

**NS/KRM/0399/01**

**KRAM** dated 8 March 1999

**We,**

***Preah Bat Samdech Norodom Sihanouk,***

***King of the Kingdom of Cambodia***

- Having seen the 1993 Constitution of the Kingdom of Cambodia;
- Having approved the plenary session of the extraordinary session of the National Assembly from the 2, 3 and 4<sup>th</sup> of March 1999;
- Pursuant to a proposal of the President of the National Assembly dated March 6, 1999

***HEREBY ORDER***

**Article 1**

The promulgation of the amendments to Articles 11, 12, 13, 18, 22, 24, 26, 28, 30, 34, 51, 90, 91, 93 and other Articles from Chapter 8 through Chapter 14 of the constitution of the Kingdom of Cambodia which was promulgated by the National Assembly on the 4<sup>th</sup> of March 1999.

**Article 2**

This Kram shall enter into force from the date of signature herein.

**NORODOM Sihanouk**

Made on 8<sup>th</sup> March, 1999

**Constitutional Law**

*Regarding*

***The Amendments of Articles 11, 12, 13, 18, 22, 24, 26, 28, 30, 34, 51, 90, 91, 93 and***

***Articles of Chapter 8 through Chapter 14 of the Constitution***

**Only one Article**

Articles 11, 12, 13, 18, 22, 24, 26, 28, 30, 34, 51, 90, 91, 93 and Articles in Chapters 8 through Chapter 14 of the Constitution were amended as follows:

**Article 11 (new)**

When the King cannot perform his normal duties as Head of State due to his serious illness certified by doctors chosen by the President of the Senate, President of the National Assembly and the Prime Minister, the President of the Senate shall perform the duties of the Head of State in the capacity of Regent.

If the President of the Senate is unable to perform the duties as Head of State in the capacity of Regent while the King is seriously ill as stipulated above, the President of the National Assembly shall perform the duties as Head of State.

The position of Head of State in the capacity of Regent of the King may be replaced by a dignitary in the circumstances provided for in the above paragraph pursuant to the following hierarchical order:

A/ The first Vice-President of the Senate

B/ The first Vice-President of the National Assembly

C/ The second Vice-President of the Senate

D/ The second Vice-President of the National Assembly

#### **Article 12 (new)**

In the case of death of the King, the President of the Senate shall take over the responsibilities as Acting Head of State in the capacity of Regent of the Kingdom of Cambodia.

If the President of the Senate is unable to perform the duties as Acting Head of State as a Regent, the paragraphs 2 and 3 of new Article 11-new shall be applied.

#### **Article 13 (new)**

Within a period of not more than seven days, the Council of the Royal Throne shall choose the new King of the Kingdom of Cambodia. The composition of the Council of the Royal Throne is as the following:

- The President of the Senate;
- The President of the National Assembly;
- The Prime Minister;
- Samdech the Chiefs of the Orders of the Mohanikay and Thamayut;
- The first and second Vice-Presidents of the Senate; and
- The first and second Vice-Presidents of the National Assembly.

The organization and functioning of the Council of the Royal Throne shall be determined by the law.

#### **Article 18 (new)**

The King shall communicate with the National Assembly and the Senate through royal messages.

These royal messages shall not be subject to discussion by the Senate or the National Assembly.

#### **Article 22 (new)**

When the nation faces danger, the King shall make a proclamation to the people putting the country in a state of emergency after the approval of the Prime Minister, President of the National Assembly, and the President of the Senate.

#### **Article 24 (new)**

The King shall serve as the Chairman of the supreme council of national defense to be established by the law.

The King shall declare war after adoption by the National Assembly and the Senate.

**Article 26 (new)**

The King shall sign and ratify international treaties and conventions after a vote of approval by the National Assembly and the Senate.

**Article 28 (new)**

The King shall sign the law promulgating the Constitution, laws adopted by the National Assembly and laws completely reviewed by the Senate and shall sign the Kret (royal decree) presented by the Council of Ministers. When the King is seriously ill and hospitalized abroad, the King has the right to delegate the power of signing the above laws and Kret to the Acting Head of State through delegating writs.

