

KINGDOM OF CAMBODIA
NATION RELIGION KING

ROYAL GOVERNMENT OF CAMBODIA

No. 02 S.R

CIRCULAR (Letter)
Related to illegal occupation of State land

In the past, state land, public land and private land, in majority of areas was not identified, mapped, delimited properly, classified and registered in the Main Land Record Book, that made authority in different levels facing to difficulties of administration as well as protection against violation from illegal occupation on state land.

The occupation under symbol (image) of good fortune was finally no more since the Land Law issued in 2001 enforced during the time that government did not widely apply yet the program of social land concession for poor people easily to be in danger in order to provide population the need which is increasing everyday due to demographic increasing and demobilization occurred for example by natural calamities that was the cause to illegal and anarchic occupation on state land, meanwhile, the occasional person, land sellers and some people of power entered illegal occupation on state land in various symbols (images).

Facing to this situation and in accordance with the Constitution of the Kingdom of Cambodia and law and all ruling support documents related to land such as Land Law, Forestry Law, Fishing Law, Law on Environment and Management Natural Resources, the Royal Decree dated November 01, 1993 stating the creation and demarcation of natural zones and the Royal Decree NS/RKT/0401/070 dated April 10, 2001, stating the creation and management on Tonle Sap Bio-Sphere Reserve as example, the Royal Government thought that in order to solve problem of violation on state land from illegal occupation occurred by private at the same time of law application requested examination case by case of certain violation and to create some cases, particularly for families of poor people and to some extend of land which has really been exploited following policy principles stated in this Circular. A part for economic land concession in case of concessionaire didn't develop its land following the condition of the contract and occupying over concession areas provided by Land Law the revoke or reduction must be applied accordingly with procedures stated in Sub-decree related to economic land concession.

So that to join with the policy of poverty reduction and social and economic development of the Royal Government through safety of land occupation, the provision of social concession land, the increase of income from state land use, the closure and the reduction of violation movement of state land occupation, especially forest land and for protection of natural resources and environment with sustainability the Royal Government provided guidance under measures and procedures in requesting to remove state land which was occupied illegally as follows:

1- Must be considered on illegal occupation of state land:

- All occupation of state land (public land of state and private land of state) as good fortune after Land Law enforced in 2001.
- All occupation of state land as good fortune on land which had been determined for public state land even before or after Land Law enforced.
- All occupation on state land continued after allocation or contract for the use of state land over validity and the occupant didn't request to extend validity in accordance with the procedures enforced.
- All occupation on state land over the limited area or on improper location which had been stated in the permit or contract for land use.
- All transfer of rights on state land use without respecting the conditions stated in the permit or contract.
- All disappearance made on occupation of state land into possession by private person unlawfully such as falsification of certificate for possession on economic land concession or on land allocated only for the use or exploitation on falsification of land area which had been determined for public land of state.

2- Procedures applied on land that was registered in the Land Record Book as state land:

- 2.1 Authority of State Land occupation has to issue letter requesting to remove state land by stating the number of land plot, location, map showing the location of land plot, name of actual occupant, time of response or complain from other interested people on this land plot (form N°1).
- 2.2 Letter requesting to remove state land must be stick in public reading at Salakum – Sangkat and at the land plot, subject for removal requested and sent one copy to the state land occupant if the occupant resides in Khum-Sangkat of this land plot location.
- 2.3 In case of authority of State Land Occupation cannot find any accurate person who occupied this land, the concerning authority can issue letter requested the removal this state land without stating the name of land occupant and publicly published at Salakhum-Sangkat of this land location at the land plot, subject for the removal requested and in addition published through newspaper.
- 2.4 Authority of State Land Occupation must take 30 days from the date of the public announcement or the occupant of state land had received the letter of the request for land removal so that the land occupant must respond or interested person who is beneficiary from this land plot to complain to the authority issuing the letter. In case of the authority of state land cannot find any real person occupying this land within a period of 30 days from the date of public announcement stick and through newspaper.
- 2.5 During this period, the occupant of state land must respond to by showing its agreement to give back that land to the state without any conditions or agreement to give back with clear conditions of request or non-agreement to give back and request the rights of possession on this land (form N°2) and attached with witness documents that the occupant take with.
- 2.6 After 30 days of the above, if there is response on non-agreement to give back the land to the state without any conditions or there is any complaint, the Authority of State Land Occupation has to send a letter to the head of Khum-Sangkat and the head of Srok, Khan so that to request cooperation from territory authority in order to discuss arrangement on the basis of politivity principles stated in item 6, 7 of this Circular with the occupant of the state land or complainant and in this letter the deadline must be stated and time limit as well as location indicated to meet together and attached a copy of response letter or complaint.
- 2.7 If the discussion for arrangement with illegal occupant of State Land or with the complainant cannot settle the solution for both sides, the Authority of State Land Occupation that is competent must issue order to the illegal occupant of state land to move out its house and ask for recovery all damages and quit from the state land within a period of 45 days (form N°3)
- 2.8 If illegal occupant of this state land doesn't agree to live out within a deadline limit, the Authority of State Land Occupation must prepare document for complaint to the law court in order that the court can take measures in following the procedures of the law enforced.
- 2.9 If illegal occupant of State Land left the location but didn't recover damages for this land, the Authority of State Land Occupation must set up document for complaint to the law court in order to request damages recovery or pay for damages on this State Land.
- 2.10 When illegal occupant voluntary moved out or after measures taken for its living out realized, the Authority of State Land Occupation must apply planning for land use or organize working for land classification and/or prepare planning for land use if there had not been set up yet.
- 2.11 For any state land plot that cannot find out occupant and deadline over limit of 30 days from the date of public announcement, the authority of state land has rights to confiscate automatically that land plot.

