

**THE FAMILY CODE  
OF THE RUSSIAN FEDERATION  
NO. 223-FZ OF DECEMBER 29, 1995  
(with the Amendments and Additions of November 15, 1997, June 27, 1998,  
January 2, 2000, August 22, December 28, 2004, June 3, December 18, 29,  
2006, July 21, 2007, June 30, 2008)**

**Approved by the State Duma on December 8, 1995**

**Section I. General Propositions**

**Chapter 1. Family Legislation**

**Article 1. Fundamental Principles of the Family Legislation**

**1.** The family, motherhood, fatherhood and childhood in the Russian Federation shall be under the protection of the state.

The family legislation shall proceed from the necessity to consolidate the family, to build family relations on feelings of mutual love and respect, on mutual assistance and on responsibility of all its members before the family, from the inadmissibility of anybody's arbitrary interference into family affairs, from the need to ensure for all family members the opportunity to freely exercise their rights and the possibility to defend these rights in court.

**2.** Subject to recognition shall be only a marriage, entered into at the bodies for registering civil status acts (hereinafter referred to as the registry offices).

**3.** Family relations shall be regulated in conformity with the principles of a voluntary conjugal union between a man and a woman, of the equality of spouses' rights in the family, of resolving internal family problems by mutual consent, of the priority of bringing children up in a family, of taking care of their well-being and development, and of ensuring priority protection of the rights and interests of underaged and disabled family members.

**4.** Any forms of restricting the rights of the citizens in their entering into a marriage or in their family relations because of social, racial, ethnical, language or religious affiliation shall be prohibited.

Citizens' rights in the family may be restricted only on the ground of federal law and only insofar as it is necessary to protect the morality, health, rights and legal interests of the other family members and other citizens.

**Article 2. Relations Regulated by the Family Legislation**

The family legislation shall lay down the terms and the procedure for entering into a marriage, for the termination of the marriage and for recognizing it as annulled, shall regulate the personal non-property and property relations between the family members: the spouses, the parents and the children (the adopters and the adoptees), and in the cases and within the limits stipulated by the family legislation, between other relatives and other persons, and shall also define the forms and procedure for placing children left without parental care into a family.

**Article 3. The Family Legislation and Other Acts Containing the Norms  
of Family Law**

**1.** In conformity with the [Constitution](#) of the Russian Federation, the family legislation shall be within the joint jurisdiction of the Russian Federation and of the subjects of the

Russian Federation.

**2.** The family legislation shall consist of the present Code and of other federal laws (hereinafter referred to as the laws), passed in conformity with it, and also of the laws of the subjects of the Russian Federation.

The laws of the subjects of the Russian Federation shall regulate the family relations indicated in Article 2 of the present Code, on the issues referred to the jurisdiction of the subjects of the Russian Federation by the present Code, and also on the issues, not directly regulated by the present Code.

The norms of family law, contained in the laws of the subjects of the Russian Federation, shall correspond to the present Code.

**3.** On the ground and in execution of the present Code, of other laws and of decrees of the President of the Russian Federation, the Government of the Russian Federation shall have the right to adopt legal normative acts in the cases, directly stipulated by the present Code, by the other laws and by decrees of the President of the Russian Federation.

#### **Article 4.** Application of the Civil Legislation to Family Relations

The civil legislation shall be applied to the property and to the personal non-property relations between family members, indicated in [Article 2](#) of the present Code, which are not regulated by the family legislation ([Article 3](#) of the present Code), insofar as this does not contradict the essence of family relations.

#### **Article 5.** Application of the Family Legislation and Civil Legislation to Family Relations by Analogy

If relations between family members have not been regulated by the family legislation or by an agreement between the parties, and in the absence of the norms of civil law directly regulating the said relations, to these relations shall be applied, if this does not contradict their essence, the norms of family law and (or) civil law, regulating similar relations (the analogy of law). In the absence of such norms, the rights and duties of family members shall be defined proceeding from the general fundamental principles of family law or of civil law (the analogy of the right), and also from the principles of humanity, reason and justice.

#### **Article 6.** The Family Legislation and the Norms of International Law

If an international treaty of the Russian Federation lays down other rules than those stipulated by the family legislation, the rules of the international treaty shall be applied.

### **Chapter 2. Exercising and Safeguarding Family Rights**

#### **Article 7.** Exercising Family Rights and Discharging Family Duties

**1.** Citizens shall dispose of the rights possessed by them which stem from their family relations (from their family rights), including the right to the defence of these rights, at their own discretion, unless otherwise is established by the present Code.

The exercising of rights and discharge of duties by family members shall not violate the rights, freedoms and legal interests of the other family members and of other citizens.

**2.** Family rights shall be protected by law, with the exception of the cases when they are exercised in contradiction with the purpose of these rights.

## **Article 8. Defence of Family Rights**

*Federal Law No. 258-FZ of December 29, 2006 amended Item 1 of Article 8 of this Code. The amendments shall enter into force from January 1, 2008*  
See the Item in the previous wording

1. Family rights shall be defended by court according to the rules of civil legal proceedings, and in cases stipulated by the present Code, by state bodies, in particular by the guardianship and trusteeship bodies.
2. Family rights shall be defended in the ways stipulated by the corresponding Articles of the present Code.

## **Article 9. Application of the Term of Legal Limitation in Family Relations**

1. The term of legal limitation shall not be spread to claims stemming from family relations, with the exception of the cases, when the term for the defence of the violated right is laid down by the present Code.
2. When the norms, establishing the term of legal limitation are applied, the court shall be guided by the rules of Articles 198-200 and Articles 202-205 of the Civil Code of the Russian Federation.

## **Section II. Entering into a Marriage and Termination of a Marriage**

### **Chapter 3. The Terms and Procedure for Entering into a Marriage**

#### **Article 10. Entering into a Marriage**

1. A marriage shall be entered into at registry offices.
2. The rights and duties of spouses shall arise as from the date of official registration of their entering into a marriage at registry offices.

#### **Article 11. Procedure for Entering into a Marriage**

1. A marriage shall be concluded in the presence of the persons entering into the marriage, after the expiry of one month from the date of their filing an application with the registry offices.

If there are valid reasons for doing this, the registry office may permit the conclusion of a marriage before the expiry of one month, and may also extend this term, but not by more than one month.

In case of the existence of some specific circumstances (such as pregnancy, the birth of a child, a direct threat to the life of one of the parties, or other circumstances), a marriage may be entered into on the date of filing the application.

2. The state registration of entering into a marriage shall be effected in conformity with the procedure, laid down for the state registration of civil status acts.

*On the state recording of marriage, see Federal Law No. 143-FZ of November 15, 1997*

3. The refusal of the registry office to register a marriage may be appealed against in court by the persons who wish to enter into a marriage (by one of them).

**Article 12.** The Terms for Entering into a Marriage

1. To enter into a marriage, the voluntary consent of the man and of the woman entering into it, and their reaching the marriageable age, shall be necessary.
2. The marriage shall not be entered into in the face of the circumstances pointed out in [Article 14](#) of the present Code.

**Article 13.** The Marriageable Age

1. The marriageable age shall be established as eighteen years.

*Federal Law No. 140-FZ of November 15, 1997 reworded the first paragraph of Item 2 of Article 13 of the Family Code of the Russian Federation*

[See the previous text of the paragraph](#)

2. In the presence of valid reasons, the bodies of local self-government at the residence of persons wishing to enter into a marriage may, at the request of such persons, permit entering into a marriage to persons who have reached the age of sixteen years.

The procedure and the terms because of whose existence a marriage may be entered into by way of an exception, with account for specific circumstances, before reaching the age of sixteen years, may be laid down by the laws of the subjects of the Russian Federation.

**Article 14.** Circumstances Preventing Entering into a Marriage

Not to be admitted shall be entering into a marriage by:

- persons one of whom at least already consists in another registered marriage;
- close relations (relations by the direct ascending and descending lines - by the parents and children, by the grandfather, the grandmother and the grandchildren), by full and by not full (having a common father or a mother) brothers and sisters);
- adopters and the adoptees;
- persons at least one of whom is recognized by court as legally incapable because of mental derangement.

**Article 15.** Medical Examination of the Persons Entering into a Marriage

1. The medical examination of the persons entering into a marriage, and consulting them on the medical-genetic issues and on those of family planning shall be effected by the institutions of the state and of the municipal public health system per the place of their residence, free of charge and only with the consent of the persons entering into a marriage.

2. The results of the examination of a person entering into a marriage shall be a medical secret, and may be reported to the persons, with whom he intends to enter into a marriage only with the consent of the person who has passed the examination.

3. If one of the persons entering into a marriage, has concealed from the other person the existence of a venereal disease or of an HIV-infection, the latter shall have the right to turn to a court with a claim for recognizing the marriage as annulled ([Articles 27-30](#) of the present Code).

**Chapter 4. Termination of the Marriage**

*On the application by courts of legislation when considering divorce cases, see [Decision](#)*

*of the Plenum of the Supreme Court of the Russian Federation No. 15 of November 5, 1998*

**Article 16.** Grounds for Terminating a Marriage

1. A marriage shall be terminated as a consequence of the death of one of the spouses, or as a consequence of the court declaring one of the spouses dead.

2. A marriage may be terminated by its dissolution upon the application of one or both spouses, and also upon the application of the guardian of the spouse recognized by the court as legally incapable.

**Article 17.** Restriction of the Husband's Right to File a Claim for Dissolution of the Marriage

The husband shall not have the right to institute court proceedings on dissolution of the marriage during the wife's pregnancy and in the course of one year after the birth of the child.

**Article 18.** Procedure for Dissolution of the Marriage

Dissolution of the marriage shall be effected at registry offices, and in the cases, stipulated by [Articles 21-23](#) of the present Code - in court.

**Article 19.** Dissolution of the Marriage at Registry Offices

1. In case there is mutual consent to the dissolution of the marriage on the part of both spouses who have no underaged children, the marriage shall be dissolved at registry offices.

2. Dissolution of the marriage upon an application of one of the spouses, regardless of whether the spouses have or have not common underaged children, shall be effected at registry offices, if the other spouse:

- is recognized by a court as missing;
- is recognized by a court as legally incapable;
- is sentenced to imprisonment for committing a crime for a term of over three years.

3. Dissolution of the marriage and the issue of the certificate on the dissolution of the marriage shall be effected by the registry office upon the expiry of one month from the date of filing an application on the dissolution of the marriage.

4. The state registration of the dissolution of the marriage shall be effected by the [registry offices](#) in conformity with the procedure established for the state registration of civil status acts.

