

Kingdom of Cambodia
Nation – Religion – King

Royal Government of Cambodia
No 118 ANK/BK

SUB-DECREE
ON
STATE LAND MANAGEMENT

The Royal Government

- Having seen the Constitution of the Kingdom of Cambodia;
- Having seen Royal Kret No. NS/RKT/0704/124 of July 15, 2004 on the Appointment of the Royal Government;
- Having seen Royal Kram No. 02/NS/94 of July 20, 1994 promulgating the Law on the Organization and Functioning of the Council of Ministers;
- Having seen Royal Kram No.01/NS of December 28, 1993 promulgating the Law on Financial System;
- Having seen Royal Kram No. 04/NS/94 of August 10, 1994 promulgating the Law on Land Management, Urban Planning and Construction;
- Having seen Royal Kram No.NS/RKM/1296/36 of December 14, 1996 promulgating the Environmental Protection and Natural Resource Management Law;
- Having seen Royal Kram CS/RKM/0298/03 of February 25,1998, promulgating the Law on the Financial Regime and Property of Municipalities and Provinces;
- Having seen Royal Kram No.NS/RKM/0301/05 of March 19, 2001 promulgating the Law on Khum/Sangkat Administration Management;
- Having seen the Royal Kram No. NS/RKM/0701/09 of July 13, 2001 promulgating the Law on Mineral Resources Management and Exploitation;
- Having seen Royal Kram No.NS/RKM/0801/14 of August 30, 2001 promulgating the Land Law;
- Having seen Royal Kram No.NS/RKM/0802/016 of August 31, 2002 promulgating the Forestry Law;
- Having seen Sub Decree No.88 ANK/BK of December 1, 2000, on Establishment of the Council for Land Policy;
- Having seen Sub Decree No. 46 ANK.BK of May 31, 2002 on Procedures for Establishing Cadastral Maps and Land Register;
- Having seen Sub decree No. 48 ANK.BK of May 31, 2002 on Sporadic Land Registration;
- Having seen Sub Decree No.19 ANK/BK of March 19, 2003 on Social Land Concessions;
- Having seen the Sub Decree No. 53 ANK/BK of April 01, 2005 on Procedures for Creation, Classification and Registration of Permanent Forest Estate;
- Having been adopted by the Council of Ministers during the plenary session on September 30, 2005.

DECIDES

Chapter 1 General Provisions

Article 1 .-

The purposes of this Sub-Decree are to determine the principles, procedures, mechanisms and institutional arrangements for state land management on:

- Identification and mapping of state land;
- Registration and classification of state land;
- Creation and maintenance of a State Land Database
- Allocation and management of state land; and
- Reclassification of state land.

Article 2 .-

The following terms have the meanings defined below:

- "State land" includes all land owned by the state under the management of a ministry or national institution as well as land entrusted to a public legal person or public establishment recognized by law as a public legal person.
- "Territorial authority" means a provincial/municipal, district/khan and commune/sangkat administration.
- "Trustee authority" means a ministry or institution or territorial authority entrusted by the state with the administration, safeguarding and institutional use of a specific state land.
- "District/Khan State Land Working Group" means District/Khan State Land Identification and Mapping Working Group.

Article 3 .-

The general principles to be applied in the management of state land are the following:

- (a) In general, the State is the owner of all land that is not legally privately or collectively owned or possessed under the Land Law of 2001.
- (b) State land includes state public land and state private land.
- (c) Each piece of state land shall be registered in the Land Register as public or private land of the state.
- (d) State land can be granted for social land concessions, economic land concessions or other concessions if the land has been registered in the Land Register as state public or state private land and in accordance with the legal procedure.

Article 4 .-

Public state land has a public interest use and falls within one of the following specific types of property having a public interest use:

- a). Property having a natural origin, such as
 - (1) Forests
 - (2) Courses of navigable or floatable water
 - (3) Natural lakes

- (4) Banks of navigable or floatable rivers
- (5) Seashores
- b). Property developed for general public use, such as
 - (1) Quays
 - (2) Ports
 - (3) Railways
 - (4) Railway stations
 - (5) Airports
- c). Property made available in its natural state or specifically developed for public use, such as
 - (1) Roads
 - (2) Tracks
 - (3) Oxcart ways
 - (4) Pathways
 - (5) Gardens and public parks
 - (6) Reserved land
- d). Property allocated to render a public service, such as
 - (1) Public schools or educational buildings
 - (2) Administrative buildings
 - (3) Public hospitals
- e). Natural reserves protected by law
- f). Archeological, cultural and historical patrimonies
- g). Royal properties that are not the private properties of the Royal Family
- h). Other land having public interest use characteristics and determined legal basis.

