

**Non-Suit Civil Case Procedural Law
of the Kingdom of Cambodia**

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Chapter 1: General Provisions

Section 1: Purpose

Article 1 Purpose

1. Unless otherwise stipulated by other laws, the court shall render a ruling in accordance with the provisions of this Law with regard to matters that fall within its authority and are described in each item of the Appendix attached hereto.
2. Any ruling under Paragraph 1 herein shall be rendered by a decision.
3. Unless otherwise stipulated by this Law, any decision under Paragraph 2 herein shall be subject to the provisions of the Code of Civil Procedure that refer to decisions.

Section 2: Costs

Article 2 Payment of Costs

1. A filing fee of 5.000 riels shall be paid for filing a motion for the procedures concerning any of the cases stipulated in this Law.
2. Unless otherwise stipulated in this Law, the provisions of **Article 62 Court Costs other than Filing Fees and Article 63 Party's Costs of the Code of Civil Procedure** shall apply *mutatis mutandis* to the costs other than the fee specified in Paragraph 1 herein.
3. Unless otherwise stipulated in this Law, the costs specified in Paragraphs 1 and 2 herein shall be borne by the movant in the case.
4. As for cases commenced upon a motion by the public prosecutor or *ex officio* by the court, the costs specified in Paragraphs 1 and 2 herein shall be borne by the government.
5. The provision of Paragraph 3 of **Article 64 Apportionment of burden and compensation for costs of the Code of Civil Procedure** shall apply *mutatis mutandis* to cases where the costs need to be borne jointly by several persons.
6. A filing fee of 5.000 riels shall be paid for filing a *Chomtoah* appeal under the provisions of **Article 37 Chomtoah Appeals** herein.

Article 3 Determination of the Amount of the Costs

1. The court shall, if it deems it necessary to do so, determine by a decision the bearer and the amount of the costs specified in **Article 2 Payment of Costs** at the time of rendering a decision regarding the case.
2. The court may, if there are special circumstances, order any

interested party other than those who, in accordance with the provisions stipulated in this Law, are responsible for the payment of the costs to pay for the whole or part of such costs.

3. A *Chomtoah* appeal against a decision regarding costs may be filed only by the person ordered to pay such costs. Said person may not file an appeal against such a decision independent from the decision rendered for the case.

Article 4 Compulsory Execution of a Decision regarding Costs

1. The creditor entitled to recover costs may carry out the compulsory execution of a decision regarding such costs.
2. The provisions of **Book Six** of the **Code of Civil Procedure** shall apply *mutatis mutandis* to compulsory execution under Paragraph 1 herein. The title of execution for a decision regarding costs does not need to be served before its execution.
3. The provisions of Paragraph 2 of **Article 305 Stay of effect of original ruling** of the **Code of Civil Procedure** shall apply *mutatis mutandis* to a *Chomtoah* appeal against a decision regarding costs.

Article 5 Advance Payment of Costs

The government shall make an advance payment for the costs incurred arising from the examination of evidence, the issuance of a summons, the publication of notifications and other necessary dispositions taken by the court on its authority; provided, however, that the court may have the party make a prepayment for such costs.

Chapter 2: Courts

Section 1: Jurisdiction

Article 6 Courts with Jurisdiction

1. The cases specified in Paragraph 1 of **Article 1 Purpose** of this Law shall be subject to the jurisdiction of the courts of first instance listed in the Appendix.
2. The jurisdiction referred to in Paragraph 1 above shall be determined at the time the motion is filed.

Article 7 Designation of the Court with Jurisdiction

1. If the court with jurisdiction is unable to judicially or factually exercise its authority, or if it is impossible to determine what court has jurisdiction due to the

territorial jurisdiction over the case being unclear, the Supreme Court shall *ex officio* determine the competent court via a decision upon a motion.

2. No appeal may be filed against any decision under Paragraph 1 of this article.

Article 8 Handling of Situations Where Jurisdiction Does Not Exist

1. Should the court determine that it lacks jurisdiction over a case, it shall transfer the case to a court having jurisdiction upon a motion or on its own authority.
2. Any motion under Paragraph 1 herein shall be made in writing, except where it is made on the court date, and clearly state the reason(s) for the motion.

