

Law on the Management of Quality and Safety of Products and Services

CHAPTER 6

INSPECTION PROCEDURES FOR

QUALITY AND SAFETY OF PRODUCTS, GOODS AND SERVICES

Article 25: Acts in violations of this law shall be thoroughly investigated and observed in accordance with the provisions stipulated under Articles 28 through 51 of this law. However, these provisions shall not prejudice other evidence obtained through other available means.

All safety measures shall be in compliance with, and implemented according to, the provisions stipulated under Articles 52 through 58 of this law.

Article 26: The Ministry of Commerce and relevant ministries shall be responsible for the repression of commercial fraud in accordance with this law. These ministries shall establish a specialized institution to be in charge of fraud repression and inspections of exported and imported goods.

Article 27: The inspection agents of the Ministry of Commerce shall be authorized to carry out inspection, investigation, and offenses recording activities, or to take other measures in cooperation with other relevant ministries.

Article 28: Inspection agents specified under Article 27 of this law are authorized to conduct inspections, prepare official records, and audit relevant issues. Their official records shall remain valid until proven otherwise.

Individuals subject to inspections shall be required to cooperate with inspection agents so that they may carry out their tasks.

Inspection agents can request additional forces for protection and intervention.

Article 29: Inspection agents specified under Article 27 are authorized to enter into and inspect the premises where the manufacturing, processing, commercialization, and services provisions take place, as well as inspect means of transportations, goods, warehouses, offices, and other related premises.

If these premises are used as residences, inspection agents can only enter during working hours. Outside working hours, permission from a prosecutor and the presence of local authority shall be required.

Article 30: Inspection agents specified under Article 27 of this law can investigate, make a duplicate, or confiscate documents essential for their investigations.

In the event of confiscation, an official minutes shall be made immediately on the spot.

All confiscated documents shall be sealed and stamped by the inspection agents. A receipt acknowledging the confiscation and a full list of inventory shall be provided by the inspection agents to the individuals whose goods are subject to the confiscation.

Official minutes which are made not in compliance with the above provisions shall be considered invalid.

All confiscated documents shall be joined with the legal procedures as stipulated under Article 51 of this law or returned to the individuals if no charge is made against them. Official minutes for the surrender of these documents shall adhere to the same process as for confiscation.

When the confiscated documents are necessary for the functioning of the enterprise activities, the inspection agents can issue a duplicate upon request, the cost of which shall be borne by the requesting party.

Article 31: Inspection agents specified under Article 27 of this law are authorized to confiscate all evidentiary documents, or product samples as evidence in accordance with the legal procedures to be specified under a sub-decree.

Article 32: Inspection agents specified under Article 27 are authorized to collect testimony from individuals who can provide useful information for their investigation.

Records of these testimonies shall contain the following:

- sequential number provided by the recording agent;
- date, time, and place where testimony took place;
- identity, position, and address of the testimony provider;
- identity, position, and address of the recording agent;
- useful comments of the recording agent to ensure honest reporting of information given by the testimony provider; and
- signatures of the testimony provider and the recording agent.

If the testimony provider refuses or does not know how to sign or is illiterate, mention of the said fact shall be made in the records. Official (records) minutes which are made not in compliance with the above provisions shall be considered invalid.

Article 33: Inspection agents specified under Article 27 of this law can conduct inspection of the products, goods, and services either by visual means, ordinary measurement instruments, or by documents verification aimed at determining the identities of the products, goods, and services, and detect their compliance with respect to their declaration, or to investigate whether or not the conditions for the manufacturing, processing, commercialization, and service provisions have been respected.

The agent shall record their inspection in their official (records) which shall comprise the following:

- sequential number provided by the recording agent;
- date, time, and place where the inspection was made;
- identity, profession, and address of the individual subject to the inspection;
- all elements which can provide details on the value of the findings;
- registration number with the institution of the recording agent; and
- signature of the recording agent.

Official (records) minutes of the inspection which are made not in compliance with the above provisions shall be considered as invalid.

Photos of observed irregularities can be attached by the inspecting agent for further consideration.

Article 34: Except for the case specified under Article 40 of this law, the taking of goods samples shall be made in at least three units.

