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KINGDOM OF CAMBODIA

NATION RELIGION KING

LAW

ON

INTER-COUNTRY

ADOPTION

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ROYAL KRAM

NS/RKM/1209/024

We

Preah Karona Preah Bath Samdech Preah Boromneah Norodom Sihamoni

Saman Phoum Cheat Sasna Rokhathiya Khmerarothsas

Pouthitreathoramohakthat Khmereich Chorna

Samohorpheas Kampuch Ekreach Roth Boronaksanthi

Sophekolea Sereivibolea Khmerasreipireash

Preahchau Krong Kampuchea

- Having seen the Constitution of the Kingdom of Cambodia,
- Having seen Royal Decree No: NS/RKT/0908/1055 of 25 September 2008 on the Appointment of the Royal Government of the Kingdom of Cambodia,
- Having seen Royal Kram No: 02/NS/94 of 20 July 1994 promulgating the Law on the Organization and Functioning of the Council of Ministers,
- Having seen Royal Kram N0: NS/RKM/0105/001 of 17 January 2005 promulgating the Law on the Establishment of the Ministry of Social Affairs, Veteran's Affairs and Youth Rehabilitation,
- Having seen the request of Samdech Akka Moha Sena Padei Techo Hun Sen, Prime Minister of the Kingdom of Cambodia and that of the Minister of Social Affairs, Veteran's Affairs and Youth Rehabilitation,

HEREBY PROMULGATE:

The Law on Inter-country Adoption that was passed by the National Assembly on 23 October 2009 during its 3-rd session of the 4th legislature, and approved in its entirety by the Senate on 17 November 2009 without any change on the law's formality and legal concepts during its 6th plenary session of the 2nd legislature, which reads as follows:

CHAPTER 1

General Provisions

Article 1.

The objective of this law is to determine the principles, conditions, procedures, formalities and effects of inter-country adoption.

Article 2.

The purposes of this law are to guarantee the best interests of and to protect the basic rights of children who are subject of inter-country adoption.

Article 3.

This law governs (the scope) the adoption of a child of Cambodian nationality, having permanent residence in the Kingdom of Cambodia, by a married couple who permanently reside in another country, that involves a movement of the child to and recognized by the law of that other country.

Article 4.

The key terminologies used in this law shall have the following definition:

Alternative care refers to care provided for orphans and other vulnerable children who are not under the care of their biological parents.

A **child who needs special care** refers to a child who has a serious physical disability or mental disability, or who has a chronic illness.

An **abandoned child** refers to a child who has been found by the competent authorities or reported by the public to the competent authorities, and whose parent(s) or guardian for minor are unknown or have deserted the child, and cannot be found for at least five consecutive months.

A **person** refers to any person who has no lawful spouse.

Inter-country adoption agency refers to an agency which has been authorised by both the Ministry in charge of Social Affairs of the Kingdom of Cambodia and the competent institutions of the country receiving an adopted child (receiving country) to operate in any inter-country adoption procedure.

Filiation refers to the relationship between the parents and their offspring.

Country of permanent residence refers to the country in which a person resides with the intention to make such country his/her permanent residence, and of which that person is recognized by the country's law as having the right to permanently reside in such country.

Orphanage refers to a centre run by the State or by a non-governmental organization which is recognized by the Ministry in charge of Social Affairs, which provides care and all basic developmental needs of children who have lost one parent or both parents, who have been abandoned, or whose parents or guardians are incapable of providing adequate care for them.

Married couple or spouses refers to a man and a woman who have lawful marriage tie.

Relative adoption refers to adoption by an adopter of a child who is his/her/their grandchild, great-grandchild, niece or nephew; or who is the child, grandchild, great-grandchild, niece or nephew of his/her spouse.

Full adoption refers to an adoption that creates a permanent parent-child relationship between the adopted child and the adoptive parent(s) and terminates the respective rights and obligations between the child and his/her biological parents or guardian for minor.

Adopter(s) refers to a married couple who seeks to adopt a child.

Adoptive parents refers to a married couple who is formally entrusted by the competent court with the right to be the new parents of an adopted child in accordance with the provisions of this law.

CHAPTER 2

General Principles concerning Inter-country Adoption

Article 5.

Inter-country-adoption shall follow the following principles:

1. Every child, for the full and harmonious development of his or her personality, shall grow up in a family environment, in an atmosphere of happiness, love and understanding. Inter-country adoption may be allowed after all possibilities of adequate support for the child's remaining with his or her birth family and adoption in the Kingdom of Cambodia have been considered.
2. In inter-country adoption, only full adoption that aims at creating a permanent relationship between adopters and an adopted child, and at providing the child with the same status, rights and obligations as a biological child of the adoptive parents, shall be allowed.
3. Children who meet the conditions set forth in article 10, may be the subject of inter-country adoption, without discrimination, irrespective of the child's or his or her parent(s)'s or guardian for minor's race, colour, sex, language, religious belief, political tendency, birth origin, birth, social status, wealth, disability or other status.

4. In all decisions and actions concerning inter-country adoption process, the best interests of the child shall be the paramount consideration.

