

LAW ON THE BAR

CHAPTER ONE

GENERAL PROVISIONS

Article 1

The legal profession is an independent and autonomous profession involved in serving justice and may only be pursued from within the framework of the Bar Association.

Article 2

The lawyer may represent clients with agreement from the clients or defend clients in adjudicatory bodies and in all stages of judicial proceedings, unless otherwise provided by law, especially in Civil, Commercial, Administrative, Labor, and Social Action cases.

In criminal cases, the lawyer can defend the accused but cannot represent (stand in for) the accused in court, other than by special provision of the law. The lawyer may represent defendants or plaintiffs in civil actions.

The lawyer may also defend clients before the Disciplinary Council.

Article 3

The lawyer may advise and prepare documents in the judicial field.

The lawyer may be assigned by the parties or the judge to fulfill the function of conciliator or mediator. The lawyer may be assigned as an arbitrator only where permitted by the law.

Article 4

Apart from those lawyers who are members of the Bar Association, no one may perform this profession or provide legal consultation or prepare judicial documents for compensation, except when such legal consultation or preparation of documents is a ancillary job to their profession or is a function permitted by the law.

Article 5

Foreign lawyers whose names have been registered by the Bar of a foreign country or who have been recognized and authorized by the countries of their origin to practice the legal profession have the right to practice the profession with a Khmer lawyer and accompany/assist Khmer lawyers before the courts or other institutions of the Kingdom of Cambodia. Foreign lawyers may not represent (stand in for) clients.

Article 6

Foreign lawyers may only practice their profession in the territory of the Kingdom of Cambodia with authorization from the Khmer Bar Council; this authorization will depend on the sufficiency of qualifications of the foreign lawyer and will only be granted when the country of origin of the foreign lawyer provides this same possibility to Cambodian lawyers. This authorization may be withdrawn if there is malpractice during the practice of the legal profession in the territory of the Kingdom of Cambodia.

A Decision by the Bar Council not to authorize practice of the legal profession or to remove authorization shall be communicated within 15 days to the General Prosecutor of the Appeal Court and to the concerned person. Appeal may be made against this Decision within a period of 2 months from the date this information is received.

Article 7

Those foreign lawyers who have been authorized to practice this profession may not perform any activity to attract clients or do any commercial advertising.

CHAPTER TWO

ORGANIZATION OF THE LAWYERS' PROFESSION

Section 1

Bar Association

Article 8

The Bar Association of the Kingdom of Cambodia is an organization bringing together all lawyers to establish offices in the Kingdom of Cambodia. Each individual lawyer, upon having registered his or her name in the Bar List, shall become a full member of the Bar Association.

Article 9

The Bar Association shall be headed by one President and governed by a Bar Council. The President of the Bar Association shall be elected for a term of 2 years. This term may be renewed for only one additional term, by election.

Article 10

Membership of the Bar Council shall consist of:

- 5 members when there are not more than 30 members in the Bar;
- 9 members when there are from 31 to 50 members in the Bar;
- 13 members, when there are from 51 to 200 members in the Bar;

- 19 members, when there are from 201 to 500 members in the Bar;
- 27 members, when there are from 501 to 1,000 members in the Bar;
- 33 members, when there are more than 1,001 members in the Bar.

Article 11

Members of the Bar Council shall be elected for a term of 3 years. A member may serve two terms, but not consecutively. Former members of the Bar Council may only stand for re-election 3 years after the termination of their previous term. The President of the Bar Association may be elected as a member of the Bar Council immediately following the termination of his or her mandate, and shall not need to wait for 3 years after his or her previous mandate is terminated.

Article 12

If the President of the Bar Association or any Member of the Bar Council dies or ceases his or her function during the course of his or her mandate, a vote shall be organized in order to elect a substitute to complete the remaining period of such mandate.

Article 13

The Bar Association shall not be subordinate to any political party, any religious organization, or any other organization.

All ideological, religious, or political expressions shall be prohibited.

The Bar Association is a self-financing organization, but it may not conduct any activity resulting in profits.

