

TABLE OF CONTENTS

- Marriage Process between a Cambodian Citizen and a Foreign National in Cambodia

AUTHORS

- Koy Neam
Senior Legal Advisor
- Pok Charkreymorkord
Legal Associate

A No 65B, St 111
PO Box 172
Phnom Penh
Cambodia

T +855 23 217 510
+855 23 967 450

F +855 23 212 840

E cambodia@bnglegal.com

W www.bnglegal.com

Introduction

Whether taking place in Cambodia or abroad, marriages between Cambodian citizens are governed by the Civil Code. Marriages between a foreigner national and a Cambodian citizen, however, must abide by both, the 1989 Law on Family and Marriage and the sub-decree on the Process and Procedures for Marriage between a Cambodian Citizen and a Foreign National (Sub-Decree No. 183/2008).

While the process of marriage between Cambodian Nationals simply requires the submission of a marriage application to the local authority (Khum/Sangkat) where the prospective bride resides, the process for a foreigner to marry with a Cambodian national is more complicated, since it involves obtaining marriage permission at Ministry level, as well as an acknowledgment from the Embassy concerned

I. Substantive Conditions for Marriage

According to the Civil Code, marriages can only take place between persons who have reached the age of majority, or age of marriage, which is 16 years old. However, marriages where one of the couple has reached an age of marriage, and the other one not, are allowed to take place if they obtain parental or guardian consent.

A person cannot re-marry if his or her previous marriage has not been dissolved. Furthermore, the Civil Code prohibits marriages between relatives by consanguinity, or by affinity.

II. Formalities and Procedures

A marriage between a Cambodian and a foreign national must follow the legal requirements of the Law on Family, Marriage, and Sub-Decree No. 183/2008 of the Kingdom of Cambodia.



Except for Articles 76, 77, 79, 80, and 81, all other provisions of the Law on Family and Marriage are abrogated by the Law on the Implementation of the Civil Code.

Under the Law on Family and Marriage, a Cambodian can marry a foreign national, regardless of their country of residence (Article 79). For a marriage overseas, between a Cambodian and a foreign national, to be recognized under Cambodian law, the couple must register their marriage, with the Cambodian embassy, or Consulate, in the country where the marriage was held. If the married couple later settles in Cambodia, they must register their certificate with the commune authorities (Article 79).

However, as marriages between Cambodian and foreign nationals are susceptible to manipulation by criminal elements, the Cambodian government has adopted strict measures, under sub-decree 183/2008, to prevent illegal activities happening across international borders.

The sub-decree prohibits all marriages arranged through intermediary agents, brokers, or business companies¹, and equally prohibits fake or fraudulent marriages for the purpose of human trafficking, or labor and sexual exploitation.²

Furthermore, the same sub-decree qualifies certain conditions in the Law on Family and Marriage, and in the Civil Code. In particular, Article 5, states that a foreigner who wishes to marry a Cambodian must be physically present in Cambodia, in order to complete the procedural requirements of the marriage.

Instead of registering the marriage directly with the commune's civil status officer, marriage registration requires a longer process, involving the Ministry of Foreign Affairs and the Ministry of Interior.

To counter fake or fraudulent marriages, the government has adopted other measures, though they are not statutory or regulatory. One such measure requires that a foreign national, who wishes to marry a Cambodian woman, must be less than 50 years old, and be earning at least US\$2,500 per month (Diplomatic Notice dated 7 March 2011).

1. Article 3 of Sub-Decree No. 183 on the Formality and Procedure for the Marriage between Cambodian Citizen and a Foreign National
2. Article 4 of Sub-Decree No. 183 on the Formality and Procedure for the Marriage between Cambodian Citizen and a Foreign National

ABOUT US

BNG Legal is a leading regional law firm providing comprehensive legal services to foreign and local clients in Cambodia and Myanmar.

Registered with the Bar Association of the Kingdom of Cambodia, our legal professionals combine international standards with local expertise.

We differentiate ourselves by coupling a deep understanding of the local business environment with international professionalism and integrity.

We facilitate business, investment and trade between Cambodia, Myanmar, and the rest of the world through innovative and cost-effective legal services.