5. The court and other competent authorities involved in the inter-country adoption process shall ensure that during the adoption process the child who is capable of forming his or her own views (discerning) has been counseled and duly informed of the effects of the adoption taking into account the willingness of the child and give due weight to the child's views for the best interests of the child.

6. Engaging in a profit-making business or activity from an inter-country adoption shall be prohibited. A profit-making business or activity from an inter-country adoption includes:

- The direct act of provoking, for profit-making purpose, the parent(s) to abandon an already-born or a yet-to-be-born child in order to be offered for inter-country adoption;
- The act of serving one-self as an intermediary/middle person between a couple who desires to adopt a child through inter-country adoption and a parent who desires to abandon his/her already-born or a yet-to-be-born child, for /profit making purpose;
- The act of serving one-self as an intermediary/middle person between a couple who desires to adopt a child through inter-country adoption and a woman accepting to bear a pregnancy of the child and to deliver this child to the adopters afterward, for profit making purpose.

7. The competent authorities involved in inter-country adoption procedures shall ensure that the inter-country adoption process does not result in unlawful financial gain and that the abduction of, sale of and trafficking in children are prevented. Only expenses, fees and contributions prescribed by legal provisions in this law shall be paid.

CHAPTER III

Central Authority responsible for Inter-Country Adoption Affairs

Article 6.

The Ministry in charge of Social Affairs shall perform functions as the Central Authority for Inter-country Adoption.

Article 7.

The Central Authority for Inter-country Adoption shall have the following roles and duties:

1. develop and monitor the implementation of policies, laws, regulations and procedures concerning a decision on inter-country adoption;
2. co-operate and facilitate communication concerning inter-country adoption among other Ministries, institutions and agencies competent to deal with inter-country adoption in the Kingdom of Cambodia and with Central Authorities and competent authorities responsible for inter-country adoption of receiving countries;

3. take appropriate measures to prevent and stop improper financial or other gain in connection with an inter-country adoption;
4. organize the professional inter-country adoption training of relevant officials;
5. review the suggestions of the Inter-country Adoption Administration on individual inter-country adoption cases, as necessary;
6. do inspection concerning inter-country adoption. No one can prevent, deter or interfere with the inspection that is lawfully conducted; and
7. any other duties the Ministry in charge of Social Affairs considers necessary for the implementation of inter-country adoption in accordance with existing laws and regulations of the Kingdom of Cambodia.

Article 8.

The Central Authority for Inter-country Adoption shall have the Inter-country Adoption Administration (ICAA) as its assistant.

The composition of officers working in the ICAA includes social workers, psychologists and persons with legal expertise who received special training in adoption and child rights.

The organization and functioning of the Inter-country Adoption Administration shall be determined by a Prakas of the Minister in charge of Social Affairs.

Article 9.

The Inter-country Adoption Administration shall have the following roles and duties:

1. organize and maintain a confidential list and dossiers of children eligible for inter-country adoption;
2. assess all children on the confidential list to determine the best form of care suited for the child and ensure they are receiving the required care;
3. make every attempt (all efforts) to find a national solution through a permanent family-based care or permanent guardianship before proceeding with an inter-country adoption;
4. receive, examine and process applications for inter-country adoption and other relevant documents of the adopters;
5. match adopters with children eligible for inter-country adoption and provide opinions to the Minister in charge of Social Affairs on inter-country adoption cases;
6. inform the central authorities, competent authorities or inter-country adoption agencies accredited by the receiving countries of the adoption procedures and the progress of adoption cases;
7. facilitate the handing-over of the child to the adopters and the processing of travel documents of the child to the adopters' country;
8. provide or facilitate appropriate post-adoption services to the child, family of the adopters and biological family, as necessary;
9. provide opinions to the Central Authority responsible for inter-country adoption affairs on the authorisation of inter-country adoption agencies to operate in an inter-country adoption or the revocation of their authorisation;

10. fulfil other responsibilities concerning inter-country adoption as necessary in accordance with existing laws and regulations of the Kingdom of Cambodia and as may be delegated to it by the Central Authority.

CHAPTER IV Conditions for Adoption

SECTION 1 : Adopted Child

Article 10.

Children that may be subject of inter-country adoption shall meet all the conditions below:

1. The child is of Cambodian nationality who permanently resides in the Kingdom of Cambodia;
2. The child is below 8 (eight) years of age at the date of receipt of the application for adoption; except that in the case of children who need special care, adoption may be authorised at an age below 18 (eighteen) years old. In the case of children who are biological siblings and one sibling is under the age of 8 (eight) years, joint adoption may be authorised of that child together with his/her older biological siblings below 18 (eighteen) years old;
3. The child is residing in an orphanage or other appropriate placement that is supervised by the Ministry in charge of Social Affairs;
4. The child is under guardianship for minor or is under parental power holder(s) who is in extremely difficult circumstances; and
5. The child has been declared adoptable in accordance with Article 13 of this law.

In the case of a relative adoption, adoption may be authorized of a child of any age below 18 (eighteen) years old, who lives in or outside an orphanage.

