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カンボジア王国夫婦財産契約登記省令

Prakas on Matrimonial Property Contract Registration Procedure

英文訳
(English)

Prakas on Matrimonial Property Contract Registration Procedure

Chapter 1 General Provisions

Article 1: Goal

The goal of this Prakas is to ensure the effective registration of property contract of married couples or persons who will get married in accordance with the Civil Code and the Law on the Application of Civil Code.

Article 2: Purpose

The purpose of this Prakas is to allow married couples or persons who will get married to register a contract concerning their property relations prior to or after their marriage in order to clarify the property relations of married couples or persons who will get married.

Article 3: Scope

This Prakas applies to matters pertaining to Civil Code and the Law on the Application of the Civil Code.

This Prakas applies to the following matters:

- Registration of matrimonial property contract
- Registration of change of matrimonial property contract
- Deregistration of matrimonial property contract
- Certificate issuance procedure

(Keep for Her Excellency to make a decision)

Chapter 2 Registration Competency

Article 4: Competent Registration Institution

The Civil Affairs Department of Ministry of Justice has jurisdiction over the registration of matrimonial property contract.

Officials, assigned by the Minister of MoJ to be in charge of the affairs related to matrimonial property contract registration (registrar), shall be in the Civil Affairs Department.

Binder pertaining to matrimonial property contract registration shall be preserved in the Civil Affairs Department.

Chapter 3

Creation, Management of Binders and Preservation Duration of Documents in Binders

Section 1

Creation of Binders

Article 5: Creation of Binder

The Civil Affairs Department shall create the following binders:

- 1- Reception Binder
- 2- Matrimonial Property Contract Registration Binder
- 3- Application Binder
- 4- Dismissal Binder
- 5- Reviewing Application Binder
- 6- Certification Binder

Article 6: Reception Binder

Reception binder is a binder for registering information such as names, addresses of applicants, the reception number on the application for registration of matrimonial property contract, application for registration of change of matrimonial property contract and application for deregistration of matrimonial property contract.

The reception sheet filed in the binder shall have the table divided into the following columns:

- Reception order number
- Reception date
- Type of matrimonial property contract registration
- Names and addresses of applicants
- Married couples
- Partner (persons who will get married)
(Keep to discuss with Her Excellency, whether it's possible to include in column "others")
- Name and address of agent (if any)
- Others

Article 7: Matrimonial Property Contract Registration Binder

Matrimonial property contract registration binder is a binder for registration of matrimonial property contract, registration of change of matrimonial property contract, and registration of deregistration of matrimonial property contract.

The registration sheet filed in the binder shall have tables divided into columns as follows:

- Registration number
- Names, dates of birth, and addresses of contracting parties
- Change of names and addresses
- Contents of matrimonial property contract
- Change of matrimonial property contract
- Deregistration of matrimonial property contract

Article 8: Application Binder

Application binder is a binder for filing the application for registration and attached documents the registrar received from applicants.

Article 9: Dismissal Binder

Dismissal binder is a binder for filing registrar's dismissal letter against application for registration.

Article 10: Reviewing Application Binder

Reviewing application binder is a binder for filing the application for review as well as the decision made by Minister of Justice and attached documents.

Article 11: Application for Registration Certification Binder

Application for registration certification binder is a binder for filing the application for certification of matters registered or not registered in the matrimonial property contract.

**Section 2
Management of Binders**

Article 12: Management of Binders

Binders shall be preserved in the Civil Affairs Department of Ministry of Justice.
Binders may be taken out when necessary.

**Section 3
Preservation Duration of Documents in Binders**

Article 13: Preservation of Documents in Reception Binder and Matrimonial Property Contract Registration Binder

Documents in the reception binder and matrimonial property contract registration binder are permanently preserved.

Article 14: Duration for Preservation of Documents in Application Binder, Dismissal Binder Reviewing Application Binder, and Application for Registration Certification Binder

The duration for preservation of documents in the application binder is ten (10) years counting from the date of filing application.

The duration for preservation of documents in the dismissal binder is ten (10) years counting from issuance date of dismissal letter.

