
FAMILY LAW

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Ulaanbaatar

**CHAPTER ONE
GENERAL PROVISIONS****Article 1. The purpose of the law**

1.1. The purpose of this law is to regulate relations in regards marriage, divorce, the procedure of divorce settlement, the property and non property relations of the family members, adoption, taking in custody

Article 2. Sources of the family law

2.1. Legislation on family consists of the Constitution of Mongolia, the Civil Code, this law and other enactment inconsistent therewith

2.2. If an international treaty to which Mongolia is a party provides otherwise than this law, then the international treaty provisions shall prevail.

Article 3. The definitions of the law

3.1. The below mentioned definitions used in this law shall be contemplated in the following means.

3.1.1. "Marriage" is a registration into state competent institution according the legislation with purpose to create a family on ground of equal and voluntary principles of both sides.

3.1.2. "family" is family members who are related by property and personal rights and obligations created as a result of consummation of marriage.

3.1.3. "spouses" are husband and wife who are connected by marriage bonds and have equal rights and obligations.

3.1.4. "Members of family" are spouses, legitimate, illegitimate and adopted children and immediate relatives, who are living with them.

3.1.5. "immediate relatives" are parents, grandparents grandsons and granddaughters of the spouses.

3.1.6. "relatives" are spouses' brothers, sisters, uncles and aunts and their children.

3.1.7. "cognomen" name which has been used traditionally among group of people who are related by father's line.

3.1.8. "children in difficult circumstances" are children provided under 2nd part, 15th article of "Children rights protection law"

Article 4. The principles of marriage and family relations

4.1. The marriage should be equal and voluntary.

4.2. It is prohibited in marriage to be discriminated against on the basis of nationality, ethnic origin, language, race, and religion.

4.3. The family is the basic element of the society.

4.4. The state shall protect the interests of families, mothers, infants and children.

4.5. The children welfare shall be respected.

4.6. If an international treaty to which Mongolia is a party does not provide otherwise than this law, then the foreign residents and stateless persons in Mongolia may exercise same rights and obligations in family relations as Mongolian citizens.

Article 5. Protection of family rights and interests

5.1. As stated in Law on court proceeding on civil cases, the court shall protect the rights of family¹.

5.2. The state administrative and social welfare institutions shall protect rights of the family in accordance with the provisions of this law.

CHAPTER TWO

BASIS OF THE MARRIAGE RELATIONSHIP, FORMAL REQUIREMENTS, PROCEDURES AND DIVORCE

Article 6. Formal requirements

6.1. Mongolian male and female citizens, aged 18 and over, or a Mongolian citizen with a foreign citizen or a stateless person can marry on ground of mutual consents in Mongolia unless it is contradict to 9.1 of this law.

6.2. A male shall have one wife and a female shall have one husband.

6.3. If an international treaty to which Mongolia is a party does not

provide otherwise than this law, then the foreign residents and stateless persons shall be bind by this law in marriage relations in Mongolia.

6.4. If Mongolian citizens married with Mongolian citizens, foreign citizens or stateless person in territory of other country in accordance to the country's legislation, the marriage shall be valid unless it is contradict to article 9 of this law.

6.5. The property and incorporeal rights and obligations of legal persons defined in 6.4 of this law shall be regulated in accordance of respectful country.

6.6. If a Mongolian citizen marries with a Mongolian citizen, a foreign citizen or a stateless person in territory of other country, this law shall regulate the rights and obligations unless they have chosen otherwise.

Article 7. The procedures to marry

7.1. Intending spouses have to be registered to Citizens' family registration office at presence of witnesses.

7.2. The rights and obligations of the spouses shall start from the date of registration.

7.3. The registration shall be executed in accordance with procedure provided under Marriage registration law.

Article 8. Health examination for intending spouses

8.1. Applicants must file a certificate of health with medical institutions where they are residing.

8.2. An applicant shall be examined by the specialised hospital if any signs of venereal diseases, HIV, tuberculosis and mental diseases have been revealed.

8.3. The medical institution must introduce a result of the examination to applicants, advise on family planning and explain the consequences if the applicant suffers any of the diseases, provided in 8.2 of this law

8.4. The result of a health examination of applicants shall be confidential.

Article 9. Impediments to marriage

9.1. The following circumstances shall be contemplated as Impediments to marriage.

- 9.1.1. If the previous marriage is still in force;
- 9.1.2. If an applicant or applicants are under age, provided in 6.1 of this law;
- 9.1.3. If applicants are the immediate relatives;
- 9.1.4. If applicants are the custodian or the person in custody;
- 9.1.5. If the applicants are the adopter or the adopted one;
- 9.1.6. If an applicant or applicants suffer from chronic hereditary insanity.

9.2. If the non-age has been commissioned the right of full legal capacity in accordance with the Civil code, then 9.1.2 of this law shall be not be applicable.

Article 10. Spouses' rights and obligations

10.1. Spouses shall exercise same rights and obligations in family.

10.2. Spouses exercise same rights in planning family, residing, choosing a position and profession freely, having separate property, owning, occupying, employing and disposing common property, and being compensated for mental and material damages caused by the wrong doer.