Article 11.

When a child is found abandoned and sent to an orphanage, and his/her parent(s) or relatives or guardian for minor cannot be found, the director of the orphanage shall inform the capital/provincial Department in charge of Social Affairs, about the presence of the child in the orphanage not later 7 (seven) working days from the arrival of the child. The capital/provincial Department in charge of Social Affairs shall immediately inform the Ministry in charge of Social Affairs to place the child in its registry of children who have been reported abandoned.

The capital/provincial Department in charge of Social Affairs shall exert all possible efforts to search for the child's parent(s), relatives and guardian for minor throughout the Kingdom of Cambodia, using possible public media such as TV, radio, newspaper and picture poster of the child. Any person claiming that he/she is a parent(s), relative or guardian for minor of the child shall provide evidence of his/her relative or guardianship link with the child, in accordance with existing legal provisions.

If, after five months following such notification, the child's parent(s), relatives and guardian for minor still cannot be found, the capital/provincial Department in charge of Social Affairs shall make a report of their findings and send one copy to the Ministry in charge of Social Affairs to place the child in its registry of children who have been abandoned.

From the moment when a child is found until a guardian for minor is appointed by the court, the Director of the capital/provincial Department in charge of Social Affairs shall be a temporary guardian of the child. The provisions regarding guardian for minor as set out in the Civil Code shall also be applied to the temporary guardian for minor. The temporary guardian for minor shall have no right to consent to adoption.

The Ministry in charge of Social Affairs shall prepare and regularly update a registry of children who have been abandoned.

In case the parent(s), relatives or guardian for minor of the abandoned child cannot be found and the abandoned child has no birth certificate, the director of the orphanage concerned shall apply for the child's birth registration in accordance with existing legal provisions.

Article 12.

If the parental power holder(s) who is in extremely difficult circumstances has placed the child under the care of the Ministry in charge of Social Affairs, the Ministry shall place the child in the registry of children who have been placed under the care of the Ministry in charge of Social Affairs.

The Ministry in charge of Social Affairs shall prepare and regularly update a registry of children whose parental power holder(s) has placed the child under the care of the Ministry in charge of Social Affairs.

Article 13.

The Ministry in charge of Social Affairs shall exert all reasonable efforts to return the child to his/her birth family, and if such is not possible, to place the child for domestic adoption within the Kingdom of Cambodia before considering the eligibility of the child for inter-country adoption.

When the steps stipulated in paragraph 1 of this Article have been completed, the child may be entered into the register of children who have been determined to be eligible for inter-country adoption.

SECTION II : CONSENTS TO ADOPTION

Article 14.

An adoption process may take place only if the consent of the parent(s) or guardian for minor was given in accordance with the cases below:

- a. in case the child has filiations with parents, the consent shall be given by the child's parents;
- b. in case one of the parents is dead or is incapable of expressing his/her will or has been divested of his/her parental powers, the consent given by the other parent, who has parental power, alone is sufficient;
- c. in case the parents are dead or are incapable of expressing their will or have been divested of their parental powers, the consent shall be given by the guardian for minor.

Article 15.

The above consent shall be given freely and clearly, and shall not have any defect of declaration of intention such as by force, fraud, inducement through payment, gift, compensation or any advantage of any kind or promise of payment, gift, compensation or any advantage of any kind and being aware of the effects of the consent on the inter-country adoption.

Article 16.

Before giving any consent, the child's parent(s) or guardian for minor shall receive counseling from an authorized competent social service agent. The competent social service agent shall clearly inform those who will give consent about the effects of their consent, the fact that the child's adoption will put an end to the child's filiation with them and terminate their rights and obligations as parental power holder or guardian for minor, and how and when they may withdraw their consent under Article 17 of this law. The social service agent shall write a report on his/her interview with the parent(s) or guardian for minor.

In any case, the consent shall be witnessed in writing in the presence of the Commune/Sangkat chief of the parent(s) or guardian for minor's residence.

The Commune/Sangkat chief and the competent social service agents shall make sure that the consent of the parent(s) or guardian for minor has been given in compliance with article 15 of this law.

The Commune/Sangkat chief shall order a report on this consent after s/he has examined that a competent social service agent has beforehand duly counselled and informed the child's parent(s) or guardian for minor about the effects of their consent.

Article 17.

Parent(s) or guardian for minor may withdraw their consent until the decision of the court regarding the adoption becomes final. Withdrawal by parent(s) or guardian for minor may be done in writing or verbally in front of the Commune/Sangkat chief of their residence. The Commune/Sangkat chief of the parent(s) or guardian for minor's residence shall write the minutes of such session and send a copy of the minutes to the capital/provincial Department in charge of Social Affairs and the director of the orphanage concerned, and send a certified copy of the minutes to the parent(s) or guardian for minor.

Article 18.

The adoption process may proceed, only after the expiration of 90 (ninety) working days following the date of consent to adoption of the parent(s) or guardian for minor.

Article 19.