*On the state recording of marriage dissolution, see [Federal Law No. 143-FZ of November 15, 1997](#)*

**Article 20.** Consideration of Disputes Arising Between Spouses When Their Marriage Is Being Dissolved at Registry Offices

Disputes about dividing the spouses' common property, about the payment of the means for the maintenance of a disabled needy spouse, and also disputes about children arising between the spouses, one of whom is recognized by the court as legally incapable or is sentenced for committing a crime to imprisonment for a term of over three years (Item 2, Article 19 of the present Code), shall be considered in court, apart from dissolution of the marriage at registry offices.

#### **Article 21.** Dissolution of the Marriage in Court

1. A marriage shall be dissolved in court if the spouses have common underaged children, with the exception of the cases stipulated by [Item 2, Article 19](#) of the present Code, or if one of the spouses does not consent to dissolution of the marriage.

2. A marriage shall also be dissolved in court if one of the spouses, while raising no objections to it, avoids the dissolution of the marriage at the registry office (refuses to file an application, does not wish to attend the registering of the dissolution of the marriage, etc.).

#### **Article 22.** Dissolution of the Marriage in Court if One of the Spouses Does Not Consent to Dissolution of the Marriage

1. The marriage shall be dissolved in court if it has been established that the further life of the spouses together and the preservation of the family is impossible.

2. When considering a case on dissolution of the marriage in the absence of one of the spouses' consent to the dissolution of the marriage, the court shall have the right to take measures for reconciling the spouses and shall also have the right to put off the proceedings having fixed for the spouses a three-month reconciliation term.

The marriage shall be dissolved if the measures taken to reconcile the spouses have failed and the spouses (one of the spouses) insist (insists) on dissolution of the marriage.

#### **Article 23.** Dissolution of the Marriage in Court If Both Spouses Consent to the Dissolution of the Marriage

1. If there is a mutual consent to the dissolution of the marriage on the part of both spouses having common underaged children, or on the part of the spouses indicated in [Item 2, Article 21](#) of the present Code, the court shall dissolve the marriage without finding out the motives behind the divorce. The spouses shall have the right to present to the court an agreement on the children, envisaged in Item 1, Article 24 of the present Code. In the absence of such an agreement, or if the given agreement infringes upon the interests of the children, the court shall take measures to protect their interests in the procedure, stipulated by Item 2, Article 24 of the present Code.

2. Dissolution of the marriage shall not be effected by the court before the expiry of one month from the date of the spouses' filing an application on the dissolution of the marriage.

#### **Article 24.** The Issues Resolved by the Court When Taking a Decision on the Dissolution of the Marriage

1. When dissolving the marriage in court, the spouses may present for the consideration of the court an agreement on the issue of with whom of them the underaged children shall live, on the procedure for paying the means for the maintenance of the children and (or) of a disabled needy spouse, on the amount of these means or on dividing the common property of the spouses.

2. In the absence of an agreement between the spouses on the issues, pointed out in Item 1 of the present Article, and also if it is established that the given agreement infringes upon the rights of the children or of one of the spouses, the court shall be obliged:

- to decree with whom of the spouses shall the underaged children live after the divorce;

- to determine from which of the parents and in what amounts shall the alimony be exacted for their children;

- upon the demand of the parents (of one of them), to divide the property in their joint

ownership;

- upon the demand of the spouse having the right to claim for maintenance from the other spouse, to define the size of this maintenance.

**3.** If the division of the property infringes upon the interests of the third persons, the court shall have the right to consider the claim for dividing the property by separate proceedings.

**Article 25.** The Moment of Termination of the Marriage, When It Is Being Dissolved

**1.** The marriage dissolved at the registry offices shall be terminated as from the date of the state registration of the dissolution of the marriage in the Register of Civil Status Acts, and if the marriage is dissolved in court - as from the date of the court decision coming into legal force.

**2.** The dissolution of the marriage in court shall be subject to state registration in conformity with the [procedure](#), established for the state registration of civil status acts.

The court shall be obliged, within three days from the date of the court decision on the dissolution of the marriage coming into legal force, to forward an excerpt from this court decision to the registry office at the place of the state registration of entering into the marriage.

The spouses shall have no right to enter into a new marriage until obtaining a certificate on the dissolution of the marriage from the registry office at the place of residence of any one of them.

**Article 26.** Restoration of the Marriage in Case of the Appearance of the Spouse Declared Dead or Recognized as Missing

**1.** In case of the appearance of the spouse who was declared by a court as dead or recognized by the court as missing for an unknown reason, and of the cancellation of the corresponding court decisions, the marriage may be restored by the registry office upon the joint application of the spouses.

**2.** The marriage may not be restored if the other spouse has entered into a new marriage.

**Chapter 5. Annulment of the Marriage**

**Article 27.** Recognizing the Marriage as Annulled

**1.** The marriage shall be recognized as annulled if the terms established by [Articles 12-14](#) and by [Item 3 of Article 15](#) of the present Code are violated, and also in the case of entering into a fictitious marriage, i.e., if the spouses, or one of the spouses registered the marriage without the intention to start a family.

**2.** A marriage shall be recognized as annulled by the court.

**3.** The court shall be obliged, within three days from the date of the court decision on recognizing the marriage as annulled coming into legal force, to forward an excerpt from this court decision to the registry office at the place of the state registration of the marriage.

**4.** A marriage shall be recognized as annulled as from the date of its registration ([Article 10](#) of the present Code).

**Article 28.** The Persons Having the Right to Demand that a Marriage Be Recognized as Annulled

**1.** The right to demand that a marriage be recognized as annulled shall be possessed

by:

- an underaged spouse, his parents (or the persons substituting for them), a guardianship and trusteeship body or the Prosecutor, if the marriage was entered into with a person who has not reached the marriageable age, in the absence of a permit for entering into a marriage before this person's reaching the marriageable age ([Article 13](#) of the present Code). After the underaged spouse reaches the age of 18 years, the right to demand that the marriage be recognized as annulled shall belong only to this spouse;

- the spouse whose rights have been violated by registering the marriage, and also the Prosecutor, if the marriage was registered in the absence of the voluntary consent of one of the spouses entering into it: as a result of coercion, deceit, delusion or impossibility, because of his condition at the moment of registration of the marriage, to realize the meaning of his actions and to direct them;

- the spouse, who was not aware of the existence of the circumstances preventing the entering into a marriage, the guardian of the spouse, recognized as legally incapable, the spouse by a previous undissolved marriage, and other persons whose rights are violated by the formalization of the marriage, performed with a violation of the requirements of [Article 14](#) of the present Code, and also the guardianship and trusteeship body and the Prosecutor;

- the Prosecutor, and also the spouse, who was not aware of the fact that the marriage was fictitious, in the case of entering into a fictitious marriage;

- the spouse whose rights are violated, in the face of the circumstances pointed out in [Item 3, Article 15](#) of the present Code.

**2.** When considering a case on recognizing as annulled the marriage entered into with a person who has not reached the marriageable age, and also with a person recognized as incapable by the court, the guardianship and trusteeship body shall participate in the proceedings.

### **Article 29.** The Circumstances Disallowing the Annulment of a Marriage

**1.** The court may recognize the marriage as valid, if by the moment of starting the hearings on the case on recognizing the marriage as annulled, the circumstances, which by force of law prevented its formalization, have disappeared.

**2.** The court may reject a claim for recognizing as annulled the marriage entered into with a person who has not reached the marriageable age, if this is required by the interests of the underaged spouse, and also if he does not give his consent to recognizing the marriage as annulled.

**3.** The court may not recognize the marriage as fictitious if the persons who registered such a marriage, have in fact started a family before the case was dealt with in court.

**4.** The marriage may not be recognized as annulled after its dissolution, with the exception of the existence of the law-prohibited degree of kinship between the spouses, or if one of the spouses consists, at the moment of registering the marriage, in another undissolved marriage ([Article 14](#) of the present Code).

### **Article 30.** The Consequences of Recognizing a Marriage as Annulled

**1.** A marriage recognized by the court as annulled shall not give rise to the rights or to the duties of the spouses, stipulated by the present Code, with the exception of the cases, pointed out in Item 4 and in [Item 5](#) of the present Article.

**2.** Towards the property jointly acquired by the persons whose marriage is recognized as annulled, shall be applied the provisions of the Civil Code of the Russian Federation on

shared property. The marriage contract, signed by the spouses ([Articles 40-42](#) of the present Code), shall be recognized as invalid.

**3.** The recognition of a marriage as annulled shall not have any impact on the interests of the children, born in such a marriage or in the course of 300 days after the date, when the marriage was recognized as annulled ([Item 2, Article 48](#) of the present Code).

**4.** When taking the decision on recognizing the marriage as annulled, the court may recognize the right of the spouse, whose rights were violated by the formalization of such a marriage (a bona fide spouse), to receive maintenance from the other spouse, in conformity with [Article 90](#) and [Article 91](#) of the present Code, and as concerns dividing the property jointly acquired before the moment when the marriage was recognized as annulled, it shall have the right to apply the provisions, laid down by [Articles 34, 38](#) and [39](#) of the present Code, and also to recognize as valid, fully or in part, the marriage contract.

The bona fide spouse shall have the right to claim the compensation of [material](#) and [moral damages](#), caused to him, according to the rules, stipulated by the civil legislation.

**5.** The bona fide spouse shall have the right, when the marriage is recognized as annulled, to preserve the surname, which he/she has chosen to assume in the state registration of entering into the marriage.

### **Section III. Spouses' Rights and Duties**

#### **Chapter 6. Spouses' Personal Rights and Duties**

##### **Article 31. The Spouses' Equality in the Family**

**1.** Each of the spouses shall be free to choose the kind of occupation or trade, as well as the places of stay and of residence.

**2.** The issues of motherhood and fatherhood, of the children's upbringing and education, and other issues involved in the life of the family, shall be resolved by the spouses jointly, proceeding from the principle of the spouses' equality.

**3.** The spouses shall be obliged to build their relations in the family on the basis of mutual respect and mutual assistance, to facilitate the welfare and the consolidation of the family, and to take care of their children's well-being and development.

##### **Article 32. The Spouses' Right of Option to a Surname**

**1.** When entering into a marriage, the spouses shall opt for a surname of one of them as a common surname according to their wish, or each of the spouses shall retain his own pre-marriage surname, or, unless otherwise stipulated by the laws of the subjects of the Russian Federation, he may add to his own surname that of the other spouse.

The adding up of the surnames shall not be admissible, if the pre-marriage surname of just one of the spouses is a double one.

**2.** The change of the surname by one of the spouses shall not entail the change of the surname of the other spouse.

**3.** In case of the dissolution of the marriage, the spouses shall have the right to keep the common surname or to reassume their pre-marriage surnames.

#### **Chapter 7. The Legal Regime of the Spouses' Property**

##### **Article 33. The Concept of the Legal Regime of the Spouses' Property**

**1.** The legal regime of the spouses' property shall be the regime of their joint property. The legal regime of the spouses' property shall operate, unless otherwise is stipulated

by the marriage contract.

