

**Law
on
Procedures in Actions Relating
to Personal Status**

**Legal and Judicial Cooperation Project
Ministry of Justice – JICA**

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CHAPTER 1

GENERAL PROVISIONS

Section 1: General Provisions

Article 1. Tenor of Law

This law applies to the special case of procedures in actions relating to personal status under the **Code of Civil Procedure**.

Article 2. Spirit of Law

This Law concerns procedures to resolve litigation concerning one's person, and in the spirit of suitably carrying out such actions.

Article 3: Scope of Law

Within this law, "actions relating to personal status" refers to the following actions and any other action that has the purpose of creating or confirming the existence or non-existence of personal status relationships.

- a) Actions with the purpose to nullify a marriage under **Article 958 Nullity of marriage** of the **Civil Code**;
- b) Actions with the purpose to annul a marriage under **Article 959 Annulment of marriage** to **Article 963 Annulment of marriage based on fraud or duress** of the **Civil Code**;
- c) Actions with the purpose to divorce under **Article 978 Grounds for divorce** of the **Civil Code**;
- d) Actions with purpose of denying paternity under **Article 989 Denial of paternity** and **Article 990 Suit of denial of paternity by husband** of the **Civil Code**;
- e) Actions with the purpose to acknowledge under **Article 1001 Suit of acknowledgement** of the **Civil Code**;

- f) Actions with the purpose to confirm the absence of parenthood under **Article 1002 Suit confirming absence of parenthood** of the **Civil Code**;
- g) Actions with the purpose to confirm the existence or non-existence of maternity under **Article 1004 Suit by child seeking confirmation of maternity; Suit by mother seeking confirmation of maternity** of the **Civil Code**;
- h) Actions with the purpose to dissolve a full adoption under **Article 1016 Dissolution of full adoption** of the **Civil Code**;
- i) Actions with the purpose to dissolve under **Article 1031 Grounds for dissolution** of the **Civil Code**.

Section 2: Prosecutorial Presence

Article 4. Assertion of Fact by Public Prosecutor

In cases where a public prosecutor attends the proceeding under Paragraph 2 of **Article 6 Attendance of Public Prosecutor** of the **Code of Civil Procedure**, the public prosecutor may make an assertion of fact or request for examination of evidence.

Section 3: Court

Article 5. Jurisdiction

1. Actions relating to personal status shall be under the exclusive jurisdiction of the court of first instance, which shall be based on the address of the parties of the action or the domicile of the deceased.
2. Should the domicile determined in Paragraph 1 not be located in Cambodia or where his/her domicile is unknown, jurisdiction shall be based on the location of residence.
3. Should jurisdiction be unable to be determined under Paragraphs 1 and 2, jurisdiction shall be based on the location of residence. Where there is

no location of residence or location of residence is unknown, jurisdiction shall be based on the last known domicile.

4. Should jurisdiction not be able to be determined under Paragraphs 1 and 2, the action relating to personal status shall fall under the exclusive jurisdiction of the Phnom Penh court of first instance.

Article 6. Transfer to Avoid Delay

The court of first instance may, even where an action relating to personal status falls under its jurisdiction, upon a motion or on its own authority, transfer all or part of such action to another court having jurisdiction if it determines that such transfer is necessary in order to avoid significant delays in the processing of the action, or in the interest of fairness to the parties. Such transfer shall take into account the location of the domiciles of the parties and the witnesses to be examined, the location of the objects to be inspected and any other relevant matters.

Section 4: Parties

Article 7. Defendant

1. For actions relating to personal status, the party filing the action shall be considered as the plaintiff and the other party shall be considered as the defendant, except where otherwise indicated in special provisions.
2. For actions relating to personal status filed by incompetent persons who are not part of the personal status relationship under the action, both parties shall be considered as defendants, and if one of the parties dies, the rest will become defendants, except where otherwise indicated in special provisions.
3. Under Paragraphs 1 and 2, in cases where the defendant has died, the prosecutor shall become the

defendant should there be no other person who is entitled to serve as the defendant.