In case the parent(s) or guardian for minor refuse to consent, or withdraw their consent, the Ministry in charge of Social Affairs may file a petition with the court to deprive the parent(s) of parental power, or to dismiss the guardian for minor and appoint a new guardian for minor in case it deems that such refusal or withdrawal jeopardized/jeopardizes the interest of the child or compromised/compromises the child's health, safety, or morality . The petition shall be lodged with the court within 60 (sixty) working days following the date of such refusal or withdrawal.

Article 20.

Parent(s) or guardian for minor who consider(s) that his/her/their consent was obtained by defect of declaration of intention may rescind or withdraw his/her/their consent until the writ of adoption of the court becomes final.

SECTION III : Adopters

Article 21.

Adopters to be authorized to adopt a child shall fulfil the following conditions:

1. Adopters who must be a married couple must (both) be 30 (thirty) years of age and above, at least 22 (twenty two) years older than the adopted child, but must not be more than 45 (forty five) years older than the child at the date of submission of the application for adoption.
2. In case the adopters do not meet the conditions of the above item 1, but the adoption meets the best interests of the child, adoption may be authorized in the following circumstances:

- a. the adopters who are of Cambodian origin seek to adopt a child who is their relative; or
 - b. the adopter is a spouse who seeks to adopt the child of his or her spouse; or
 - c. the adopters seek to adopt a child who needs special care; or other special circumstances which serve the best interests of the child.
3. If the adopter is married, he/she must jointly adopt with his or her spouse, unless he/she seeks to adopt the biological child of his/her spouse.
 4. The national law of each of the adopters and the law of the country of their permanent residence recognize and allow filiation by full adoption.
 5. The adopters' country of nationality or permanent residence must have diplomatic relations with the Kingdom of Cambodia.
 6. The adopters must fulfil the eligibility, and essential conditions for adoption according to the laws of their country of permanent residence.
 7. The adopters must be free from any sentence or legal action for misconduct, felony or misdemeanour, in their country of nationality, country of permanent residence or in the country of their latest residence.
 9. The adopters must be capable of providing the adopted child with the appropriate care and necessary support.
 10. Adopters may be authorized to adopt only if they have no child or have only one child under their burden. Adopters may be authorized to adopt only one child, except for a child who has sibling(s) for which adoption of more children (siblings) may be authorised.

Chapter V Adoption Procedures

SECTION I : Administrative Procedures

Article 22.

The ICAA shall create for each child eligible for inter-country adoption a personal dossier including necessary information about his or her identity, adoptability, background, social environment, family history, medical history, and medical history of the child's family, and any special needs of the child.

In the case of an abandoned child, the ICAA shall ensure that all efforts have been made to trace the child's parent(s), relatives or guardian for minor.

The ICAA shall also ensure that all necessary consents have been given in accordance with the provisions of this law.

A child's dossier shall include supporting evidence of such consents and/or efforts to trace an abandoned child's parent(s), relatives or guardian for minor.

Article 23.

The adopters shall file the application for adoption with the Central Authority for Inter-country Adoption, with the attached documents, which include, but is not limited to, the following:

1. evidence that the Central Authority or competent authority for inter-country adoption, or an inter-country adoption agency, in their country of permanent residence, considers that the adopters are eligible and suitable to adopt, based on an assessment of their background, family and medical history, home environment, social environment, reasons for adoption, and ability to undertake an inter-country adoption;
2. necessary information about their fulfilment of the conditions set up in article 21 of this law;
3. information about their identity including their civil status documents;
4. information about the characteristics of the child whom they may be qualified to care for; and
5. evidence obtained from the Central Authority or a competent authority of the receiving country to prove that once their application for adoption is approved, the child will be authorized to enter and reside permanently in the receiving country.

All documents shall be certified by the competent authorities of the adopters' country of permanent residence.

All original documents shall be attached with a duly certified translation in English or French.

Article 24

The application stipulated in Article 23 of this law, shall be transmitted through the Central Authority, embassy or Office of the Representative of the receiving country attached to the Kingdom of Cambodia, who authenticated the documents, to the Ministry of Foreign Affairs and International Cooperation. The Ministry of Foreign Affairs and International Cooperation shall examine, provide its opinion on and forward the inter-country adoption dossiers to the Ministry in charge of Social Affairs within 15 (fifteen) working days from the date of the receipt of the application. Within no longer than 15 (fifteen) working days from the date of the receipt of the application from the Ministry of Foreign Affairs and International Cooperation, the ICAA shall reply in writing to the applicant(s) with an acknowledgement of receipt of the application through the Central Authority or competent authority for inter-country adoption or an inter-country adoption agency, in their country of permanent residence.

Article 25.

The adopters shall pay expenses, fees, and contributions for the support of alternative care options and the general support of state-run orphanages throughout the country, and other necessary costs for services related to the inter-country adoption, which will be determined by a joint Prakas of the Minister of Economy and Finance and the Minister in charge of Social Affairs. Neither the adopters nor their agency shall be charged o, or be allowed to pay, a per child or per adoption fee that will be transmitted to a particular orphanage, or be permitted to provide fees, donations or payments of any kind to the orphanage that the child has been adopted from, or to its staff, directors or board members, either directly or indirectly.

