

KINGDOM OF CAMBODIA
Nation Religion King



Ministry of Information

Draft

LAW
ON
ACCESS TO INFORMATION

20 April 2020

CHAPTER 1

GENERAL PROVISION

Article 1 –

The purpose of this law is to ensure the public's right to freedom of access to information from public institutions in accordance with the Constitution of the Kingdom of Cambodia.

Article 2 –

This law has the following objectives:

- To encourage the fulfillment of public institutions' obligations of broadly providing and disseminating maximum information to the public;
- To encourage public participation in the political, economic, social, and culture of the nation;
- To provide information to the public as part of an awareness of responsibilities, activities, actions and decisions taken by the Royal Government of the Kingdom of Cambodia in order to strengthen accountability and truth before the public;
- To assist the public in following up the public institutions' working activities to ensure that public funds shall be used as planned;
- To strengthen the good management of various documents and databases of public institutions so as to make policies of providing services to the public;
- To require public institutions to fulfill their duties with good quality, effectiveness, transparency, and accountability;
- To reduce the confidential information as much as possible.

Article 3 –

This law is applicable to all pieces of information, which shall be provided by public institutions both at national administration and subnational administration across the Kingdom of Cambodia, with the exception of confidential information as stipulated in the prohibition provisions.

Article 4 –

Technical terms used in this law include the followings:

- **Information:** refers to all pieces and all formats of official documents under the possession of public institutions;
- **Public Information:** refers to the information that public institutions must widely disseminate to the public;
- **Confidential Information:** refers to the information that public institutions cannot disclose to the public;
- **Officer:** refers to a person who fulfills his/her functions in public institutions;
- **Officer in Charge of Information:** refers to a person appointed by public institutions having function of managing and providing information to the public;
- **Information Unit:** refers to a place, established by public institutions, where information is managed and provided to the public;
- **Public Institutions:** refer to ministries/institutions, or other entities performing public functions including national and subnational administration, created by law or/and other regulations;
- **The public:** refers to all persons, whether natural or legal person, both Khmer and foreign;

- **Requester:** refers to the public who makes a request for information;
- **National Administrations:** refers to ministries, institutions or equivalent public entities;
- **Subnational Administrations:** refers to capitals/provinces, municipalities/ districts/ khans, and communes/sangkats.
- **Obstruction against the Implementation of Public Works:** refers to the act of obstructing by violence against the implementation of public works or the works for the interests of the public;
- **Exception:** refers to the exceptions to any part or section of a confidential document as stipulated in the prohibition provisions;
- **Succession:** refers to transferring the rights and obligations of the deceased to one or more successors by will or by law.

CHAPTER 2

RIGHTS AND OBLIGATIONS OF RECEIVING AND PROVIDING INFORMATION

Article 5 –

All persons have the right to and freedom of access to information held by public institutions under the provisions of this law.

Article 6 –

All public institutions shall abide by the principle of maximum disclosure. Forward this end, they shall regularly update and broadly disseminate information to the public such as:

1. Organization and functioning of all public institutions, including working activities and other achievements;
2. Public institutions' development plan of infrastructures and all sectors;
3. Detailed information about services mechanism, together with list of fees of the services to be provided by public institutions to the public;
4. Laws, regulations, policies, decisions, and duties of public institutions relating to rights, freedoms, obligations, and public interests;
5. All aspects of public institutions functioning and procedures at courts, including administrative affairs, which are of the interest of and have direct connection with the public, except for some prohibited procedures or regulations;
6. Annual budget plan of the institution is approved by the legislature institution and the annual expenditure and audited report;
7. Official requests or complaints mechanism establishing for the public in connection with action or omission of public institutions, together with summary of the requested complaint or other direct actions of members or response of public institutions.

Article 7 –

All public institutions shall facilitate access and shall be open in providing all kinds of information to the public upon request without any discrimination, excepting the confidential information under prohibited provisions.

In the case of public interest greater than the preservation of confidential information as stipulated in the prohibition provisions, the confidential information must be provided to the public on request.

