

KINGDOM OF CAMBODIA

NATION RELIGION KING

Unofficial Translation

Prakas On

The Procedure for Establishment and Registration of Unions of Agricultural Cooperative

The Minister of Agriculture, Forestry and Fisheries

- Having seen The Constitution of the Kingdom of Cambodia;
- Having seen Royal Decree No. NS/RD/0913/903, dated September 24, 2013, on the Appointment of the Royal Government of Cambodia;
- Having seen Royal Decree No. NS/RKT/1213/1393, dated December 21, 2013, on the Revision and Addition of the Compositions of Royal Government of Kingdom of Cambodia;
- Having seen Royal Decree No. NS/RKT/0416/368, dated April 4, 2016, on the Revision and Addition of the Compositions of Royal Government of Kingdom of Cambodia;
- Having seen Preah Reach Kram No. 02/NS/94, dated July 20, 1994, promulgating the Law on the Organization and Functioning of the Council of Ministers;
- Having seen Preah Reach Kram No. NS/RK/0196/13, dated January 24, 1996, promulgating the Law on the Establishment of the Ministry of Agriculture, Forestry and Fisheries;
- Having seen Preah Reach Kram No. NS/RK/0613/008, dated June 6, 2013, promulgating the Law on Agricultural Cooperatives;
- Having seen Sub decree No. 17 S.E., dated April 7, 2000, on the Organization and Functioning of the Ministry of Agriculture, Forestry and Fisheries;
- Having seen Sub decree No. 105 S.E., dated August 22, 2005, on the addition of the duties to the Ministry of Agriculture, Forestry and Fisheries and establishment of the Department of Internal Audit, Department of Planning and Statistic, Department of International Cooperation and Center of Information and Agricultural Documents subordinate to the Ministry of Agriculture, Forestry and Fisheries;
- Having seen Sub decree No. 188 S.E., dated November 14, 2008, on the amendment to the General Department of the Ministry to become the Secretariat General, promotion of the forestry administration, fisheries administration to be equivalent to the General Department, promotion of the Department of Agronomy and Agricultural Land

Improvement to become the General Department of Agriculture and amendment to the General Department of Rubber Plantation to become the General Department of Rubber under the custody of the Ministry of Agriculture, Forestry and Fisheries;

- Having seen Sub decree No. 179 S.E., dated May 12, 2014, on the Establishment of Department of Agricultural Cooperatives Development subordinate to the General Department of Agriculture of the Ministry of Agriculture, Forestry and Fisheries;
- Having seen Prakas No. 220 P.A.E., dated March 14, 2012, on the Organization and Functioning of Municipal/Provincial Department of Agriculture;
- Having seen Prakas No. 090, P.A., dated January 29, 2015, on the Organization and Functioning of the Bureaus and Units subordinate to the Department of Agricultural Cooperatives Development under supervision of the General Department of Agriculture;
- Having seen Prakas No. 184 P.A., dated February 18, 2016, on the Model Statutes and Internal Regulations of the Agricultural Cooperatives;
- Having seen Prakas No. 609 P.A., dated September 27, 2016, on the Change of Name of the Municipal/Provincial Department of Agriculture and Inclusion of Forestry Administration District and Fisheries Administration District to be under the Municipal/Provincial Department of Agriculture;
- Pursuant to the Necessity of the Ministry of Agriculture, Forestry and Fisheries;

Hereby decides
Chapter 1
General Provision

Article 1.–

This Prakas aims to define the procedure for establishment and registration of agricultural cooperative unions in the Kingdom of Cambodia.

Article 2.–

This Prakas aims to provide a guideline on the procedure for establishing and registering the agricultural cooperative unions to agricultural cooperatives or legal entities whose businesses are fall within the agricultural production system, agro-industry, agro-business, and other services related to agricultural production to establish and register an agricultural cooperative in accordance with the Law on Agricultural Cooperatives

Article 3.–

The effect of this prakas shall cover all agricultural cooperative unions in the Kingdom of Cambodia.

Chapter 2

Procedure for Establishment of Agricultural Cooperative Unions

Part 1: Conditions of the Establishment of Agricultural Cooperative Unions

Article 4 –

Two or more agricultural cooperatives with similar economic activities or with economic relationship within common business operation system may jointly form on a voluntary basis an “Agricultural Cooperative Union” in order to mobilize production capacity, production means, and to expand capacity in agricultural production, agro-industry, agri-business, or services related to the agricultural sector.

Article 5 –

Legal entities apart from agricultural cooperatives whose main businesses are fall within agricultural production, agro-industry, agri-business, and other services that are related to agricultural production and who cooperate in economic operation with 2 (two) or more agricultural cooperatives or have similar economic operation as any union of agricultural cooperative may voluntarily to establish an agricultural cooperative union or apply for membership in any agricultural cooperative union.

