

The Khmer version is the official version of this document.

Document prepared by the MLMUPC Cambodia,

supported by ADB TA 3577 and LMAP TA GTZ.

The Royal Government of Cambodia

No. 19 ANK/BK/ March 19, 2003

Sub Decree On Social Land Concessions

- Referring to the Constitution of the Kingdom of Cambodia
- Referring to Royal Decree No. NS/RKT/1198/72 of November 30, 1998 on the Appointment of the Royal Government
- Referring to Royal Kram No. 02/NS/94 of July 20, 1994 promulgating the Law on the Organization and Functioning of the Council of Ministers
- Referring to Royal Kram No. 04/NS/94 of September 10, 1994 promulgating the Law on the Land Management, Urban Planning and Construction
- Referring to Royal Kram No. NS/RKM/0699/09 of June 23, 1999 promulgating the Law on the Establishment of the Ministry of Land Management, Urban Planning and Construction
- Referring to Royal Kram No. NS/RKM/0801/14 of August 30, 2001 promulgating the Land Law
- Referring to Royal Kram No. NS/RKM/0301/05 of March 19, 2001 promulgating the Law on Khum/Sangkat Administrative Management
- Referring to Sub Decree No.62 ANK of July 20, 1999 on the Organization and Functioning of the Ministry of Land Management, Urban Planning and Construction
- Referring to Sub Decree No.88 ANK/BK of December 1, 2000, on Establishment of the Council for Land Policy
- Having been adopted by the Council of Ministers during the plenary session on 7 March 2003.

Decides

Chapter 1. General Provisions

Article 1.

This sub decree has the objective to define the criteria, procedures and mechanism for the granting of social land concessions for residential use and/or family farming.

Article 2.

The following terms have the meanings defined below:

- (a) "Social land concession" is a legal mechanism to transfer private state land for social purposes to the poor who lack land for residential and/or family farming purposes.
- (b) "Social concession land" is the land that is the subject of a social land concession.
- (c) "Family farming" refers to family cultivation or animal-raising to meet basic needs.

Article 3.

Social land concessions may be granted for one or more of the following social purposes:

1. Provide land for residential purposes to poor homeless families
2. Provide land to poor families for family farming The Khmer version is the official version of this document.
3. Provide land to resettle families who have been displaced resulting from public infrastructure development.
4. Provide land to the families suffering from natural disaster.
5. Provide land to repatriated families.
6. Provide land to demobilized soldiers and families of soldiers who were disabled or died in the line of duty.
7. Facilitate economic development
8. Facilitate economic land concessions by providing land to workers of large plantations (chamkar) for residential purposes or family farming.
9. Develop areas that have not been appropriately developed.

Article 4.

Social Land Concession Programs are —

- Local Social Land Concession Programs
- National Social Land Concession Programs

Chapter 2. Local Social Land Concession Programs

Article 5.

A commune council is an initiator of a local social land concession program by preparing a social land concession plan in accordance with the requirements for social land concession plans as stated in

Chapter 4 of this sub-decree.

One or more citizens or organizations working with or on behalf of citizens in a commune, may initiate a local social land concession program, that shall be done through the commune council, in which the social concession land is located, by preparing a social land concession plan in accordance with the requirements for social land concession plans as stated in Chapter 4 of this sub-decree.

The commune council shall annually review the social land concession plan in accordance with the procedures for the preparation of commune development plans in Chapter 6 of the Law on Khum/Sangkat Administrative Management.

Article 6.

