



ROYAL KRAM

NS/RKM/0714/017

WE

Preah Karuna Samdech Preah Bat Preah Borom Neath Norodom Sihamoni, faithful and devoted servant of the country, religion, nation and the Khmer people; protected by Buddha and Indra; unifier of all Khmer; defender of the independence, territorial integrity and peace of Kampuchea; and happiness, freedom and prosperity of the Khmer people, Preah Chau Krong Kampuchea Thipadei

- Having seen the Constitution of the Kingdom of Cambodia
- Having seen the Royal Decree NS/RKT/0913/903 dated 24th September 2013, on the nomination of the Royal Government of the Kingdom of Cambodia
- Having seen Royal Kram 02/NS/94/ dated 20th July 1994, which promulgated the Law on the Organization and Functioning of the Council of Ministers
- Having seen Royal Kram ChS/RKM/0498/06 dated 08th April 1998, which promulgated the Law on the Organization and Functioning of the Constitutional Council
- Having seen Royal Kram NS/RKM/0107/005 dated 31st January 2007, which promulgated the Law on the Amendment of the law on the Organization and Functions of the Constitutional Council
- Having seen Royal Kram NS/RKM/0196/05 dated 24th January 1996, which promulgated the Law on the Establishment of the Ministry of Justice
- Having seen the report of Samdech Akka Moha Sena Padei Techo Hun Sen, Prime Minister of the Kingdom of Cambodia

PROMULGATE

The Law on The Organization and Functioning of The Supreme Council of Magistracy, which was approved by the National Assembly on 23rd May 2014, during the fifth mandate of its second meeting, and which was completely reviewed by the Senate on its form and content on 12th June 2014, during the third mandate of the fifth meeting, as well as the decision of the Constitutional Council that it was consistent with the Constitution of the Kingdom of Cambodia, in decision No.148/002/2014 KBTH.Ch dated on 02nd July 2014 in which the whole content is following:

LAW

ON

THE ORGANIZATION AND

FUNCTIONING OF THE SUPREME

COUNCIL OF MAGISTRACY

CHAPTER 1 GENERAL PROVISIONS

Article 1.-

This law establishes and determines the organization and functioning of the Supreme Council of Magistracy in order to assist the King to guarantee the independence of the judiciary in accordance with the Constitution of the Kingdom of Cambodia.

Article 2.-

This Law applies to all judges and prosecutors of the Kingdom of Cambodia unless otherwise stated in other laws.

Article 3.-

The terms used in this law shall define as follows:

- “Judge” refers to all sitting judges, including trial judges and investigating judges.
- “Prosecutor” refers to deputy prosecutors, prosecutors, deputy prosecutors general and prosecutors general.
- “Magistracy” refers to judges and prosecutors.

CHAPTER 2 ORGANIZATION OF THE SUPREME COUNCIL OF MAGISTRACY SECTION 1 COMPOSITION OF THE SUPREME COUNCIL OF MAGISTRACY

Article 4.-

The composition of the Supreme Council of Magistracy under Royal Presidency of His Majesty the King shall be as follows:

- | | |
|---|--------|
| 1. Minister of Justice | Member |
| 2. President of the Supreme Court | Member |
| 3. Prosecutor General of the Supreme Court | Member |
| 4. One (1) member, elected by the Senate with an absolute majority of votes of the total Senate members, who is a former judge or prosecutor or other dignitary who has experience at least fifteen (15) years in the legal or judicial field; | |
| 5. One (1) member, elected by the National Assembly with an absolute majority of votes of the total National Assembly members, who is a former judge or prosecutor or other dignitary who has experience at least fifteen (15) years in the legal or judicial field | |
| 6. One (1) member, elected by the Constitutional Council with an absolute majority of votes of the total Constitutional Council members who is a former judge or prosecutor or other dignitary who has experience at least fifteen (15) | |

- years in the legal or judicial field
7. One (1) member, designated by the Minister of Justice, who is a prosecutor
 8. One (1) member, elected by all judges of the High Courts, who is a Judge at a High Courts
 9. One (1) member, elected by all prosecutors of the High Courts and Ministry of Justice, who is a prosecutor at a High Court or the Ministry of Justice
 10. One (1) member, elected by all judges at the Courts of First Instance, who is a Judge at a Court of First Instance, and
 11. One (1) member, elected by all prosecutors at the Courts of First Instance, who is a prosecutor at a Court of First Instance.

