

Unofficial Translation

**Draft Law
on
Financial Regime and Property
Management for Sub-National
Administrations**

CHAPTER 1 GENERAL REGULATIONS

Article 1:

This law aims to determine the financial regime and property management of sub-national administrations in the Kingdom of Cambodia.

Article 2:

This law aims to create sources of financial resources for the sub-national administrations to have sufficient ability for sustainable local development through democracy, and for enhancing the implementation of the Royal Government's decentralization and de-concentration policy for poverty reduction.

Article 3:

This law has its scope of operation for the financial regime and property management of the administrations of capital, province, municipality, district and Khan in the Kingdom of Cambodia.

This law does not have its scope of operation for the financial regime and property management of the administrations of commune and Sangkat, unless there are provisions stated in this law.

Article 4:

The administrations of capital, province, municipality, district, Khan, commune and Sangkat, referred to as “sub-national administrations”, are public legal entity that possess properties, financial resources and private budget.

Within the framework of this law, the term “sub-national administrations” refers to the administrations of capital, province, municipality, district and khan.

Article 5:

The management of financial affairs and budget of the sub-national administrations shall abide by the fundamental principles stipulated in **Article 2**, **Article 5** and **Article 6** of the Law on Public Finance System.

CHAPTER 2 RESPONSIBILITY AND MANAGEMENT OF FINANCE AND PROPERTY FOR SUB-NATIONAL ADMINISTRATIONS

Article 6:

Each Council shall represent and perform its functions on behalf of the citizen, and manage public financial affairs to promote sustainable development through democracy within its jurisdiction. The Council shall undertake financial management with efficiency, transparency and accountability to its citizen and the Royal Government whose executor is the Ministry of Economy and Finance.

Article 7:

In undertaking financial and property management, each Council of the sub-national administrations is responsible for the following tasks:

- To examine and approve development plan for three-year rolling investment program, and medium-term expenditure framework.

- To examine and approve budget strategic plan and annual budget plan submitted by the Governor, and revise budget on the condition that changes do not abuse the law, regulations or principles of budget preparation.
- To examine and approve budget revision as proposed by the Governor.
- To examine and approve annual financial reports.
- To examine and approve property book clearance of the sub-national administrations in line with the procedure and order in force.
- To monitor the Governor's financial and budget execution.
- To examine and approve agreement contracts that establish financial commitment or benefit beyond the operating budget year.

Article 8:

The role of the Governor of capital, province, municipality, district and Khan is representative of the Royal Government's ministries and entities within the jurisdiction of each Council. In financial sector, the Governor, on behalf of its council, is direct implementer of this law, by order and decision of the Council.

Article 9:

The Governor of the sub-national administrations shall be responsible for the following tasks:

- To prepare development plan for three-year rolling investment programme, and medium-term expenditure framework.
- To prepare budget strategic plan and annual budget plan.
- To implement activity plan and annual budget plan approved by the Council in line with existing rules and procedure of financial management.
- To regularly report to the Council on the implementation of activity plan and annual budget plan.
- To prepare annual financial reports, reports on annual execution of revenues and expenditures, and other reports for the Council's periodic inspection and approval.
- To regularly report to the Ministry of Economy and Finance, concerned ministries and entities on financial execution and financial situation of the sub-national administrations after the Council's approval of all reports.
- To manage public properties within the Council's jurisdiction, and maintain properly all properties transferred by the national level within legal framework and regulations in force.

Article 10:

The head of finance of the sub-national administrations is a direct responsible person for assisting the Council and the Governor of the sub-national administrations to achieve the tasks stated in **Article 7** and **Article 9** of this law.

The head of finance shall fulfil the above obligation with facilitation from the head of administration and cooperation with other entities of the sub-national administrations.

The head of finance shall be responsible for financial management within the right of the Governor of the sub-national administrations.

The head of finance is appointed by the Council with approval from the Minister of Economy and Finance as proposed by the Minister of Interior.