10.3. Spouses undertake same obligations in being truth to each others, growing children up, taking care of, respecting each others, maintaining and supporting each others and family members, creating necessary economical circumstance for a family, not violating each other's rights, not coercing each other, and recording cognomen's list.

10.4. The procedure to file the list shall be adopted by the Government.

Article 11. End of marriage

11.1. If a spouse has died, the marriage shall be dissolved from the date when the court decision comes into force by declaration of the death.

11.2. If a marriage has been dissolved or considered invalid by judicial or ministerial procedures, a marriage shall be terminated.

11.3. The procedure to register the marriage dissolution shall be regulated by legislation.

Article 12. The procedure to divorce

12.1. Marriage shall be dissolved by judicial or ministerial procedures on grounds provided in the law.

12.2. If the wife is pregnant and a child is under one year, it is forbidden to dissolve the marriage.

12.3. If an international treaty to which Mongolia is a party does not provide otherwise than this law, divorce of foreign residents and stateless persons shall be regulated with this law in Mongolia.

Article 13. The ministerial procedure to divorce

13.1. On ground of mutual consent, spouses, without child under 18 and any property dispute, can apply to Citizens family registration office by separately with signed applications.

13.2. Citizens' family registration office must proceed the applications, provided in 13.1 of this law within 30 days thereafter and may dissolve a marriage.

Article 14. The judicial procedure to divorce

14.1. The court shall decide on dissolution of a marriage on ground of suit from consented spouses, a spouse or custodians of a wife or husband, who is not full legal capacity person, except provided circumstances in article 13 of this law.

14.2. If it is necessary, the court have discretionary to put in abeyance the hearing till 3 months, all measures shall be taken to conciliate parties thereafter.

14.3. If there is no chance to conciliate parties, the court shall dissolve the marriage thereby.

14.4. If it has been upheld that there is real threat to lives of family members, welfare of children or it has occurred, the court shall dissolve the marriage without taking conciliating measures defined in 14.2. of this law.

14.5. During the dissolution process the spouses can agree on determination, whose custody to give children in, how to maintain the child or the

spouse who lost capacity to earn for living, and how to share their common ownership property.

14.6. If spouses have not reached the agreement, defined in 14.5 of this law, the court have discretion to decide on whose custody to give children in, how to maintain them or a spouse who lost capacity to earn for living, and how to share their common owned property, considering children's age, parental prudence, economical circumstances and possibility, morality and whether any violence has occurred.

14.7. If a child is aged 7 or over, his opinion shall be considered in deciding custody matters.

14.8. The court shall determine shares of common ownership property for family members in accordance with the 3rd part of 98 article of the Civil code, after ascertaining the health of spouses, the interests of children, whether common owned property was used for undue purposes or hidden and the dissolution of marriage was due to his/her wrongdoing.

14.9. Within three working days the court decision on dissolution of marriage shall be sent to Citizens' marital registration office, registered the actual marriage wherein.

14.10. Dissolution of marriage between Mongolian citizens, and a Mongolian citizen with a foreign citizen or a stateless person in abroad shall be valid, if it is not contradict to an international treaty to which Mongolia is a party, Mongolian legislation and this law.

14.11. The Mongolian citizens, who resides overseas, may dissolve their marriage by judicial or ministerial procedures in Mongolia.

Article 15. Restitution of marriage

15.1. If the divorced spouses submitted an application declaring their conciliation from both side and they have not remarried yet. the marriage can be restored.

15.2. If a missing person, declared as a dead person. appears and applies for living together with his/her spouse and his/her spouse has not remarried yet, the Citizens family registration office may restore the marriage.

CHAPTER THREE
VOID MARRIAGE, DIVORCE AND THE CONSEQUENCES

Article 16. Void marriage

16.1. If marriage, breaching article 9 of this act, without genuine purpose to create family has been registered, the court shall contemplate this marriage void by the suit of one of the spouses, those, whose rights been violated, or institutions protecting children's rights and interests.

16.2. If for interests of non-age, commissioned full legal capacity in accordance with the Civil code, or if spouses have not agreed upon void of their marriage, the court may dismiss the suit.

Article 17. The consequences of a void marriage

17.1. The property disputes as a result of a void marriage, shall be settled in accordance with the provisions of the Civil code, regulating division of properties in common.

17.2. If the marriage has been considered a void, a property contract shall be void.

17.3. The void marriage shall not influence on the interests and rights of children of the marriage.

17.4. If the interests and rights of spouses have suffered damages mentally and materially due to the void marriage, a party, whose interests have suffered, can be compensated in accordance with the Civil code.

Article 18. A void divorce

18.1. If the divorce was fraud in order to avoid payment of damages or hide illegal actions, the court shall contemplate the divorce void

Article 19. The consequences of void divorce

19.1. If the divorce is void, then the marriage shall be valid.

19.2. In case described in 19.1 of this law, the damages suffered by others shall be compensated from properties of members of the family in accordance with the Civil code and other issues shall be regulated by this law or relevant legislations.