All members of the Supreme Council of Magistracy shall be appointed by Royal Decree. The Minister of Justice shall prepare and submit a draft Decree to His Majesty the King concerning this matter.

The rules and procedures of electing the members of the Supreme Council of Magistracy provided from points 8 to 11 of this Article shall be determined by a Prakas of Minister of Justice and agreed to by a majority members of the Supreme Council of Magistracy.

Article 5.-

The term of the elected members of the Supreme Council of Magistracy shall be five (5) years and whose term shall end when the new members are appointed. Elected members of the Supreme Council of the Magistracy may run as candidates for continuous terms. The elections of members of the Supreme Council of Magistracy shall be arranged within ninety (90) days before the end of each mandate.

In the event of any member of the Supreme Council of the Magistracy dies, resigns, or loses his/her qualifications as provided in Article 4 of this Law or is unable to perform his/her duties for any reason, he/she shall be replaced by a substitute member for the rest of term under the provisions of Article 4 of this Law. The Minister of Justice shall immediately undertake this affair.

The Supreme Council of Magistracy may decide to remove any of its elected members due to serious violations of its Internal Regulations or due to any other activity that seriously affects the reputation and dignity of the Supreme Council of the Magistracy. The decision to remove any elected member shall require consent from at least eight (8) members of the Supreme Council of the Magistracy. Any member of the Supreme Council of Magistracy who has been convicted of a felony or intentional misdemeanor offense and sentenced to imprisonment, without a suspended sentence, shall be automatically removed from his/her position. A new substitute member shall be selected following the provisions provided in this Law.

Article 6.-

Membership in the Supreme Council of Magistracy is incompatible with the position of a judge or a prosecutor at any court and with a prosecution office attached to any court during his/her term of membership in the Supreme Council of the

Magistracy, except for the President of the Supreme Court and the Prosecutor General of Supreme Court.

A member of the Supreme Council of Magistracy, whose membership is incompatible with the position as stipulated in this Article shall request to suspend his/her position as a judge or prosecutor at the court or prosecution office attached to any court where he/she works.

Article 7.-

The Royal President of the Supreme Council of Magistracy may appoint a Royal Representative to act as President of the Supreme Council of Magistracy. The Royal Representative who is appointed to be Acting President of the Supreme Council of Magistracy shall regularly submit activity report to His Majesty the President of the Supreme Council of Magistracy.

The Royal Representative shall not be involved in decision-making processes of the Supreme Council of Magistracy. However, in the event that the Minister of Justice or the President of the Supreme Court shall be appointed as the Royal Representative, the Minister of Justice or the President of the Supreme Court shall have the right to be involved in decision-making processes of the Supreme Council of Magistracy.

SECTION 2

THE GENERAL SECRETARIAT OF THE SUPREME COUNCIL OF
MAGISTRACY

Article 8.-

The Supreme Council of Magistracy shall have a General Secretariat under the central administration of Ministry of Justice to serve in support of its functions. The General Secretariat of the Supreme Council of Magistracy shall be directed by one (1) Secretary General whose rank is equivalent to that of a Secretary of State or Minister and shall, if necessary, be assisted by some Deputy Secretaries General appointed by Royal Decree or Sub-Decree.