2. The rights of the spouses to possess, use and dispose of property which is joint property of the members of a peasant (of a farmer's) economy, shall be defined by [Article 257](#) and [Article 258](#) of the Civil Code of the Russian Federation.

#### **Article 34.** The Spouses' Joint Property

1. The property acquired by the spouses during their marriage, shall be their joint property.

2. To the property, acquired by the spouses during their marriage (to the spouses' joint property) shall be referred the incomes of each of the spouses from his labour activity, from his business activity and from the results of his intellectual activity, pensions and allowances, received by both of them, and also the other monetary receipts, which are not specially target-oriented (sums of material assistance, those paid out in compensation for a loss inflicted by disablement because of a grave injury or because of another damage done to the health, etc.). The spouses' joint property shall also be the movable and the immovable things and securities, acquired at the expense of their joint incomes, participation shares, deposits and shares in capital put into credit institutions or into other kinds of commercial organizations, and any other property acquired by the spouses in the period of their marriage, regardless of the name of which of the spouses it was acquired or the name of which of the spouses the monetary means were put in.

3. The right to the spouses' joint property shall also be enjoyed by the spouse who kept the house or who looked after the children in the period of the marriage, or who did not have an independent income because of other valid reasons.

#### **Article 35.** Possession, Use and Disposal of the Spouses' Joint Property

1. The spouses' joint property shall be possessed, used and disposed of by the mutual consent of the spouses.

2. When one of the spouses makes deals involved in the disposal of the spouses' joint property, it shall be assumed that he acts with the consent of the other spouse.

A transaction, effected by one of the spouses involved in the disposal of the spouses' joint property, may be recognized as invalid by court on the motives of the absence of the other spouse's consent only upon his claim and only if it is proved that the other party to the deal was aware or should have been aware of the other spouse's non-consent to making the given transaction.

3. For one of the spouses to effect a transaction involved in the disposal of immovable property, and also a deal requiring notarial certification and (or) registration in conformity with the law-established procedure, it shall be necessary to obtain a notarially certified consent of the other spouse.

The spouse whose notarially certified consent to making the given deal was not obtained, shall have the right to demand that the deal be recognized as invalid by the court within a year from the date, when he has learned or when he should have learned about the performance of the given deal.

*[Federal Law No. 231-FZ of December 18, 2006 amended Article 36 of this Code. The amendments shall enter into force from January 1, 2008](#)*  
[See the Article in the previous wording](#)

#### **Article 36.** The Property of Each of the Spouses

1. The property which belonged to each of the spouses before his entering into the marriage, and also the property, received by one of the spouses during their marriage by way of inheritance or by other gratuitous deals (the property of each of the spouses), shall be his own property.

2. Items of individual use (clothes, footwear, etc.), with the exception of jewellery and other luxury articles, even though acquired in the period of the marriage at the expense of the spouses' common means, shall be recognized as the property of that spouse, who used them.

3. An exclusive right to the result of intellectual activity created by one of the spouses shall belong to the author of such result.

### **Article 37.** Recognizing the Property of Each of the Spouses as Their Joint Property

The property of each of the spouses may be recognized as their joint property if it is established that in the period of the marriage at the expense of the spouses' common property or of the property of each of the spouses, or of the labour of one of the spouses deposits were made, which considerably increased the value of this property (capital repairs, reconstruction, re-equipment, etc.).

### **Article 38.** Division of the Spouses' Common Property

1. The division of the spouses' common property may be effected both during the period of the marriage and after its dissolution upon the demand of one of the spouses, and also if the creditor makes a claim for the division of the spouses' common property in order to turn the exaction onto the share of one of the spouses in the spouses' common property.

2. The spouses' common property may be divided between the spouses by their agreement. At the wish of the spouses, their agreement on the division of the common property may be notarially certified.

3. In the case of a dispute, the division of the spouses' common property and also the delineation of the spouses' shares in this property shall be effected in court.

While dividing the spouses' common property, the court shall define, at the demand of the spouses, what property shall be subject to transfer to each of the spouses. If the value of the property transferred to one of the spouses exceeds the share due to him, the other spouse may be adjudged the corresponding monetary or other kind of compensation.

4. The court may recognize the property, acquired by each of the spouses in the period of their living apart after terminating the conjugal relations, as the property of each of them.

5. The items acquired exclusively for satisfying the needs of underaged children (clothes, footwear, school things and sports accessories, musical instruments, the children's books, etc.) shall not be subject to division and shall be transferred without compensation to the spouse with whom the children live.

The deposits made by the spouses at the expense of the spouses' common property to the name of their common underaged children, shall be regarded as belonging to these children and shall not be taken into account, when dividing the spouses' common property.

6. If the spouses' common property is divided in the period of their marriage, the part of the spouses' common property, which was not divided, and also the property acquired by the spouses subsequently in the period of their marriage, shall comprise their joint property.

7. To claims for dividing the common property made by the spouses whose marriage

was dissolved, a three-year term of legal limitation shall be applied.

#### **Article 39.** Delineation of the Shares in the Division of the Spouses' Common Property

1. When dividing the spouses' common property and delineating the shares in this property, the spouses' shares shall be recognized as equal, unless otherwise is stipulated by the contract concluded between the spouses.

2. The court shall have the right to depart from the principle of equality of the spouses' shares in their common property, proceeding from the interests of underaged children and (or) from the essential interests of one of the spouses, in particular, in the cases, when the other spouse did not derive any income because of invalid reasons, or if he/she squandered the spouses' common property to the detriment of the interests of the family.

3. In dividing the spouses' common property, the spouses' common debts shall be distributed between them in proportion to their adjudged shares.

### **Chapter 8. The Contractual Regime of the Spouses' Property**

#### **Article 40.** The Marriage Contract

The marriage contract shall be recognized as an agreement between the persons entering into a marriage, or an agreement between the spouses, defining the spouses' property rights and duties in marriage and (or) in the case of its dissolution.

#### **Article 41.** Conclusion of the Marriage Contract

1. The marriage contract may be signed either before the state registration of the marriage or at any time during the marriage.

A marriage contract concluded before the state registration of the marriage shall come into force as from the date of the state registration of the marriage.

2. The marriage contract shall be concluded in written form and shall be subject to notarial certification.

#### **Article 42.** The Content of the Marriage Contract

1. The spouses shall have the right to amend the law-established regime of joint property ([Article 34](#) of the present Code) under the marriage contract, to establish the regime of the joint, shared or separate ownership over the entire property of the spouses, over its individual kinds, or over the property of each of the spouses.

The marriage contract may be concluded both with respect to the existing and future property of the spouses.

The spouses shall have the right to define in the marriage contract their rights and duties involved in the mutual maintenance, in the ways of taking part in each other's incomes and in the way each of them bears family expenses; they shall have the right to delineate the property which shall be transferred to each of the spouses in case of the dissolution of their marriage, and also to include into the marriage contract any other provisions related to the spouses' property relations.

2. The rights and duties envisaged by the marriage contract may be restricted to definite terms or may be made dependent on the arising or the non-arising of certain conditions.

3. The marriage contract shall not restrict the spouses' legal capacity or active capacity or their right to turn to a court for the defence of their rights; regulate the personal

non-property relations between the spouses, their rights and duties with respect to the children; stipulate provisions restricting the right of a disabled needy spouse to obtain maintenance; or contain other terms, which put one of the spouses into an extremely unfavourable situation or which contradict the fundamental principles of the family legislation.

#### **Article 43.** Amendment and Dissolution of the Marriage Contract

1. The marriage contract may be amended or dissolved at any time by an agreement between the spouses. The agreement on the amendment or on the dissolution of a marriage contract shall be made out in the same form as the marriage contract itself.

A unilateral refusal to execute a marriage contract shall not be admissible.

2. Upon the claim of one of the spouses, the marriage contract may be amended or dissolved by a court decision on the grounds and in conformity with the procedure established by the [Civil Code](#) of the Russian Federation for the amendment and the dissolution of a marriage contract.

3. The operation of the marriage contract shall cease as from the moment of termination of the marriage ([Article 25](#) of the present Code), with the exception of those obligations which are envisaged by the marriage contract for the period after the termination of the marriage.

#### **Article 44.** Recognizing the Marriage Contract as Invalid

1. The marriage contract may be recognized as invalid by a court fully or in part on the grounds stipulated by the [Civil Code](#) of the Russian Federation for the invalidity of the deals.

2. The court may also recognize the marriage contract as invalid fully or in part upon the claim of one of the spouses, if the terms of the contract put this spouse into an extremely unfavourable situation. The terms of the marriage contract violating the other requirements of [Item 3, Article 42](#) of the present Code, shall be void.

### **Chapter 9. The Spouses' Responsibilities upon Obligations**

#### **Article 45.** Turning an Exaction onto the Spouses' Property

1. The exaction per the obligations of one of the spouses may be turned only onto the property of this spouse. If this property is insufficient, the creditor shall have the right to claim that the share of the debtor spouse, which would be due to him if the spouses' common property is divided, be singled out for him, so that the exaction may be turned onto it.

2. The exaction shall be turned onto the spouses' common property by the spouses' common obligations, and also by the obligations of one of the spouses, if the court establishes that everything obtained by the obligations by one of the spouses was used for the needs of the family. If this property is insufficient, the spouses shall bear a joint responsibility with the property of each of them.

If the court sentence establishes that the spouses' common property was acquired or increased at the expense of the means, received by one of the spouses in a criminal way, the exaction may be correspondingly turned onto the spouses' common property or onto a part thereof.

3. The spouses' responsibility for the damage caused by their underaged children, shall be defined by the [civil legislation](#). The turning of the exaction onto the spouses'

property in their recompensing the damage, caused by their underaged children, shall be effected in conformity with Item 2 of the present Article.

**Article 46.** Guarantees for the Creditors' Rights in the Conclusion, Amendment and Dissolution of the Marriage Contract

1. The spouse shall be obliged to notify his creditor (creditors) about the conclusion, amendment or cancellation of the marriage contract. In the case of his non-fulfilment of this duty, the spouse shall be held responsible per his obligations, regardless of the content of the marriage contract.

2. The creditor (creditors) of the debtor-spouse shall have the right to demand that the terms of the contract concluded between them be amended, or that it be cancelled in connection with the essentially changed circumstances in conformity with the procedure laid down by [Articles 451-453](#) of the Civil Code of the Russian Federation.

**Section IV. The Rights and Duties of Parents and Children**

**Chapter 10. Establishment of Children's Descent**

**Article 47.** The Ground for the Arising of the Rights and Duties of Parents and Children

The rights and duties of parents and of children shall be based on the children's descent, certified in the law-established order.