The Commune Council shall submit the local social land concession plan, through the District Working Group, for approval of the Provincial/Municipal Land Use and Allocation Committee. The Provincial/Municipal Land Use and Allocation Committee may approve a local social land concession plan if it meets the criteria of this sub decree, and if it is seen that the land is vacant state private land and suitable for the social land concession plan. The Provincial/Municipal Land Use and Allocation Committee shall inform the National Social Land Concession Committee about each plan that the Provincial/Municipal Land Use and Allocation Committee approves. Within sixty (60) days after receiving a social land concession plan, the National Social Land Concession Committee may adjust the plan or cancel the approval of the Provincial/Municipal Land Use and Allocation Committee if:

- (a) The social land concession plan contradicts national land use priorities, is technically flawed, or violates the provisions of this sub-decree or other laws.
- (b) If the plan is not compatible with the requirements of national social land concession programs. Following approval, a local social land concession program shall be implemented by the commune council, with technical assistance from the District Working Group. An approved social land concession plan shall be open to the public in the relevant commune/sangkat. The Khmer version is the official version of this document. office (sala khum/sangkat) council and Provincial/Municipal Land Use and Allocation Committee office and the National Social Land Concession Committee during working hours.

Chapter 3. National Social Land Concession Programs

Article 7.

A National Social Land Concession Program may be initiated by one or more concerned ministries or institutions in situations that are not suitable for a local social land concession program, in particular, in any of the following situations:

- x Where there is a program to develop land in remote areas without sufficient local residents to develop the land.
- x Where there is a program to resettle large groups of families, such as urban squatters, or displaced persons.
- x Where there is a social land concession program that may link to the economic concession in order to develop agro-industry.
- x Where there is new or existing development program, such as a donor or investor supported program that is coordinated by the national level.
- x Where there are requests for social land concessions that cannot be met by local programs. The concerned ministry or institutions shall submit a social land concession plan that meet the criteria of a social land concession plan as stated in chapter 4 of this sub-decree to the National Social Land Concession Committee. In initiating a national social land concession plan, there shall be participation from the concerned Provincial/Municipal Land Use and Allocation Committee, commune councils and area residents.

Article 8.

The National Social Land Concession Committee may approve the plan as proposed or, in consultation with the concerned ministry or institution, may adjust the plan. A National Social Land Concession Program that has already been approved shall be implemented by the ministry or institution or proposer as specified in the National Social Land Concession Plan, in coordination with the Provincial/Municipal Land Use and Allocation Committee, commune council and residents in the involved area, unless the approved National Land Concession Program states otherwise. An approved national social land concession plan shall be open to the public in the relevant commune/sangkat office, Provincial/Municipal Land Use and Allocation Committee office, and the National Social Land Concession Committee, during working hours.

Chapter 4. Necessary Requirements for Social Land Concession Planning

Article 9.

The requirements for social land concession planning include:

- (a) A description of the land and a land use plan that shall be prepared in accordance with the procedures for commune development plans as specified in Chapter 6 of the Law on Khum/Sangkat Administrative Management.
- (b) Information about the land identification, the ownership of the land and indicating whether the land is available for social land concessions or whether the land is suitable for the uses in the social land concession plan.
- (c) Detailed information about the selection of target land recipients, including The Khmer version is the official version of this document.
 - Any preferences for vulnerable groups under article 11 of this sub-decree and
 - The means used for verifying that target land recipients meet the established eligibility and preference criteria.
- (d) Detailed plans for the allocation of land to the target land recipients, including any special conditions for occupancy and use of the land.
- (e) Detailed information about the application process, including the place where applicants filed applications, the person who was responsible for publicizing the application process and the person who was responsible for posting the names of applicants, the place where the notices were posted and other administrative details of the application process.
- (f) An assessment of the availability of infrastructures necessary to implement the plan, including such things as roads, water, electricity, schools, markets, , health care center, and tools and equipment to develop the land, other services,

information about how and when to prepare these physical infrastructures and to provide those public services.
- (g) An assessment of social and environmental impacts of the program and a description of appropriate actions.
- (h) Other requirements shall be determined by the National Social Land Concession Committee.

Article 10.