The first sample shall be for laboratory testing, the other two samples shall be kept for use in eventual counter-tests as specified under Articles 47 through 50 of this law.

Article 35: Owner of products which have been removed for samples by the agent shall sign the minutes. He can mention in the minutes any remarks that he deems useful about the sources or characteristics of the products. If the individuals do not want to sign or do not know how to sign, or are illiterate, records of the situation must be written in the minutes.

Pursuant to the requests of the product owners, the agent who removes the samples shall issue a receipt which identifies the type, quantity, and value of the product samples in the eventuality that there is a refund in the future.

Article 36: The modalities for the removal of product samples shall be the responsibility of the competent agent that requires that all three removed samples are similar and representative of the batch of the products to be inspected.

Article 37: Each product sample shall be kept under seal. The seal shall be attached with a label which includes the following:

- designation of the goods which are kept for sale, place for sale, or sold;
- date, time, and place where the samples were removed;
- identity and address of the individual at whose location the samples were removed;
- sequential number for the procedure provided by the sample remover;
- registration number of the samples provided by the public institutions whose agents have performed the samples removal, and accurate identification of that institution;
- useful remarks which enable the laboratories to know the purpose of the test to be made along with relevant documents attached to the label; and
- signatures of the sample removers and the owners of the sampled products.

Article 38: One sample out of the three shall be kept by the holder or the owner of the products. The inspection agent shall provide guidance on the proper manner in which the sample shall be preserved in good condition to ensure that future testing is legitimate.

If the holder or the owner of the products refuses to do so, mention shall be made in the minutes and the inspection agent shall store the sample with the other two samples.

Article 39: The other two samples shall be forwarded with the attached minutes to the public competent institutions whose agents performed the sample removal.

These public institutions shall keep the samples, register them, and provide entry numbers on the label and the minutes. One sample shall be sent to the competent laboratory and the other preserved in proper condition.

If special storage conditions of the samples are required, then the two samples or all three samples as may be the case specified in the second paragraph of Article 38 of this law can be sent to the laboratory for taking the necessary measures.

Article 40: When a product whose conditions or value do not allow the removal of three samples, only one sample shall be removed from the whole product or a portion of it.

The implementation of the above paragraph 1 shall be done for products or goods which for technical and scientific reasons the testing can be done only within a limited time frame failure of which future testing results can be invalid.

A minutes of the taking of the sample shall be made and the product shall be sealed and attached with the label in the same conditions as specified under Articles 35 and 37 of this law. Samples shall be registered and forwarded or submitted to the laboratory according to the procedures stipulated under Article 39 of this law.

Article 41: Samples identified for investigation can also be tested in laboratory, or for preliminary findings of the product characteristics by the inspection institutions within the scope of their competence. The removal of the sample shall be made in only one unit.

The results of the investigative sample can be used only for information purposes, and cannot be used as evidence, or for judicial proceedings as stipulated under Article 51 of this law, or for safety measures stipulated under Articles 52 through 58 of this law, except for temporary consignment as stipulated under Article 53 of this law.

Article 42: Government laboratories shall test product samples. Other public or private laboratories recognized by the competent ministries can also conduct product samples testing. The recognition process of these public or private laboratories shall be done by *Prakas* of competent ministries. The *Prakas* shall clearly define the scope of competence of these laboratories.

Article 43: To conduct product samples testing, laboratories shall use testing methods as prescribed by *Prakas* of competent ministries.

In the event there are no above-prescribed testing methods, laboratories shall use internationally recognized testing methods. The testing methods shall be published in a testing bulletin.

Article 44: Upon completing their work, laboratories shall prepare a testing bulletin that records the testing results. If the testing results can provide clarifications to the inspection institutions, the laboratories can issue their findings on the product non-compliance against this law or other specific regulations.

Article 45: If the laboratories' testing bulletins indicate that the product samples meet the requirements as prescribed by law, and provided that the institutions which made the samples removal have no other indications of fraud, that institution shall notify the product owners about the compliance of their products.

Article 46: If the results of the laboratory testing indicate that the product samples do not meet the requirements as prescribed by law, procedures stipulated under Articles 47 through 50 of this law shall be applied.