CHAPTER FOUR
REGULATIONS OF FAMILY PROPERTY RELATIONS

Article 20. Regulation of family property relations

20.1. Property relations of family shall be regulated by the Civil code.

CHAPTER FIVE

RELATIONS BETWEEN PARENTS AND CHILDREN

Article 21. Rights and obligations between parents and children

21.1. As soon as a child has born, rights and obligations shall arise between parents and a child.

21.2. As a result of adoption of a child, rights and obligations shall arise between parents and a child thereafter.

21.3. Rights and obligations shall arise between stepchild and stepfathers and stepmothers.

21.4. Parents of a child shall determined by certificate of marriage, if the marriage has been registered, if not, on ground of decision of competent institution in accordance with judicial and ministerial procedure in the law.

21.5. Illegitimate children and natural children shall exercise same rights and obligations.

Article 22. To establish parentage by ministerial procedure

22.1. Citizens' family registration office shall establish parentage of a child by applications of parents, who have not registered their marriage, or an application of one of parents, whose parentage has not been ascertained.

Article 23. To establish parentage in judicial procedure

23.1. In circumstances other than described in article 22 of this law, on ground of application by parents, custodians, relatives, institutions protecting child's rights and interests or children, aged over 14, a court shall establish the parentage of a child.

23.2. Evidences and medical examination, determining whether the respondent had sexual intercourse with husband or wife shall be used in establishing parentage of a child.

23.3. If a child is a citizen of Mongolia, establishing parentage related to foreign citizens and stateless persons shall be regulated by this law unless an international treaty to which Mongolia is a party does not provide otherwise than this law.

23.4. Established parentage in regards to Mongolian citizens, in accordance with law of other country, shall be considered valid unless it is contradict to this law.

23.5. If one of the parents of a child, who are residing overseas, is Mongolian citizen, he/she can apply for establishing parentage of a child through Mongolian diplomatic and council missions.

Article 24. Child's name, father's name and cognomen

24.1. A name and a cognomen of a child shall be given on ground of mutual consent of parents.

24.2. Governors of Soum and districts or employee of Citizens' family registration office can give the name and his cognomen of the found child.

24.3. A child shall have a father's name.

24.4. The mother's name can be given to illegitimate and child whose parentage has been established by the competent institution.

24.5. An adopted child can have a name of an adopter.

24.6. A dispute over giving names and cognomen shall be settled by court proceeding.

Article 25. To protect children's rights and interests

25.1. A child shall exercise same rights in family.

25.2. It forbidden to discriminate against and violate the rights and interests of illegitimate and step children.

25.3. Parents, custodians and guardians shall protect children's interests and rights.

25.4. If it was established that the interests of parents, custodians and guardians are contradict to interests of children, then a Governor of Soum and district shall appoint a representative to protect interests of children.

25.5. A Governor of Soum and district shall protect interests of orphans and children of those who has respectful reasons such as both parents are legally incapable, , being in hospital for a long period, serving imprisonment sentence or their parental rights have been limited or excluded or those who escaped to maintain the children.

25.6. Employees of kinder-gardens, schools medical organisations undertake a duty to gather and submit information on children defined in 25.4 and 25.5 of this law to a Governors of Soum and district (residing).

25.7. The children's and supporting institutions undertake a duty to report on children, transferred from police, to the Governor of Soum and district within three days thereafter.

25.8. The Governor of Soum and district, who received information defined in 25.6 and 25.7 of this law, undertake a duty to examine the life condition of the children and to establish whether there are parents or relatives to them or not within three days thereafter and if not, to protect their rights and interests.

25.9. The Governor of Soum and district may register children in difficult circumstances and transfer them to families, which wish to bring them up.

25.10. If there is no possibility of transference of children, defined in 25.9 of this law, a Governor of Soum and district shall resolve issues whether to appoint a custodian, or adopt or to transfer to children care institutions.

Article 26. Rights and duties to bring up a child

26.1. Parents exercise same rights and undertake same duties to bring up a child.

26.2. Parents undertake following duties:

26.2.1. To grow up a child healthy and build mental

26.2.2. To ward and maintain a child.

26.2.3. To educate a child to respect national traditions and heritage and to learn basic education and first experiences to work.

26.2.4. To protect child rights and help to fulfil his or her duties.

26.3. it is prohibited for the father and mother to damage his or her health, mentality, and morally, be cruel towards them and use their right improper manners.

26.4. If the parents divorce the duties defined in 26.2 of this law remains in force.

26.5. If parents have not agreed on procedure to implement the duties in circumstances defined in 26.4 of this law, the court shall decide on it.

26.6. It prohibited to obstacle one of the parents to the other in implementing his or her duties in case of divorce.

26.7. It shall not be the ground to avoid from duties defined 26.2 of this law if the parents has limited or excluded the parental right.

26.8. If the parents have divorced or for some respectful reason are living separate from the child, the governors of residing Soum, district, bag and mini-district shall make control on implementing their duties written in 26.2 of this law.

26.9. The parents who has damaged the interests of the child, shall undertake penalties according to law, and if it has been established that they have done actions defined in 30.1 of this law and have not bring up the child , the parents shall loose the parental right o the child.

Article 27. Limitation the parental right

27.1. The court shall limit the parental rights up to 6 months if parents had constantly deficit of food, cloths and accommodation and made the child to run away from home, discriminated the child.

27.2. Parents, relatives, other citizens or child rights protection organisations exercise the right to institute action to the court on limiting parental rights.

Article 28. The consequences of parental rights limitation

28.1. A person who has been limited the parental right , shall loose the right to bring up, educate and educate the child personally and other rights related to the child given in the law.

