

The Civil and Commercial Code

BOOK V

FAMILY

TITLE I

MARRIAGE

CHAPTER I

BETROTHAL

Section 1435

A betrothal can be effected only when the man and the woman have completed their seventeenth year of age.

The betrothal contrary to the provision of paragraph one is void.

Section 1436

If a minor will conclude a betrothal, the consent of the following persons is required:

- (1) His or her parents, in case both of his/her father and mother are still alive;
- (2) His or her parent, in case his or her father or mother died, or is in condition of state of being unable to give consent, or is under the circumstances that make the minor unable to ask for such consent;
- (3) His or her adopter, in case the minor is an adopted child
- (4) His or her guardian, in case there is no person giving consent under (1), (2) and (3), or such person is deprived of parental power.

A betrothal concluded by the minor without the said consent is voidable.

Section 1437

Betrothal is not valid until the man gives or transfers the property which is *Khongman* to the woman as evidence that the woman after the betrothal has taken place.

The *Khongman* shall become the property of the woman after the betrothal has taken place.

“*Sinsod*” is property given on the part of the man to the parents, adopter or guardian of the woman, as the case may be, in return of the woman agreeing to marry. If the marriage does not take place causing mainly from the woman or on account of any circumstances that make the woman responsible therefore and make the marriage unsuitable for the man or make the man unable to marry that woman, the man may claim the return of the *Sinsod*.

The provisions of Section 412 to Section 418 of this Code on undue enrichment shall apply to the return of the *Khongman* or *Sinsod* under this Chapter, *mutatis mutandis*.

Section 1438

Betrothal does not give rise to an action for compulsory performance of the marriage. An agreement to pay a penalty in case of breach of the betrothal agreement is void.

Section 1439

After the betrothal has taken place if either party commits a breach of the betrothal agreement, such party shall be liable to make compensation. In case the woman commits a breach of the betrothal agreement, the Khongman shall also be returned to the man.

Section 1440

Compensation may be claimed as follows:

- (1) For injury caused to the body or reputation of the man or woman;
- (2) For appropriate expenses or debt incurred in good faith by the betrothed, his or her parents or a person acting in the capacity of his or her parents in preparation for the marriage;
- (3) For damage suffered by the man or woman through having taken appropriate measures affecting his or her property or other affairs relating to his or her occupation or earning in expectation of the marriage.

In case where the woman is entitled to the compensation, the court may decide that the Khongman which has become her property is the whole or a part of compensation she will receive, or the court may order for payment of the compensation without regard to Khongman that has become property of the woman.

Section 1441

Where one of the betrothals dies before the marriage, there shall be no claim for compensation. As for the Khongman or Sinsod, it need not be returned by the woman or on the part of the woman, irrespective of the death of either party.

Section 1442

In case where there is an essential event happening to the betrothed woman that makes the marriage to the woman unsuitable, the man is entitled to renounce the betrothal agreement and the woman shall return the Khongman to the man.

Section 1443

In case where there is an essential event happening to the betrothed man that makes marriage to the man unsuitable, the woman is entitled to renounce the betrothal agreement and the Khongman need not to be returned to the man.

Section 1444

If the ground that makes the one betrothed renounce the betrothal agreement is the gross misconduct of the other taken place after the conclusion of betrothal, the betrothed who had committed the gross misconduct shall be liable to make compensation to the other who has exercised his or her right to renounce the betrothal agreement as if the former had committed a breach of the betrothal agreement.

Section 1445

A man who is betrothed to a woman may, after the betrothal agreement having been renounced under the Section 1442, claim compensation from any man who has sexual intercourse with the woman and has known or should have known of her betrothal.

Section 1446

A man who is betrothed may, without requiring him to renounce the betrothal agreement, claim compensation from any man who has had sexual intercourse or attempted to have sexual intercourse with the woman against her will, and the fact that the woman had been betrothed has been known or ought to have known to him.

Section 1447

The court shall determine the compensation claimed under this Chapter according to the circumstances.

The claim under this Chapter, except to one in Section 1440 (2), cannot be transferred or inherited unless such claim has been acknowledged in writing or the action for compensation has been entered by the injured person.

Section 1447/1

The prescription for the claim for compensation under Section 1439 shall be six months from the date of the breach of the betrothal agreement.

The prescription for the claim for compensation under Section 1444 shall be six months from the day when the commission of gross misconduct which is the cause of renunciation of the betrothal agreement is known or should have known to the other betrothed, but no later than five years from the date of the said commission.

The prescription for the claim for compensation under Section 1445 and Section 1446 shall be six months from the day when the betrothed man knows or should have known the commission of any other man which is the cause of the claim and the person bound to make the compensation is known, but not later than five years from the date of such commission.

Section 1447/2

The prescription for the claim for return of the Khongman under Section 1439 shall be six months from the date of the breach of the betrothal agreement.

The prescription for the return of the Khongman under Section 1442 shall be six months from the date of denunciation of the betrothal agreement.

CHAPTER II

CONDITIONS OF MARRIAGE

Section 1448

A marriage can take place only when the man and woman have completed their seventeenth year of age. But the court may, in case of having appropriate reason, allow them to marry before attaining such age.

Section 1449

A marriage cannot take place if either the man or the woman is an insane person or adjudged incompetent.

Section 1450

A marriage cannot take place if the man and woman are blood relations in the direct ascendant or descendant line, or brother or sister of full or half blood. The said relationship shall be in accordance with blood relation without regard to its legitimacy.

Section 1451

An adopter cannot marry the adopted.

Section 1452

A marriage cannot take place if the man or woman is already the spouse of another person.

Section 1453

In case of the woman whose husband died or whose marriage has become terminated, the marriage can only take place if not less than three hundred and ten days have elapsed since the termination of her previous marriage; unless

- (1) A child has been born during such period;
- (2) The divorced couple remarries;
- (3) There is a certificate issued by a qualified doctor who is a lawful physical practitioner in medicine showing that the woman is not pregnant;
- (4) There is an order of the Court allowing the woman to marry.

Section 1454

In case of marriage of a minor, the provisions of Section 1436 shall be applied *mutatis mutandis*.

Section 1455

Giving consent to the marriage may be made:

- (1) By affixing signature of the person giving consent in the Register at the time of registration of the marriage;
- (2) By a consent document stating the names of the parties to the marriage and signed by the person giving consent;
- (3) By verbal declaration before at least two witnesses in case of necessity.

The consent having been given cannot be revoked.

Section 1456

In case where there is no person having the power to give consent under Section 1454, or if the person refuses to give consent or is in the position of being unable to give consent, or the minor cannot, in such circumstances, ask for the consent, the minor may file an application with the Court for giving consent to the marriage.

Section 1457

Marriage under this Code shall be effected only on registration being made.

Section 1458

A marriage can take place only if the man and woman agree to take each other as husband and wife, and such agreement must be declared publicly before the Registrar in order to have it recorded by the Registrar.

Section 1459

A marriage in foreign country between Thai people or between a Thai people and a foreigner may be effected according to the form prescribed by Thai laws or by the laws of the country where it takes place.

If the spouses desire to have the marriage registered according to Thai laws, the registration shall be affected by a Thai Diplomatic or Consular Officer.

Section 1460

In case where there exists special circumstances that make the marriage registration by the Registrar unable because either or both of the man and woman were in imminent danger of death or in the state of armed conflict or war, if a declaration of intention to marry has been made by the man and woman before a person of sui juris living there, who would have noted down as an evidence such intention, and if the registration of marriage between the man and woman was effected thereafter not later than ninety days as from the date of first possible opportunity to apply for registration of marriage with production of the evidence of the intention in order to have the date and place of declaration of intention to marry and the special circumstances recorded by the Registrar in the Marriage Register. The day on which declaration of intention to marry has been made to the said person shall be deemed as the date of registration of marriage.

The provisions of this Section shall not be applied to the marriage that is void if it should take place on the date of declaration of intention.

CHAPTER III
RELATIONSHIP OF HUSBAND AND WIFE

Section 1461

Husband and wife shall cohabit as husband and wife.

Husband and wife shall maintain and support each other according to his or her ability and condition in life.

Section 1462

Where the physical or mental health or happiness of either spouse is greatly imperiled by continuance of cohabitation, the spouse so imperiled may apply to the court for authorization to live apart while the danger persists; and in such case, the court may order such amount of maintenance to be furnished by one of the spouses to the other as may be proper according to the circumstances.

Section 1463

If one of the spouses is adjudged incompetent or quasi-incompetent, the other becomes guardian or curator by operation of law. But on application of any interested person or of Public Prosecutor, the court may on substantial grounds, appoint another person as guardian or curator.

Section 1464

If one of the spouse becomes insane, irrespective of whether he or she has been adjudged incompetent or not, and the other fails to give proper maintenance to the insane spouse under Section 1461 paragraph two, does or fails to do any thing to the extent that it plunges the in-saw spouse into the position which is likely endangering the latter's body or mind, or causing any undue loss to the latter's property, the persons as specified in Section 28 or the guardian may enter an action against the other claiming maintenance for the insane spouse, or apply for any order of the court to protect the insane spouse.