Article 8. Capacity to Litigate for Actions Relating to Personal Status

1. For acts of litigation of actions relating to personal status, the provisions of **Article 18 Right to rescind act**, **Article 26 Right to rescind act** and **Article 30 Right to rescind act** of the Civil Code, and Paragraph (3) of **Article 32 Capacity to be a party, capacity to litigate, representation of person lacking capacity to litigate** and **Article 33 Special provisions regarding acts of litigation performed by person under partial guardianship or legal representative** of the Code of Civil Procedure shall not apply.
2. The president of the panel may, upon a motion, appoint a lawyer as representative if it determines that such appointment is necessary in cases where a person with restricted capacity to litigate wishes to conduct an act of litigation that is stipulated in Paragraph 1.
3. The president of the panel may, even where the person who has restricted capacity to act did not file a motion as stipulated in Paragraph 2, order the appointment of a lawyer as representative or appoint a lawyer on its own authority.
4. Pursuant to the provisions of Paragraph 2 or 3, the amount of money for services that shall be paid by the incompetent person to his/her lawyer who is appointed by the president of the panel shall be the appropriate amount determined by the court.
5. Among of money for services and expenditure that is already paid to the lawyer who is appointed by the president of panel under Paragraph 2 or 3, or lawyer who is appointed by the incompetent person, in cases where the president of the panel orders the appointment of a lawyer under the provision of Paragraph 3, litigation costs shall be the appropriate amount determined by court.

Article 9. Rights of Person Under General Guardianship

1. Should the person to be the plaintiff or the defendant of an action relating to personal status is a person under general guardianship, the general guardian of that person may file to be, or shall be filed as, the representative of the person under general guardianship. In cases where the general guardian is the adversarial party in the litigation, this provision shall not apply.
2. In cases as described in the second sentence of Paragraph 1, the general guardian's supervisor may file to be, or may be filed as, the representative of the person under general guardianship.

Section 5: Litigation Cost

Article 10. Litigation Cost

In actions relating to personal status in which the public prosecutor is a party, the litigation cost that shall be paid by the public prosecutor shall be imposed on the National Treasury under the provisions of Paragraphs 1 to 3 of **Article 64 Apportionment of burden and compensation for costs of the Code of Civil Procedure**.

Section 6: Litigation Proceedings

Article 11. Consolidation of Related Actions

Demands in actions relating to personal status, and demands relating to compensations which arose from a fact that was the grounds of a demand relating to personal status, shall be consolidated into one suit even if there exists grounds under **Article 77 Joinder of Claims** of the **Code of Civil Procedure**.

Article 12. Aiding or Amendment of a Claim, and Cross-Complaints

Although there are the provisions of Paragraphs 1 and 4 of **Article 84 Amendment of action**, Paragraph 1 of **Article 86 Cross-action, and Article 276 Filing of cross-action** of the **Code of Civil Procedure**, the plaintiff may, in an action relating to personal status, aid or amend the claim or grounds of the claim. The defendant may file a cross-complaint at any time up until the conclusion of oral arguments or the adjudication on an *Uttor* appeal.

Article 13. Non-applicable Provisions of the Code of Civil Procedure

1. **Article 94 Dismissal of allegations or evidence for late advancement**, Paragraph 1 of **Article 96 Constructive Admission**, Paragraph 2 of **Article 140 Examination of party**, **Article 153 Effect of party's failure to comply with ruling to submit documents**, Paragraph 4 of **Article 156 Proof by handwriting comparison**, **Article 200 Default judgment against plaintiff**, Paragraph 2 of **Article 201 Default judgment against defendant**, and facts admitted to by a party in court which are mentioned in Paragraph 2 of **Article 123 Principle of decision based on evidence** of the Code of Civil Procedure shall not apply to the procedures in an action relating to personal status.
2. Provisions from **Articles 220 Settlement of action in court** through **Article 222 Effect of settlement protocol** of the **Code of Civil Procedure** shall not apply to the object of claims in an action relating to personal status.

Article 14. Ex officio examination by court

The court may, in an action relating to personal status, base its judgment on any fact that has not been alleged by either party. In such cases, the court shall hear the opinions from the parties regarding any such fact.