The Secretary General and Deputy Secretaries General of the Supreme Council of Magistracy shall be appointed by Royal Decree or Sub-Decree on the request of Minister of Justice after consulting with all members of the Supreme Council of Magistracy. The Secretary General and Deputy Secretaries General of the Supreme Council of Magistracy shall be selected from civil servants or high-ranking officials who have at least ten (10) years' experience in the legal, administrative, or financial fields. Officials working in the General Secretariat of the Supreme Council of Magistracy shall have civil servant status in the Ministry of Justice. The General Secretariat of the Supreme Council of Magistracy may employ contractual staff to assist its tasks, if necessary. The General Secretariat of the Supreme Council of Magistracy shall be divided into Departments led by one (1) Director and some Deputy Directors as necessary.

The organization and functioning of the General Secretariat of the Supreme

Council of Magistracy shall be specified by Sub-Decree.

Article 9.-

The General Secretariat of the Supreme Council of Magistracy shall be accompanied by some officials of this General Secretariat, as necessary, to be secretaries to record meeting minutes of the Supreme Council of Magistracy and meetings of Disciplinary Council of the Supreme Council of Magistracy.

CHAPTER 3
FUNCTIONING OF THE SUPREME COUNCIL OF MAGISTRACY

Article 10.-

The Minister of Justice shall convene a meeting for the Supreme Council of Magistracy based on a Royal Order from the Royal President of the Supreme Council of Magistracy. A meeting of the Supreme Council of the Magistracy may also be initiated by a request from at least four (4) members of the Supreme Council of Magistracy. The Minister of Justice shall prepare and submit a letter to the Royal President of the Supreme Council of the Magistracy seeking His Royal permission to convene a meeting.

Article 11.-

The meeting of the Supreme Council of Magistracy shall not be deemed valid unless at least six (6) members of the Supreme Council of the Magistracy attend the meeting.

Any decision of the Supreme Council of Magistracy shall not be deemed valid unless there are at least six (6) votes through secret ballots. The Royal President of the Supreme Council of Magistracy shall not be involved in the decision-making processes of the Supreme Council of the Magistracy.

In cases of emergency and upon the request of at least six (6) members of the Supreme Council of Magistracy, decisions of the Supreme Council of Magistracy may be made through indirect secret votes. The Minister of Justice shall arrange this task after receiving advice and suggestions from the Royal President of the Supreme Council of Magistracy.

Article 12.-

The members of the Supreme Council of Magistracy, including secretaries and officials, shall keep all meetings of the Supreme Council of the Magistracy confidential.

Article 13.-

The Minister of Justice is responsible for all works of the Supreme Council of the Magistracy relating to the drafting and preparation of Royal Decrees of the Supreme Council of Magistracy, and the Minister of Justice shall submit the draft

Decrees to His Majesty the King on behalf of the Supreme Council of Magistracy. The Minister of Justice is the representative of the Supreme Council of Magistracy in its relations and communications with private and public persons, and shall manage the administrative affairs of the Supreme Council of Magistracy assisted by the General Secretariat of the Supreme Council of Magistracy.

Article 14.-

The Supreme Council of Magistracy shall establish its Internal Regulations to determine its operations and functions. The Internal Regulations shall be approved by at least six (6) votes of members of the Supreme Council of Magistracy.

Article 15.-

The Supreme Council of Magistracy shall have its own budget provided by the National Budget. The Minister of Justice is the lawful budget organizer of the Royal President of the Supreme Council of Magistracy.

Article 16.-

Members of the Supreme Council of Magistracy shall be entitled to receive salary for their duty allowances, remuneration for attending meetings at an hourly rate, and other remunerations to perform their duties.

Members of the Supreme Council of Magistracy may choose only one duty allowance.

Article 17.-

The Supreme Council of Magistracy shall use its stamp in the performance of its duties.

CHAPTER 4

COMPETENCY OF THE SUPREME COUNCIL OF MAGISTRACY

SECTION 1

GENERAL COMPETENCY OF THE SUPREME COUNCIL OF MAGISTRACY

Article 18.-

The Supreme Council of Magistracy shall decide and submit requests to His Majesty the King regarding appointments, transfers, discharges, suspensions, and removals of title for all judges.