If, in case of entering the action for maintenance under paragraph one, no order has yet been given to effect the insane spouse to become incapacitated person, an application shall be made to the court in the same case for an order effecting such insane spouse to be an incapacitated person and to appoint the applicant himself or herself as the guardian. If such order effecting the incapacitated person on the insane spouse has been given, an application for removal of the old guardian and appointment of a new one may be made.

In applying for any order of the court for protecting the insane spouse without claiming maintenance, the applicant may not request the court to order effecting the insane spouse to be an incapacitated person or to change the guardian. If the measures for protection as requested, in the opinion of the Court, require an appointment or change of the guardian, the court shall firstly give an order effecting the carrying out of the similar activities as provided in paragraph two, and then give a protection order as it is deemed suitable.

Section 1464/1

During the court trial under Section 1464, the court may, upon request, determine any temporary measures concerning the maintenance or protection of the insane spouse as it is deemed suitable. If it is a case of emergency, the provisions on the request in case of emergency under the Civil Procedure Code shall be applied.

CHAPTER IV PROPERTY OF HUSBAND AND WIFE

Section 1465

Where the husband and wife have not, previous to their marriage, concluded a special agreement concerning their properties, the relations between them as regards to their properties shall be governed by the provisions of this Chapter.

Any clause in the anti-nuptial agreement (example) contrary to public order or good morals, or provided that the relations between them as regards such properties are to be governed by foreign law shall be void.

Section 1466

The ante-nuptial agreement is void if not entered in the Marriage Register at the time of marriage registration terms of the ante-nuptial; or if not made in writing and signed by both spouses and by at least two witnesses and entered in the Marriage Register at the time of marriage registration stating that the ante-nuptial is thereto annexed.

Section 1467

After marriage the ante-nuptial agreement cannot be altered except by authorization of the court.

When there is final order of the court to effect the alteration or cancellation of the ante-nuptial agreement, the court shall notify the Marriage Registrar of the matter in order to have it entered in the Marriage Register.

Section 1468

Clauses in the ante-pre-nuptial agreement shall have no effect as regards the rights of third persons acting in good faith irrespective of whether they be altered or cancelled by the order of the court.

Section 1469

Any agreement concluded between husband and wife during marriage may be avoided by either of them at any time during marriage or within one year from the day of dissolution of marriage; provided that the right of third persons acting in good faith is not affected thereby.

Section 1470

Properties of husband and wife except in so far as they are set aside as "Sin Suan Tua", are "Sin Somros".

Section 1471

"Sin Suan Tua" consists of:

- (1) Property belonging to either spouse before marriage
- (2) Property for personal use, dress or ornament suitable for station in life, or tools necessary for carrying on the profession of either spouse
- (3) Property acquired by either spouse during marriage through a will or gift
- (4) Khongman (Gift/Things for marriage).

Section 1472

As regards to "Sin Suan Tua", if it has been exchanged to other property, other property has been bought or money has been acquired from selling it, such other property or money acquired shall be "Sin Suan Tua".

Where the "Sin Suan Tua" has been totally or partly destroyed but replaced by other property or the money, such other property shall be "Sin Suan Tua".

Section 1473

Each spouse is manager of his or her "Sin Suan Tua".

Section 1474

"Sin Somros" consists of:

- (1) Property acquired during marriage;
- (2) Property acquired by either spouse during marriage through a will of gift made in writing if it is declared by such will or document of gift to be "Sin Somros";
- (3) Fruits of "Sin Suan Tua".

In case of doubt as to whether a property in "Sin Somros" or not shall be presumed to be "Sin Somros".

Section 1475

Where any "Sin Somros" is property of the kind mentioned in Section 456 of this Code or has documentary title, either husband or wife may apply for having his or her name entered in the documents as co-owners.

Section 1476

In managing the "Sin Somros" in the following cases, the husband and wife have to be joint manager, or one spouse has to obtain consent from the other:

- (1) Selling, exchanging, sale with the right of redemption, letting out property on hire-purchase, mortgaging, releasing mortgage to mortgagor or transferring the right of mortgage on immovable property or on mortgage-able movable property.
- (2) Creating or distinguishing the whole or a part of the servitude, right of inhabitation, right of superficies, usufruct or charge on immovable property.
- (3) Letting immovable property for more than three years.
- (4) Lending money
- (5) Making a gift unless it is a gift for charitable, social or moral purposes and is suitable to the family condition.
- (6) Making a compromise.
- (7) Submitting a dispute to arbitration.
- (8) Putting up the property as guarantee or security with a competent official or the Court.

The management of the "Sin Somros" in any case other than those provided in paragraph one can be made only by one spouse without having to obtain consent from the other.

Section 1476/1

The husband and wife can manage the "Sin Somros", differently, in whole or in part, from provisions of Section 1476, provided that the ante-nuptial agreement under Section 1465 and Section 1466 has been made. In such case, the management of the "Sin Somros" shall be made in accordance with the ante-nuptial agreement.

In case the specifications of the management of the "Sin Somros" in the ante-nuptial agreement are only part in difference to the provisions of Section 1476, the management of the "Sin Somros" other than those specified in the ante-nuptial contract shall be made in accordance with Section 1476.

Section 1477

Either spouse is entitled to litigate, defend, and take legal proceedings concerning maintenance of the "Sin Somros" or for the benefit of the "Sin Somros". Debts incurred by the said litigation, defense and legal proceedings shall be regarded as the obligation to be performed jointly by the spouses.

Section 1478

Where one spouse has to give consent or to affix a signature together with the other in the management of the property, but unreasonably refuses to give such consent or to affix such signature, or is not in a position to give such consent, the latter may apply to the Court for an order granting the necessary permission.

Section 1479

Where an act by either spouse requires the consent of the other spouse, and if such act is required by law to be made in writing or registered by the competent official, such consent must be given in writing.

Section 1480

In the management of the Sin Somros which has to be made jointly or has to obtain the consent from the other spouse under Section 1476, if either spouse has entered into any juristic act alone or without consent of the other, the latter may apply in court for revoking such juristic act, unless it has been ratified by the other spouse, or the third person was at the time of entering into such juristic act, acting in good faith and make the counter-payment.

The litigation for revocation of the juristic act by the court under paragraph one cannot be made later than one year from the day when such cause as being the ground for the revocation is known or later than ten years since the juristic act was done.

Section 1481

Neither spouse is entitled to dispose of the "Sin Somros" by will in favor of the other persons to an extent exceeding his or her own portion thereof.

Section 1482

In case either spouse is the sole manager of the "Sin Somros", the other spouse is nevertheless entitled to manage household affairs or provide for the necessities of the family, and the expenses therefore would bind the "Sin Somros" and "Sin Suan Tua" of both parties.

If such management of household affairs or provision for the necessities of the family by the husband or wife results in the undue loss, the other spouse may apply to the court to forbid or limit his or her power.

Section 1483

In case either spouse is the sole manager of the "Sin Somros", if the manager is going to commit or is committing any act in the management of the "Sin Somros" which would appear to result in undue loss, the other spouse may apply to the court for an order forbidding commission of such act.

Section 1484

If either spouse who is the manager of Sin "Somros":

- (1) Causes undue loss to it;
- (2) Fails to support the other spouse;
- (3) Becomes insolvent or incurs debts to an amount exceeding one half of the "Sin Somros";
- (4) Hinders the management of "Sin Somros" by the other spouse without reasonable ground;
- (5) Is found to have circumstances that will ruin the "Sin Somros";

The other spouse may apply to the court for an order authorizing him or her to be the sole manager or dividing the "Sin Somros".

In case there is an application is made under paragraph one, the court may determine temporary protective measures in the management of the "Sin Somros". If that is the case of emergency, the provisions on the request in case of emergency under the Civil Procedure Code shall be applied.

Section 1484/1

In case where has been an order of the court forbidding or limiting the power of either spouse to manage the "Sin Somros", if the cause which was the ground for the court order or the circumstances have later changed, either spouse may apply to the Court revocation or change of the order forbidding or limiting the power to manage the Sin Somros. The court in this effect may give any order which is deemed suitable.

Section 1485

The husband or wife may apply to the court for authorizing him or her to be the manager of any particular "Sin Somros" or participate in the management, if such management or participation will bring about more benefit.

Section 1486

When the Court has pronounced a final judgment or given an order under Section 1482 paragraph two, Section 1483, Section 1484, Section 1484/1 or Section 1485 in favor of the applicant, or Section 1491, Section 1492/2 or Section 1598/17, or the husband and wife has been relieved of becoming bankrupt, the court shall notify the marriage Registrar of the matter in order to have it entered in the Marriage Registrar.

Section 1487

No spouse can seize attach any property of the other during the marriage, except the seizure or attachment made in the case which has entered for the purpose of exercising his or her duty or for maintaining rights between husband and wife as specially provided in this Code or as specially provided by this Code allowing one spouse to sue the other, or for allowance due for maintenance and cost under the judgment of the court.

Section 1488

Where either spouse is personally liable to perform an obligation incurred before, or during marriage, such performance shall be first made out of his or her "Sin Suan Tua"; if the obligation is not performed in full, it shall be satisfied out of his or her portion of the "Sin Somros".

Section 1489

Where both spouses are common debtors, the performance shall be made out of the "Sin Somros" and the "Sin Suan Tua" of both spouses.