Article 5 .-

Private state land is all the land that is neither state public land, nor legally privately or collectively owned or possessed under the Land Law of 2001. Private land of the state includes land that is escheat or land voluntarily given to the State by the owner or land with no identifiable legal possessor or owner.

Chapter 2

State Land Identification and Mapping

Article 6 .-

- (a) State land identification and mapping is a coordinated and transparent process and shall be conducted by the District/Khan State Land Working Group under the leadership of the Provincial/Municipal State Land Management Committee for obtaining and documenting the following:
 - (1) the location and approximate boundaries of state land,
 - (2) information useful for registering the land as public or private state land, and
 - (3) information about the type of land and any current use of the land.

- (b) State land identification and mapping shall be jointly undertaken with relevant ministries, institutions and territorial authorities and shall indicate all the assertions, such as status of the land and trustee mandate, of the relevant ministries, institutions and territorial authorities.
- (c) The representative of a ministry or institution has a duty to provide information and documents about all public and private state land within the trustee mandate of the ministry or institution. A territorial authority has the duty to provide information about all state public or private land within the territory of the authority, whether the land is within the trustee mandate of the territorial authority or not.
- (d) The representative of the ministry, institution or territorial authority asserting a trustee mandate over a particular piece of state land or asserting that the land is state public land shall provide information and documents to support the assertions.
- (e) The information obtained from state land identification and mapping is preliminary and unconfirmed until the land is registered in the Land Register.

Article 7 .-

- (a) The District/Khan State Land Working Group shall undertake state land identification and mapping with technical assistance from the Ministry of Land Management, Urban Planning and Construction.
- (b) The District/Khan State Land Working Group shall collect information from among its members and from representatives of all state institutions and territorial authorities of each commune of the District with regard to state land in the commune.
- (c) The District/Khan State Land Working Group shall prepare a report with information specified in Article 6 (a); a map indicating all the assertions of representatives of ministries, institutions and territorial authorities; and a summary of public comments.
- (d) The District/Khan State Land Working Group shall seek consensus among the relevant ministries, institutions and territorial authorities. However, if consensus cannot be reached, inconsistent assertions shall be indicated in the District/Khan State Land Working Group report to be submitted to the Provincial/Municipal State Land Management Committee.
- (e) Prior to submitting the report of the state land identification and mapping work to the Provincial/ Municipal State Land Management Committee, the District/Khan State Land Working Group shall post, for 30 (thirty) days, a summary of the assertions, the map showing the assertions, and a clear statement of purposes of State Land Identification and Mapping for public comment, and shall upon request provide copies of the posted documents upon payment of reasonable charge.
- (f) The District/Khan State Land Working Group shall summarize public comments received and include the summary in the report to the Provincial/Municipal State Land Management Committee.

- (g) If there are inconsistent assertions, the Provincial/Municipal State Land Management Committee shall investigate the assertions of the various institutions or territorial authorities as indicated in the report of the District/Khan State Land Working Group, and shall consider any public comments summarized in the report.
- (h) If there are no inconsistent claims, or if the Provincial/Municipal State Land Management Committee reaches a consensus on inconsistent assertions, the results of state land identification and mapping shall be entered into the state land map and database to be established in accordance with this sub-decree.
- (i) If the Provincial/Municipal State Land Management Committee does not reach a consensus on inconsistent assertions, the results of state land identification and mapping including information about the inconsistent claims shall be entered into the state land map and database.
- (j) The Ministry of Land Management, Urban Planning and Construction shall issue Prakas on detailed guidelines for state land identification and mapping and the District/Khan State Land Working Group. The Prakas shall include detailed requirements for making the general public and relevant traditional heads of indigenous communities aware of state land identification and mapping in their locality, and giving the general public and indigenous communities adequate opportunity to comment on the report of the District/Khan State Land Working Group.