Article 9 Jurisdictional Priority and Case Transfer

1. In the event of the concurrency of jurisdiction between courts, the court to have first received a motion for a case shall have jurisdiction over the case.
2. Where Paragraph 1 herein applies, the court may, if it deems it necessary to do so to process the case, transfer the case to another court with jurisdiction upon a motion or on its authority.
3. Any motion under Paragraph 2 herein shall be made in writing, except where it is made on a court date, and clearly state the reason for the motion.

Article 10 Examination of Evidence on the Court's Own Authority

The court may examine evidence on its own authority in regard to matters relating to its jurisdiction.

Article 11 Chomtoah Appeals

1. A *Chomtoah* appeal may be made against a ruling ordering a transfer or dismissing a motion for transfer.
2. The provisions of **Articles 38 Period for a Chomtoah Appeal** and **Article 39 Filing of a Chomtoah Appeal after the Expiration of the Filing Period** shall apply *mutatis mutandis* to a *Chomtoah* appeal stipulated in paragraph 1 herein.

Article 12 Binding Effect of a Transfer Ruling

1. Where a ruling to transfer an action has become final and binding, the ruling shall be binding on the court to which the action has been transferred.
2. The court to which an action is transferred may not transfer

- the action to another court.
3. When a ruling to transfer an action has become final and binding, the action shall be deemed pending *ab initio* before the court to which it has been transferred.
 4. When a ruling to transfer an action has become final and binding, the court issuing the ruling to transfer shall forward the record of the case to the court to which the action has been transferred.

Section 2: Structure of the Courts

Article 13 Individual and Panel Systems for Trials of First Instance

1. Cases in courts of first instance shall be handled by a single judge, except for the cases described in Paragraph 2.
2. A panel of judges shall handle such cases that are deemed appropriate to be heard and adjudicated by it in consideration of the number of interested parties and other circumstances.
3. The panel described in Paragraph 2 shall consist of three judges, one of whom shall be the presiding judge.
4. Where a panel of judges conducts the trial and decision pursuant to the provision of Paragraph 2, the panel shall issue a ruling as such.

Article 14 Deliberations of a Panel

1. The deliberations of the panel in a case shall not be open to the public.
2. The deliberations shall be commenced and controlled by the presiding judge.
3. Each judge shall express his/her opinions during the deliberations.
4. The progress of the deliberations, as well as the opinions of the judges and the size of the majority, shall be maintained in strict secrecy.

Article 15 Decisions by a Panel

1. A case shall be decided in accordance with the opinions of the majority of the judges comprising the panel.
2. Each judge comprising the panel shall have an equal vote.

Section 3: Exclusions, Challenges and Refusals

Article 16 Exclusions, Challenges and Refusals in Relation to Judges

1. The provisions of **Book One, Chapter Two, Section III** of the **Code of Civil Procedure** concerning exclusions, challenges and refusals in relation to judges and court clerks shall apply *mutatis mutandis* to the cases stipulated in Paragraph 1 of **Article 1 Purpose** of this Law.
2. The provisions of **Article 38 Period for a Chomtoah Appeal** and **Article 39 Filing of a Chomtoah Appeal after the Expiration of the Filing Period** shall apply *mutatis mutandis* to a *Chomtoah* appeal stipulated in **Book One, Chapter Two, Section III** of the **Code of Civil Procedure**. These provisions shall be applied *mutatis mutandis* in accordance with the provisions of paragraph 1 herein.

Chapter 1: Interested Parties

Article 17 Interested Parties

In such case as stipulated in Paragraph 1 of **Article 1 Purpose** of this Law, the movant, the opposing party of the movant, or any other person whose right or legal interest is directly affected by a decision concerning the case may participate in the procedures of the case as an interested party in the case.

Article 18 Capacity to be an Interested Party

Any interested party defined under **Article 17 Interested Parties** herein shall have the capacity to exercise his or her rights or assume obligations in his or her name pursuant to the provisions of the Civil Code or other laws.