Section 1490

Debts that both spouses are jointly liable to perform shall include the following debts incurred by either spouse during marriage:

- (1) Debts incurred in connection with management of household affairs and providing for the necessities of the family, or maintenance, medical expenses of the household and for proper education of the children;
- (2) Debts incurred in connection with the "Sin Somros";
- (3) Debts incurred in connection with a business carried on by the spouses in common;
- (4) Debts incurred by either spouse only for his or her own benefit but ratified by the other.

Section 1491

If either spouse is adjudged bankrupt, the "Sin Somros" is divided by operation of law as from the date of adjudication.

Section 1492

After the "Sin Somros" has been divided under Section 1484 paragraph two, Section 1491 or Section 1598/17 paragraph two, the portion so divided becomes "Sin Suan Tua" of each spouse. Any property obtained after the division by either spouse shall be "Sin Suan Tua" of that spouse and not be regarded as "Sin Somros". And the property acquired thereafter by the spouse through a will or gift made in writing under Section 1474 (2) shall become "Sin Suan Tua" of the husband and wife equally.

Fruits of the "Sin Suan Tua" accrued after the division of the "Sin Somros" shall be "Sin Suan Tua".

Section 1492/1

In case the division of the "Sin Somros" is made by the order of the court, the revocation of the division shall be made upon the request of either spouse and the court has given the order to that effect. If either spouse raises an objection to such request, the court cannot give an order for the revocation of the division of the "Sin Somros" unless the cause for division of the "Sin Somros" has ceased to exist.

After the division of the "Sin Somros" under paragraph one having been revoked, or suspended due to the husband or wife having been relieved from being bankrupt, the property which is the "Sin Suan Tua" on the date of the order of the court, or on the date of his or her relieving from being bankrupt shall remain the same as "Sin Suan Tua".

Section 1493

In case where the "Sin Somros" has been disposed of, both spouses are liable to pay for the household expenses in proportion to the amount of their respecting "Sin Suan Tua".

**CHAPTER V
VOID OF MARRIAGE**

Section 1494

The marriage will be void only as provided in this Chapter.

Section 1495

The marriage which is made against Section 1449, Section 1450, Section 1452 and Section 1458 shall be void.

Section 1496

It is only a judgment of the court that effects the void of the marriage which is made against Section 1449, Section 1450 and Section 1458.

The spouses, parents or descendants of the spouse may apply for a judgment of the court effecting the void of the marriage. If there is none of the said persons, any interested person may request the Public Prosecutor to apply to the court for such judgment.

Section 1497

Any interested person may allege or apply for a judgment of the court effecting that the marriage made against Section 1452 is void.

Section 1497/1

In case there is a final judgment of the court effecting the void of any marriage, the court shall notify the Marriage Registrar of the matter in order to have it entered in the Marriage Register.

Section 1498

The void of marriage will not create property relation between husband and wife.

In case of marriage has been adjudged void, the property possessed or acquired by either party before or after the marriage as well as the fruits thereof remain as that party's property. As for the property jointly earned, they shall divided equally unless the court deems it proper and order

otherwise by taking into consideration the obligation in the family and earnings of both parties as well as their station in life, including all other circumstances.

Section 1499

The marriage adjudged void as being against Section 1449, Section 1450 or Section 1458 shall not prejudice the right acquired through such marriage before pronouncing the final judgment effecting the void of the marriage by the party who has married in good faith.

The marriage adjudged void as being against Section 1452 shall not prejudice the right acquired through such marriage before the cause that the maker the marriage void is known to the man or woman. But the said marriage shall not make one spouse become statutory heir of the other and have the right of inheritance to the other spouse.

In case of the marriage adjudged void as being against Section 1449, Section 1450, Section 1458 or Section 1452, if one party only acted in good faith, such party may claim compensation. However, if such marriage makes the party in good faith become destitute deriving insufficient income out of his or her property or business which used to be carried on before pronouncing the final judgment to effect the void of the marriage, or before the void of his or her marriage becoming known, as the case may be, that party can also claim living allowance, and the provisions of Section 1526 paragraph one and Section 1528 shall apply to the claim for living allowances in this case, *mutatis mutandis*.

The prescription for claiming compensation or living allowances under paragraph three shall be two years from the date of pronouncing the final judgment to effect the void of the marriage in case of the marriage made against Section 1449, Section 1450 or Section 1448, or from the day when the void of his or her marriage becoming known in the case of the marriage made against Section 1452.

Section 1499/1

In case of the marriage adjudged void, the agreement between the spouses as to which party to exercise the parental power over any child, or either party or both of them to be responsible for the amount of contribution of the maintenance of the child shall be made in writing. If the agreement cannot be reached, the court shall make decision on the matter. In making such decision, if the are grounds for depriving that spouse of parental power under Section 1582, the court may give an order depriving that spouse of the same and appoint a third person as a guardian by taking into consideration the happiness and interest of the child, and the provisions of Section 1521 shall be applied, *mutatis mutandis*.

Section 1500

The marriage adjudged is void shall not prejudice the rights acquired by third person acting in good faith before entering the void of the marriage into the Marriage Register under Section 1497/1.

CHAPTER VI TERMINATION OF MARRIAGE

Section 1501

Marriage is terminated by death, divorce or being cancelled by the court.

Section 1502

A voidable marriage terminates upon cancellation decided by judgment of the court.

Section 1503

An application to the court for cancellation of marriage on the ground of its avoidable shall be made only in the case where the spouses have not complied with Section 1448, Section 1505, Section 1506, Section 1507 and Section 1509.

Section 1504

An interested person other than the parents or guardian who has given their consent to the marriage is entitled to apply for cancellation of the marriage on the ground of its voidability.

If the court has not cancelled the marriage until both man and woman have completed the age required under Section 1448 or if the woman has become pregnant before such completion, the marriage shall be deemed to be valid from the time it was made.

Section 1505

A marriage which is made on account of mistake as to the identity of the other spouse shall be deemed to be voidable.

The right to apply for cancellation of the marriage on account of mistake as to the identity of the spouse shall be terminated after the lapse of ninety days from the date of marriage.

Section 1506

A marriage is voidable if it is made by the spouses on account of fraud to such an extent that without it the marriage would not have been made.

The provisions of paragraph one shall not apply to the case not apply to the case where the other spouse has not known the fraud committed by a third person.

The right to apply for cancellation of the marriage on account of fraud shall be terminated after the lapse of ninety days from the day on which the spouse has known or should have known of the fraud, or after the lapse of one year from the date marriage.

Section 1507

A marriage is voidable if it is made by the spouses on account of duress to such an extent that without it the marriage would not have been made.

The right to apply for cancellation of the marriage on account of duress shall be terminated after the lapse of one year from the day on which the spouse is free from duress.

Section 1508

Where the marriage is voidable on account of mistake as to the identity of the spouse, fraud or duress, only the spouse who mistook the identity of the other, or was induced by fraud or duress to contract the marriage may apply for the cancellation of such marriage.

In case where the person entitled to apply for the cancellation of the marriage has been adjudged incompetent, the person who may apply to the court for an order effecting an insane person to be an incapacitated person under Section 29, may also apply for the cancellation of such marriage. Where the person entitled to apply for the cancellation of the marriage is an insane person not yet adjudged incompetent, the said person may apply for the cancellation of such marriage but must apply concurrently to the court for an order effecting him to be an incapacitated person. If the court gives an order revoking the application for an order effecting him to be an incapacitated person, the court shall also order revoking the application made by the said person for the cancellation of the marriage.

The order of the court revoking the application made by the person for cancellation of the marriage under paragraph two does not effect the right of the spouse to apply for the

cancellation of the marriage; provided that the spouse exercise his or her right within the remaining period of time. If the remaining period of time is less than six months as from the day on which the order of the court revoking the application made by the said person for cancellation of the marriage is given, or if there remains no such period, the period of time shall correspondingly be extended to the completion of six months as from the day on which the order of the court revoking the application made by the said person for the cancellation of the marriage is given.

Section 1509

The marriage made without consent of the persons mentioned in Section 1454 is voidable.

Section 1510

Where the marriage is voidable on account of having been made without consent of the persons mentioned in Section 1454, only the person who can give the consent under Section 1454 may apply for the cancellation of the marriage.

The right to apply for the cancellation of the marriage under this Section is extinguished when the spouse has completed the age of twentieth year or when the woman has become pregnant.

The action for the cancellation of the marriage under this Section is barred by prescription after one year from the day where the marriage is known.

Section 1511

The marriage which is cancelled by judgment of the court shall be deemed to have terminated on the day when the judgment becomes final; provided, however, that it may not be set up to the prejudice of the rights of third persons acting in good faith unless the cancellation of the marriage has been registered.

Section 1512

The provisions concerning the result of divorce by judgment of the court shall apply to the result of cancellation of the marriage *mutatis mutandis*. [Ed. Latin, the necessary changes having been made].

Section 1513

If it appears that the spouse sued on cancellation of the marriage has known of the ground of the avoidability, such spouse is required to make compensation for the damage to the body, reputation or property of the other arising from such marriage, and the provisions of Section 1525 shall be applied *mutatis mutandis*.

If the other spouse becomes destitute due to the cancellation of the marriage under paragraph one and derives insufficient income out of his or her property of business which used to be carried on during the marriage, the spouse against whom the action has been brought is also required to be liable to living allowances as provided in Section 1526.

Section 1514

Divorce may be effected only by mutual consent or by judgment of the court.

