

LAW ON MARRIAGE AND FAMILY



This law is passed by the National Assembly of the State of Cambodia on July 17, 1989 during the 17th ordinary session of the first legislature.

CHAPTER I: GENERAL DISPOSITIONS

Article 1:

Pursuant to the Articles 7 and 8 of the Constitution of State of Cambodia (SOC), the purpose of the Law on Marriage and Family is to regulate and protect the marriage and family, to ensure equality of the spouses in marriage and family, to strengthen the responsibility of the parents in raising up and taking care of their children, and to promote the moral and educational development of children to become good citizen imbued with a sense of responsibility for the nation and society, and the love of work.

Article 2:

A marriage of a too young couple and marriage by force shall absolutely be prohibited.

CHAPTER II: CONDITIONS REQUIRED FOR MARRIAGE

Article 3:

A marriage is a solemn contract between a man and a woman in a spirit of love in accordance with the provisions of law and with the understanding that they cannot dissolve it as they please. A marriage shall have legal effect only if such marriage is conducted in accordance with the provisions provided in this law.

Article 4:

A man and woman reaching legal age have the right to self-determine the marriage. One party may not force another party to marriage against his/her will. No one can be forced to marry or prevented from having marriage as long as such marriage is in compliance with standards provided by this law.

Article 5:

A marriage may be allowed for a man whose age is 20 years or more and a woman whose age is 18 years or more.

In a special case where a man does not reach the age of 20 years and where a woman does not reach the age of 18 years, a marriage may be legitimized, upon the consent by the parents or guardians, if the woman becomes pregnant.

Article 6:

A marriage shall be prohibited as to:

- a person whose sex is the same sex as the other;
- a person whose penis is impotent;
- a person who has leprous, tuberculosis, cancer or venereal diseases which are not completely cured;
- a person who is insane, and a person who has mental defect;

- a person who was bound by prior marriage which is not yet dissolved.

Article 7:

A marriage is prohibited between persons who are relatives by blood or who are relatives by marriage in direct line of all levels, whether or not legitimate or adoptive.

Article 8:

A marriage is prohibited between the collateral, whether legitimate, illegitimate or adoptive, or whether from the same mother, the same father or the same parents, or whether relatives by blood or relatives by marriage up to the third level inclusively.

In a special case where any one of spouses dies, a spouse who stays alive may remarry to collateral by marriage of sixth or third level.

Article 9:

After dissolution of a marriage resulting from the death of a husband, annulment of marriage or divorce, a woman may remarry. However, she shall remain in a legal period of conception until at least 300 days after the death of her husband, or 300 days after the judgment annulling the marriage, or 300 days after the judgment granting a final divorce. In a case in which the People's Court adjudicates the separation, the judgment of divorce shall take into account the legal period of conception counting from the day of issuing such judgment.

But, if the woman remarry prior to termination of the 300 days period, the new married husband shall be considered as a natural father of the child who is born during the marriage, unless there is an objection, supported by sufficient evidence, from her former husband.

Article 10:

In a case where any one of the spouses has disappeared for more than one year counting from the day of disappearance, without the knowledge of the other spouse or without the knowledge of any person, causing uncertainty as to whether he/she is dead or alive or has remarried, a judgment adjudicating that he/she has disappeared can be filed after 15 days thereof.

No one may be allowed then to file a complaint for opposition of the new marriage even though the disappeared person reappears.

Article 11:

Before a new marriage ceremony takes place, a future couple with the participation of their parents or guardians may file an application for remarriage with the People's Committee of Commune or Section in the jurisdiction where the bride resides.

Article 12:

The Chief or member of the People's Committee of the Commune or Section Registrar Office (in French "officer d'Etat Civil") must make a public announcement of the marriage ceremony by posting a publication at the house of the bride and at the office of Commune or Section in the jurisdiction where the bride resides.

The publication shall contain the followings:

1. family name, name, age, occupation and place of abode of the future husband and wife;
2. family name, name, age, occupation and place of abode of the parents of the future spouses (if father or mother deceased, it must be written down as "deceased").
3. timeliness of complaint.

Article 13:

Such publication shall be posted within 10 days in such a way to communicate to any interested

person so that she or he may, if she or he objected the marriage, file a complaint against such marriage. If there is no objection, the marriage ceremony may take place after a ten day period lapsed.

Article 14:

A marriage shall be considered as legitimate only when a man and woman who voluntarily takes each other as husband and wife enter into a marriage arrangement before the registrar in the jurisdiction where the bride resides.