An eligible applicant shall have the following qualifications:

- (a) Be a Cambodian national, with legal capacity to own land.
- (b) Be the head of the family, which consists of two or more individuals related by blood or marriage and residing in the same household.
- (c) Meet the financial criteria established by prakas of the Ministry of Social Affairs, Labor, Vocational Training and Youth Rehabilitation, based on the comments of the National Social Land Concession Committee. The income guidelines shall take into consideration family size and age and health conditions of family members. The guidelines may be varied from region to region and from time to time in accordance with economic conditions and living standards.
- (d) Not be an owner or possessor of other land equal to or in excess of the size limitations for social land concessions in article 16 and 17 of this sub-decree.
- (e) Be ready, willing and able to participate in the social land concession program, in accordance with the approved social land concession plan.

No person may deny the right of participation in a social land concession program to head of family who is a female, a person with a disability [batbong samathapeap], a veteran with a disability [batbong samathapeap], or a demobilized soldier.

Article 11.

Where there are more applicants than available land, a social land concession plan may include reasonable criteria for giving preferential treatment in the selection of target land recipients or the allocation of social land concession land based on the following:

- x large family size, having six (6) or more members
- x time the family has lived in the social concession land area,
- x the head of family is a woman, a person with a disability [batbong samathapeap], a veteran with a disability [batbong samathapeap] or a demobilized soldier. The Khmer version is the official version of this document.

Article 12.

The notice of the application process for social concession land shall be open and this work shall be publicized at least thirty (30) days prior to the deadline for making applications in one or more public

places in the concession land area. A person who lives in the social concession land area may file a social concession land application form, at the commune office as specified in the notice, by completing a standard [komru] application form. The standard [komru] application form shall be determined by the MLMUPC. The applicant shall specify if the request is for land for residential or family farming purposes, or both, as provided in chapter 5 of this sub decree. Any family, who has not been selected as a target land recipient in a local social land concession plan, may apply to the National Social Land Concession Committee for social concession land in a national social land concession program.

Article 13.

A list of all applicants shall be posted in a public place at least thirty (30) days before the applications are evaluated. The posting places shall be defined in the social land concession plan. The District Working Group specified in article 19 and article 26 of this sub decree shall provide technical assistance in evaluating all applications to determine that the applicants meet the selection criteria as stated in Article 10 and 11 of this sub-decree. The decisions to approve or disapprove applications shall be in writing and shall state the reasons for approving or disapproving each applicant and these written decisions shall be publicized.

Article 14.

An applicant, whose name does not appear in the social land concession plan, and who believes that his application was not interpreted in conformity with the land law or other laws, may request review by the Provincial/Municipal Land Use and Allocation Committee or National Social Land Concession Committee by filing a written letter of request within twenty (20) days after the decisions to approve or disapprove applications are posted as provided in article 13 of this sub decree. The Provincial/Municipal Land Use and Allocation Committee or National Social Land Concession Committee shall investigate and take appropriate action on the request within thirty (30) days after the Provincial/Municipal Land Use and Allocation Committee or National Social Land Concession Committee approves the relevant social land concession plan.

Each Provincial/Municipal Land Use and Allocation Committee and the National Social Land Concession Committee shall maintain a list of social land concession applicants who have filed applications. The list shall be open to the public during office hours. The Ministry of Land Management, Urban Planning and

Construction shall issue instructions [s'kdei nairnoam] on the guidelines for establishing and maintaining the list of persons who apply for land. The Khmer version is the official version of this document.

Chapter 5. Types of Social Concession Land and Occupancy Conditions

Article 15.

Social concession land may be granted for residential purposes or for family farming purposes, or for both.

Article 16.

The maximum size of social concession land granted for residential purposes is one thousand two hundred (1200) square meters, except in rural areas where land is available, the size of social concession may be increased up to three thousand six hundred (3600) square meters. In appropriate cases, particularly in urban areas, social land concessions for residential purposes may be granted in the form of co-ownership.

Article 17.