Divorce effected by mutual consent must be made in writing and certified by the signatures of at least two witnesses.

Section 1515

Where marriage has been registered as provided by this Code, divorce by mutual consent is valid only if the registration thereof is effected by both the husband and wife.

Section 1516

Grounds of action for divorce are as follows:

- (1) The husband has given maintenance to or honored such other woman as his wife, or the wife has committed adultery, the other spouse may enter a claim for divorce;
- (2) One spouse is guilty of misconduct, notwithstanding whether such misconduct is a criminal offence or not, if it causes the other:
 - (a) To be seriously ashamed;
 - (b) To be insulted or hated or account of continuance of being husband or wife of the spouse having committed the misconduct; or
 - (c) To sustain excessive injury or trouble where the condition, position and cohabitation as husband and wife are taken into consideration; the latter may enter a claim for divorce;
- (3) One spouse has caused serious harm or torture to the body or mind of the other, or has seriously insulted the other or his or her ascendants; the latter may enter a claim for divorce;
- (4) One spouse has deserted the other for more than one year; the latter may enter a claim for divorce;
- (4/1) One spouse had been sentenced by a final judgment of the court and has been imprisoned for more than one year in the offence committed without any participation, consent or in the knowledge of the other, and the cohabitation as husband and wife will cause the other party sustain excessive injury or trouble, the latter may enter a claim for divorce;
- (4/2) The husband and wife voluntarily live separately because of being unable to cohabit peacefully for more than three years, or live separately for more than three years by the order of the court; either spouse may enter a claim for divorce;
- (5) One spouse has been adjudged to have disappeared, or as left his or her domicile or residence for more than three years and being uncertain whether he or she is living or dead;
- (6) One spouse has failed to give proper maintenance and support to the other, or committed acts seriously adverse to the relationship of husband and wife to such an extent that the other has been in excessive trouble where the condition, position and cohabitation as husband and wife are taking into consideration, the latter may enter a claim for divorce;
- (7) One spouse has been an insane person for more than three years continuously and such insanity is hardly curable so that the continuance of marriage cannot be expected, the other may enter a claim for divorce;
- (8) One spouse has broken a bond of good behavior executed by him or her, the other spouse may enter a claim for divorce;
- (9) One spouse is suffering from a communicable and dangerous disease which is incurable and may cause injury to the other, the latter may file a claim for divorce;
- (10) One spouse has a physical disadvantage so as to be permanently unable to cohabit as husband and wife; the other may enter a claim for divorce.

Section 1517

No action for divorce may be instituted by the husband or wife, as the case may be if such spouse has consented to or connived at the acts under Section 1516 (1) and (2) upon which the action for divorce is based.

If the ground of action for divorce under Section 1516 (10) has resulted from the act of the other spouse, the action for divorce based upon such ground may not be instituted by such other spouse.

Where the action for divorce based upon the ground under section 1516 (8) has been instituted, the court may not pronounce judgment to effect the divorce if the behavior of the husband or wife that causes the bond to have been executed is a minor cause or of no importance in relation to peaceful cohabitation as husband and wife.

Section 1518

The right to institute an action for divorce would be terminated if the spouse entitled thereto has committed any act showing his or her forgiveness to the act done by the other that has caused the right to institute the action for divorce.

Section 1519

In case where one spouse is an insane person and if there gives rise to the ground of action for divorce irrespective of whether it arises before or after the insanity, the person entitled to apply to the court for an order effecting the instance person to be an incapacitated person under Section 28 shall have the power to enter an action against the other spouse for divorce and liquidation of the property. In such a case if no order of the court effecting the insane spouse to be an incapacitated person has yet been given, the said person shall apply to the court in the same case for an order effecting the insane spouse to be an incapacitated person.

The said person may, if deemed suitable, also apply to the court for giving the order under Section 1526 and Section 1530.

In case where the spouse alleged to be an insane person has not yet been adjudged incompetent, and if the court deems that such spouse should not be judged incompetent, the case shall then be dismissed.

If the spouse is deemed suitable to be adjudged incompetent but an order to effect the divorce should not yet be given as yet, the court shall adjudge the spouse to be an incapacitated person and may not give order concerning the guardian or appointing other person to be guardian under Section 1463 while the application for divorce will be dismissed, and the court may in this connection give an order determining living allowances. In case where the spouse is deemed to be insane and should be adjudged incompetent by the court and the application for divorce should also be granted, the court shall issue an order the judgment effecting such spouse to be an incapacitated person, appointing a guardian and allowing the divorce.

In case there the court deems that the ground upon which the claim for divorce is based is not proper to the condition of the incapacitated spouse who is going to divorce the other spouse, or it is not proper under such circumstances that divorce should be allowed, the court may not pronounce the judgment to effect the divorce.

Section 1520

In case of divorce by mutual consent, the spouses shall make an agreement in writing for the exercise of parental power over each of the children. In the absence of such agreement or an agreement thereon cannot be reached, the matter shall be decided by the court.

In case of divorce by judgment of the court, the court trying the divorce case shall also order that the parental power over each of the children belongs to any party. If, in such trial, it is deemed

proper to deprive that spouse of the parental power under Section 1582, the court may give an order depriving that spouse of the same and appointing a third person as a guardian, by taking into consideration the happiness and interest of the child.

Section 1521

If it appears that the person exercising parental power of the guardian under Section 1520 behaves himself or herself improperly or there is a change of circumstances after the appointment, the court has the power to give an order appointing a new guardian by taking into consideration the happiness and interest of the child.

Section 1522

In case of divorce by mutual consent, an arrangement shall be made and contained in the agreement of divorce as to who, both of the spouses or either spouse, will contribute to the maintenance of the children and how much is the contribution.

In case of divorce by judgment of the court or in case the agreement of divorce contains no provisions concerning the maintenance of the children, the court shall determine it.

Section 1523

In case of divorce by judgment of the court on the ground as provided in Section 1516 (1), the husband or wife is entitled to compensation from the husband or wife and other woman or adulterer, as the case may be.

The husband is entitled to claim compensation from any person who has wrongfully taken liberties with his wife in an adulterous manner, and the wife is entitled to claim compensation from other woman who has openly shown her adulterous relations with the former husband. However, the husband or wife is not entitled to claim compensation if he or she has consented to or connived at the act done by other party under Section 1516 (1) or allowed other person to act as provided in paragraph two.

Section 1524

If the ground of action for divorce under Section 1516 (3), (4) or (6) has arisen through an act of the party at fault with the intention to make the other party so intolerable that action for divorce has to be entered, the other party is entitled to compensation from the party at fault.

Section 1525

The compensation under Section 1523 and Section 1524 shall be decided by the court according to the circumstances, and the court may give an order for a single payment thereof or payment in installments as may be deemed suitable by the court.

In case where the person who has to make the Compensation is a spouse of the other party, the share of the property received by the former from the liquidation of the "Sin Somros" on account of divorce shall also be taken into consideration.

Section 1526

In a case of divorce, if the ground for divorce has derived from the guilt of only one party, and the divorce will make the other become destitute deriving insufficient income out of his or her property or business which used to be carried on during the marriage, the latter is entitled to apply for the living allowances to be paid by the party at fault. The court may decide whether the living allowances are granted or not by taking the ability of the grantor and the condition in life of the receiver into consideration, and the provisions of Section 1598/39, Section 1598/40 and Section 1598/41 shall be applied *mutatis mutandis*.

The right to claim the living allowances is extinguished if it is not raised in the plaint or counter-claim in the action for divorce.

Section 1527

If a divorce is effected on the ground of insanity under Section 1516 (7) or on the ground of suffering from a communicable and dangerous disease under Section 1516 (9), the other spouse shall furnish living allowances to the spouse who is insane or is suffering from the disease, according to Section 1526, *mutatis mutandis*.

Section 1528

If the party receiving living allowances remarries, the right to receive living allowances is extinguished.

Section 1529

Rights of action based upon any of the grounds provided in Section 1516 (1), (2), (3) or (6), or Section 1523 are extinguished after one year when the fact which can be alleged by the claimant has been known or should have been known to him or her.

Grounds upon which a claim for divorce can no longer be based may still be proved in support of another claim for divorce based upon other grounds.

Section 1530

Where an action for divorce is pending, the court may, on application of either party, make any provisional order which it thinks proper such as those concerning the "Sin Somros", the lodging, the maintenance of the spouses and the custody and maintenance of children.

Section 1531

In case where a marriage has been registered according to law, divorce by mutual consent takes effect from the time of registration.

Divorce by judgment of the court takes effect on and from the time when the judgment becomes final; however, such judgment may not be set up to the prejudice to the rights of third persons acting in good faith unless the divorce has been registered.

Section 1532

After divorce, the property of the husband and wife shall be subject to liquidation.

But as between the spouses,

- (a) In case of divorce by mutual consent, the liquidation shall apply to the property of the husband and wife as it was on the date of registration of divorce;
- (b) In case of divorce by judgment, the liquidation shall apply to the property of the husband and wife as it was on the day when the action for divorce was entered in court.

Section 1533

Upon divorce, the "Sin Somros" shall be divided equally between man and woman.