The formality of selection, appointment and the determination of criteria of the head of finance shall be determined by an inter-Ministrial Prakas of the Minister of Interior and the Minister of Economy and Finance.

Article 11:

As for the financial sector within the framework of the provisions provided in **Chapter 3** of this Law, the Governor, on behalf of the Council, is upstream financial manager, who prepares and executes the budget the sub-national administrations.

In executing the budget in line with the provisions provided in the Law on Public Finance System, the Governor, on behalf of the Council, is responsible for order of revenues, expenditure commitments, book clearance, and order of expenditure based on approved budget of the sub-national administrations, and for the management, opening and closing of administrative account.

Article 12:

The Governor of the sub-national administrations can delegate in writing budget decision to any Deputy Governor, a delegated financial manager who performs activities within the Governor's responsibility and scrutiny. The financial manager and the delegated financial manager shall place their official specimen signatures with public accountant.

Article 13:

Khans and Sangkats under the capital shall have their own budgets within the capital's budget. The Khan Governor and Sangkat chiefs are financial managers delegated by the Capital Governor for their own budgets.

Sangkats under the municipality shall have their own budgets within the municipality's budget. The Sangkat chiefs are financial managers delegated by the municipality Governor for their own budgets.

The structure and procedure of embedding the Khan's and Sangkat's budget in Capital's budget, and the Sangkat's budget in the municipality's budget shall be determined by the announcement of the minister of Economy and Finance after consultation with the minister of Interior.

Article 14:

The management of budget of the sub-national administrations shall be guaranteed by the Treasury's direct public accountant, who performs under the financial manager of the sub-national administrations, and strictly abides by the principles of inspection and management of public accounting in force.

Article 15:

The sub-national Treasury shall perform the role as the public accountant of the sub-national administrations and the following duties:

1. To collect or receive revenues of the sub-national administrations.
2. To execute payment orders issued by the Governor of the sub-national administrations.
3. To manage and release the budget of the sub-national administrations.
4. To prepare periodic financial reports.
5. To file properly all documents, supporting documents, and accounting records of sub-national administrations.

Article 16:

Director of the Department of Economy and Finance, director of the Treasury, and director of the sub-national Tax branch are delegate from the Minister of Economy and

Finance for assisting the Council and the Governor of the sub-national administrations in implementing this Law.

CHAPTER 3 BUDGET FOR SUB-NATIONAL ADMINISTRATIONS

PART 1 PRINCIPLES OF BUDGET MANAGEMENT

Article 17:

The Sub-national administrations shall have financial resources and appropriate budget to carry out their functions and responsibilities for economic and social development within their jurisdictions. The annual budget plan of the sub-national administrations plans, and allows all sources of revenues and liabilities to ensure budget balance. .

The budget of the sub-national administrations shall fall under the provisions of the Law on Public Finance System.

Article 18:

The budget of the sub-national administrations shall be prepared and approved annually. The fiscal year of the budget of the sub-national administrations starts on 1st of January and ends on 31st of December.

The budget of the sub-national administrations shall be prepared and approved with proper balance between revenues and expenditures, in line with the budget structure and classification determined by Prakas of the Minister of Economy and Finance.

Article 19:

The budget of the sub-national administrations shall be prepared and approved based on the following principles:

- Information concerning budget preparation and adoption shall be fully disclosed.
- All revenues and expenditures shall be part of a single unique budget.
- Budget shall include all revenues and expenditures of the sub-national administrations.
- Revenues shall be collected and shown in full amount without offsetting any expenditure.
- No single revenue shall be determined for any specific expenditure unless permitted by a separate provision.
- Total planned expenditures shall be fully guaranteed by total planned revenues.
- No single revenue or expenditure shall be collected or executed beyond the scope of the approved budget.

Article 20:

Each sub-national administration shall prepare, approve and execute the medium-term expenditure framework.

