



**KINGDOM OF CAMBODIA
NATION RELIGION KING**

Phnom Penh, February 13, 2007

**Ministry of Economy and Finance
No: 142 MEF**

PRAKAS

ON

**PROFESSIONAL CERTIFICATE AND LICENSING
TO VALUERS AND ESTATE AGENTS**

- Referring to the constitution of the Kingdom of Cambodia.
- Referring to Preah Reachkreat N° NS/RKT0704/124 dated 15 July 2004 on formation of Royal Government of the Kingdom of Cambodia.
- Referring to Preah Reachkram N° 02/NS/94 dated 20 July 1994 on promulgation of the Law on organization and Functions of the Council of Ministers.
- Referring to Preah Reachkram N° NS/RKM/0196/18 dated 24 January 1996 promulgation of the Law on establishment of the Ministry of Economy and Finance.
- Referring to Sub Decree N° 04 ANKr/BK dated 20 January 2000 on organizing and Functioning of the Ministry of Economy and Finance.
- Referring to Preah Reachkram N° NS/RKM/1206/035 dated 29 December 2006 promulgation of the Law on Financial Management 2007.
- Referring to Sub Decree N° 78 ANKr/BK dated 18 November 2000 on Adjustment of the Department of the Ministry of Economy and Finance.
- Referring to Prakas N° 584 SHV.PRK dated 19 September 2005 on Adjustment of the conduct of the Financial Industry Department.
- Referring to the needs of the Ministry of Economy and Finance.

HEREBY DECIDES

Section 1: Purpose

The purpose of this Prakas is applied to all companies are concerning with the property valuation and estate trading service in Cambodia.

Section 2: Objective

The Objective of this Prakas is:

- To improve and straighten all companies are applying or shall be applied for estate trading services and property valuation company in Cambodia to follow the professional code of conduct and ethics in order to get proper License for a legal trading.
- To enhance all estate transaction going through the estate agent in order to easily management.
- To assist individual and investors who are intended to do estate transaction in Cambodia to get an appropriate cost and services based on actual market price.
- To ensure estate development and maintain the sustainable economic growth to meet the national and international standard.
- To mobilize national income by taxation and other services.

Section 3: Definition

- **“Ministry”** means Ministry of Economy and Finance.
- **“Department”** means Department of Financial Industry of the Ministry of Economy and Finance
- **“Division”** means Real Estate Trading Management Division of the Ministry of Economy and Finance
- **“Real Estate”** means land at, above and below the earth’s surface, including all things permanently attached to it, whether natural or artificial.
- **“Professional certificate”** means certificate that is issued by the Ministry of Economy and Finance for individual who have quality for doing property valuation and estate transaction service.
- **“License”** means license for quality real estate trading service and property valuation company that issued by the Ministry of Economy and Finance.
- **“Real Estate Service”** means rental property management services, strata management services, or trading service.
- **“Guidebook”** means the book that telling about the restrictions in order to apply the professional certificate and license of estate trading and property valuation services.

Section 4: Practice

Professional Certificate holder shall be a person's representative to estate agents or property valuation's firm, however he/she could not do business on his/her own behalf. The property valuation firm or estate agents which are practiced the estate services or property valuation shall be applied for the license to the Ministry.

Type of professional certificate and license consist of the following:

A. The professional certificate to individual:

- The professional certificate for property valuation.
- The professional certificate for real estate services.

B. The Licenses to the firm:

- The license to property valuation firm
- The license to estate agents
- The license to property valuation branch office
- The license to estate agents branch office

Section 5: Application for authority to practice

Individual who are practicing or intend to practice as a property valuation or estate services shall apply to the department for the professional certificate.

Property valuation firm or estate agent that is practicing or intend to practice as a property valuation firm or estate agent shall apply to the department for the License.

Section 6: Condition of the professional certificate to individual

The Ministry shall be issued professional certificate to individual who are practicing or intend to practice real estate trading in Cambodia as the following conditions:

- he/she has obtained the age 21 years
- Haven't been convicted of any offense involving financial fraud or any illegal activities that had written by authority.
- Good character for professional code of conduct in trading management (For individual who are practicing only)
- Obtained Bachelor Degree or equivalent certificate on economics, business, business law or other relevant diploma or certificates related to the real estate business.
- At least 6 months in real estate experience.
- Ability and efficiency to communicate and written report.

- Had pay professional certificate fees as determined in the guidebook.