Chapter 3 Registration of State Land

Article 8 .-

- (a) The registration of state land shall be conducted on the basis of systematic registration in accordance with the Sub decree on Procedures for Establishing Cadastral Maps and Land Register, or sporadic registration in accordance with the Sub decree on Sporadic Land Registration.
- (b) The registration process includes:
 - (1) Confirmation of State ownership of the land,
 - (2) Demarcation of boundaries of the land,
 - (3) Resolution of the competent authorities to any dispute,
 - (4) Registration in the Land Register.
- (c) If State Land Identification and Mapping has been conducted prior to registration, the results of the State Land Identification and Mapping is not decisive information and shall be used as preliminary information for state land registration process.
- (d) The ministry, institution or territorial authority asserting that a particular piece of state land is state public land shall provide documents and other evidence that show the land is included in public property of the state and of public legal persons listed in Article 15 of the Land Law of 2001.

- (e) In first registration, any state land that is not shown to be a public property of the state as provided in Article 4 of this sub-decree and Article 15 of the Land Law of 2001 shall be registered as state private land.

Article 9 .-

- (a) In systematic first registration, boundaries of state land in the adjudication area are demarcated and the land is registered in the Land Register as state land.
- (b) The status of the land as state public or state private land is registered, if
- State Land Identification and Mapping has been completed prior to the registration and no inconsistent assertions by ministries, institutions or territorial authorities exist; or
 - If State Land Identification and Mapping has not been completed, there is conclusive information about the present status and use of the land, and relevant ministries, institutions and territorial authorities agree on the status of the land as state public or state private land.

Article 10 .-

- (a) In sporadic first registration, a piece of state land having clear demarcation is registered as a public or private land of the state.
- (b) The classification procedure prescribed in Chapter 4 shall be applied prior to registration of the land in the following land situations:
- State Land Identification and Mapping has been completed and there are inconsistent assertions of institutions or territorial authorities, or
 - Clear information about the present status and use of the land does not exist.

Chapter 4
Classification of State Land as Public or Private State Land

Article 11 .-

The classification procedures in this chapter apply in the following situations:

- (1) The land has been registered as a state land in the systematic first registration but has not been registered as state public or state private land;
- (2) Sporadic first registration of state land cannot be conducted due to reasons specified in Article 10 (b).

Article 12 .-

- (a) When classification procedure is required by this chapter, the Provincial/Municipal State Land Management Committee has the duty to make a recommendation to the Ministry of Land Management, Urban Planning and Construction on status of the land by specifying that the classification is consistent with the Land Law and other laws.

- (b) If State Land Identification and Mapping has been completed, the Provincial/ Municipal State Land Management Committee shall consider the report of the District/Khan State Land Working Group, including any public comments, before making its recommendation.
- (c) If State Land Identification and Mapping has not been completed, the Provincial/ Municipal State Land Management Committee shall investigate any inconsistent assertions of the various institutions or territorial authorities, and shall provide opportunity for public comments on the classification.
- (d) If the Provincial/ Municipal State Land Management Committee reaches a consensus on classification of the land as state public or state private land consistent with the Land Law of 2001 and other applicable law, the Committee shall make a recommendation to the Ministry of Land Management, Urban Planning and Construction on the status of the land.
- (e) If the Ministry of Land Management, Urban Planning and Construction concurs with the recommendation of the Provincial/ Municipal State Land Management Committee, the Ministry shall register the land accordingly. However, if the Ministry of Land Management, Urban Planning and Construction does not concur with the recommendation of the Provincial/ Municipal State Land Management Committee, the Ministry shall refer the matter to the Council for Land Policy.
- (f) If the Provincial/ Municipal State Land Management Committee is not able to reach a consensus on the status of the land, the Committee shall make a report to the Council for Land Policy for further consideration.
- (g) If the Council for Land Policy is able to reach a consensus about the status of the land as state public or state private land in accordance with the Land Law and other applicable law, the Council for Land Policy shall make a recommendation to the Ministry of Land Management, Urban Planning and Construction on registration of the land.
- (h) If the Council for Land Policy is not able to reach a consensus about the status of the land, the Chair of the Council for Land Policy shall refer the issue to the Council of Ministers for a decision on the classification of the land.
- (i) The Ministry of Land Management, Urban Planning and Construction shall register the state land on the Land Register in accordance with the decision of the Council of Ministers.
- (j) The Ministry of Land Management, Urban Planning and Construction shall issue a Prakas on the Implementation Guidelines for State Land Classification.