The duration for preservation of documents in the reviewing application binder is ten (10) years counting from the date of filing the reviewing application.

The duration for preservation of documents in the application for registration certification binder is ten (10) years counting from the date of filing the application for registration certification.

Chapter 4

General Provisions of Application for Registration

Article 15: Application for Registration

Application for registration of property contract of a married couple or persons who will get married shall be jointly made in writing.

In case of change or correction of name, address or date of birth, married couple or persons who will get married may file application for registration individually.

In case the application for registration is based on final and binding judgment or ruling, married couple or persons who will get married may file application for registration individually.

The original application shall bear the applicant's signature or fingerprint to which the copied version of the original is attached.

Regarding the application for registration in the preceding paragraph 1, an agent can also hand in the application for registration instead of a married couple or persons who will get married.

Person or agent filing an application for registration shall directly come and submit the application to the Civil Affairs Department of Ministry of Justice.

Article 16: Form of Application for Registration

Motto of Kingdom of Cambodia, application for registration, names and addresses of applicants, and name and address of agent (if any) shall be written in the form of application for registration and addressed to Minister of Justice with dates and signatures or fingerprints of the applicant.

Besides, additional matters shall be written based on the types of application for registration of matrimonial property contract, application for registration of the change of matrimonial property contract, or application for registration of deregistration of matrimonial property contract as stipulated in Chapter 5 (Application for Registration) of this Prakas.

Article 17: Documents Attached to Application for Registration

When filing application for registration, applicant of registration of matrimonial property contract, of registration of the change of matrimonial property contract, or of registration of the striking off matrimonial property contract shall provide some necessary documents to Civil Affairs Department based on the types of application for registration as stipulated in Chapter 5 (Application for Registration) of this Prakas.

Application for registration submitted by an agent, proxy shall also be attached.

Article 18: Return of Original Attached Documents

Applicant, regarding with document (s) attached to the application, may demand return when they are submitted. However, this provision shall not apply to a proxy.

In order to demand return of the attached documents, an applicant shall attach to the application the copied version indicating that the content in the documents is not different from the original.

In case where the original attached document is returned, registrar shall ask a recipient to write down and sign on the copied version indicating he/she received the returned document (s).

Chapter 5

Application for Registration

Article 19: Application for Registration of Matrimonial Property Contract

Application for registration of matrimonial property contract shall be jointly made by husband and wife or persons who will get married.

In addition to the matters stipulated in Article 16, paragraph 1 (Form of Application for Registration) , the following matters shall be written:

- a- Names, dates of birth, and addresses of contracting parties
- b- Purpose of registration
- c- Ground and date
- d- Contents of the matrimonial property contract

Attached documents:

- Matrimonial property contract
- Marriage certificate in case applicants are married
- Certificate of registered information of registry book (land registry book, perpetual lease registry book, usufruct registry book) in case where this contract is connected with land matters.
- Proxy (if any)
- ID card or passport

Article 20: Application for Registration of Change of Matrimonial Property Contract

If there is any change of the matters registered in matrimonial property contract, married couple or persons who will get married shall file application for registration of change.

In addition to the matters stipulated in Article 16, paragraph 1 (Form of Application for Registration), the following matters shall be written:

- a- Names, dates of birth, and addresses of contracting parties
- b- Purpose of registration
- c- Ground and date
- d- Matters to be changed
 - Contents of new matrimonial property contract
 - New names or addresses.

Attached documents:

- New matrimonial property contract
- Judgment or ruling for changing name (keep to ask H.E)
- Document certifying the change of address

- Certificate of registered information of registry book (land registry book, perpetual lease registry book, usufruct registry book) in case where this contract is connected to land matters.

- Proxy (if any)
- ID card or passport.

Article 21 : Application for Registration of Correction of Matrimonial Property Contract

If the matrimonial property contract is registered, and if an error or omission is found, married couple or persons who will get married shall file application for registration of correction.