Article 19 Capacity to Perform Procedural Acts, Representation of Persons Lacking the Capacity to Perform Procedural Acts

1. A person who has the capacity to independently act pursuant to the provisions of the Civil Code or other laws may perform any procedural act necessary for the procedures relating to any case stipulated in Paragraph 1 of **Article 1 Purpose** of this Law as an interested party in the case.
2. No minor and/or any person placed under general guardianship may not perform any valid procedural act except through their legal representatives, except in the following cases:
 - (i) Where the minor or the person placed under general guardianship has the capacity to act independently.
 - (ii) Where the minor or the person placed under general guardianship conducts a procedural act related to their

own status.

3. Any matters regarding legal representatives and their authority, as referred to in Paragraph 2 herein, shall be governed by the provisions of the Civil Code and other laws.
1. 4. The provisions of **Articles 33 Special provisions on procedural acts by person under curatorship and statutory agents** through Article 38 **Application Mutatis mutandis to representative of juridical person** of the **Code of Civil Procedure** shall apply mutatis mutandis to the capacity to perform valid procedural acts as an interested party as referred to in Paragraphs 1 and 2 and to the legal representatives and their authority as referred to in Paragraphs 2 and 3 herein.

Article 20 Procedural Acts by an Appointed Representative

1. An interested party may conduct all acts concerning the procedure on his or her own or by means of an appointed representative appointed by the interested party.
2. Even where an interested party has appointed an appointed representative, the interested party may conduct acts concerning the procedure.

Article 21 Qualifications of an Appointed Representative

1. The appointed representative described in **Article 20 Procedural Acts by an Appointed Representative** hereto shall be an attorney or other person approved by the court.
2. The court may at any time revoke the approval granted under Paragraph 1 herein to any person other than an attorney.

Article 22 Establishment of the Authority of the Appointed Representative

The authority of a representative appointed under the provision of Paragraph 1 of **Article 20 Qualifications of an Appointed Representative** herein shall be established in writing. However, this shall not apply where the representative is appointed with the approval of the court under the provisions of **Article 21 Qualifications of an Appointed Representative** hereto.

Article 23 Mutatis mutandis Application of the Provisions of the Code of Civil Procedure Concerning the Authority of an Appointed Representative

The provisions of **Article 55 Non-extinction of authority of appointed representative, Article 56 Grounds for extinction of authority of appointed representative, and Article 57 Measures**

for lack of authority of representation of the Code of Civil Procedure shall apply mutatis mutandis to appointed representatives.

Chapter 4: Proceedings

Article 24 Method for Filing a Motion and Matters to be Included in a Motion

1. Unless otherwise stipulated by this Law or by other laws, a motion may be filed either in writing or orally.
2. A motion shall include the following contents:
 - (i) The name and address of the movant, and the name and address of the movant's legal representative; and
 - (ii) The subject of, and the facts constituting the grounds for, the decision and other dispositions sought from the court.
3. A person who orally files a motion shall make statements before a court clerk regarding the matters raised in each Item of Paragraph 2 herein. In such case, the court clerk shall record the statements of the person and affix his or her signature thereon.
4. Should there be any documentary evidence, the original or a certified copy thereof shall be attached to the motion or, if the motion is orally filed, handed to the court at the time of filing.

Article 25 Inquisitorial System; Examination of Evidence on Court's Own Authority

1. The court may make a decision based on facts not alleged either by the movant or the opposing party. In this case, the court shall make its utmost effort to hear from all the parties involved regarding these facts.
2. The court shall, when it deems it necessary to do so, investigate facts and examine evidence on its authority.

Article 26 Oral Arguments and Hearings at the Court's Discretion

1. The court shall not be required to hold an oral argument when rendering a decision in any of the cases stipulated in Paragraph 1 of **Article 1 Purpose** of this Law.
2. If no oral arguments are to be held, the court may call a hearing of the movant, the opposing party, and any witnesses it deems necessary. In such case, the court may allow any person it deems appropriate to observe the hearing.