**Article 30 (new)**

In the absence of the King, the President of the Senate shall assume the duties of Acting Head of State.

If the President of the Senate is unable to perform his duties as Acting Head of State replacing the King due to his absence, the responsibilities as Acting Head of State shall be exercised in conformity with paragraph one and two of new Article 11.

**Article 34 (new)**

Khmer citizens of either sex shall enjoy the right to vote and to stand as candidates in the election.

Khmer citizens of either sex who are at least eighteen (18) years of age have the right to vote.

Khmer citizens of either sex who are at least twenty-five (25) years of age have the right to stand as candidates for the elections.

Khmer citizens of either sex who are at least forty (40) years of age have the rights to stand as candidates for the election of the Senators.

Any provisions restricting the rights to vote and stand as candidates for the election shall be determined by law.

**Article 51 (new)**

The Kingdom of Cambodia adopts a policy of liberal democracy and pluralism.

The Cambodian citizens are the masters of their country.

All powers belong to the citizens. The citizens shall exercise these powers through the National Assembly, the Senate, the Government, and the Judiciary.

The legislative, executive, and judicial powers shall be separate.

**Article 90 (new)**

The National Assembly is an organ, which has legislative power and performs its duties as provided for in the Constitution and the laws in force.

The National Assembly shall approve the national budget, state planning, loans, financial contracts, and creation, modification, and annulment of taxes.

The National Assembly shall approve the administrative accounts.

The National Assembly shall adopt the law of general amnesty.

The National Assembly shall adopt or repeal treaties or international conventions.

The National Assembly shall adopt the law on the declaration of war.

The adoption of the above-mentioned clauses shall be decided by an absolute majority vote of the entire National Assembly membership.

The National Assembly shall pass the vote of confidence in the Royal Government with the two-third majority of its members.

#### **Article 91 (new)**

The members of the Senate, the members of the National Assembly, and the Prime Minister have the right to initiate legislation.

The deputies shall have the right to propose any amendments to the laws, but the proposals shall be unacceptable if they aim at reducing public income or increasing the burden on the people.

#### **Article 93**

Any law approved by the National Assembly and finally reviewed by the Senate and signed by the King for its promulgation shall go into effect in Phnom Penh ten (10) days after the date of promulgation and throughout the country twenty (20) days after the date of promulgation.

However, the Laws that are stipulated as urgent shall take effect immediately throughout the country after the date of promulgation.

The laws promulgated by the King shall be published in the Government Gazette and disseminated throughout the country in accordance with the above schedule.

### **CHAPTER VIII: The Senate**

#### **Article 99 (new)**

The Senate is a body that has a legislative power and performs its duties as determined by the Constitution and laws in force.

The number of the Senators shall not exceed half the number of the National Assembly members.

Some senators shall be nominated and other shall be elected by a non-universal election.

The senators may be re-nominated and reelected.

The citizens who are eligible to be senate candidates are Khmer citizens of either sex who are eligible voters, at least forty (40) years of age and were Cambodian nationals at birth.

#### **Article 100 (new)**

The King shall nominate two senators.

Two senators shall be elected by a majority vote of the National Assembly.

The other senators shall be elected in a non-universal election.

**Article 101 (new)**

A separate law shall determine the organization and operating procedures concerning the nomination and election of senators and the determination of electors, election organization, and electoral constituencies.

**Article 102 (new)**

The term for the Senate shall be six (6) years and such term shall expire upon the new Senate being sworn in.

When the election of senators cannot be conducted due to war and special circumstances, the Senate may continue its legislative term one-year at a time upon the proposal of the King.

The declaration of continuity of its legislative term shall be decided by at least a two-third-majority vote of all senators.

In the circumstances described above, the Senate shall conduct its meeting everyday. The Senate has the right to terminate the above situation if appropriate.

If the Senate is unable to conduct its meetings for good reason such as invasion of foreign troops the proclamation of the state of emergency shall continue in effect automatically.

