

KINGDOM OF CAMBODIA

Nation Religion King

**Ministry of Land Management,
Urban Planning and Construction**

No.: 177 DNS/PrK

Prakas (declaration)

On the Modalities and Procedures of Issuance of Occupancy Certificates for Construction

Built Before the Entry into Force of the Law on Construction

**THE MINISTER OF LAND MANAGEMENT, URBAN PLANNING AND
CONSTRUCTION**

- Having seen the Constitution of the Kingdom of Cambodia;
- Having seen the Royal Decree No. NS/RKT/0918/925 dated 06 September 2018 on the Appointment of the Royal Government of Cambodia;
- Having seen the Royal Kram No. 02/NS/RKM/0618/12 dated 28 June 2018 promulgating the Law on the Organization and Functioning of the Council of Ministers;
- Having seen the Royal Kram No. NS/RKM/0699/09 dated 23 June 1999 promulgating the Law on the Establishment of the Ministry of Land Management, Urban Planning and Construction;
- Having seen the Royal Kram No. NS/RKM/1119/019 dated 02 November 2019 promulgating the Law on Construction;
- Having seen the Royal Kram No. 04/NS/94 dated 10 August 1994 promulgating the Law on the Establishment of the Ministry of Land Management, Urban Planning and Construction;
- Having seen the Royal Kram No. NS/RKM/0801/14 dated 10 August 2001 promulgating the Land Law;
- Having seen the Royal Kram No. NS/RKM/0514/008 dated 04 May 2014 promulgating the Law on Road;
- Having seen the Royal Kram No. NS/RKM/0208/007 dated 15 February 2008 promulgating the Law on Nature Protection Area;
- Having seen the Sub-Decree No. 62 ANKr/BK dated 20 July 1999 on the Organization and Functioning of the Ministry of Land Management, Urban Planning and Construction;
- Having seen the Sub-Decree No. 86 ANKr/BK dated 19 December 1997 on Building Permit;

- Having seen the Sub-Decree No. 42 ANKr.BK dated 03 April 2015 on Urbanization of Capital City, Towns and Urban Areas;
- Having seen the Sub-Decree No. 76 ANKr.BK dated 09 June 2015 on the Modification of Article 30, Article 34, Article 50, Article 66, Article 74 and Article 82 of the Sub-Decree No. 42 ANKr.BK dated 03 April 2015 on Urbanization of Capital City, Towns and Urban Areas;
- Having seen the Sub-Decree No.197 ANKr.BK dated 21 November 2009 on the Management of Pavement of the National Road and Railway of the Kingdom of Cambodia;
- Having seen the Sub-Decree No.39 ANKr.BK dated 10 March 2011 on the Management of Borey;
- Having seen the Sub-Decree No.98 ANKr.BK dated 24 July 2015 on the River Basin Management;
- Having seen the Circular of the Royal Government No. 01 SRNN dated 03 February 2012 on the Coastal Zone Development;
- Pursuant to the necessity of the Ministry of Land Management, Urban Planning and construction.

It is hereby decided,

CHAPTER 1

GENERAL PROVISIONS

Article 1.-

The purpose of this declaration is to:

- Ensure the overall quality, safety, security, public order, aesthetics of construction, good environment, and the welfare of construction owners, users and the public;
- Prevent and minimize the risks posed by the use of construction with poor quality and safety for use;
- Protect the public property of the State and other public legal entities;
- Promote the economic value of constructions;
- Manage construction data effectively.

Article 2.-

The objective of this declaration is to:

- Define the authority to issue, suspend and revoke the occupancy certificate;

- Determine the modalities and procedures of issuing, suspending and revoking the occupancy certificates of the constructions built before the entry into force of the law on construction;
- Specify the basic technical regulations for issuing, suspending and revoking the occupancy certificate.

Article 3.-

The scope of application of this declaration extends to all types of construction that are required to hold a building permit and are completely built before the entry into force of the law on construction as in the following cases:

- The construction having no building permit;
- The construction built differently from its building permit;
- The construction that has a building permit but no certificate of compliance or letter of closing the workplace.

Article 4.-

Within 2 (two) years after the entry into force of the law on construction, the construction owner shall submit an application for a building permit from the competent authority in the event that the construction is required to have a building permit.

The construction owners who completed their construction before December 20, 1997 may apply for an occupancy certificate from the competent authority.

