of Economy and Finance's delegated authority shall decide and revise the draft budget of subnational administration and notify in written to the board of governors of subnational administration to revise the draft budget in accordance with in force procedures.

(3) Approval of Subnational Administrations' Budgets (from October to December):

In the first week of October, the Ministry of Economy and Finance shall submit the subnational administration draft budget which is one chapter of Annual Budget Law to the Council of Ministers for review and approval. Following such approval, the draft Annual Budget Law will then be submitted to the National Assembly in the first week of November for approval, followed by submission to the Senate in first week of December for final endorsement before 25 December.

Article 36

In case the draft budget has not been approved before January 1 of the new fiscal year, the governors of subnational administrations have the right to collect revenues on the same condition of the previous year's budget appropriation and to execute expenditure commitment up to an amount equal to one-twelfth of the previous year's budget.

**SECTION 4
BUDGET EXECUTION OF SUBNATIONAL ADMINISTRATIONS**

Article 37

The subnational administrations shall hold a deposit account at relevant subnational treasury to carry out the transaction of revenues and expenditures.

Article 38

The budgets of subnational administrations may be amended during the fiscal year in response to changes in the economic and financial conditions that impact on revenue and expenditure forecasts. Budget amendments shall be prepared, reviewed, adopted and endorsed in accordance with procedures defined in Article 35 of this law.

Article 39

Changes in the allocation of budget funding (internal credit movement) for within a subnational administration budget may be made in accordance with conditions defined by the circular of the Minister of Economy and Finance. The Minister of Economy and Finance may delegate authority to a subnational administration to make reallocation of its budget in the event of an emergency, if deemed to be necessary.

Article 40

Contingency funds of subnational administrations may be used to cover any expenditure for which no allocation has been specified in the initial budget or for any appropriation in addition to other expenditures of the subnational administration.

The Governors shall seek approval from the Council when there is a need to use contingency funds.

Article 41

Projects or programmes that have not been completed during the fiscal year shall be included for continuation in their implementation during the subsequent fiscal year budget.

Article 42

In the event that of subnational administration budget execution results in a deficit, the subnational administration shall take all self-regulated actions to ensure a balancing of the budget. In the event that actual revenues of subnational administration budget during the fiscal year increase to a level above the annual plan, planned budget expenditures may be increased or reallocated for the benefit of the subnational administrations budgets as determined by Prakas of the Minister of Economy and Finance and in accordance with the level of surplus. At the end of a fiscal year, any budget surplus of subnational administration shall be returned to National Treasury's Result Account. .

Article 43

The annual financial statements of subnational administrations are to be inspected and audited by competent institutions. The purposes of inspection and auditing are for assurance of transparency, accountability and efficiency of financial information systems and to evaluate the budget execution of subnational administrations in accordance with the public financial management system.

Inspection and audit reports that include the opinions of the Councils of subnational administrations shall be disclosed to the public.

Article 44

Financial and accounting transactions shall be conducted in accordance with the rules of public financial management, public procurement management and general provisions of public accounting as defined by law, sub-decree and Prakas of Ministry of Economy and Finance.

Article 45

The budget execution of subnational administrations shall be a chapter of draft Law on General State Budget Outturn. In compliance with unified accounting principles, the Governor of the Board of Governors of subnational administration is responsible for preparing and providing a report to the Minister of Economy and Finance on the execution of the budget, and any other information deemed to be necessary, at the end of each fiscal year.

Article 46

At the end of the fiscal year, each Governor of the Board of Governors of subnational administration shall reconcile the administrative account with account managed by Public Accountant of Treasury and prepare a budget execution report and other necessary information for submission to the Council for review and approval. That report will also be submitted to the Provincial Department of Economy and Finance for consolidation as a Capital/Provincial report and then submitted to Minister of Economy and Finance for consolidation as a budget execution of subnational administrations. The consolidated report shall be included as a chapter of the draft Law on General State Budget Outturn that shall be submitted for review and approval by the National Assembly and Senate.

CHAPTER 4 PROPERTY OF SUBNATIONAL ADMINISTRATIONS

Article 47

The properties of subnational administration include properties transferred from the national administration and properties acquired on their own. The transfer and assignment of State properties to subnational administrations for the occupation and use of some State public properties and State-owned properties are fix assets and under each Council's jurisdiction in accordance with the decisions of the State.

The transfer and assignment of any properties to subnational administration shall be made by sub-decree as proposed by the Minister of Economy and Finance in agreement with the Minister of Interior. Properties subject to any such transfer and assignment are to be processed in returnable condition.

Article 48

The transfer of central administration's property to a subnational administration is intended to be for public benefit and use or to fulfill the demand of public services and shall be appropriated together with the functions transferred to each subnational administration.

Article 49

Subnational administrations are entitled to manage, use and generate income from State properties transferred to the subnational administration and shall maintain those properties. Subnational administrations have no right to sell, rent or transfer of ownership or transfer the use of transferred properties without prior approval from the Minister of Economy and Finance in agreement with the Minister of Interior.

Article 50

The properties acquired by subnational administrations from their own revenues are their own properties. Councils of subnational administrations have right to make their own decisions on how to manage, use and derive revenue from such properties within the conditions defined by the relevant provisions of regulations in force.

Article 51

Subnational administrations shall maintain an inventory of all properties and to update that inventory annually. The updated inventory list shall be submitted to the Ministry of Economy and Finance for the purpose of consolidation into a list of all State properties.

CHAPTER 5 SEPARATED PROVISIONS

Article 52

The implementation of this law in accordance with necessary requirements and based on actual situation of each subnational administration, including Commune and Sangkat administrations the Minister of Economy and Finance shall consult with the Minister of Interior to propose a sub-decree or issue a separate Prakas for each subnational administration.

CHAPTER 6 PENALTY PROVISIONS

Article 53

Councilors and all categories of public officials and all levels who are currently working and those who have previously worked and found to not comply with the provisions of this law in fulfillment of their assigned roles and functions will be punished in accordance with laws and regulations for disciplinary actions which remain valid regardless of any criminal charges and civil responsibilities and shall compensate the budget of subnational administrations for the value of any losses and damages of properties and public money including any damage resulting from mistaken actions.

CHAPTER 7 TRANSITIONAL PROVISION

Article 54

Law and any provision related to Province/Municipality Financial Regime and Assets Management Law which previously implemented shall be valid till the new law and legal documents come to replace in accordance with the spirit of law on administrative management of capital, province, municipal, district and khan, public finance law and this law.

**CHAPTER 8
FINAL PROVISIONS**

Article 55

The province/municipal financial regime and assets management law promulgated by Royal Decree CS/RKM/098/03 dated 25th February 1998 and other provisions which are the results of the amendment of province/municipal financial regime and assets management law shall be abrogated.

Article 56

This law must be promulgated urgently.

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