Article 6.–

An agricultural cooperative union may be established without basing on administrative geographical location of the agricultural cooperative or the production base where members are located. The agricultural cooperative union may be established based on the economic activity that it performs at three different levels as follows:

1- National Agricultural Cooperative Union is the single agricultural cooperative union which is established based on business type such as credit business, supply business, processing business, transportation business, marketing business and other businesses indicating in the Law on Agricultural Cooperatives and that business scope cover throughout the country.

2- Regional Agricultural Cooperative Union is the agricultural cooperative union which have at least one primary business indicating in the Law on Agricultural Cooperatives and that business scope cover only provinces where members of agricultural cooperative union is located, not cover throughout the country.

3- Local Agricultural Cooperative Union is the agricultural cooperative union, which has at least one primary business, indicating in the Law on Agricultural Cooperative and that business scope cover on any province where agricultural cooperative union is located.

Article 7.–

Those agricultural cooperatives or legal entities whose main businesses are within the scope of agricultural production, agro-industry, agri-business, and other services that are related to agriculture and who wish to join forces to establish an agricultural cooperative union or apply for membership in any

agricultural cooperative union shall fulfill the following requirements and responsibilities:

- 1- Be legally recognized through the registration as agricultural cooperative or legal entity that was registered in commercial registration at least 2 (two) years ago in accordance with the Law on Agricultural Cooperatives and the Law on Commercial Enterprises in force
- 2- Voluntarily apply for membership in the agricultural cooperative union based on the agreement or decision of the general meeting of the agricultural cooperative concerned that comprises 2/3 of the present members
- 3- A legal entity shall voluntarily apply for membership in the agricultural cooperative union based on the decision of the Board of Directors or the director of the legal entity concerned
- 4- The agricultural cooperatives and legal entity that apply for establishment of the agricultural cooperative union shall be decided by the first founding general meeting of the agricultural cooperative union
- 5- Study and understand the mission, roles and duties of the agricultural cooperative union and benefits derived from the joint business operation of the agricultural cooperative union
- 6- Participate in formulating a draft statute and internal regulation of the agricultural cooperative union and also participate in the process of electing Board of Directors and the Supervisory Committee of the agricultural cooperative union during the first founding general meeting
- 7- Perform all tasks in the process of establishing the agricultural cooperative union in accordance with the regulation of the Law on Agricultural Cooperatives and the procedure of this Prakas.

Article 8.—

A new agricultural cooperative or new legal entity that applies for membership in the agricultural cooperative union shall be decided upon by 2/3 (two thirds) of the representative delegates present at the assembly.

Article 9.—

After it has agreed to join in the establishment of agricultural cooperative union, the general meeting of the agricultural cooperative concerned shall appoint its representative delegates to attend the first founding general meeting of the agricultural cooperative unions.

The number of representative delegates of each agricultural cooperatives or legal entity to attend the first founding general meeting of the agricultural cooperative union shall be equally designated.

The specific number of the representative delegates shall be decided by the founding organizing committee of the agricultural cooperative unions.

Article 10.—

The specific number of candidates for the members of the board of directors and supervisory committee shall be determined by the organizing commission.

Each agricultural cooperative shall be entitled to designate the number of candidates in proportion to the total number of members of each agricultural cooperative to be elected as candidates of the Board of Directors and candidates of the Supervisory Committee.

A legal entity shall be entitled to send its candidate to run for candidacy the Board of Directors or Supervisory Committee.

Article 11.—

During the election of members of the Board of Directors or Supervisory Committee, in case there are equal vote, the organizing committee shall continue to the second election procedure to select complementary members among the candidates who receive equal vote.

In case the second election is still unable to select candidates, the organizing committee shall be entitled to decide to select the last candidates of an agricultural cooperative that has the majority shares in the agricultural union. However, if there is still unable to select last candidate, the organizing committee shall to select the last candidate based on education level, capacity and experience related to agricultural cooperative development.

Part 2: Dissemination of the Concept of Agricultural Cooperative Union and Opinion Survey

Article 12.—

Municipal/provincial Departments of Agriculture, Forestry and Fisheries or Department of Agricultural Cooperative Promotion shall disseminate the concept of agricultural cooperative union to the agricultural cooperatives or legal entities to survey their opinion concerning the possibility of their participation in establishing an agricultural cooperative union.