Article 47: If the results of the laboratory testing indicate that the product samples do not meet the requirements as prescribed by law, or pursuant to further necessary investigations, the inspecting institutions shall inform the offenders of the legal court proceedings against them by providing the justifications for such actions.

The offenders shall have 15 working days to conduct a counter-test and select their own experts.

If the offenders do not exercise their rights as defined above, the testing results stipulated under the above mentioned paragraph 1, shall be uncontested, except for reason of force majeure.

Article 48: The cost for hiring the expert shall be borne by the party requesting the counter-testing. The selection of the expert shall be drawn from a list of experts prepared by the municipal and provincial court.

In the event there are no experts qualified in the above-mentioned list or in the event an expert list is non-existent, the party can select another expert. This selection shall require the consent of the municipal and provincial court. Such consent shall be provided within seven working days.

Article 49: The product samples preserved by the registering institution shall be provided to the

expert as stipulated under Article 48 of this law. The expert shall have one month to give the inspecting institution his conclusions with regards to technical or scientific aspects only.

When his conclusion differs from the one of the first testing as stipulated under Article 47, the expert and the chief of the laboratory which conducted the first test shall meet to discuss the matter within a timeframe set by the inspecting institutions. When deemed necessary, the two parties can jointly conduct another test on the third sample. A joint report shall be prepared and sent to the institutions no later than one month from the meeting date.

The expert shall use one or more methods similarly employed by the laboratories and proceed as the first test.

Article 50: In the event the party requested a counter-testing for a product which has only one sample as stipulated under Article 40 of this law, the procedures stipulated under Articles 47 and 48 of this law shall be applied. This immediate counter-test shall be done based on documents from the first test.

The expert selected by the party and the chief of the laboratory which conducted the first test shall meet to discuss their conclusions within a timeframe set by the inspecting institutions. A joint report shall be prepared and sent to the institutions no later than two days from the meeting date.

Article 51: In the event of a court action, the inspecting agent shall prepare documents, reports of the testing, expert reports, and other evidence pursuant to the provisions of this law.

Article 52: Inspecting agents specified under Article 27 of this law can temporarily detain, take measures to ensure compliance, redirect, confiscate, and destroy products and goods as well as require compliance of services in accordance with the procedures of this law.

Measures to ensure compliance, redirection, confiscation, and destruction of products can be effectuated by the inspecting agents only after authorization from their head of institutions and consent from the provincial/municipal prosecutor. These provisions shall not be applicable if the measures fall under the scope of Articles 22 to 24 of this law.

Article 53: Temporary detentions are measures aimed at preventing on a temporary basis any distribution by the holders of the products and goods concerned of the following:

- a) suspected batches of products and goods.
- b) batches of products and goods which, based on actual inspection, do not possess the proper requisite characteristics as defined by law or batches products and goods whose ordinary use can harm the safety or health of consumers.
- c) instruments used for the commission of fraud as specified under Articles 19 and 20 of this law.

Suspected batches of products and goods as stipulated under the above mentioned paragraph a) are those which, after actual inspection and or after the samples testing as stipulated under Articles 34 to 41 of this law, are required to undergo further test to determine whether these products are in compliance or not in compliance with the characteristics as defined by law or whether their ordinary use can harm the safety or health of consumers.

Provided the results of the additional inspection, which shall be carried out within 15 working days, do not confirm the suspension as raised during the first inspection, the temporary detention shall be immediately withdrawn. When necessary, and pursuant to the request of the head of the inspecting institution, only the provincial/municipal prosecutor shall be authorized to extend the temporary detention period.

On the contrary, if the products do not meet the requisite characteristics as defined by law then one or more safety measures as stipulated under Articles 54 to 57 shall be applied.

In the cases a), b), and c) above, the temporary detention shall not exceed 15 days and shall be accompanied by one or more safety measures as stipulated under Articles 54 to 57 of this law.

When the temporary detention was initiated by the inspecting agents pursuant to paragraphs a), b), and c) above, product holders shall have three working days to appeal the measure to the chief of the inspecting agent. The chief shall have three working days to make his final decision. This appeal does not have the effect of lifting the temporary detention.

In all cases, products which are subject to temporary detention shall be placed under the custody of the product holders.