Section 7: Role and duties of professional certificate holder.

The role and duty of the Certificate holder is as follows:

- The professional certificate holder for the property valuation could not be practice on real estate services and the professional certificate holder for the real estate could not be practice on property valuation services.
- A professional certificate holder can be a representative for one company or one branch only.
- In providing an opinion of value of real property, the certificate holder shall not undertake to provide such an opinion if it is outside the certificate holder's field of experience to do so.
- No certificate holder shall trade in real estate under any names other than the names on his/her certificate.
- The business of certificate holder shall be conducted so as to avoid controversies with other certificate holder.
- The certificate holder shall not make any statement or participate in the creation of any document or statement that the certificate holder knows or ought to know is false or misleading.
- No certificate holder shall induce any party to a lease, to break the existing tenancy agreement, except when terms satisfactory to both the landlord and a tenant have been agreed to in writing.
- Shall not use the services to do money laundering or to serve the terrorist or any criminals. If those cases happened, the certificate holder shall immediately report to the Ministry or other involved Authority.
- Shall pay attention to the role, regulation or other guideline carefully, if there is any doubt or do not understand any sections; the certificate holder can contact the Division to get more explanation.

Section 8: Condition for licensee

The Ministry shall issued license to any firms that compliance with the condition as follow:

- Have registered status at the Ministry of Commerce
- Have any professional certificate holder to be a representative to the firm. If the firm wish to change the existing professional certificate holder must be prior report to the Ministry. On the other hand the firm shall apply for the business license from the Ministry to do a proper business.

- Have paid license fee as determined in the guidebook
- Attach last year detail business report (For practicing firm only)
- Attach the update real estate price that firm using its (For practicing firm only)
- Attach the update commission rate that the firm charges from the clients.
- Attach the sample stamp and signature of the director of the firm.

The Ministry has the right to define more conditions at any times.

Section 9: Role and duties of licensee

The role and duties of licensee is as follow:

- The licensee shall protect and promote the interests of his/her client. This primary obligation does not relieve the licensee of the responsibility of dealing fairly with all other parties to the transaction.
- The licensee shall fully disclose certificate and license to the client before starting transaction.
- The licensee should ensure written representation agreements whenever possible in order to avoid misunderstandings with their clients and customers. Releases, promises and guarantees of specific service(s) must also be in writing.
- The licensee shall, prior signing of any agreement, fully inform the signing party regarding the type of expenses for which his/her may be normally liable.
- The licensee is obliged to render a skilled and conscientious service, in conformity with standards of competence which are reasonably expected in the specific real estate disciplines in which the licensee engages.
- Provide update real estate price that the firm using by location to the Ministry every monthly.
- The licensee shall endeavor to be informed regarding the essential facts which affect current market conditions in order to be in a position to counsel their clients and /or to assist customers in a responsible manner.
- When asked to make an appraisal or give an opinion of value of real property, the service provider shall advise the client only after careful and thorough analysis and interpretation of all factors affecting the value of the property.
- The licensees shall ensure that agreements regarding real estate transactions are in writing in clear and understandable language, expressing the specific terms, conditions, obligations and commitments of the parties to the agreement. A copy of each final agreement shall be furnished to each party upon their signing or initialing, and shall be dealt with in accordance with the instructions of the parties involved.

- The licensees shall not advertise a property without the seller's/landlord's written authority, nor shall the advertised or offered price of a property be other than that which was agreed upon with the seller/landlord.
- Signs in respect of the sale, rent, lease, development or exchange should not be placed on any property by a licensed firm only.
- Licensee shall ensure a true presentation in all advertising. Properties and services shall not be advertised without identifying the firm, or identifying the professional certificate holder.
- All agreement with buyer or seller shall specify the maturity of the services.
- The licensee shall not disclose confidential information about their Client except with the informed consent of the Client or as required or authorized by law. The licensee may disclose confidential information without consent in order to prevent or assist authorities to prevent, investigate or prosecute an offence, to defend the licensee against an allegation by the Client of negligent or improper conduct.
- The Licensee shall not use the services to do money laundering or to serve the terrorist or any criminal. If those cases happened, the licensee shall immediately report to the Ministry or other involved Authorities.

Section 10: Branch Office

Firm can not establish branch office or doing business in different address from the license without any approval from the Ministry.

Branch office can be established when the Ministry approved and have any professional certificate holder to be a representative, and also have to pay license fees for branch office as determined in the guidebook.