Section 2

Election

Article 14

The President of the Bar Association and the Members of the Bar Council shall be elected separately in the General Assembly of the Bar Association. The persons who shall be entitled to vote are all those lawyers who have been registered in the Bar List and whose right to vote has not been lost due to any disciplinary sanction.

Article 15

The persons entitled to stand for election as President of the Bar Association are those lawyers who have registered their names in the Bar List for at least 3 years, and whose rights to vote have not been lost because of any disciplinary sanction.

The persons entitled to stand for election as members of the Bar Council are those lawyers who have registered their names in the Bar List for at least 2 years and who have not lost the right to vote.

Article 16

A vote shall be organized by the General Assembly of the Bar Association once every 2 years to elect the President of the Bar, and once every 3 years to elect the members of the Bar Council.

Such elections shall be conducted by secret ballot, and shall be uninominal (one ballot per member). Voting may be done twice. The first vote shall be based on the absolute majority of all the members of the Bar Association, and the second vote shall be based on a simple majority of those members who are present. In the event of equal votes in the election, the oldest lawyer shall then be elected.

Article 17

Procedures for voting, convening a meeting, and establishing a quorum shall be specified by Internal Rules. The General Prosecutor to the Appeal Court and lawyers who have the right to vote may file an appeal to the Appeal Court against the above vote.

Such appeal shall be made by the lawyer within 15 days of the date of the vote, or by the General Prosecutor to the Appeal Court within 15 days of the date of receipt of the information on the result of such vote.

Section 3

General Assembly

Article 18

The ordinary session of the General Assembly of the Bar Association shall be held once a year, to be initiated by the President of the Bar Association in conformity with an agenda determined by the Bar Council.

The General Assembly may direct requests or petitions to the Bar Council, which shall be resolved within a period of 3 months.

Extra-ordinary sessions may be held upon the request, attached to the agenda, by 30% of the registered lawyers at least 15 days before the date the meeting shall take place.

Organization and functioning of the General Assembly shall be specified in the Internal Rules of the Bar Association.

Section 4

Bar Council

Article 19

The Bar Council shall examine and resolve all problems concerning the conduct of the legal profession. The Bar Council shall assure the fulfillment of duty and protection of the rights of lawyers. The Bar Council shall have as functions, *inter alia*:

- to establish Internal Rules and a Code of Ethics;
- to decide on the inclusion of names for the Training and registration in the Bar List;
- to decide on requests for authorization submitted by lawyers;
- to examine agreements and other documents which lawyers are obligated to submit for examination, and to issue guiding opinions on such agreements and documents;
- to check the accuracy of bookkeeping by lawyers;
- to assure the overall organization and management of the Bar Association;
- to assure observance of discipline and the imposition of disciplinary sanctions;
- to administer/manage the property and budget of the Bar and to specify the amount of dues to be paid by each individual lawyer and payments into the common insurance premium for the legal profession;
- to administer the funds of the Bar's Fund; and
- to express opinions on various problems related to the field of justice and rights of lawyers in the field of defense, primarily when there is an invitation from the public authority.

Article 20

The Bar Council may not hold meetings unless attended by more than one-half of its members. The Bar Council shall make its decisions by a majority vote.

Article 21

Decisions of the Bar Council which have the character of rules shall be communicated to the General Prosecutor to the Appeal Court through registered mail or by direct hand delivery, with acknowledgement of receipt. Decisions imposing disciplinary sanctions or on whether to include or exclude names in or from the Bar List shall also be processed as described above. The above decisions shall be communicated to all members of the Bar Association by appropriate means.

Article 22

Every decision of the Bar Council affecting any lawyer shall be communicated to such concerned lawyer by registered mail or hand delivery with acknowledgement of receipt.

Article 23

Decisions made by the Bar Council on matters outside its jurisdiction or contrary to the provisions of laws or regulations in force may be rejected by the Appeal Court following a complaint from the General Prosecutor to the Appeal Court.

Article 24

A lawyer may file a complaint against any decision of the Bar Council which causes the loss of the benefits of the profession. If the decision has not been communicated to the lawyer, that lawyer shall request the Bar Council to review the matter again before he or she makes an appeal complaint against it. The Bar Council must make its decision on such request within two months after summoning the concerned lawyer to express his or her opinion. This new decision shall be communicated to the concerned person. If no new decision is made within the above stated period, the previous decision shall be considered null and void.

