

**Kingdom of Cambodia**

**Nation Religion King**



**Ministry of Commerce**

**No. 184 P.N.A.KBB.PRK**

**Prakas**

**On**

**Procedures for Settlement by Negotiation**

**For Offenses 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 Royal Kram No. NS/RKM/1119/016 dated 2 November 2019 promulgating the Law on Consumer Protection
- 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 Procedures for Settlement by Negotiation for offenses under the Law on Consumer Protection to protect the rights and interests of consumers and to carry out effective and fair solutions.

## **Article 2.-**

This Prakas applies to the Settlement by negotiation conducted by persons under the investigation of the Consumer Protection Competition and Fraud Repression Directorate-General “CCF” and the National Commission for Consumer Protection “NCCP” for offenses under the Law on Consumer Protection.

## **Article 3.-**

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

1. **Complaint** refers to the expression of dissatisfaction with any product or service from consumers, consumer associations, organizations, or ministries, relevant institutions.
2. **Decision** refers to the decision of the National Commission for Consumer Protection.
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. **Settlement by negotiation** refers to the settlement of offenses under the Law on Consumer Protection through negotiation between the person under investigation, the investigating officer, and the NCCP.
7. **Criminal case** refers to offenses within the scope of the Law on Consumer Protection which aggravate the harm to health, safety, disability, or death.
8. **Information with confidential nature** refers to any information that, if leaked, could cause severe damage to a person's business conduct.

## **Article 4.-**

Investigating officers of the Consumer Protection Competition and Fraud Repression Directorate-General “CCF” are authorized to receive an application for a Settlement by negotiation, as well as review, monitor, and evaluate the application.

## **Article 5.-**

Persons under investigation may apply for a Settlement by negotiation with the investigating officer of the Consumer Protection Competition and Fraud Repression Directorate-General “CCF” before the investigating officer makes a conclusion of the offense, except where that offense violates provisions of the Law on Consumer Protection again within 3 (three) years or where it is related to a criminal case.

## **Article 6.-**

The application for Settlement by negotiation shall be in the format attached to the annex or otherwise determined by the NCCP and shall be signed by the person under investigation or by a legal representative.

## **Article 7.-**

In the circumstance where the investigating officer does not agree to initiate a Settlement by negotiation procedure with the person under investigation, the investigating officer shall notify the person under investigation in writing, stating the appropriate reasons and with the approval of the NCCP.

In the circumstance where the investigating officer agrees to initiate a Settlement by negotiation procedure with the person under investigation, the investigating officer shall respond in writing, stating the procedure for further implementation and the provisional fine set forth in the Law on Consumer Protection and with the approval of the NCCP.

## **Article 8.-**

During the Settlement by negotiation process, the person under investigation shall provide in writing the information requested by the investigating officer and confirm the legitimacy and entirety of the information, and the person under investigation or a legal representative shall sign on the provided information.

The investigating officer may discuss any appropriate solution with the person under investigation or request additional inputs from the relevant ministries, institutions, competent regulators, consumer associations, or organizations to assess the appropriateness and effectiveness of the solution before submitting it to the NCCP.

The NCCP shall issue a decision on the above solution in the circumstance where the conditions set out in the solution are sufficient.

## **Article 9.-**

The report of the Settlement by negotiation between the investigating officer and the person under investigation shall specify:

- The scope and terms of compensation for consumers affected by the violation of the law, as well as other conditions and obligations to be met by the person under investigation, and
- The right of the investigating officer to inspect and monitor the implementation of the above conditions and obligations during the implementation of the settlement.

## **Article 10.-**

The Settlement by negotiation shall be annulled if:

- The person under investigation provides false or misleading information,
- The person under investigation is under consideration by the NCCP for violation of any other provisions under the Law on Consumer Protection within 3 (three) years, or
- The case under investigation could result into a criminal case.

A settlement is valid enforceable, and can conclude the investigation only if the settlement is approved by the NCCP's Decision.

The settlement shall expire when the obligations or conditions stated in the settlement report are met or otherwise specified in the report.

**Article 11.-**

The report of the Settlement by negotiation shall be made in writing and signed by the person under investigation and the investigation officer with one copy provided to the person under investigation, and the other two copies are maintained by the investigating officer and the NCCP.

The investigating officer shall keep a record of all settlements, including information, conditions set forth in the report, and updates of the settlement. The settlement report may be provided to the public by the decision of the NCCP.