Chapter 5 Reclassification of State Land

Article 13 .-

State land reclassification means changing the status of land already registered as state public or state private land from:

1. State private land to state public land, or
2. State public land to state private land.

Article 14 .-

- (a) Unless otherwise provided by law, reclassifications of state lands shall be made by the procedures in this Chapter.
- (b) The reclassification of state private land to state public land shall be made by a Sub-Decree.
- (c) The reclassification of state public land to state private land shall be made in accordance with Article 16 of the Land Law of 2001.

Article 15 .-

- (a) A ministry, institution or territorial authority may initiate a reclassification of state land by filing a written request with the relevant Provincial/ Municipal State Land Management Committee. The request shall describe the affected land by reference to the parcel number in the Land Register and shall include specific reasons for the requested reclassification.
- (b) Within 30 (thirty) days after receiving the request, the head of the Provincial/ Municipal State Land Management Committee shall designate a panel comprised of representatives of relevant technical departments to review and make recommendations on the request to the Provincial/Municipal State Land Management Committee.
- (c) The panel shall complete the review within 45 (forty five) days after the panel designation. The Provincial/ Municipal State Land Management Committee may approve one or more extensions, provided that the panel shall complete its review as well as the review report within 90 (ninety) days from the panel designation.
- (d) The designated panel shall publicly post the request for reclassification for a period of at least 30 (thirty) days during which time other ministries, institutions and territorial authorities, the requester, local NGOs or civil society groups and residents of the relevant commune(s) may submit any comment on the request to the review panel.
- (e) Within 30 (thirty) days after the review panel submits its report, the Provincial/ Municipal State Land Management Committee shall make a written recommendation to the Council for Land Policy to accept, reject or modify the request.
- (f) The Council for Land Policy shall review the report of the Provincial/ Municipal State Land Management Committee and submit a report of its own recommendations to the Council of Ministers.
- (g) The requesting ministry, institution or local territorial authority will prepare a draft sub decree or draft law on the reclassification, as appropriate, for submission to the Council of Ministers along with the recommendation of the Provincial/Municipal State Land Committee and the recommendation of the Council for Land Policy.

- (h) Following the adoption of a sub decree on reclassification of state land, or the promulgation of a law on reclassification of the state land, the Ministry of Land Management, Urban Planning and Construction shall enter the information onto the State Land Map and Database and register in the Land Register.

Chapter 6

State Land Map and Database

Article 16 .-

The State Land Map and Database is a database containing the following information about state land:

- (1) Preliminary and unconfirmed information from state land identification and mapping,
- (2) Information indicating whether the land is registered or unregistered,
- (3) Identity of the ministry, institution or territorial authority with the trustee mandate for the land,
- (4) Documents showing the assertions on the status of state land provided by the ministry, institution or territorial authority having a trustee mandate for the land,
- (5) Information related to grants, concessions, leases or other encumbrances on the land.

Article 17 .-

- (a) The Provincial/ Municipal State Land Management Committee has the duty to maintain and update the State Land Map and Database for the province/municipality.
- (b) The Ministry of Land Management, Urban Planning and Construction shall establish technical specifications for the State Land Map and Database and shall provide technical support for its maintenance and updating.
- (c) The State Land Map and Database complements the State Property Inventory under the management of the Ministry of Economy and Finance, and complements the Land Register under the management of the Ministry of Land Management, Urban Planning and Construction.
- (d) Members of the public shall have the right to view the State Land Map and Database during working days and to obtain copies of the database upon the payment of copying costs.

Chapter 7

Trustee Mandate for State Land

Article 18 .-

- (a) The state may entrust the official use right and the duty to administer and safeguard state public or state private land to a ministry, institution or territorial authority. The entrusted ministry, institution or territorial authority is called a trustee authority.