Article 27 Obligation to Appear in Person

1. The court may summon the movant, the opposing party, and any witnesses it deems necessary to appear in court on a designated date.
2. The court may impose a fine up to 1,000,000 riel on any person who fails to appear in court without good reason in response to a summons under Paragraph 1 herein.

Article 28 Attendance by and Notification of the Public Prosecutor

1. The court shall, if it deems it necessary to do so in the public interest, notify the public prosecutor of the case and the date on which an oral argument or a hearing for the case is to be held.
2. The public prosecutor may, if he or she deems it necessary to do so in the public interest, present opinions on the case and attend an oral argument or hearing held for the case on the date designated by the court.
3. The court and other public authorities including their officials, as well as the public prosecutor, shall, if any of them have become aware of a situation during the course of their duties whereby a decision needs to be made at the request of the public prosecutor, give notification to this effect to the public prosecutor at the office of the public prosecutor that corresponds to the court with jurisdiction over such a decision.

Article 29 Participation in the Procedures by Interested Parties

1. The court may, if it deems it appropriate to do so, allow any interested party under **Article 17 Interested Parties** herein, other than the movant and the opposing party, to participate in the procedures.
2. Any person who comes under the definition in the preceding Paragraph may participate in the proceedings by obtaining the approval of the court.

Article 30 Succession to the Procedures

1. Should the movant or the opposing party be unable to continue the procedures due to death, loss of their qualification or any other reason, any person who is authorized by law to do so may file a motion to succeed in the proceedings.
2. In the event of Paragraph 1 herein, the court may, if it deems it necessary to do so, allow a person who is authorized by law to do so to succeed in the proceedings.

Article 31 Inspection of Records

1. The court may, if it deems it necessary to do so, upon the filing of a motion by an interested party in a case, permit the interested party to inspect or duplicate records regarding the case or may have a court clerk provide the interested party with authenticated copies, certified copies or excerpts of such records, or an official certification of matters related to the case, on the condition that the court collects a fee from the interested party.
2. Notwithstanding the preceding Paragraph, the court shall have a court clerk provide the movant or the opposing party in the case with an authenticated copy, certified copy or excerpt of a letter of ruling, or an official certification of matters related to the case, upon the request of the movant or the opposing party.

Article 32 *Mutatis mutandis* Application of the Provisions of the Code of Civil Procedure

1. The provisions of the Code of Civil Procedure regarding dates and terms, and the method of proof to a preliminary showing shall apply *mutatis mutandis* to the procedures stipulated by this Law, unless they contradict the purpose of the procedures they apply to.
2. The provisions of the Code of Civil Procedure regarding oral arguments, examination of witnesses, examination of parties, expert testimony, inspections and documentary evidence shall apply *mutatis mutandis* to the oral arguments held in accordance with the procedures stipulated by this Law, unless they contradict the purposes of the procedures they apply to.

Chapter 5: Judgment

Article 33 Method of Judgment

A ruling under Paragraph 2 of **Article 1 Purpose** herein shall be made in writing, describe the reason for the ruling and the main text of the ruling, and be signed by the judge.

Article 34 Notification of Rulings

A ruling under Paragraph 2 of **Article 1 Purpose** herein shall be notified to the persons who are subject to it. A notice of a ruling shall be made by service or delivery of an authenticated copy of the letter of ruling.

Article 35 Finalization and the Coming into Effect of a Ruling

1. A ruling under Paragraph 2 of **Article 1 Purpose** herein shall not become final prior to the expiration of the period for a *Chomtoah* appeal specified in **Article 38 Period for a Chomtoah Appeal** herein.
2. The finality of a ruling mentioned in Paragraph 1 herein shall be stayed by a *Chomtoah* appeal filed during the period mentioned in Paragraph 1.
3. A ruling under Paragraph 1 herein shall not take effect until it becomes final.

Article 36 Enforceability of a Ruling

A final ruling ordering the payment of money, the delivery of an object, the performance of a registration obligation or the provision of other benefits shall become a title of execution under **Article 350 Title of Execution** of the **Code of Civil Procedure**.