Section 11: License and Professional Certificate

Professional Certificate or License shall not transfer from one to another person.

In the case of suspension/cancellation of license shall apply in writing letter include the involving documents and stated an appropriate reason to the Ministry within 30 days before the operation ended. After that the firm shall return the license to the Ministry.

Section 12: Validity and renewal of professional certificate or license

Every license or professional certificate is valid one year only from the date of signature. The licensee or professional certificate holder must submit application for renewal 2 months prior the expiry date of the professional certificate or license .

The possibility of license or professional certificate renewal shall be dependent on the compliance with the conditions stipulate in this Prakas, Guidebook and others circulars that issued by the Ministry and they have to pay the fee for the renewal as determined in the guidebook.

Section 13: Penalties

The Ministry will penalize licensee or professional certificate holder in the case of:

- Lateness to apply the application to renewal of the license or professional certificate, the Ministry will punish to pay two times of license or professional certificate fees as determined in the guidebook.
- Using of expired license or professional certificate will be paid ten times of license or professional certificate fee as determined in the guidebook.
- To break the regulations of the Ministry by established branch office or conduct the business in the different place that had registered without any approval from the Ministry will punished to pay 10 times of license or professional certificate fee as determined in the guidebook and will stop the business immediately unless the Ministry reconsidered.
- To break the regulations of the Ministry by transferred the license to someone will punish both (transferor and receiver) 10 times of the license fee as determined in the guidebook.
- After got warning and recommendations in writing from the Ministry and the firm remain to break the regulations as stated in the section 7 or section 9 of this Prakas, the Ministry will punish as determined in the guidebook.
- Lateness of providing monthly report and annual financial reports to Ministry will punish as determined in the guidebook.

All punishment fees as above description shall pay to the National Treasury with the letter of recommendation from the Department. In case of licensee or professional certificate holder refused to pay the punishment fees, the Ministry may impose a penalty according to the provision of the law.

Every firm that provides a property valuation or estate service without a license from the Ministry will punished as determined in the guidebook.

Section 14: To revoke the license or professional certificate

The Ministry has the right to revoke the license or professional certificate when the licensee or professional certificate holder is executed their service as follow:

- Disrespected the provision of Prakas, guidebook, Circulars and other documents that issued by the Ministry.
- Remain to break the provision of this Prakas, whenever got the official warning letter and have punishment from the Ministry.
- Failure of financial duties including accounting document or taxation and absent two months to pay other incomes to the government.
- Bankruptcy or wrong doing to the code of conduct and ethics of valuation or real estate.
- Found the big difference between monthly and annul financial report, which is reported to the Ministry by auditor
- The Professional certificate holder or licensees has involved with the criminal action or financial fraud or other illegal transactions with sufficiency proof, which is found by the authorities.
- If found that the professional certificate holder or licensees have involved to the point 8th of article 7 or point 15th of article 9 of this Prakas, the Ministry shall immediately revoke the certificate or the license and take action based on the appropriate law.

Section 15: Monthly reports

The firm have to provide the statistic and monthly service operation report to the Ministry not later than the day 15th of the month after. The statistic and report must be true and endorsed by the director of the firm or a representative which is authorized by the firm.

Section 16: Annual Financial Report

Within 3 months after end of each year, the firm must provide the annual financial report to the Ministry. The annual financial report must be done by any independence auditors, which is recognized by the Ministry.

Section 17: Auditing.

In any time, the Ministry may nominate the staff to audit the financial documents and other documents related to the estate transaction or valuation. The firm has to closely cooperate and facilitate

to the Ministry's auditor in regard to providing a copy of financial document and other documents. In particular case, the Ministry has the right to hire an accounting expert to joint with the Ministry's auditor and all expenses shall be born by the firm.

Section 18: Circular, Announcement

All announcement or information made by the Ministry or the firms must be in written and all documentation sends to the relevant authorities must be: (1) By hand, (2) By via post, or (3) By fax. To make sure the receiver have received those document must be: (1) Put the date of receiving if by hand (2) Signature of received.

Section 19: Any regulation contradicts with this Prakas shall be deemed null and void

Section 20: All concerned authorities or organization under the jurisdiction of this Prakas shall respectively and effectivly implement this Prakas from the date of its signature.

Senior Minister, Minister of Economy and Finance

KEAT CHHON

Cc:

Secretariat of Senate

Secretariat of National Assembly

Cabinet of Prime Minister

Council of Minister

Documentation