

Rwanda (Руанда)

Law governing persons and family (2016)

Law N°32/2016 of 28/08/2016.

PART ONE. GENERAL PROVISIONS

TITLE ONE. PURPOSE OF LAW AND DEFINITIONS OF TERMS

Article 1. Purpose of this Law

This Law governs natural persons and family as well as relations between persons.

Article 2. Definitions of terms

In this Law, the following terms are defined as follows:

1. residence: a place where a person lives for occupational or any other purposes but which is different from his/her place of domicile;
2. domicile: a place where a person is registered in civil registers;
3. disappearance: a situation where a person is absent from his/her domicile or residence to such an extent that the person's death is taken as certain or virtually certain even if his/her body is yet to be found;
4. port: a departure point for a vessel or an aircraft;
5. State of origin: a state in which a child is habitually resident during the consideration of the petition for the child's intercountry adoption;
6. receiving State: a state to which a child is being or is to be moved after the child's intercountry adoption;
7. health centre: a centre which offers comprehensive medical and health services and which is responsible for making them fully accessible to the community;
8. status of a person: a person's civil condition from a legal point of view that distinguishes him/her from other people within the family or the country, especially his/her nationality, name, sex, place and date of birth, domicile and residence, relation to parents or siblings, parental authority, marriage or divorce;
9. children's rights organisations: public or private institutions or associations whose mission includes protecting the child and ensuring respect for his/her rights;
10. best interests of the child: factors to be considered to prevent any prejudice to the child's rights especially with respect to his/her care, education, culture, property and others towards the child's protection;
11. parentage: relationship between the child and the child's family of origin especially regarding rights and duties;

12. absence: a situation where a person is absent from his/her domicile or residence in a way that there is no news of him/her after a period of time determined by law to such an extent that no one knows whether he/she is alive or dead;

13. name: a legally recognized designation by which a natural person is referred to;

14. name of religious vows: name given to a religious when he/she takes religious vows in a religious order;

15. parental authority: rights and obligations that parents or any other legally recognized person have in relation to a minor or a non emancipated minor and to his/her property and which they exercise in the minor's interest;

16. capacity of a person: a person's legally recognized ability to perform legal acts while assuming personal responsibility for such acts;

17. legal personality of a person: every human being's capacity to have rights and duties from birth to death;

18. adoption: a system that creates a parent-child relationship between a child and a person who is not the child's biological parent;

19. person: a human being who enjoys full legal personality and has rights and duties;

20. family: a group of persons related by kinship, law or marriage; it may include parents, children, their descendants and in laws;

21. competent authority in adoption matters: a public authority responsible for considering and monitoring domestic and intercountry adoption and supervising its implementation.

TITLE II. GENERAL PRINCIPLES

Article 3. Principle of non- retroactivity of law

The law provides only for the future and cannot have a retroactive effect unless otherwise provided.

Article 4. Protection of human rights, public order and morality

No agreement of private parties is construed as derogating from laws protecting human rights or those relating to public order and morality.

Article 5. Effect of foreign laws, judgments and agreements

Foreign laws, judgments, international agreements and private agreements having effect in foreign countries shall not have any effect in Rwanda when they are contrary to public order, social interest or Rwandan public morals.

Article 6. Law applicable to status and capacity of persons

The status and capacity of Rwandans, both living in and outside Rwanda are governed by Rwandan laws. However, a Rwandan national with dual nationality domiciled abroad may be governed by the law of his/her choice, either that of Rwanda or that of another country of which he/she is a citizen. The status and capacity of a foreigner residing in Rwanda, as well as his/her family

relationships, are governed by the law of his/her country provided it is not contrary to public order and good morals consistent with Rwandan law. In case of unknown nationality, his/her status and capacity are governed by Rwandan laws.

Article 7. Law applicable to civil rights with respect to property

Civil rights with respect to movable and immovable property are governed by the law of the place where the property is located.

Article 8. Law applicable to inter vivos deeds

Inter vivos deeds are governed:

1. as to the form, by the law of the place where they are made. However, private deeds may be made in compliance with the standards legally acceptable under laws of the country of origin of parties;
2. as to the substance, effects and evidence, by the law of the place where the deeds are made unless otherwise agreed by the parties.

Article 11. Freedom to enjoy civil rights

Every person is free to exercise civil rights. A foreigner enjoys in Rwanda the same civil rights as those granted to Rwandans unless otherwise provided by law.

Article 12. Capacity to exercise civil rights

Every person, whether a Rwandan or a foreigner, has the capacity to exercise his/her civil rights except where the law provides for representation or assistance. Every person exercises his/her civil rights under the name assigned to him/her in his/her birth record. Abuse and excessive or unreasonable exercise of civil rights with the intent to inflict harm upon another shall not be protected by law.

Article 65. Civil registrar

A civil registrar is an officer in charge of civil status at the level of decentralised administrative entity or a representative of Rwanda in a foreign country and any other person authorised by law.

