

Kingdom of Cambodia
Nation Religion King

Royal Government of Cambodia
No. 198

Unofficial Translation

Sub-Decree
on
Management of the Capacity Building Research and Development Program in the
Telecommunications and Information and Communications Technology Sectors

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 of Economy and Finance and the Minister of Post and Telecommunications.

Decides

Chapter 1
General Provisions

Article 1

The purpose of this Sub-Decree is to manage and implement the Capacity Building Research and Development (CBRD) program in the telecommunications and information and communications technology (ICT) sectors in a transparent, neutral and non-discriminatory manner by determining:

- The management, collection and allocation of the CBRD fund in the telecommunications and ICT sectors (“the Fund”)
- The oversight, monitoring and assessment of the Fund

Article 2

The Sub-Decree shall be applicable to any activities concerning the implementation of the CBRD fund in the telecommunications and ICT sectors of the Kingdom of Cambodia pursuant to the Law on Telecommunications.

Article 3

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

- 1. Institute for Training, Research, Development and Innovation** refers to the institution in charge of providing education, training, research, development, and innovation in the telecommunications and ICT sectors with recognition by the applicable laws and regulations.
- 2. Gross Revenue** refers to all revenues of telecommunications operators derived from telecommunications operations in accordance with the Law on Telecommunications without deduction of any expenses except for the revenue from the sale of telecommunications equipment.
- 3. Capacity Building Research and Development Fund in the Telecommunications and Information and Communications Technology Sectors** refers to a set of all budgets used to support and implement the capacity building, research and development program in the telecommunications and information and communications technology sectors, hereinafter referred to as “CBRD Fund”.

Chapter 2

Management Committee of the CBRD Fund

Article 4

The management committee of the CBRD Fund shall be established and has the composition as follows:

- | | |
|----------------------------------------------------------------------|----------------|
| - Minister of Post and Telecommunications | President |
| - Two Secretaries of State of MPTC | Vice-President |
| - One MEF Secretary of State of MEF | Vice-President |
| - One MEF Representative | Member |
| - One Representative of Ministry of Education Youth and Sport | Member |
| - One Representative of Ministry of Labor and Vocational Training | Member |
| - MPTC Director-General of Telecommunications | Member |
| - MPTC Director-General of Information and Communications Technology | 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 of the CBRD Fund shall have the following roles and duties:

- Manage and allocate the Fund;
- Promote and encourage the implementation of the CBRD program in an effective, transparent and accountable manner;

- Review and approve the CBRD programs;
- Review and approve CBRD strategies and action plans;
- Review and approve the planning and mechanism for the implementation of the program in the short, medium and long terms.
- Review and approve settlement mechanism for the implementation of the CBRD projects;
- Monitor, oversee and assess the implementation of the CBRD strategies and action plans;
- Formulate progress reports on the implementation of the CBRD strategies and action plans for the government;
- Advise the government on telecommunications operators' contributions to the CBRD Fund;
- Liaise with ministries, public or private institutions, or development partners;
- Review and approve the provision, renewal, suspension, transfer or termination of the CBRD projects;
- Review and approve the budget for the CBRD projects;
- Review and approve the annual budget of the Fund;
- Formulate and submit annual financial reports 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 busy, 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 advisors.

Article 8

The management committee may use the seal of MPTC.

Article 9

The management committee has the MPTC General Department of Information and Communications Technology to serve as technical assistant and the MPTC General Department of Administration as 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 percent taken from the Fund.

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

Benefits, compensations and other incentives for officials serving as the technical, administrative and financial assistants of the management committee shall be determined by the MPTC Minister.

Chapter 3
Capacity Building Research and Development Fund
in the Telecommunications and Information and Communications Technology Sectors

Section 1
Collection and Use of the CBRD Fund

Article 11

Capital sources of the CBRD Fund are derived from the following:

- Annual contribution equaling to 1 percent of the telecommunications operators' gross revenues pursuant to the Law on Telecommunications;
- Capital granted to the Fund by state, ministries, or institutions for joint project implementation;
- Financing, gifts, financial assistance, equipment and tools from charitable persons, development partners, national and international private 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 1 percent of the previous year's gross revenues 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 insufficient contribution payment, telecommunications operators shall make up the differences in the year where the contribution is required. In case of excessive contribution payment, the excess shall be kept in the Fund for contribution payment in the subsequent year.

In the event that telecommunications operators fail to make contribution payment by the timeline mentioned above, they shall be fined with a monthly rate of 2 (two) percent by adding months of nonpayment using the formula $X(1+r)^n$ with X being the principal, r being the monthly rate of the fine and n being the number of months.

