

**Kingdom of Cambodia**  
**Nation Religion King**

Royal Government of Cambodia  
No. 197

*Unofficial Translation*

**Sub-Decree**  
**on**  
**Mechanism for Implementation of Universal Service Obligation Program**  
**The Royal Government**

- Having considered the Constitution of the Kingdom of Cambodia;
- Having considered the Royal Decree dated 6 September 2018 on the Appointment of the Royal Government of Cambodia;
- Having considered the Royal Decree dated 30 March 2020 on the Appointment and Modification of the Membership of the Royal Government;
- Having considered the Royal Code dated 28 June 2018 promulgating the Law on Organization and Functioning of the Council of Ministers;
- Having considered the Royal Code dated 24 January 1996 promulgating the Law on Establishment of Ministry of Economy and Finance (MEF);
- Having considered the Royal Code dated 24 January 1996 promulgating the Law on Establishment of Ministry of Post and Telecommunications (MPTC);
- Having considered the Royal Code dated 17 December 2015 promulgating the Law on Telecommunications;
- Having considered the Sub-Decree no. 488 dated 16 October 2013 on the Organization and Functioning of the Ministry of Economy and Finance;
- Having considered the Sub-Decree no. 75 dated 25 May 2017 on Modification to the Sub-Decree no. 488 dated 16 October 2013 on the Organization and Functioning of the Ministry of Economy and Finance;
- Having considered the Sub-Decree no. 64 dated 10 May 2019 on the Organization and Functioning of the Ministry of Post and Telecommunications; and
- Pursuant to the proposal by the Minister for Economy and Finance and the Minister for Post and Telecommunications.

**Decides**

**Chapter 1**  
**General Provisions**

**Article 1**

The purpose of this Sub-Decree is to manage and implement the universal service obligation program (the program) in the telecommunications sector in a transparent, neutral, and non-discriminatory manner by determining:

- Management, collection, allocation of the universal service obligation fund (the fund)
- Oversight, monitoring and implementation assessment of the fund.

## Article 2

The Sub-Decree is applicable to any activities concerning the implementation of the program in the telecommunication sector of the Kingdom of Cambodia pursuant to the Law on Telecommunications.

## Article 3

Key terms used in this Sub-Decree are defined as follows:

**Gross revenue** refers all the revenues of telecommunications operators derived from telecommunications operations in accordance with the Law on Telecommunications without deduction of all expenses except for the revenue from the sale of telecommunications equipment.

**Universal Service Obligation Fund** refers to a set of all budgets used to support and implement the universal service obligation program.

## Chapter 2 Management Committee of Universal Service Obligation Fund

### Article 4

The management committee of the universal service obligation fund (the management committee) shall be established and has the following composition:

- Minister of Post and Telecommunications	President
- Two MPTC Secretaries of State	Vice-President
- One MEF Secretary of State	Vice-President
- One MEF Representative	Member
- MPTC Director-General of Telecommunications	Member
- MPTC Director-General of Information and Communications Technology	Member
- MPTC Director-General of Radio Frequency Spectrum	Member
- MPTC Director-General of Administration	Member

The actual membership of the management committee shall be determined by the Royal Government based on the request of the MPTC Minister.

### Article 5

The management committee shall have the following role and duties:

- Manage and allocate the fund;
- Promote and encourage the implementation of the program in an effective, transparent, and accountable manner;
- Review and approve the program;
- Review and approve universal service obligation strategies and action plans;
- Review and approve the planning and mechanism for the implementation of the program in a short, medium, and long term;
- Review and approve settlement mechanism for implementing the program project;
- Monitor, oversee, and assess the implementation of universal service obligation strategies and action plans;
- Formulate progress reports on the implementation of universal service obligation strategies and action plans for the government;
- Advise the government in relation to the contribution made by telecommunications operators to the fund;
- Liaise with ministries, state or private institutions, or development partners;
- Review and approve the grant, renewal, suspension, transfer or termination of the program projects;

- Review and approve the budget for the program projects;
- Review and approve the annual budget of the fund;
- Formulate annual financial reports of the fund and submit it to the government; and
- Carry out other duties as assigned by the head of the government.

**Article 6**

The vice presidents and members of the management committee shall attend meetings at the invitation of the president. If the president is absent or is not available, he or she may authorize any vice president to lead the meetings of the management committee on his or her behalf.

**Article 7**

The management committee may hire a number of local or international experts who are competent, skillful, and highly experienced to serve as technical advisers.

**Article 8**

The management committee may use the seal of MPTC.

**Article 9**

The management committee has the MPTC General Department of Telecommunications to serve as technical assistant and the MPTC General Department of Administration as its administrative and financial assistant.

