



**Kingdom of Cambodia**

**Nation Religion King**

ព្រះរាជាណាចក្រកម្ពុជា

**Criminal Procedure Code  
of  
Kingdom of Cambodia**

**2007**

**Ministry of Justice**

**Article 396. Extension of Rules Applied by the Court of the First Instance to the Court of Appeal**

In addition, the rules that apply to the court of the first instance shall also be applied to the Court of Appeal.

**CHAPTER 4  
Effects of Appeals****Article 397. Devolution Effect of Appeals**

A dossier shall be referred to the Court of Appeal within the scope determined by the appeal and according to the status of the appellant.

**Article 398. Effect of Appeal on the Execution of Judgment**

During an appeal, enforcement of a judgment shall be suspended.

However, an accused person who is under detention and appeared before the court of the first instance shall be kept in a prison during the period of the prosecutor's appeal. In case an appeal is filed against the criminal part of the judgment, the accused person shall be kept in a prison until the Court of Appeal makes its decision. If the court of the first instance decided to release the accused person or sentence the accused person to imprisonment for a period less than or equal to the pre-trial detention period, the prosecutor may agree to release the accused person before the expiration of the period for appealing.

The period for appealing by the Prosecutor General shall not be an obstacle for the enforcement of the sentence.

**Article 399. Effect of Appeal only from Accused Person**

When the Court of Appeal receives an appeal only from the accused person, it cannot increase the punishment against the accused person. The court can modify the judgment only in favor of the accused person. The Court of Appeal cannot add a secondary sentence to the principal sentence.

The Court of Appeal can replace the type of the offense determined by the court of the first instance by another type of the offense but cannot increase the sentence imposed on the accused person.

If the court of the first instance forgot to declare any secondary sentence that is absolutely mandatory to be imposed, the Court of Appeal shall void the judgment and decide the new sentence again.

When receiving an appeal from the accused person only, the Court of Appeal cannot increase the amount of money for compensation of damages to the civil party.

**Article 400. Effect of an Appeal by a Prosecutor and a Prosecutor General**

An appeal by a prosecutor and a Prosecutor General leads to a review of the criminal part of the decision made by the court of the first instance.

4. Where new facts, documents, or other new evidence is discovered which leads to reasonable doubt of the guilt of a convicted person.

#### **Article 446. Persons Entitled to File a Motion for Review**

The right to file a motion for review of a case shall rest with:

1. The Minister of Justice;
2. A convicted person or his/her legal representative if the convicted person is incapacitated;
3. The spouse, parents, children, or, generally, any person who has a material or psychological interest in the cancellation of the sentence if the convicted person has died or disappeared.

Before filing of an action with the Supreme Court, the Minister of Justice may request a Prosecutor General who has territorial jurisdiction to conduct further investigation.

#### **Article 447. Registration of Motion for Review and Access to a Dossier**

The motion for review shall be registered by the court clerk of the Supreme Court.

A person who applies for review or his/her lawyer may examine the dossier of the motion at the office of the court clerk of the Supreme Court. The lawyer may copy such dossier.

If the motion for review is made by the Minister of Justice, the dossier may be examined by the convicted person and his/her lawyer. If the convicted person has disappeared, the dossier may be examined by his/her spouse, parents, or children.

#### **Article 448. Procedures of Review: Period of Time**

The court clerk shall inform the petitioner that he/she has 30 (thirty) days to complete his/her motion. In exceptional cases, this period of time may be extended by the President of the Supreme Court.

At the expiration of this period of time, the President of the Supreme Court shall designate a reporting judge. After the report has been prepared, the dossier shall be referred to the Prosecutor General of the Supreme Court. The Prosecutor General, thereafter, shall prepare a written conclusion within 30 (thirty) days.

#### **Article 449. Decision to Suspend the Enforcement of Sentence**

The Criminal Chamber of the Supreme Court which received the motion for review may suspend the enforcement of the sentence if there are clear reasons.

#### **Article 450. Referral of Motion for Review to the Supreme Court**

If the Criminal Chamber decides that a motion for review is acceptable, the Chamber shall refer the dossier to the Supreme Court to hold a plenary hearing to decide on the law and the fact by issuing a final judgment.

#### **Article 451. Notification of the Hearing Date and Publicity of the Confrontation**