- (b) The trustee mandate shall be assigned by a specific legal act. The trustee mandate for state private land shall be assigned in accordance with the procedures of Chapter 8 of this sub decree. The trustee mandate may be withdrawn at any time.
- (c) The trustee authority has the right to use the land to fulfill the institutional mandate of the trustee authority and the duty to administer and safeguard the land from abuses or encroachment.
- (d) The trustee authority may delegate the official use right, and safeguarding duty to its line departments or offices by official letter that clearly identifies the size and location of the land and the scope of the responsibility delegated.
- (e) Unless otherwise provided by law, a decision to change from a state public land serving one specific public interest to serve another public interest shall be made by a Sub-Decree.
- (f) The trustee authority has no right to lease, sell, transfer, donate or exchange, except as provided in a separate sub-decree.
- (g) All territorial authorities shall responsible jointly with the trustee authority in the safeguarding of state public and private land and shall take measures to prevent any abuses or encroachments of state land.

Chapter 8 Allocation and Use Planning of Private State Land

Article 19 .-

The Provincial/ Municipal State Land Management Committee has the duty to plan allocation for different uses of registered state private land within the province or municipality that the state has not entrusted to any public institution or authority.

Article 20 .-

State private land can be allocated for use by provincial/municipal, district/khan or commune/sangkat levels in accordance with a Joint-Prakas of the Ministry of Interior and Ministry of Economy and Finance.

Article 21 .-

State private land can be allocated for use by private or collective persons or entities through:

- (1) Social Land Concessions pursuant to the Sub Decree on Social Land Concessions;
- (2) Economic Land Concessions in accordance with the Sub Decree on Economic Land Concessions;
- (3) Other types of concessions in accordance with relevant sub decrees and existing procedures and regulations.

Article 22 .-

Procedures for participatory land use planning within provinces and municipalities shall be determined by Joint-Prakas of the Ministry of Land Management, Urban Planning and Construction and the Ministry of Interior.

Chapter 9 Administration and Implementation

Article 23 .-

The state land identification and mapping mechanism shall have the following structure:

1. Provincial/Municipal State Land Management Committee located at the Provincial Department of Land Management, Urban Planning, Construction and Cadastre, and authorized to use the provincial hall's seal.
2. District/Khan State Land Working Group located at District/ Khan Office of Land Management, Urban Planning, Construction and Land Administration and authorized to use the district/khan hall's seal.

Article 24 .-

Provincial/Municipal State Land Management Committee shall have the following composition:

- Provincial/Municipal Governor	Chair
- Chief of Provincial/Municipal Department of Land Management, Urban Planning, Construction and Cadastre	Permanent Member
- Chief of Provincial/Municipal Military Sub-Division	Member
- Chief of Provincial/Municipal Commiserate Police	Member
- Chief of Provincial/Municipal Department of Economy and Finance	Member
- Chief of Provincial/Municipal Department of Agriculture, Forestry and Fisheries	Member
- Chief of Provincial/Municipal Department of Environment	Member
- Chief of Provincial/Municipal Department of Water Resources and Meteorology	Member
- Chief of Provincial/Municipal Department of Industry, Mines and Energy	Member
- Chief of Provincial/Municipal Department of Public Works and Transportation	Member
- Chief of Provincial/Municipal Department of Culture and Fine Arts	Member
- Chief of Provincial/Municipal Department of Tourism	Member
- Chief of Provincial/Municipal Department of Rural Development	Member
- Relevant Head of Forest Administration at Cantonment level	Member
- General Secretary of Provincial/Municipal Hall	Member

The above composition shall attend any meeting upon invitation of the head.

The Chair of the Provincial/Municipal State Land Management Committee may invite representatives of other relevant provincial departments to attend as a member on a case-by-case basis.

Article 25 .-

The Provincial/Municipal State Land Management Committee shall have the following functions and duties:

- Lead the District/Khan State Land Working Group in conducting state land identification and mapping,
- Coordinate with various ministries, institutions and territorial authorities on the trustee mandate over and status of state land,
- Collect and document information related to location, status and current use of state land,
- Provide comments to the Ministry of Land Management, Urban Planning and Construction or the Council of Land Policy on trustee mandate over and classification of state land as well as on state land reclassification,
- Maintain and update provincial/municipal State Land Database and Map
- Decide and review participatory commune-sangkat land use action plan preparation through provision of comments on land concession projects and cooperate in monitoring the project performance,
- Cooperate in organizing public consultation on land concession projects,
- Propose annual budget, and
- Carry out other duties as specified in this sub-decree.