The Supreme Council of Magistracy shall submit requests to His Majesty the King regarding appointments, transfers, discharges, suspensions, and removals of title for all prosecutors, upon request from the Minister of Justice. It is mandatory that the Supreme Council of Magistracy be consulted regarding any requests stated in this Article.

The Supreme Council of Magistracy shall provide recommendations on promotions of grade and rank for all judges and prosecutors as set forth in the Law on the Status of Judges and Prosecutors.

Article 19.-

It is mandatory that the Supreme Council of Magistracy be consulted with for advice and recommendations on any proposed law or bill, or draft law, pertaining to the organization and the functioning of the judiciary. The Supreme Council of Magistracy shall provide its comments, advice and recommendations within thirty (30) days from the date it received proposed law, or draft law from the Minister of Justice. In cases of emergency, this duration shall be reduced to ten (10) days.

The Supreme Council of Magistracy shall review, consider, and decide on the Code of Ethics for Judges and Prosecutors.

SECTION 2**COMPETENCY OF THE SUPREME COUNCIL OF MAGISTRACY
CONCERNING DISCIPLINARY ACTION AGAINST JUDGES AND
PROSECUTORS****Article 20.-**

The Supreme Council of Magistracy shall meet and act as the Disciplinary Council for matters involving disciplinary actions against judges, under the Chairmanship of the President of the Supreme Court. The Supreme Council of Magistracy shall meet and act as the Disciplinary Council for matters involving disciplinary actions against prosecutors, under the Chairmanship of the General Prosecutor attached to the Supreme Court. His Majesty the King and the Minister of Justice shall not attend the meetings of the Disciplinary Council.

In the case of a disciplinary action concerning the President of the Supreme Court or the General Prosecutor attached to the Supreme Court, the Disciplinary Council shall be presided over by His Majesty the King or his Royal Representative.

A judge or prosecutor who is a member of the Supreme Council of Magistracy and who is subject to disciplinary proceedings cannot attend the meetings of the Disciplinary Council of the Supreme Council of the Magistracy as a member of the Disciplinary Council of the Supreme Council of Magistracy in order to examine and decide on the disciplinary matter in question.

Article 21.-

An Inspection Team of the Supreme Council of Magistracy shall be created to assist the Disciplinary Council of the Supreme Council of Magistracy to investigate disciplinary matters. Members of the Inspection Team of the Supreme Council of Magistracy shall be appointed by Royal Decree after receiving approval from a majority of the members of the Supreme Council of Magistracy. The Inspection Team shall have two (2) co-leaders, one (1) shall be selected from senior-ranking judges and one (1) shall be selected from senior-ranking prosecutors.

The Disciplinary Council of the Supreme Council of Magistracy shall specify the duties, organization and functions of the Inspection Team of the Supreme Council of Magistracy.

Article 22.-

The Inspection Team shall carry out its duties under the direction of the Chairman of the Disciplinary Council of the Supreme Council of Magistracy. In performing its duty, the Inspection Team may request to examine any case involving disciplinary matters. If necessary, the Inspection Team may request to interview concerned individuals. If a judge or prosecutor who do not cooperate with the Inspection Team's request shall be recorded in the Inspection Team's minutes as disciplinary mistakes.

Article 23.-

Complaints regarding disciplinary matters against judges and prosecutors shall be submitted to the Secretariat General of the Supreme Council of Magistracy or to Ministry of Justice. The Minister of Justice shall make a preliminary examination and investigation on this complaint before deciding to submit it to the Disciplinary Council of the Supreme Council of Magistracy for further procedure.

Article 24.-

After receiving a disciplinary complaint, if further investigation is necessary, the Chairman of the Disciplinary Council shall decide to further investigate the complaint through the Inspection Team of the Disciplinary Council of the Supreme Council of Magistracy.