**Article 103 (new)**

The mandate of senators shall be incompatible with the holding of any public function, with the function of members of the National Assembly, and of any membership in other institutions provided for in the Constitution.

**Article 104 (new)**

Senators shall enjoy parliamentary immunity.

No Senator shall be prosecuted, arrested, stopped, or detained because of opinions and statements expressed during the exercise of his/her duties. The accusation, arrest, stopping, or detention shall be made only if approved by the Senate or the Senate's Standing Committee between the Senate's meetings, except in the case of flagrant delicto. In that case, the relevant ministry shall immediately report to the Senate or to its Standing Committee for a decision.

The decision of the Standing Committee of the Senate shall be submitted to the next Senate meeting for approval by a two-third-majority vote of all senators.

In any case above, the detention or prosecution of any senator shall be suspended if there is an approval by a three-quarter-majority vote of all senators.

**Article 105 (new)**

The Senate shall have an autonomous budget to conduct its functions.

The Senators shall receive remuneration.

**Article 106 (new)**

The Senate shall hold its first meeting no later than sixty (60) days after the election pursuant to a convening notice issued by the King.

Before taking its office, the Senate shall declare the validity of each senator's mandate and vote separately to select the president of the Senate, vice-president of the Senate, and members of each commission by a two-third-majority vote of all senators.

All senators must take an oath before taking office in accordance with the provisions stated in annex 7 of the Constitution.

**Article 107 (new)**

The Senate shall conduct its ordinary sessions twice a year.

Each session shall last at least three months. If there is a proposal from the King or Prime Minister or of at least one-third of the senators, the Senate shall convene an extraordinary session.

**Article 108 (new)**

Between the Senate session, the Standing Committee shall assume the functions of the Senate.

The Standing Committee of the Senate consists of the president of the Senate, vice-president, and the chairmen of all Senate commissions.

**Article 109 (new)**

The Senate session shall be held in the capital of the Kingdom of Cambodia at the Senate's meeting hall, unless it is stipulated otherwise in the summons, due to special circumstances.

Any meeting of the Senate conducted at a location other than the location and date specified in the summons shall be considered illegal and void.

**Article 110 (new)**

The President of the Senate shall preside over the Senate's session, receive draft bills and resolutions adopted by the Senate, ensure the implementation of the internal regulations, and manage the Senate's international relations.

If the President is unable to perform his duties due to illness or to fulfill the function as Acting Head of State as Regent, or is on a mission to abroad, one of the Vice-Presidents shall assume the responsibilities of the President.

In the event of the resignation or death of the President or Vice-President, the Senate shall elect a new President or Vice-President.

**Article 111 (new)**

The Senate sessions shall be held in public.

The Senate may meet in a closed-door session at the request of the President, of at least one-tenth of its members, of the King, of the Prime Minister, or of the President of the National Assembly.

The Senate meeting shall be considered valid only if there is a quorum of seven-tenths of its members.

The number of votes, which are required for National Assembly approval, as provided for in the Constitution shall also be applied to the Senate.

**Article 112 (new)**

The Senate is responsible for the coordination between the National Assembly and the Government.

**Article 113 (new)**

The Senate shall review and comment on draft laws or proposed laws that have been firstly adopted by the National Assembly and other matters submitted by the National Assembly no later than one month. In case of an emergency, such

duration shall be reduced to five (5) days.

If the Senate approves or fails to comment within the specified duration stipulated above, the law adopted by the National Assembly should be promulgated.

If the Senate calls for modifications to those draft laws or proposed laws the National Assembly shall immediately take those draft laws and proposed laws for a second consideration. The National Assembly shall review and decide whether to reject all or part of those provisions or terms in the draft laws or proposed laws that the Senate called for modification.

The exchange of the draft or proposed law between the Senate and the National Assembly shall be done only within one month. This duration shall be reduced to ten days in the case of the national budget and finance and the duration shall be reduced to only two days if it is an urgent matter.

