

KINGDOM OF CAMBODIA
Nation Religion King



The Constitutional Council

CASE

N° 181/004/2011

Of June 02, 2011

Decision

N° 116/004/2011 CC.D

Of June 10, 2011

The Constitutional Council

- Seen the Constitution of the Kingdom of Cambodia;
- ...
- Seen Preah Reach Kram N° NS/RKM/0107/006 of January 31, 2007 promulgating the law on the Amendment of the Law on the Elections of the Members of the National Assembly;
- Seen the letter N° 434 NA of June 02, 2011 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 the Law on the Elections of the Members of the National Assembly, adopted by the National Assembly on May 11, 2011 in the 6th plenary session of its 4th legislature, and reviewed and entirely approved by the Senate on the legal form and substance in the 9th plenary session of its 2nd legislature on May 31, 2011, letter received by the Secretariat General of the Constitutional Council on June 02, 2011 at 17:05.

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 for reviewing and adopting the Law on the Amendment of the Law on the Elections of the Members of the National Assembly;
- 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 Organization and the Functioning of the Constitutional Council, promulgated by

Preah Reach Kram N° NS/RKM/0107/005 of January 31, 2007, is therefore admissible;

- Whereas the form in drafting and adopting the Law on the Amendment of the Law on the Elections of the Members of the National Assembly has nothing contrary to the Constitution;
- Whereas the Law on the Amendment of the Law on the Elections of the Members of the National Assembly, consisting of **two Articles**, and having essences as follows:

Article one.- Shall be amended Article 109, Article 131 and Article 133 of the Law on the Elections of the Members of the National Assembly, promulgated by Preah Reach Kram N° NS/RKM/1297/06 of December 26, 1997, Article 32 (New), Article 54 (New), Article 56 (New), Article 59 (New), Article 61 (New), Article 62 (New), Article 64 (New), Article 65 (New), Article 66 (New) of the Law on the Amendment of the Law on the Elections of the Members of the National Assembly, promulgated by Preah Reach Kram N° NS/RKM /0902 /017 of September 17, 2002, and Article 49 (New-two) of the Law on the Amendment of the Law on the Elections of the Members of the National Assembly, promulgated by Preah Reach Kram N° NS/RKM/0107/006 of January 31, 2007.

Article two.- This Law shall be declared as urgent.

- Whereas the aforementioned Article one of the Law on the Amendment of the Law on the Elections of the Members of the National Assembly was made to amend 13 Articles as follows ÷

1- Article 32 (New) was amended to **Article 32 (New-two)**

- In Paragraph 2 “The Provincial/Municipal Commissions” was amended to **“The Capital/Provincial Commissions”**.

- In Paragraph 4 “Article 13 (New)” was amended to **“Article 13 (New-two)”**.

Other provisions shall retain their original essences.

This Article 32 (New-two) has nothing contrary to the Constitution;

2- Article 49 (New-two) was amended to **Article 49 (New-three)**

In Paragraph 2 “fifteen (15) days” was amended to **“thirty (30) days”** and was added one more paragraph as paragraph 4th stipulates **“ The verification of voter list, voter registration, and validity of voter list in new Khum/Sangkat where the boundary is modified in accordance with the conditions provided by the Law on Administrative Management of Khum/Sangkat, shall be implemented in conformity with the provisions and conditions stipulated in this law and with regulation and the procedures determined by National Election Committee”**.

Other provisions shall retain their original essences.

This Article 49 (New-three) has nothing contrary to the Constitution;

3-Article 54 (New) was amended to Article **54 (New-two)**

- In Point **A** “Article 49 (New-two)” was amended to **“Article 49 (New-three)”**.

- In Points **D, E** and **F** “Article 54 (New)” was amended to **“Article 54 (New- two)”**.

Other provisions shall retain their original essences.

This Article 54 (New-two) has nothing contrary to the Constitution;

4-Article 56 (New) was amended to Article **56 (New-two)**

- In paragraph 1 “Article 54 (New)” was amended to “**Article 54 (New-two)**”.
- In paragraph 2 “The Provincial/Municipal Commissions” was amended to “***The Capital/ Provincial Commissions***”.

Other provisions shall retain their original essences.

This Article 56 (New-two) has nothing contrary to the Constitution;

5-Article 59 (New) was amended to Article **59 (New-two)**

- In Paragraph 1 “Article 54 (New)” was amended to “**Article 54 (New-two)**”.
- In Paragraph 2 “The Provincial/Municipal Commissions” was amended to “***The Capital/ Provincial Commissions***”.

Other provisions shall retain their original essences.