The medium-term expenditure framework shall specify clear forecast of the foundation of medium-term revenues, and rules for classifying these revenues according to the expenditure items of the sub-national administrations.

The formality for preparation and approval of the medium-term expenditure framework shall be determined by Prakas of the Minister of Economy and Finance.

Article 21:

The sub-national administrations shall not be entitled to involve in loan agreement, publish bonds or/ and financial tickets, issue guarantee letters, and directly or indirectly perform activities which cause direct or indirect debts or financial liabilities for the Kingdom of Cambodia. In receiving grants, the sub-national administrations shall obtain prior agreement from the Minister of Interior and the Minister of Economy and Finance.

Article 22:

The sub-national administrations shall manage and utilize the budget with efficiency, transparency and accountability to the citizen and the Royal Government whose executor is the Ministry of Economy and Finance.

PART 2
FINANCIAL LIABILITIES AND RESOURCES OF THE SUB-NATIONAL
ADMINISTRATIONS

Article 23:

Expenditures of sub-national administrations include:

- Administrative operation
- Performance of obligatory functions
- Performance of selective functions
- Performance of roles and responsibilities determined by law or other judicial regulations in force.

Article 24:

Revenues of sub-national administrations include:

- Revenues from local sources
- Revenues from national sources
- Other revenues determined by law or other judicial regulations

Article 25:

Revenues from local sources include tax and non-tax revenues:

1. The local tax revenues are revenues from tax and duty legally created and determined within the framework of Tax law to be of exclusive benefit to the budget of the sub-national administrations. The distribution and proportion of tax and duty types between the sub-national administrations shall be determined by sub-decree.
2. The local non-tax revenues include:
 - Revenues from rentals of the sub-national administrations' properties, service fees, and other incomes
 - The distribution of the local non-tax revenues between the sub-national administrations, and the price list of maximum revenue collection from service fees and other incomes shall be determined by sub-decree as proposed by the Minister of Economy and Finance in agreement with the Minister of Interior.
 - Gifts obtained from sources within and outside each Council's jurisdiction.
 - Revenues from sources determined by law or other judicial regulations

Article 26:

Revenues from national sources include:

- Shared revenues
- Funds transferred from the state budget
- Service fees from agent functions carried out by the Council on behalf of the Ministries and government institutions

Article 27:

The shared revenues are revenues to be distributed between the national level and concerned sub-national administrations. The types of revenues and distributive proportion shall be determined by law or sub-decree as proposed by the Minister of Economy and Finance in agreement with the Minister of Interior.

Article 28:

Funds transferred from the state budget include conditional and unconditional fund transfers.

Sub-national administrations have the rights to receive conditional and unconditional fund transfers from the annual state budget through a process carried out step by step annually.

The procedure and modality of fund transfer from national budget to sub-national administrations shall be determined by sub-decree as proposed by the Minister of Economy and Finance in agreement with the Minister of Interior.

Article 29:

Conditional fund transfers are funds used by the sub-national administrations:

- To administer, manage and implement one or more obligatory functions transferred to the sub-national administrations through assignment or delegation of functions.
- To continue administering or managing and implementing one or more selective functions being previously implemented by the government's ministry or institution.
- For one or more defined obligatory purposes.

Article 30:

Unconditional fund transfers are funds used by the sub-national administration:

- To fulfill legal duties.
- To fulfill obligatory functions to establish, promote and sustain development through democracy.
- To cover administrative costs.
- To select, administer, manage and implement other selective functions.

The sub-national administrations have the rights to receive unconditional fund transfers from the annual state budget based on transparent criteria and formula.

The formality, procedure and conditions for unconditional fund transfers shall be determined by sub-decree as proposed by the Minister of Economy and Finance in agreement with the Minister of Interior.

Article 31:

The government establishes municipality and district funds with separate accounts at the National Treasury to receive unconditional fund transfers from the national budget and resources from other sources to benefit the budget of municipal and district administrations.