28.2. The court shall decide on issues of maintenance payment by the

parents, who have been limited the parental right, the required sum of money to bring up the child.

28.3. If the both parents has been limited the parental rights, the child shall be transferred to the child care institutions.

28.4. The related expenses shall be provided by the parents in case drawn in 28.3 of this law, if the parent are not able to pay the Governor of residing district and Soum can be responsible for it.

28.5. The governor of Soum and district can initiate action against the wrongdoer.

28.6. If the conditions, defined in 27.1 of this law have not been eliminated and it has been proved that the interests of the child have been damaged, in six months after the court decision have been made on limitation of the parental right governors of districts, Soum or legal persons drawn in 27.2 of this law can institute action to the court to limit the parental right.

28.7. The interests and rights of the child, whose parents have been limited the parental right, shall remain untouched.

Article 29. Nullification of limitation of parental rights

29.1. If it has been proven that the conditions , defined in 27.1 of this law, has been eliminated, the court shall consider the parents application, who have been limited their parental right, and make decision to return the child to the parents.

29.2. If the decision to return the child could harm the interests of the child the court can dismiss the case. If the child's age is over, 7 his or her opinion shall be considered.

Article 30. Exclusion of parental right

30.1. The court can decide to exclude the parental right, if parents have used wrongfully their parental rights / drop away a child, get lost on purpose, torture, sell, take in hostage, prostitute, use for greedy purpose, involve in illegal actions/ treated violently with the child repeatedly, tried to involve into sexual intercourse or made sexual intercourse, put in mental heavy pressure, avoided to bring up the child on purpose, used alcoholic and toxic substances constantly.

30.2. Parents, custodians, guardians, other citizens. institutions protecting child rights and interests can exercise the rights to initiate action in the parents' residential court on exclusion he parental rights.

30.3. The court shall submit to the citizens' family registration office within three days after the decision come into force.

Article 31. Consequences of exclusion of parental rights

31.1. The person who has lost the parental right, shall loose rights as parents.

31.2. The court shall decide on maintenance payment by the parents who lost parental right.

31.3. If both parents have been excluded the parental rights, a custodian or guardian shall be established or the child shall be transferred to the child care institution.

31.4. The interests and rights of the child, whose parents have been excluded the parental right, shall remain untouched.

Article 32. To restore the parental rights

32.1. The court shall consider the application to restore the parental rights by parents, who have lost the parental rights, and can restore from point of interests and rights of the child.

32.2. If the child has been adopted, the parental rights shall not be restored.

32.3. If it has been established that the decision to restore the parental rights could harm the interests of the child the court can dismiss the case child's opinion, whose age is over 7, shall be considered.

Article 33. To protect parents rights regarding child

33.1. Parents exercise right to demand to return the child from person who has kidnapped.

33.2. Parents can initiate an action in the court to protect their rights in case of dispute regarding the issues defined in 30.1 of this law.

CHAPTER SIX**THE RELATIONS REGARDING MAINTENANCE AND
RIGHT TO MAINTENANCE****Article 34. The right to maintenance**

34.1. The person can claim to the court for maintenance since the right to maintenance has appeared without any limitation thereafter.

Article 35. The duty to maintenance

35.1. According to this law spouses to each other, parents to the child, the child to the parents, relatives to each other exercise rights to maintenance.

Article 36. The duty of spouses to maintain each others

36.1. The spouses undertake duty to maintain each others.

36.2. If one of the spouse refused to implement the duty to maintain the other or the agreement to maintain each other have not been created, one who are in need can sue for maintenance in the court.

Article 37. Continuity of the spouses' right to maintenance

37.1. One of the spouses exercises right to maintenance (alimony) if he or she has lost the ability to earn for living before the divorce or nullification of the marriage, within one year after the divorce due to violence in the family life or conditions created before the actual divorce, unable to earn for living due to bringing up a child under three or disabled one, has reach pension age at the time of divorce or before the divorce.

Article 38. The parents duty to maintain the child

38.1. The parents undertake duty to maintain the child who has not reached age of adulthood and the child who has not have then ability to earn for living despite the fact that he or she have reached the age of adulthood.

38.2. The parents can contract to determine the maintenance on base of mutual agreement.

38.3. If parents could not contract on maintenance the court shall exercise discretionary on this issue.

38.4. The court shall submit the copy of its decision on maintenance to the citizens' marriage registration office.

38.5. The maintenance shall be used only for child's necessity.

38.6. If it has been established that the maintenance has been spent for child's necessity, the maintenance payer can claim to the court to spend the maintenance for its purpose.

38.7. If the maintenance payer has other child and his or her profit less than maintenance receiver, has lost the ability to earn for living or the maintenance receiver has sufficient profit, the court has discretionary on reducing the amount of the maintenance.

Article 39. The maintenance to the child in child-foster institutions.

39.1. The maintenance must be transferred to the institutions bank account and the fifty percent of the maintenance to the child in child-foster institutions must be spent on child's daily necessity the rest must be put into bank account on his or her name.

Article 40. The amount of the maintenance

40.1. The amount of maintenance per a month shall be determined considering the age of the child.

40.1.1. Fifty percent of minimum living expenditure of the region per a child of age under 11.

40.1.2. The minimum living expenditure per child of age between 11-16 (if studying till 18) and unable child to earn for living.