Article 15. Summoning of Parties

1. In actions relating to personal status, in cases where the court examines said parties, the court may summon that parties to appear in person on a set date.
2. The provisions from Paragraphs 2 to 4 of **Article 132 Duty of witness** of the **Code of Civil Procedure** shall apply *mutatis mutandis* to any party who was ordered by the court to appear based on the provision of Paragraph 1 but who failed to appear without reasonable cause.

Article 16. Closed Court for Oral Arguments

1. Oral arguments in actions relating to personal status shall be held in closed court.
2. Under special circumstances, the court may hold oral arguments in open court or allow persons to join as an observer when the court determines that this is suitable.

Article 17. Scope of Persons Bound by Final Judgment

1. Despite the provisions of **Article 198 Scope of persons subject to final and binding judgment** of the **Code of Civil Procedure**, the final judgment of an action relating to personal status shall also be binding on third parties.
2. In cases demanding to rescind a marriage based on the provision of **Article 949 Prohibition against bigamy** of the **Civil Code**, where such demand was dismissed despite the provisions of Paragraph 1, the final judgment that dismissed the demand shall be effective upon the spouse of the preceding marriage only when she intervenes in the action relating to the demand, based on the provision of the Code of Civil Procedure.

Article 18. Prohibition against Filing Litigation Relating to Personal Status After Judgment Becomes Final and Binding

1. After a judgment of an action relating to personal status becomes final and binding, the plaintiff shall not be allowed to file a new action relating to personal status having the same subject-matter as the prior action based on facts that he/she could have asserted for amendment of claims or the grounds of demands in the action relating to personal status.
2. After the judgment of an action relating to personal status becomes final and binding, the defendant shall not be allowed to file a new action relating to personal status based on facts that he/she could have asserted for filing cross-litigation in the action relating to personal status.
3. The provisions of Paragraphs 1 and 2 shall not apply for judgments that are dismissed an actions due to the illegality of such action.

Article 19. Death of Plaintiff

In cases where the plaintiff of an action relating to personal status dies during the action, the action will be automatically completed, except as otherwise specified by special law.

Article 20. Death of Defendant

1. In cases where both parties of an action relating to personal status became defendants according to the provision of Paragraph (2) of **Article 7 Defendant**, if one of the parties is deceased, the litigation shall still proceed by designating another party to succeed as defendant. In such case, the provision of Item (a) of **Article 173 Interruption of and succession to litigation** of the **Code of Civil Procedure** shall not apply.

2. In cases stated in Paragraph 1 or Paragraph 2 of **Article 7 Defendant**, if all of the defendants are deceased, the litigation will still proceed by designating the public prosecutor to succeed as defendant.
3. The court may take into account the preferences of the child in accordance with his/her age and maturity when concerning a decision regarding the custody of the child or parental authority under Paragraph 1.

Section 7: Preservative Relief

Article 21. Preservative Relief

1. In cases where the action relating to personal status has been filed, the court may, on its own authority, order the conducting of provisional attachment, provisional disposition or any other necessary procedures of preservative relief mentioned in **Book Seven PRESERVATIVE RELIEF** of the **Code of Civil Procedure** notwithstanding the provision of Paragraph 1 of **Article 532 Organ granting preservative relief** of the **Code of Civil Procedure**.
2. The provision of Paragraph 1 shall apply simultaneously to **Article 558 Cancellation of preservative relief due to change of circumstances** and **Article 559 Cancellation of ruling of preservative relief due to special circumstances** of the **Code of Civil Procedure**.

Section 8: Special Cases of Actions on Matrimonial Relationships

Article 22. Decision for Incidental Disposal

1. Upon the petition or ex officio, the court shall adjudicate the parental authority, custody of children or disposition regarding the division of property; if the court issues a judgment in which

it recognized plaintiff's demand in an action demanding annul of marriage or divorce.

2. In cases stipulated in Paragraph 1, the court may order a party to deliver the child, to pay money or to provide other performance in its judgment stated in Paragraph 1.
3. The provision of Paragraph 2 of **Article 182 Matters for judgment** of the **Code of Civil Procedure** shall not apply to any decision stated in Paragraph 1 or 2.
4. When the court adjudicates the parental authority or disposition for custody of children as stipulated in Paragraph 1, the court, in its decision, shall take into consideration the age and understanding of the children.

