

Kingdom of Cambodia

Nation Religion King



Ministry of Commerce

No. 183 P.N.A.KBB.PRK

Prakas

On

Formalities and Procedures for Inspection and Investigation

Under the Law on Consumer Protection

Minister of Commerce

- Having seen the Constitution of the Kingdom of Cambodia,
- Having seen Royal Decree No. NS/RKT/0918/925 dated 06 September 2018 on the Appointment of the Royal Government of Cambodia,
- Having seen Royal Decree No. NS/RKT/0320/421 dated 30 March 2020 on the Appointment and Adjustment of the Composition of the Royal Government of Cambodia,
- Having seen Royal Kram No. NS/RKM/0618/012 dated 28 June 2018 promulgating the Law on the Organization and Functioning of the Council of Ministers,
- Having seen Royal Kram No. NS/RKM/0196/16 dated 24 January 1996 promulgating the Law on the Establishment Ministry of Commerce,
- Having seen Sub-Decree No. 38 dated 16 March 2020 on the Organization and Functioning of the Ministry of Commerce,
- Having seen Sub-Decree No. 135 ANK.BK dated 27 August 2020 on the Organization and Functioning of the National Commission for Consumer Protection,
- Having seen Decision No. 95 SSR dated 13 October 2020 on the appointment of a composition of the National Commission for Consumer Protection, and
- According to the necessity of the Ministry of Commerce,

Hereby Decides

Article 1.-

This Prakas sets out the formalities and procedures for inspecting and investigating offenses under the Law on Consumer Protection to protect the rights and interests of consumers through effective and transparent inspection and investigation.

Article 2.-

This Prakas applies to the inspection and investigation of all offenses under the Law on Consumer Protection to be implemented by the investigating officers of the Consumer Protection Competition and Fraud Repression Directorate-General “CCF”.

Article 3.-

Some of the key terms of this Prakas have the following meanings:

1. **Complaint** refers to the expression of dissatisfaction with a product or service from a Consumer, Consumer Association, Organization, or Relevant Ministry or Institution.

2. **Notice of temporary suspension** means notice issued by an investigating officer intended to temporarily suspend the supply, distribution, or circulation of any goods or services in the market which dose not comply with the regulations.

3. **Person under investigation** refers to any person suspected of violating the Law on Consumer Protection.

4. **Investigating officer** refers to an officer of the Consumer Protection, Competition and Fraud Repression Directorate-General “CCF” assigned to investigate offenses under the Law on Consumer Protection.

5. **NCCP** refers to the National Commission for Consumer Protection.

6. **Rights and obligations** refer to the power to enforce the law stipulated in Article 30 of the Law on Consumer Protection.

7. **Person concerned** refers to a person suspected of having information, documents, or other objects related to the investigation of an offense under the Law on Consumer Protection.

8. **Sample** refers to part or parts of the items selected from a lot with the objective to obtain a sample which represents the entire lot.

Article 4.-

Investigating officers shall exercise their rights and obligations in accordance with the formalities and procedures stipulated in this Prakas to inspect and investigate offenses under the Law on Consumer Protection.

Article 5.-

Investigating officers may request the cooperation from local authorities or other competent authorities to exercise their rights and obligations as necessary.

Article 6.-

When exercising the rights and obligations, the investigating officer shall:

- Indicate his/her name, position, and office in which they are assigned to, and
- Indicate to the person under investigation the purpose of the enforcement activity.

A person who refuses to comply with any request, demand, or order of the investigating officer shall not be considered in violation of the Law on Consumer Protection or other relevant provisions if the investigating officer does not comply with the paragraph 1 of this Article.

Article 7.-

Investigating officers can enter any location during regular business hours to inspect and investigate offenses under the Law on Consumer Protection.

Upon entering the business location, the investigating officer may:

- Inspect goods or services directly, as well as inspect the advertising, sales, or distribution to ensure compliance with the Law on Consumer Protection,
- Confiscate and seize the goods or services that are found in the location where the investigating officer suspects they may be related to a violation,
- Extract samples for analysis to determine the violation,
- Take photos or videos of investigating activities,
- Take measures to preserve or protect documents, goods, or services that the investigating officer determines are related to the inspection and investigation, and
- Perform other tasks as the investigating officer deems necessary.

Article 8.-

If the goods or services or documents are restrained, the investigating officer shall prepare a list of the restrained goods or services or documents and shall sign three copies of that list, one copy of which shall be provided to the person in charge of the location, the owner or representative, the staff or officer in charge of that location and the other two copies shall be kept by the investigating officer and the NCCP.