Superior knowledge of local protocol, local procedure, and local people is necessary for any business to succeed.

Conducting daily business in Cambodia and Myanmar, BNG Legal is up to date with the newest procedures and requirements, helping clients efficiently and successfully complete any project.

CAMBODIAN LAW BLOG

cambodianlaw.wordpress.com

BNG Legal believes expanding access to legal information is crucial to rule of law. To that end, several of our legal professionals write a blog discussing recent developments in the legal landscape.

LEGAL DATABASE

The laws and regulations in our database are based upon the Official Gazettes, law compendiums and other collections from the ministries and institutions of the Royal Government of Cambodia. These are available to the public through our partner site, www.bnglaw.net.

Under Sub-Decree No. 183/2008, a foreign national must first contact his or her own Embassy in Cambodia, to obtain diplomatic notarization, certifying that the Embassy has reviewed the relevant documents of the concerned foreigner, and that those documents are true and valid (Article 6).

After receiving the diplomatic notarization from the Embassy, the foreign national shall subsequently submit the marriage application to the Ministry of Foreign Affairs and International Cooperation ("MFAIC") with the following documents attached:

- Request for marriage (provided by Ministry of Foreign Affairs and International Cooperation, Cambodia);
- Copy of passport and entry visa into Cambodia;
- Certificate of single status, issued by the competent authority of the foreign country;
- Certificate of health issued by the competent authority in Cambodia;
- Criminal record issued by the competent authority of the foreign country;
- Certificate of employment and monthly income;
- Diplomatic notarization or letter from the applicant's Embassy or consulate

After having examined and considered acceptable the foreign national's documents, the MFAIC forwards the application form to the Ministry of Interior ("MoI"). The MoI will then issue a letter informing the civil status officer, of the relevant Khum/Sangkat/commune, that the marriage documents are in order.

In the next step, the concerned foreigner and Khmer citizen shall file an application, with the civil status officer of the Khum /Sangkat / commune, where the Cambodian counterpart has permanent residence

The Cambodian counterpart shall submit the following documents to the civil status officer:

- A marriage application form;
- A copy of the birth certificate or copy of the birth confirmation certificate of the concerned Khmer citizen
- Single, or widow, status certificate, issued by head of the Khum-Sangkat where the Khmer Citizen permanently resides
- Health certificate, issued by a hospital recognized by the Ministry of Health

Once the application forms and the required documents have been legally approved, and the banns having been published for 10 days at the Embassy, or the representative office, of the foreign national, and at the Khum/Sangkat/commune office where the Cambodian counterpart has her

permanent residence, the two parties can proceed with their wedding ceremony.

The marriage is legal only if both applicants sign a letter of marriage registration, with two adult witnesses present, in front of registration officials, at the commune/Sangkat where both applicants submitted the marriage request, and in accordance with the process and legal registration procedures.



LEGAL UPDATE

Sub Decree No 274/16 on the Organization and Functioning of Ministry of Foreign Affairs and International Cooperation, dated December 28th, 2016

The purpose of this sub-decree is to organize and function the Ministry of Foreign Affairs and International Cooperation. This sub-decree has objectives as below:

- Determine the mission and structure of the Ministry of Foreign Affairs and International Cooperation.
- Determine the roles and duties of units of the Ministry of Foreign Affairs and International Cooperation.
- Ensure the quality and efficiency of performance in the field of Foreign Affairs and International Cooperation in Cambodia.

Ministry of Foreign Affairs and International Cooperation fulfills the function as government secretariat on leading and managing the Foreign Affairs and International Cooperation in Cambodia.

Decision No. 126, dated 06 December 2016 on the Creation of Targeting Committee for construction of International Airport Siem Reap- Angkor

The committee has duty:

- To coordinate a cooperation between Ministry-Institution, Government Agents and Company in order to make the project process successful,
- To give recommendations to the Company in document preparing and form filling to meet the requirement of the project,
- To examine and advise on Master Plan of the Project and suggestion for the Company
- To follow up and examine the Construction Project of Siem Reap- Angkor International Airport and relevant infrastructures and give opinion to Royal Government of progress of the project; and
- To carry out other duties assigned by the Royal Government.