**Article 12.-**

The NCCP can publish any information with non-confidential nature relating to a settlement which includes a description of the violation under the Law on Consumer Protection and the terms set forth in the settlement report.

**Article 13.-**

The investigating officer shall inspect and monitor compliance for the fulfilment of conditions for offense settlement through negotiation when the settlement is approved by the NCCP.

During the implementation of the settlement, the investigating officer has the right to request additional information, investigate or research the person under investigation based on the activities stated under the conditions of the settlement.

**Article 14.-**

Objection or termination of settlement shall follow the following procedures:

1. Persons affected by the settlement may make a written request to the NCCP to review the settlement report when that settlement is still valid.
2. The NCCP may decide not to accept the objection based on appropriate reason and shall send a written letter to the objected person stating the reasons of the decision not to accept the objection.
3. The NCCP may amend or terminate the settlement as a whole or in part if the settlement is ineffective or unnecessary to prevent a violation of any provisions under the Law on Consumer Protection.
4. Before making a decision as provided in paragraphs 2 and 3 above, the NCCP may question in writing or orally the objected person, investigating officer, and relevant stakeholders, including representatives of ministries, institutions, the public, competent regulators, third-parties, or consumer associations.
5. The decision to amend or terminate the settlement shall be made in writing with clear supporting grounds where one copy shall be provided to the objected person and the other two copies shall be kept by the investigating officer and the NCCP.

6. A complaint against the NCCP decision on the request for amendment or termination of the settlement may be lodged with a competent court within 30 (thirty) days from the date of the decision.

**Article 15.-**

In case the person under investigation does not fulfill the obligations stated in the decision for the Settlement by negotiation, the NCCP may request assistance from a competent court for enforcement.

**Article 16.-**

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

**Article 17.-**

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 8<sup>th</sup> day of the waning moon of the 9<sup>th</sup> month, year of the Ox, To Sak, B.C. 2564, Phnom Penh, 31 August 2020

**Minister of Commerce**

**And Chairman of the National Committee 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

Kingdom of Cambodia

Nation Religion King



Application for Settlement by Negotiation

My name is ..... Gender ..... Age ..... Race ..... Nationality .....  
Occupation ..... Actual residence: Home No: ..... Street .....  
Sangkat/Commune ..... Khan/District/City ..... Province/Capital .....

**Respectfully Submit to:**

**His Excellency Chairman of the National Commission for Consumer Protection**

**Subject:** Request for settlement through negotiation for Case No: ..... dated .....

**Attachment:** .....  
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As stated in the above subject, I would like to request for settlement through negotiation for Case .....

Reasons: .....  
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As respectfully submitted above, **His Excellency Chairman**, please review and allow me to participate in the Settlement by negotiation of the above case.

Please accept, **His Excellency Chairman**, the assurances of my highest consideration.

Day Month Year B.C. 25....

Made in ..... Date ..... Month ..... Year 20....

**Right thumbprint**

**Kingdom of Cambodia**

**Nation Religion King**



**National Commission for Consumer Protection**

Case No:.....

Dated:.....

Decision No:..... Dated:.....

**Decision**

**On the Application for Settlement by Negotiation**

- Ref: - Application for Settlement by negotiation No:..... dated .....
- Report of the Settlement by negotiation No:..... dated .....
- Case No: ..... dated.....
- .....
- .....
- .....

**Composition of the NCCP**

- |  |  |
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| 1. H.E. Pan Sorasak - Chairman                 | 7. H.E. Oeun Borarath - Commissioner           |
| 2. H.E. Mak Pichrith - Permanent Vice Chairman | 8. H.E. Chan Chesda - Commissioner             |
| 3. H.E. Meach Sophanna - Vice Chairman         | 9. H.E. Pich Ang - Commissioner                |
| 4. H.E. Chan Vathanak - Vice Chairman          | 10. H.E. Kong Phallak - Commissioner           |
| 5. Lok Chumteav Peou Vorleak - Vice Chairman   | 11. H.E. Phan Oun - Commissioner and Secretary |
| 6. H.E. Sorn Sophoan - Vice Chairman           | 12. Mr. Heng Bomakara - Commissioner           |

**Facts**

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**Opinion**

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**Disposition**

- 1.....
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- 3.....
- 4.....
- 5.....

Day ..... Month ..... Year ..... B.C. 256....

Made in Phnom Penh on ..... Month ..... Year 202 .....

**For National Commission for Consumer Protection**

**Chairman**