SECTION II: COMPLAINTS AGAINST MARRIAGE

Article 15:

Either his or her relatives or interested persons may file a complaint against a marriage within 10 days counting from the day of the posting of the marriage announcement.

Article 16:

The complaint shall not be valid unless it is signed by the complainant him/herself. The complaint must indicate the ground for objection.

The ground for objections can be the incapacity of a man or woman or otherwise provided by this law under the Article 5 of paragraph 1, and the Articles 6, 7 and 8.

Article 17:

A complaint against marriage shall be brought by a person who objects personally or by his or her representative to the People's Committee of the Commune or the Section in the jurisdiction where the future wife resides. This Committee must make a decision within 3 days counting from the day of the receipt of the complaint.

If the person who objects or the future couple disagree with the decision, the People's Committee of the Commune or the Sector must, within 5 days counting from the day of the receipt of the disagreement, send the case file (dossier) to the People's Court.

Article 18:

The People's Court must decide on the complaint within at most 7 days counting from the day of the receipt of the case.

The judgment of the People's Court cannot be challenged even if such judgment is a judgment by default.

Article 19:

If the People's Court denies the complaint against marriage, the future couple may marry. If the People's Court grants the complaint against marriage, the registrar must issue an order against the marriage ceremony.

Article 20:

When it is known that a man or woman is incompetent or otherwise provided in Article 16, the registrar has the right to object to the marriage by making a report of the objection to the marriage and send it to the People's Court within at most 2 days for the court to make a decision.

The People's Court must decide in accordance with the provisions provided under the Articles 18 and 10 above.

SECTION III: VOID OF MARRIAGE

Article 21:

A marriage shall be voidable if a party to the marriage is insane or has a mental disease. However, if such party recovers, the marriage may become valid.

Article 22:

A marriage between a man under 20 years and a woman under 18 years shall be voidable. The voidable marriage may become valid when the man and woman reaches the age allowed by law or by cases provided under the Article 5, paragraph 2.

Article 23:

Where any one of the spouses claims that he or she has been forced to marry, such marriage shall be void. The time of complaint annulling the marriage shall lapse if such complaint is not lodged within 6 months counting from the day she or he has been forced.

Article 24:

A marriage shall be void if either one of the spouses is already married and such marriage has not officially been dissolved by divorce. The complaint annulling the second marriage may not be allowed if the first marriage is dissolved after the day of the second one is registered.

Article 25:

A marriage between a relatives by blood or relatives by marriage in all levels which is not allowed by law shall be considered void except in any case provided under Article 8, paragraph 2. No statute of limitations applies for the above annulment complaints.

Article 26:

Only the spouse, the prosecutor and the legally interested person may lodge the marriage annulment complaints. If the person who lodged the complaint dies, his legal representative may continue to lodge the complaint on his or her behalf.

Article 27:

A child born during a marriage which the court has pronounced to be void shall be considered as a legitimate child even if the marriage is not valid.

Rights and obligations of the father and the mother with regards to the child are equal in the case of a divorce.

Division of properties between a husband and wife whose marriage has been pronounced to be void shall be divided as the same manner as the case of a divorce.

Article 28:

The People's Court shall reproduce copies of the dissolution of marriage which has been adjudicated void and then certify on the margin of the marriage certificate indicating that the marriage is void.

SECTION IV: RIGHTS AND DUTIES OF THE SPOUSES

Article 29:

In a family, a husband and wife are equal in all aspects.

Article 30:

A husband and wife have the duties to love, respect for, take care and help each other in order to promote prosperity as well as to build up one family with cooperation and happiness.

Article 31:

A husband and wife have the rights to freely choose a job and participate in political, cultural and social activities.

Article 32:

A husband and wife have equal rights to use, obtain interests, and manage the joint properties. Each of the spouses is entitled to use, obtain interests and manage his/her own properties.

Article 33:

Joint properties are every properties which have been obtained or earned by the spouses or by any one of the spouses during their marital union.

Article 34:

The followings shall be considered as the sole property belonging to only one spouse:

1. any property which a spouse "possesses prior to the marriage",
2. any property which a spouse receives as a gift, an inheritance, or a legacy during their marriage union.

Article 35:

The followings shall be considered as the joint responsibilities of the spouses:

1. Expenses incurred for family supplies and expenses incurred for educational and development of the child's knowledge;
2. any debts and other obligations which both spouses have agreed together during their union or any debts or obligations either one of the spouses has agreed to during the union, with the consent by another spouse,
3. the maintenance and supervision of the joint properties.