Section 1534

Where either spouse has made disposal of the "Sin Somros" for his or her exclusive benefit, or has made disposal thereof with an intention to cause injury to the other, or has made disposal thereof without the consent of the other in the case where such disposal is required by law to have consent of the other, or has willfully destroyed it, it shall, for the purpose of division of the "Sin Somros" under Section 1533, be regarded as if such property had still remained. If the share of the "Sin Somros" that the other will receive is not complete to what he or she should

have received, the party at fault is required to make up for the arrears from his or her share of the "Sin Somros" or his or her "Sin Suan Tua".

Section 1535

Upon termination of the marriage, the man and woman shall be liable for common debts equally.

TITLE II
PARENT AND CHILD

CHAPTER I
PARENTAGE

Section 1536

A child born of a woman during wedlock or within three hundred and ten days after the termination of the marriage is presumed to be the legitimate child of the husband or the man who used to be the husband, as the case may be.

The provisions of paragraph one shall apply to a child born of a woman before the marriage has been announced void by the final judgment of the court, or within three hundred and ten days as from the date of such final judgment.

Section 1537

In case where the woman had made the new marriage and gave birth to a child within three hundred and ten days as from the day of termination of the marriage, the child shall be presumed to be the legitimate child of the new husband, and no presumption under Section 1536 saying that the child is the legitimate child of the former husband shall apply; provided that there is a judgment pronouncing that the child is not the legitimate child of the new husband.

Section 1538

In case where the man or woman had made the marriage against Section 1452, a child born during such marriage shall be presumed to be the legitimate child of the husband who has last marriage entered into the Marriage Register.

In case where the woman had made the marriage against Section 1452, the presumption in Section 1536 shall apply; provided that there is a final judgment pronouncing that the child is not legitimate child of the husband who has the last marriage entered into the Marriage Register.

The provisions of paragraph one shall apply to the child born within three hundred and ten days from the date of the final judgment pronouncing the void of the marriage made against Section 1452.

Section 1539

In case where the child is presumed to be the legitimate child of the husband or the man who used to be the husband under Section 1536, Section 1537 or Section 1537 or Section 1537 or Section 1538, the husband or the man who used to be the husband may repudiate the child by entering an action in court against the child and the mother jointly, and providing that he did not cohabit with the mother of the child during the period of conception, that is to say, the period

extending from the one hundred and eightieth day to the three hundred and ten day inclusive, prior to the birth of the child, or that he could not have been the father of the child on other grounds of impossibility.

The action may be brought against only the child if at the time of entering the action the mother of the child is not alive. Where the child is not alive irrespective of whether the mother of the child is alive or not, the court may be requested to declare that the child is not his legitimate child. In case where the mother of the child or the heir of the child is still alive, the court shall send a copy of the request to the said person and may, if it is proper, send also a copy of the request to the Public Prosecutor for consideration of preceding the case on behalf of the child.

Section 1540

(Repealed)

Section 1541

An action for repudiation of a child cannot be entered by the husband or the man used to be the husband if it appears that the latter causes to have the birth of the child entered in the Birth Register as his legitimate child or arranges or agrees to have it entered in the Birth Register.

Section 1542

An action for repudiation of a child shall be entered by the man who is or used to be the husband within one year after the birth of the child. In any case no such action can be entered later than ten years after the birth of the child.

In case where there is a judgment pronouncing that the child is not the legitimate child of the new husband under Section 1537 or of the husband in the last marriage under Section 1538, if the husband of the man who used to be the husband and is presumed by Section 1536 to be the father of the child, he shall enter the action within one year since the final judgment became known to him.

Section 1543

In case where the man being or used to be the husband who has entered an action for repudiation of the child, died before the case becoming final, a person who has the right of inheritance together with the child or a person whose right of inheritance would be deprived on account of the birth of the child, may file a motion to substitute himself or may be summoned to substitute for the deceased.

Section 1544

An action for repudiation of a child can be entered by a person who has the right of inheritance together with the child or by a person whose right of inheritance would be deprived on account of the birth of the child in the following cases:

- (1) The man who is or used to be the husband died before the expiration of the period within which the action could have been entered by him;
- (2) The child was born after the death of the man who is or used to be the husband. The action for repudiation of the child under (1) must be entered within six months since the death of the man being or having ever been the husband becoming known to that person. In any case no such action can be entered later than ten years after the birth of the child.

The provisions of Section 1539 shall apply to the entering of an action for repudiation of the child, *mutatis mutandis*.

Section 1545

A child may request the Public Prosecutor to enter an action under Section 1536 for repudiation to be legitimate child of the husband of his or her mother if it becomes known to the child that he or she is not an inherited child of the husband of the mother.

In entering the action under paragraph one, if it becomes known to the child before he or she becoming *sui juris* that he or she is not the legitimate child of the husband of his or her mother, no action can be entered by the Public Prosecutor after one year as from the date of his or her becoming *sui juris*. If it becomes known to the child after his or her becoming *sui juris*, no action can be entered by the Public Prosecutor later than one year since the day when the facts come to his or her knowledge.

Section 1546

A child born of a woman who is not married to a man is deemed to be the legitimate child of such woman.

Section 1547

A child born of the parents who are not married to each other is legitimate by the subsequent marriage of the parents, or by the registration made on application by the father, or by a judgment of the court.

Section 1548

When legitimating is applied for by the father, the child and the mother must give consent to the applicant.

In case where the child and the mother do not appear before the Registrar for giving the consent, the Registrar shall notify the child and the mother of the father's application for registration.

If the child or the mother raises no objection or does not give the consent within sixty days after the acceptance of the notification by the child or mother, it is presumed that the child or the mother does not give consent. The period of time shall be extended to one hundred and eighty days in case where the child or the mother has been outside Thailand.

In case where the child or the mother raises an objection that the applicant is not the father, or does not give the consent, or is unable to give the consent, the registration for legitimating must be effected by a judgment of the court.

After the court had pronounced a judgment effecting the registration of the legitimating and the judgment has been produced to the registrar for registration, the Registrar shall effect the registration.

Section 1549

When the registrar has notified the child and the mother of the application of legitimation under Section 1548, notwithstanding whether the child and the mother will object to the application under Section 1548 or not, the child or the mother may, within a period of not more than ninety days since the notification reached the child or mother, notify the registrar to make a record that the applicant is not a suitable person for exercising partly or wholly the parental power.

Although the registration of legitimation under Section 1548 had been made, if there has been a notification of the child and the mother under paragraph one, the child's father will not be able to exercise partly or wholly such parental power as had been notified by the child or the mother until the court will pronounce a judgment effecting the child's father to exercise partly or wholly the parental power, or a period of ninety days had elapsed since the registrar was notified by the child or the mother of the unsuitability on the party of the applicant for registration of legitimation to be the person unsuitable for exercising a part of the whole of the parental power.

In case the court pronounces a judgment that the applicant for registration of legitimation is not the suitable person for exercising a part or the whole of the parental power or be the guardian.

Section 1550

(Repealed)

Section 1551

In case where there is an objection to the applicant for registration of legitimation on account of not being the child's father, if the applicant for registration of legitimation has brought an action to the court for a judgment effecting him to be the child's father. The child or mother may apply to the court in the same case for an order to the effect that the applicant for registration of legitimation is not a suitable person for exercising a part or the whole of the parental power even though he is the real father of the child. In such case, the provisions of paragraph three of Section 1599 shall be applied *mutatis mutandis*.

Section 1552

In case the child has no mother or has mother but the latter has been deprived partly or wholly of her parental power and the other person has been appointed by the court to be guardian partly or wholly before the registration of legitimation. The father who causes the registration of legitimation having been entered may, if he thinks that for the benefit of the child, he should be the person exercising the parental power partly or wholly, apply to the court for an order effecting the deprivation of a part of the whole of guardianship from the guardian opinion of the court, exercise the parental power for bring about more happiness and interest to the child. The court may give an order effecting the deprivation of a part or the whole of guardianship from the guardian and making the father to be the person exercising the parental power.

Section 1553

(Repealed)

Section 1554

Any interested person may, within three months from the time when the registration of legitimation comes to his knowledge, apply to the court for cancellation of the registration on the ground that the person at whose instance the legitimation has been registered is not the father of the child. In any case, no such action may be entered after the lapse of ten years since the date of registration.

Section 1555

An action for legitimation may be entered only in the following cases:

- (1) Where there is a rape, abduction or illegal confinement of the mother during the period when conception could have taken place;
- (2) Where there has been elopement or seduction of the mother during the period where conception could have been taken place;
- (3) Where there is a document emanation from the father and acknowledging the child as his own;
- (4) Where it appears in the birth register that the child is a son or daughter of the man who notified of the birth, or such notification was made with the knowledge of the man;
- (5) Where there has been open cohabitation of the father and the mother during the period where conception could have been taken place;

(6) Where the father had sexual intercourse with the mother during the period when conception could have been taken, and there are grounds to believe that he or she is not the child of another man;

(7) Where there has been a continuous common repute of being a legitimate child.

There status resulting from continuous common repute of being a legitimate child is established by means of facts showing the relationship of father and child, as evidenced by the child's connection with the family to which he claims to belong, such as the fact that the father has provided the child's education or maintenance, or that he has allowed the child to use his family name or other facts.

In any case, if the man is found unable to be a father, the case shall be dismissed.