40.2. The amount of maintenance should not exceed fifty percent of salary of the plaintiff, if it is only his or her income.

40.3. The Government shall determine the salary and a list of similar incomes, which are given in 40.2 of this law.

40.4. The amount of maintenance should not be less than minimum living expenditure in the region.

Article 41. The form and time of maintenance

41.1. The maintenance may be paid in the following forms.

41.1.1. money

41.1.2. property

41.2. The maintenance may be paid in the following time sequences.

41.2.1. Monthly, quarterly, half yearly or annually.

41.2.2. Once

41.3. The maintenance may be paid through deduction from salary, share of common owned properties or in other forms.

Article 42. To change amount of the maintenance

42.1. The maintenance payer can claim to the court to change the amount of the maintenance, which is deducted by the court decision or according to the maintenance contract, if the amount is exceeded 50% of his or her salary or an other person is paying maintenance by the court decision.

Article 43. The adult child's duty to maintain parents

43.1. The child, who is able to earn for living, undertake duty to maintain the birth, adopted and step parents, who are not able to earn for living.

43.2. The court has discretionary to determine the amount of maintenance if there are several persons with maintenance duty defined in 43.1 of this law, considering the properties and family conditions of each person.

Article 44. The duty of maintenance for relatives

44.1. The birth and step brothers and sisters, grand fathers and mothers, step fathers and mothers, who are able to earn for living, undertake duty to maintain the child under age of adulthood, who are orphan or unable to be maintained by the parents.

44.2. The grand son and daughter, who are able to earn for living, undertake duty to maintain grand parents who are unable to earn for living and to be maintained by own or adopted children.

44.3. If there is nor person to maintain, the relative undertake duty to maintain each others.

44.4. If the parties have not agreed on amount of the maintenance, the court has discretionary to determine on the ground defined in 40.4 of this law.

Article 45. The contract of maintenance

45.1. The parties must create contract of maintenance in written with approval of notary public.

45.2. If one of the party has not implemented the terms of the maintenance contract voluntarily, on the ground of application of one of parties the judge shall issue an order and the term of the maintenance contract shall be implemented in accordance with the regulation of implementation of court decision.

45.3. The amount of maintenance should not be less than the amount defined in 40.4 of this law.

45.4. The form and time of maintenance , drawn in the maintenance contract, shall be the same as defined in the article 41 of this law.

45.4. If the parties have agreed to pay the maintenance in form of property, the property shall be estimated in accordance with the rate on the regional market.

Article 46. Nullification and alteration of the maintenance contract

46.1. The maintenance contract can nullified or alerted on ground of mutual agreement.

46.2. The agreement to alert and nullify shall be done in same form as the basic contract.

46.3. The disputes raised from the maintenance contract shall be settled in the court.

Article 47. Nullification of the maintenance contract

47.1. The issues concerning nullified maintenance contract and nullifying process shall be regulated by related articles of the Civil code.

47.2. If the interests and rights of the maintenance receiver have been damaged, his or her parents, members of the family, the custodian, the guardian, or child interests foster institution can initiate a claim to nullify the maintenance contract to the court.

Article 48. The additional expenditure from the plaintiff

48.1. The legal persons, defined 47.2 of this law, exercise the right to initiate claim for extra maintenance or coverage of the actual expenditure, in case when special condition has occurred for the maintenance receiver (serious decease, disability, medical treatment, entrance to the school and etc).

Article 49. Repayment of the maintenance

49.1. If it has been revealed that the maintenance payer had avoided to pay the maintenance on purpose and hidden the income, the court may reward repayment of the maintenance on the ground of claims initiated by the custodian, other citizens or other relevant institutions.

49.2. If the maintenance payer are unemployed or to determine the his or her income is impossible, the minimum rate of salary shall be used for repaying the maintenance at the time.

49.3. If the maintenance payer has become unable to earn for living, the court may discharge him or her from payment of part of the maintenance for the period or whole.

Article 50. The responsibility of non payment of the maintenance on the due time

50.1. If the parties has contracted and the maintenance has not been paid on the due time, the damages shall be recovered in accordance to the contract.

50.2. If the maintenance has not been paid on the due time, defined by the court decision, 0.5% of the maintenance shall be paid per late day as a loss.

50.3. The total amount of loss should not exceed 50 % of total amount of the maintenance.

50.4. If retrieving of damages as a result of non payment on the due date has not been drawn in the maintenance contract, 50.2 and 50.3 shall be applicable.

Article 51. The maintenance from the property

51.1. Article 25 of bill on court decision implementation is applicable to regulate payment of the maintenance out of the maintenance payer's bank savings or other properties.