Chapter 6: Appeals

Article 37 Chomtoah Appeals

1. Unless otherwise stipulated by this Law, any person whose right or legal interest may be directly affected by a decision prescribed in Paragraph 2 of **Article 1 Purpose** of this Law, rendered in a case stipulated in Paragraph 1 of **Article 1 Purpose** of this Law, may file a *Chomtoah* appeal against the decision.
2. Where a ruling may be rendered only upon the filing of a motion, a *Chomtoah* appeal against a ruling for the dismissal of a motion may be filed only by the movant.

Article 38 Period for a Chomtoah Appeal

1. A person who may file a *Chomtoah* appeal against a ruling shall file it within two (2) weeks from the date of that person's receipt of the notice of the ruling.
2. A person who may file a *Chomtoah* appeal against a ruling shall file it within two (2) weeks of the date of the movant's receipt of the notice of the ruling in cases where the person filing the appeal is not the person who shall receive a notice of the ruling in accordance with the provisions of **Article 34 Notification of Rulings**.
3. In the event that the case has been commenced by the court's own authority, the period prescribed in Paragraph 2 herein

shall commence upon the date of receipt of the notice of the ruling by the last person.

4. The period prescribed in Paragraphs 1 and 2 herein may not be extended.

Article 39 Filing of a Chomtoah Appeal after the Expiration of the Filing Period

1. Where a person authorized to file a *Chomtoah* appeal is unable to comply with the filing period for a reason not attributable to that person's own fault, such an appellant may file it within a period of one (1) week from the time when such a reason has ceased to exist. This grace period shall be two months if the person is located overseas.
2. The grace period prescribed in Paragraph 1 herein may not be extended.

Article 40 Proceedings at the Chomtoah Appellate Court

Unless otherwise stipulated by the provisions in this Chapter of this Law, the provisions of **Chapter Four Proceedings** of this Law and the provisions of **Book Three, Chapter Four Chomtoah Appeals** of the **Code of Civil Procedure** shall apply *mutatis mutandis* to the proceedings at the *Chomtoah* appellate court.

Chapter 7: Preservative Relief

Article 41 Procedures for Preservative Relief

1. In the event of the filing of a motion with regard to any of the cases prescribed in this Law, the court may, upon a motion or by its own authority, by its ruling, order provisional attachment, provisional disposition, appointment of a property administrator and any other necessary disposition with or without requiring the provision of security in accordance with the provisions of this Law.
2. An order of preservative relief prescribed in Paragraph 1 herein shall be issued based on the *prima facie* evidence provided.
3. The movant shall, when filing a motion for preservative relief prescribed in Paragraph 1 herein, clarify the subject of and grounds for the preservative relief that is sought.
4. Notwithstanding Paragraph 2 of **Article 25 Inquisitorial System; Examination of Evidence on Court's Own Authority**, a person who files a motion for preservative relief under Paragraph 3, shall present the *prima facie* evidence

- concerning the grounds for such preservative relief.
5. The court may, when it deems it necessary to do so, investigate facts and examine evidence on its authority.
 6. A ruling concerning preservative relief under Paragraph 1 shall be notified to the person who is to be subject to it. A ruling concerning preservative relief under Paragraph 1 shall take effect immediately upon notification.
 7. The provisions of the Code of Civil Procedure regarding the effect and execution of provisional attachment and provisional disposition shall apply *mutatis mutandis* to the effect and execution of preservative relief under Paragraph 1.
 8. The provisions of **Articles 545 Necessity of Ruling of Provisional attachment, Article 546 Subject of ruling of provisional attachment, Article 547 Deposit for Release from Provisional Attachment, Article 548 Necessity of ruling of provisional disposition, and Article 549 Method of provisional disposition** of the Code of Civil Procedure shall apply *mutatis mutandis* to preservative relief under Paragraph 1, and the provisions of **Article 71 Method of Providing Security and Change in Security** of the same Code shall apply *mutatis mutandis* to security under Paragraph 1 of this Article.