Section 1556

The action for legitimation may be brought by the legal representative of the child if the child is a minor of not yet completed his fifteenth years of age. In case there is no legal representative or the legal representative cannot perform his duties, a closed relative or the public prosecutor may apply to the court for appointing a representative *ad litem* to bring the action on behalf of the child.

After attaining the age of fifteenth years old complete, the child has to bring the action himself and need not obtain consent of the legal representative.

After attaining the age of *sui juris*, the action has to be entered within one year from the day of becoming *sui juris*.

In case the child is dead during the time has right to bring an action for legitimation, his descendant may enter an action for legitimation. Should the descendant know the ground of the action for legitimation before the death of the child, the action would have to be entered by the former within one year from the death of the child should the ground of the action for legitimation become known to the descendant after the death of the child. However, the action would have to be entered within one year as from the day; the said ground came to his knowledge; provided that is cannot be entered after ten years have elapsed since the death of the child.

The provision of paragraph one and paragraph two shall apply to the action of legitimation entered by the minor descendant *mutatis mutandis*.

Section 1557

Legitimation under Section 1547 shall take effect:

- (1) From the day of marriage in case of subsequent marriage of the parents;
- (2) From the day of registration in case where the registration of legitimation is made by the father;
- (3) From the day of final judgment in case of legitimation pronounced by the court, provided that it may be set up to the prejudice of the rights of third persons acting in good faith, unless it has been registered according to the judgment.

Section 1558

As regards the action for legitimation of the deceased having been entered within the period of prescription for claim for inheritance, if the court adjudges the child to be legitimate he is entitled to inheritance as a statutory heir.

In case where the estate has been divided the provisions of this Code concerning undue enrichment shall be applied *mutatis mutandis*.

Section 1559

After registration of legitimation has been made, it cannot be revoked.

Section 1560

The child born during marriage is deemed to be legitimate, even though the marriage has been subsequently cancelled.

CHAPTER II
RIGHTS AND DUTIES OF PARENT AND CHILD

Section 1561

A child has the right to use the family name of the father.

In case the father is unknown, a child has the right to use the family name of the mother.

Section 1562

No person can enter an action, either civil or criminal, against his ascendants, unless the case is taken up by the public prosecutor upon application of such person or a close relative of such person.

Section 1563

Children are bound to maintain their parents.

Section 1564

Parents are bound to maintain their children and to provide proper education for them during their minority.

When the children are *sui juris*, parents are bound to maintain them only when they are infirm and unable to earn their living.

Section 1565

As regards the applications for maintenance of the children or for any other form of maintenances to be given to children, it may be taken up by the father or the mother except the case to be taken up by the public prosecutor according to Section 1562.

Section 1566

A child is subject to parental power as long as he is not *sui juris*.

The parental power is exercised by the father or the mother in any of the following cases;

- (1) The mother or the father is dead;
- (2) It is uncertain whether the mother or the father is living or dead;
- (3) The mother or the father has been adjudged incompetent or quasi-incompetent;
- (4) The mother or the father is placed in a hospital by reason of mental infirmity;
- (5) The parental power has been granted to the mother or the father by an order of the court;
- (6) The mother or the father have come to such agreement as provided by the law that it can be made.

Section 1567

A person exercising parental power (natural guardian) has the right:

- (1) To determine the child's place of residence;
- (2) To punish the child in a reasonable manner for disciplinary purposes;
- (3) To require the child to do such work as may be reasonable to his ability and condition if life;
- (4) To demand the return of the child from any person who unlawfully detains him.

Section 1568

Where a person who already has a child marries another person the parental power over such child is exercised by the former person.

Section 1569

A person exercising parental power is the legal representative of the child. If the child is adjudged incompetent or quasi-incompetent, the person exercising parental power shall be the custodian or curator, as the case may be.

Section 1569/1

In case where the minor has been adjudged incompetent or quasi-incompetent and other person who is not the one exercising the parental power or the guardian has been appointed as the guardian by the order of the court, such order shall effect the revocation of the person exercising the parental power or guardian, at the moment.

In case where the person being sui juris and having no spouse has been adjudged incompetent or quasi-incompetent, the parents or the father or the mother shall be the guardian or curator, as the case may be, unless the court shall order otherwise.

Section 1570

Notifications made by or to the person exercising parental power according to Section 1566 or Section 1568 are deemed to notifications made by or to the child.

Section 1571

Parental power includes the management of the property of the child and such management shall be exercised with the same care as that of a person of ordinary prudence.

Section 1572

A person exercising parental power cannot create an obligation the subject of which is personal to the child without the consent of the child.

Section 1573

If the child has an income, it shall in the first place be used for his maintenance and education; any residue thereof shall be kept by the person exercising parental power and be returned to the child.

Section 1574

A person exercising parental power cannot enter into any of the following juristic acts with regard to the property of the minor except with permission of the court;

- (1) Selling, exchanging, sale with right of redemption, letting out property on hire-purchase, mortgaging, releasing mortgage to mortgagor or transferring the right of mortgage on immovable property or on mortgageable movable property;
- (2) Extinguishing the whole or a part of real right of the minor on immovable property;
- (3) Creating servitude, right of inhabitation, right of superficies, usufruct or any charge on immovable property;
- (4) Disposing of the whole or a part of the claim the purpose of which is to create real right on immovable property or on mortgageable property, or the claim the purpose of which is to have a real right on such property of the minor relieved;
- (5) Letting immovable property for more than three years;
- (6) Creating any commitments the purpose of which is to achieve the objective as provided in (1), (2) and (3);
- (7) Making a loan of money;
- (8) Making a gift, except out of the income of the minor on the minor's behalf for charitable, social or moral purposes, and suitable to the minor's condition in life;
- (9) Accepting a gift subject to any condition or charge, or refusing a gift;
- (10) Giving guarantee by any means whatsoever which may cause the minor to be compelled to perform an obligation or to enter into other juristic act, as requiring the minor to perform an obligation to other person or on behalf of other person;
- (11) Making benefit out of the property other than those provided in Section 1598/4 (1), (2) or (3)
- (12) Making a compromise;
- (13) Submitting a dispute to arbitration.

Section 1575

Where in regard to any act, the interests of a person exercising parental power or the interests of a spouse or children of a person exercising parental power conflict with those of the minor, the former must obtain the permission of the court in order to perform such act, failing such act shall be void.

Section 1576

The interests of a person exercising parental power or the interests of a spouse or children of a person exercising parental power in Section 1575 shall include interest in the following businesses:

- (1) Interests in the business that the said person performs with an ordinary partnership of which that person is a partner.
- (2) Interests in the business that the said person performs with a limited partnership of which that person is a partner with unlimited liability.

Section 1577

A person may transfer by legacy or gift a property to a minor, subject to its being managed, up to the time of majority, by a person other than the person exercising parental power.

Such manager must be named by the transferor, in default, or by court and his management shall be subjected to Section 56, Section 57 and Section 60.

Section 1578

When parental power ceases as the minor is sui juris, the person who exercised parental power must hand over to the child for certification, without delay, the property so managed and render to him a written account thereof, and if there is any document relating thereto, it shall be handed over at the same time as the account.

If the parental power ceases other than those mentioned in paragraph one, the property, account and document relating to management of the property shall be handed over to the person exercising parental power, if any, or to the guardian, as the case may be, for certification.

Section 1579

In case where one spouse is dead and the other who has a child born within wedlock intends to make a new marriage, if the latter has possessed the property properly separated for the child, the property may be handed over to the child when the child can manage it, or the property may be kept and handed over to the child at the proper time. If it is the property specified in Section 456 or has a documentary title, the child's name shall be entered in the document as the co-owner, and that the marriage cannot take place unless the aforesaid management has been completed.

If there is reasonable ground, the Court may give an order allowing the said spouse to make the marriage first. But the Court must specify in the order that the spouse must complete the separation of the property and a making of an inventory as provided in paragraph one within a specified period of time after the marriage.

In case the marriage is made in contravention of paragraph one, or in case the spouse does not comply with the order of the Court given under paragraph two, the Court may on its knowledge of the fact or on application of the minor's relative or of the Public Prosecutor, give an order depriving the spouse of the parental power or directing any person to make the inventory and to have the child's name entered as co-owner in the said document instead, and any expenses incurred thereby shall be borne by the spouse.

For the purpose of this Section, the adopted of the deceased spouse and of the living spouse shall be deemed to be a child borne of the spouse.

Section 1580

After the child becomes legal age, the person who exercising partial power or conservator shall acknowledge the management of the child's property when such child already received the property, property account and documents stated in Section 1578.

Section 1581

Lawsuit related to the property managed between minority and the person exercising parental power cannot be sued after one year after the expiration of parental power.

If parental power expired during the minority, the time in paragraph one shall start counting from the child becomes legal age or there are new person who exercising parental power.

Section 1582

When the person exercising parental power is adjudged incompetent or quasi-incompetent, or abuses his or her parental power as regards the child's person, or is guilty of gross misconduct, the court may, of its own motion or on the application of a close relative of the child or of the Public Prosecutor, order the deprivation of the parental power either partly or wholly.

If the person exercising parental power is bankrupt or likely to endanger the child's property by mismanagement, the court may, upon the same proceedings as mentioned in the foregoing paragraph, order the deprivation of the right of management.