The role and duties of the technical, administrative and financial assistants shall be determined by Prakas of the MPTC Minister.

**Article 10**

The management committee shall have its annual operating budget of the maximum amount of 10% taken from the fund.

Benefits, compensations, and other incentives given to the president, the vice-presidents, the members of the management committee shall be determined in principle by the MEF Minister and the MPTC Minister based on the proposal of the management committee.

Benefits, compensations, and other incentives given to the officials of the technical, administrative and financial secretariats of the management committee shall be determined by the MPTC Minister.

**Chapter 3**

**Universal Service Obligation Fund**

**Section 1**

**Collection and Use of Universal Service Obligation Fund**

**Article 11**

Capital sources of the fund are derived from:

- Annual contribution equaling to the rate of 2 percent of the telecommunications operators' gross revenue pursuant to the Law on Telecommunications;
- Capital granted to the fund by the state, ministries, or institutions for joint project implementation;
- Financing, gifts, financial assistance, equipment, tools from charitable persons, development partners, national private or international institutions; and
- Other legitimate sources.

Capital of the fund shall be deposited to the fund account as opened at any commercial bank upon approval by the Ministry of Economy and Finance.

## **Article 12**

Telecommunications operators shall pay a contribution equaling to 2 percent of the last year's gross revenue to the fund account by no later than 90 (ninety) days after each fiscal year and submit audited annual financial reports to the management committee.

In case of discrepancy in the calculation of payment contribution, telecommunications operators shall make up in the year where the contribution is required. In case of excess is found in the calculation, the payment excess shall be kept in the fund for the payment in the subsequent year.

In the event that telecommunications operators make late contribution payment beyond the timeline mentioned above, they shall be fined 2 (two) per cent per month by adding months of nonpayment with the formula  $X(1+r)^n$  with X being the principal, r being the monthly rate of the fine and n being the numbers of month.

## **Article 13**

The objectives of the fund shall comprise the following:

- A. Reduce digital gap for the purpose of developing society and economy;
- B. Construct and expand telecommunications network and infrastructure and infrastructure supporting the internet broadband with the priority given to:
  - Sub-national administration
  - Rural areas
  - The areas where people earn less than the minimum wages guaranteed for workers
  - Public educational establishment or free educational establishment;
  - Public research establishment or free research establishment;
  - National library, capital and provincial libraries or free libraries;
  - Public hospitals or free hospitals;
  - Public health centers or free health centers;
- C. Provide, strengthen, expand local telecommunications services, and value-added telecommunications services in the prioritized places mentioned in point B of this Article;
- D. Provide free emergency service nationwide
- E. Administrative expenses of the management committee
- F. Other objectives determined by the management committee

## **Article 14**

Telecommunications operators who have paid contribution to the fund are entitled to request up 50 (fifty) percent of the fund they have paid in order to pay for the construction of shared infrastructure and telecommunications network for the purpose of strengthening and expanding telecommunications services and ICT services. Such shared telecommunications infrastructure and network shall become the ownership of the requesting telecommunications operators. The incumbent telecommunications operators shall allow other telecommunications operators to use the shared telecommunications infrastructure and network which is the fruits of the fund. The management and fee for the use of the shared telecommunications infrastructure and network shall be determined by the management committee.

The management committee may allocate the remaining fund to achieve the objectives as stated in Article 13 of this Sub-Decree and the fruits derived from the use of this fund shall be subject to the management and allocation by MPTC.

Conditions, formalities, and procedure for the use of the fund shall be determined by the management committee.

## **Article 15**

The budget of the management committee shall be used for the expenditure items as follows:

- Operation and performance of the management committee as well as the technical, administrative and financial secretariats;
- Compensations given to the president, vice-presidents, and members of the management committee;
- Compensations given to the heads, vice-heads, technical advisers, public servants, and staff members of the technical, administrative and financial secretariats;
- Purchase, lease, repair, or maintenance works for vehicles, office equipment and furniture;
- Expenses on fuel and oil; and
- Other actual expenses incurred by the management committee.

## **Section 2**

### **Conditions and Procedure for Application, Grant, and Settlement with Universal Service Obligation Fund Project**

#### **Article 16**

Eligible persons to apply for the fund are as follows:

- Telecommunications operators who are mentioned in Article 17 of the Law on Telecommunications and have fulfilled their obligations under the applicable regulations;
- State units charged with the development of telecommunications and ICT; and
- Other persons who are qualified to achieve any objectives as stated in Article 13 of this Sub-Decree.

#### **Article 17:**

Eligible persons to receive the fund shall fulfill the following conditions:

- Have fulfilled their payment contributions to the fund pursuant to this Sub-Decree and relevant regulations in case the applicants are telecommunications operators
- Not in debt due to the default on the fund payment or fail to share revenue derived from other operations determined by the Law on Telecommunications in case the applicants are telecommunications operators
- Are technically and financially competent and willing to complete the fund project(s).