Article 8 –

Public institutions shall perform the following obligations:

1. To create an information unit within each institution, both at national and sub-national level, by providing financial supports, materials and proper means within the budget framework of each ministry/ institutions to officers in charge of information, in order to facilitate the provision of information to the public with effectiveness. The organization and functioning of the information unit shall be adopted with applicable regulations.
2. Train officers in charge of information in a professional capacity on the access to information in order to effectively implement this law.
3. To encourage specialized units under the institution itself to cooperate and take responsibility for the search and provide the information.

Article 9 –

Officers in charge of information shall have the following duties:

1. To be a potentially spokesman of the institution, in response to the public;
2. Providing all piece of information to the public;
3. A focal coordinator in his/her institution and in communication with the public for receiving request for information;
4. To closely cooperate with all specialized units of his/her institution in searching for, collecting and compiling documents, and assisting in searches of records upon request of requester;
5. To assist all persons who seek for information, including provide support for preparing application forms for requesting for information and other procedures set out by this law;
6. To cooperate with other relevant specialized units of his/her institution in classifying information which falls within the scope of the confidential information or records which fall or not within the scope of exemption;
7. Preparing communication plans of information and public dissemination of the implementation, responsibilities, duties, and achievements of public institutions.

CHAPTER 3

PROCEDURES OF REQUESTING AND PROVIDING INFORMATION

Article 10 –

All persons shall be entitled to request of information from public institutions without any discrimination.

Article 11 –

A request for information shall be made in writing with its detailed descriptions about the requested information and its format to be submitted to public institutions.

Procedures and formalities for requesting information shall be determined as follows:

1. Formalities for requesting for information:
 - a) Name, sex, age, nationality, occupation;
 - b) Current address and/or electronic address, telephone number (if any);
 - c) List of detailed information to be requested.
2. Requester who has no ability to fill out application forms by him/herself due to illiteracy or disability may make a request for information orally. Officers in charge of information who received such a request shall gratuitously assist in writing information upon request accordingly with free of charge and note his/her name in a certified copy and requester's receipt.

3. Requester may submit a written request for information directly or via its legal representative to officers in charge of information, or may send it by post or by email to public institutions possessing that information.
4. Officers in charge of information who received a request for information shall duly register and issue receipts to the requester.
5. Requester shall take receipts from the officers in charge of information right after filing application forms. For those making requests for information by post or by email, receipts shall be issued based on the type of means of the request.
6. In the event that a request for information is wrongly addressed to competent institutions possessing information, officers in charge of information shall return such a request to the requester as soon as possible and shall give more information as much as possible about the public institutions holding the requested information.

Article 12 –

Officers in charge of information shall provide information as requested by requester, including but not limited to:

1. A copy of documented information from original documents;
2. A copy of documented information can be in writing, audio, picture, gazette video, disk, or other forms;
3. Records in form of code numbers, acronyms, braille or other symbols;
4. In case a request for information is made in multi-languages, officers in charge of information may provide information in Khmer or in language of its original format to requester;
5. In case of documentation in the form in which the available information is too fragile, some conditions of access must apply.

Article 13 –

Officers in charge of information shall promptly examine a request for information and give a written response to its requester by notifying if there is or no such requested information or if it's the confidential information, which is prohibited by law from revealing publicly. The response shall be given no later than 15 (fifteen) working days, commencing from the date of receiving the request.

A positive response shall be indicated there in the public service fees applicable for receiving the information.

The requester shall pay the information service fee in advance as it has agreed to accept the service and receive the receipt from the officers in charge of information.

In the event requester cancel information which he / she has requested within 5 (five) days from the date of payment of the service, he / she or the legal representative may request a refund within 30 (thirty) days. The fee to be returned is 50 (fifty) percent of the paid.