This Article 59 (New-two) has nothing contrary to the Constitution;

6-Article 61 (New) was amended to Article **61 (New-two)**

- In paragraph 2 “Article 54 (New)” was amended to “**Article 54 (New-two)**”.
- In paragraph 3 “Article 62 (New)” was amended to “**Article 62 (New-two)**”.

Other provisions shall retain their original essences.

This Article 61 (New-two) has nothing contrary to the Constitution;

7-Article 62 (New) was amended to Article **62 (New-two)**

In paragraph 4 “Article 54 (new)” was amended to “**Article 54 (New-two)**”.

Other provisions shall retain their original essences.

This Article 62 (New-two) has nothing contrary to the Constitution;

8-Article 64 (New) was amended to Article **64 (New-two)**

“Article 54 (New)” was amended to “**Article 54 (New-two)**” and was added one more paragraph as paragraph 4th stipulates “***In the year of Universal Elections, a petition as stipulated in Paragraph 1 of this Article shall be made within ten (10) days at the latest after posting the preliminary list of voters.***”

Other provisions shall retain their original essences.

This Article 64 (New-two) has nothing contrary to the Constitution;

9-Article 65 (New) was amended to Article **65 (New-two)**

In paragraph 5 “Article 54 (New)” was amended to “**Article 54 (New-two)**”.

Other provisions shall retain their original essences.

This Article 65 (New-two) has nothing contrary to the Constitution;

10-Article 66 (New) was amended to Article **66 (New-two)**

In paragraph 3 “Article 54 (New)” amended to “**Article 54 (New-two)**”.

Other provisions shall retain their original essences.

This Article 66 (New-two) has nothing contrary to the Constitution;

11-Article 109 was amended to Article **109 (New)**

“Khum/Sangkat Electoral Commission shall collect all minutes and other documents from the polling station commissions ***and prepare consolidated***

minutes of polling results in Khum/Sangkat concerned. The consolidated minutes shall be made in four (4) copies: one copy shall be sent to the National Election Committee, one copy shall be sent to the Capital/Provincial Commissions, another one copy shall be posted at the office of Khum/Sangkat Electoral Commission, and the last one shall be retained for its files.”

Shall be added Paragraph 2 and 3 as follows: *“If there is a complaint contesting the result of the election or a serious irregularity, the Khum/Sangkat Electoral Commissions shall immediately hold a public hearing to decide on that complaint.”*

“In case any complainant does not agree with the decision of the Khum/Sangkat Electoral Commission, he/she or representative has rights to filing a complaint immediately to the Capital/Provincial Commission.”

This Article 109 (New) has nothing contrary to the Constitution;

12-Article 131 was amended to Article **131 (New)**

*“Any person or political party who violates **Article 73 (New)** or 76 of this law, regardless of any possible criminal penalty, shall be fined from five million (5,000,000) riels to ten million (10,000,000) riels and/or **his/her name shall be deleted from the voter lists for a period of five (5) years.**”*

This Article 131 (New) has nothing contrary to the Constitution;

13-Article 133 was amended to Article 133 (New)

*“A warning shall be made to any person who violates Article 72 of this Law. In case of failure to comply with the warning, **the name of this person shall be deleted from the voter lists** for the period of five (5) years, his/her candidacy or candidacy of the political party shall be deleted, and/or shall be fined from five million (5,000,000) riels to ten million (10,000,000) riels”.*

This Article 133 (New) has nothing contrary to the Constitution;

- Whereas Article 1 of the Law on the Amendment of the Law on the Elections of the Members of the National Assembly has nothing contrary to the Constitution;
- Whereas Article 2 states that this Law shall be declared as urgent has nothing contrary to the Constitution;
- Whereas all provisions of the Law on the Amendment of the Law on the Elections of the Members of the National Assembly have nothing contrary to the Constitution.

Decides:

Article 1: The Law on the Amendment of the Law on the Elections of the Members of the National Assembly, adopted by the National Assembly on May 11, 2011 in the 6th plenary session of its 4th legislature, and reviewed and entirely approved by the Senate on the legal form and substance in the 9th plenary session of its 2nd legislature on May 31, 2011 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 10, 2011 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 10, 2011

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

Signed and Sealed: EK SAM OL

Glossary

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| CC.D | Decision of the Constitutional Council |
| Preah Reach Kram | Royal Kram (the legal act signed by His Majesty the King for promulgating the Constitution or Law) |
| NS | Norodom Sihamoni (His Majesty the King of the Kingdom of Cambodia) |
| RKM | Royal Kram |
| Khum | Commune |
| Sangkat | Quarter |