Article 25

Every denied complaint against a decision of the Bar Council shall be submitted to the Appeal Court. This complaint may be submitted directly to the Clerk's office of the Appeal Court or through registered mail with the acknowledgement of receipt. The time limit of the appeal shall be two months from the date of receipt of this information.

Article 26

The Bar Council shall submit a detailed report of the operational activities of the Bar annually to the Minister of Justice for review and shall also publicize this report. The Bar Council shall provide statements on its financial situation and other information to the Minister of Justice if there is a request from the Ministry.

Section 5

President Of The Bar Association

Article 27

The President of the Bar Council has the following duties and responsibilities:

- Leader of the Bar;
- Presiding Officer of the General Assembly of the Bar and the Bar Council;
- Guarantor of the interests of the profession and of all members;
- Conciliator or, if necessary and upon request from the parties, Arbitrator in disputes between an individual lawyer and another lawyer or between a lawyer and a client;
- Representative of the legal profession before third persons or public authorities; and
- Representative of the Bar in lawsuits relating to the Bar, with approval of the Bar Council.

In any vote of the Bar Council, the vote of the President shall not carry special weight.

Article 28

The President or the Bar Association may delegate any or all the powers to one or several members of the Bar Council for a specified period.

In case of unavailability, the President of the Bar Association shall be replaced by that member of the Bar Council who is the most senior in terms of age.

Section 6

Fund Of The Bar Association

Article 29

The Bar Fund is derived from dues paid by all members and other contributions. A special account shall be established in this Fund for providing income to lawyers who defend poor people.

This special account may receive donations or aid from private or international organizations or foreign governments provided for the defense of poor people.

All lawyers are obligated to defend poor people according to the same procedures and internal rules and in the same manner as the defense of their own clients.

Article 30

"Poor people" are defined as those people who have no property, no income, or who receive insufficient income to support their living.

The determination of "poverty" shall be accomplished by the Chief Judge of the Courts and the Chiefs of the Court Clerks following an on-site investigation.

CHAPTER THREE

ACCEPTANCE TO ENGAGE IN THE LAWYERS' PROFESSION—BAR LIST

Section 1

Conditions

Article 31

A person may engage in the profession as a lawyer, provided that he or she has fulfilled the conditions hereunder:

- 1 Shall have Khmer nationality.
- 2 Shall have a Bachelor of Law degree (*Licence en Droit*) or a law degree declared equivalent.
- 3 Shall have a Certificate of Lawyer's Professional Skill. This Certificate of Lawyer's Professional Skill shall be issued by a Center for Training of the Legal Profession. The organization and the functioning of this Center shall be determined by sub-decree.
- 4 Shall never have been convicted of any misdemeanor or felony, nor received any disciplinary sanction or administrative penalty, such as removal from any function, or dismissal for any act contrary to honor or any act of moral turpitude. Shall not have been declared personally bankrupt by a court.

Article 32

Neither the Certificate of Lawyer's Professional Skill nor the Bachelor of Law degree (*Licence en Droit*) shall be required for:

- judges who have served their profession for over 5 years and former judges who have a Secondary Certificate in Law (*Certificate de la Capacité en Droit*) and have served their profession for over 2 years.

The Certificate of Lawyer's Professional Skill shall not be required for:

- those who have received a Bachelor of Law Degree (*Licence en Droit*) and who have been working in the legal or judiciary field for more than 2 years.
- those lawyers who originally had Khmer nationality and who have been registered in the Bar of a foreign country.
- those who have received a Doctorate of Law Degree.

Section 2

Acceptance Into The Legal Profession

Article 33

A decision by the Bar Council to accept an application to engage in the legal profession shall occur following a determination that all the conditions have been fulfilled in conformity with the specifications of this law and in view of the opinion of the General Prosecutor to the Appeal Court.

Such decision shall be communicated to the concerned person and the General Prosecutor to the Appeal Court.