Article 54: Compliance measures are those measures which require the holders or owners of products, goods, and services to end the cause of no compliance.

Those measures include the modification of products, goods, and services, particularly product reclassification, if there is more than one classification, and the recategorization of these products into another category where the sale of these products are allowed by law.

Article 55: Redirection of products and goods shall mean:

- the delivery of temporarily detained or confiscated products pursuant to Articles 53 and 56 of this law to enterprises that can directly utilize these products or modify them to meet the legal requirements at the cost of the product owners.
- the cost of the product returns to the enterprises which are responsible for packaging, manufacturing, or exporting these products shall be borne by the product owners.

Article 56: Products and goods confiscation shall mean the complete removal of the ownership rights from the owners, and can be applied only in the following cases:

- for products and goods which are found to be in non-compliance with the laws and regulations after actual inspection and/or after the samples testing as stipulated under Articles 34 to 40 of this law.
- when the product managers or owners do not agree to modify or redirect or when these measures are not applicable.
- for instruments used for the commission of fraud as specified under Articles 19 and 20 of this law.
- for products and goods whose ordinary use can harm the safety or health of consumers.

Confiscated products are contained and sealed and kept under the custody of the holders, or in the event of refusal, the inspecting agents shall decide on the location of their storage.

Article 57: Inspecting agents can destroy, modify, or cause to be destroyed or modified confiscated products under their supervision when no legitimate and economically beneficial use for the products can be found.

Article 58: The measures as stipulated under Articles 53 to 57 of this law pertain only to products or goods that are unreasonably held at a place or places as specified under Article 29 of this law, or when these products are for sale, have been sold, or distributed gratis.

The inspecting agent shall make an official report on the spot. The report shall describe all the points mentioned in Article 33 of this law and an extract of the measures selected and their justifications. A copy of the report shall be provided to the product holders or owners.

Article 59: The modalities that pertain to the manufacturing, processing, commercialization, servicing, and inspection of products, goods, and services as below mentioned shall be defined in sub-decrees or other implementation regulations:

1. For products, goods, and services

- definition, name, composition, criteria, and types of quality or hygiene, and quantity of products and goods.
- labeling, presentation, form of products sale and packaging, and quality label as affixed onto the products.
- use of language and description of commercial advertisement in order to avoid confusion, and if necessary, comparative commercial advertisements of all products and services.
- presentation mode, contents of receipts and delivery bills, and technical, commercial, and other advertisement documents.
- conditions regulating products and services not complying with general safety requirements as specified under Article 3 of this law.
- modalities for the issuance of authorizations and the submission of declarations for pre-production and commercialization of products and services, and modalities for professional self-inspection.
- regulations concerning measurement instruments and their certification.
- precautionary measures, treatments, and inspections and the use of materials in products and services to ensure environmental protection.

2. For food products

- processing of food in conformity with the law, criteria of food purity, ingredients used in the food production, food casing and materials used to clean them.
- hygienic, sanitary, and nutritional characteristics, microbiological norms under which food is produced; hygienic requirement related to food products transport, production, processing, and commercialization facilities, and employees;
- health certificates, health labels or seals.

health status of individuals involved in the food preparation, if deemed necessary.

3. For inspection methods

- modalities for implementing the provisions stipulated under Articles 9 to 12 of this law and the procedures for sample removals and testing to identify the products' composition, and their hygienic, sanitary, and microbiological characteristics, products fraud, or to indicate the usage.
- When deemed necessary, the modalities for implementing the safety measures stipulated under Articles 52 to 58 of this law.
- books, registers, and documents of individuals involved in the manufacturing, processing, or commercialization of products and services which can be made mandatory.

Article 60: National and international principles governing the guidelines for manufacturing products and goods and providing service shall be set in sub-decrees and regulations of the Royal Government of Cambodia.

CHAPTER 7

OFFENCES

Article 61: Any manufacturer or service provider found in violation of the provisions of Article 14 of this law shall be fined by the inspecting agent an amount from R500,000 to R1,500,000.

Article 62: Any violator of the provisions of Articles 7, 8, 19, or 20 of this law shall be subject to imprisonment from 6 (six) days to one month and/or a fine from R1,000,000 to R5,000,000.