If the National Assembly withholds for longer than the specified duration or delays while reviewing the law the principle duration for the National Assembly and the Senate shall be extended so that the duration for both are equal.

If the Senate rejects the draft law or proposed law, the National Assembly before a one-month duration may not review such draft or proposed law a second time. This duration shall be reduced to fifteen (15) days in the case of national budget and financial and to four (4) days if it is an urgent matter.

During the examination of the draft and proposed laws a second time, the National Assembly shall adopt it by an open vote with an absolute majority.

The draft or proposed laws adopted through the above procedure shall then be sent for promulgation.

#### **Article 114 (new)**

The Senate shall establish necessary commissions. The organization and functioning of the Senate shall be provided for in the internal regulations of the Senate. These internal regulations shall be approved by a two-third-majority vote of all senators.

#### **Article 115 (new)**

In the case of the death of a senator, resignation, or disqualification as a senate member, which should occur six months before the end of the Senate's term, it should be preceded with his replacement in accordance with the Senate's internal regulations and with the electoral law about the Senate.

### **CHAPTER IX (NEW): The National Assembly and the Senate**

#### **Article 116 (new)**

In the special case, the National Assembly and the Senate can assemble as a congress to resolve important national issues.

#### **Article 117 (new)**

Law shall determine the important national issues mentioned above in new Article 116 and the organization and functioning of the congress.

### **CHAPTER X (NEW): THE ROYAL GOVERNMENT**

#### **Article 118 - new (previously Article 99)**

The Council of Ministers is the Royal Government of Cambodia. The Council of Ministers shall be led by one Prime Minister assisted by Deputy Prime Ministers, and by State Ministers, Ministers, and State Secretaries as members

#### **Article 119 - new (previously Article 100)**

At the recommendation of the President and with the agreement of both vice-presidents of the National Assembly the King shall designate a dignitary from among the representatives of the winning party to form the Royal Government. This designated representative along with other members chosen from the political parties represented in the National Assembly, then present themselves to the National Assembly to ask for a vote of confidence.

After the National Assembly has given its vote of confidence, the King shall issue a Kret (royal decree) appointing the entire Council of Ministers.

Before taking office, the Council of Ministers shall take an oath as stipulated in Annex 6 of the Constitution.

**Article 120 - new (previously Article 101)**

The functions of the members of the Royal Government shall be incompatible with professional activities in trade or industry and with the holding of any position in the public service.

**Article 121- new (previously Article 102)**

The members of the Royal Government shall be collectively responsible to the National Assembly for the overall policy of the Royal Government.

Each member of the Royal Government shall be individually responsible to the Prime Minister and the National Assembly for his/her own conduct.

**Article 122 - new (previously Article 103)**

Each member of the Royal Government shall not use the orders, written or verbal, of anyone as grounds to exonerate themselves from their responsibility.

**Article 123 - new (previously Article 104)**

The Council of Ministers shall meet every week in a plenary session or in a working session.

The Prime Minister shall preside over the plenary session. The Prime Minister may assign the deputy Prime Minister to preside over the working sessions.

All minutes of the Council of Ministers' meetings shall be forwarded to the King for his information.

**Article 124 - new (previously Article 105)**

The Prime Minister shall have the rights to delegate his powers to the deputy Prime Minister or any member of the Royal Government.

**Article 125 - new (previously Article 106)**

If the post of Prime Minister is permanently vacant, the new Council of Ministers shall be appointed under the procedures stipulated in the Constitution. If the vacancy is temporary, the Acting Prime Minister shall be appointed for such temporary period.

**Article 126 - new (previously Article 107)**

Each member of the Royal Government shall be punished for any crimes or misdemeanors that he has committed in the course of his duty.

In such cases and when he has committed serious offenses in the course of his duty, the National Assembly shall decide to file charges against him with a competent court.

The National Assembly shall decide on such matters through a secret and majority vote thereof.

**Article 127- new (previously Article 108)**

Law shall determine the organization and functioning of the Council of Ministers.

**CHAPTER XI (NEW): The Judiciary**

**Article 128 - new (previously Article 109)**

The judicial power shall be an independent power.