The Bar Council may not decide to disapprove without first having summoned the concerned person at least 10 days in advance to be present before it to state his or her opinion. This summons shall be done through registered mail or delivered directly by hand with the acknowledgement of receipt.

Such decision of the Bar Council may be appealed in accordance with the conditions as provided for in Article 25 above.

Article 34

Lawyers who have been accepted to engage in the legal profession shall first take a sworn oath at the Appeal Court, in the presence of the President of the Bar Association. This oath shall state as follows:

"I swear that I shall implement my profession with dignity, conscientiousness, honesty, humanity, and with an independent mind, and in observance of the Constitution and Laws of the Kingdom of Cambodia".

Section 3

Training

Article 35

Those lawyers whose names have just been registered in the Training List shall attend a one year training course in accordance with the procedures set forth in the Internal Rules of the Bar

Association, except for any lawyer who has received authorization to be exempted from attending the training. The procedure for the training shall primarily consist of:

- additional training organized by the Bar Association;
- engagement in work as a real associate in a Lawyer's Office.

Article 36

The training shall be carried out under supervision of a Lawyer assigned by the Bar Association to be the chief responsible for such training course.

Article 37

Upon the termination of the training, the Bar Council shall make a decision to register in the Bar list based on a report of the chief responsible for the training. The Bar Council may decide to order continuing training, not to exceed one year, for a trainee who does not have sufficient competence. A decision not to register the name on the Bar List shall be considered a rejection of such lawyer. A decision to refuse registration into the Bar List or onto the Continuing Training List cannot take effect without convening the concerned person in order to state his or her opinion in accordance with the conditions as set forth in the Article 33. An appeal may be made against this decision, according to the conditions stated in Articles 24 and 25.

Article 38

Every year the Bar Council shall draw up the Bar List and the Training List and send them to the General Prosecutor and all adjudicate courts. These lists shall include:

- the names of lawyers who have been registered in the Bar List with their addresses;
- the names and the addresses of lawyers under training.

Article 39

The order of registration of lawyers in the Bar List shall be determined according to the date when the lawyers took their oaths and the decision by the Bar Council to authorize the registration.

Section 4

Placement Outside Of The List

Article 40

With legitimate reason, a lawyer may request to be put outside of the Bar List for a period of 2 years maximum at a time.

Article 41

The Bar Council shall decide to put any lawyer outside of the List if such lawyer is in a situation of incompatibility or if such lawyer is unable to practice his or her profession.

Complaints against such decisions shall be conducted in accordance with the procedures established in Article 33.

Article 42

Any lawyer who placed outside of the List may not perform his or her profession and may not use his or her title as a lawyer and moreover he or she shall be excused from all obligations related to the profession; but still he or she shall remain under the administration of the Bar Association.

The placement outside of the Bar List shall not prevent any proceedings *concerning* disciplinary actions.

Section 5

Title Of Honorary Lawyer

Article 43

The Bar Council may give the title of Honorary Lawyer to any lawyer who has ceased to practice the legal profession, after he or she has performed in this profession for at least 15 years.

Article 44

The Honorary Lawyer remains a member of the Bar Association and may still participate in the General Assembly of Lawyers; he or she has the right to give views and attend various events.

In special cases, the Honorary Lawyer may advise clients and be assigned as a conciliator, mediator or arbitrator.

Article 45

The Bar Council may remove the title of Honorary Lawyer when that lawyer does anything to abuse his or her honor or dignity. In this event, the procedure in the Article 33 must be complied with.

CHAPTER FOUR

PROCEDURES FOR PROFESSIONAL PRACTICE

Section 1

The Practice of Law Individually or Collectively

Article 46

Lawyers may practice their profession individually or within the context of a group or a Law Firm which is lawfully established.

This Firm must have a character of a civil company in which all of its members are lawyers. An Honorary Lawyer may remain as a member of his or her original Firm.

A beneficiary is a person who is entitled to receive a legacy from a lawyer who is deceased; he or she may hold a share of the business for 3 more years maximum. At the end of this 3 year period, such share of the business shall be sold to any lawyer or to the Firm.

Article 47

Groups or Law Firms shall be governed by the Law Governing Groups and Companies; but the provisions of those regulations shall not effect the principles for the administration of the legal profession.