Article 5.-

The competent authority may issue a building permit for the construction built without a permit or differently from a construction permit before the entry into force of the law on construction in the event that the construction is not harmful to the user and the public and does not affect the public order.

For the constructions built after April 3, 2015, an occupancy certificate may be granted only if the construction owner has paid an interim penalty as per the rules set by Sub-Decree No. 42 ANKr.BK dated 03 April 2015 on Urbanization of Capital City, Towns and Urban Areas, and the Sub-Decree No. 76 ANKr.BK dated 09 June 2015 on the Modification of Article 30, Article 34, Article 50, Article 66, Article 74 and Article 82 of the Sub-Decree No. 42 ANKr.BK dated 03 April 2015 on Urbanization of Capital City, Towns and Urban Areas.

Article 6.-

The occupancy certificate is still valid even if the construction owner is substituted.

In the event that occupancy certificate is suspended or revoked by the competent authority, the continuous use of construction shall not be allowed.

Any changes to the utility function and/or modification of the components of construction already holding an occupancy certificate, the construction owner must first submit an application for the change of utility function and/or the modification of building components to the competent authority.

Any person who uses or implements the construction which has no occupancy certificate for the purpose of business transaction and causes injury or health damage to another person shall be punished in accordance with the provisions of the law on construction.

Article 7.-

A request for an occupancy certificate is subject to the public service fee to the State.

The service fee for the issuance of occupancy certificate shall be fixed by an inter-ministerial Prakas of the Ministry of Economy and Finance and the Minister of Land Management, Urban Planning and Construction.

Article 8.-

The technical vocabulary used in this declaration are as follows:

- **Occupancy certificate** refers to a permit issued by a competent authority for a construction owner to use, lease or commercialize a building.
- **Construction owner** refers to a proprietor of construction built without a building permit or differently from the permit before the entry into force of the law on construction.
- **Construction certifier** refers to a specialist officer assigned by or a company holding a license issued by the Minister of Land Management, Urban Planning and Construction to control and certify the construction.
- **Legal land tenure documents** refer to the certificate of real estate ownership, real estate tenure deed, land title deed, certificate of perpetual lease right, certificate of usufruct right, government's principle of permission. In the event that the applicant is not a proprietor, there must be the consent of landowner.

CHAPTER 1 AUTHORITIES

Article 9.-

The competent authority for the issuance, suspension and revocation of a building permit include the following:

- The Minister of Land Management, Urban Planning and Construction, as for the constructions which are under the authority of the Minister of Land Management, Urban Planning and Construction;

- The Governor of the capital/provincial boards of governors, as for the construction under the authority of the governors of the capital/provincial boards of governors;
- The Governor of the city/district/khan boards of governors, as for the construction under the authority of the governors of the city/district/khan boards of governors.

CHAPTER 3

MODALITIES AND PROCEDURES OF APPLICATION FOR OCCUPANCY

CERTIFICATE

SECTION 1

DOMUMENTS OF APPLICATION FOR OCCUPANCY CERTIFICATE

Article 10.-

The application for the occupancy certificate include the following documents:

- The application forms for the occupancy certificate 03 sets;
- The copies of the construction owners' identification (legalized by the competent authority or the notary public) 03 sets;
- The copies of documents proving the legal occupancy of land 03 sets;
- The slip of land lot issued by the Capital/Provincial Department of Land Management, Urban Planning and Construction 03 sets;
- The actual layout quotes (architectural plan, construction component layout and fire-prevention layout) 03 sets;
- The report on the construction quality and safety control (if any) 03 sets;
- The copies of construction contract (if any) 03 sets;
- The copies of the documents related the construction contractor (if any) 03 sets;
- The copies of the report on the experiment of land and construction materials (if any) 03 sets;
- The copies of building permit (if any) 03 sets;
- The copies of letter for workplace permission (if any) 03 sets.

The sample of application form for building permit exists as Annex 1 to this declaration.

Article 11.-

The persons who are entitled to sign actual layout quotes include the following:

1. A technical director of a company that holds a certificate permitting a business of design work or building work.

2. A technical director of a company holding a license of design work or a license of building work.
3. A technical director of a company holding a license of construction certification work.

The actual layout quotes shall be stamped and writing down the certificate or license number of the company which carries out the actual layout quotes.

For the construction under the authority of the Governor of the city/district/Khan boards of governors, the persons who are also entitled to sign actual layout quotes include the following:

1. The professional holding a certificate permitting the business of construction design work or building work.
2. The professional holding a license of construction design work or building work.