The judiciary shall guarantee and uphold impartiality and protect the rights and freedoms of citizens.

The judiciary shall have jurisdiction over all lawsuits, including administrative ones.

The authority of the judiciary shall be granted to the Supreme Court and to the lower courts of all sectors and levels.

**Article 129 - new (previously Article 110)**

Trials shall be conducted in the name of Cambodian people in accordance with the legal procedures and laws in force.

Only the judge shall have the rights to adjudicate. The judge shall fulfill his duty with strict respect for the laws, wholeheartedly, and conscientiously.

**Article 130 - new (previously Article 111)**

The judicial power shall not be granted to the legislative or executive branches.

**Article 131- new (previously Article 112)**

Only the Department of Public Prosecution shall have the rights to file criminal suits.

**Article 132 - new (previously Article 113)**

The King shall be the guarantor of the independence of the judiciary. The Supreme Council of the Magistracy shall assist the King in this matter.

**Article 133 - new (previously Article 114)**

Judges shall not be dismissed. However, the Supreme Council of the Magistracy shall take disciplinary actions against any delinquent judges.

**Article 134 - new (previously Article 115)**

The Supreme Council of the Magistracy shall be established by an organic law, which shall determine its composition and functions.

The King shall chair the Supreme Council of the Magistracy. The King may appoint a representative to chair the Supreme Council of the Magistracy.

The Supreme Council of the Magistracy shall make proposals to the King on the appointments of judges and prosecutors to all courts.

The Supreme Council of the Magistracy shall meet under the chairmanship of the President of the Supreme Court or the General Prosecutor of the Supreme Court to decide on disciplinary actions against judges and prosecutors.

**Article 135 - new (previously Article 116)**

The Statute of Judges, and Prosecutors and the functioning of the judiciary shall be defined in a separate law.

**CHAPTER XII (NEW): The Constitutional Council**

**Article 136 - new**

The Constitutional Council shall have the duty to safeguard the respect of the Constitution, interpret the Constitution, and laws passed by the National Assembly and finally reviewed by the Senate.

The Constitutional Council shall have the right to examine and decide on contested cases involving the election of the National Assembly members and Senate members.

**Article 137- new (previously Article 118)**

The Constitutional Council shall consist of nine members with nine-year mandates. One-third of the members of the Council shall be replaced every three years. Three members (3) shall be appointed by the King, three (3) members shall be appointed by the National Assembly and three (3) others by the Council of the Magistracy.

The members of the Constitutional Council shall elect the Chairman. The Chairman of the Senate shall have a casting vote in cases of equal votes.

**Article 138 - new (previously Article 119)**

Members of the Constitutional Council shall be selected from among the dignitaries with a higher-education degree in law, administration, diplomacy, or economics and who have considerable work experience.

**Article 139 - new**

The function of the Constitutional Council member shall be incompatible with that of a member of the Senate, member of the National Assembly, member of the Royal Government, in-post judges, any position in the public service, President and Vice-president of a political party, President or Vice-president of a trade unions.

**Article 140 - new**

The King, Prime Minister, President of the National Assembly, one-tenth (1/10) of the National Assembly members, President or one-fourth (1/4) of the Senate may forward the laws passed by the National Assembly to be reviewed by the Constitutional Council before the promulgation of such law.

The internal regulations of the National Assembly, internal regulations of the Senate, and organic laws shall be forwarded to the Constitutional Council for reviewed before their promulgation. The Constitutional Council shall decide within no later than thirty (30) days whether the laws and internal regulations are constitutional.

**Article 141- new**

After a law is promulgated, the King, President of the Senate, President of the National Assembly, Prime Minister, one-fourth (1/4) of the Senate or the court may ask the Constitutional Council to examine the constitutionality of that law.

Citizens shall have the rights to appeal against the constitutionality of laws through their representatives or President of the National Assembly or member or President of the Senate as stipulated in the above paragraph.

**Article 142 - new (previously Article 123)**

Provisions in any article ruled by the Constitutional Council as unconstitutional shall not be promulgated or implemented.