Article 48

Lawyers shall be allowed to sign agreements with members of other independent (*libérales*) professions in order to combine their abilities. However, such agreement should not affect the rules of the legal profession, especially the observance of confidentiality.

Article 49

All the agreements made between a Khmer lawyer and any other Khmer lawyer, or any foreign Lawyer, or a member of any liberal profession, shall be submitted to the Bar Council for examination and approval and communicated to the General Prosecutor to the Appeal Court. In such case, the procedures specified in Article 33 apply.

Section 2

Professional Affiliations

Article 50

Lawyer may practice the legal profession in affiliation with another lawyer.

Article 51

A lawyer working an affiliate shall fulfill works in the name of and under the responsibility of his or her affiliates. He or she may not perform his or her works without the agreement of his or her affiliates, but he or she has full right to choose the means for his or her works. He or she may refuse any mission which he or she believes to be contrary to his or her own conscience.

Article 52

In any case, the affiliation may not prevent a affiliate from establishing his or her personal office, or prevent him or her from respecting the obligations of the profession and the rules of the legal profession. He or she works on his or her own behalf when defending his or her clients.

Contracts of affiliation shall be prepared and sent to the Bar Council.

CHAPTER FIVE

REGULATION OF THE PROFESSION - DISCIPLINE

Section 1

Incompatibility

Article 53

The legal profession shall be incompatible with the performance of public functions and commercial businesses, whether directly or indirectly.

Article 54

Lawyers given functions in the Royal Government, or given mandates as deputies in the National Assembly, may remain as members of the Bar Association, but shall cease to perform the legal profession until the termination of such function or mandate.

Article 55

A lawyer who is a former government official may not intervene in defending clients against the ministry and service of the administration to which he or she was previously subordinated until five years after the date he or she resigned from this previous function.

Section 2

Discipline

Article 56

The Rules of the lawyers' profession shall be specified by the Internal Rules of the Bar Association. These rules will ensure the observance by the lawyers of the principles of the oath they have taken.

Article 57

All the activities for attracting clients, individual advertisements, or persistent unsolicited offers to clients for legal defense are prohibited.

Only advertisements made collectively are authorized. These advertisements shall be proper and shall not adversely effect the dignity of lawyers.

Article 58

Lawyers shall maintain absolute confidentiality. Lawyers shall determine by their own conscience and with the consent of the client what issues to raise in order to defend the interests of the client.

Lawyers may not abuse the confidentiality of the profession and may not be forced to abuse the confidentiality of their professions, even before the court.

The following shall be considered as confidential: consultation, advice, and non-official documents prepared by the lawyer for his or her client, and correspondence sent between the lawyer and his or her client.

Section 3

Disciplinary Sanctions

Article 59

Any lawyer who abuses the rules of the profession or commits any act affecting the ethics or honor of lawyers shall be subject to disciplinary sanction, even if such act was committed outside the performance of his or her profession.

Article 60

A charge shall be made either directly by the Bar Council or upon complaint from a third person or from the General Prosecutor to the Appeal Court. The Bar Council shall assign a lawyer to serve as rapporteur. The complaint shall be communicated in advance to the concerned person, who shall have access to the file of the complaint and enabled to give statements to defend himself or herself. If there is an investigation, such information shall also be communicated to the concerned person. The report shall be sent to the concerned person together with a letter of summons, and the file shall also be given to such person for examination. The letter of summons shall be sent either by registered mail with the acknowledgement of receipt, or by written notification delivered at least 15 days before the meeting takes place. The concerned person may choose a lawyer to defend him or her, but the concerned person may not be personally absent with just a delegate to represent him or her without special consideration and approval in advance based on a valid motive.

Within 2 months, if no response is made to the complaint of the General Prosecutor or of the third person, the Bar Council's failure to respond shall be considered as a rejection of such complaint. An appeal may be made against such rejection within 2 months after the expiration of the 2 month period previously stated.

Article 61

A decision of the Bar Council, with statement of precise reasons, shall be communicated to the concerned person and to the General Prosecutor within 15 days from the date of issuance of such decision either by registered mail or by hand delivery, with acknowledgement of receipt.