Article 42 Appeals

1. A person who files a motion under Paragraph 1 of **Article 41 Procedures for Preservative Relief** may file a *Chomtoah* appeal against a ruling dismissing that motion.
2. A person who may file a *Chomtoah* appeal against a ruling admitting a motion filed concerning the principal matter may file a *Chomtoah* appeal against preservative relief specified in Paragraph 1 of **Article 41 Procedures for Preservative Relief**.
3. Where a *Chomtoah* appeal is instituted in accordance with the provision of Paragraph 2 of this Article, if *prima facie* evidence is provided detailing sufficient grounds for canceling the preservative relief so ordered, or that the execution of the preservative relief ordered would cause irreparable damage, the *Chomtoah* appellate court may order the following dispositions upon the filing of a motion:
 - (i) To suspend, with or without requiring the provision of security, execution of the preservative relief until the ruling on the *Chomtoah* appeal becomes effective; or
 - (ii) To cancel, with or without requiring the provision of security, the effect of the executed preservative relief until the ruling on the *Chomtoah* appeal becomes effective.
4. The original court also may issue an order under Paragraph

- 3 as long as it retains case records.
5. The provisions of **Articles 38 Period for a Chomtoah Appeal** and **Article 39 Filing of a Chomtoah Appeal after the Expiration of the Filing Period** shall apply *mutatis mutandis* to a *Chomtoah* appeal under this Article. The provisions of Paragraphs 4 and 5 of **Article 41 Procedures for Preservative Relief** of this Law shall apply *mutatis mutandis* to the presentation of *prima facie* evidence under Paragraph 3 of this Article, and the provisions of **Article 71 Method of Providing Security and a Change in Security** of the **Code of Civil Procedure** shall apply *mutatis mutandis* to security under Paragraph 3 of this Article.
 6. The provisions of **Article 555 Ruling to order restitution** of the **Code of Civil Procedure** shall apply *mutatis mutandis* to a ruling to cancel a ruling of preservative relief under Paragraph 1 of **Article 41 Procedures for Preservative Relief** herein in accordance with Paragraph 2 herein.

Article 43 Cancellation of Preservative Relief Due to Changes in the Circumstances

1. The court may, upon the filing of a motion by the person prescribed in Paragraph 2 of **Article 42 Appeals** or on its own authority, cancel preservative relief under Paragraph 1 of **Article 41 Procedures for Preservative Relief** if the grounds for it have ceased to exist or if there has been any change in the circumstances after the preservative relief became final.
2. The provisions of Paragraphs 2 through 6 of **Article 41 Procedures for Preservative Relief** shall apply *mutatis mutandis* to the motion and ruling under Paragraph 1 herein.
3. A person who has filed a motion for preservative relief may file a *Chomtoah* appeal against the ruling to cancel that preservative relief in accordance with Paragraph 1 herein.
4. A person who files a motion under Paragraph 1 herein may file a *Chomtoah* appeal against the ruling to dismiss that motion. In this case, the provisions of Paragraphs 3 through 5 of **Article 42 Appeals** shall apply *mutatis mutandis*.
5. The provisions of **Articles 555 Ruling to order restitution** and **Article 556 Effect of Ruling of Cancellation of Ruling of Preservative Relief** of the **Code of Civil Procedure** shall apply *mutatis mutandis* to a ruling for the cancellation of a ruling for preservative relief in accordance with Paragraph 1 herein.

Article 44 Administration of Property, Preservative Relief and Custodial Matters in the event of a Declaration of the Commencement of General Guardianship

