

Sub-decree 110 on ICT Licensing Regime

(unofficial translation)

Chapter 1

Regulations

Article 1-

This Sub Decree aims to ensure the management of Information Communication Technology (ICT) Industry with efficiency and accountability, guarantee and encourage the gathering of operations in ICT sector with the purpose of innovational thrust, economy growth and the swirl of national income and the insurance of security and safety for the people.

Article 2-

This Sub Decree aims to establish:

- Conditions and procedures for the accord, suspension, transference and revocation of operational authorization on ICT sector
- Monitoring and tracking of the implementation of authorization letter, certificate and license.

Article 3-

This Sub Decree has the scope of implementation on every operation in ICT sector in the Kingdom of Cambodia.

Article 4-

The technical glossaries in this Sub Decree has been established as follow:

Authorization: refers to authorization letter, certificate or license.

Software: refers to any program responsible for the processing of computer system or facilitating applications for tasking on computer, laptop, smartphone or other technological devices.

Invention: refers to the successful production derived from original material or unfinished product.

Assembling: refers to successful invention through assembling of unfinished product.

Installation: refers to preparation for usages.

Computer Instrument: refers to instruments, devices, assembling or placement instruments which have been produced and/or imported or exported for computer usages.

Information Communication Technology (ICT): refers to technology which include hardware and software responsible for processing, saving, analyzing and/or transferring data or information through telecommunications system.

Data Center: refers to any locations which provide the service of saving, analyzing, securing safety of transferring and receiving data and related services.

Content: refers to the series of digital information which has been saved, processed or advertised through computer, laptop, smart phone or other technological instruments.

Online Service: refers to any services which are provided through ICT systems except gambling service.

Electronic Device: refers to any instruments which are created for specific functions by using electronic as the component and brain of the operation.

Chapter 2

Authorization Letter, Certificate and License

Article 5-

Without Authorization letter, certificate and license accorded by the Ministry of Posts and Telecommunications (MPTC), no individual may operate in ICT sector in the Kingdom of Cambodia.

General Department of ICT (GDICT) is the secretariat of MPTC on the management, provision, monitoring and tracking of the implementation on operational authorization letter, certificate or license on ICT sector in accordance to this Sub Decree and other related regulations.

Article 6-

Every individual shall apply for the operational authorization letter to GDICT or Departments of Posts and Telecommunications, in case that the location of operation is within the jurisdiction of that department, as follow:

- a- The sales of any computer instruments, electronic devices which equipped with ICT technology or software as stated in the annexes of this Sub Decree
- b- Preparation of event related to ICT or
- c- Other operations established by MPTC.

Article 7-

Every individual shall apply for the operational certificate to GDICT as follow:

- a- Acknowledged competency as agency of import, supply and/or deliver computer instrument and electronic devices equipped with ICT technology or software

- b- Acknowledgement on the genres of computer instrument or electronic devices equipped with ICT technology
- c- Invention, assembling or installation of computer instruments and electronic devices equipped with ICT technology or software
- d- Export/import or delivery of computer instruments, electronic devices equipped with ICT technology or software
- e- Online services
- f- Provision of consultant and ICT technical services with profit or
- g- Other operations establish by MPTC.

Article 8-

Every individual shall apply for the operational license to GDICT with following requirements:

- a- Production or assembling of computer instrument, electronic devices equipped with ICT technology or software for industrial purposes
- b- Start up and process of data center business
- c- Invention of ICT industrial garden or
- d- Other operations established by MPTC.

Chapter 3

Conditions for the Petition and Accord of Authorization on the Operation in ICT Sector

Article 9-

Individual who intend to request for the authorization letter shall fulfill the following conditions:

- a- Is a natural or juridical person under the law of the Kingdom of Cambodia and
- b- Other conditions establish by MPTC.

Article 10-

Individual who intend to request for the certificate or license shall fulfill the following conditions:

- a- Is a natural or juridical person under the law of the Kingdom of Cambodia
- b- Has sufficient technology and human resource in various operations as established by MPTC and
- c- Other conditions established by MPTC.

Article 11-

Individual who intend to request for the license shall fulfill the following conditions:

- a- Has the company management structure that clearly indicate the responsibilities and duties which can ensure the accountability, transparency, efficiency and well business governance
- b- Has specific investment in labor and technical projects
- c- Disposition of insurance and payment fees for petition as established by MPTC and the Ministry of Economy and Finance and
- d- Other conditions established by MPTC.

Chapter 4

Procedures for the Petition and Accord of Authorization on the Operation in ICT Sector

Part 1

Procedures for the Petition and Accord of Authorization Letter and Certificate

Article 12-

Individual who intend to operate in ICT sector as stated in article 6 of this Sub Decree shall request to GDICT or departments of posts and telecommunications according to the terms and conditions established by MPTC with required documents as follow:

- a- Authorization letter's application form established by MPTC
- b- Copied document which confirm the identity of applicant with authentication from the authority and
- c- Other related documents or information established by MPTC.