**Article 48.** Establishment of the Child's Descent

*Federal Law No. 140-FZ of November 15, 1997 amended Article 48 of the Family Code of the Russian Federation*

[See the previous text of the Article](#)

1. The descent of the child by his mother (the motherhood) shall be established on the ground of the documents, confirming the mother's giving birth to the child in a maternity hospital, and in the case of the child's being born not in a medical centre - on the ground of medical documents, or of the witness testimony, or of other proofs.

2. If the child was born of the married persons, and also in the course of 300 days from the moment of the dissolution of the marriage or of its being recognized as annulled, or from the moment of the death of the spouse of the child's mother, the mother's spouse (ex-spouse) shall be recognized as the child's father, unless otherwise is proved ([Article 52](#) of the present Code). The fatherhood of the spouse of the child's mother shall be certified with an entry on their marriage certificate.

*Federal Law No. 140-fz of November 15, 1997 excluded Item 3 of Article 48 from the Family Code. Items 4 and 5 are deemed Items 3 and 4*

3. The fatherhood of the person, who is not married to the child's mother, shall be established by way of filing a joint application by the father and by the mother of the child with the registry office; in case of the mother's death, of recognizing her as legally incapable or of the impossibility to identify the place of her stay, or in case of her being deprived of the parenthood - by an application of the child's father, with the consent of the

guardianship and trusteeship body, and in the absence of such consent - by the decision of the court.

If there exist circumstances, which give grounds to suppose that the filing of a joint application on establishing the fatherhood may prove to be impossible or difficult after the child's birth, the unmarried parents of the future child shall have the right to file such an application with the registry office during the mother's pregnancy. The entry about the child's parents shall be made after the child's birth.

**4.** The establishment of the fatherhood with respect to a person, who has reached the age of 18 years shall be admitted only with his consent, and if he is recognized as legally incapable - with the consent of his guardian or of the guardianship and trusteeship body.

*About the Application by the Courts of the present Code of the Russian Federation in the Examination of Cases on the Establishment of Paternity and on the Recovery of Alimony, see [Resolution of the Plenary Session of the Supreme Court of the Russian Federation No. 9 of October 25, 1996](#)*

#### **Article 49.** Establishment of the Fatherhood in Court

If the child is born of the unmarried parents and if no joint application of the parents or of the child's father is filed ([Item 4, Article 48](#) of the present Code), the child's descent from the specific person (the fatherhood) shall be established in court by an application of one of the parents, of the guardian (the trustee) of the child, or by that of the person, who keeps the child, and also by an application of the child himself upon his reaching 18. The court shall take into account any proof, which authentically confirm the child's descent from the specific person.

#### **Article 50.** Establishment in Court of the Fact of Recognizing the Fatherhood

In case of the death of the person who recognized himself as the child's father, but who was not married to the child's mother, the fact of his recognizing his fatherhood may be established in court according to the rules, laid down by the [civil procedural legislation](#).

#### **Article 51.** The Entry of the Child's Parents into the Register of Births

**1.** The married father and mother shall be written down as the child's parents into the Register of Births upon an application of any one of them.

**2.** If the parents are not married, the entry about the mother shall be made upon the mother's application, and that about the father - upon a joint application of the child's father and mother, or by an application of the child's father ([Item 4, Article 48](#) of the present Code), or the father shall be written down in accordance with a court decision.

**3.** If the child is born to an unmarried mother, in the absence of a joint application of the child's parents and in the absence of the court decision on establishing the fatherhood, the surname of the child's father in the Register of Births shall be written down as the mother's surname, and the first name and patronymic of the child's father - according to her statement.

**4.** Married persons who have given their consent in written form to the artificial fertilization or to the implantation of the embryo, shall be written down in the Register of Births if a child is born as a result of the application of these methods, as this child's parents.

The married persons who have given their consent in written form to the implantation of an embryo in another woman for bearing it, may be written down as the child's parents

only with the consent of the woman who has given birth to the child (of the surrogate mother).

#### **Article 52.** Disputing the Fatherhood (the Motherhood)

1. The entry of the parents into the Register of Births, made in conformity with Item 1 and Item 2, [Article 51](#) of the present Code, may be disputed only in court, upon the claim of the person who has been written down as the father or as the mother of the child, or of the person, who is actually the father or the mother of the said child, and also of the child himself upon his reaching 18, of the guardian (the trustee) of the child, or of the guardian of the parent, who is recognized by the court as legally incapable.

2. The claim of the person written down as the child's father on the ground of Item 2, [Article 51](#) of the present Code, on disputing the fatherhood, may not be satisfied, if at the moment of making the entry this person was aware that he is not actually the child's father.

3. The spouse who gave his consent in written form, in conformity with the law-established procedure, to applying the method of artificial fertilization or of the implantation of the embryo, shall not have the right to refer to these circumstances when disputing the fatherhood.

The spouses who have given their consent to the implantation of the embryo to another woman, and also the surrogate mother (the [second part of Item 4, Article 51](#) of the present Code), shall not have the right to refer to these circumstances when disputing the motherhood and the fatherhood after the entry into the Register of Births is made.

#### **Article 53.** The Rights and Duties of the Children Born of Unmarried Persons

In establishing the fatherhood in the procedure, stipulated by [Articles 48-50](#) of the present Code, children shall have the same rights and duties with respect to the parents and to their relatives as the children, born of married persons.

### **Chapter 11. The Rights of Underaged Children**

#### **Article 54.** The Child's Right to Live and to Be Brought Up in a Family

1. Recognized as a child shall be a person who has not reached the age of 18 years.

2. Every child shall have the right to live and to be brought up in a family insofar as it is possible, the right to know his parents, the right to enjoy their care and the right to live with them, with the exception of cases when this is contrary to his/her interests.

The child shall have the right to be brought up by his parents, and to their providing for his interests, for his all-round development and for the respect of his dignity.

In the case of the absence of the parents, of their being deprived of parenthood and in other cases of the loss of parental care, the right of the child to be brought up in a family shall be ensured by the guardianship and trusteeship body in conformity with the procedure laid down by [Chapter 18](#) of the present Code.

#### **Article 55.** The Child's Right to Communicate with His Parents and with Other Relatives

1. The child shall have the right to communicate with both of his parents, with his grandfather and grandmother, his brothers and sisters, and also with other relatives. The dissolution of the parents' marriage, its recognition as annulled or the parents' living apart shall have no impact on the child's rights.

If the parents live apart, the child shall have the right to communicate with each of

them. The child shall have the right to communicate with his parents also in the case of their living in different states.

2. A child who has found himself in an emergency situation (who has been detained, arrested, taken into custody, placed into a medical centre, etc.), shall have the right to communicate with his parents and with his other relatives in the law-established procedure.

#### **Article 56.** The Child's Right to Protection

1. The child shall have the right to the protection of his rights and legal interests.

The child's rights and legal interests shall be protected by his parents (by the persons substituting them), and in the cases stipulated by the present Code, by the guardianship and trusteeship body, by the Prosecutor and by the court.

The underaged person, recognized in conformity with the law as fully capable before his reaching 18, shall have the right to independently exercise his rights and duties, including the right to protection.

2. The child shall have the right to protection from abuses on the part of the parents (the persons, substituting for them).

If the child's rights and legal interests are violated, including if the parents (one of them) fail to discharge or improperly discharge their duties involved in the child's upbringing and education, or if they abuse the parental rights, the child shall have the right to turn on his own for their protection to the guardianship and trusteeship body, and upon reaching the age of 14 years - to the court.

3. The official persons of organizations and the other citizens who have learned about the threat to the life or to the health of the child, about the violation of his rights and legal interests, shall be obliged to report this to the guardianship and trusteeship body per the place of the child's actual stay. Upon the receipt of such information, the guardianship and trusteeship body shall be obliged to take the necessary measures to protect the child's rights and legal interests.

*Federal Law No. 49-FZ of April 24, 2008 amended Article 57 of this Code. The amendments shall enter into force from September 1, 2008*

#### **Article 57.** The Child's Right to Express His Opinion

The child shall have the right to express his opinion in resolving any issue in the family, which infringes upon his interests, and also to be heard out in the course of any court or administrative hearings. It shall be obligatory to take into account the opinion of the child who has reached the age of 10 years, except for in the cases when this is contrary to his interests. In the cases stipulated by the present Code ([Articles 59](#), [72](#), [132](#), [134](#), [136](#), [143](#) and [154](#)), the guardianship and trusteeship bodies or the court shall be able to take the decision only with the consent of the child who has reached the age of 10 years.

#### **Article 58.** The Child's Right to a First Name, Patronymic and Surname

1. The child shall have the right to a first name, a patronymic and a surname.

2. The name shall be given to the child by an agreement between the parents, and the patronymic shall be awarded by the father's name, unless otherwise is stipulated by the laws of the subjects of the Russian Federation or unless based on the national custom.

3. The child's surname shall be defined by the parents' surname. If the child's parents have different surnames, the child shall be awarded the father's or the mother's surname by an agreement between the parents, unless otherwise stipulated by the laws of the

subjects of the Russian Federation.

4. In the absence of an agreement between the parents about the first name and (or) the surname of the child, the dispute shall be resolved by the guardianship and trusteeship body.

5. If the fatherhood is not established, the first name is given to the child by his mother, the patronymic is awarded by the name of the person written down as the child's father ([Item 3, Article 51](#) of the present Code), and the surname - by the surname of his mother.

#### **Article 59.** Changing the Child's First Name and Surname

*[Federal Law No. 140-FZ of November 15, 1997 replaced the words "sixteen years" with the words "fourteen years" in Item 1 of Article 59 of the Family Code of the Russian Federation](#)*

1. Upon the joint request of the parents, the guardianship and trusteeship body, proceeding from the child's interests, shall have the right to permit to change the child's first name, and also to change the surname awarded to him, for the surname of the other parent, before he reaches the age of 14 years.

2. If the parents reside apart and the parent with whom the child lives wishes to give his own surname to him, the guardianship and trusteeship body shall resolve this issue, depending on the child's interests and with account for the opinion of the other parent. It shall not be obligatory to take into account the parent's opinion if it is impossible to identify his place of stay, if he is deprived of the parenthood or if he is recognized as legally incapable, and also in the cases, when the parent avoids, for no valid reasons, the participation in the child's upbringing and maintenance.

3. If a child is born of unmarried persons and if the fatherhood is not established in a legal way, the guardianship and trusteeship body, proceeding from the child's interests, shall have the right to change his surname to the surname of the mother, which she bears at the moment of filing such a request.

4. The first name and (or) the surname of the child who has reached the age of 10 years may be changed only with his consent.

#### **Article 60.** The Property Rights of the Child

1. The child shall have the right to receive maintenance from his parents and from other family members in the way and in the amount established by [Section V](#) of the present Code.