Article 23. Ruling of Execution

1. In cases where a person fails to perform his/her obligations under Paragraph 2 of **Article 22 Decision for Incidental Disposal**, the court that released such decision, upon the petition of person having the right, may issue an order requiring the person to perform his/her obligation within an appropriate time if the court deems such appropriate.
2. Under the provision of Paragraph 1, if the court orders a person to perform a duty, the court shall hear a statement from such person.
3. If a person who is ordered to perform a duty under Paragraph 1 fails to do so without proper reason, the court that ordered the person to perform the duty may fine that person an amount not exceeding 1,000,000 Riel.
4. A Chomtoah appeal may be made against the ruling described in Paragraph (3).

Section 9: Special Cases of Actions on Parent-Child Relationships

Article 24. Parties of Suit for Denial of Paternity by Husband

1. In cases where the husband died before the birth of the child or in cases where the husband dies during the period determined in Paragraph 2 of **Article 990 Suit of denial of paternity by husband** of the **Civil Code** without filing a suit of denial of paternity, person who is suffered infringe on succession rights by child or another relative of the husband up to a 3rd degree relationship may file a suit of denial of paternity. In such case, the action shall be filed no later than 1 year from the date of the husband's death.
2. In cases where the husband dies after filing a suit of denial of paternity and while the case is still pending, any person who could succeed to the proceedings must do so not later than one year from the date of the husband's death. The provision of Paragraph 2 of **Article 173 Interruption of and succession to litigation** of the **Code of Civil Procedure** shall not apply.

Article 25. Parties of Suit of Denial of Paternity by Child

1. In cases where a minor child dies without filing a suit of denial of paternity or fails to file a suit within the period stated in Paragraph 3 of **Article 991 Suit of denial of paternity by child** of the **Civil Code**, the lineal decedent of the deceased child could file a suit of denial of paternity. In such cases, the action shall be filed not later than 1 year from the date of the child's death.
2. In a case where the child dies after the suit of denial of paternity was filed but the case is still pending, a lineal descendent of the deceased child could succeed to the proceedings of the action if they do so not later than 1 year from the date of the child's death. The provision of Paragraph 2 of **Article 173 Interruption of and succession to**

litigation of the **Code of Civil Procedure** shall not apply.

Article 26. Parties to Suit of Acknowledgement

1. A child, in a suit of acknowledgement, shall file the suit against the father as defendant. If the father died before the suit was filed, the child can file the suit against a public prosecutor.
2. If the father, the defendant, dies while the court is processing the action, the public prosecutor shall succeed to the litigation.
3. In cases where the child dies after filing a suit of acknowledgement, the lineal descendant of such child could succeed to the litigation if they do so not less than 6 months from the date of the child's death upon the lapse of the period determined in Paragraphs 3 and 5 of **Article 1001 Suit of Acknowledgment** of the **Civil Code**. The provision of Paragraph 2 of **Article 173 Interruption of and succession to litigation** of the **Code of Civil Procedure** shall not apply.

Section 10: Transitional Provisions

Article 27 Principles of Transitional Provisions

1. This law shall apply to all cases regarding personal status petitioned after this Law comes into force.
2. Regarding cases petitioned for prior to this Law coming into effect, notwithstanding the amendments to the marriage and family laws of the Civil Code, shall be according to prior practice.

Article 28 Provision non-applicable to prohibitions on the filing of appeals following final judgment

In relation to judgments on cases adjudicated prior to this Law coming into effect, **Article 18 Prohibition against Filing Litigation Relating to Personal Status After Judgment Becomes Final and Binding** shall not apply.

Section 11: Final Provisions

Article 29 Application of Procedures

This Law shall take effect from the day on which the Civil Code takes effect.

Article 30 Abrogation of other laws

The provisions of other laws that are in effect at the time of the application of this Code, but which are inconsistent with the provisions of this Code, shall become invalid to the extent of inconsistency from the date of the application of this Code.