

INTRODUCTION TO STATUTORY SUCCESSION

1. What does Statutory Succession mean? How is it effective?

According to the Civil Code of Cambodia, succession is classified into two categories. Firstly, succession by the provision of law is called Statutory Succession. Secondly, succession by the will of the decedent is called Testamentary Succession. In this monthly legal brief, we will mention only Statutory Succession. According to article 1145 of the Civil Code of Cambodia, statutory succession is a succession or the division of the inheritance of the decedent to the successor in accordance with the provisions and the order prescribed by law. The term “Decedent” refers to the person who passed away. The word “Successor” refers to people who have received an inheritance from the decedent.

At the same time, the succession will commence and become effective when the decedent died and the successor will succeed to all the rights and obligations attached to the properties or inheritance of the decedent.

2. How many classes of Statutory Successions are there?

When talking about statutory succession, we need to consider who has the legal right over the inheritance proportion of the decedent. According to article 1156 of the Civil Code of Cambodia, the 1st successor refers to the person who has the priority right over inheritance before the 2nd and 3rd successors. 1st successor refers to the child of the decedent. In addition, even if the 1st successor of the decedent is the adopted children, they also have the right to succeed in an equal proportion of the inheritance as the biological children. On the other hand, the 2nd Successor is the decedent’s lineal ascendant such as father, mother, grandpa, grandma, or relatives in 6 classes. In case there is more than one ascendant in the nearest class of the relative of the descendant, the ascendants who will become the successors will succeed in equal proportion of the inheritance (According to article 1159 of the Civil Code of Cambodia). The 3rd succession refers to the siblings of the decedent. If there is more than one sibling, they shall succeed in an equal proportion of the inheritance (article 1160, paragraph 1 of the Civil Code of Cambodia). In addition, if the sibling has only one mother or father in common with the decedent (widower who is divorced and has children with the former spouse (spouse) before marrying the next spouse) shall receive only half of the inheritance compared to a sibling who has both parents in common with the decedent (article 1160, paragraph 2 of the Civil Code of Cambodia). On the other hand, the last person that the law must include is the spouse of the decedent. According to article 1161 of the Civil Code of

WHAT’S NEW

On 08 June 2022, the King of the Kingdom of Cambodia provided the signature for promulgating the Law on Food Safety with the purpose of controlling and ensuring the safety, hygiene and parallel with the law related to foods in the process of supply chains of the production in order to protect the health and safety for the consumer and ensuring the businesses activities of foods production in respect of loyalty.

Cambodia, the spouse of the decedent shall become a successor in every case. Hence, the spouse must succeed in the equal proportion of inheritance with 1st or 2nd, or 3rd successors.

SUMMARY		
The Rank of Successor	Identification of Successor	Inheritance Proportion
1 st Successor	The lineal descendant of the decedent e.g. biological and adopted children of the decedent	Received an equal proportion of the inheritance
2 nd Successor	The lineal ascendant of the decedent e.g., parents or grandparents of the decedent	Received an equal proportion of the inheritance
3 rd Successor	Sibling of the decedent	Received an equal proportion of the inheritance except for the sibling(s) that has only one mother or father in common with the decedent shall receive only the half proportion of sibling having a common parent.
Permanent successor	Spouse of the decedent	Received an equal proportion of the inheritance compared to 1 st or 2 nd or 3 rd

The rank of a successor described above shall be implemented continuously in case there is no nearest degree of the relative of the successor. The above paragraph means that if the decedent does not have children for inheriting his property who are in the first rank of succession, the second rank of successor will have the right to inherit the succession of the decedent. In case the decedent does not have 1st or 2nd successor for inheriting the inheritance. The 3rd successor who is the siblings of the decedent will become the successor(s). If there is more than one successor of each rank, the proportion of succession will be divided equally among such successors.

On the other side, the spouse of the decedent also has the right to succeed the share in accordance with either rank of successors. It means that the spouse has the right to inherit the proportion of decedent and will be attached with each rank of successors. For instance, in the case of the decedent having one spouse and four children, as a result, the inheritance of the decedent will be divided into five equal proportion for the spouse and their four children.

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3. What are the Benefits of Statutory Succession?

The establishment of statutory succession is extremely essential to facilitate the division of inheritance proportion when the decedent did not leave a testamentary as a will for dividing his property. Moreover, statutory succession can prevent disputes between family members or siblings, or relatives of decedents because the law will determine who has the right to inherit the proportion of the decedent. If the law does not determine statutory succession and the rank of the successor, it may produce the unclear dividing of the inheritance proportion of the decedent and may make relatives of the decedent or other beneficiaries fall into dispute on the dividing the properties of the decedent. Therefore, the provision of statutory succession is set out in the Civil Code of Cambodia in order to fulfill the requirement for dividing the share of the decedent for avoiding conflicts, and complications, and avoid wasting time.

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