Article 26.

Within 60 (sixty) working days from receipt of the dossier for adoption by the Ministry in charge of Social Affairs, the ICAA shall examine the dossier as set out in Article 23 of this law. In case the dossier is complete, the ICAA shall certify that the adopters meet the conditions required in this law.

In case the dossier submitted to the ICAA is incomplete or incorrect, the ICAA shall inform the adopters in writing of the missing or incorrect papers, through the Central Authority, competent authority for inter-country adoption or accredited agency, of the receiving country. The ICAA shall examine the dossier within 60 (sixty) working days from the reception of the missing or corrected documents.

In case of failure to provide the missing or corrected documents within 60 (sixty) working days from the date the ICAA informed them of the missing or incorrect documents, the inter-country adoption application shall be nullified.

The refusal of the application by the Ministry in charge of Social Affairs shall be justified in writing.

Article 27.

In case the dossier is complete and correct, and the adopters meet the conditions required in this law, the ICAA shall examine the dossiers of children who are eligible for inter-country adoption and shall match the adopters who have the best suitable profile to that of the child's profile.

In making this matching, the ICAA considering the best interests of the child shall give due consideration to the desirability of continuity in the child's upbringing as well as the child's social, ethnic, religious and cultural background.

Article 28.

The ICAA shall forward its dossier on the matched child, including evidence that all consents have been obtained and the reasons for its determination on the child's placement with such adopters, to the Central Authority, competent authority for inter-country adoption or inter-country adoption agency of the receiving country, for its review and transmission to the adopters, taking care not to reveal the identity of the child's parent(s), or guardian for minor, unless it is a relative adoption.

Article 29.

The adopters shall respond to the ICAA in writing of their consent to adopt the child who was matched by the ICAA, through the Central Authority or competent authority for inter-country adoption, or inter-country adoption agency, of the receiving country.

In case the adopters do not respond to the ICAA within 60 (sixty) working days from the date of transmission of the child's dossier by the ICAA, the ICAA may deem that the adopters terminated their application, and the ICAA may match the child with other adopters. Application expenses, fees and contributions shall not be refunded.

In case the adopters respond that they do not wish to adopt the child that was initially matched with them, the adopters may ask the ICAA to have them matched for the second time. A third matching shall not be allowed.

For those adopters who do not respond within the specified period as set out in paragraph 2 of this article, they may re-apply for adoption following the procedures of this law. In deciding on the request for re-matching or receipt of re-application, the ICAA shall consider the reasons for the adopters' initial failure to respond or refusal to accept the child initially matched.

Article 30.

After the adopters have expressed their consent in accordance with the provision of Article 29 of this law and the Central Authority of the receiving country has approved such decision, the ICAA shall arrange, through the Central Authority, competent authority for inter-country adoption or inter-country adoption agency, of the receiving country, a meeting between the adopters and the child who have already been matched.

The meeting shall be held on a convenient date to the adopters and the ICAA and shall be held in the presence of a competent social services officer. Such meeting shall be held within 60 (sixty) working days following the date of the receipt of the adopters' consent.

Before the meeting between the adopters and the child, the ICAA shall interview the adopters and shall ensure that the adopters and the child have been prepared for the proposed meeting through counselling, exchange of information, photos and other necessary measures.

If the husband or wife, in the case of a married couple, is unable to come, he/she shall give a power of attorney for the other spouse to act as his/her representative in connection with the adoption application. The power of attorney shall be certified by the Central Authority or competent authority of the receiving state.

In case the adopter(s) do not come within the period determined in the above paragraph 2 and do not have any proper justification, the ICAA shall deem that they terminated their application.

The ICAA shall consult with the child who is capable of forming his/her own views (discerning), duly inform him/her of the effects of the adoption, and listen to the child expressing his/her view without the presence of any other party. The ICAA shall ascertain the child's views concerning the adoption, including the choice of adopters, and give due weight to such views in accordance with the age and maturity of the child. The child's consent shall be evidenced in writing.

A written report on the foregoing interview and meeting shall be prepared by the ICAA.

Article 31.

Provisions set out in this Chapter shall also be applied to cases of relative adoptions.

Article 32.

If the ICAA finds that the criteria and conditions for inter-country adoption have been fulfilled by both the adopters and the child, and that the adoption is in the best interests of the child, it shall give a favourable opinion within 7 (seven) working days following the meeting of the child with the adopters.

The ICAA shall forward these dossiers to the Minister in charge of Social Affairs for his/her examination and recommendation on the inter-country adoption process.

Article 33.

After receipt of recommendation for the inter-country adoption to proceed from the Minister in charge of Social Affairs, the adopters, working in collaboration with the Central Authority, competent authority for inter-country adoption or ICA agency, of the receiving country shall file a petition for adoption of the matched child, through the ICAA, with the Court of First Instance of the Phnom Penh Capital to get a writ of decision (Deyka Samrach) on adoption. The ICAA shall send the petition for adoption to the Court of First Instance of the Phnom Penh Capital together with the dossiers of the child and the adopters and the Minister's recommendation, within 7 (seven) working days from the time of its receipt of the petition. All necessary/essential documents shall be translated into Khmer and shall be certified by the ICAA.