2. The sums, due to the child as alimonies, pensions and allowances, shall be placed at the disposal of the parents (the persons, substituting for them) and shall be spent by them for the child's maintenance, upbringing and education.

The court shall have the right, upon the claim of the parent obliged to pay alimonies for the underaged children, to pass a decision on the transfer of not more than 50 per cent of the amount of the alimonies, due for the payment, onto the accounts opened in the name of the underaged children in the banks.

3. The child shall have the right of ownership to the incomes derived by him/her to the property received by him as a gift or by inheritance, and also to any other property acquired on the child's means.

The child's right to dispose of the property belonging to him by the right of ownership, shall be defined by [Article 26](#) and [Article 28](#) of the Civil Code of the Russian Federation.

In the parents' exercising their legal rights involved in the management of the child's property, spread to them shall be the rules laid down by the civil legislation with respect to the disposal of the property of the ward ([Article 37](#) of the Civil Code of the Russian Federation).

4. The child shall not have the right of ownership to the property of his parents, and the parents shall not have the right of ownership to the property of the child. The children and the parents living together may possess and use each other's property by mutual consent.

*Concerning the protection of housing rights of persons not legally of age, see [Letter of the Ministry of Education of the Russian Federation No. 09-M of February 20, 1995](#)*

5. If the right of the common property of the parents and of the children arises, their rights to the possession, use and disposal of the common property shall be defined by the civil legislation.

## **Chapter 12. The Parents' Rights and Duties**

### **Article 61. Equality of the Parents' Rights and Duties**

1. The parents shall enjoy equal rights and shall discharge equal duties with respect to their children (the parental rights).

2. The parental rights stipulated by the present Chapter shall cease when the children reach the age of 18 years, and also when underaged children enter into a marriage and in other law-established cases when the children acquire full capability before they reach 18.

### **Article 62. The Rights of Underaged Parents**

1. Underaged parents shall have the right to live with the child and to take part in his/her upbringing.

2. The underaged unmarried parents shall have the right, in the case of a child being born to them and their motherhood and (or) fatherhood being established, to exercise their parental rights on their own upon their reaching the age of 16 years. Until the underaged parents reach the age of 16 years, a guardian may be appointed to the child, who shall bring him up jointly with the child's underaged parents. Differences which may arise between the child's guardian and his underaged parents, shall be resolved by the guardianship and trusteeship body.

3. The underaged parents shall have the right to recognize and to dispute their motherhood and fatherhood on general grounds, and shall also have the right, upon their reaching the age of 14 years, to claim that their fatherhood with respect to their children be established in court.

### **Article 63. The Parents' Rights and Duties in the Upbringing and Education of Children**

1. The parents shall have the right and shall be obliged to bring their children up.

The parents shall be answerable for the education and development of their children. They shall be obliged to take care of the health and of their children's physical, mental, spiritual and moral development.

The parents shall have a priority right in bringing up their children before all other people.

Federal Law No. 194-FZ of July 21, 2007 reworded Item 2 of Article 63 of this Code.  
The new wording shall enter into force from September 1, 2007  
See the Item in the previous wording

2. The parents must ensure the receiving of the basic general education by their children and create conditions for them to receive the secondary (full) general education.

The opinion of children being taken account of, the parents can choose an educational institution and the form of receiving the education by their children.

#### **Article 64.** The Parents' Rights and Duties in Protecting the Rights and the Interests of Children

1. Protection of the rights and of the interests of children shall be imposed upon their parents.

The parents shall be the legal representatives of their children and shall come out in protection of their rights and interests in their relations with any natural and legal persons, including in the courts, without having to obtain special powers.

2. The parents shall not have the right to represent their children's interests, if the guardianship and trusteeship body has established that there are contradictions between the interests of the parents and of the children. In the case of the differences between the parents and the children, the guardianship and trusteeship bodies shall be obliged to appoint a representative to protect the children's rights and interests.

#### **Article 65.** Exercising the Parental Rights

1. The exercising of the parental rights shall not be in contradiction with the children's interests. Providing for the children's interests shall be an object of their parents' principal care.

In exercising the parental rights, the parents shall not have the right to inflict a damage on the children's physical and mental health, or on their moral development. The methods of the children's upbringing shall exclude contempt, cruelty and rudeness in their treatment, humiliation of their human dignity, the abuse or the exploitation of the children.

The parents exercising parental rights to the detriment of the rights and the interests of the children shall be made answerable in the law-established procedure.

2. All the issues, involved in the children's upbringing and education shall be resolved by the parents by mutual consent, proceeding from the children's interests and taking into account the children's opinion. The parents (or one of them) shall have the right, if there exist differences between them, to turn for resolving these differences to the guardianship and trusteeship body, or to a court.

3. The place of the children's residence in case the parents live apart, shall be established by an agreement between the parents.

In the absence of an agreement, a dispute between the parents shall be resolved in court, proceeding from the children's interests and taking into account the children's opinion. In doing this, the court shall take into account the child's affection for each of his parents and for his brothers and sisters, the child's age, the moral and other personal features of the parents, the relations existing between each of the parents and the child, and the possibility to create optimal conditions for the child's upbringing and development (the parents' kind of activity and work regime, their material situation and family status, etc.).

#### **Article 66.** Exercising Parental Rights by the Parent Residing Apart

from the Child

1. The parent, residing apart from the child, shall have the right to communicate with the child and to take part in his upbringing and in resolving the issue of the child's receiving an education.

The parent, with whom the child lives shall not prevent the child's communication with the other parent, unless such communication damages the child's physical and mental health or his moral development.

2. The parents shall have the right to conclude a written agreement on the way the parent, residing apart from the child may exercise his parental duties.

If the parents cannot reach an agreement, the dispute shall be resolved in court with the participation of the guardianship and trusteeship body, upon the claim of the parents (of one of them).

3. In the case of non-abidance by the court decision, the measures, stipulated by the civil procedural legislation, shall be applied to the guilty parent. In the case of persistent non-fulfilment of the court decision, the court shall have the right, upon the claim of the parent residing apart from the child, to take a decision on passing the child over to him, proceeding from the child's interests and taking into account the child's opinion.

*Federal Law No. 49-FZ of April 24, 2008 amended Item 4 of Article 66 of this Code. The amendments shall enter into force from September 1, 2008*

4. The parent residing apart from the child shall have the right to get information on his/her child from educational establishments and medical centres, from institutions for social protection of the population and also from other similar institutions. The information may be refused only if the parent presents a threat to the child's life and health. The refusal to provide information may be disputed in court.

**Article 67.** The Right to Communicate with the Child by His Grandfather, Grandmother, Brothers and Sisters, and of Other Relatives

1. The grandfather, grandmother, brothers, sisters and other relatives shall have the right to communicate with the child.

2. In the case of the refusal of the parents (of one of them) to provide an opportunity for the child's relatives to communicate with him, the guardianship and trusteeship body may oblige the parents (one of them) not to interfere with this communication.

3. If the parents (one of them) do not submit to the decision of the guardianship and trusteeship body, the child's close relations or the guardianship and trusteeship body shall have the right to file with the court a claim for eliminating the obstacles to the communication with the child. The court shall resolve this dispute proceeding from the child's interests and taking into account the child's opinion.

In case the court decision is not executed, to the guilty parent shall be applied the measures, stipulated by the civil procedural legislation.

**Article 68.** Protection of the Parental Rights

1. The parents shall have the right to claim that the child be returned to them from the custody of any person who keeps him on a different ground than that of the law or of a court decision. In case a dispute arises, the parents shall have the right to turn to a court for the defence of their rights.

When considering these claims, the court shall have the right, taking into account the child's opinion, to reject the parents' claim, if it comes to the conclusion that the child's

return to his parents is contrary to his/her interests.

2. If the court establishes that neither the parents, nor the person, in whose custody the child is, are capable of ensuring his proper upbringing and development, it shall put the child into the charge of the guardianship and trusteeship body.

*Federal Law No. 49-FZ of April 24, 2008 amended Article 69 of this Code. The amendments shall enter into force from September 1, 2008*

#### **Article 69. Deprivation of Parenthood**

The parents (one of them) may be deprived of parenthood, if they:

- shirk the discharge of the parental duties, including by persistently avoiding the payment of the alimony;
- refuse without a valid reason to take the child from the maternity hospital (department), or from another medical centre, an educational establishment or an institution for the social protection of the population, or from other similar institutions;
- abuse their parental rights;
- treat the children cruelly, including by physical or mental suppression, or infringe upon his sexual inviolability;
- suffer from chronic alcoholism or drug addiction;
- have committed a premeditated crime against the life or the health of their children, or against the life or the health of their spouse.

#### **Article 70. Procedure for Deprivation of the Parenthood**

*Federal Law No. 49-FZ of April 24, 2008 amended Item 1 of Article 70 of this Code. The amendments shall enter into force from September 1, 2008*

1. The deprivation of the parenthood shall be effected in court.

The cases on the deprivation of the parenthood shall be considered upon an application of one of the parents (of the persons substituting for them) and of the Prosecutor, and also upon applications of the organisations or institutions, to which the duties of protecting the rights of the underaged children are entrusted (the guardianship and trusteeship bodies, commissions for the affairs of the underaged, institutions for orphaned children and for children, left without parental care, etc.).

2. The cases on the deprivation of parenthood shall be considered with the participation of the Prosecutor and of the guardianship and trusteeship body.

3. When considering the case on the deprivation of the parenthood, the court shall resolve the issue of exacting an alimony for the child from the parents (from one of them), who are deprived of the parenthood.

4. If the court, when considering a case on the deprivation of the parenthood, exposes in the actions of the parents (of one of them) signs of a criminally punishable deed, it shall be obliged to inform the Prosecutor about this.

5. The court shall be obliged, within three days from the date of a court decision on the deprivation of parenthood coming into legal force, to forward an excerpt from this decision to the local registry office at the place of the state registration of the child's birth.

#### **Article 71. Consequences of the Deprivation of the Parenthood**

1. The parents deprived of parenthood shall lose all rights based on the fact of their kinship with the child with respect to whom they have been deprived of the parenthood,

including the right to receive maintenance for him/her ([Article 87](#) of the present Code), and also the right to privileges and state allowances established for citizens with children.

2. The deprivation of parenthood does not relieve the parents of the duty to maintain their child.

3. The question of the child's further residing with the parents (one of them) deprived of parenthood, shall be resolved by a court in conformity with the procedure laid down by the [housing legislation](#).

4. The child, with respect to whom the parents (one of them) are deprived of the parenthood, shall retain the right of ownership to living premises or the right to use living premises, and also the property rights based on the fact of kinship with his parents and with his other relatives, including the right to receive inheritance.

5. If it is impossible to give the child to other parent, or in the case of deprivation of the parenthood of both parents, the child shall be placed in the charge of the guardianship and trusteeship body.