Unconditional fund transfers from the national budget to the municipal and district funds shall be carried out step by step annually based on formula or precise rates, and forecastable for a medium term.

The allocation of resources from the municipal and district funds to each municipal and district administration shall be carried out annually based on transparent criteria and formula.

The creation and practical procedure of the municipal and district funds shall be determined by sub-decree as proposed by the Minister of Economy and Finance in agreement with the Minister of Interior.

Article 32:

The sub-national administrations may obtain revenues from performing their agent functions on behalf of the Royal Government's ministries and institutions.

Article 33:

The sub-national administrations may obtain agent functions on behalf of the Royal Government or its ministries and institutions based on law or other judicial regulations.

The sub-national administrations may consult and agree with the ministries, institutions or departmental entities at the national level to perform a task through a contract or agreement that clearly defines the task, the time for implementation, the results to be achieved, and the fees to be received by the operating agent.

The formality and procedure for utilizing the budget to perform the above agent functions shall be determined by Prakas of the Minister of Economy and Finance in agreement with the Minister of Interior.

**PART 3
PREPARATION AND ADOPTION OF SUB-NATIONAL ADMINISTRATION
BUDGET**

Article 34:

The budget strategic plan and budget plan of the sub-national administrations shall be prepared by the Governor, and approved by the Council, in accordance with the procedure determined by Prakas of the Minister Economy and Finance.

The budget plan of all sub-national administrations is a budget package to be furnished to the National Assembly and senate for review and approval within the framework of review and approval of the annual draft budget law. After the annual draft budget law is approved and endorsed by the National Assembly and the Senate, the budget package for sub-national administrations shall be distributed to each Council by Prakas of the Minister of Economy and Finance.

Article 35:

The budget plan of the sub-national administrations shall be prepared in accordance with the following calendar:

1. The Preparation of the budget Strategic plan (from March to May):

Upon receiving a circular of guidelines for preparing the budget strategic plan issued by the Minister of Economy and Finance, all ministries, institutions, and entities shall inform each Council about programs and budget projection in their sector that need to be implemented in each Council's jurisdiction. The Governor of the sub-national

administrations, on behalf of the Council, shall prepare, based on the foundation of development plan, investment programs, and medium-term expenditure framework of each sub-national administration, a budget strategic plan to be submitted to their council for review, discussion and adoption, before further submission to the Department of Economy and Finance for consolidation and further submission to the Ministry of Economy and Finance by 15th of May.

2. The Preparation of the budget package (from June to September):

In the first week of June, the Minister of Ministry of Economy and Finance shall prepare a circular instructing the sub-national administrations on the techniques for budget plan preparation by specifying the formats, procedures, and supporting documents to be enclosed to prepare their detailed revenue and expenditure plan. The Governor of sub-national administrations shall prepare the detailed revenue and expenditure plan based on the circular and policy priorities of the government, including all financial sources to be implemented within their jurisdictions.

The budget plan of the sub-national administrations shall be prepared by the Governor with assistance from the Council's head of finance and the official from the Department of Economy and Finance. The Governor of each sub-national administration, on behalf of the Council, shall publicly disclose this budget plan to collect feedbacks from the citizen and stakeholders within its jurisdiction, review and revise this budget plan to be submitted to the Council for discussion and approval in a public meeting by 30th of June.

As for the preparation of budget plan at the municipal and district level, the Minister of Economy and Finance can delegate to provincial Governor the responsibility for technical assistance to ensure accuracy of their budget plan in accordance with the provisions of this law, order, formality and procedures determined at the national level. The provincial Governor shall report on the process of this technical assistance in the Council's meeting.

The provincial governor shall guarantee that the Department of Economy and Finance consolidate the budget plans of their province, municipality and districts in the format defined by the Ministry of Economy and Finance, and attach the budget plans and explanations made by the province, municipality and district to be submitted to the Ministry of Economy and Finance by 15th of July.