The maximum size of social concession land granted for family farming purposes is two (2) hectares, but for some areas the size of social concession land may be increased up to five (5) hectares based on the characteristics and potentiality of the land or the type of crop, and labor.

Article 18.

Each target land recipient shall make a written agreement with the competent granting authority that specifies the rights and responsibilities of the target land recipient in accordance with the social land concession program, and exceptions, such as force majeure or grave illness, which prevent the fulfillment of the obligations. The form and formality for the agreement shall be determined by prakas of the Minister of the Ministry of Land Management Urban Planning and Construction. Unless an approved social land concession plan specifically provides otherwise, the occupancy and use rules in this article shall apply to all social land concessions. If there is no residential structure on social concession residential land, the target land recipient shall build at least any part of a permanent shelter within three (3) months after receiving the land and a family member shall actually and permanently reside on the land at least six (6) months in each year. The target land recipient of a social land concession for family farming shall actually cultivate that land within twelve (12) months after receiving the land and shall continue to utilize the land in accordance with the conditions of the concession program. After

correctly complying with the criteria of the social land concession program for five (5) years the target land recipient has the right to ownership of the land and may request ownership title according to procedures determined in the instruction of the Minister of MLMUPC. If a target land recipient dies during the implementation of the social land concession program, the successors in the target land recipient's family may continue to implement the social land concession program to complete five (5) years and shall have the right to ownership of that land. The target land recipient may not sell, rent or donate social concession land during the first five (5) years of the implementation of the social land concession program. If a target land recipient fails to meet the occupancy and use conditions, the land shall revert to the state for reallocation. The Khmer version is the official version of this document.

Procedures for the reversion of the social concession land shall be determined by prakas of the MLMUPC that specifies:

- appropriate advance notice to the target land recipient who fails to meet the occupancy and use conditions of a social concession land,
- an opportunity for the target land recipient to respond,
- a written decision by the commune council, and
- guidelines for the removal and determination of appropriate compensation for losses by the target land recipient.

Chapter 6. Administration and Implementation

Article 19.

The social land concession mechanism has the duties to initiate and establish social land concession programs, make decisions on social land concession plans, and implement the social land concession programs aiming to allocate land to citizens with transparency and effectiveness. The social land concession mechanism shall have the following structure:

1. The National Social Land Concessions Committee (NSCC) is located in the MLMUPC and uses the seal of the MLMUPC.
2. Provincial/Municipal Land Use and Allocation Committee (PLUAC) located in the provincial/municipal hall and use provincial/municipal hall's seal.
3. District Working Group (DWG) located in district/ Khan hall and use district/khan hall's seal.
4. Commune Council.

Article 20.

The National Social Land Concession Committee is the institution to make national social land concession policy and shall be subject to the supervision of the Council for Land Policy. The National Social Land Concession Committee shall have the following duties and tasks:

- Monitor the granting of social land concessions and adjust policies and other provisions if necessary.
- Adjust or cancel decisions on land use and allocation plans in provinces and municipalities in situations where the process:
 - is not in conformity with national land use priorities.
 - is technically flawed, or violates the provisions of this sub-decree or other laws
 - the approved plan is not in conformity with the requirements of national social land concession program.
- Provide technical support to implement social land concession programs.
- Rationalize the amount of available land with the need for social concession land.
- Facilitate the development of land development that lacks access to services and is unusable.
- Link the social land concession to the establishment, operation and reduction of economic land concession.
- Initiate its own national social land concession program
- Monitor the progress in the implementation of the use of social concession land.
- Facilitate all means and budget for the operation of all levels of social land concession mechanisms. The Khmer version is the official version of this document.

Article 21.