In case the petition for adoption is not filed by the adopters within 60 (sixty) working days from the time of receipt of the recommendation from the Minister in charge of Social Affairs, it shall be deemed that the adopters terminated their application.

SECTION 2: Court Procedures

Article 34.

The Court of First Instance of the Phnom Penh Capital shall have jurisdiction over inter-country adoption cases.

The court that has jurisdiction over inter-country adoption cases shall apply the provisions of civil procedure concerning cases of non-litigious nature, to court procedures concerning inter-country adoption, unless there are special provisions as stipulated in this law.

Article 35.

Adopters shall pay the lump sum of 1,000,000 (one million) Riels to cover the costs for filing a motion, examination of evidence, issuance of writ of decision, delivery of documents, publication of notifications, investigation of facts and carrying out other procedural activities concerning the ICA case. The court shall require the costs to be paid in advance by the adopters. The court may, if the above determined necessary costs exceed 1,000,000 (one million) riels, determine additional fees and order the adopters to pay such additional fees in advance. These amounts are not refundable.

Article 36.

In principle, the dossiers and reports submitted by the Ministry in charge of Social Affairs to court shall be presumed as evidence of the facts stated therein regarding the adoptability of the child and suitability of the adopters, unless there is contradictory evidence presented.

Where necessary, the court may order a representative of the ICAA to appear in court to provide further clarification on the findings and recommendations of the Ministry in charge of Social Affairs regarding the ICA case, together with the relevant documents, reports and other documentary evidence to support the above findings.

Article 37.

The court shall verify that:

- a- all criteria or conditions required by law for the inter-country adoption have been fulfilled;
- b- the necessary counselling has been provided before the consents were given;

- c- the necessary consents have been given complying with Chapter IV, Section II of this law;
- d- possibilities for the child's placement in the Kingdom of Cambodia have been given due consideration;
- e- the Central Authority, competent authority or accredited inter-country adoption agency in the receiving country approve of the placement;
- f- the child will be authorized to enter and reside permanently in the receiving country; and
- g- this inter-country adoption is in the best interests of the child.

Article 38.

The court shall not be required to hold an oral argument when rendering a decision in any of the ICA cases.

Where absolutely necessary to clarify relevant facts, the court may call the adopters or their representative, one or both parental power holder(s) or guardian for minor of the child, a representative of the relevant inter-country adoption agency, and other witnesses to present evidence, in writing or orally, as to the existence or non-existence of the facts in question.

Article 39.

The court shall decide the inter-country adoption case and issue its writ of decision within the period of 30 (thirty) working days from the date of receipt of the petition for adoption. The court shall send its writ of decision (Deyka Samrach) to the adopters, legal representative of the adopted child and the Ministry in charge of Social Affairs.

This writ of decision shall not become final before the expiry date for appeal to the Appeal Court as stipulated in article 40 of this law. If there is an appeal against such writ of decision, this writ of decision shall not become final until there is a writ of decision on the appeal.

Article 40.

Any individual whose rights or interests have been damaged by the writ of decision on inter-country adoption, may file an appeal against such decision to the Appeal Court.

In case the person who may appeal is the one who shall receive notification of the above stated writ of decision, the appeal shall be made within 15 (fifteen) working days from the date when he/she received the notification on the writ of decision.

In case the person who may appeal is not the one who shall receive notification of the above stated writ of decision, the appeal shall be made within 15 (fifteen) working days from the date when the adopters received the notification of the writ of decision.

The 15 (fifteen) working day period stated in the above paragraph 2 and paragraph 3 may not be delayed.

The Appeal Court shall decide the appeal and issue a writ of decision within the period of 30 (thirty) working days from the date when the appeal complaint is received.

The writ of decision of the Appeal Court on an appeal may not be appealed anymore.

CHAPTER VI

Effects of Adoption

Article 41.

Inter-country adoption shall be a full adoption. It shall have the effect of creating a permanent parent-child relationship by providing the child with the same status and the same rights and obligations as the biological child of the adopters, and of terminating the relationship between the child and his or her biological parents.

Article 42.

Any other effect of inter-country adoption shall be governed by the national law of the adopters, or if there is no law in common, under the law of their permanent residence.

Chapter VII

Notification of Disposition (actions taken) and Post-Adoption Procedures

Article 43.

Throughout the adoption procedures, the ICAA shall keep the adopters, through the Central Authority, competent authority or accredited inter-country adoption agency, regularly informed of the adoption procedures, the measures taken by the competent authorities and the progress of the case.

Article 44.

After a writ of adoption decision becomes final, the Ministry in charge of Social Affairs shall inform the Ministry of Foreign Affairs and International Cooperation of such decision.

When the adoption procedures are completed under the Hague Convention on Protection of Children and Cooperation in Respect of Inter-Country Adoption, the Ministry in charge of Social Affairs shall issue a certificate in compliance with Article 23 of the Hague Convention on Protection of Children and Cooperation in Respect of Inter-Country Adoption.