Article 63: Any violator of the provisions of Articles 16, 17, 18, or 21 of this law shall be subject to

imprisonment from 1 (one) month to 1 (one) year and/or a fine from R5,000,000 to R10,000,000.

In the event any manufacturer or service provider refuses to pay the fines, the inspecting agent shall bring a legal action in the provincial/municipal court.

Article 64: In the event of repeated offenses under Articles 16, 17, 18, 19, 20 and 21 of this law, the fines and criminal sanctions shall be doubled without prejudice to other serious crimes resulting from the loss of life, health, and safety of consumers.

Article 65: All products, goods, and equipment which are the subject of the offenses committed under Articles 16, 17, 18, 19, 20 or 21 of this law shall be confiscated as state assets. The act of confiscation shall be within the jurisdiction of the court.

All other losses resulting from the offenses committed under Articles 16, 17, 18, 19, 20 or 21 of this law shall result in civil liabilities for the offenders.

Article 66: The offenses stipulated under Article 63 shall be applied to those who have:

- a. regardless of any circumstances, obstructed inspecting agents, as mentioned under Article 27 of this law, from fulfilling their duties;
- b. refused to present, or concealed accounting, technical, or commercial documents in their possession as stipulated under Paragraph 1 of Article 30 of this law;
- c. refused to present advertised commercial texts or information justifying those advertisements;
- d. given, by any means, deliberately false, misleading or confusing written or verbal information in response to requests by inspecting agents as mentioned under Article 27 of this law;
- e. disposed without approval products which have been temporarily detained or confiscated by inspecting agents;
- f. refused to provide products which have been temporarily detained or confiscated by inspecting agents, to dispose the products and goods as instructed by the competent authorities, or to modify the products and goods to meet the compliance as required under Articles 53 to 56 of this law.

Article 67: Inspecting agents as stipulated under Article 27 of this law shall be administratively accountable. They shall be held liable for negligence which resulted in wrongdoings and other consequences in violations of the provisions of this law and other regulations under this law.

Article 68: Administrative sanctions under this law which shall be imposed on inspecting agents or competent officials shall include the following:

- a. administrative sanction of the first degree shall comprise of a warning and a reprimand from the head of the institution.
- b. administrative sanction of the second degree shall comprise of a suspension of salary and other benefits for 6 months or more.
- c. Administrative sanction of the highest degree shall comprise of the removal of duties or position or removal from the civil service.

The above enumerated administrative sanctions shall not exclude other criminal sanctions.

Article 68: Inspecting agents or competent officials who conspire with offenders or abuse their duties under Article 14 shall have administrative sanctions imposed upon them and shall be fined in accordance with the provisions stipulated under paragraph 2 of Article 61 of this law.

Inspecting agents or competent officials who conspire with offenders or abuse their position under Articles 7, 8, 19, or 20 shall have administrative sanctions of highest degree imposed upon them

and other sanctions shall be imposed under Article 62 without prejudice to other criminal sanctions.

Article 70: Inspecting agents or competent officials who conspire with offenders or abuse their duties under Articles 16, 17, 18, or 21 of this law shall have administrative sanctions of highest degree imposed upon them and other sanctions shall be imposed under Article 62 of this law.

Article 71: Manufacturing and commercialization facilities as specified in Article 6 which do not comply with the regulations shall have their license's withdrawn by the competent institutions.

Article 72: Experts working in laboratories and individuals performing sample products testing as defined under Article 42 to 50 of this law shall be held legally liable for their test bulletins.

Any expert who conspires with offenders or abuses his/her position shall have sanctions imposed in accordance with the provisions stipulated under paragraph 2 of Articles 61, 62, and 63 of this law.

CHAPTER 8

FINAL PROVISION

Article 72: This law shall be declared as urgent.

Phnom Penh, 21 June 2000

Royal Signature

Norodom Sihanouk

Has informed to
His Royal Highness for Signature

Prime Minister

Signature
Hun Sen

Has informed to the Prime Minister
Acting Minister of Commerce

Sok Siphana

No. 126 CL
for copy

Phnom Penh, 26 June 2000
Secretary General of the Royal Government

Nady Tan