The members of the National Social Land Concession Committee include:

Minister Land Management, Urban Planning and Construction Chairman

Secretary of State, Ministry of Interior Member

Secretary of State, Ministry National Defence Member

Secretary of State, Ministry of Economy and Finance Member

Secretary of State, Ministry of Rural Development Member

Secretary of State, Ministry of Agriculture, Forestry, and Fisheries Member

Secretary of State, Ministry of Planning Member

Secretary of State, Ministry of Women and Veterans Affairs Member

Secretary of State, Ministry of Environment Member

Secretary of State, Ministry of Water and Hydrology Member

Secretary of State, Ministry of Social Affairs, Labor, Vocational

Training and Youth Rehabilitation

Member

Director General of the Department General of Land Management and

Urban Planning

Secretary

General

The Chairman of the National Social Land Concession Committee may invite the representatives of the concerned ministries or institutions to participate as members based on the need of each case. The National Social Land Concession Committee shall have a Secretariat General as its center of operations. The Chairman and members of the National Social Land Concession Committee shall be appointed by a decision [s'keydey samrach] of the Royal Government.

Article 22.

This Secretariat General of National Social Land Concession Committee shall be headed by the Secretary General of National Social Land Concession Committee.

The Secretariat General shall have the following duties and tasks:

- x Develop principles to monitor grants of social land concessions and to adjust policies and other provisions submitted to the National Social Land Concession Committee for review and approval.
- x Develop principles to cancel decisions or adjust land use and allocation plans at the provincial and municipality level submitted to the National Social Land Concession Committee for review and approval.
- x Provide technical support for identifying social concession land, rationalizing the available land with the need for land concessions.
- x Develop the national social land concession program and submit to the National Social Land Concession Committee for review and approval.
- x Develop activity plan of the National Social Land Concession Committee
- x Implement the decisions of National Social Land Concession Committee.

- x Stimulate the monitoring and evaluate the implementation of national social land concession programs and prepare regular reports on the outcome and submit to the National Social Land Concession Committee.
- x Prepare and facilitate the meetings of the National Social Land Concession Committee.
- x Fulfill other duties as assigned by the National Social Land Concession Committee. The Khmer version is the official version of this document.

The staff of the Secretariat General shall be appointed by a prakas of the Minister of LMUPC upon the request of the Secretary General of Secretariat General of the National Social Land Concession Committee.

Article 23.

The Provincial/Municipal Land Use and Allocation Committee is the Provincial/Municipal social land concession policy making body. The Provincial/Municipal/Municipal Land Use and Allocation Committee shall have the following duties and tasks:

- x Assure the standards for land classification and land use planning.
- x Identify the state public land and state private land.
- x Review and rationalize the amount of available land to the needs of the target land recipient in every district/khan of each province.
- x Review and assess land use plans and social land concession plans proposed by the commune councils.
- x Approve land classification, land use plans, and decisions about state land allocation at the provincial/municipal level.
- x Assist the commune council to develop land use plans and land classifications.
- x Approve, refuse or modify social land concession plans proposed by the commune councils. .
- x Submit social land concession plans and approvals of social land concession plans for review of the National Social Land Concession Committee.
- x Coordinate with various ministries on general land use planning for development.
- x Cooperate with the de-mining authority for the areas with landmines.

Article 24. Members of Provincial/Municipal Land Use and Allocation Committee The composition of

the Provincial/Municipal Land Use and Allocation Committee includes: Provincial/Municipal Governor or Deputy Governor Chairman Chief, Provincial/Municipal Sub-Commissioner of the Army Member Director, Provincial/Municipal Department of Land Management, Urban Planning and Construction Member Director, Provincial/Municipal Department of Economy and Finance Member Director, Provincial/Municipal Department of Rural Development Member Director, Provincial/Municipal Department of Agriculture, Forestry and Fisheries Member Director, Provincial/Municipal Department of Planning Member Director, Provincial/Municipal Department of Women and Veterans Affairs Member Director, Provincial/Municipal Department of Environment Member Director, Provincial/Municipal Department of Water and Meteorology Member Director, Provincial/Municipal of Social Affairs, Labor, Vocational Training and Youth Rehabilitation. Member The chairman of the Provincial/Municipal Land Use and Allocation Committee may invite