The ICAA shall organize a ceremony for the official handing-over of the child and the Certificate of Official Handing-over of the Child to the adopter(s). The ICAA shall coordinate with the competent authorities the processing and issuance of the passport, visa and other necessary documents for travel of the child to the adopters' country of permanent residence.

The travel of the child to the receiving country shall take place in the company of the adopter(s). The ICAA shall ensure that the child's transfer to the receiving country takes place in secure circumstances, which takes into account the needs of the child.

Article 45.

The ICAA shall coordinate with the Central authority or competent authority for inter-country adoption, or inter-country adoption agency, of the receiving country, to provide or facilitate appropriate post-adoption services for the adopted child, adoptive family and biological family, as necessary.

The adoptive parents shall provide the ICAA with semi-annual reports on the progress of the child for 3 (three) years after the child has been authorised to be adopted and once a year until the child reaches 18 years of age.

The adoptive parents shall send the written reports to the ICAA either directly or through the Central Authority, competent authority for inter-country adoption or accredited inter-country adoption agency of the receiving country or country of his/her/their permanent residence, as appropriate.

Article 46.

The ICAA and the Court of First Instance of the Phnom Penh Capital shall keep the inter-country adoption dossiers for 60 (sixty) years from the date the corresponding writ of adoption decision becomes final.

All dossiers and records concerning any specific inter-country adoption case, whether kept by the court, ICAA, inter-country adoption agencies, orphanages and other professionals involved in an inter-country adoption procedure, shall be kept confidential. However, such dossiers and records or information therein may be released upon written request or written order by a competent authority within or outside the Kingdom of Cambodia if needed in connection with an ongoing case or court procedure, or other special circumstances.

Adoptive parents may petition the Ministry in charge of Social Affairs to receive a copy of the dossier, including the identity of the child's biological parents, after the court's writ of adoption has become final. An adopted child who has reached a sufficient age and level of maturity to understand the consequences of knowing his/her identity may be allowed access to his/her dossier, including the identity of his/her biological parents, upon written application with the Central Authority of the Kingdom of Cambodia, if it is in the adopted child's best interests. An adopted child who has reached the age of

majority shall be entitled to access his/her own dossier, and other records concerning his/her identity. The ICAA shall ensure that the adopted child receives appropriate counselling before accessing information in his/her dossier.

CHAPTER VIII **Authorisation of Agencies**

Article 47.

Only agencies authorised by the Ministry in charge of Social Affairs of the Kingdom of Cambodia and competent institutions of the receiving country according to the following articles shall be entitled to operate in any inter-country adoption procedure.

The number of agencies from each receiving country who may be authorized to provide services in the Kingdom of Cambodia shall be determined by joint agreement of the Ministry in charge of Social Affairs and the competent authorities of the receiving country.

Article 48.

In order to get authorisation to operate in an inter-country adoption from the Ministry in charge of Social Affairs of the Kingdom of Cambodia, the agency must fulfil the following criteria:

1. have been accredited by competent institutions of the receiving country,
2. pursue only non-profit objectives and fulfil the conditions set up in legal provisions concerning non-profit legal persons, associations or NGOs, or other relevant legal provisions pertinent to the characteristics of such agencies, and
3. be directed and staffed by persons qualified by their ethical and moral standards and by training and experience to work in the field of inter-country adoption.

An agency that operates in the adoption process in the Kingdom of Cambodia shall not be authorized to run or use any orphanage as a source to supply orphaned infants and children in the Kingdom of Cambodia.

Article 49.

Before applying for authorisation to operate as an inter-country adoption agency to the Ministry in Charge of Social Affairs, through the ICAA, each agency shall register in accordance with the existing legal provisions of the Kingdom of Cambodia concerning non-profit legal persons, associations or NGOs, or other relevant legal provisions pertinent to the characteristics of such agencies. The inter-country adoption agency shall enter into a contract on Cooperation in Inter-country Adoption and fulfil other formalities determined by the Ministry in charge of Social Affairs.

Article 50.

Any application for authorisation to act as ICA agency in the Kingdom of Cambodia, that is introduced to the ICAA, shall be attached with the following files/dossiers:

1. Application for authorisation with the approval by and recognition of the Ministry of Foreign Affairs and International Cooperation;
2. A brief description of the background and activities of the agency;
3. A certified copy of its accreditation to run the agency from the receiving country, for international agency;
4. A duly certified copy of its registration letter as set out in article 49 of this law;
5. The statute and internal regulations of the agency;
6. A brief curriculum vitae and photographs of the members of its board of directors or management board;
7. The curriculum vitae of the person(s) authorised to represent the agency in inter-country adoption matters. The representatives shall not be more than two persons that are not directors, vice directors, or staff members of any orphanage in the Kingdom of Cambodia;
8. Documentary evidence proving that each representative as stipulated in the above item 7 has no criminal record in his/her state of origin, and in the state of his/her last residence, if different;
9. Bilateral Agreement on Cooperation in respect of Inter-country Adoption between the Kingdom of Cambodia and the country of the inter-country adoption agency if such country is not a State Party to the Hague Convention on Protection of Children and Co-operation in respect of Inter-country Adoption.
10. An audited financial report and any agreements to provide humanitarian aid or support to orphanages in the Kingdom of Cambodia;
11. Any such other requirements which the Ministry in charge of Social Affairs deems necessary in the best interests of children as set forth in authorisation procedures.