Article 86. Judgment substituting a civil status record

Except for the birth record drawn up in Rwanda, any civil status record drawn up in Rwanda or in a foreign country that may not be found for any reason is substituted with a judgment rendered, upon application by any interested person, by the court of the place where the requesting person resides or is domiciled. The applicant must submit to the court all possible evidence proving the existence of that record. The court may order investigations if considered necessary.

Subsection 6. Civil status records for foreigners and those drawn up abroad

Article 96. Competent authority to draw up civil status records for a foreign national

Any foreign national having his/her domicile or residence in Rwanda may have his/her civil status record drawn up by a Rwandan civil registrar, pursuant to provisions of this Law.

Article 97. Issuance of copy of marriage record of foreign nationals

When the marriage is celebrated in Rwanda and one or both spouses are foreign nationals, the civil registrar must, in thirty (30) days following the celebration of the marriage, transmit the copy of marriage record to the Minister in charge of foreign affairs who in turn transmits it to the diplomatic or consular representation of the country of origin of the spouse of foreign nationality in Rwanda.

Article 98. Validity of a civil status record drawn up abroad

Any civil status record of a Rwandan or a foreign national drawn up in a foreign country and drafted in the forms followed in that country is authoritative in Rwanda except in the case where other documents or data held from abroad or elements drawn from the record itself establish that the record is irregular, falsified or that the facts declared in it do not correspond to reality. In case of doubt, the record is considered by the court by way of exequatur procedure.

Article 99. Place of registration of civil status record drawn up abroad

Upon request by the concerned person, a civil status record drawn up abroad concerning a Rwandan national is entered in the civil status register of the place of his/her residence in case his/her domicile is unknown. A foreign national wishing to register his/her civil status record may do so in the civil registrar's office of the place of his/her residence.

CHAPTER II. MARRIAGE OF FOREIGNERS CELEBRATED IN RWANDA

Article 179. Marriage between foreigners celebrated in Rwanda

The marriage between foreigners celebrated in Rwanda is governed:

1. with regard to marriage celebration, by the Rwandan law;
2. with regard to substantive requirements, by the national law of each of the spouses if it does not contravene public order and good morals of Rwandans;
3. with regard to the matrimonial right of each person and the right of children, when there is no common agreement, by the law of the country where they reside;
4. with regard to effects on marital property, when there is no marital property agreement, by the law of the country where the property is located.

Article 180. Marriage between a foreigner and a Rwandan celebrated in Rwanda

The marriage between a foreigner and a Rwandan celebrated in Rwanda is governed:

1. by the Rwandan law with regard to the marriage celebration;
2. with regard to substantive requirements, by the Rwandan law for a Rwandan and by the law of the country of which the foreigner is a national, if it does not contravene public order and good morals of Rwandans.

CHAPTER IV. MARRIAGE OF RWANDANS CELEBRATED IN A FOREIGN COUNTRY

Article 189. Marriage between a Rwandan and a foreigner celebrated in a foreign country

The marriage between a Rwandan and a foreigner celebrated in a foreign country is governed:

1. by the law of the country where the marriage is celebrated with regard to the form;
2. with regard to substantive requirements for a Rwandan, by the Rwandan law.

Article 190. Marriage between Rwandans celebrated in a foreign country

Where the marriage between Rwandans is celebrated in a foreign country in a Rwandan embassy or consulate, it is governed by the Rwandan law with regard to the form and substantive requirements. Where the marriage is celebrated in a foreign country where there is no Rwandan representative, it is governed by the law of the country where marriage is celebrated with regard to the form and by the Rwandan law with regard to substantive requirements.

Article 191. Recognition of the marriage of Rwandans celebrated abroad

Monogamous marriage legally celebrated abroad is recognised in Rwanda. The marriage referred to under Paragraph One of this Article must be registered by the Rwandan civil registrar in the register of marriage records. If the marriage of Rwandans celebrated abroad contravenes public order and good morals, it is nullified in accordance with provisions of this Law.

Subsection 5. Divorce involving a foreigner

Article 247. Law applicable to divorce involving a foreigner

The law applicable to divorce between foreigners or a foreigner and a Rwandan is the same as the law applicable to their marriage.

CHAPTER VIII: LEGAL SEPARATION

Article 248. Legal separation and application procedure

Legal separation has the following forms:

1. legal separation for any cause provided by law;
2. legal separation by mutual consent. The petition for legal separation may be filed by the spouses under the same conditions and on the same grounds as divorce. The petition for legal separation is filed, heard and decided in accordance with provisions of this Law relating to divorce.

Article 317. Cases of inter country adoption

Intercountry adoption occurs when the child to be adopted:

1. usually resides in Rwanda and has to be transferred towards a foreign country;
2. has to be moved from the country of origin towards Rwanda;
3. resides in Rwanda without being authorized to settle there.