In case of any state land occupant already received letter for request back the state land, but did not respond or complain within a period of 30 days from the date of reception of the letter, the Authority of State Land Occupation has rights to confiscate automatically that state land plot.

- 3- Procedures applying for land that was registered in the inventory for state property or land identified and mapped the State Land and that was agreed upon mandate of occupation.**
- 3.1 Authority of State Land Occupation must issue letter to request back state land by stating location of land plot, map showing land plot, approximate dimension of plot, related data on approximate boundary of the plot, name of actual occupant, time of response or complained by other beneficiary person on this land plot (form N°1). The authority of state land must apply accordingly with items 2.2, 2.3, 2.4, 2.5, 2.6 and item 2.11 of this Circular.
 - 3.2 After discussion and arrangement with occupant of land plot or with complainant to find out solution (by making Minutes of the discussion and arrangement) the Authority of State Land must report and rise opinions to the committee of state land administration of the level of province, city and send a copy to the board of Khum, Sangkat and head of Srok, Khan that is head of working group on state land of Srok and Khan.
 - 3.3 In case of non-agreement on the meaning of the report of the Authority of the State Land Occupation the board of Khum, Sangkat or head of Srok, Khan have rights to explain by writing their reasons on what they had not agreed upon with attached report of the State Land Occupation Authority and sent the letter to the Land Administration Committee of province and city.
 - 3.4 After receiving the report, the president of the state land committee of the province, city can appoint their officer to examine or take additional discussion with the land occupant or the complainant at the location if necessary and must invite for meeting the committee of the state land administration of province, city in order to examine the report and opinion received so that to find out a common agreement based on political principles stated in items 6 and 7 of this Circular and find out solution for the case of land occupant or each complainant.
 - 3.5 After the meeting for the examination on that case (with making Minutes of meeting), the president of the Committee of State Land Administration of province, city must report the case of state land occupant and complainant of each case with attached of their name list, map drawn to show location and approximate dimensions that they occupied and complained and also accompanied by the opinions of the Committee of State Land Administration of province, city for the case of the state land occupant or each complainant in order to demand opinions for decision from the National Authority of Land Dispute Resolution.
 - 3.6 After receiving the decision from the National Authority of Land Dispute Resolution, the governor of province, city must issue letter of decision by stating the name of land occupant or complainant, location and each related dimensions within 60 days deadline from the date of issuing decision letter for complaint.
 - 3.7 In case of the state land occupant agreed without complaint upon decision letter, the governor of province, city, the Authority of State Land Occupation must send request letter to the Office of Land Management, Urban Planning, Construction and Land Office of Srok, Khan so that to Register in the Main Land Record Book.
 - 3.8 On the way of registration, if there is dispute about land rights with private person or any collectivity out of person name existed in the Main Land Record Book, stated in item 3.5, the dispute must be sent to the cadastral commission of National Level for decision.
 - 3.9 After the registration on state land, if there is person continuing to occupy illegally that land, the Authority of State Land Occupation that is competent must issue letter of order to the illegal state land occupant to move out from and recover damages and live the location within 45 days (form N°3).
 - 3.10 If the illegal state land occupant did not agree to give up the land within a period provided, the Authority of State Land Occupation must set up documents to the law court in order that to the court can take appropriate measures following procedures enforced.
 - 3.11 If the illegal state land occupant left the land within a period of time limit, but missed to recover damages on this land, the procedures must be taken by item 2.9. When the land occupant left the land voluntary or after measures taken to finally move them out the Authority of State Land Occupation must apply the meaning in item 2.10.

4. ***Application procedures for state land that had been registered in the inventory as state property and had not been identified yet and mapped for state land or already identified and finally mapped but had not been agreed or had not known the mandate of occupation on state land.***

4.1 For any state land plot that had not been identified and mapped and had not been registered in the inventory of state property yet, the Committee of State Land Administration of provinces, cities must collect all data of location and occupant name of state land, dimension, approximate border of land plot. Later on, governors of provinces and cities have duties to be competent authority and issue letter to request back state land. The procedures of request back state land must apply following the meaning stated in items 3.1 to 3.7 of this Circular, then the authority that have mandate for State Land Occupation became the competent authority that applies step and procedures successively of item 3.

