

**KINGDOM OF CAMBODIA
NATION RELIGION KING**

ROYAL GOVERNMENT

N° 224 អនក្រឹត្យ-ថវិកា

**SUB-DECREE
ON
PROCEDURE FOR RECOGNITION AS A REFUGEE OR PROVIDING ASYLUM RIGHTS
TO FOREIGNERS IN THE KINGDOM OF CAMBODIA**

ROYAL GOVERNMENT

- Given the Constitution of the Kingdom of Cambodia;
- Given the Royal Decree No. ៩៩/រក្ស/០៩០៨/១០៥៥, dated 25 September 2008, on the appointment of the Royal Government of the Kingdom of Cambodia;
- Given the Royal Krom No. ០២/៩៩/៩៤ dated 20 July 1994 promulgating the Law on the Organization and Functioning of the Council of Ministers;
- Given the Royal Krom No. ០២/៩៩/រក្ស/០១៩៦, dated 24 January 1996 promulgating the Law on Creation of the Ministry of Interior;
- Given the Royal Krom N° ០៥ ៩.៩.៩៤, dated 22 September 1994 promulgating the Law on Immigration;
- Given the 1951 Convention relating to the Status of Refugees and its 1967 Protocol which Cambodia became a signatory on 15 October 1992;
- Reference to the request of the Minister of the Ministry of Interior;

D E C I D E D

**CHAPTER 1
GENERAL PROVISIONS**

Article 1:

This Sub-decree is to determine the procedure to determine, to grant refugee status or provide asylum to foreigners in the Kingdom of Cambodia.

Article 2:

The purpose of this Sub-decree is to contribute to ensuring the respect of human rights and rights of refugees so that refugees can enjoy their fundamental rights and freedom in accordance with the spirit of the 1951 Convention and its 1967 Protocol relating to the Status of Refugees.

Article 3:

The scope of this Sub-decree applies to all foreigners who wish to apply for refugee status or seek asylum in the Kingdom of Cambodia.

Article 4:

The term used in this Sub-decree is defined as follow:

Refugee refers to a person who fulfills all criteria below:

- is outside of the country of his or her nationality or not having a nationality and being outside of the country of his or her former habitual residence,
- is owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion,
- is unable or is unwilling to avail him/herself of the protection of that country.

The country of nationality of a person who has more than one nationality refers to each of the countries of which he is a national and a person shall not be considered to be lacking protection of the country of the nationality if:

- He does not have any valid reason based on a well-founded fear.
- That person has not availed himself to the protection of one of the countries of which he is a national.

CHAPTER 2 AUTHORITY

Article 5:

The Ministry of Interior (MOI), is the competent institution to determine to grant or not to grant refugee status or asylum to foreigners in the Kingdom of Cambodia, under which the Immigration Department of the National Police Commissariat is its authority.

Recognition, cessation and cancellation of refugee status shall be determined by the “Prakas” (Proclamation) of the Minister of Interior.

CHAPTER 3 PROCEDURE FOR PROVIDING ASYLUM RIGHTS

Article 6:

Any foreigner can apply for asylum with competent officials of the Kingdom of Cambodia by any means available deemed appropriate. That person will be known as “the Applicant”.

An Applicant may receive temporary permission to enter the country as a non-immigrant, even though he or she does not fulfill the criteria stated in Article 8 and Article 11 of the Law on Immigration.

Article 7:

The competent officials have the right to deny entry into the country of any person, if he or she:

- a) shall pose a threat to the national security or public order; or
- b) has committed a crime against peace, war crime, or crime against humanity as defined in the Geneva Convention in 1949 and other relevant international instruments; or
- c) has committed serious non-political crime outside Cambodia prior to his or her admission to the country as a refugee; or
- d) has been guilty of acts contrary to the purposes and principles of the United Nations.

Article 8:

Permission for the Applicant to enter and remain in the country shall be granted only on the condition that the length of stay is limited to the duration of refugee status determination procedure.

The competent officials of the MOI shall issue written authorization for preliminary stay, free of charge, either in the form of entry visa on the Applicant’s passport or in absence of a passport or any travel document, an explanatory letter duly signed and sealed by the Commissioner General of the National Police.

Article 9:

Family members who are dependents of the Applicant for refugee status shall also be entitled to the same rights and be subject to the same obligations as the Applicant.