Article 52. To discharge from the duty to maintain

52.1. The court may discharge in the following circumstances:

52.1.1. if the maintenance receiver have been using alcoholic and toxic substances permanently, or has damaged him/herself on purpose and lost his/her ability to earn for living, the maintenance payer shall be discharged;

52.1.2. If the parents and stepparents have lost the parental rights, the child shall be discharged.

Article 53. The end of the duty to maintain

53.1. the duty to maintain shall come to the end in the following circumstances:

53.1.1. The end of the maintenance contract;

53.1.2. The maintenance receiver has married or become able to earn for living;

53.1.3. The maintenance receiving child has been adopted or reached age of 18;

53.1.4. The maintenance receiver or payer have died

**CHAPTER SEVEN
CHILD ADOPTION**

Article 54. Adoption of, to give for adoption a child

54.1. A child shall be given for adoption in accordance with their interests.

54.2. A child may be given for adoption to foreign citizens according to the procedure provided under Article 58 of this law.

Article 55. General Conditions for adoption of and to give for adoption a child

55.1. The consent of parents to give for adoption their child and the application to adopt a child shall be made in writing and certified by a notary public.

55.2. If anyone of the spouses is adopting a child, then he/she shall obtain a consent with this regard from wife or husband.

55.3. If a complete orphan as well as his/her parents both do not have full law capacity, then in a case of giving for adoption their child, the consent of guardian, caretaker of respective child and of child care institution unless otherwise provided by law.

55.4. An own consent of child, who has reached age of 7 years shall be obtained.

55.5. A child of a person whose parental rights has been curtailed, may be given for adoption after 6 months from date when the judgement of the court with this regard has become effective.

55.6. The prospective adopter shall submit an application for adopting a child to the Governor of Soum (county) or district, where the child is residing.

55.7. The Governor of Soum or district shall review the application for adopting a child and shall make decision on whether to give for adoption within 20 days since receipt of such application.

55.8. An officer in charge civil marriage registration shall register the adoption of a child on the bases of decision on adoption of child.

Article 56. Registration and supervision of adoptable child in difficult conditions

56.1. The Governor of Soum or District shall made research study and maintain a register in the adoptable children in difficult conditions within the territory under his/her jurisdiction.

56.2. A Central State Administrative Authority in charge of population matters shall maintain a unified register and place a supervision over adopted children in difficult conditions.

Article 57. Adopter

57.1. Adopter shall be a person, of who has reached the age of maturity, has a full civil law capacity and who has ability to rise and up-bring the child.

57.2. It is prohibited to give a child for adopting to a person who is above age of 60 years, whose parental rights is restricted, curtailed or has been restricted or curtailed before; who has returned bade a child adopted by him/her because of his/her wrong, who has a vested interests; who has been declared by the court decision as not having a full civil law capacity or has a restricted capacity, who has tuberculoses or mental discuss, who habitually

consumes alcoholic drinks or narcotic substances, who has several criminal records and undergoing an imprisonment term.

57.3. When a complete orphan is being adopted by his/her relative person, the page restriction provided under Article 57.2 of this law is not applicable.

Article 58. Adoption of child of Mongolian nationality by a Foreign citizen

58.1. A foreign citizen shall file an application for adopting a child of Mongolian nationality to the Competent authority of Mongolia through the competent authority of his/her own country.

58.2. When a foreign citizen residing in Mongolia for not less than 6 months is adopting a child of Mongolian nationality, Article 58.1 of this is with applicable.

58.3. A prospective child adopter foreign citizen shall file the following document of the permission required under Article 55.1, 55.3 of this law:

58.3.1. An application of the prospective child adopter /if has husband/or wife then together/ and its official translation certified of a notary public;

58.3.2. A medical certification regarding whether adopter has tuberculosis, AIDS, or mental disease;

58.3.3. A certification regarding the place of permanent residence of the applicant by the relevant authority including the certification by a police authority/;

58.3.4. A certification on the living and financial ability of the applicant by the relevant authority of a respective state;

58.3.5. A certification regarding the applicant by the central state administrative authority in charge of population matters;

58.4. An authority provided under Article 11¹ of law on Foreign citizen legal status shall register the adoption of a child of Mongolian nationality by a foreign citizen.

58.5. When the application for adoption of child of Mongolian nationality who is residing in foreign country through the diplomatic and consular missions of Mongolia is decided according to this law, Article 58.1 shall not be applicable.

58.6. A central State Administrative Authority in charge of population

matters shall maintain registry of a foreign citizen who have applied for adoption of a child of Mongolian nationality; and shall co-operate with other countries, their relevant authorities and international organisations on the issues of protecting child rights and their interests.

58.7. A regulation for giving for a adoption a child to foreign citizen shall be approved jointly by the Government Cabinet members in charge of justice and health and social welfare matters.

58.8. A responsibility to introduce the child's motherland and parents shall be undertaken by the adoptive parents.

58.9. An adopted child shall exercise right to choose his/her own nationality according to the law of Mongolia on Citizenship.

58.10. This article equally applicable to stateless persons.

Article 59. Rights and Duties of the adopted child and of adoptive parents

59.1. Adopted child shall exercise the same rights and undertake same duties as natural child.

59.2. Adoptive parents shall exercise the same rights and undertake the same duties as natural parents.

59.3. Adopted child shall be freed a duty to foster the parents who given him/her for adoption and shall lose the property and non property rights.

59.4. Adopted child who is receiving a pension for losing a breed-winner shall entitled to return sub right to pension.

Article 60. Confidentiality of Adoption

60.1. An official and other persons with knowledge of the adoption secrecy shall have duty to maintain confidential.

60.2. If adoption confidentiality is disclosed without permission of adopter and adopted one, then he/she shall be liable as provided under the legislation.