In this case, the professional must stamp and sign the certificate or license number on the layout quote.

Article 12.-

Regarding the construction under the authority of the Minister of Land Management, Urban Planning and Construction, the construction owner shall submit an application for an occupancy certificate at the One-Window Service of the Ministry of Land Management, Urban Planning and Construction.

Regarding the construction under the authority of the Governors of capital/provincial boards of governors, the construction owner shall submit an application for an occupancy certificate at the One-Window Service of the Capital/Provincial Administration.

Regarding the construction under the authority of the Governors of city/district/Khan boards of governors, the construction owner shall submit an application for an occupancy certificate at the One-Window Service of the City/District/Khan Administration.

SECTION 2

**PROCEDURE OF APPROVAL ON THE DOCUMENTS OF APPLICATION FOR
OCCUPANCY CERTIFICATE UNDER THE COMPETENCE OF THE MINISTER OF
LAND MANAGEMENT, URBAN PLANNING AND CONSTRUCTION**

Article 13.-

The decision on the application for an occupancy certificate for the construction under the authority of the Minister of Land Management, Urban Planning and Construction shall be at least 30 (thirty) working days from the date of receipt of application fee.

The One-Window Service of the Ministry of Land Management, Urban Planning and Construction receives the application form only if the supporting documents are sufficient and accurate.

Article 14.-

After receiving the application form, the Ministry of Land Management, Urban Planning and Construction shall refer the application documents to the General Department of Construction within 02 (two) working days as of the date of receipt of application fee.

Article 15.-

The General Department of Construction, with the Department of Construction Technical Research as its état-major, shall review and comment on the documents of application for occupancy certificate. The General Department of Construction shall do a report note on the overall results of the review and comment, and submit it to the Minister of Land Management, Urban Planning and Construction for final decision.

Article 16.-

If the documents of application for occupancy certificate do not consist of the quality and safety inspection report provided by the construction certifier, the Ministry of Land Management, Urban Planning and Construction shall appoint a construction controller to inspect and do a report on the construction quality and safety. The period of conducting inspection and doing the report on the construction quality and safety is not included in the context of examination and approval to the issuance of occupancy certificate.

Article 17.-

The General Department of Construction shall send an occupancy certificate or an order for the modification or demolition and other relevant documents to the One-Window Service of the Ministry of Land Management, Urban Planning and Construction to be delivered to the applicant.

The sample of occupancy certificate for the constructions under the authority of the Minister of Land Management, Urban Planning and Construction exists as Annex 2 to this declaration.

SECTION 3

**PROCEDURE OF APPROVAL ON THE DOCUMENTS OF APPLICATION FOR
OCCUPANCY CERTIFICATE UNDER THE COMPETENCE OF THE GOVERNOR OF
THE CAPITAL/PROVINCIAL BOARD OF GOVERNORS**

Article 18.-

The decision on the application for the occupancy certificate of constructions under the authority of the Governor of the capital/provincial boards of governors shall be made at least 15 (fifteen) working days from the receipt of the application.

The One-Window Service of the Capital/Provincial Administration may issue an application receipt only if the documents of application are sufficient and accurate.

Article 19.-

After receiving the documents of application for occupancy certificate, the One-Window Service of the Capital/Provincial Administration shall submit the documents of application to the

Capital/Provincial Department of Land Management, Urban Planning, Construction and Cadastre at least 2 (two) working days after issuing the receipt of application.

Article 20.-

The Capital/Provincial Department of Land Management, Urban Planning, Construction and Cadastre, with the Office of Construction as its état-major, shall review, comment on and submit the occupancy certificate at least 7 (seven) working days to the Governor of the capital/provincial board of governors for final decision.

In the event that the documents for application for occupancy certificate do not consist of the report on construction quality and safety, the Governor of the capital/provincial board of governors shall appoint a construction controller to inspect and report the quality and safety of construction. The period of conducting inspection and doing report on the quality and safety of construction is not included in the context of examination and approval of occupancy certificate.

Article 21.-

After reviewing the documents of application for occupancy certificate, the Governor of the capital/provincial board of governors shall decide on the following documents:

1. Issuing the occupancy certificate based upon the application in case the construction complies with building technical regulations and legal norms in force; or
2. Issuing an order of modification or demolition in case the construction does not comply with building technical regulations and legal norms in force.