Article 14 –

Officers in charge of information shall provide information to requester as follows:

1. To provide information to the requester within 5 (five) working days, starting from the date of receiving an official response from the requester, mentioning his/her agreement on service fees, as specified in Article 13 of this Law;
2. In the event that the provision of information cannot be done within the duration as described in the above item 1, public institutions may continue such delay for a period of no longer than 40 (forty) working days from the date of the reception of the request, by giving the reasons in writing of such delay back to the requester.

Article 15 –

Public institutions may deny providing information to requester based on the following conditions:

1. Requested information is under prohibited as specified in Article 20 of this law;
2. Requester failing to fully fill in the application forms as stated in article 11 of this law;
3. Requester obstructs the operation of the public institutions and/or officer in charge of information;
4. Requested information has recently been provided by the public institution to requester within a period of 40 (forty) days.

Article 16 –

A requester who has been refused information by a public institution with clear grounds as provided in Articles 11 and 15 of this Law may submit a revised application.

If the officer in charge of information fails to provide information within the time limit as set out in Article 14 of this Law without written a clear reason, the requester may appeal to competent institutions, as stated in Article 27 of this Law.

Article 17 –

The officer in charge of information shall examine the application to determine if the information requested falls under exceptions and shall classify the categories of information, which is not falling under the prohibitive provisions so as to provide for the requester as follows:

1. Any parts of a confidential document which is not falling under the prohibitive provisions for disclosure by pointing out the provisions of a specific law on the basis of which any part of a confidential information has been cut out or scratch off and notifying the requester of the rights to appeal/challenge as provided in article 27 of this law;
2. Any parts of the document, which is still valid pursuant to laws, where the concerned individual or ministry/institution agrees to disclose it for public interest.

Article 18 –

Officers in charge of information shall be responsible for fulfilling their obligations as set forth in this provision and shall not create any obstructions in providing information to the public by reason of exceptions as provide in articles 15, 17 and 20 of this law.

Article 19 –

Public institutions shall provide information to the requester as follows:

1. The provision of information and assistance on preparing information application forms shall be free of charge.
2. The service fees charged for providing a copy of document in writing, sound, picture, or other forms shall be fixed by Inter-Ministerial Proclamation or Joint-Prakas between the Minister of the Ministry of Economy and Finance and the Minister or head of institution of relevant ministries/institutions. For documents submitted by post and other means, the price should be depended.

CHAPTER 4 CONFIDENTIAL INFORMATION

Article 20 –

Public institutions may refuse to provide information to the public if disclosure of the information would cause damage to the public and private sectors as follows:

1. Information harmful to the national defense and security matters:
 - a. National strategic plans pertaining to the national defense and security matters, plans to safeguard the territory against foreign threats, the importation, production, storage and use all kinds of weapons systems;
 - b. Information concerning strategy, intelligence, operation, tactic and technique related to the operation of national defense and security;
 - c. Figures, deployment of strength and national defense capacity, implementation of national defense systems, weapons development plans and military equipment for national security and defense;
 - d. Images data and maps relating to military base and/or military installation situation and condition, weapons production or storage locations, and military science research buildings;
 - e. Secret military data or information on national defense capacity of foreign countries that can endanger the sovereignty of the Kingdom of Cambodia;
 - f. Data related to military cooperation with other countries that has been agreed as state secret;
 - g. State encoding system and/or state intelligence system.
2. Information causing damage to foreign or international relations:
 - a. Secret position, bargaining power, and strategy that will be and has been taken by the state in relation with foreign countries or the international community;
 - b. Secret diplomatic communication or correspondence with foreign countries or the international community;
 - c. All information and communication technology and encoding systems used for connecting with foreign countries or the international community;
 - d. Protection and security of Cambodian military base and strategic infrastructure overseas of the Kingdom of Cambodia under the umbrella of the UN.
3. Information causing harm to the national economy and finance:
 - a. Plans of sale or purchase of national or foreign currency, shares and vital assets of the state;
 - b. Plans of exchange rate adjustments of foreign currency, government loans, tax reform, tariff, or state revenues;
 - c. Plans of sales or purchases of state property or foreign investment;
 - d. Professional confidential of Banking and Financial;
 - e. Confidential data or confidential information that deprives the state of economic benefits.
4. Information obstructs the criminal investigation process, law enforcement and the court confidentiality limited to, when applicable:
 - a. Obstructing law enforcement officers in investigating a criminal offense;
 - b. Revealing the identity of protected informants, witnesses, and/or victims having knowledge of a criminal act;
 - c. Damaging equipment, facilities, and/or infrastructures of law enforcement institutions;
 - d. Endangering the security and/or lives of law enforcement officers or their families;
 - e. Obstructing criminal investigations related to the prevention of transnational crimes.
5. Information constituting a violation of privacy of a private person:
 - a. Medical history and psycho-physical therapy of a private person;