If the goods or services are restrained from an automated machine, the investigating officer shall:

- Send a list of restrained goods or services to the person who owns the goods or services via the name or address on the automated machine,
- Provide a list of restrained goods or services to the owner of the location where the automated machine is located if there is no name or address, and
- Stick the list of restrained goods or services to the automated machine itself if there is no name and address on the automatic machine and the owner of the location where the automated machine located is not present.

Article 9.-

Sampling must follow the Sampling SOP procedure.

Article 10.-

1. The investigating officer may issue a written notice to the person under investigation or the person concerned, requiring that person to provide relevant documents or specific information if the investigating officer deems that information relevant to the inspection and investigation process. The notification shall:

- Express the purpose of finding specific information documents or any specific item that the investigating officer considers related to a violation, and
- Specify the time, location, method, and form of preparing specific information, documents, or items.

2. The investigating officer may require the person under investigation or the person concerned to make a complete or partial copy and interpret the information, documents, or items.

3. If the information, documents, or items required are in accordance with the conditions stated in this article, are not provided to the investigating officer, the person who did not provide them shall make a written statement stating the appropriate reasons for non-compliance.

4. If the information is given orally, the investigating officer shall record and read it to the person who provided the information, then person who provided the information shall sign the record. If the person who provided the information refuses to sign the record, the investigating officer shall document the refusal in writing, annotate the refusal, dated the record and initialed every page of the record.

Article 11.-

In exercising the rights and obligations stipulated in Article 30 of the Law on Consumer Protection, the investigating officer shall keep and manage the goods, documents, or other items which have been seized through notification safely until the conclusion of the inspection and investigation procedure.

If analysis or testing is required as part of the investigation to determine compliance with the Law on Consumer Protection, the investigating officer shall make reasonable effort to minimize the damage on the goods, documents, or items.

Article 12.-

1. The investigating officer may issue a notice of the temporary suspension on the sale, supply or distribution, or circulation in the market of goods or services, including means of transportation and equipment used for fraudulent purposes, by signing the notice if the investigating officer believes that the goods or services:

- A. Are not compliant with the Law on Consumer Protection,
- B. Cause or may cause harm to any person, and
- C. May cause harm to any person if the goods or services are misused or used inappropriately,

2. The above notice of the temporary suspension shall:

- A. Specify the name of the investigating officer in charge of conducting the inspection and investigation,
- B. Specify the type of goods or services that are the subject of the notice,
- C. Indicate the non-compliance of the goods or services or other infringement under the Law on Consumer Protection,
- D. Specify the date, time limit, and rights of all parties that are subject to the notice, and
- E. Specify the penalties and fines for non-compliance with the notice.

3. Notice of the temporary suspension shall apply immediately after it is given to the person concerned or his/her representative or staff.

4. Notice of the temporary suspension for no more than 30 (thirty) days and may be renewed.

5. In case of dissatisfaction with the temporary suspension of the investigating officer, the person concerned has the right to complain to the NCCP within 7 (seven) working days at the latest from the date of receipt of the notification. The NCCP shall decide on the review, amendment, or cancellation of the temporary prohibition within 5 (five) working days from the date of receipt of the complaint.

6. In case of dissatisfaction with the decision of the Director-General of the CCF Directorate-General, the person concerned has the rights to complain to the NCCP who needs to decide on the review, amendment, or cancellation of the decision of the Director-General of the CCF Directorate-General within 5 (five) working days at the latest from the date of receipt of the complaint.

7. The above complaint shall provide evidence that the goods or services comply with the Law on Consumer Protection and do not cause harm to the consumer.

Article 13.-

Any provisions that are contrary to this Prakas shall be abrogated.

Article 14.-

Members of the National Committee for Consumer Protection, Chief of the Cabinet, Delegate of the Royal Government of Cambodia in charge as Director-General of the Consumer Protection Competition and Fraud Repression Directorate-General, and heads of all relevant authorities shall be responsible for the implementation of this Prakas in accordance with their respective duties from the date of signature.

Tuesday, the 8th day of the waning moon of the 9th month, year of the Ox, Trey Sak, B.C. 2564, Phnom Penh, 31 August 2020

Minister of Commerce

And President of the National Commission for Consumer Protection

Seal and Signature

PAN Sorasak

Recipients:

- Council of Ministers
- Cabinet of Samdech Akka Moha Sena Padei Techo Prime Minister
- Cabinet of Samdech, His Excellency and Her Excellency Deputy Prime Ministers
- Municipal and Provincial Administrations
- As stated in Article 14
- Royal Gazette
- Documentation and Archive