Article 25.-

The Chairman of the Disciplinary Council shall convene a meeting of the Disciplinary Council of the Supreme Council of Magistracy. The disciplinary case file, as well as supporting documents related to the disciplinary action against the judge or prosecutor, shall be sent to all members of the Disciplinary Council for examination at least ten (10) days prior to the meeting of the Disciplinary Council of the Supreme Council of Magistracy. The judge or prosecutor involved in the disciplinary case shall have the right to be informed of disciplinary charge against him/her and shall have the right to defend himself/herself, with or without the assistance of lawyer, before the Disciplinary Council of the Supreme Council of Magistracy.

Meetings of the Disciplinary Council shall be closed to the public. The Chairman of the Disciplinary Council may invite relevant concerned persons to attend its meeting, if necessary. The members of the Supreme Council of Magistracy and all persons who attend Disciplinary Council meetings shall maintain the confidentiality of the meeting.

The quorum of the Disciplinary Council meeting shall be the same as that of the Supreme Council of Magistracy as provided in Article 11 of this Law.

The Internal Regulations of the Disciplinary Council of the Supreme Council of Magistracy shall specify the detailed procedures and operations of the Disciplinary Council of the Supreme Council of the Magistracy.

Article 26.-

In cases where a judge or prosecutor has been found guilty of an infraction, the Disciplinary Council of the Supreme Council of Magistracy shall apply disciplinary sanctions as provided in the Law on Status of Judges and Prosecutors. All decisions of the Disciplinary Council of the Supreme Council of Magistracy shall be grounded in law and facts.

Decisions of the Disciplinary Council shall be enforced in the same manner as the Supreme Council of Magistracy as provided in Article 11 of this Law.

Decisions of the Disciplinary Council shall be submitted to the Supreme Council of Magistracy for review and decision. Decisions of the Supreme Council of the Magistracy shall not be subject to appeals.

In cases where a disciplinary sanction of the 2nd degree is announced, the Supreme Council of Magistracy shall raise its recommendations to His Majesty the King.

CHAPTER 5 TRANSITIONAL PROVISIONS

Article 27.-

The existing members of the Supreme Council of Magistracy prior to the entry into force of this Law shall continue their duties and functions in accordance with the provisions of this Law until the new members of the Supreme Council of the Magistracy are officially appointed by Royal Decree after elections for new members to the Supreme Council of Magistracy as provided in Article 4 of this Law. The principles of incompatibility stipulated in Article 6 of this Law shall not be applied during this time period.

Article 28.-

The Minister of Justice shall organize an election of members of the Supreme Council of Magistracy as stipulated from point 8 to 11 of Article 4 of this Law within three (3) months after the entry into force of this Law.

The rules and procedures of the first election of members to the Supreme Council of Magistracy as stipulated in Paragraph 3, Article 4 of this Law shall be specified by Prakas of the Minister of Justice.

Article 29.-

Until the Inspection Team of the Disciplinary Council of the Supreme Council of Magistracy has been appointed in accordance with Article 21 of this Law, the Chairman of the Disciplinary Council of the Supreme Council of Magistracy may assign judges or prosecutors working at the courts or at prosecution offices attached to courts to investigate disciplinary cases.

Article 30.-

The provisions of Article 6 of this Law shall not apply to judges or prosecutors at the Extraordinary Chambers in the Courts of Cambodia for trial over the crimes committed during the Democratic Kampuchea Regime.

**CHAPTER 6
FINAL PROVISIONS**

Article 31.-

The Law on the Organization and Functioning of the Supreme Council of Magistracy promulgated by Royal Kram 09/NS/94/ dated 22nd December 1994 and other laws and provisions, which are contrary to this law, shall be abrogated and replaced by this law.

Done in the Royal Palace, July 16th, 2014
Signature and seal

Norodom Sihamoni