The decision of the Constitutional Council shall be final.

**Article 143 - new (previously Article 124)**

The King shall consult with the Constitutional Council on all proposals for amendments to the Constitution.

**Article 144 - new (previously Article 125)**

An organic law shall specify the organization and operation of the Constitutional Council.

**CHAPTER XIII (NEW): The Administration**

**Article 145 - new (previously Article 126)**

The territory of the Kingdom of Cambodia shall be divided into provinces (Khet) and municipalities (Krong)

Provinces shall be divided into districts (Srok) and districts into communes (Khum).

Municipalities shall be divided into districts (Khan) and Khan into Sangkat.

**Article 146 - new (previously Article 127)**

Khet/ Krong, Srok/ Khan, and Khum/ Sangkat shall be governed in accordance with the provisions of the organic law.

**CHAPTER XIV new: The National Congress**

**Article 147- new (previously Article 128)**

The national congress shall enable the people to be directly informed on various matters of national interests and to raise issues and requests for the State authorities to solve.

Khmer citizens of either sex shall have the rights to participate in the national congress.

**Article 148- new (previously Article 129)**

The national congress shall meet once a year in early December at the convocation of the Prime Minister.

The national congress shall proceed under the chairmanship of the King.

**Article 149 - new (previously Article 130)**

The national congress shall adopt recommendations for consideration by the Senate, National Assembly, State authorities.

A law shall define the organization and operation of the national congress.

**CHAPTER XV (new): Effects, Revisions, and Amendments of the Constitution**

**Article 150 - new (previously Article 131)**

This Constitution shall be the supreme law of the Kingdom of Cambodia.

Laws and decisions of the State institutions shall be in strict conformity with the Constitution.

**Article 151- new (previously Article 132)**

The initiative to review or to amend the Constitution shall be the prerogative of the King, the Prime Minister, and the President of the National Assembly at the suggestion of one-fourth of all National Assembly members.

A Constitutional law passed by the National Assembly with a two-third-majority vote shall enact revisions or amendments to the Constitution.

**Article 152 - new (previously Article 133)**

Revisions or amendments to the Constitution shall be prohibited when the country is in a state of emergency, as outlined in article 86.

**Article 153- new (previously Article 134)**

Any revisions or amendments to the Constitution affecting the system of liberal and pluralistic democracy and the regime of Constitutional Monarchy shall be prohibited.

**CHAPTER XVI (new): Transitional Provisions****Article 154 - new**

This Constitution, after its adoption shall immediately be promulgated by the King of the Kingdom of Cambodia.

**Article 155 - new (previously Article 136)**

After the entry into force of this Constitution, the Constituent Assembly shall become the National Assembly.

The internal regulations of the National Assembly shall come into force after the adoption by the National Assembly.

In the case where the National Assembly is not yet functional, the President, the First and Second Vice-Presidents of the Constituent Assembly shall participate in the discharge of the duties of the Throne Council if so required by the situation in the country.

**Article 156 - new**

After this Constitution takes effect, the King shall be selected in accordance with the provisions stipulated in articles 13-new and 14.

**Article 157- new**

The term of first legislature of the Senate shall be five (5) years and such term shall be expire upon the new Senate being sworn into office.

In its first legislative term, the Senate shall have:

- sixty-one (61) senators in total;
- the King appoints two of the senators and the first vice-president and second vice-president of the Senate;
- other senators shall be appointed by the King at the request of the President of the Senate and President of the National Assembly from among the members of the political parties having seats in the National Assembly;
- the congress sessions of the Senate and National Assembly shall be chaired by the Co-Presidents.

**Article 158 - new (previously Article 139)**

Laws and regulations in Cambodia that safeguard state property, rights, freedom, and legal private property and are in conformity with the national interests, shall continue to be effective until altered or abrogated by new acts, except those provisions that are contrary to the spirit of this Constitution.

Phnom Penh, 6 March 1999

The President of National Assembly

***NORODOM Ranariddh***