Article 13-

Individual who intend to operate in ICT sector as stated in article 7 of this Sub Decree shall request to GDICT according to the terms and conditions established by MPTC with required documents as follow:

- a- Certificate's application form established by MPTC
- b- Copied document which confirm the identity of applicant with authentication from the authority and
- c- Other related documents or information established by MPTC.

Article 14-

GDICT or departments of posts and telecommunications shall monitor the application and supportive documents within 5 working days after the application is submitted.

GDICT or departments of posts and telecommunications may require additional information from the individual as needed and refuse to monitor the application unless the individual provide enough information.

Article 15-

After confirming that the individual has fulfilled the conditions and provided enough documents, GDICT or departments of posts and telecommunications shall decide on the accord of authorization letter or certificate to the applicant within 5 working days.

GDICT or departments of posts and telecommunications may reject the accord of authorization letter or certificate of the applicant by writing specific reasons. Applicant may submit any objections to MPTC on the rejection of GDICT or departments of posts and telecommunications within 5 working days after receiving the refusal decision. Any objections on the decision of GDICT or departments of posts and telecommunications shall be finalized in which case that the applicant doesn't file any complaints within the time limit.

In case that there are objections, MPTC shall decide within 5 working days after receiving the objection. The applicant may file a lawsuit to the court with authority over MPTC within 30 days after receiving the refusal decision. MPTC shall close out any objections in which case that the applicant doesn't file any complaints within the time limit.

Article 16-

Individual who intend to operate in ICT sector as stated in article 6 and 7 of this Sub Decree shall be known as **"ICT related individual"** hereafter receiving authorization letter or certificate.

Authorization letter is valid for 2 years counting from the announcement of authorization letter except for point (b) in article 6 of this Sub Decree.

The certificate is valid for 3 years counting from the announcement of the certificate.

Authorization letter or certificate may be renew so long as ICT related individual apply for the continuation to GDICT or departments of posts and telecommunications within 30 days prior to invalid date. Extension application form shall be established by MPTC.

In case of failure to submit the extension application within the period as stated in paragraph 2, ICT related individual shall request for a new authorization letter or certificate according to the conditions and procedures for the petition and accord of the authorization letter and certificate as established in this Sub Decree.

Part 2

Procedures for Petition and Accord of License

Article 17-

Individual who intend to operate in ICT sector as stated in article 8 of this Sub Decree shall request to GDICT according to the term and condition as established by MPTC with required documents as follow:

- a- License application form established by MPTC
- b- 5 years investment on labor and technical projects including the starting date of operation and other activities

- c- Business registration and company statute certificate
- d- Information on the structure of shareholder, board of directors and applied staff management
- e- Copied document which confirm the identity of applicant with the authentication from authority and
- f- Other document or information established by MPTC.

Article 18-

GDICT shall monitor the applications and other supportive documents within the period of no more than 5 working days after accepting license application.

GDICT may require additional information from the individual as needed and refuse to monitor the application unless the individual provide enough information.

Article 19-

After confirming that the individual has fulfilled the conditions and provided enough documents, GDICT shall request the principle from the Minister of MPTC in order to issue the license to applicant within 7 working days.

GDICT may request the principle from the Minister of MPTC in order to issue the license rejection to applicant by providing specific reasons. Applicant may submit any objections to MPTC within 7 working days after accepting the refusal decision. The objection shall be finalized in which case that there are no complaint within the time limit.

In case that there are objections, MPTC shall decide on the objection within 15 working days after receiving the objection. The individual may file a lawsuit to the authority over the decision of MPTC within 30 days after receiving the objection. The decision of MPTC shall be finalized in which case that there are no objections within the time limit.

Article 20-

Individual who intend to operate in ICT sector as stated in article 8 of this Sub Decree shall be known as “**ICT operator**” after receiving the license.

The license is valid for 15 years from the announcement date.

The license may be renew so long as ICT operator apply for the continuation to GDICT within 6 months period before it becomes invalid. The license form shall be established by MPTC.

In case of failure to submit the extension application within the period as stated in paragraph 2, ICT related individual shall apply for a new authorization letter or certificate according to the conditions and procedures for the petition and accord of the authorization letter and certificate as established in this Sub Decree.