CHAPTER 4 PROCEDURES FOR GRANTING REFUGEE STATUS

Article 10:

The refugee status determination shall be made in accordance with the following procedures:

- a) Step 1: Refugee Status Application Form.
- The competent officials of the MOI shall provide a refugee status application form to each Applicant who shall complete, sign and submit the form to the competent officials within a period not exceeding one week.
 - The Applicant shall provide information in writing regarding the valid reason(s) for his flight from his country of origin and the application for refugee status in Cambodia to the competent officials.

Where necessary, assistance shall be provided to the Applicant to complete the application form.

- b) Step 2: Refugee Status Determination Interview
- A refugee status determination interview shall take place within 15 days upon receipt of the application form by two competent and qualified officials from the MOI and 1 official Ministry of Foreign Affairs and International Co-operation. The Applicant shall be present at the interview and shall have the right to provide explanation on legal, humanitarian, and other reasons why he or she should be recognized as a refugee.
 - In the course of refugee status determination interview, the identities of the Applicant and his or her family members accompanying him or her shall be established in detail by means of documents by the competent officials of the MOI who shall ensure that the Applicant has provided all the relevant information in his or her possession and that any information considered insufficient is supplemented. The competent officials shall also collect and examine all other relevant information necessary in order to assess the accuracy of the application.
 - In the above interview, the reasons for applying for refugee status shall be clarified by the Applicant. The Applicant shall submit documents and other relevant information in support of his or her application and shall fully cooperate throughout the procedure.

The refugee status determination interview shall be recorded.

- c) Step 3: Procedure on decision-making
- Refugee status determination shall be processed by two officials. Within 45 days of the conclusion of the refugee status interview, a written decision shall be issued by the MOI. If the decision can not be issued within this time period due to the nature of the case, the competent officials of the MOI may extend the time period as appropriate, but not exceeding 90 days in total. The competent officials shall notify the Applicant in writing of reason related to any extension.

If the Applicant fulfills the criteria set out in this Sub-decree, he or she shall be granted refugee status.

If the decision is negative, the Applicant shall be notified of reason(s) for rejection. The Applicant may file an appeal with the Immigration Department for reconsideration of the decision within 30 days from the receipt of the adverse decision. The Applicant shall clearly specify the grounds upon which it is based. The Applicant shall be allowed to file only one appeal.

The Immigration Department shall act on the appeal application within 15 days from the date of receipt thereof.

The Immigration Department shall form a new panel comprising of three other officers who have not been involved in the refugee status determination at first instance to consider the appeal.

Any decision concluded from the request for reconsideration will be final. The unsuccessful Applicant will have to leave the Kingdom of Cambodia within 15 days after the notification.

The decision made by the Minister of the MOI as stated in the above paragraph is effective immediately regardless of any objection from the relevant parties.

Article 11:

The competent officials from the MOI can reject application for refugee status immediately based on any of the following reasons:

- a) the Applicant does not cooperate with the competent official in clarifying accurate information regarding the application; or
- b) the Applicant shows that his or her application is only based purely on economic needs or just wishes to benefit from the better living conditions in the Kingdom of Cambodia; or
- c) during the process, the Applicant commits any activity which could endanger national security and public order.

Article 12:

The Minister of the MOI shall stop the process of refugee status determination (RSD) based on any of the following reasons:

- The Applicant dies during the RSD process, or
- The Applicant voluntarily withdraws the application, or
- The Applicant fails to attend the interview on two consecutive occasions without reasonable justification.

Article 13:

The Minister of the MOI shall provide a qualified interpreter free of charge in order to assist in each stage of the RSD process, cessation, or cancellation of the refugee status process.

Where necessary, the Minister of the Ministry of Social Affairs, Veterans and Youth Rehabilitation shall provide a representative or legal guardian to asylum seekers who are minors, or those with disabilities as stated in Cambodian laws. This representative shall work on behalf of and for the best interest of the Applicant.

Article 14:

The Minister of the MOI shall issue guidelines on the implementation of the refugee status determination procedure and on the management of the Applicants and those who were granted refugee status or asylum in the Kingdom of Cambodia.

CHAPTER 5 RIGHTS AND OBLIGATIONS OF REFUGEE

Article 15:

Every refugee in the country shall conform to all currently effective laws, regulations and measures for the maintenance of the public order.

A refugee shall have the same rights and be subject to the same obligations as a legal immigrant foreigner once he or she is recognized as a refugee in accordance with the provisions of this Sub-decree.

A resident card and the extension of the resident card shall be granted in accordance with the Law on Immigration unless the refugee status is ceased or cancelled as stated in Chapter 6 of this Sub-decree.