The Ministry of Economy and Finance shall consolidate the budget plan of the sub-national administrations for each year.

In the whole month of August, the Ministry of Economy and Finance shall conduct legality control and verify the conformity of the capital, provincial, municipal and district budget.

The Minister of Economy and Finance can delegate the right to conduct legality control to her/his expert entity or any authority of the sub-national administrations if necessary.

The process of conducting legality control shall be attended by the Governor of capital, province, municipality and district, who represents the Council owning the budget, representative from the Ministry of Interior, and other compositions determined by the Ministry of Economy and Finance. In the process of conducting legality control, the Ministry of Economy and Finance or the delegated authority shall check on the following principles:

- The budget plan shall be prepared according to the defined budget classification format, formality and procedures.
- The process of budget preparation shall be participated by the citizen and other stakeholders.
- Credit plan shall be based on the mandatory expenditures
- The budget plan shall be prepared in line with the conditions set for the utilization of resources from specifically defined sources.

- A proper balance shall be guaranteed between revenues and expenditures.
- There shall be discussion and approval of the budget plan in the Council's public meeting.

In case the Ministry of Economy and Finance or the delegated authority has found that any budget plan of the sub-national administrations deviates from the above principles of legality control, they shall revise and inform in writing the Governor of the sub-national administrations to revise their budget plan according to the procedure in force.

3. The adoption of the budget for the sub-national administrations (from October to December):

In the first week of October, the Ministry of Economy and Finance submits the budget plan of the sub-national administrations, which is one chapter of the draft annual national budget law, to the Council of Ministers for review and approval and further submission to the National Assembly in the 1st week of November for approval, before submitting to the Senate in 1st week of December for final endorsement by 25th of December.

Article 36:

If the budget plan of the sub-national administrations is not approved by 1st of January of the implementation year, the Governor of the sub-national administrations has the right to collect revenues based on the conditions adopted in the previous year, and commit monthly expenditures based on a one-twelfth basis of the previous year's budget

PART 4
EXECUTION OF THE SUB-NATIONAL ADMINISTRATIONS' BUDGET

Article 37:

The sub-national administrations shall open a deposit account at the sub-national Treasury for revenue and expenditure operation.

Article 38:

The budget of the sub-national administrations could be revised during the budget year to respond to changes in economic and financial conditions, which influence the forecasting of revenues and expenditures. The revised budget shall be prepared, reviewed, approved, and verified in accordance with the procedure defined in **Article 35** of this law.

Article 39:

The internal credit transaction of sub-national administrations shall be made in line with the conditions set by Prakas of the Minister of Economy and Finance. The Minister of Economy and Finance can delegate authority to the sub-national administrations to legalize their credit for settlement of emergency needs if necessary.

Article 40:

The credit of contingency expenditure could be used for any expenditure for which fund allocation had not been specified when the credit was approved, or for additional credit to benefit other expenditures of the sub-national administrations.

The Governor shall seek the Council's approval when the use of contingency budget's credit is required.

Article 41:

Uncompleted programs or projects during the budget year shall be included in the next year budget plan for continuation.

Article 42:

In the case budget execution of the sub-national administrations incurs a deficit, the sub-national administrations shall take all self-regulated measures to restore budget balance. During the budget year, if actual revenues of the sub-national administrations exceed annual planned revenues, the credit for expenditure could be increased or legalized, according to the recorded amount of excess, to benefit the budget of other sub-national administrations by Prakas of the Minister of Economy and Finance. At the end of the budget year, the surplus of budget of the sub-national administrations shall be recorded in the result account of the National Treasury.

Article 43:

The annual financial statements of the sub-national administrations are subject to inspection and audit by authorized institutions. The purpose is to ensure transparency, accountability, and efficiency of sources of financial information, and to evaluate the execution of budget of the sub-national administrations in accordance with the public financial management system.

Financial inspection and audit reports, which include comments from the Council of the sub-national administrations shall be publically disclosed.