Article 61. Nullification of Adoption

61.1. The Court shall nullify the adoption on the suit filed by the natural parents, other interested persons, child rights and interest protection institutes and by the child who has reached age of 14 years in cases when the adopter has misused his/her parental rights, has cruel treatment of child, has filed false documents and obtained adoption decision by this, and when it is revealed that he/she is person provided in Article 57.2 of this law.

61.2. The court may nullify the adoption on other grounds if it is consider us necessary.

Article 62. Results arising out of nullification of adoption

62.1. The court shall decide the issue of returning back the child to his/her natural parents, guardian or caretaker in a case the adoption has been nullified.

62.2. The court shall decide the issue of transferring the child to child care institution if it is established that it is detrimental to the child's rights and interest to return back to the parents: or any other his/her legal representatives is absent.

62.3. A suit may be filed in the court for obtaining expenses related to the transfer of the child to the child care institution and for obtaining a compensation for damages incurred from the adopter.

CHAPTER EIGHT

**TO TAKE IN CUSTODY, GUARDIAN AND HOME IN ORDER
TO BRING UP**

Article 63. The persons shall be in custody

63.1. The following persons shall be in custody:

63.1.1. The orphan minors (under 14);

63.1.2. The minors whose both parents are been recognised as incapable civil persons or civil legal persons with limited capability, or have been limited or excluded the parental rights;

63.1.3. The minors whose both parents for some respectful reasons such as long treatment at the hospital or serving imprisonment sentences can not maintain and guard the child personally;

63.1.4. The persons who have been considered as incapable legal person in civil affairs by the court due to the mental deficiency;

63.2. The orphan brothers and sisters can be granted one custodian.

Article 64. The persons who shall be need guarded and supported

64.1. The following persons shall be guarded and supported:

64.1.1. The orphan non age person (age of between 14-18);

64.1.2. The non age person whose both parents are been recognised as incapable civil persons or civil legal persons with limited capability, or have been limited or excluded the parental rights;

64.1.3. The non age person whose both parents for some respectful reasons such as long treatment at the hospital or serving imprisonment sentences can not maintain and guard the child personally;

64.1.4. The persons who have been considered as incapable legal person in civil affairs by the court due to the permanent alcohol and toxic substances;

64.1.5. The person who is incapable due to the health condition and old age.

Article 65. The rights of the person in custody

65.1. The person in custody shall exercise the following rights:

65.1.1. to live in the residence of the custodian;

65.1.2. to have all conditions to be educated and live healthy life;

65.1.3. to receive social insurance and care pension and welfare assistance;

65.1.4. to keep the right to live in the residence as it is;

65.1.5. The rights delivered in other legislations.

Article 66. The institutions to take in custody

66.1. The district and soum Governors shall be in charge of to implement research and recognition of the person described in articles 63 and 64, to appoint the official custodian and guardian for them, and other issues related to taking in custody.

66.2. The child for whom the official custodian has not been nominated or whose custodians have become unable to fulfil the duties due to the health condition or the old age transferred to the child care institutions or custodian, shall be protected and took in custody by social charity organisation.

66.3. The properties of the child who transferred to child maintaining

institutions and the custodian or of the person who has been transferred to social charity organisation shall be responsibility of the protector appointed by the court.

Article 67. To take in custody and support

67.1. The procedure to appoint the custodian:

67.1.1. The Governor of district and Soum shall nominate the custodian on ground application of relatives and non relatives certified by the notary public;

67.1.2. If the custodian has not been found the child shall be transferred to the child foster institution considering the age and health condition of the child;

67.1.3. If the custodian has not been located the disabled and the elderly shall be transferred to guardianship institution;

67.1.4. The person who has been considered incapable legal person or person with limited capability due to the mental defects shall be given to the mental hospital or other related institutions.

67.2. Any person and organisations undertake the duty to inform the district and Soum Governor on the person, who in need of custody and guardianship.

67.3. This law shall be applicable to Mongolian citizens in abroad, foreign citizens and stateless person in Mongolia.

67.4. If the custodian has been appointed to the Mongolian citizen in abroad in accordance with the law of that country shall be in force unless it is contradict to this law.

67.5. The custodian and guardianship shall be provided free of charge.

Article 68. The persons who can not be the custodian

68.1. it is prohibited to appoint the following person as a custodian:

68.1.1. person who have been excluded or limited the parental rights;

68.1.2. the person who is in custody;

68.1.3. the person who is permanently consume alcoholic or toxic substances;

68.1.4. The person is serving imprisonment punishment or has served several times;

68.1.5. The person who returned the adopted child due to his/her fault.

Article 69. The duties of the custodian and guarding person

69.1. The custodian and guarding person shall undertake the following duties:

69.1.1. To supply the person in his/her custody by food and accommodation, and sustain them.

69.1.2. To protect the rights and interests of the person in his/her custody;

69.1.3. To keep assets, valuable things, securities and other documents of the person in his/her custody in the bank;

69.1.4. To dispose the immovable property, cattle and the bank saving of the person in his/her custody for him/herself, to abolish the rental contract, to get licences from the district and Soum Governor to in order to manage venture on behalf of the person in his/her custody, and stop its activities.