#### **Article 18**

The fund applicants shall submit an application to the management committee by the end of January of each year attached with the fund project(s) for review and approval.

If the project is selected, the applicant shall study and supply a feasibility study report to the management committee with the attachment of financial and technical documents, and action plans.

Detailed conditions, formalities, and procedures for the approval shall be determined by the management committee.

The applicants may appeal against the decision of the management committee to the court within 30 (thirty) days after the issuance of the decision.

Every fund project approved by the management committee shall be published.

#### **Article 19**

The budget given to telecommunications operators or the fund grantees shall be made by bank account transfer upon the approval by the management committee.

Formalities and procedures for granting this budget shall be additionally determined by the decision of the management committee.

**Section 3**  
**Oversight, Monitoring, and Assessment of Use of Universal Service Obligation Fund**

**Article 20**

Telecommunications operators or the fund grantees shall prepare a progress report on the implementation of the fund project and submit it to the management committee.

Telecommunications operators or the fund grantees shall facilitate and cooperate with the management committee in overseeing and monitoring the implementation of the fund project and respond to other issues relevant to the project implementation.

In the event that the fund project fails to proceed or proceed not in accordance with its action plans, the management committee may take an immediate measure to suspend or terminate the fund project and impose penalty as provided for in Chapter 4 of this Sub-Decree.

**Chapter 4**  
**Penalty**

**Article 21**

In the event that telecommunications operators fail to make contribution to the fund, the management committee may request to MPTC to take the following measures:

- A. Frozen export and/or import of telecommunications equipment
- B. Frozen accounts of telecommunications operators or the fund grantees in accordance with the applicable laws and regulations
- C. Restrict licenses
- D. Suspend licenses
- E. Suspend or terminate the employment of director generals, chief executive officers, management members or senior officers of the telecommunications operators or the fund grantees
- F. Select and authorize competent persons to review the business activities or other relevant activities of the telecommunications operators or the fund grantees
- G. Take other necessary measures pursuant to the applicable laws and regulations

**Article 22**

Notwithstanding the civil liability and criminal penalty, telecommunications operators or the fund grantees who fail to implement the fund project, improperly implement the fund project, misuse the fund by an act of embezzlement, fraud or misapplication etc. shall return the granted fund plus the interest, effective from the date the violation is found, as stated in Article 12 of this Sub-Decree to the fund account. The return shall be made within 30 (thirty) days upon receipt of the decision of the management committee.

**Article 23**

In the event that telecommunications operators refuse to comply with the decision of the management committee as stipulated in Article 22 of this Sub-Decree, the management committee may take any measure against these operators as provided for in Article 21 of this Sub-Decree.

In the event that the fund grantees refuse to comply with the decision of the management committee as stated in Article 22 of this Sub-Decree, the management committee may take the measures as follows:

- Prohibit from participating in future application for the fund
- Publish through news outlets or websites
- File a complaint to the competent court

**Chapter 5**  
**Transitional Provision**

**Article 24**

All legal instruments relevant to the mechanism for the implementation of the program shall continue to be effective until having been replaced by new legal instruments pursuant to this Sub-Decree.

**Chapter 6**  
**Final Provision**

**Article 25**

The Sub-Decree no. 111 dated 21 July 2017 on Mechanism for the implementation of universal service obligation program in the telecommunications sector, the Sub-Decree no. 139 dated 19 September 2019 on the amendment of Article 5 of the Sub-Decree no. 111 dated 21 July 2017 on Mechanism for the implementation of universal service obligation program in the telecommunication sector and any other provisions contradictory to this Sub-Decree shall be abrogated.

**Article 26**

The minister in charge of the council of ministers, the minister of economy and finance, the minister of post and telecommunications, all ministers, and the heads of other relevant institutions shall implement this Sub-Decree according to their respective duties from the date of signature.

Phnom Penh, 1 December 2020  
**Prime Minister**

[Signed and Stamped]

**Hun Sen**

Respectfully addressed to the Prime Minister for signature

**Minister of Economy and Finance**

**Minister of Post and Telecommunications**

[Signed]

[Signed]

**Aun Pornmoniroth**

**Chea Vandeth**

Recipients:

- The Royal Palace
- Secretariat of the Constitutional Council
- Secretariat of the Senate
- Secretariat of the National Assembly
- The Office of the Prime Minister
- Cabinets of Samdech, His Excellencies, Lok Chumtev Deputy Prime Ministers
- As stated in Article 26
- Royal Gazettes
- Archives