Article 36:

Each spouse is allowed to use the joint properties in accordance with his or her needs. The spouses shall supervise the joint properties together. Any spouse may demand another spouse to agree upon any necessary measures to take care of the joint properties or keep the joint properties safe.

Article 37:

Joint properties may be sold or given away with the consent of both spouses, otherwise they may not.

CHAPTER IV: DIVORCE

SECTION I: GROUNDS FOR FIVORCE

Article 38:

A divorce is the legal termination of a marriage between a husband and wife who have been legitimately married and they are both still alive.

Article 39:

A husband or wife may file a complaint for divorce if there are enough grounds which indicate that he or she cannot continue the conjugal cohabitation.

The grounds for divorce are:

1. desertion without a good reason and without maintenance of and taking care of the child;
2. cruelty and beatings, persecutions and looking down on the other spouse or his or her ancestry;
3. immoral behavior, bad conduct;
4. impotence of penis; and
5. Physical separation for more than one year.

Article 40:

A husband and wife may agree to divorce by mutual consent.

SECTION II: PROCEDURES FOR DIVORCE

Article 41:

The adjudicating jurisdiction for divorce lies with the People's Provincial or Municipal Court where a defendant resides.

Article 42:

The complaint for divorce shall be in writing and shall indicate the reasons for divorce. Such complaint shall be filed by the complainant himself or herself directly with the People's Provincial or Municipal Court or to the People's Committee of the Commune or the Section in which jurisdiction the defendant resides.

In the latter cases, where the complaint is filed with the People's Committee of the Commune or the Section, the People's Committee of the Commune or the Section must reconcile the case within 15 days of the receipt of the complaint. If the case cannot be reconciled, it shall be forwarded immediately to the People's Provincial or Municipal Court .

Article 43:

The People's Provincial or Municipal Court shall invite the complainant to come before the court, and, if appropriate tries to convince the complainant not to proceed further with the case, unless the Court finds that such complaint is based on serious circumstances.

Article 44:

Upon the receipt of the complaint, the People's Provincial or Municipal Court, if necessary, may take temporary measures such as issuing a separation order, an order with respect to the taking care of the children, an order with respect to taking care of the properties, or an order with respect to alimonies, or child support. In such cases, lawyers of both parties may be allowed to listen to.

Article 45:

If a complainant insistently requests a divorce, the People's Provincial or Municipal Court shall invite the husband and wife to come immediately before the court for reconciliation. In such case, the lawyers of the parties may not be allowed to listen to.

Article 46:

If after the fir reconciliation, the complainant and defendant have not yet reached an amicable agreement, the People' Provincial or Municipal Court may reconcile for a second time.

Article 47:

If the complainant and defendant after receiving the invitations fail to appear at the first reconciliation in the court, the court may issue a second summons inviting the parties to appear in the court for reconciliation.

Article 48:

If a complainant has properly received the first and second writ of invitations but without showing any good cause still fails to appear both times before the court, the People's Provincial or Municipal Court shall consider the complaint to be withdrawn.

Article 49:

If a defendant has properly received the first and second writ of invitations but without showing any good cause still fails to appear both times before the court, the People's Provincial or Municipal Court shall consider him or her as not contesting the divorce.

Article 50:

If a person fails to appear first time before the court in accordance with the writ of invitation, but appears second time before the court, the People's Provincial or Municipal Court shall issue summons inviting him or her to appear before the Court for the third reconciliation.

Article 51:

The period between each reconciliation shall be at least one month and at most two months.

Article 52:

In each reconciliation, in any circumstances, there shall be a reconciliation record noting either the outcome of the reconciliation or the appearance or non-appearance of any party, and the judge responsible for the reconciliation shall sign on the reconciliation record in front of the parties present and the clerk.

Article 53:

If the reconciliation did not reach an agreement, the People's Provincial or Municipal Court shall issue a summons inviting both husband and wife to appear in court for trial.

Article 54:

A complainant who has properly received an invitation issued by the People's Court, and fails to appear before the People's Court without an explanation for the absence or without requesting an adjournment shall be considered as withdrawing the complaint. In such case, a dismissal order shall be entered by the court.

Article 55:

If a defendant does not appear in the People's Court, under the same circumstances above and if it appears to the Court that there is sufficient evidence to support the complaint, the Court may grant the divorce. If there is insufficient evidence, the People's Court shall conduct further investigations.

Article 56:

If a defendant denies the grounds alleged in the complaint against him or her, the People's Court shall order further investigations.

Article 57:

In case of a divorce, the People's Court may, if necessary, immediately conduct an investigation of the case, order both parties to bring necessary evidence to the court, issue summons inviting witnesses who are interested in the case and an order if appropriate.