- b. Information pertaining to evaluation in relation to capacity, intelligence, educational psychological records of a private person;
 - c. Information pertaining of the successions;
 - d. Information revealing the identity or name of either party in a civil case in relation to fatherhood, motherhood, marriage, divorce or parental authority;
 - e. Information revealing the identity of minor in a civil case or accident, and other criminal cases;
 - f. Information revealing the identity of victim in rape case;
 - g. Information about financial situation, property, income, and bank accounts of a private person unless otherwise stipulated by laws;
 - h. Information concerning secrecy in intellectual property and trade secret;
 - i. Personal correspondence.
- 6. Information classified as confidential related to internal meetings and process of appointments by the public institution.
 - 7. Other confidential information as stipulated in the prohibition provisions.

Article 21 –

To ensure the protection of national sovereignty, defense of national security, governance process and protection of everyone's right to life in conformity with the Constitution of the Kingdom of Cambodia, public institutions shall provide accessible confidential information to the public after the following time frames:

- 1- Up to 90 (ninety) days from the date of creation or of issuance of documents related to internal meetings and process of appointments by the public institution as stipulated in Article 20 above.
- 2- Up to 40 (forty) years from the date of creation or of issuance of documents related to national security and defense matters, national economy and finance, as stipulated in the Article 20 above.
- 3- Up to 50 (fifty) years or more from the date of creation or of issuance of documents related to diplomatic relations as stipulated in the Article 20 above, at the decision of the Royal Government, upon the request of the Minister of Foreign Affairs.
- 4- Up to 60 (sixty) years from the date of creation of the documents related to the criminal justice system or information constituting a violation of privacy of an individual as stipulated in the article 20 above.

For cases related to crime of genocide, crime against humanity, or war crimes or serious violations of human rights, public institutions shall make the information available to the public as soon as possible when the court of law completely closes those cases.

Article 22 –

For confidential information, public institution shall perform the following:

- 1. Register the official confidential information;
- 2. Delete expired confidential information from the confidential information list;
- 3. Delete information from the confidential information list with consent of its right holder.

Mechanisms, procedures for defining, classifying, registering confidential information, and deleting the information from confidential information list as set forth in Article 20, 21 of this Law shall be provided by a sub-decree.

Article 23-

To protect and serve the public interests and promote the public's right to information in accordance with legal principles, the Royal Government may decide to reduce the timeframe on confidential information either in part or in whole as prescribed in article 21 of this law and make it available to the public.

Article 24-

To ensure the safety of saving confidential information of public institution, the officer in charge of information shall perform his/her duty in accordance with the provision of article 20, 21 and 22 of this law and shall not permit the retention of confidential information of public institution outside of public institution or information unit.

CHAPTER 5 INFORMATION PROVIDER PROTECTION

Article 25 –

All person may file a complaint to a public institution or complain to a court authority for the misconduct of the officers in charge of information and receive legal protection. if it done in good faith.

Article 26 –

Officers in charge of information shall not be criminally, civilly and disciplinary responsible for the decision of providing information to the public made within their cope of work and position as officers in charge of information.

This principle is not applicable in case where officers in charge of information fulfill their duties with bad faith, which is contrary to their competence and position granted by laws or regulations for their own interest.