Section 1583

If the causes mentioned in the forgoing Section have ceased to exist, a person who has been partly or wholly deprived of parental power may recover it by permission of the court on application made by him or by a close relative of the child.

Section 1584

Withdrawing the parental power from the person exercising parental power does not release this person from the maintenance of his minority as specified by law.

Section 1584/1

Father or mother shall have the right to contact their child in any proper behavior neither they are natural guardian nor conservator.

Chapter III
Guardianship

Section 1585

A person who is not *sui juris* and has no parents, or whose parents have been deprived of their parental power, may be provided with a guardian during minority.

In case where the person exercising parental power is partially deprived of such parental power under Section 1582 paragraph 1, a guardian may be appointed with regard to such deprived part of power. In the case where the person exercising parental power is partially deprived of such power to manage the property under Section 1582 paragraph 2, a guardian may be appointed for the purpose of managing the property.

Section 1586

The guardian as provided in Section 1555 may be appointed either by the will of the last surviving parent, or by order of the Court on application of a relative of the minor or of the Public Prosecutor.

Subject to Section 1590, the guardian must be appointed according to the testamentary disposition, if existing, except the will has no effect or the person provided in the will is forbidden from the guardianship under Section 1587.

Section 1587

Any person *sui juris* may be appointed a guardian, except the following:

- (1) Persons adjudged incompetent or quasi-incompetent;
- (2) Bankrupts;
- (3) Persons unfit to take charge of the person or property of the minor;
- (4) Persons having or having had a lawsuit against the minor, an ascendant of the minor, or brothers and sisters of full blood or half blood of the minor;
- (5) Persons having been excluded by name from the guardianship by the last surviving parent.

Section 1588

If it appears that the person appointed as the guardian by the Court is at the time of appointment a prohibited person under Section 1587, the Court shall, upon the Court's own knowledge or on application of an interested person or of the Public Prosecutor, revoke the order of appointment of that person and shall give such order concerning the guardian as the Court thinks fit.

The revocation of the order of appointment of the guardian under paragraph one does not affect the right of the third person acting in good faith unless in the case of revocation of the order of appointment the prohibited person under Section 1587 (1) or (2), the act done by the guardian are not binding the minor whether the third person acted in good faith or not.

Section 1589

(Repealed)

Section 1590

There can be only one guardian at the time; however, in case where there is a testamentary disposition directing that several guardians be appointed or there is an application by the person with proper reasons, several guardians may be appointed as the Court considers necessary. In case several guardians are appointed, the Court may order the guardians to act either jointly or in accordance with the power specially conferred upon each of them.

Section 1591

The status of guardian commences from the day when the notification of his appointment by the Court is known to him.

Section 1592

The guardian must without delay make an inventory of the ward's property within three months from the date when the appointment by the Court is known to him, but this period of time may be extended on application made by the guardian to the Court before the expiration of the three months.

The inventory shall be made in presence of at least two witnesses who must be *sui juris* and be relatives of the ward, but if no relative can be found, other persons may be witnesses thereto.

Section 1593

Within ten days after the completion of the inventory, the guardian shall submit one certified copy thereof to the Court, and the Court may require him to give supplementary information or to produce documents in order to show that the inventory is correct.

If the Court does not give an order otherwise within fifteen days after delivery of the inventory or the day of producing of supplementary information or documents, as the case may be, the inventory is deemed acceptable by the Court.

Section 1594

If the guardian does not comply with the provisions concerning the making of the inventory or the submission of a complete and correct inventory as described in Section 1592 or Section 1593, or does not comply with the order of the Court given under Section 1593, or the Court is dissatisfied with such inventory on the grounds of gross negligence, dishonesty or obvious inefficiency of the guardian, the Court may discharge the guardian.

Section 1595

Before the inventory has been Section 1595. Before the inventory has been accepted by the Court, a guardian may do nothing but urgent necessary acts, but such acts cannot be set up against third persons acting in good faith and for value.

Section 1596

If an obligation exists in favour of the guardian against the ward or in favour of the ward against the guardian, the guardian must give notice thereof to the Court before commencing the inventory.

If the guardian knows that an obligation exists in his favour against the ward and does not give notice thereof to the Court, such obligation is extinguished.

If the guardian knows that an obligation exists against him in favour of the ward and does not give notice thereof to the Court, the Court may discharge him.

Section 1597

The Court may, of its own motion or on application of any interested person or of the Public Prosecutor, order a guardian

- (1) To furnish proper security for the management as well as for the return of the ward's property
- (2) To give information as to the condition of the ward's property.

Section 1598

Where, during the guardianship the ward acquires a valuable property by succession or gift, Section 1592 to Section 1597 shall apply *mutatis mutandis*.

Section 1598/1

The guardian shall render account to the Court concerning the property once a year as from the day when he becomes guardian. However, the Court may, after the account of the first year has been rendered, order that the account be rendered at a longer interval than one year.

Section 1598/2

A guardian has the same rights and duties as a person exercising parental power as provided in Section 1564 paragraph 1 and Section 1567.

Section 1598/3

A guardian is the legal representative of the ward, Section 1570, Section 1571, Section 1572, Section 1574, Section 1575, Section 1576 and Section 1577 shall apply to the guardian and ward *mutatis mutandis*.

Section 1598/4

A guardian may dispose only of such part of the income of the ward as is necessary for the maintenance and education of the latter, The residue shall be invested only;

- (1) in bonds issued by the Thai Government or in bonds guaranteed by the Thai Government;
- (2) in taking sale with the right of redemption or in mortgage of immovable property of first rank, the amount of which must not exceed half of the market value of such property;
- (3) in fixed deposit in a bank established by law or authorized to carry in business in the Kingdom;
- (4) in any other investment which may specially authorized by the Court.

Section 1598/5

After the ward has reached discretion and his age is not less than fifteen years complete, the guardian must, in all important transactions, consult him first, so far as it is possible to do so. The fact that the ward has give consent does not exonerate the guardian from liability.

Section 1598/6

Guardianship is terminated by death of the ward or by the ward becoming *sui juris*.

Section 1598/7

The functions of the guardian are terminated when the guardian

- (1) is death
- (2) resigns by permission of the Court
- (3) becomes incompetent or quasi incompetent
- (4) becomes bankrupt
- (5) is revoked by the order of the Court.

Section 1598/8

A guardian shall be discharged by the court in the following cases:

- (1) The guardian fails to perform his duties;
- (2) The guardian is guilty of gross negligence in performing his duties;
- (3) The guardian abuses his functions;
- (4) The guardian is guilty of such misconduct as to make him unworthy of a post of confidence;
- (5) The guardian is inefficient in his duties to the extent that the wards' interests are likely to be imperiled;
- (6) In the cases as provided in Section 1587 (3) (4) or (5).

Section 1598/9

An application for the discharge of a guardian, as provided in Section 1598/8, may be made by the ward himself if he is not less than fifteen years of age, or by a close relative, or by the Public Prosecutor.

Section 1598/10

When an application for the discharge of a guardian is pending in Court, the Court may appoint in his stead a temporary manager of the property of the ward.

Section 1598/11

When the guardian or the functions of the guardian are terminated, the guardian or his heir must without delay hand over to the ward, his heir or the new guardian the property managed; and, within six months, he must render an account of management, and if there is any document relating thereto, it shall be handed over at the same time as the account, but this period of time may be extended by the Court on application of the guardian or his heir.

Section 1580 and Section 1581 shall apply *mutatis mutandis*.

Section 1598/12

Interest shall be paid on the amount of money which either the guardian or the ward has to repay to the other, from the time when the account of guardianship is delivered.

If the guardian has disposed of the ward's money otherwise than for the benefit of the latter, he shall pay interest thereon from the day when he disposed of such money.

Section 1598/13

The ward has preferential right over the whole property of the guardian for the performance of the obligation due to him.

This preferential right shall rank as (6) after the other general preferential rights specified in Section 253 of this Code.

Section 1598/14

A guardian is not entitled to receive remuneration, except the following:

- (1) In the case that it is provided in the will, the guardian shall receive the remuneration as provided in the will;
- (2) In the case that it is neither provided nor prohibited in the will, the guardian may subsequently request the court to designate the remuneration, and the court may designate at its discretion;
- (3) In the case that there is neither appointment of the guardian in the will nor the prohibition of the guardian from receiving remuneration, the court may designate the remuneration in the act appointing the guardian, or the guardian may subsequently request such designation from the court, which may designate at its discretion.

Remuneration shall be considered with due regard to the relative means and to the respective station in life of the guardian and the ward.

If the guardian or the ward has demonstrated that such relative means and the respective station in life have altered after assuming the parental duties, the court may order any modification to the remuneration correspondingly. This Section is also applicable to the case where the will prohibits the guardian from receiving remuneration.

Section 1598/15

If the Court adjudges the husband or wife incompetent and makes the wife or the husband guardian, the provisions concerning the right and duty of the person exercising parental power shall apply *mutatis mutandis*, except the right under Section 1567 (2) and Section 1567 (3).

Section 1598/16

The spouse who is the guardian of the other spouse having been adjudged incompetent by the Court has the power to manage the *Sin Suan Tua* (personal property) of the latter and has the power to manage solely *Sin Somros* (common marital property). But management of *Sin Suan Tua* and *Sin Somros* as specified in paragraph one of Section 1476 cannot be made by that spouse except with the permission of the Court.