69.1.5. To report annually on the duties to the district and Soum Governor.

69.2. The custodian and guarding person shall consider the opinion of the person in his/her custody except minors and mentally deficient one, to implement the above duties.

Article 70. The prohibition to the custodians and guarding persons

70.1. It is prohibited to act as following for the custodians and guarding persons:

70.1.1. To make agreement with the person in his/her custody;

70.1.2. To make agreement with the person in his/her custody on behalf of one of the members of his/her family and relatives;

70.1.3. To represent parties during the court settlement of dispute raised between the person in his/her custody on behalf of one of the members of his/her family and relatives;

70.1.4. To give as gift or trade, put in deposit, gamble and dispose in other forms the immovable property, cattle, valuable things and the bank saving of the person in his/her custody for the purpose other than for the person's benefit in his/her custody;

70.1.5. To abolish the rental contract, manage the venture on behalf of the person in his/her custody and stop its activity without the Soum and district Governor's consent.

Article 71. The Governor's rights regarding activities of custodians and guarding persons

71.1. The Governor shall exercise the following rights regarding activities of custodians and guarding persons:

71.1.1. To make filing of relate documents and decision to appoint and replace the custodians and guarding person on basis of received documents on the person who needs the custody and made research on them.

71.1.2. To transfer the child to the child foster institution and the disabled and elderly to maintaining organisations if the custodians and guarding person have not been appointed.

71.1.3. To file a personal record on each person;

71.1.4. In the personal record shall be attached the order of custodians and guarding person's appointment, medical record on his/her health condition, the birth certificate or document defining the age of person in custody, the residential address, information about relatives, the list of properties, the contract made with the custodian and guarding person, and other necessary materials;

71.1.5. to contract with the custodian and guarding person and monitor the implementation of it.

71.1.6. To prohibit to go into any contract if it may harm the interests and rights of the person in custody;

71.1.7. To sue against wrongdoing of the custodian or trustee if it has caused damage to the property of person in custody, in order to compensate.

Article 72. To monitor the activities of the custodian or trustee

72.1. The Soum and district Governor shall monitor the activities of the custodian or trustee in the following procedure:

72.1.1. To get introduced with the activities and relate documents of custodiar. or trustee;

72.1.2. To check on list and balance of properties, which are on the custodian or trustee's name, and reports and balance of the venture manage by the custodian or trustee on behalf of the person in custody.

72.2. Any person or organisation shall exercise a right to complain regarding the custodian or trustee's activities.

Article 73. The termination of the right and duties regarding taking custody and guarding

73.1. If the person in custody reaches age of 14, the custodian shall receive rights and duties of trustee.

73.2. In the following circumstances the rights and duties shall be terminated:

73.2.1. The circumstances for taking in custody and trustee disappear and the child has been returned to the parents;

73.2.2. The child has been adopted or transferred to the child foster institution;

73.2.3. The person in custody has reached age of adult;

73.2.4. The custodian or trustee applied for it;

73.2.5. The court decided that the person in custody is a full civil legal person;

73.2.6. The custodian, trustee or person in custody have disappeared and considered dead person or died.

73.3. The court has discretionary on terminating the rights and duties of the custodian or trustee and appoint new one in accordance with the procedure if the custodian or trustee have used their rights wrongfully, left the person in custody without control, neglected and have not provided necessary assistance to them because they have not implemented their duties properly.

73.4. If the custodian or trustee have been released or their rights and duties have been terminated, within three months they must submit the report and balance on the property to the Soum or District Governor and return the property to him/herself, his / her official representative or legal inheriting person.

Article 74. To take the child at home in order to grow up

74.1. Any citizen may take minors or non-age children in difficult circumstances at home and bring up for own expenses.

74.2. In order to bring up at home the contract shall be made between the applicant and social welfare organisation for certain period.

74.3. In the contract shall be drawn the conditions to bring up, support, educate the child, the rights and duties of social welfare organisation and supporter and reward to the supporter, other immunities according to the legislation, and the ground for termination of contract and consequences from it.

74.4. The contract can come to the end beforehand by the supporter's application if it has been proved that non friendly atmosphere has appeared for the child, the child has been returned to the parents, adopted or other respectful reasons then by the demand of the social welfare organisation (disease, the family or property circumstances have changed, disputes or misunderstanding have occurred).

74.5. If the child is over seven, his/her consent must taken in order to transfer to.

74.6. The child transferred to be brought up shall exercise rights social welfare assistance and pension for lost of maintainer and be provided an accommodation in accordance related law.

74.7. The reward described in 74.3 of this law shall be financed from welfare fund in accordance with law on social welfare.

74.8. The social welfare organisation shall monitor the activities of supporter as a custodian and trustee in accordance 66.2 of this law.

Article 75. The person can not make contract of supporting

75.1. It is prohibited to make contract with the person who have been excluded or limited the parental rights, have returned the person in custody the adopted child due to his/her fault. consume alcoholic or toxic substances permanently, is serving imprisonment punishment or has served several times.

CHAPTER NINE

OTHER

Article 76. The date coming into force

76.1. This law shall come into force from 1 of August 1999.

THE DEPUTY CHAIRMAN OF GREAT KHURAL OF
MONGOLIA

D.GANBOLD