Article 26 .-

The Provincial/Municipal State Land Management Committee shall have a secretariat as its staff to assist administratively and technically such as in entering the information and data from the District/Khan State Land Working Group in to the database, maintaining and updating the state land map and database.

The State Land Management Secretariat shall have a leader who is a Deputy Chief of Provincial/Municipal Department of Land Management, Urban Planning, Construction and Cadastre in charge of Cadastral work, and shall have a necessary number of members who shall be appointed by the Provincial/Municipal Governor.

The Secretariat shall be located in the Provincial/Municipal Department of Land Management, Urban Planning, Construction and Cadastre.

Article 27 .-

The District/Khan State Land Working Group shall have the following composition:

- | | |
|---|------------------|
| - Governor of District/ Khan | Chair |
| - Chief of District/Khan Office of Land Management, Urban Planning, Construction and Land Administration | Permanent Member |
| - Chiefs of other relevant District/Khan Offices and Chief of relevant Forest Administration at section level | Members |
| - Chiefs of relevant Communes-Sangkats in the District/Khan | Members |

The chair and members of District/Khan State Land Working Group shall be appointed by the Provincial/Municipal Governor.

Article 28 .-

The District/Khan State Land Working Group shall be under the administrative guidance of the Provincial/Municipal State Land Management Committee, and under technical guidance of the Ministry of Land Management, Urban Planning and Construction.

For state land along the borders with the three neighboring countries, the District/Khan State Land Working Group and the Provincial/Municipal State Land Management Committee shall be under additional technical guidance of the Technical Committee of the National Border Authority.

The functions and duties of the District/Khan State Land Working Group are as follow:

- Collect and document information for state land identification and mapping,
- Coordinate with various institutions, authorities or state land possessor on state land trustee mandate,
- Seek consensus on approximate boundary, status and current use of state land,
- Publicly post copy of state land information and map at populated areas and in relevant commune-sangkat and receive public comments provided at predetermined date and place,
- Summarize public comments received and prepare for the Provincial/Municipal State Land Management Committee necessary data and documents including state land map specifying all the information,
- Participate in land use planning and provide comments on state land reclassification,
- Organize and participate in public consultation on land concession projects as well as cooperate in monitoring land concession projects performance, and
- Carry out other duties as specified in this sub-decree.

Chapter 10 Resources

Article 29 .-

The budget for the operation of the State Land Management including State Land Identification and Mapping, Classification and Registration of State Land, Maintenance and Creation of State Land Map and Database shall be in the budget package of the Ministry of Land Management, Urban Planning and Construction.

According to the unified budget system, the resource and budget for State Land Management shall be generated from:

- the national budget
- financing from local and overseas sources or international donor organizations.

Chapter 11 Final Provisions

Article 30 .-

Guidelines on implementation of this sub-decree shall be determined by Prakas of the Minister of Land Management, Urban Planning and Construction.

Article 31 .-

Any provision contrary this sub-decree shall be abrogated.

Article 32 .-

This sub-decree shall become effective from the date of signature.

Article 33 .-

The Minister of the Office of the Council of Ministers; the chair of the Council for Land Policy; the Minister of Land Management, Urban Planning and Construction; the Minister of Economy and Finance; the Minister of Agriculture, Forestry and Fisheries; relevant ministers,

secretaries of state, all provincial-municipal governors, heads of relevant institutions and as specified in Article 24 shall be in charge of implementing this sub-decree based on his/her respective duties from the date of signature.

Phnom Penh, 07/10/2005

Prime Minister

Hun Sen

CC:

- Ministry of Royal Palace
- General Secretariat of the Constitutional Council
- General Secretariat of the Senate
- General Secretariat of the National Assembly
- General Secretariat of the Supreme Council for State Reform
- Cabinet of the Prime Minister
- General Secretariat of the Royal Government
- All central ministries and institutions
- All provincial/municipal halls
- As in Article 33
- File