The Governor of the capital/provincial board of governors shall submit the completed documents to the Capital/Provincial Department of Land Management, Urban Planning, Construction and Cadastre within 3 (three) working days as of the receipt of the documents of application.

Article 22.-

The Capital/Provincial Department of Land Management, Urban Planning, Construction and Cadastre shall submit an occupancy certificate or an order for modification or demolition and other relevant documents to the One-Window Service of the Capital/Provincial Administration within 3 (three) working days to be delivered to the applicant.

The sample of occupancy certificate for the constructions under the authority of the Governor of the capital/provincial board of governors exists as Annex 3 to this declaration.

Article 23.-

In the event that the construction does not comply with the technical regulations set forth in this declaration, the Governor of the capital/provincial board of governors shall order the construction owner to undertake modification and/or refinement in accordance with the technical regulations prior to the issuance of occupancy certificate.

In case of failure to obtain an occupancy certificate, the Governor of the capital/provincial board of governors shall submit the documents of application to the Minister of Land Management, Urban Planning and Construction for his opinion.

The period of modification and/or refinement and that of the request to the Minister of Land Management, Urban Planning and Construction shall not be included in the context of examination and approval of the occupancy certificate.

SECTION 4

PROCEDURE OF APPROVAL ON THE DOCUMENTS OF APPLICATION FOR OCCUPANCY CERTIFICATE UNDER THE COMPETENCE OF THE GOVERNOR OF THE CITY/DISTRICT/KHAN BOARD OF GOVERNORS

Article 24.-

The examination and approval of occupancy certificate for the constructions under the authority of the Governor of the city/district/Khan boards of governors shall be at least 15 (fifteen) working days from the receipt of the application.

The Office of One-Window Service of the City/District/Khan Administration may issue a receipt of application only if its documents are sufficient and accurate.

Article 25.-

The Office of One-Window Service of the City/District/Khan Administration shall submit an occupancy certificate to the city/district/Khan land management, urban planning, construction and land office within 2 (two) working days from the date of the issuance of receipt of application.

Article 26.-

The city/district/Khan land management, urban planning, construction and land office shall review, comment on and submit the documents of application for occupancy certificate to the Governor of the Khan, District and Khan within 7 (seven) working days.

In the event that the documents of application for occupancy certificate do not consist of the report on construction quality and safety, the Governor of the city/district/Khan board of governors shall appoint a construction controller to inspect and report the construction quality and safety. The period of conducting inspection and doing report on the quality and safety of construction is not included in the context of examination and approval of occupancy certificate.

Article 27.-

After reviewing the documents of application for occupancy certificate, the Governor of the city/district/Khan board of governors shall decide on the following documents:

1. Issuing the occupancy certificate based upon the application in case the construction complies with building technical regulations and legal norms in force; or

2. Issuing an order of modification or demolition in case the construction does not comply with building technical regulations and legal norms in force.

The Governor of the city/district/Khan board of governors shall submit the completed documents to the city/district/Khan land management, urban planning, construction and land office within 3 (three) working days as of the receipt of the documents of application.

Article 28.-

The city/district/Khan land management, urban planning, construction and land office shall submit an occupancy certificate or an order for modification or demolition and other relevant documents to the Office of One-Window Service of the City/District/Khan Administration within 3 (three) working days to be delivered to the applicant.

The sample of occupancy certificate for the constructions under the authority of the Governor of the city/district/Khan board of governors exists as Annex 4 to this declaration.

Article 29.-

In the event that the construction does not comply with the technical regulations set forth in this declaration, the Governor of the city/district/Khan board of governors shall order the construction owner to undertake modification and/or refinement in accordance with the technical regulations prior to the issuance of occupancy certificate.

In case of failure to obtain an occupancy certificate, the Governor of the city/district/Khan board of governors shall submit the documents of application to the Governor of the capital/provincial board of governors for his opinion. In case of unavailable comments, the Governor of the capital/provincial board of governors shall submit the documents to the Minister of the Ministry of Land Management, Urban Planning and Construction for opinion.

The period of modification and/or refinement and the periods of the hierarchical requests shall not be included in the context of examination and approval of the occupancy certificate.

CHAPTER 4

MODALITIES AND PROCEDURES OF SUSPENSION AND REVOCATION OF OCCUPANCY CERTIFICATE

Article 30.-

The competent authority who issues an occupancy certificate for a construction may decide to suspend or revoke the occupancy certificate in the event that the mentioned construction has no quality and safety for use any longer.