Chapter 5

Suspension and Revocation of Authorization Letter, Certificate or License

Part 1

Reasons on the Suspension and Revocation of Authorization Letter, Certificate or License

Article 21-

Authorization letter, certification or license shall be suspended due to following cases:

- a- On the request of ICT operators or ICT related individuals
- b- Specific needs related to the preservation public order, security and national defense
- c- Failure on the payment of authorization letter, certificate or license within the 3 months counting from the payment date
- d- Failure to fulfill the duties establish by this Sub Decree and related regulation even after receiving 3 notification letters from GDICT or departments of posts and telecommunications
- e- Decrease in technical or financial status or starting of bankruptcy procedures in accordance to the decision of the court or
- f- Other reasons established by this Sub Decree and related regulations

Article 22-

Authorization letter, certification or license shall be revoked due to following cases:

- a- The suspension of authorization letter, certificate or license last more than 1 year
- b- Negative impacts of operation to public order, security and national defense
- c- Acquiring authorization letter, certificate or license by faking information or documents
- d- Continuation of operation during the suspension period of authorization letter, certificate or license
- e- Get bankruptcy notice by the court or
- f- Other reasons established by this Sub Decree and related regulations.

Part 2

Procedures on the Suspension of Authorization Letter, Certificate or License

Article 23-

After confirming that there are some alignment between the reasons and article 21 or 22 of this Sub Decree, GDICT or departments of posts and telecommunications may decide to suspend or revoke authorization letter or license.

GDICT or departments of posts and telecommunications may suspend or revoke the authorization letter or certificate of ICT related individual by providing specific reasons in writing.

This authorization letter or certificate may be suspended for 6 months and could prolong up to 1 year. After this time limit, authorization letter or certificate shall become objectives for revocation.

ICT related individual may object to MPTC on the decision of GDICT or departments of posts and telecommunications within 5 working days after receiving the decision. The decision of GDICT or departments of posts and telecommunications shall be finalized in which case that ICT related individual has no objection with the time limit.

In case of objection, MPTC shall decide within 5 working days after accepting the objection. Applicant may file lawsuit to the court who has authority over the decision of MPTC within 30 days after receiving of the decision. The decision of MPTC shall be finalized in which case that there are no objection from applicant within the time limit.

Article 24-

After confirming that there some alignment of the reasons and article 21 or 22 of this Sub Decree, MPTC may decide to suspend or revoke the license.

MPTC may suspend or revoke the license of ICT operator by providing specific reasons in writing.

The license may be suspended for 6 months and extended up to 1 year. After this time limit, authorization letter or certificate shall become objectives for revocation.

ICT operator may object to MPTC on the suspension or revocation decision of license within 7 working days after receiving the decision. The decision of MPTC shall be finalized in which case that ICT operator has no objection within the time limit.

In case of objection, MPTC shall decide within 15 working days after receiving the objection. Applicant may file lawsuit to the court who has authority over the decision of MPTC within 30 days after receiving the decision. The decision of MPTC shall be finalized in which case that there are no objection from applicant within the time limit.

Chapter 6

Transference through Succession of Contract or Joint Company and Collateral Placement

Article 25-

Transference through succession of contract or joint company and collateral placement of rights as stated in authorization letter, certificate or license of this Sub Decree shall follow the regulations of this Sub Decree or other related regulations.

Transference through succession of contract or joint company and collateral placement of rights as stated in authorization letter, certificate or license shall undergo the same procedure as the accord of authorization letter, certificate or license or procedures stated in related regulations.

In case that ICT operator or ICT related individual intend to stop their own operations, ICT operator or ICT related individual shall notify in writing to GDICT or departments of posts and telecommunications for authorization at least 30 days before stopping the operation by providing specific reasons.

MPTC shall request ICT operator or ICT related individual to fulfill one or more duties before stopping the operator.

Chapter 7

Rights and Duties of ICT Operators and ICT Related Individuals

Article 26-

ICT operator and ICT related individual have the following rights:

- a- Undergo the authorized operation
- b- Collateral placement of rights as stated in authorization letter, certificate or license
- c- Request on the suspension of authorization letter, certificate or license
- d- Request on the changes of investment on duty and technical projects and
- e- Other rights stated in this Sub Decree and other related regulations.

Article 27-

ICT operator and ICT related individual have the following duties:

- a- Implementation due to the conditions establish in authorization letter, certificate or license and this Sub Decree and other related regulations
- b- Payment on authorization letter, certificate or license and other payment
- c- Notify on the changes of locations to GDICT or departments of posts and telecommunications
- d- Notify on the termination of operation to GDICT or departments of posts and telecommunications
- e- Provide data and statistic on the operation and finance
- f- Safeguard private information, security and safety on the usages of ICT services
- g- Completing the operation according to the principle of competitions with honesty, freedom, equality and efficiency

- h- Practice according to MPTC advices
- i- Forbid to open illegal business
- j- Other duties established by MPTC.

Additionally to the duties stated in paragraph 1, ICT operators provide the documents on original price management, audited financial report by independence auditor recognized by the Ministry posts and telecommunications along with non-financial information annually to MPTC.

Article 28-

Authorization letter, certificate or license fees and/or other fees and payment procedure established by joint announcement of MPTC and the Ministry of Economy and Finance.