In addition to the matters stipulated in Article 16, paragraph 1 (Form of Application for Registration), the following matters shall be written:

- a- Purpose
- b- Ground and date
- c- Matters to be corrected
 - Name
 - Address
 - Date of Birth
 - Contents of matrimonial property contract

Attached documents:

- Matrimonial property contract
- Certificate of registered information of registry book (land registry book, perpetual lease registry book, usufruct registry book) in case where this contract is connected with land matters.
- Document certifying address
- Proxy (if any)
- ID Card or Passport

Article 22: Application for Registration of Deregistration of Matrimonial Property Contract by reason of Marriage or Engagement Dissolution

If a married couple gets their marriage dissolved or persons who will get married get their engagement dissolved, a married couple or persons who will get married shall apply for deregistration of matrimonial property contract.

In addition to the matters stipulated in Article 16, paragraph 1 (Form of Application for Registration), the following matters shall be written:

- a- Names, dates of birth, and addresses of contracting parties
- b- Purpose of registration
- c- Ground and date

Attached documents:

- Ruling dissolving marriage by agreement
- Agreement or notice of engagement dissolution
- Proxy (if any)
- ID Card or passport

Article 23: Application for Registration of Deregistration of Matrimonial Property Contract by Reason of Nullity, Rescission or Termination of Matrimonial Property Contract

If the registered matrimonial property contract is nullified, rescinded or terminated, a married couple or persons who will get married may file the application for registration of deregistration of matrimonial property contract.

In addition to the matters stipulated in Article 16, paragraph 1 (Form of Application for Registration), the following matters shall be written:

- a- Names, dates of birth, and addresses of the contracting parties
- b- Purpose of registration
- c- Ground and date

Attached documents:

- Final and binding judgment attesting that the matrimonial property contract is nullified, rescinded, or terminated
- Agreement or notice attesting the rescission or termination of matrimonial property contract
- Proxy (if any)
- ID Card or passport

Article 24: Application for Registration of Deregistration of Matrimonial Property Contract by reason of Death of any Spouse

When one of spouses of married couples or one person of persons who will get married together dies, a surviving spouse or a surviving person who will get married may file application for registration of deregistration of matrimonial property contract individually.

In addition to the matters stipulated in Article 16, paragraph 2 (Form of Application for Registration), the following matters shall be written:

- a- Names, dates of birth, and addresses of contracting parties
- b- Purpose of registration
- c- Ground and date

Attached documents:

- Death certificate
- Proxy (if any)
- ID Card or passport

Article 25: Application for Registration of Deregistration of Matrimonial Property Contract based on Final and Binding Judgment Dissolving Marriage and Dividing Property

When there is a decision concerning division of property in a final and binding judgment dissolving marriage, one of any former spouses may file an application for registration of deregistration of matrimonial property contract.

In addition to the matters stipulated in Article 16, paragraph 1 (Form of Application for Registration), the following matters shall be written:

- a- Names, dates of birth, and addresses of contracting parties
- b- Purpose of registration
- c- Ground and date

Attached documents:

- Final and binding judgment dissolving marriage and dividing property
- Proxy (if any)
- ID Card or passport

Article 26: Application for Registration of Deregistration of Matrimonial Property Contract Via Court's Decision Based on Provisions of the Law on Non-Suit Civil Case Procedure

If court makes decision concerning division of property by reason of marriage dissolution based on the provisions of Law on Non-suit Civil Case Procedure and this decision becomes final and binding, one of any former spouses can file an application for registration of deregistration of matrimonial property contract individually.

In addition to the matters stipulated in Article 16, paragraph 1 (Form of Application for Registration), the following matters shall be written:

- a- Names, dates of birth, and addresses of the contracting parties
- b- Purpose of registration
- c- Ground and date

Attached documents:

- Final and binding ruling dividing property by dissolving marriage
- Proxy (if any)
- ID Card or passport

Article 27: Application for Deregistration of Matrimonial Property Contract based on Final and Binding Judgment Stipulated in Article 30 of Law on the Application of Civil Code, Paragraph 3, Item d

When there is the final and binding judgment stipulated in Article 30 of Law on the Application of Civil Code, Paragraph 3, Item d, any party may file application for registration of deregistration individually.

