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Law on the Organization and Function of the Supreme Council of Magistracy_941222

**KINGDOM OF CAMBODIA
NATION RELIGION KING**

LAW ON THE ORFGANIZATION AND FUNCTION OF THE SUPREME COUNCIL OF MARGISTRACY

The law was adopted by the National Assembly, in Phnom Penh, on December 22 1994, during the third session of its Firs legislature.

CHAPTER I: THE ORGANIZATION AND COMPOSITION OF THE SUPREME COUNCIL OF MARGISTRACY

ARTICLE 1:

Referring to Articles 113 and 115 of the Constitution of the Kingdom of Cambodia, a Supreme Council of Magistracy is to be established in order to guarantee the independence of the judiciary, maintain discipline of judges, and to assure the good functioning of the courts of the Kingdom of Cambodia.

ARTICLE 2:

The composition of the supreme council of magistracy shall be as follows:

- | | |
|--|----------|
| 1. H.M. the King of Cambodia | Chairman |
| 2. Minister of Justice | Member |
| 3. Chief of Supreme court | Member |
| 4. General Prosecutor of Supreme Court | Member |
| 5. Chief of Appeal Court | Member |
| 6. General Prosecutor of Appeal Court | Member |
| 7. Three judges elected by the judges | Members |

The Supreme Council of Magistracy shall have three (3) other substitute members, elected among the judge of the whole country, to replace elected members who are absent. All members shall be appointed by Royal Decree. In the event there is incompatibility of function of the Minister of Justice, he shall be replaced by a senior official from the Ministry of Justice.

ARTICLE 3:

His Majesty the King who is the Chairman of the Supreme Council of Magistracy, may nominates a royal representative to chair the meetings of the Supreme Council of Magistracy.

ARTICLE 4:

The term of the elected member of the Supreme Council of Magistracy shall be for (5) years. Thereafter they may stand as candidate for the next term re-election.

ARTICLE 5:

In the event any elected member resigned or is absent for more than (6) months, he shall be replaced by a substitute member with the most seniority in age. A vote to elect new substitute member to fill the vacancy shall take place upon the happening of the above event.

ARTICLE 6:

The procedure and organization of the election for electing full fledge, substitute and reserve members, shall be provided for by a Proclamation (Parkas) of the Minister of Justice.

**CHAPTER II: FUNCTIONING OF THE SUPREME COUNCIL OF
MAGISTRACY**

ARTICLE 7:

The Minister of Justice shall convene a meeting, following a consultation with the Chief of Supreme Court and the Appeal Court.

The initiative for convening a meeting may also be raised by the Chairman or by at least three (3) members.

ARTICLE 8:

The meeting of the Supreme Council of Magistracy shall not be considered as valid for lack of quorum, unless attended by at least 7 members.

ARTICLE 9:

Decisions of the Supreme Council of Magistracy must be done with respect to the majority of the voices through secret votes. The Chairman of the meeting shall not be involved in casting the vote. But in the event the vote resulted in equal number of voices, the Chairman of the meeting shall then make a decision thereof.

ARTICLE 10:

The Supreme Council of Magistracy shall be consulted for suggestions and recommendation on any proposed bills or draft laws pertaining to the organization and the functioning of the judiciary.

The Supreme Council of Magistracy shall provide its response within 30 days from the day of reception of such proposed bills or draft laws from the Minister of Justice. In the event of urgency, such above stated delay shall be reduced to only 10 days.

ARTICLE 11:

The Supreme Council of Magistracy shall decide and raise its recommendation to His Majesty the King about the appointments, transfers, disruptions from actual service, suspensions of job, and removals of cadre or title for all judges and prosecutors.

The Supreme Council of Magistracy shall provide recommendations for rank promotions for all judges and prosecutors.

The Minister of Justice shall prepare and submit the draft Decrees to His Majesty the King concerning these above matters.

ARTICLE 12:

The Supreme Council of Magistracy shall meet and act as a Disciplinary Council for matter involving disciplinary actions to be taken against the judges and prosecutors, under the Chairmanship of the Chief of the Supreme Court or the General Prosecutor to the Supreme Court, depending on whether such disciplinary actions involved judges or prosecutors.

In the above matter, His Majesty the King and the Minister of Justice shall not attend the meetings.

In the event a disciplinary action is to be taken against the Chief of the Supreme Court or the General Prosecutor to the Supreme Court, the Disciplinary Council shall be presided by His Majesty the King or his royal representative.

All documents pertaining to the individual to be disciplined shall be sent to all members of the Disciplinary Council, for examination at least 15 days prior to the meeting.

ARTICLE 13:

The Chairman of the Disciplinary Council shall indicate the date for the meeting of the council and convene such meeting.

ARTICLE 14:

The decision of the Disciplinary Council must be done in the same manner as that of the Supreme Council of Magistracy.

ARTICLE 15:

The decision of the Disciplinary Council must be submitted to the Supreme Council of Magistracy for approval. This decision shall not be subject to any appeal.

ARTICLE 16:

Member of the Supreme Council of Magistracy and all other persons who have attended the meeting must maintain secrecy of the meeting.

ARTICLE 17:

The Supreme Council of Magistracy shall assign one of the judges and one court clerk to assure the function as secretaries to prepare report and minutes, to maintain records and to perform other miscellaneous works.

ARTICLE 18:

Members of the Supreme council of Magistracy shall be entitled to receive remunerations for attending meeting at hourly rate to be specified by a Joint Proclamation (Prakas) of the Minister of Justice and the Minister of Economy and Finances.

ARTICLE 19:

The expenses for the functioning of the Supreme Council of Magistracy shall be allocated in the budget of the Ministry of Justice.

CHARPTER III: TRANSITIONAL PROVISIONS**ARTICLE 20:**

After this law enters into force, the Ministry of Justice shall request to His Majesty the King to appoint 3 judges as provisional members of the Supreme Council of Magistracy during the interim period when the election of its members cannot be proceeded yet in compliance with Article 4 above.

These provisional appointees shall automatically terminate their duties upon the election or full fledge members.

ARTICLE 21:

The preparation for the vote to elect judges as members of the Supreme Council of Magistracy shall be done after the coming into force of a law on the statue of Judges and upon the appointment of judges has taken place.

ARTICLE 22:

Judges holding functions as stated in the provisions of Article 20 above shall have the rights to vote and stand as candidates for election to be voted by their colleagues.

But these judges shall resign from membership of the Supreme Council of Magistracy from the day they apply as candidates for election.

ARTICLE 23:

Any laws and provisions which are contrary to this law shall be abrogated.

This law was adopted by the National Assembly, in Phnom Penh, on December 22, 1994, during the Third session of its First legislation.

Chairman of the National Assembly

CHEA SIM

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