Article 31.-

An occupancy certificate will be suspended by the competent authority in case the construction quality and safety inspection report indicates that the building is unsafe for use.

In this case, the competent authority shall notify in writing to the construction owner to undertake modification in compliance with the technical regulations in force.

The competent authority shall revoke the suspension of occupancy certificate in the event that the construction undertakes modification as directed by the competent authority.

Article 32.-

An occupancy certificate shall be revoked by the competent authority in one of the following cases:

1. The utility function of construction is changed.
2. The construction components have been altered without permission.
3. The construction is risky as decided by the competent authority.

CHAPTER 5

REPORT ON THE INSPECTION OF CONSTRUCTION QUALITY AND SAFETY

Article 33.-

The competent authority shall decide to issue, suspend or revoke the occupancy certificate based on the inspection report.

The report on the construction quality and safety inspection must be done by a construction controller or a company that holds a certificate permitting the business of construction design work or a company holding a license of construction certification work.

The report on construction quality and safety inspection must be signed by:

1. The construction controller; or
2. The technical director of a company holding a license of a business of design work; or
3. The technical director of a company holding a license of construction certification work.

The report on the construction quality and safety inspection shall be stamped and writing down the certificate or license number of the company.

The sample of report on the construction quality and safety inspection exists as Annex 5 to this declaration.

Article 34.-

The construction controllers who are competent to carry out the construction quality and safety inspections that are subject matter of the application for occupancy certificate include:

- The specialist officers of the General Department of Construction, for the constructions under the authority for the Minister of Land Management, Urban Planning and Construction;

- The specialist officers of the Capital/Provincial Department of Land Management, Urban Planning, Construction and Cadastre, for the constructions under the authority for Governor of the capital/provincial board of governors;
- The specialist officers of the city/district/Khan land management, urban planning, construction and land office, for the constructions under the authority for Governor of the city/district/Khan board of governors.

CHAPTER 6

TECHNICAL PROVISIONS

Article 35.-

An occupancy certificate can be issued for the construction built on the land registered by the Cadastral Administration in accordance with the cadastral and infrastructure plans.

Article 36.-

An occupancy certificate can be issued for the construction that complies with the land management and urbanization regulations as set forth in the following legal documents:

- The law on land management, urban planning and construction and the sub-decree no. 86 ANKr/BK dated 19 December 1997 on building permit for the constructions built from December 20, 1997 to April 03, 2015.
- The law on land management, urban planning and construction, and the sub-decree No. 86 ANKr/BK dated 19 December 1997 on building permit, the sub-decree no. 42 ANKr.BK dated 03 April 2015 on urbanization of capital city, towns and urban areas for the constructions built after April 03, 2015 and completed before the entry into force of the law on construction on November 03, 2019.

Article 37.-

An occupancy certificate can be issued for the construction that complies with the following technical regulations:

- The construction components can safely carry the load in accordance with its utility function;
- The construction materials, equipment and products which can ensure the quality of construction and the safety of the users in accordance with the building technical regulations or Cambodian standards approved by the National Standards Council.
- The fire safety exists as defined in the building technical regulations and provisions related to fire prevention and extinguishment.

CHAPTER 7 COMPLAINT

Article 38.-

The person who has an interest in the decision of the competent authority to issue, suspend or revoke the occupancy certificate has the right to file a complaint to the competent authority or to the court in accordance with the procedures in force.

CHAPTER 8 FINAL PROVISIONS

Article 39.-

Any provision which is contrary to this decision is abrogated.

Article 40.-

The cabinet, general director, inspector general, director of department, chief of subordinate units of the Ministry of Land Management, Urban Planning and Construction and relevant sub-national administrations shall be respectively responsible for the implementation of this declaration as of this signature date.

Friday, 10 Keut, Month of Mikkaseh, Year of Pig, Eksak B.E. 2563

Phnom Penh, 06 December 2019

**DEPUTY PRIME MINISTER
THE MINISTER OF LAND MANAGEMENT,
URBAN PLANNING AND CONSTRUCTION**

Signature and Seal

CHEA SOPHARA

CC:

- Office of the Council of Ministers;
- All the Ministries and Organizations;
- Cabinet of **Samdech Techo, the Prime Minister**;
- Cabinets of Samdech, His Excellency, Deputy Prime Ministers;
- “For Information”
- As in the Article 40 “For Implementation”
- Royal Gazette;
- Archival.