The main concept of agricultural cooperative union shall be as follows:

- Definition of the agricultural cooperative union
- Objectives of the agricultural cooperative union
- Principles and value of the agricultural cooperative union
- Mission and duties of the agricultural cooperative union
- Benefits that the members may receive from the agricultural cooperative union
- Organizational structure of the agricultural cooperative union
- Rights and obligations of the agricultural cooperative union members
- The businesses that the agricultural cooperative union is entitled to operate in accordance with the Law on Agricultural Cooperatives
- Conditions for the establishment of agricultural cooperative union

Part 3: Establishment of Organizing Committee

Article 13.—

The agricultural cooperatives or legal entity whose businesses are fall within agricultural production, agro-industry, agri-business, and other services that are related to agricultural production and who wish to establish an agricultural cooperative union shall be entitled to submit a request to the municipal/provincial Departments of Agriculture, Forestry and Fisheries where they are located or Department of Agricultural Cooperatives Development through a written letter or other means.

In case agricultural cooperatives send their request to local authority or people concerned, those authorities or people concerned shall send the request to provincial Department of Agriculture, Forestry and Fisheries to examine the request.

Article 14.—

Municipal/Provincial Departments of Agriculture, Forestry and Fisheries or Department of Agricultural Cooperative Promotion shall be tasked with facilitating the establishment of the organizing commission for establishment of the requested agricultural cooperative union.

The organizing commission shall be composed of at least 3 (three) members.

Representatives of each agricultural cooperative or legal entity that are supposed to join membership in the organizing commission of the agricultural cooperative union shall obtain a letter of appointment from the chairperson of the board of directors of the agricultural cooperative concerned or director of the legal entity concerned.

The organizing commission for establishment of the cooperative union shall be entitled to request assistance for the commission.

Article 15.—

Municipal/Provincial Departments of Agriculture, Forestry and Fisheries or Department of Agricultural Cooperative Promotion shall assist the organizing commission in disseminating and explaining the sample statute and internal regulation of the agricultural cooperative union to the agricultural cooperatives who request for establishment of agricultural cooperative union to develop statute and internal regulation of their agricultural cooperative union.

Article 16.—

The organizing committee shall start to perform its roles and duties from the date of commencing establishing the agricultural cooperative union until the date the agricultural cooperative union has been officially registered.

The organizing committee shall coordinate, study, and develop several necessary documents as follows:

- Convene the first founding general meeting of the agricultural cooperative union
- Sum up a total number of the application and register the agricultural cooperatives or legal entities who voluntarily join in the establishment of the agricultural cooperative unions

- Make a list of representative delegates of the agricultural cooperatives and legal entities that are supposed to attend the first founding general meeting of the agricultural cooperative unions
- Prepare the name, logo and address of the agricultural cooperative union
- Prepare a name list of candidates who run for membership in the Board of Directors and Supervisory Committee (women are encouraged and prioritized)
- Draft statute and internal regulation of the agricultural cooperative union
- Prepare business plan of the agricultural cooperative union
- Prepare other documents as required by the organizing committee.

Part 4: Organization of the First Founding General Meeting

Article 17.–

The first founding general meeting of the agricultural cooperative union shall be held in the form of representative general meeting with participation of the representative delegate of agricultural cooperatives or legal entities who request to participate in the establishment of the agricultural cooperative union.

Representatives of the agricultural cooperatives or legal entities who are supposed to attend the first founding general meeting of the agricultural cooperative unions shall have the rights to share comments during the general meeting; however they shall have a (one) unanimous voice that represents agricultural cooperatives or legal entities concerned in accordance with the fundamental principles of the agricultural cooperatives stated in the Law on Agricultural Cooperatives.

The organizing committee shall be entitled to invite local authority, private sector, social organizations and other stakeholders to attend and observe the first founding general meeting of the agricultural cooperative union; however, the observers shall not have the right to vote.

Article 18.–

Municipal/Provincial Departments of Agriculture, Forestry and Fisheries shall coordinate with the organizing committee to organize and hold the first founding general meeting.

The organizing committee shall perform the following duties:

- Announce the attendants, roles and duties of the organizing committee in establishing the agricultural cooperative union
- Announce the presence of the representative delegates of the agricultural cooperatives and legal entity at the first founding general meeting
- Announce the documents prepared for establishing an agricultural cooperative union as stated in Article 16
- Coordinate an election process to approve the statute and internal regulation in the the Board of Directors and Supervisory Committee of the agricultural cooperative union, share value, an approve other relevant tasks
- Record the process and result of the first founding general meeting and produce the first founding general meeting report attached with attendance list with signatures or thumbprints of the members attending the first founding assembly

Chapter 3 **Preparation of documents for registration**

Article 19.–

Within no longer than 30 (thirty) days after the first founding general meeting of the agricultural cooperative union has concluded, the organizing committee shall coordinate with the elected Board of Directors to submit an application for registration of the agricultural cooperative union with the Department of Agricultural Cooperatives Promotion of the General Directorate of Agriculture of the Ministry of Agriculture, Forestry and Fisheries to obtain legality of the agricultural cooperative union.

