



KINGDOM OF CAMBODIA
Nation Religion King

The Constitutional Council

CASE N° 199/003/2013

Of May 21, 2013

Decision N° 127/002/2013 CC.D

Of June 05, 2013

The Constitutional Council

- Seen the Constitution of the Kingdom of Cambodia;
- ...
- Seen the letter N° 279 N.A of May 21, 2013 of Samdech Akka Moha Ponhea Chakrei **HENG SAMRIN**, President of the National Assembly, requesting the Constitutional Council to examine the constitutionality of the Law on the Amendment of Article 28 of the Law on the Organization and the Functioning of the Council of Ministers, adopted by the National Assembly on May 07, 2013 in the 9th plenary session of its 4th legislature and reviewed and entirely approved by the Senate on the legal form and substance in the extraordinary session of its 3rd legislature on May 17, 2013, letter received by the Secretariat General of the Constitutional Council on May 21, 2013 at 16:30.

Having heard the rapporteur,

Having deliberated in compliance with the law,

- Whereas the National Assembly and the Senate have duly implemented the procedure stipulated in Article 113 (New) of the Constitution in reviewing and adopting the Law on the Amendment of Article 28 of the Law on the Organization and the Functioning of the Council of Ministers;
- Whereas the request of Samdech Akka Moha Ponhea Chakrei **HENG SAMRIN**, President of the National Assembly, made in accordance with Article 140 (New) of the Constitution and Article 16 (New) of the Law on the Amendment of the Law on the Organization and the Functioning of the Constitutional Council, is therefore admissible;

- Whereas the form in drafting and adopting the Law on the Amendment of Article 28 of the Law on the Organization and the Functioning of the Council of Ministers has nothing contrary to the Constitution;
- Whereas the Law on the Amendment of Article 28 of the Law on the Organization and the Functioning of the Council of Ministers, consisting of two Articles, and having the essences as follows:

Article one._

Article 28 of the Law on the Organization and the Functioning of the Council of Ministers, promulgated by Preah Reach Kram N° 02/NS/94 of July 20, 1994 was amended as follows:

Article 28._ (New)

Head of Governmental Body shall have the rights to raise, in accordance with the procedure in force, proposals for the appointment, transfer, and dismissal of officials ranking from Chief of Department, Colonel, or equivalent Level and up in their respective ministries. Head of Governmental Body shall have the rights, in accordance with the procedure in force, to appoint, transfer, and dismiss officials ranking from below Chief of Department, and equivalent Level by Prakas.

The Royal Government shall issue Anukret on the delegation of power to Sub-national Administration in managing, organizing, performing, appointing, transferring, and dismissing civil servants of ministries, institutions within its jurisdiction.

Article two._

This law shall be declared as urgent.

This Article 28._ (New) consisting of two paragraphs—the first is the original one without modification and the second is the new one—has nothing contrary to the Constitution;

- Whereas the Law on the Amendment of Article 28 of the Law on the Organization and the Functioning of the Council of Ministers is made in accordance with the Law on Administrative Management of the Capital, Provinces, Municipalities, Districts and Khans and in accordance with Article 146._(New-One) of the Constitution;
- Whereas Article 1 and Article 2 of the Law on the Amendment of Article 28 of the Law on the Organization and the Functioning of the Council of Ministers have nothing contrary to the Constitution;
- Whereas the entire essence of the Law on the Amendment of Article 28 of the Law on the Organization and the Functioning of the Council of Ministers has nothing contrary to the Constitution.

Decides:

Article 1: The Law on the Amendment of Article 28 of the Law on the Organization and the Functioning of the Council of Ministers, adopted by the National Assembly on May 07, 2013 in the 9th plenary session of its 4th legislature and reviewed and entirely approved by the Senate on

the legal form and substance in the extraordinary session of its 3rd legislature on May 17, 2013, is declared in conformity with the Constitution.

Article 2: This decision made in the Plenary Session of the Constitutional Council in Phnom Penh on June 05, 2013, shall be final, without recourse, shall have authority over all the instituted powers as stipulated in the Constitution, and shall be published in the Royal Gazette.

Phnom Penh, June 05, 2013

**On behalf of the Constitutional Council
The President,**

Signed and Sealed: EK SAM OL

Glossary

CC.D	Decision of the Constitutional Council
N.A	The National Assembly
Preah Reach Kram	Royal Kram (legal Act signed by His Majesty the King for promulgating the Constitution or Law)
NS	Norodom Sihanouk
Prakas	The ministerial decision
Anukret	Sub-Decree (legal Act signed by the Prime Minister)