4.2 For any State Land plot that had been already identified and mapped, but had not been agreed yet about mandate of occupation and had not been known of the Occupation mandate of the State Land and had not been registered in the inventory of Main Record Book as state property, governors of provinces, cities have to be competent authority and issue letter to request back that State Land. The procedures to request back the State Land must apply following the meaning stated in items 3.1 to 3.7 of this Circular, then the Authority of State Land Occupation of this state land became competent authority that has duties to apply step and procedures successively in item 3 of this Circular.

5 ***Procedure application on forest land of different types that letter issued to reject and confiscate following order No. 01 BB of the Royal Government dated May 10, 2006 related to the protection against slashing and clearing forest of different types of the state owned to get for their possession.***

5.1 After receiving complaint for land rejected and confiscated following order N° 01 BB of the Royal Government dated May 10, 2006 related to the protection against slashing and clearing forest of all types of the state to get for their possession, the authority of provinces, cities must arrange and write Minutes with complainant so that to find out solution at first. The arrangement should be accompanied by map of forest cover in 2002 as for basic support and based on policy principle that stated in item 6 and 7 of this Circular, especially in accordance with real status of that land.

5.2 In case that complainant did not agree upon this arrangement, governors of provinces, cities must issue decision to reject the complaint after the day of arrangement.

5.3 In case of complainant did not agree upon the decision of provinces, cities on this complaint, the Ministry of Agriculture, Forestry and Fisheries and/or the Ministry of Environment must collaborate with Royal Government Attorney to complain the complainant to the law court in order that the court can proceed measures of law enforced.

5.4 For all types of forests that complainant agreed upon decision of governors of provinces, cities on this complaint or without anymore complainant, the Ministry of Agriculture, Forestry and Fisheries and/or the Ministry of Environment must confiscate that forest land for the interest of state property automatically.

5.5 Governors of provinces, cities must report monthly about activities of solution on complaint above to the National Authority of Land Dispute settlement so that this Authority has basic data to report to the head of the Royal Government. In case of need, the National Authority of Land Dispute Settlement will take inspection on any solution that was not ordinary.

5.6 All types of forest land that were collected as mentioned in item 5.3 and 5.4 above, the Ministry of Agriculture, Forestry and Fisheries and/or the Ministry of Environment must request to the Ministry of Land Management Urban Planning and Construction to register that land in the Main Record Book for land, known as state land in accordance with the procedures enforced.

5.7 Governors of Provinces, cities continue to issue letter of rejection and confiscation necessarily and immediately on forest land that were violated to occupy illegally.

6. ***Policy principle to people occupying the state land illegally:***

- 6.1 People occupying the state land illegally have no rights to ask for compensation, but possibly guilty as stated in the Land Law 2001.
- 6.2 Poor families have no land or lack of land, people easily threaten who occupied state land illegally haven't rights to ask for compensation, but the Royal Government tolerates to provide land with appropriate dimension so that they can use for exploitation for their living on, or building house in following actual status as stated in item 7 of this Circular.
- 6.3 Case related to ethnic minority that its authority of tradition proves that the land plot or the part of land plot, subject to be requested back by the state, under the use of collectivity following its tradition, custom, the request for land back must be suspended until the date when that landplot had been registered in the Main Record Book as the state land. But for occupation and request for rights to occupy that land by any private person of ethnic minority people, the process of the request land back must be taken regularly, the same as all illegal occupants of state land.

7. Policy principle for state land illegally occupied

- 7.1 Land, subject to be taken back or land confiscated from illegal occupant and part of private land of the state can be a subject to the sales, rent, donation or rights to earn profit from social concession, economic concession and other permissions to use under various forms following procedures enforced. Decision on any clear option must be taken place by arrangement of the Territorial Authority between Authority of State Land Occupation and occupant of land or complain on that land and based on land use planning.
- 7.2 Land, subject to be requested back or land requested back from illegal occupant and part of the public land of the state cannot be a subject to the sales, long time rent, concession or possession. But the public state land can be a subject to:
 - Short time rent and renewable rent period according to procedures enforced.
 - Right to make profits
 - Permission to occupy or use temporary, no precise period and can be taken back.
 - Contract with community or other agreements
 - Or request to re-classify land types by procedures enforced.

8. In case that the competent authority cannot find out the proof stating the time of state land occupation after Land Law 2001 enforced or cannot find the proof for stating the abandonment of fortune, but there is the request from occupant for that land, the occupant or the demanding person can be allowed, in case the land:

- Is not occupied by public interest or not for public profit.
- Is not registered as state land property yet and
- Has been really exploited and fulfilled other conditions of legal profits.

In receiving this Circular, Ministries, Institutions related to the Territorial Authority of all levels, Committee of State Land Administration of provinces, cities must apply effectively from the date of signature.

Phnom Penh, February 22, 2007

Copied to:

- Ministry of Royal Palace
- General Secretariat of Senate
- General Secretariat of Assembly
- Cabinet of Prime Minister
- Cabinet of Vice-Prime Minister
- Secretary General of the Royal Government
- Ministries – Institutions
- Province, cities
- Srok, Khan
- Sala khum, Sangkat
- Government Official Record book
- Archives - chrono

Signature

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