The application of registration of agricultural cooperative union shall be duly certified by the commune or sangkat chief and governor of the city/district/khan, governing board where agricultural cooperative union is located.

The model application and certificate of agricultural cooperative union registration shall be provided in the annex to this Prakas.

Article 20–

The application of registration of the agricultural cooperative union shall be attached with the following required documents:

1. Application of registration to acknowledge the agricultural cooperative union certified by the authorities and relevant entities
2. Certificate of registration of each agricultural cooperative or certificate of commercial registration of the legal entity who requests for establishment of the agricultural cooperative union
3. Report of the first founding general meeting of the agricultural cooperative union
4. Business plan of the agricultural cooperative union to be established
5. Statute and internal regulation of the agricultural cooperative union
6. List of the members of the Board of Directors and Supervisory Committee of the agricultural cooperative union, specifying their names, occupations and addresses
7. Names, logos, addresses and organizational structure of the agricultural cooperative union and name list of members, capital of the agricultural cooperatives and number of shares to be recorded in the statutes of the agricultural cooperative union
8. Sample signature or right thumbprint of the president or representative of the agricultural cooperative union

Article 21.–

The Department of Agricultural Cooperatives Promotion shall receive the application of agricultural cooperative union registration by issuing a receipt specifying the date of receiving the application.

The General Directorate of Agriculture shall issue a certificate of agricultural cooperative union registration within no longer than 20 (twenty) working days from the date of receiving accurate and sufficient application in compliance with the regulations and procedures of the Law on Agricultural Cooperatives.

The model application and registration certificate of agricultural cooperative union appear in the annex of this Prakas.

Article 22.–

In the event that the application for registration has been found improper or noncompliant with the regulations and procedure of the Law on Agricultural Cooperatives, the Department of Agricultural Cooperatives Promotion may refuse the application for registration of the agricultural cooperative union.

The Department of Agricultural Cooperatives development shall inform the organizing committee to readjust the registration application within no longer than 60 (sixty) days from the date of receiving the notice of the Department of Agricultural Cooperatives Promotion.

In the event that the organizing committee fails to make a readjustment within the period specified in the notice, the Department of Agricultural Cooperative Promotion shall have the right to officially refuse the application for registration of that agricultural cooperative union by specifying a valid reason.

Article 23.–

The organizing committee shall be entitled to appeal against the decision of the Department of Agricultural Cooperative Promotion for refusing its application for agricultural cooperative union registration by submitting an appeal to the Ministry of Agriculture, Forestry and Fisheries within no longer than 60 (sixty) days from the date of refusal notice of the Department of Agricultural Cooperative Promotion.

The Ministry of Agriculture, Forestry and Fisheries shall designate a mechanism for reviewing, investigating and reevaluating the application for agricultural cooperative union registration which is subject of the appeal and shall make a final decision on the application within no longer than 60 (sixty) days from the date of receiving the organizing commission's appeal.

Article 24.–

After the agricultural cooperative has been registered and recognized by the Department of Agricultural Cooperative Promotion of the the General Directorate of Agriculture, the organizing committee shall rescind the validity of its obligatory tasks and be automatically dissolved.

The Board of Directors of the agricultural cooperative union shall start to perform its roles and duties from the date the agricultural cooperative union has been officially registered.

The member agricultural cooperatives or legal entities that join membership in the agricultural cooperative union shall perform their roles, duties and obligations as members of the agricultural cooperative union in accordance with the statutes and internal rules and regulations of the agricultural cooperative union concerned and other relevant regulations in force.

Article 25.–

The Department of Agricultural Cooperative Promotion shall publicly disseminate the officially-registered agricultural cooperative union at its office and municipal/provincial halls concerned within 15 (fifteen) days from the date of registration of the agricultural cooperative union and send a copy of registration document to municipal/provincial Departments of commerce.

Chapter 4

Final provision

Article 26.–

Any provisions contrary to this Prakas shall be considered null and void.

Article 27.–

Secretary General, Inspector General, Cabinet Chief, Director General of the General Directorate of Agriculture, Directors of all relevant institutions under supervision of the Ministry of Agriculture, Forestry and Fisheries, Directors of Municipal/Provincial Departments of Agriculture, Forestry and Fisheries shall respectively implement this Prakas from the date of signature onwards.

Phnom Penh, 20 March 2018

Minister

**Ministry of Agriculture, Forestry and
Fisheries**

CC:

- Office of the Council of Ministers
- Ministry of Interior
- Ministry of Economy and Finance
- Secretary General of the Royal Government
- Cabinet of Samdech Akka Moha Sena Padei Techo
Prime Minister
- Cabinet of Samdech, Excellencies, Deputy Prime
Ministers;
- All provincial municipal halls
- As stated in Article 27
- Royal Gazettes
- File