A copy of the application and dossier applying for authorization to operate as an agency shall be sent to the embassy or the Office of the Representative of the receiving country in which the agency operates.

Article 51.

Within 60 (sixty) working days from receipt of an authorisation application to act as ICA agency, the Ministry in charge of Social Affairs shall inform the agency its official decision in writing. In case authorisation is denied, the Ministry shall clearly state its reason(s).

Article 52.

Only the representatives whose names have been listed in the dossier of the application shall be entitled to represent the agency in any inter-country adoption process. In case the authorised representative is sought to be replaced by another person, the agency shall submit an application to the Ministry in Charge of Social Affairs to renew its authorisation.

Article 53.

An authorisation to operate in the adoption procedures shall be granted for 2 (two) years, and may be renewed upon submission and fulfilment by the agencies of the requirements prescribed in article 47, article 48 and article 49 of this law, provided the services of the agency are still required in the Kingdom of Cambodia.

CHAPTER IX Penalty Provisions

Article 54.

Notwithstanding penalty provisions in the existing laws, the Ministry in charge of Social Affairs may suspend or revoke the authorisation or refuse to renew an authorization if any inter-country adoption agency is proven to have engaged in any of the acts below:

1. the direct act of provoking, for profit-making purpose, the parent(s) to abandon an already-born or a yet-to-be-born child in order to be offered for inter-country adoption;
2. the act of serving one-self as an intermediary/middle person between a couple who desires to adopt a child through inter-country adoption and a parent(s) who desires to abandon his/her/their already-born or a yet-to-be-born child, for profit making purpose;
3. the act of serving one-self as an intermediary/middle person between a couple who desires to adopt a child through inter-country adoption and a woman accepting to bear a pregnancy of the child and to deliver this child to the adopter(s) afterward, for profit making purpose;
4. falsifying or being an accomplice in falsifying extremely difficult situations in order to get consent from biological parent(s) or guardian for minor of a child;
5. obtaining the consent of parent(s) or guardian for minor of a child by coercion, threat, fraud or inducement through payment, gift, compensation or any advantage, or through promise of payment, gift, compensation or advantage of any kind;
6. releasing in whole or in part the dossiers and records concerning any specific inter-country adoption case without authorisation from the Ministry in charge of Social Affairs or competent court;
7. imposing or accepting directly or indirectly any consideration, money, goods or services in exchange for an allocation of a child for adoption;
8. offering money, goods or services to any official or representative of the Inter-country adoption Administration, the Ministry in charge of Social Affairs, Central Authority in charge of inter-country adoption affairs or another relevant officials to give preference in the inter-country adoption procedures to any adopters;
9. advertising or publishing the identity or photograph of a child who is subject of adoption to influence any person to apply for adoption;
10. appointing or designating any representative without the approval of the Ministry in charge of Social Affairs;
11. engaging in matching arrangement or in any contact between the adopter(s) and biological parent(s) or guardian for minor of the child for the purpose of pre-identifying a child to be adopted;

12. any other act in violation of this law, minimum standards on alternative care of children and other existing legal provisions of the Kingdom of Cambodia.

Article 55.

Any agency that operates in the inter-country adoption procedures in the Kingdom of Cambodia in violation of paragraph 1 of article 47 or paragraph 2 of article 48 of this law shall be administratively fined (non-criminal) from 1,000,000 (one million) Riels to 10,000,000 (ten million) Riels. The Ministry in charge of Social Affairs shall be the competent Ministry to impose administrative fine. The administrative fine shall be paid into a Child Welfare Support Fund.

In case any agency fails to pay the administrative fine, the Ministry in charge of Social Affairs may send the case to the court.

Article 56.

Offences concerning the Law on Inter-country Adoption shall be punished in accordance with existing laws and other legal provisions.

**CHAPTER X
Final Provisions**

Article 57.

Any legal provisions contrary to the provisions of this law shall be deemed null and void.

Article 58.

This law shall be pronounced as urgent.

PRL. 0912.1148

Royal Palace, Phnom Penh 03 December 2009

Royal Signature and Stamp

Norodom Sihamoni

Having submitted to His Majesty
the King for the Royal Signature

**Prime Minister
Signature**

Samdech Akka Moha Sena Padei Techo Hun Sen

Having submitted to **Samdech Akka
Moha Sena Padei Techo Hun Sen**
Prime Minister of the Kingdom of Cambodia
Minister of Social Affairs, Veterans' Affairs and Youth Rehabilitation

Signature

ITH SAMHENG

NO: 1059 c.1
For distribution
Phnom Penh Capital, 08 December 2009
**Deputy Secretary General of
the Royal Government**

Khun Chinkein