6. The child's adoption in the case of the parents (one of them) being deprived of the parenthood, shall be admissible no earlier than after the expiry of six months from the date, when the court passed the decision on the deprivation of the parents (of one of them) of the parenthood.

#### **Article 72.** Restoration of Parenthood

1. The parents (one of them) may be restored of their parenthood, if they have changed their behaviour, way of life, and (or) their attitude towards the child's upbringing.

2. The restoration of parenthood shall be effected in court upon the application of the parent deprived of the parenthood. Cases about restoration of parenthood shall be considered with the participation of the guardianship and trusteeship body, and of the Prosecutor.

3. Simultaneously with an application from the parents (from one of them) for the restoration of parenthood, the claim for the child's return to the parents (to one of them) may be considered.

4. The court shall have the right, taking into account the child's opinion, to reject the claim of the parents (of one of them) for the restoration of parenthood, if this contradicts the child's interests.

The restoration of parenthood with respect to the child who has reached the age of 10 years shall be possible only with his consent.

The restoration of parenthood shall not be admitted if the child is adopted and the adoption is not cancelled ([Article 140](#) of the present Code).

#### **Article 73.** Restriction of Parental Rights

1. The court, taking into account the child's interests, may pass a decision on taking the child away from the parents (from one of them), while not depriving them of parenthood (the restriction of parental rights).

2. The restriction of parental rights shall be admitted if leaving the child with his parents (with one of them) is dangerous for the child because of circumstances which do not depend on the parents (on the parent) (such as a mental derangement or another chronic disease, the incidence of grave circumstances, etc.).

The restriction of his/her parental rights shall also be admitted if leaving the child with his parents (with one of them) is dangerous for the child because of their behaviour, but there are no sufficient grounds for depriving the parents (one of them) of parenthood. If the parents (one of them) do not amend their behaviour, the guardianship and trusteeship body

shall be obliged, after the expiry of six months after passing the decision on the restriction of parental rights, to present a claim for the deprivation of the parenthood. In the interests of the child, the guardianship and trusteeship body shall have the right to file a claim for depriving the parents (one of them) of the parenthood before the expiry of this term.

*Federal Law No. 49-FZ of April 24, 2008 amended Item 3 of Article 73 of this Code. The amendments shall enter into force from September 1, 2008*

3. The claim for restricting the parental rights may be filed by the child's close relations, by the bodies and the institutions, upon which the law has imposed the obligations involved in protecting the rights of the underaged children (Item 1, Article 70 of the present Code), by pre-school educational establishments, by general educational establishments and by other institutions, as well as by the Prosecutor.

4. The cases on the restriction of parental rights shall be considered with the participation of the Prosecutor and of the guardianship and trusteeship body.

5. When considering the case on the restriction of the parental rights, the court shall resolve the issue of exacting from the parents (from one of them) alimony for the child.

*Federal Law No. 140-FZ of November 15, 1997 supplemented Article 73 of the Family Code of the Russian Federation with Item 6*

6. The court shall obliged within three days from the day of the entry into legal force of a decision of the court on restricting the parental rights to send an extract from such court decision to the civil registration body at the location of the state registration of the birth of the child.

#### **Article 74. Consequences of the Restriction of Parental Rights**

1. The parents whose parental rights are restricted by court, shall lose the right to bring the child up in person, and also the right to the privileges and to the state allowances established for the citizens with children.

2. The restriction of the parental rights shall not relieve the parents from the duty to maintain the child.

3. The child with respect to whom the parents (one of them) are restricted in parental rights, shall retain the right of ownership on living premises or the right to use the living premises, and shall also retain the property rights, based on the fact of the kinship with his parents and with his other relatives, including the right to receive an inheritance.

4. If the parental rights of both parents are restricted, the child shall be put into the charge of the guardianship and trusteeship body.

*Federal Law No. 49-FZ of April 24, 2008 amended Article 75 of this Code. The amendments shall enter into force from September 1, 2008*

#### **Article 75. The Child's Contact with Parents Whose Parental Rights Are Restricted by the Court**

Parents whose parental rights are restricted by the court may be allowed to maintain contact with the child, unless this exerts a negative impact on the latter. The parents' contact with the child shall be admitted with the consent of the guardianship and trusteeship body, or with the consent of the child's guardian (trustee), of his foster parents or of the administration of the institution, where he stays.

**Article 76.** Cancelling the Restriction of Parental Rights

1. If the grounds, by force of which the parents (one of them) were (was) restricted in their parental rights, do not exist any more, the court may, upon the claim of the parents (of one of them) pass a decision on returning the child to the parents (to one of them) and on cancelling the restrictions, stipulated by [Article 74](#) of the present Code.

2. The court shall have the right, taking into account the child's interests, to refuse to satisfy the claim, if the child's return to the parents (to one of them) is contrary to his/her interests.

*Federal Law No. 258-FZ of December 29, 2006 amended Article 77 of this Code. The amendments shall enter into force from January 1, 2008*

[See the Article in the previous wording](#)

**Article 77.** Taking the Child Away if There Is a Direct Threat to His/Her Life or Health

1. If a direct threat exists to the child's life or health, the guardianship and trusteeship body shall have the right to immediately take the child away from his parents (from one of them) or from other persons, in whose charge he/she is.

The immediate taking away of the child shall be effected by the guardianship and trusteeship body on the ground of the corresponding act of the executive power body of a constituent entity of the Russian Federation.

2. When taking the child away, the guardianship and trusteeship body shall be obliged to inform without delay the Prosecutor, to provide for the child's temporary accommodation and, within 7 days after the executive power body of a constituent entity of the Russian Federation passes a decision on taking the child away, to file a claim with the court for depriving the parents of the parenthood or for restricting their parental rights.

**Article 78.** Participation of the Guardianship and Trusteeship Body in the Court's Considering Disputes Involved in the Upbringing of Children

1. When a court considers disputes, involved in the upbringing of children, the guardianship and trusteeship body shall take part in the proceedings, regardless of who has filed the claim for the child's protection.

2. The guardianship and trusteeship body shall be obliged to inspect the life conditions of the child and of the person (the persons), claiming his upbringing, and to present an act on the inspection and the conclusion based on it to the court.

**Article 79.** Execution of the Court Decision on the Cases, Involved in the Upbringing of Children

1. The court decisions on cases involved in the upbringing of children, shall be executed by an officer of justice in conformity with the procedure, laid down by the civil procedural legislation.

If the parent (or other person, in whose charge the child is) interferes with the execution of the court decision, to him shall be applied measures, stipulated by the civil procedural legislation.

*Federal Law No. 49-FZ of April 24, 2008 amended Item 2 of Article 79 of this Code. The amendments shall enter into force from September 1, 2008*

2. A forcible execution of the decisions involved in taking away the child and in placing him into the charge of another person (of other persons), shall be effected with the obligatory participation of the guardianship and trusteeship body, and of the person (persons), into whose charge the child is placed, and, if necessary, with the participation of representative of the internal affairs bodies.

If the court decision on the transfer of the child cannot be executed without infringing upon his interests, the child may be placed for a time, in conformity with a court ruling, into an educational establishment, a medical centre or an institution for the social protection of the population, or into another similar institution.

## **Section V. Alimony Obligations of Family Members**

### **Chapter 13. Alimony Obligations of Parents and of Children**

*On the application by the Courts of the present Code of the Russian Federation in the examination of cases on the establishment of paternity and on the recovery of alimony, see [Resolution](#) of the Plenary Session of the Supreme Court of the Russian Federation No. 9 of October 25, 1996*

#### **Article 80. The Parents' Obligations in Maintaining Children**

1. The parents shall be obliged to maintain their underaged children. The procedure and form of providing for the maintenance of the underaged children shall be defined by the parents on their own.

The parents shall have the right to conclude an agreement on the maintenance of their underaged children (an agreement on the payment of alimony) in conformity with [Chapter 16](#) of the present Code.

2. If the parents do not provide maintenance to their underaged children, the means for maintaining the underaged children (the alimony) shall be exacted from the parents through court.

3. If, in the absence of the parents' agreement on the payment of alimony, no maintenance is provided for the underaged children and no claim is filed with the court, the guardianship and trusteeship body shall have the right to file a claim for exacting the alimony for the underaged children against their parents (against one of them).

#### **Article 81. The Amount of Alimony to Be Exacted for Underaged Children Through Court**

1. In the absence of an agreement on the payment of alimony, the alimony for the underaged children shall be exacted by the court from their parents monthly earnings in the amount of one fourth of the parents' earnings and (or) of another kind of income for one child, one third - for two children, and half of the parents' earnings and (or) other income - for three or more children.

2. The amount of these shares may be reduced or increased by the court with account for the material situation or the family status of the parties, and also for other circumstances worthy of attention.

#### **Article 82. The Kinds of Earnings and (or) of Other Income from Which Alimony for Underaged Children Shall Be Taken**

The kinds of the earnings and (or) of other income, received by the parents in roubles

and (or) in foreign currency, from which an alimony for underaged children shall be withheld in conformity with [Article 81](#) of the present Code, shall be determined by the Government of the Russian Federation.

*The [List of Types of Salaries and Other Incomes From Which Alimony Are Deductible for Minor Children](#) was approved by [Decision of the Government of the Russian Federation No. 841 of July 18, 1996](#)*

**Article 83.** Exaction of Alimony for Underaged Children as a Fixed Monetary Amount

1. If there is no parents' agreement on the payment of alimony for underaged children, and if the parent obliged to pay the alimony, has irregular or changing earnings and (or) other income, or if this parent receives these earnings and (or) other income fully or in part in kind or in foreign currency, or if he has no earnings and (or) other income, and also in other cases, if the exaction of the alimony as a share of the parent's earnings and (or) other income is impossible, difficult or essentially infringes upon the interests of one of the parties, the court shall have the right to define the amount of the alimony, to be exacted monthly, as a fixed monetary amount, or as the share (in conformity with [Article 81](#) of the present Code) and as a fixed monetary amount simulataneously.

2. The size of the fixed monetary amount shall be defined by the court, proceeding from an attempt to ensure to the maximum possible extent the child's former maintenance level, taking into account the material situation and the family status of the parties and other circumstances worthy of attention.

3. If both of the parents has the children staying with him, the size of the alimony, taken from one of the parents in favour of the other parent, worse provided for, shall be defined as a fixed monetary sum, to be exacted monthly and to be defined by the court in conformity with Item 2 of the present Article.

**Article 84.** Exaction and Use of Alimony for Children, Left Without Parental Care

1. The alimony for the children left without parental care, shall be exacted in conformity with [Articles 81-83](#) of the present Code and shall be paid out to the guardian (the trustee) of the children, or to their foster parents.

