

**ANUKRET DATED JANUARY 28, 1997 ESTABLISHING PROCEDURES FOR IMPOSING
DISCIPLINARY SANCTIONS ON CIVIL SERVANTS**

Translation certified by the Council of Jurists

010-ANK-BK

The Royal Government of Cambodia,

- having seen the 1993 Constitution of the Kingdom of Cambodia,
- having seen Kret dated November 1, 1993 on the appointment of the Royal Government of Cambodia,
- having seen Kret NS-RKT-1094-083 dated October 24, 1994 on the modification of the composition of the Royal Government of Cambodia,
- having seen Kret NS-RKT-1094-090 dated October 31, 1994 on the modification of the composition of the Royal Government of Cambodia,
- having seen Kram NS-RKM-0794-002 dated July 20, 1994 on the organization and functioning of the Council of Ministers,
- having seen [Kram NS-RKM-1094-006 dated October 30, 1994 on the Common Statute of Civil Servants of the Kingdom of Cambodia](#),

upon the proposal of the Secretary of State of the Civil Service,

the Council of Ministers having heard,

decides:

CHAPTER I

DISCIPLINARY OFFENSES

Article 1:

A disciplinary offense is the voluntary or involuntary commission of an act, breach, omission, negligence, or violation of [Articles 33, 34, 35, 37, 38 and 39 of the Common Statute of Civil Servants](#), and considered by the disciplinary authority to constitute a dereliction of duty by a civil servant.

Article 2:

Any disciplinary offense committed by a civil servant exposes the said civil servant to disciplinary sanctions under [Article 40 of the Common Statute](#) of Civil Servants. Disciplinary offenses, whether civil and penal, are distinct and may give rise to independent sanctions.

CHAPTER II

THE PROCEDURE CONCERNING THE IMPOSITION

OF DISCIPLINARY SANCTIONS OF THE FIRST DEGREE

Article 3:

A civil servant charged with a disciplinary offense shall have the right to consult his/her file in accordance with [Article 6 of the Common Statute](#) of Civil Servants. The consultation of the file shall be undertaken within 15 days following the official receipt of the invitation to review the file. The person responsible for the file shall keep secret the identities of witnesses. The civil servant has a period of 15 days after consulting the file to give his/her written explanations to the departmental head or to the Minister.

Article 4:

Having seen explanations given by the civil servant, or in the absence of a response by the civil servant during the period described above, the Minister concerned may alternately decide to:

- dismiss the affair without further action,
- impose a reprimand, or

- impose other disciplinary sanctions of the first degree.

Article 5:

A reprimand shall be made in the form of a letter addressed to the civil servant by the departmental head or the Minister concerned. This reprimand shall be withdrawn after 1 year unless the sanctioned civil servant has committed in this period another offense. The censure recorded in the file, the automatic placement in another position, and the censure with a withdrawal from the promotion list, shall be imposed through Kret, Anukret or Prakas.

A censure recorded in the file and the automatic placement in another position automatically cease their effect at the end of 2 years unless the sanctioned civil servant has committed another offense in this period. However, regarding the automatic placement in another position, a civil servant cannot claim to be automatically reassigned to his/her previous position.

The withdrawal from the promotion list is effective regarding promotions during the current year, and until the establishment of the promotion list for the following year.

The sanctions above shall disappear upon the expiry of the prescribed period, on the condition that the civil servant has not committed another offense during such period. These periods shall be expressly provided in the Kret, Anukret or Prakas.

CHAPTER III

THE PROCEDURE CONCERNING THE IMPOSITION OF DISCIPLINARY

SANCTIONS OF THE SECOND DEGREE

Article 6:

Disciplinary sanctions of the second degree shall be the following:

- a severe censure with removal from the promotion list, in the case of placement on the promotion list, or withdrawal of the right to promotion or seniority for a length of time not to exceed 2 years,
- placement on automatic leave without pay for a period not to exceed one year,
- downgrading of one or several grades or classes,
- automatic retirement or dismissal,
- removal.

Any disciplinary action with regard to an application of a sanction in the secondary degree shall be preceded by a preliminary inquiry. The inquiry shall be entrusted by the representative of the Minister concerned to one or more agents of the same ministry as that of the charged civil servant, who shall be in a higher grade or class or tenured in the same grade but with more seniority than the civil servant charged. The civil servant shall be, in the process of such inquiry, officially invited to review his/her file and to formulate his/her complaints per the terms and within the time periods prescribed by Article 3 of this Anukret. The maximum duration of the inquiry shall be 2 months.

The file concerning the inquiry shall be transferred to the Minister concerned who, after examination, shall decide whether to bring the civil servant before the disciplinary council, dismiss the affair without further action, or impose a sanction of the first degree.