Article 44:

The financial and accounting operations shall be conducted in accordance with the rules on financial inspection, public procurement management, and general regulations of public accounting determined by law, and other judicial regulations.

Article 45:

The settlement of budget of the sub-national administrations shall be a chapter of the Law on Budget Settlement.

Complying with the agreed accounting principles, the Governor of the sub-national administrations is responsible for preparing and providing the Minister of Economy and Finance with reports of budget execution and other necessary information at the end of each budget year.

Article 46:

At the end of the budget year, each Governor of the sub-national administrations shall reconcile the administrative account with the account managed by the Treasury's public accountant, and prepare reports on budget execution and other necessary information to be submitted to the Council for review, approval and further submission to the Department of Economy and Finance, who shall consolidate these reports into a single report of the capital and each provincial administration before submitting it to the Minister of Economy and Finance. The Minister of Economy and Finance shall consolidate this report into the draft budget settlement for the sub-national administrations, and embed it in one chapter of the draft Law on Budget Settlement to be submitted the National Assembly and Senate for review and adoption.

**CHAPTER 4
THE MANAGEMENT OF THE SUB-NATIONAL ADMINISTRATIONS'
PROPERTY**

Article 47:

The properties of sub-national administrations include properties transferred from the Government and those acquired on their own. The Government transfers and hands over to the sub-national administrations the right to occupy and utilize some public state properties and private state properties, which are fixed assets under each Council's jurisdiction, as determined by the Government.

The transfer and handover of state properties to the sub-national administrations shall be enabled by sub-decree as proposed by the Minister of Economy and Finance in agreement with the Minister of Interior. This transfer and handover shall be conditioned on confiscation.

Article 48:

The transfer of property from the national level to the sub-national administrations for public use or fulfilling public service needs shall be appropriated with the functions assigned for each sub-national administration.

Article 49:

The properties transferred to the sub-national administrations are properties, which they could manage, use and from which they could generate income. The sub-national administrations shall maintain these properties properly and are not entitled to sell, rent, transfer ownership or the use of these properties without prior approval from the Minister of Economy and Finance in agreement with the Minister of the Ministry of Interior.

Article 50:

The properties acquired by the sub-national administrations are their own properties, of which they could autonomously decide on the management and utilization to generate income within the legal framework or other judicial regulations.

Article 51:

The sub-national administrations shall keep inventory records of all their properties, update them annually, and submit them to the Ministry of Economy and Finance for consolidation into a single inventory record of state property.

CHAPTER 5 SEPARATE REGULATIONS

Article 52:

In order to execute this law in line with necessary needs and actual situation of each sub-national administration including commune and Sangkat administrations, the Minister of Economy and Finance shall consult with the Minister of Interior to propose sub-decrees or issue separate Prakas for each sub-national administration.

CHAPTER 6 PENTALTY PROVISIONS

Article 53:

Councillors and all categories and hierarchies of public officials being currently or previously employed, who are found to not comply with the provisions of this law when fulfilling their assigned roles and functions will be punished by regulated disciplines and legal documents in force, plus other criminal and civil punishments, and financial compensation to

the sub-national administrations' budget for any loss and damage of properties or public money including interest rates caused by this mistake. .

CHAPTER 7 INTERPROVISION

Article 54:

The law and judicial regulations related to the provincial, municipal financial regime and property so far executed remains valid until new law and judicial regulations come into replacement in accordance with the Law on management of capital, provincial, municipal, district and Khan Administration, the Law on Public Finance System and this law.

CHAPTER 8 FINAL PROVISIONS

Article 55:

The Law on Provincial and Municipal Financial Regime and Property, which is promulgated by the Royal Decree CS/RKM/0298/03 dated 25th of February 1998, provisions which are amendments of the Law on Provincial and Municipal Financial Regime and Property, and other provisions contrary to this law shall deem null and void.

Article 56:

This law must be promulgated urgently.