In addition to the matters stipulated in Article 16, paragraph 1 (Form of Application for Registration), the following matters shall be written:

- a- Names, dates of birth, and addresses of contracting parties
- b- Purpose of registration
- c- Ground and date

Attached documents:

- Final and binding judgment order deregistration of matrimonial property contract registration
- Proxy (if any)
- ID Card or passport

Chapter 6

Reception, Examination of Application for Registration and Reviewing Application

Article 28: Reception of Application for Registration

When a registrar receives an application for registration, a registrar shall record the notation on the application the reception number, date and name of Civil Affairs Department as well as initial and name of the registrar.

Article 29: Withdrawal of Application for Registration

Application for registration can be withdrawn in writing before the registration is completed.

Article 30: Examination of Application for Registration

A registrar shall examine the application and attached documents.

When examining the application described in the preceding paragraph 1, the registrar can, in the case of reasonable doubt, ask the applicant or agent more questions.

Article 31 : Correction and Dismissal of Application for Registration

When registrar finds out that the application for registration is inappropriately made based on the following grounds:

- Information and formality contained in the application are not consistent with this Prakas
- No necessary documents are provided
- Contents in the application and attached document(s) are not consistent
- Application was filed and registration was already made
- Name and address of the applicant in the application are not consistent with registration
- No fee is paid, or
- Application is not consistent with the requirements of this Prakas, or the relevant Laws or Regulations.

The registrar shall issue a letter ordering modification within reasonable time period.

The registrar shall issue a letter dismissing the application for registration and notify the applicant in case no modification is made within the reasonable time period

Article 32: Return of Attached Document(s)

In case where the application for registration is withdrawn or dismissed, upon the request, the registrar shall return the attached documents to the applicant.

Article 33 : Application for Reviewing Registrar's Dismissal

With regard to the registrar's dismissal described in Article 31 of this Prakas, the applicant is entitled to file the review application to the Minister of Justice.

Application for reviewing described in preceding paragraph 1, Minister of Justice reviews and makes a decision and notifies that applicant.

Article 34: Matters to be registered

Matters to be registered for matrimonial property contract registration shall be as follows:

- Names, dates of birth, and addresses of the parties
- Purpose of registration
- Grounds of registration and date
- Contents of Matrimonial property contract

Article 35: Effect of Registration

Registration of matrimonial property contract is effective when it's signed and sealed by MoJ Minister.

(Keep for HE to decide)

Chapter 7
Registration Method and Filing in Binders

Article 36: Registration Method in Reception Binder

When a registrar receives an application for registration, the registrar shall write down the information described in paragraph 2, Article 6 of this Prakas in the sheet of Reception Binder.

Article 37: Registration Method in Matrimonial Property Contract Registration Binder

After the application and attached documents stipulated in Article 19 (Application for Registration of Matrimonial Property Contract) are examined by the registrar, the following matters shall be written in the registration sheet:

- Names , addresses and dates of birth of the contracting parties
- Property contract of married couples or persons who will get married
- Purpose of registration
- Grounds and date

(keep for HE to consider: Registrar should write down or applicant?)

For the registration sheet in paragraph 1 of this Article, registrar shall assign the registration number based on the reception order number and put initial in order to express that “it's already examined”, and submit to MOJ Minister for signature and stamp with date. The registrar shall maintain the registration sheet in a binder in the order of registration number after it's signed and stamped by the MOJ Minister.

Article 38: Registration Method in Binder for Registration of Change of Property Contract of Married Couple

After the application and attached document (s) stipulated in Article 20 (Application for Registration of Change of Matrimonial Property Contract) are already examined by registrar, the contents of purpose of registration, ground and date shall be rewritten in sheet “change”.

(Keep to ask H.E whether registrar writes or applicant writes?)

With regard to the change of content of matrimonial property contract in preceding paragraph 1 of this article, registrar shall put initial in order to express “already examined”, and send to the MOJ Minister for signature and seal as well as date. Registrar shall maintain the registration sheet in binder in the order of registration number after it’s signed and sealed by MOJ Minister.