Article 16:

A refugee has right to work or to operate any kind of business in accordance with the laws and legal standard of the Kingdom of Cambodia.

Article 17:

Based on Cambodian laws and legal standard, a refugee has the right to sponsor for migration his or her dependant family members to the Kingdom of Cambodia.

Article 18:

In addition to the above, a refugee shall comply with all obligations and enjoy all rights stipulated in the 1951 Convention and the 1967 Protocol relating to the Status of Refugees.

If he or she wishes to leave the Kingdom of Cambodia, a refugee shall have the right to receive travel documents as stated in Article 28 of the 1951 Convention relating to the Status of Refugees.

CHAPTER 6 EXCLUSION, CESSATION AND CANCELLATION OF REFUGEE STATUS

Article 19:

An Applicant shall not be included or granted refugee status if there is any of the following reasons:

- He or she has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments relating to such crimes; or
- He or she has committed a serious non-political crime outside the Kingdom of Cambodia prior to submission of the application; or
- He or she has been guilty of acts contrary to the purposes and principles of the United Nations.

Article 20:

Refugee status granted under the provisions of this Sub-decree will cease if there is any of the following reasons:

- He or she has voluntarily re-availed him/herself of the protection of the country of his or her nationality; or
- Having re-acquired his or her lost nationality; or
- Having acquired a new nationality and enjoys the protection of that country; or
- He or she has voluntarily re-established him/herself in the country which he or she left owing to fear of persecution; or
- He or she can no longer, because the circumstances in connexion with which he or she has been recognized as a refugee have ceased to exist, continue to refuse to avail him/herself of the protection of the country of his or her nationality; or
- Being a person who has no nationality he or she is, because of the circumstances in connexion with which he or she has been recognized as a refugee have ceased to exist, able to return to the country of his or her former habitual residence.

Article 21:

Refugee status which was granted according to the provision of this Sub-decree shall be cancelled based on any of the following reasons:

- When it becomes evident that refugee status was granted on the basis of fraudulent information, document, or material which was willfully provided by the refugee; or
- When it is reasonably determined that he or she willfully withheld true and material information during the refugee status determination process; or
- When the refugee requests in writing to waive the refugee status, and it does not happen due to any coercion.

**CHAPTER 7
EXPULSION**

Article 22:

No refugee in the country shall be expelled except for those whose behavior and action endanger national security or public order.

The expulsion of such refugee(s) shall be only in accordance with due process of law. In this expulsion, the refugee shall be allowed to submit evidence to appeal and request to be represented before competent officials.

Competent institution shall grant a reasonable time to the to-be-expelled refugee to seek legal admission into another country. Competent officials reserve the right to apply internal measures as they may deem necessary during the waiting period.

Article 23:

A refugee shall not be expelled or returned in any manner whatsoever to the frontiers of territories where his or her life, freedom or rights would be threatened on account of his or her race, religion, nationality, membership of a social group or particular political opinion.

**CHAPTER 8
COOPERATION WITH
THE UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES IN CAMBODIA
(UNHCR)**

Article 24:

The MOI shall share with UNHCR a copy of the application, decision, and other relevant documents. UNHCR may assist, facilitate or provide recommendation during the process in accordance with this Sub-decree.

The MOI shall ensure full cooperation with UNHCR in the implementation of the provisions of this Sub-decree and the 1951 Convention and its 1967 Protocol relating to the Status of Refugees.

Asylum seekers can approach UNHCR through MOI at any time.

**CHAPTER 9
FINAL PROVISIONS**

Article 25:

The Minister of the Council of Ministers, the Minister of the Ministry of Interior, the Minister of the Ministry of Foreign Affairs and International Cooperation, the Minister of the Ministry of Social Affairs, Veterans and Youth Rehabilitation and relevant ministries and institutions shall be responsible to implement this Sub-decree from the date of signature.

Phnom Penh, 17 December 2009
Prime Minister

(Singed and Sealed)

Hun Sen

To:

- Ministry of Royal Palace
- Secretariat General of the Constitutional Council
- Secretariat General of the Senate
- Secretariat General of the National Assembly
- Secretary General of the Royal Government
- Cabinet of the Prime Minister
- Cabinet of the Deputy-Prime Ministers
- As stated in Article 25
- Royal affairs
- Documentation

Submitted to:

Hun Sen

The Prime Minister of the Kingdom of Cambodia
for signature

Deputy Prime Minister, Ministry of Interior

(Signed)

Sor Kheng