If the Minister concerned decides to continue the inquiry, the file shall be transferred to the disciplinary council.

The report to the Minister concerned shall be written by the inspector or the general inspector when the inquiry does not involve the inspector or the inspector general.

Article 7:

The disciplinary council shall be constituted through Kret, Anukret or Prakas. The disciplinary council shall be constituted on a case-by-case basis to examine a disciplinary case.

Article 8:

The disciplinary council shall be composed of 5 members:

- 3 members chosen by the minister concerned who has authority over the civil servant charged. Among these 3 persons are designated a president, a reporter and a member,
- 2 other staff members from the same ministry at a higher grade or having greater seniority in the same class as that of the charged civil servant.

In the case that the charged civil servant is the inspector or general inspector, he/she shall be brought before a disciplinary council established by Kret and composed of officials of the same ministry with a higher grade or more seniority. Failing to do so, the

Government may select members of the disciplinary council among civil servants from others ministries.

The person bringing the complaint against the charged civil servant, as well as members of his/her family up to the third grade, shall not be designated as members of the disciplinary council.

Article 9:

Once the disciplinary council has been established, the Minister concerned shall transmit the file of the charged civil servant to the president of the disciplinary council, who shall then give it to the member reporter.

Article 10:

The member reporter shall allow the charged civil servant to examine all personnel documents in the file and ask the member to provide the list of witnesses as well as the name of his/her defender. The member shall then proceed to conduct the inquiry as follows:

1. making available evidence, if necessary,
2. reviewing declarations of possible witnesses,
3. receiving written and verbal explanations from defending officials,
4. reviewing the complaint of the charged civil servant.

The member reporter shall make a written report regarding the results of the inquiry within a maximum period of 15 days and shall immediately forward it to the president of the disciplinary council. This report shall not state the member reporter's personal opinion.

Article 11:

The disciplinary council shall meet within a period of 15 days following the receipt of the report. In case of insufficient evidence, the president may request a supplemental inquiry to the reporter, and to postpone meeting until a later date. The disciplinary council may take all measures useful in bringing out the truth but avoiding, however, pronouncing a decision already issued by a court.

This supplemental inquiry shall not exceed 2 months. In case of difficulties in investigating the case, the president may postpone for no more than 2 months the meeting of the disciplinary council.

Article 12:

The disciplinary council shall reconvene pursuant to a summons of the president in the presence all its members. The Minister concerned shall replace any absent member. The charged civil servant shall, under summons, appear with his/her official defenders and witnesses. The civil servant charged may provide his/her explanations him/herself or through his/her defender, who may make his/her presentation verbally or in writing.

Article 13:

After the presentations, the disciplinary council shall retire to deliberate and render its decision. The disciplinary council shall vote by secret ballot by descending order of the disciplinary sanctions. The opening of ballots shall be done at each level of sanction. In case of an equal number of votes, a new vote shall be held on the same sanction.

Article 14:

The minutes of the deliberation and of the secret vote shall be written immediately by the president of the disciplinary council and forwarded to the Minister concerned at the same time that the notification is forwarded to the civil servant charged regarding the sanction imposed. In case of a refusal by the civil servant, the disciplinary council shall forward the entire file to the Minister concerned with mention in writing of the civil servant's refusal of the notification.

Article 15:

The authority having the competence for imposing the sanction may not conform to the opinion expressed by the disciplinary council. The competent authority may, with written argument, lighten a sanction of the second degree proposed by the disciplinary council.

Article 16:

The final sanction shall be imposed by kret, anukret or prakas.

CHAPTER IV

THE PROCEDURE FOR IMPOSING DISCIPLINARY SANCTIONS

ON UNAVAILABLE CIVIL SERVANTS

Article 17:

The charged civil servant that makes himself/herself unavailable for a period of 15 consecutive days, while two summons have been made in vain, shall be automatically placed on [leave without pay](#). If the civil servant remains unavailable after a period of three months and two notifications, he shall be purely and simply dismissed.

CHAPTER V

FINAL PROVISIONS

Article 18:

All provisions contrary to this Anukret are hereby repealed.

Article 19:

The Co-Ministers of the Office of the Council of Ministers, all Ministers and Secretaries of State shall be in charge of the implementation of this Anukret with effect from the date of its signature.

Made in Phnom Penh on January 28, 1997.

The First Prime Minister The Second Prime Minister

Norodom Ranariddh Hun Sen

Presented for the signature of Samdech Krom Preah First Prime Minister and Samdech Second Prime Minister by
the Secretary of State of the Civil Service

Prak Sok