Article 58:

In a case of divorce requested by both parties upon their mutual consent , the People's Court may grant the divorce if, after investigation, it finds that such request for divorce is voluntary or without coercion.

Article 59:

In a case of a divorce requested by one party, the People's Court may grant the divorce if, after investigation, it finds that there are serious circumstances indicating that both parties can no longer continue their conjugal cohabitation.

Article 60:

The People's Court may conduct an investigation and a trial in private

Article 61:

The finding of facts must be made within 15 days following the investigations.

Article 62:

As a general principle, a divorce judgment must be decided in front of both parties. If such judgment is entered by default, a party may file a complaint against such judgment within 15 days after the judgment entered by default has been served to both parties or to the residence of both parties.

Article 63:

A complaint against the judgment entered by default must be filed by a party himself or herself, in writing or by verbal complaint directly to the People's Provincial or Municipal Court. Such complaint may stop the enforcement of the judgment.

Article 64:

The judgment entered by default shall become final only when no complaint against such judgment is made within the time specified.

Article 65:

If a petitioner files a complaint within the time specified but fails to attend a trial without a good reason, the judgment entered by default shall become valid and final.

Article 66:

If a complaint against the judgment is filed according to the correct procedure, the People's Provincial or Municipal Court must review on the question of fact and retrial. The People's Provincial or Municipal Court may reaffirm, change or reverse the judgment entered by default which was decided during the first trial as long as the Court does not violate the law or principles of law.

Article 67:

If a judgment of divorce becomes final, the People's Provincial or Municipal Court records the decision of the final judgment and write on the margin of the marriage certificate indicating that the marriage is dissolved.

Article 68:

If a wife is pregnant, a husband may not allowed to request divorce until one year after she has delivered the child. The above condition shall not apply to women. A woman may request divorce while she pregnant.

SECTION III: EFFECTIVENESS OF DIVORCE

Article 69:

A divorce ends a marriage from the day when the final judgment is announced.

Article 70:

In a case of divorce, the division of properties shall be divided in accordance with the mutual agreement of both parties.

If there is no agreement, each spouse takes only his or her own properties which he or she has had prior to marriage and any properties which he or she has received by inheritance, gift or devise during the existence of the marriage.

In addition to these, each spouse is entitled to receive one-half of the joint property.

In special circumstances and according to a request of any one of the spouses, the People's Court may divide the joint properties differently from the above principles by taking into account the interests of the children and outside employment. A household job shall be considered as valuable as an outside employment.

Article 71:

If any properties belonging to one of the spouses are damaged by the other spouse, the spouse who commits the damage shall be liable for the damages.

Article 72:

The divorce judgment shall be based on the parental power to determine who should receive the custody of the children and to determine the relationship between the father, mother and children.

Article 73:

For the children interests, a decision to which party will receive the custody of the children shall be determined in accordance with an agreement of the divorcing husband and wife.

According to general principles, a baby who is still breast feeding shall be under the custody of the mother.

In a case where there is no agreement between the parties regarding the custody of the children, the custody shall be determined by the court.

Article 74:

The divorcing father or mother must support, take care of, bring up and provide their children money for the children's education and schooling as much as they can. The amount of child support shall be determined according to an agreement between the divorcing spouses. In a case where there is no agreement between the spouses the People's Court shall determine according to abilities of each spouse. The child support shall be given to the children until they become major.

Article 75:

A party who does not receive custody of the children has the right to visit his or her children. The party who is entitled to receive custody of the children must make it easy for the other party to come to visit the children.

The party who does not receive custody of the children has the right to file a complaint at any time with the People's Court to revoke the other party's right to custody of the children if the children's interests is violated.

Article 76:

In a case of divorce where a party is not at fault and is in need, he may request the other party to provide alimony. The latter party shall support the party in need according to his or her abilities.

The amount of alimony shall be determined according to the agreement between both parties. In the event there is no agreement, alimony shall be determined by the People's Court. If the party who is entitled to receive alimony remarry, such party may no longer receive alimony.

Article 77:

The People's Provincial or Municipal Court may change, increase or decrease the amount of alimony if there is a request of any party. The increasing or decreasing alimony shall be made according to the abilities of the party paying alimony and according to the party in need who is entitled to alimony. Alimony may be in money or properties.

Article 78:

Failure to pay alimony as provided above shall be considered as a crime and shall be punishable according to existing laws if there is sufficient evidence proving that the person who is bound to pay alimony is dishonest.