Section 1598/17

Where the husband or wife has been adjudged incompetent and the other spouse has been considered not proper to be the custodian and whereby his or her father or mother or an outsider had to be appointed the custodian, the custodian shall, in this case, be a joint manager of the *Sin Somros* with the other spouse, but the Court may order otherwise, if there are vital circumstances which may endanger the incapacitated person.

However, the other spouse has the right to apply to the Court for an order dividing the *Sin Somros* if there exist circumstances as provided in paragraph one.

Section 1598/18

In case where the parents are the guardian of the child who is not *sui juris* the provisions concerning power and duties of the person exercising parental power shall apply *mutatis*

mutandis. But, if the child become *sui juris*, the provisions concerning power and duties of the guardian shall apply *mutatis mutandis*, except the right under Section 1567 (2) and Section 1567 (3).

Chapter IV

Adoption

Section 1598/19

A person who is not less than twenty five years old may adopt another, provided he is at least fifteen years older than the adopted person.

Section 1598/20

If the person adopted is not less than fifteen years old, his consent shall be obtained.

Section 1598/21

The adoption can take place only with the consent of the parents of the adopted. In the case that one of the parents has deceased or been deprived of the parental power, the consent may be given by the other parent with the parental power.

If there is no authorized person to give such consent as provided in paragraph 1, or if the parents are unable to make a declaration of the consent or do not give the consent without appropriate reason, adverse to the well-being of the adopted; the person to adopt or the Public Prosecutor shall request the order of the court in lieu of such consent.

Section 1598/22

In case the minor to be adopted has been deserted and been under supervision of an institution for child welfare under the law on child welfare and protection, the institution shall give consent on behalf of his parents. If the institution refuses to give such consent, the provisions of paragraph two of Section 1598/21 shall apply, *mutatis mutandis*.

Section 1598/23

In case the minor to be adopted has not been deserted but has been under supervision of an institution for child welfare under the law on child welfare and protection, the parents or one of the parents, in case the other died or whose parental power has been deprived, may make a letter of power entrusting the said institution to give consent to the adoption, and the provisions of Section 1598/22 shall apply, *mutatis mutandis*.

The letter of power under paragraph one cannot be revoked as long as the minor is supported and maintained by that institution.

Section 1598/24

The person who has the power to give consent to the adoption on behalf of the institution under Section 1598/22 or Section 1598/23 may adopt the minor being under supervision and support of the institution as his own adopted child if the Court has granted the application made by the said person in lieu of giving consent thereto by the institution.

Section 1598/25

A person who is to adopt, or a person who is to be adopted, must, if married, obtain the consent of his or her spouse. In case that the spouse is unable to give the consent, or has departed from

the residence and disappeared for not less than one year, an application with the court must be filed to grant the order of permission in lieu of such consent.

Section 1598/26

A minor who is an adopted child of any person cannot concurrently be an adopted of another person except an adopted of the spouse of the adopter.

If one spouse will adopt the minor who has already been the adopted child of the other as his or her adopted child, the consent thereto must be obtained from the latter, and Section 1598/21 shall not apply.

Section 1598/27

Adoption is valid upon registration being effected according to law. If the person to be adopted is a minor, it has to comply firstly with the law on the adoption of the child.

Section 1598/28

An adopted child acquires the status of a legitimate child of the adopter, but none of his rights and duties in the family to which he belongs by birth are prejudiced thereby. In such case, the natural parent lose parental power, if any, from the time when the child is adopted.

The provisions of Title 2 of this book shall apply *mutatis mutandis*.

Section 1598/29

Adoption does not create to the adopter the right of a statutory heir to the inheritance of the adopted.

Section 1598/30

If the adopted dies without a spouse or descendant before the adopter, the adopter is entitled to claim from the estate of the adopted the properties which were given to the adopted by the adopter and which still exist in kind after the liquidation of the estate.

No action for claiming the right under paragraph one shall be entered later than one year as from the day when the adopter has known or ought to have known the death of the adopted, or later than ten years as from the death of the adopted.

Section 1598/31

If the adopted has become *sui juris*, the dissolution of adoption may be made at any time by mutual consent of the adopted.

If the adopted is not yet *sui juris*, the dissolution of adoption shall take place after the consent of the parents has been obtained, and Section 1598/20 and Section 1598/21 shall apply *mutatis mutandis*.

In case where the adoption has been effected under paragraph two of Section 1598/21, Section 1598/22, Section 1598/24 or paragraph two of Section 1598/26, if the adopted is not yet *sui juris*, the dissolution of adoption shall be effected only by the order of the Court upon application of an interested person or of the Public Prosecutor.

The dissolution is valid only upon registration being effected according to law.

Section 1598/32

The adoption will become dissolved if the marriage is made in contravention of Section 1451.

Section 1598/33

As regards actions for dissolution of adoption:

- (1) if one party is guilty of serious misconduct whether it be a criminal offence or not, which causes the other very much ashamed or being hated, or sustaining excessive injury or trouble, the latter may claim dissolution
- (2) if one party has seriously insulted or held in serious contempt the other or his ascendants, the latter may claim dissolution, and if the said commission has been done against the spouse of the adopter by the adopted, the adopter may claim dissolution;
- (3) if one party has committed any act of violence against the other, his ascendants or his spouse which causes grave danger to the body or mind and constitutes offence criminally punishable, the latter may claim dissolution;
- (4) if one party does not maintain the other, the latter may claim dissolution;
- (5) if one party has willfully deserted the other for more than one year, the latter may claim dissolution;
- (6) if one party has been sentenced to imprisonment exceeding three years, except an offence committed through negligence, the other may claim dissolution;
- (7) if the adopter fails to comply with his parental duties and such failure constitutes a wrongful act or non-compliance with Section 1564, Section 1571, Section 1573, Section 1574 or Section 1575 which caused or would have caused serious injury to the adopted, the adopted may claim dissolution;
- (8) if the adopter has been deprived partly or wholly of his parental power, and the grounds for such deprivation bears circumstantial evidence showing that the adopter is not the proper person to be adopter further, the adopted may claim dissolution;
- (9) (Repealed)

Section 1598/34

No action for dissolution of adoption shall be entered later than one year from the day when the claimant has known or ought to have known of the fact constituting the ground for dissolution, or later than ten years from the time of the occurrence of such fact.

Section 1598/35

If the adopted is under fifteen years old, the action for dissolution of adoption shall be entered on his or her behalf by the inborn parents. As regards the adopted being more than fifteen years old, he or she can enter the action without having to obtain consent from any person.

The Public Prosecutor may, in case under paragraph one, enter the action on behalf of the adopted.

Section 1598/36

Dissolution pronounced by the Court takes effect on and from the time when the judgment becomes final. However, it may not be set up to the prejudice of the rights of third persons acting in good faith unless it has been registered.

Section 1598/37

Upon death of a child adopter or a dissolution of a child adoption, the natural parents shall, in the case of the adopted child not yet becoming *sui juris*, recover the parental power from the date of the death of the child adopter or from the date of the child adoption dissolution registration under Section 1598/1 or from the date on which the final judgment affecting such child adoption dissolution has been pronounced by the Court unless the Court has otherwise expediently decided.

In case where a guardian of an adopted child has been appointed prior to the death of a child adopter or prior to the child adoption dissolution, such guardian's existing power and duties shall continue unless the child's natural parents have otherwise petitioned the Court and that the Court has issued an order restoring the parental power upon such petitioners.

A change in the person exercising the parental power under paragraph one or the guardian under paragraph two above shall not prejudice the rights of the third person acquired in good faith prior to the child adoption registration dissolution.

The Public Prosecutor shall be the person empowered to submit a petition to the Court in order to have the Court issue an order otherwise in accordance with paragraph one above.

TITLE III MAINTENANCE

Section 1598/38

Maintenance may be claimed between husband and wife or parent and child when the party entitled to maintenance has not been furnished with the maintenance or has been furnished with the maintenance insufficient to his condition in life. How much and to what extent the maintenance would be granted or not will be decided by the Court, by taking account of the ability of the person bound to furnish the maintenance, the condition in life of the receiver and the circumstances of the case.

Section 1598/39

When any interested person can show that there has been a change in circumstances or in the means or condition in life of the parties, the Court may make alteration of the maintenance by cancelling, reducing, increasing or re-establishing the amount of maintenance.

In case the Court gives an order not granting the maintenance only on account of one party not being in the position to furnish the maintenance at the moment, the Court may be requested to alter its order given in that case if the circumstances, means or conditions on life of the other have changed and the claimant, after having taken account of the circumstances, his means and condition in life, should be furnished with the maintenance.

Section 1598/40

Maintenance shall be furnished by periodical payments in money unless the parties agree to pay otherwise or in some other manners. However, in absence of such agreement and for special reason, the Court may, upon application of any party and it is deemed proper, determine the maintenance to be furnished otherwise or in some other manners and whether the payment to be made in money. In case of claim for maintenance of a child, if there are special reasons and deemed proper, the Court may determine the maintenance to be furnished by any means other than those agreed by the parties, or other than what has been applied for by any party such as to send the child to an educational or vocational institution and the expenses incurred thereby are to be borne by the person bound to furnish the maintenance.

Section 1598/41

The right to maintenance cannot be renounced, attached or transferred and is not subject to execution.