*[Federal Law No. 49-FZ of April 24, 2008 amended Item 2 of Article 84 of this Code. The amendments shall \[enter into force from September 1, 2008\]\(#\)](#)*

2. The alimony exacted from the parents for the children left without parental care and staying at educational establishments, medical centres, institutions for the social protection of the population or at other similar institutions, shall be entered onto the accounts of these institutions, where they shall be registered separately by every child.

The said institutions shall have the right to deposit these sums of money into banks. Fifty per cent of the incomes from the circulation of the deposited alimonies shall be used for maintaining the children at the said institutions. When the child leaves such an institution, the sum of alimony received for him, and fifty per cent of the income derived from its circulation, shall be entered onto the account opened in the child's name at a branch of the Savings Bank of the Russian Federation.

**Article 85.** The Right to Alimony of Disabled Adult Children

1. The parents shall be obliged to maintain their disabled adult children in need of assistance.

2. In the absence of an agreement on the payment of the alimony, the amount of the alimony for the disabled adult children shall be defined by the court as a fixed monetary sum subject to monthly payment, proceeding from the material situation and the family status, and also from other interests of the parties worthy of attention.

#### **Article 86.** The Parents' Participation in Extra Expenses for Children

1. In the absence of an agreement and in the face of some emergency circumstances (a grave illness, a severe injury of the underaged children or the existence of disabled adult needy children, taking care of whom makes it necessary to pay for outside help, and other circumstances), each of the parents may be obliged by the court to bear extra expenses, called forth by these circumstances.

The method of the parents' participation in bearing extra expenses and the amount of these expenses shall be determined by the court, proceeding from the material situation and the family status of the parents and of the children, and also from the other interests of the parties, worthy of attention, as a fixed monetary sum, subject to monthly payment.

2. The court shall have the right to oblige the parents to take part both in the actually borne extra expenses and in the extra expenses, which it would be necessary to make in the future.

#### **Article 87.** The Duties of Adult Children in Maintaining Parents

1. The able-bodied adult children shall be obliged to maintain their disabled parents in need of assistance, and to take care of them.

2. In the absence of an agreement on the payment of the alimony for disabled parents in need of assistance, the alimony shall be exacted from the able-bodied adult children through the court.

3. The amount of alimony exacted from every child, shall be defined by the court, proceeding from the material situation and the family status of the parents and of the children, and from the other interests of the parties worthy of attention, as a fixed monetary sum, subject to the monthly payment.

4. When defining the amount of the alimony, the court shall have the right to take into account all the able-bodied adult children of the given parent, regardless of whether the claim was filed against all the children, against one of them, or against a few of them.

5. The children may be relieved of the duty to maintain their disabled parents in need of assistance if the court establishes that the parents have shirked the discharge of parental duties.

The children shall be relieved of the payment of the alimony to the parents deprived of the parenthood.

#### **Article 88.** Participation of Adult Children in Extra Expenses on Parents

1. In the absence of the adult children's care of their disabled parents, and in the face of emergency circumstances (a serious illness or a grave injury of the parent, the need to pay for outside help, etc.), the adult children may be obliged by the court to take part in bearing extra expenses called forth by these circumstances.

2. The way of bearing extra expenses by every adult child and the amount of these expenses shall be determined by the court, with account for the material situation and the family status of the parents and of the children, and of the other interests of the parties

worthy of attention, while abiding by the provisions of [Items 3](#), [4](#) and [5](#), Article 87 of the present Code).

3. The method of bearing extra expenses and the amount of these expenses may also be defined by an agreement between the parties.

## **Chapter 14. The Alimony Obligations of Spouses and of Ex-Spouses**

### **Article 89. The Spouses' Duties as per the Mutual Maintenance**

1. The spouses shall be obliged to materially support each other.

2. In case of refusal to render such support and in the absence of an agreement between the spouses on the payment of alimony, the right to claim for alimony through court from the other spouse who possesses the necessary means for this, shall be enjoyed by:

- a needy disabled spouse;
- the wife in the period of pregnancy and in the course of three years after the birth of the common child;
- a needy spouse looking after the common invalid child, until the child reaches the age of 18 years, or after the common child - the 1st group invalid from childhood.

### **Article 90. The Ex-Spouse's Right to Alimony after the Dissolution of the Marriage**

1. The right to claim alimony through the court from the ex-spouse, who possesses the necessary means for this, shall be enjoyed by:

- the ex-wife in the period of pregnancy and in the course of three years after the birth of the child;
- a needy ex-spouse, looking after the common invalid child, until the child reaches the age of 18 years, or looking after the common child - the 1st group invalid from childhood;
- a disabled needy ex-spouse, who has become disabled before the dissolution of the marriage or in the course of one year from the moment of the dissolution of the marriage;
- a needy ex-spouse who has reached pensionable age no later than five years since the dissolution of the marriage, if the spouses were married for a long time.

2. The amount of the alimony and the method of its payment to the ex-spouse after the dissolution of the marriage may be defined by an agreement between the ex-spouses.

### **Article 91. The Amount of Alimony Exacted from Parents Through the Court**

In the absence of an agreement between the spouses (the ex-spouses) on the payment of an alimony, the amount of the alimony to be exacted from the spouse (the ex-spouse) through the court, shall be defined by the court, proceeding from the material situation and the family status of the spouses (the ex-spouses) and from other interests of the parties worthy of attention, as a fixed monetary sum subject to the monthly payment.

### **Article 92. Relieving the Spouse of the Duty to Maintain the Other Spouse, or Restricting This Duty by a Term**

The court may relieve the spouse of the duty to maintain the other disabled spouse in need of assistance, or restrict this duty by a definite term, both in the period of the marriage and after its dissolution, if:

- the disabledness of the spouse in need of assistance has set in as a result of the

abuse of strong drink or drugs, or as a result of his committing a premeditated crime;  
- the short term of the spouses' marriage;  
- inappropriate behaviour in the family of the spouse claiming alimony.

## **Chapter 15. The Alimony Duties of Other Family Members**

### **Article 93. The Brothers' and the Sisters' Duties in Maintaining Their Underaged and Disabled Adult Brothers and Sisters**

Underaged brothers and sisters in need of assistance shall have the right, if it is impossible to be maintained by their parents, to receive through court alimony from their able-bodied adult brothers and sisters possessing the necessary means for this. The same right shall be granted to disabled adult brothers and sisters in need of assistance, if they cannot be maintained by their able-bodied adult children or spouses (ex-spouses) or by their parents.

### **Article 94. The Grandfather's and the Grandmother's Duties in Maintaining Their Grandchildren**

Underaged grandchildren in need of assistance shall have the right, if it is impossible to be maintained by their parents, to receive through court alimony from their grandfather and grandmother possessing the necessary means for this. The same right shall be granted to the disabled adult grandchildren in need of assistance if they cannot be maintained by their spouses (ex-spouses) or by their parents.

### **Article 95. The Grandchildren's Duty to Maintain Their Grandfather and Grandmother**

The disabled grandfather and grandmother in need of assistance shall have the right, if it is impossible to be maintained by their adult able-bodied children or by the spouse (the ex-spouse), to claim through the court alimony from their able-bodied adult grandchildren, possessing the necessary means for this.

### **Article 96. The Duty of the Wards to Maintain Those Persons, Who Have Actually Raised Them**

**1.** The disabled persons in need of assistance who have actually brought up and maintained the underaged children, shall have the right to claim through the court a maintenance from their able-bodied wards, who have reached the majority, if they cannot get it from their able-bodied adult children or from their spouses (ex-spouses).

**2.** The court shall have the right to relieve the wards of the duty to maintain those persons who have actually raised them, if they have maintained and brought them up over less than five years, and also if they have maintained and brought them up in an improper way.

**3.** The duties stipulated by Item 1 of the present Article shall not be imposed upon those wards who have been put under guardianship (trusteeship), or who have been brought up in foster families.

### **Article 97. The Duties of the Stepsons and the Stepdaughters to Maintain Their Stepfather and Stepmother**

**1.** The disabled stepfather and stepmother in need of assistance, who have brought up and maintained their stepsons or their stepdaughters, shall have the right to claim through a court maintenance from their able-bodied adult stepsons or stepdaughters who

possess the necessary means for this, if they cannot get the maintenance from their adult able-bodied children or from their spouses (ex-spouses).

2. The court shall have the right to relieve the stepsons and the stepdaughters of the duty to maintain their stepfather or their stepmother, if the latter have brought them up and have maintained them for less than five years, and also if they have discharged their duties involved in bringing up and in maintaining their stepsons and stepdaughters in an improper way.

#### **Article 98.** The Amount of Alimony Exacted Through the Court for Other Family Members

1. The amount and the method of payment of alimony for the persons, indicated in [Articles 93-97](#) of the present Code, may be defined by an agreement between the parties.

2. In the absence of an agreement between the parties, the amount of the alimony to be exacted through the court shall be established by the court in each particular case, proceeding from the material situation and the family status of the alimony payer and of the alimony recipient, and also from other interests of the parties worthy of attention, as a fixed monetary sum subject to the monthly payment.

3. If the duty to maintain a family member claiming alimony shall be discharged by several persons simultaneously, the court shall define, depending on their material situation and family status, the share of the participation of each of them in discharging the alimony duty. When determining the amount of the alimony, the court shall have the right to take into account all the persons obliged to pay the alimony, regardless of whether the claim was filed against all of these persons, against one of them, or against some of them.

### **Chapter 16. Agreements on the Payment of Alimony**

#### **Article 99.** Concluding an Agreement on the Payment of Alimony

An agreement on the payment of alimony (on the amount, the terms and the method of payment of the alimony) shall be concluded between the person who is obliged to pay the alimony, and its recipient, and if the person, obliged to pay the alimony, and (or) the alimony recipient are disabled - between the legal representatives of these persons. The partially capable persons shall conclude an agreement on the payment of an alimony with the consent of their legal representatives.

#### **Article 100.** The Form of an Agreement on the Payment of Alimony

1. An agreement on the payment of alimony shall be concluded in written form and shall be subject to the notarial certification.

The non-observance of the law-established form of an agreement on the payment of alimony shall entail the consequences stipulated by [Item 1, Article 165](#) of the Civil Code of the Russian Federation.

2. A notarially certified agreement on the payment of alimony shall have the force of a writ of execution.

#### **Article 101.** The Way of Concluding, Executing, Amending, Cancelling and Recognizing as Invalid an Agreement on the Payment of Alimony

1. Towards the conclusion, execution, cancellation and recognition as invalid of an agreement on the payment of alimony shall be applied the norms of the [Civil Code](#) of the Russian Federation regulating the conclusion, execution, cancellation and recognition as invalid of civil deals.

2. An agreement on the payment of an alimony may be amended or cancelled at any time by the mutual consent of the parties. The amendment or cancellation of an agreement on the payment of alimony shall be effected in the same form as the agreement on the payment of the alimony itself.