Chapter 8

Punishment

Article 29-

After according license or certificate under this sub decree, in case that ICT operator or ICT related individual doesn't follow any condition as stated in the license, this Sub Decree or other related regulations, MPTC may takes the following actions:

- a- Leading ICT operators or ICT related individual to practice according to the conditions or additional conditions
- b- Holding on export or import of computer instruments or electronic devices equipped with ICT technology
- c- Suspend the account of ICT operators or ICT related individuals
- d- Put restriction on certificate or license
- e- Suspend certificate or license until ICT operator or ICT related individuals fulfill the conditions or additional conditions
- f- Select and accord power to individuals with appropriate authority to monitor the business or other related actions of ICT operators or ICT related individuals. That person shall report to MPTC according to the conditions establish in the contract with MPTC
- g- Put restriction or termination on specific or general actions of ICT operators or ICT related individuals, even if that action is consistent or inconsistent with the conditions of certificate or license
- h- Take necessary actions according to the law or related regulations.

MPTC may take the actions as stated in paragraph 1 only if ICT operators or ICT related individuals is being notify in writing on the specific reasons of the taken action and given chances to ICT operators or ICT related individuals for explanations.

Article 30-

The transactional fines to the crimes in ICT sector is the authority of MPTC.

Article 31-

Shall transactional fines to the operations stated in article 6 of this Sub Decree without authorization letter from GDICT or department of posts and telecommunications as following:

- Natural person: from 1,000,000 riels to 3,000,000 riels.
- Judicial person: from 5,000,000 riels to 15,000,000 riels.

Article 32-

Shall transactional fines to the operations stated in article 7 of this Sub Decree without authorization letter from GDICT as following:

- Natural person: from 2,000,000 riels to 6,000,000 riels.
- Judicial person: from 20,000,000 riels to 60,000,000 riels.

Article 33-

Operations stated in article 8 of this Sub Decree with license from MPTC shall be transactional fined in as following:

- Natural person: from 5,000,000 riels to 15,000,000 riels.
- Judicial person: from 50,000,000 riels to 150,000,000 riels

Article 34-

Any ICT operators who don't provide document on the management of original cost, audited financial report with non-financial information to MPTC within 90 days as stated in article 27 in Sub Decree shall be transactional fined from 20,000,000 riels to 60,000,000 riels.

Article 35-

Any individuals who commit the crimes as stated in article 31, 32, 33 and 34 of this Sub Decree shall pay the transactional fine within 30 days after receiving the decision.

In case which that the criminals don't pay the fine as stated in paragraph 1, MPTC shall file documents to prosecutor of Court of first instance.

Conditions and procedures of the transactional fines shall be established by the announcement of the Minister of MPTC.

Chapter 9

Transitional Provisions

Article 36-

Within 1 year after the signed date of this Sub Decree, any individuals who are operating in ICT sector shall fill the form of GDICT or departments of posts and telecommunications to request for authorizations according to the condition of this Sub Decree as well as regulation in force.

Chapter 10

Existing Provisions

Article 37-

Any regulation which oppose to this Sub Decree shall be consider as abrogation.

Article 38-

Minister in charge of the Council of Ministers, Minister of the Ministry of Economy and Finance, Minister of the Ministry of Posts and Telecommunications, Ministers of every ministry and Chairmen of related institutions shall be in charge of implementing this Sub Decree due to each assign duties.

Annex of Sub Decree N°110 Sub-decree.Prokas on July 21, 2017.

Computer instruments and electronic devices equipped with ICT technology

N°	Types of Devices
1.	Computer
2.	Keyboard
3.	MIDI Keyboard
4.	Mouse
5.	Motherboard
6.	Joystick
7.	Game Pad
8.	Scanner
9.	Printer
10.	Photocopy machine
11.	Microphone
12.	Speaker
13.	Analog/Digital/ IP Camera
14.	Camcorder
15.	Monitor/ Touch Screen
16.	LCD/ LED Projector and LED Display
17.	Smart TV
18.	Internal/ External Hard drive

19. Floppy Disk/ CD/ DVD Reader/ Writer
20. Memory Stick, Flash Drive..
21. Media Card Reader
22. PCI/ PCI Express/ AGP Card
23. Open Hardware/ SDR Device
24. Hub, Switch, Router, Firewall
25. Tracking Device (GPS, Beacon, Smart Tag)
26. Electronic Lock, Smart Key...
27. Alarm Security Devices for Intrusion, Fire, CCTV...
28. House Appliance Remote Control
29. Storage (NAS, SAN .. etc)
30. POS and ATM Machine
31. Video Conference Equipment
32. Test Equipment such as Multimeter, Function Generator, Oscilloscope, Data Logger...
33. IP STB/ Android STB/ Apple TV Box
34. DVR, NVR ..