Article 62

An appeal complaint may be filed to the Appeal Court, either by the concerned person or by the General Prosecutor within the period and procedure as set forth in Article 25. The hearing on this case of appeal complaint shall proceed in-camera, except when a contrary decision of the Appeal

Court is made following a precise request from the accused lawyer. The Bar Association is not a party in this lawsuit, but the President of the Bar shall comment and the General Prosecutor shall deliver his or her conclusions at that time.

Article 63

Penalties for disciplinary sanctions are as follows:

- Warning;
- Blame;
- Ban from practicing the profession for a period not to exceed 2 years;
- Elimination from the Bar List or from the Lawyer's Training List or removal of the title Honorable Lawyer.

Article 64

The penalty of banishment from the practice of law for a period of time may be suspended; but for 5 years following the declaration of suspension of this penalty, if the concerned lawyer is subject to any other disciplinary sanction, he or she shall be banned from practicing law for a period calculated by adding the previous penalty which was previously suspended to the new penalty.

Article 65

Every penalty imposed may be supplemented with an additional penalty of banning from serving as President of the Bar Association or as a member of the Bar Council for a period not to exceed 5 years. The decision to impose a penalty shall also mention any public announcement of such penalty.

Article 66

The Bar Council may issue orders to cease temporarily the activities of any lawyer who is charged with a criminal offense or any disciplinary sanction automatically or by complaint of the General Prosecutor to the Appeal Court. If no decision is made by the Bar Council in response to the complaint of the General Prosecutor to the Appeal Court within a period of 20 days, such complaint shall be considered to have been rejected.

Article 67

A decision to order the temporary cessation of practice may not be made if there was a failure to summon the concerned lawyer to state his or her opinion beforehand. The summons shall be sent through registered mail or by hand delivery, with the acknowledgement of receipt, and shall be delivered at least 5 days prior to the date of the meeting. An appeal may be made in accordance with the conditions as set forth in Article 62 against such temporary cessation, but such appeal may not cease/suspend the implementation of the above decision.

The General Prosecutor to the Appeal Court shall assure and monitor the application of disciplinary sanctions and temporary ceasing from function.

Section 4

Compensation

Article 68

Lawyers shall receive compensation according to the terms agreed upon between them and their clients and depending on the volume of work, the extent of their ability as demonstrated in the course of the work, the difficulty of the task, the result obtained, or according to an hourly rate of fees as specified in the Chart list which is to be established by the Bar Association every year. The Lawyer shall issue a receipt to the client upon receiving the compensation

Article 69

A complaint about compensation outside the context of the rules of Civil Procedure may be submitted to the President of the Bar Association, who will be the arbitrator to decide thereon with the agreement of the complaining party. This decision shall be communicated to the concerned person through registered mail or a hand delivered letter with the acknowledgement of receipt. An appeal shall be made within 2 months from the date of receipt of this complaint. The appeal shall be filed with the Clerk of the Court of Appeal or sent through registered mail or by hand delivered letter with the acknowledgement of receipt. This appeal complaint shall be heard by the Chief Judge of the Appeal Court or by a person authorized by the Chief Judge of the Appeal Court.

CHAPTER SIX

ACCOUNTING - USE OF FUND - GUARANTY - INSURANCE

Article 70

Lawyers whose names are registered in the Bar List may not use the Client's Fund, or escrow accounts kept for clients, when they are accomplishing missions for their clients. This Fund is obtained from guaranties and damages gained from winning cases. Lawyers shall keep that Client's Fund in a special account which is opened by the Bar Association, called an "Account for Settling Payments of the Bar Association."

Lawyers may not retain funds in this account for more than the necessary period for achieving works assigned by the clients. Lawyers may not deduct their due income for their works from this above fund except with the written agreement of clients.

Lawyers may take from a fund established by the client to pay for court costs and for compensating judicial assistants on behalf of the clients.

Article 71

Lawyers may be appointed as keepers of the deposit following an agreement by the parties or by the judge. The agreement or decision on maintaining the deposit shall specify the procedures, especially