CHAPTER 6 APPEAL AND ENFORCEMENT OF DECISIONS

Article 27 –

Requester shall have the right to appeal to the head of the public institution to which the request for information was addressed if the requested information is not provided in accordance with article 14 or was rejected by public institution without any proper reasons as stated in articles 15 and 17 of this law.

At the sub-national level, if the requester is not satisfied with the decision of the officer in charge of information, requester may file a complaint to the head of institution or the ombudsman located in the area where the information is requested. The appeal must be made within 30 (thirty) working days from the date requester received denial letter from the public institution.

Public institutions must respond to complaints within 15 (fifteen) working days from the date of receipt of the complaint.

In the event that the requester is not satisfied with the head of the concerned public institution's decisions, requester may reject such decisions by appeal within 30 (thirty) working days to the capital or provincial courts of first instance as of the date of notification of that decision and continue to lodge an appeal against decisions of the capital or provincial courts of first instance in accordance with legal proceedings.

Article 28 –

In the event that the lower courts or the higher courts order public institutions to provide information upon request, procedures for providing information shall be implemented in accordance with articles 13 and 14 of this law.

CHAPTER 7 DISCIPLINARY RESPONSIBLE

Article 29 –

Officers in charge of information failing to fulfill their duty as described in the provision of article 9, article 11, article 12, article 13, article 14, and article of this law shall be liable for disciplinary sanctions.

CHAPTER 8 PENALTIES

Article 30 –

Any person who is not in possession of the information or officer who is in charge of handling of the information of public institutions, which maintains or holds confidential information in private shall be fined from 1,000,000 (one million) Riels to 3,000,000 (three million) Riels.

In case of leaking confidential information, the person or officer who is in charge of handling of the confidential information shall be liable to an imprisonment from 2 (two) years to 5 (five) years and to a fine from 4,000,000 (four million) Riels to 10,000,000 (ten million) Riels.

Article 31 –

Officer in charge of information or officer who is in charge of handling of the confidential information due to his/her own personal situation, career, occupation or mission, discloses or reveals the confidential information to any incompetent persons to be known about secrets of the public institution shall be liable to an imprisonment from 2 (two) years to 5 (five) years and to a fine from 4,000,000 (four million) Riels to 10,000,000 (ten million) Riels and shall be subject to be punishable by 1 (one) additional penalties or more as described in article 53 (Additional Penalties) of the criminal code.

In the case that the confidential information is leaked by careless, laziness, negligence, shall be liable to an imprisonment from 6 (six) months to 2 (two) years and to a fine from 1,000,000 (one million) Riels to 4,000,000 (four million) Riels.

Article 32 -

Officer who is in charge of handling of the confidential information causes damage or destroys such information shall be liable to imprisonment from 2 (two) years to 5 (five) and to a fine from 4,000,000 (four million) to 10,000,000 (ten million) Riels, and shall be subject to be punishable by 1 (one) additional penalties or more as described in article 53 (Additional Penalties) of the Criminal Code.

Article 33–

Officer in charge of information or officer who is in charge of handling of the confidential information reveals the confidential information to any incompetent persons to be known about secrets of the public institution causing damage to the national security and economy shall be liable to imprisonment from 7 (seven) years to 15 (fifteen) years.

Article 34 –

Other criminal offenses are punished according to the existing penal code of the Kingdom of Cambodia.

**CHAPTER 9
TRANSITIONAL PROVISION**

Article 35 –

The Press Law promulgated by Royal Krom No. NS/RKM/0895/07 on September 1st, 1995, and the provision of other related laws, as well as other texts supporting the implementation of this law shall remain applicable until the replacement of new provisions.

Officers in charge of information of municipal and provincial administration instituted by Joint Prakas No. 3527 PrK 443 PM.PrK dated 26 July 2012 of the Ministry of Interior and the Ministry of Information shall continuously perform their duties until replacing by a new information unit created under the spirit of this law.

**CHAPTER 10
FINAL PROVISION**

Article 36 –

Any provisions that contradict this law shall be deemed as null and void.