With regard to the change of name or address, registrar shall write the ground of change and date of change in the change of name or address column in the sheet registering matrimonial property contract, and then registrar shall sign and stamp and put registration date.

(Keep to ask HE: registrar sign and stamp or the minister sign and stamp?)

Article 39: Registration Method in Registration Binder for Correction of Property Contract of Married Couple

Provision of Article 38 (Registration Method in Registration Binder for Change of Property Contract of Married Couple) of this Prakas shall apply mutatis mutandis to the registration for correction of property contract of married couple.

Article 40: Registration Method in Registration Binder for Deregistration of Property Contract of Married Couple

After an application and attached document stipulated in Article 22 (Application for Registration of Deregistration of Matrimonial Property Contract By Reason of Marriage or Engagement Dissolution), Article 23 (Application for Registration of Deregistration of Matrimonial Property Contract By Reason of Nullity, Rescission or Termination of Matrimonial Property Contract), Article 24 (Application for Registration of Deregistration of Matrimonial Property Contract By Reason of Death of any Spouse), Article 25 (Application for Registration of Deregistration of Matrimonial Property Contract based on Judgment Dissolving Marriage and Dividing Property), Article 26 (Application for Registration of Deregistration of Matrimonial Property Contract Via Court Decision Based on Provisions of the Law on Non-Suit Civil Case Procedure), and Article 27 (Application for Registration of Deregistration of Matrimonial Property Contract Based on Judgment Order Deregistration of Matrimonial Property Contract Registration) are examined by the registrar, registrar shall write purpose, grounds and date in registration column of deregistration .

Regarding the registration sheet in paragraph 1 of this Article, registrar shall put initial to certify that “already examined” and submit to MOJ Minister for signature and seal as well as date. The registrar shall maintain the registration sheet in the Matrimonial Property Contract Registration Binder after it’s signed and sealed by MOJ Minister

Article 41: Filing and Maintaining Method in Application Binder

After MoJ Minister signed and stamped, registrar shall file and maintain application for registration and attached document in the application binder in the order of reception number and date.

Article 42: Filing and Maintaining Method in Dismissal Binder

When registrar dismisses the application for registration, registrar shall file and maintain dismissal letter in the dismissal binder in the order of dismissal letter number and date.

Article 43: Filing and Maintaining Method in Reviewing Application Binder

After receiving final decision of MOJ Minister, registrar shall file and maintain in the reviewing application binder of MOJ Minister's final decision, reviewing application and attached documents in the order of reviewing application number and date.

Article 44: Filing and Maintaining Method in Application for Registration Certification Binder

All application for registration certification, registrar shall file and maintain those applications in Application for Registration Certification Binder in the order of the reception of application for registration certification number and date.

Chapter 8 Certificate Issuance Procedure

Article 45: Method of Filing Application Certification

1. The application for issuing certificate shall be made in writing.
2. The application for issuing certificate shall be filed to the Civil Affairs Department of Ministry of Justice.
3. The application for issuing certification copy of registration book shall have the following matters:
 - Purpose of application: request for issuing certification
 - Names and addresses of the applicant for issuing certification
 - Name of juristic person representative in case where person filing application for registration is a juristic person
 - Matters to be certified
 - Number of certificates
 - Filing date and signature or finger print
4. Applicant filing application for issuing certificate shall pay fee determined by regulations or Inter-Ministerial Prakas of Ministry of Justice and Ministry of Economy and Finance.

Article 46: Approval for Certificate Issuance

1. When receiving application for issuing certificate, registrar shall make a copy of the registration sheet from the matrimonial property contract registration binder for applicant by writing on the copied version that:
 - Duly copied from the original,
 - Day.....month.....year...
 - Initial of registrar and signature and name of the Director of Civil Affairs Department of Ministry of Justice.
2. After receiving application for issuing certificate, registrar shall issue certificate for applicant without delay within 3 days.

Chapter 9 Final Provisions

Article 47: Application Date

This Prakas shall apply after three (3) months from the signing date.

Day.....Month.....Year 2013

Minister of Justice