1. Where a motion seeking a declaration of the commencement of general guardianship under **Article 24 Declaration of Commencement of General Guardianship** of the **Civil Code** has been filed, if it is necessary for the administration of the property of the principal or for the custody of the principal, the court may, upon a motion or on its own authority, without requiring the provision of security, appoint a property administrator working for the principal, or give direction to interested parties in cases regarding matters concerning the administration of the principal's property and concerning the custody of the principal until a ruling pertaining to the motion seeking a declaration on the commencement of general guardianship takes effect.
2. The provisions of **Articles 37 Appointment of Administrator by the Court** through **Article 40 Authority of Administrator** of the **Civil Code** shall apply *mutatis mutandis* to a property administrator appointed under Paragraph 1 herein.
3. Where a motion seeking a declaration of the commencement of general guardianship has been filed, if necessary for the preservation of the principal's property, the court may, upon a motion by the person who filed the former motion, order the principal to be placed under general guardianship by his or her property administrator who has been appointed in accordance with the provisions of Paragraph 1 herein with regard to any act he or she performs in relation to the property, except for the acts prescribed in **Article 26**, proviso of the **Civil Code**, until a ruling pertaining to the motion seeking a declaration of the commencement of general guardianship takes effect.
4. A ruling under the provision of Paragraph 3 shall be notified to the property administrator.
5. Where a ruling under the provision of Paragraph 3 has been made, the court shall notify the principal of the ruling without delay.
6. The period for a *Chomtoah* appeal against a ruling under the provision of Paragraph 3 shall commence as of the date of notification to the property administrator under Paragraph 4. If there exists more than one property administrator and each one received the notification on different dates, the period for a *Chomtoah* appeal shall start to run on the latest date.
7. Where a ruling under the provision of Paragraph 3 has been made, the principal and his or her property administrator may rescind any act performed by the principal in relation to the property, except for the acts prescribed in **Article 26**, proviso of the **Civil Code**. In such case, the provisions

of the Civil Code regarding the rescission of acts performed by persons whose capacity to act is limited shall apply.

Article 45 Administration of Property, Preservative Relief and Custodial Matters in the event of a Declaration of the Commencement of Partial Guardianship

1. Where a motion seeking a declaration of the commencement of partial guardianship under **Article 28 Declaration of the Commencement of Partial Guardianship** of the Civil Code has been filed, if necessary for the administration of the property of the principal or for the custody of the principal, the court may, upon a motion or on its authority, without requiring the provision of security, appoint a property administrator working for the principal, or give direction to interested parties in cases regarding matters concerning the administration of the principal's property and concerning the custody of the principal, until a ruling pertaining to the motion seeking a declaration of the commencement of partial guardianship takes effect.
2. The provisions of **Articles 37 Appointment of Administrator by the Court** through **Article 40 Authority of Administrator** of the **Civil Code** shall apply *mutatis mutandis* to a property administrator appointed under Paragraph 1 herein.
3. Where a motion seeking a declaration of the commencement of partial guardianship has been filed, if necessary for the preservation of the principal's property, the court may, upon a motion by the person who filed the former motion, order the principal to be placed under partial guardianship by his or her property administrator who has been appointed in accordance with the provision of Paragraph 1 herein with regard to any act he or she performs in relation to the property that is prescribed in **Article 30** of the **Civil Code**, until a ruling pertaining to the motion seeking a declaration of the commencement of partial guardianship takes effect.
4. A ruling under the provision of Paragraph 3 shall be notified to the property administrator.
5. The period for a *Chomtoah* appeal against a ruling under the provision of Paragraph 3 shall start to run on the date of notification under Paragraph 6 of **Article 41 Procedures for Preservative Relief** or on the date of notification under Paragraph 4 of this Article, whichever is later.
6. Where a ruling under the provision of Paragraph 3 has been made, the principal and the principal's property administrator may rescind any act performed by the principal in relation to his or her property without obtaining the consent of the property administrator that is prescribed in **Article 30** of the **Civil Code**. In this case, the provisions of the Civil Code regarding the rescission of acts performed

by persons whose capacity to act is limited shall apply *mutatis mutandis*.

Article 46 Suspension of Parental Authority Prior to the Taking of Effect of a Ruling on the Establishment of Full Adoption

1. Where a motion has been filed to seek a ruling on the establishment of full adoption under **Article 1007 Formalities of Establishment of Full Adoption of the Civil Code**, if it is necessary for the welfare of the person to be adopted, the court may, upon a motion by the person who filed said motion, suspend the person with parental authority over the person to be adopted or the guardian of the minor from executing his or her duties and may appoint a person who acts as the person with parental authority over the person to be adopted or as the guardian of the minor, until a ruling pertaining to the motion seeking the establishment of full adoption takes effect.
2. The court may, at any time, replace its appointed person who acts as the person with parental authority over the person to be adopted or as the guardian of the minor.