representatives of other concerned departments to participate as members based on the needs of each case. The chairman and members of the Provincial/Municipal Land Use and Allocation Committee shall be appointed by the chairman of National Social Land Concession Committee. The Khmer version is the official version of this document. The chairman of the Provincial/Municipal Land Use and Allocation Committee shall appoint, with the approval of the Provincial/Municipal Land Use and Allocation Committee, one or more staff members to provide administrative support to the Provincial/Municipal Land Use and Allocation Committee. The Provincial/Municipal Land Use and Allocation Committee shall establish 3 technical support units.

Article 25.

The technical support units of the Provincial/Municipal Land Use and Allocation Committee include:

1. The Land Technical Support Unit is headed by the Provincial/Municipal Department of Land Management, Urban Planning, Construction and Cadastre and has the following duties:

- x Identify land that may be appropriate for social land concessions
- x Ensure the selection of social concession land is fair and transparent.

2. The Target Land Recipients Selection Technical Support Unit is headed by the Provincial/Municipal authority and has the following duties:

- x Ensure the selection of target land recipients is suitable based on selection

criteria.

x Monitor the social land concession project and target land recipients.

3. The Development Technical Support Unit is headed by the Provincial/Municipal Department of Rural Development department and has the following duties:

x Oversee general development issues and rationalize the amount of land with the number of applicants in the province as a whole.

x Ensure infrastructures and facilities are included in the social land concession plan and will be in place in a timely manner. The composition of the technical support units shall be selected from among the staff from the Provincial/Municipal governor's office and other departments in the province which are the members of Provincial/Municipal Land Use and Allocation Committee. The chairman and staffs of technical support units shall be appointed by the Provincial/Municipal governor. If there are existing structures that meets the requirements of this section, the Provincial/Municipal Land Use and Allocation Committee may use those existing structures.

Article 26.

The District Working Group shall have the following functions and duties:

1. Carry out all the work of Provincial/Municipal Land Use and Allocation Committee at the district level.
2. Provide technical assistance to the commune councils to identify and classify land, to develop land use plans, to select target land recipients and to implement social land concession programs.
3. Ensure that the allocation of social concession land at the local level is efficient and transparent. The Khmer version is the official version of this document.

Article 27.

The composition of the District/Khan Working Group includes:

Governor or deputy governor of District/ Khan Chairman Chiefs of district/khan offices representing the ministries and institutions that are the members of Provincial/Municipal Land Use and Allocation Committee as provided in article 21 of this sub decree Member Representatives of local authority Member The chairman and staff of District/Khan Working Group shall be appointed by the Provincial/Municipal governor.

Article 28.

The commune council shall have the following duties and tasks:

- x Initiate and consider the social land concession plan in accordance with the procedures for commune/ sangkat development.
- x Implement the local social land concession program with technical support provided by District Working Group.
- x Be responsible for selection of target land recipients from among applicants.
- x Be responsible for fair and efficient allocation of land.

Chapter 7. Resources

Article 29.

The budget for the operation of the social land concession mechanism shall be in the budget package of the Ministry of LMUPC.

Article 30.

According to the unified budget system, the resource and budget of social land concession mechanism shall be generated from:

- x the national budget.
- x financing from local and overseas sources or international donor organizations.

Chapter 8. Final Provisions

Article 31.

Guidelines to implement this sub-decree shall be determined by Prakas of the Minister of the Ministry of Land Management, Urban Planning and construction.

Article 32.

Any provisions contrary to this sub-decree shall be considered null and void.

Article 33.

The Minister in charge of the office of the Council of Ministers, Minister of the Ministry of Land Management, Urban Planning and Construction; the Council for Land Policy, Ministers; Secretaries of States and all concerned Provincial/Municipal governors shall be responsible to implement this sub-decree from the date of its signature.