Article 13

The objectives of the CBRD Fund shall comprise as follows:

- A. Construct infrastructure, innovation centers, laboratories or testing rooms for educational, training, research and development, and innovation purposes in the telecommunications and information and communications technology sectors;
- B. Provide specialized education and training in the telecommunications and ICT fields;
- C. Study, research, develop and innovate in the telecommunications and ICT sectors;
- D. Support the establishment of new businesses and services in the telecommunications and ICT sectors;
- E. Provide scholarships to students in the telecommunications and ICT fields;
- F. Create events and programs aimed at human resource development and improvement of research, development and innovation in the telecommunications and ICT sectors;
- G. Create competition programs in the fields of technological advancements and entrepreneurship of the telecommunications and ICT sectors;
- H. Administrative expenses of the management committee; and
- I. Other objectives as determined by the management committee.

Article 14

Telecommunications operators who have paid contribution to the Fund are entitled to request up to 20 (twenty) percent of their paid contribution to apply to the following projects:

- Specialized education and training in telecommunications and ICT fields;
- Scholarship opportunities for students in telecommunications and ICT fields;
- Create events and programs aimed at human resource development and improvement of research, development and innovation in the telecommunications and ICT sectors;
- Create competition programs in the fields of technological advancements and entrepreneurship of the telecommunications and ICT sectors; and
- Other objectives as 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. Other ministries, institutions or individuals may manage and allocate the fruits of the CBRD projects in accordance with the approval by the management committee.

Conditions, formalities and procedures for the use of the CBRD Fund shall be determined by the management committee.

Article 15

The budget of the management committee shall be used for the following expense items:

- Operation and performance of the management committee and technical, administrative and financial secretariats;
- Compensations for the president, vice-presidents and members of the management committee;
- Compensations for the heads, vice-heads, technical advisors, public servants and staff members of the technical, administrative and financial secretariats;
- Purchase, lease, repair or maintenance for vehicles and office equipment and furniture;
- Fuel and oil expenses; and
- Other actual expenses incurred by management committee.

Section 2

Conditions and Procedure for Application, Grant and Settlement of CBRD Fund Projects

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;
- Public establishments charged with providing education, training, research development and innovation in the telecommunications and ICT sectors; and
- Other persons who are qualified to achieve any of the 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 contribution payments to the Fund pursuant to this Sub-Decree and relevant regulations in case the applicants are telecommunications operators;

- Cleared of any debts due to default on fund contribution payment or failure to share revenue derived from other operations as determined by the Law on Telecommunications in case the applicants are telecommunications operators; and
- Are technically and financially competent and willing to complete the Fund project(s).

Article 18

The Fund applicants shall submit applications no later than January of each year along with action plans of the CBRD projects to the management committee for review and approval.

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

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 grants offered to telecommunications operators or persons shall be made via bank account transfers upon the approval by the management committee.

Formalities and procedures for such grant provisions shall additionally be determined by the decision of the management committee.

Section 3

Oversight, Monitoring and Assessment of Use of the CBRD Fund

Article 20

Telecommunications operators or persons who are recipients of the CBRD grants shall prepare and submit a progress report on the implementation of the Fund project to the management committee.

Telecommunications operators or persons who are recipients of the CBRD grants shall facilitate and cooperate with the management committee in overseeing and monitoring the implementation of the Fund projects and respond to other issues relevant to the project implementation.

In the event that the Fund projects fail to make progress or proceed not in accordance with the action plans, the management committee may take immediate measures to suspend or terminate the Fund projects and impose penalty as stated in Chapter 4 of this Sub-Decree.

Article 21

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

- A. Freeze exports and/or imports of telecommunications equipment;
- B. Freeze bank accounts of telecommunications operators or persons who are recipients of the CBRD grants 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 Fund grantees;

- F. Select and authorize competent persons to review the business activities or other relevant activities of the telecommunications operators or Fund grantees; and
- G. Take other necessary measures pursuant to applicable laws and regulations.

Article 22

Notwithstanding the civil liability and criminal penalty, telecommunications operators or Fund grantees who fail to implement the Fund projects, improperly implement the Fund projects, misuse the Fund by act of embezzlement, fraud or misappropriation, etc. shall return the granted fund plus 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 the 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 measures against these operators as stated 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 stipulated in Article 22 of this Sub-Decree, the management committee may take the following measures:

- Prohibit the Fund grantees from applying for CBRD grants in the future;
- Publish through news outlets or websites; and
- File complaints to the competent court.

Chapter 5

Transitional Provision

Article 24

All legal instruments relevant to the mechanism for the management of the CBRD programs 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. 112 dated 21 July 2017 on the Mechanism for the Management of the Capacity Building Research and Development programs in the telecommunications and ICT sectors, Sub-Decree No. 140 dated 19 September 2019 on the amendment of Article 5 of the Sub-Decree No. 112 dated 21 July 2017 on the Mechanism for the Management of the CBRD programs 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