Article 47 Suspension from Duties of a Person with Parental Authority; Appointment of a Person Who Acts as a Person with Parental Authority

1. Where a motion has been filed to seek a declaration of the suspension or deprivation of the right to act as a person with parental authority under **Article 1048 Order for Suspension or Divestment of Authority of Parental Power Holder of the Civil Code**, if it is necessary for the welfare of the child, the court may, upon a motion by the person who filed said motion, suspend the person with parental authority from executing his or her duties and may appoint a person who acts as the person with parental authority, until a ruling pertaining to the motion seeking a declaration of the suspension or deprivation of the right to act as a person with parental authority takes effect.
2. The court may, at any time, replace its appointed person who acts as the person with parental authority.

Chapter 8: Special Rules Regarding Specified Cases

Section 1: Guardianship Cases and Partial Guardianship Cases

Article 48 Expert Opinions of Doctors and Other Persons for the Commencement of General Guardianship

The court shall, when it renders a ruling to declare the commencement of general guardianship under Paragraph 1 of **Article 24 Declaration of Commencement of General Guardianship** of the **Civil Code** or partial guardianship under Paragraph 1 of **Article 28 Declaration of Commencement of Partial Guardianship** of the **Civil Code**, hear expert opinions from a doctor or any other persons whom the court deems appropriate with regard to the mental condition of the person to be placed under general guardianship or partial guardianship, unless it is obviously unnecessary for the court to do so.

Article 49 Hearing of Statements by the Principal for the Commencement of General Guardianship

The court shall, when it renders a ruling mentioned in **Article 48 Expert Opinions of Doctors and Other Persons for the Commencement of General Guardianship**, provide the person to be placed under general guardianship or partial guardianship with an opportunity to make statements.

Article 50 Consideration of the Opinions of a Child

The court shall, when it renders a ruling to determine a person to have parental authority over a child or a ruling on a disposition necessary for the custody of the child (**Book Seven, Chapter Five** of the **Civil Code**), take into account the opinions of the child according to his or her age and stage of development.

Article 51 Consideration of the Opinions of a Minor When Appointing a Guardian

The provision of **Article 50 Consideration of the Opinions of a Child** shall apply *mutatis mutandis* to a ruling concerning the guardian of a minor under **Article 1068 Designation of Guardian of Minor, Appointment by Court, Appointment Criteria** of the **Civil Code**.

Section 2: Disappearance Cases

Article 52 Public Notification

1. Public notification under **Article 42 Public Notification** of the **Civil Code** of the Kingdom of Cambodia shall be made through a public notice.
2. A public notice shall be posted on the bulletin board of the court and also published in the official gazette.
3. In addition to the methods mentioned in Paragraph 2, the

court may, when it deems it appropriate to do so, issue a public notice by releasing it in the daily newspapers or through other means that it deems proper.

4. A public notice under Paragraph 1 shall include the following:
 - (i) The name and address of the movant;
 - (ii) The name, last known domicile and date of birth of the absentee;
 - (iii) A description stating that the absentee who fails to notify that he or she is alive within the public notification period is subject to the adjudication of disappearance;
 - (iv) A description stating that anyone who knows that the absentee is alive must notify this fact within the public notification period; and
 - (v) Expiry date of the public notification period.
5. The public notification period shall be, in the case of Paragraph 1 of **Article 41 Requirements for Declaration of Disappearance** of the **Civil Code**, not less than six (6) months, and in the case of Paragraph 2 of the same Code, not less than two (2) months.

Article 53 Public Notice and the Report of the Final Ruling

1. Where a ruling on the adjudication of disappearance has become final, the court clerk shall give a public notice of the fact without delay and shall report the fact to the person (organization) who administers the family registry of the absentee subject of the adjudication of disappearance.
2. The previous Paragraph shall apply *mutatis mutandis* where the ruling to rescind the adjudication of disappearance becomes final.

Chapter 9: Final Provisions

Article 54 Date of the Application of this Law

This Law shall apply as of the date of the application of the Civil Code.