3. A unilateral refusal to execute an agreement on the payment of alimony, or a unilateral amendment of its terms shall not be admissible.

4. If an essential change takes place in the material situation or in the family status of the parties, and if they fail to come to an understanding as concerns the amending or the cancelling of the agreement on the payment of alimony, the interested party shall have the right to file a claim for amending or for cancelling this agreement with a court. When resolving the issue of amending or of cancelling an agreement on the payment of an alimony, the court shall have the right to take into account any interest of the parties worthy of attention.

**Article 102.** Recognizing as Invalid Agreements on the Payment of Alimony Violating the Interests of the Alimony Recipient

If the terms for providing maintenance to an underaged child or to an adult disabled family member, envisaged by an agreement on the payment of the alimony, essentially infringe upon their interests, in particular, in case of non-observance of the requirements of Item 2, Article 103 of the present Code, such an agreement may be recognized as invalid in court upon the claim of a legal representative of the underaged child or of the disabled adult family member, and also of the guardianship and trusteeship body or of the Prosecutor.

**Article 103.** The Amount of Alimony Paid under an Agreement on the Payment of Alimony

1. The amount of alimony paid under an agreement on the payment of an alimony, shall be defined by the parties to the agreement.

2. The amount of alimony established by an agreement on the payment of alimony for underaged children may not be less than the amount of alimony which they could have received if the alimony had been exacted through a court ([Article 81](#) of the present Code).

**Article 104.** The Methods and the Procedure of the Payment of Alimony by an Agreement on Payment of Alimony

1. The methods and the procedure of the payment of an alimony by an agreement on the payment of an alimony shall be defined by this agreement.

2. The alimony may be paid as a share of the earnings and (or) of another income of the person obliged to pay the alimony; as a fixed monetary sum, paid at regular intervals; by giving property, and also in other methods, on which an agreement is reached.

In an agreement on the payment of alimony may be envisaged a combination of different ways of the payment of an alimony.

**Article 105.** Indexation of the Amount of Alimony to Be Paid by an Agreement on the Payment of Alimony

The indexation of the amount of the alimony paid by an agreement on the payment of alimony shall be effected in conformity with this agreement. If the method of the indexation is not envisaged in the agreement on the payment of alimony, the indexation shall be effected in conformity with [Article 117](#) of the present Code.

## **Chapter 17. Procedure for the Payment and for the Exaction of Alimony**

### **Article 106.** Exaction of Alimony by a Court Decision

In the absence of an agreement on the payment of an alimony, the family members, indicated in [Articles 80-99](#) of the present Code, shall have the right to file a claim with the court for exacting alimony.

### **Article 107.** The Term for Applying for Alimony

1. The person enjoying the right to receive alimony shall have the right to turn to a court with an application for exacting alimony, regardless of the term which has passed from the moment when the right to an alimony arose, if alimony has not been paid out before by an agreement on the payment of alimony.

2. Alimony shall be adjudged as from the moment of turning to court.

Alimony for the past period may be exacted within a three-year term back from the moment of turning to the court, if the court establishes that the measures aimed at obtaining the means for the maintenance were duly taken, but no alimony was received, because the person who was obliged to pay alimony avoided its payment.

### **Article 108.** Exaction of Alimony Before Resolving Dispute in Court

1. On a case on exacting an alimony, the court shall have the right to pass a ruling on the exaction of alimony before the court decision on the exaction of alimony comes into legal force; and on its exaction for underaged children - even before the court takes a decision on the exaction of the alimony.

2. The amount of the alimony to be exacted shall be defined by the court, proceeding from the material situation and the family status of the parties. The amount of alimony to be exacted for the underaged children, shall be defined in conformity with [Article 81](#) of the present Code.

### **Article 109.** The Duty of the Administration of an Organisation to Withhold Alimony

The administration of an organisation at the place of the job of a person who is obliged to pay alimony on the ground of a notarially certified agreement on the payment of alimony, or on the ground of the court order, shall be obliged to withhold the alimony every month from the wages and (or) from other income of the person obliged to pay the alimony, and shall be obliged to pay or to transfer it at the expense of the person, obliged to pay the alimony, to the person receiving the alimony no later than within three days from the payment of the wages and (or) of another income to the person obliged to pay an alimony.

### **Article 110.** Deduction of Alimony on the Ground of an Agreement on the Payment of Alimony

The deduction of alimony on the ground of a notarially certified agreement on the payment of alimony may also be effected if the total amount of the deductions made on the ground of such an agreement and of the court documents is over 50 per cent of the earnings and (or) of another income of the person obliged to pay alimony.

### **Article 111.** The Duty to Inform about the Change of the Place of the Job of the Person Obligated to Pay the Alimony

1. The administration of an organisation which withheld alimony on the ground of a

court decision or a notarially certified agreement on the payment of alimony, shall be obliged to inform within a three-day term the officer of justice at the place of executing the decision on exacting alimony, and the person receiving the alimony, about the dismissal of the person obliged to pay alimony, and also about his new place of job or residence, if it is aware of it.

**2.** The person paying alimony shall be obliged, within the term established by Item 1 of the present Article, to inform the officer of justice and the person receiving alimony about the change of his/her job or residence, and in case the alimony is paid to underaged children - also about the existence of extra earnings or of other income.

**3.** In the case of non-provision, for no sound reason, of the information indicated in Items 1 and 2 of the present Article, the official persons and the other citizens guilty of this shall be called to answer in the law-established procedure.

#### **Article 112.** Turning the Exaction onto the Property of the Person Obligated to Pay Alimony

**1.** The alimony in the amount established by an agreement on the payment of the alimony or by a court decision, as well as the debt under alimony shall be exacted from the earnings and (or) other income of the person, obliged to pay the alimony; if the earnings and (or) other income prove to be insufficient, the alimony shall be exacted from the monetary means of the person obliged to pay the alimony, which are on his accounts in the banks or in other credit institutions, and also from the monetary means transferred by contracts to the commercial and the non-profit organisations, except for contracts entailing the transfer of the right of ownership. If these means are insufficient, the exaction shall be turned onto any property of the person obliged to pay the alimony, onto which the exaction may be turned by force of law.

**2.** The turning of the exaction onto monetary means in the accounts of the person obliged to pay an alimony, and on his other property, shall be effected in conformity with the procedure, stipulated by the civil procedural legislation.

#### **Article 113.** Defining the Debt by Alimony

**1.** The exaction of alimony for the past period on the ground of an agreement on the payment of alimony or on the ground of a court order shall be effected within a three-year term, preceding the presentaion of the court order or of the notarially certified agreement on the payment of the alimony due to exaction.

**2.** In the cases when the deduction of alimony on the ground of a court order or on the ground of a notarillay certified agreement on the payment of alimony was not effected otherwise than through the fault of the person obliged to pay alimony alimony shall be exacted for the entire period, regardless of the three-year term, decreed by [Item 2, Article 107](#) of the present Code.

**3.** The amount of the debt shall be defined by the officer of justice proceeding from the amount of alimony, defined by the court decision or by the agreement on the payment of alimony.

**4.** The amount of the debt under alimony paid for underaged children in conformity with [Article 81](#) of the present Code, shall be defined proceeding from the earnings and other income of the person obliged to pay alimony, over the period in the course of which no alimony was exacted. If the person, obliged to pay the alimony, did not work in this period, or if the documents confirming his earnings and (or) other income are not presented, the debt under alimony shall be defined proceeding from the average wage in the Russian Federation at the moment of exacting the debt. If such definition of the debt

essentially infringes upon the interests of one of the parties, the party whose interests are infringed upon, shall have the right to turn to a court, which may define the debt as a fixed monetary sum proceeding from the parties' material situation and family status, and also from other circumstances worthy of attention.

5. In the case of the non-consent with the definition of the debt under alimony by the officer of justice, any of the parties may appeal against the actions of the officer of justice in conformity with the procedure stipulated by the civil procedural legislation.

6. The amounts of monthly allowance for the child established by federal law paid during the time of the search for his/her parents who avoid the payment of the alimony, shall be exacted from these parents in the part of their 50 per cent increase, with the adding of a 10 per cent mark-up from the paid-out sums to be entered into the revenue of the budget of the subjects of the Russian Federation. The said claims shall be equalized to the claim for the payment of the alimony.

#### **Article 114.** Relief of the Payment of the Debt under Alimony

1. Relief of the payment of the debt under alimony or reducing the amount of the debt by the payment of alimony by an agreement between the parties, shall be possible upon the parties' mutual consent, with the exception of the payment of alimony for underaged children.

2. The court shall have the right, by a claim of persons, obliged to pay alimony, to relieve him/her fully or in part of the payment of the debt by the alimony, if it establishes that the alimony was not paid in connection with this person's illness, or because of other valid reasons, and that his material situation and family status makes it impossible for him to service the debt which has accumulated under alimony.

#### **Article 115.** Responsibility for Untimely Payment of Alimony

1. If the debt arises through the fault of the person, obliged to pay the alimony under an agreement on the payment of alimony, the guilty person shall be called to answer in the procedure stipulated by this agreement.

[Federal Law No. 106-FZ of June 30, 2008 amended Item 2 of Article 115 of this Code](#)  
[See the Item in the previous wording](#)

2. If the debt has arisen through the fault of the person obliged to pay the alimony by a court decision, the guilty person shall pay to the alimony recipient a penalty in the amount of one-second of one per cent from the amount of the unpaid alimony for every day of delay.

The alimony recipient shall also have the right to exact from the person, obliged to pay the alimony, who is guilty of its delayed payment, all the losses, caused by the delay in the execution of the alimony obligations, in the part not covered by the penalty.

#### **Article 116.** Inadmissibility of the Offsetting and of the Back Exaction of the Alimony

1. The alimony may not be offset against other counter claims.

2. The paid out sums of the alimony may not be claimed back, with the exception of the following cases:

- a repeal of the court decision on exacting the alimony, if the alimony recipient provided false information or if he presented forged documents;
- recognizing the agreement on the payment of the alimony as invalid because of its

being concluded under the impact of deceit, threats or coercion on the part of the alimony recipient;

- establishment by the court sentence of the fact of forging the court decision, the agreement on the payment of the alimony or the court order, on the ground of which the alimony was paid.

3. If the actions, pointed out in Item 2 of the present Article are committed by the representative of an underaged child or of an adult legally incapable alimony recipient, the back exaction of the alimony shall not be effected, while the amounts of the paid out alimony shall be exacted from the guilty representative upon the claim of the person obliged to pay the alimony.

#### **Article 117.** Indexation of Alimony

1. The indexation of the alimony exacted by a court decision as a fixed monetary amount shall be effected by the administration of the organisation at the place of withholding the alimony, proportionately to the increase of the law-established amount of the minimum remuneration of labour.

2. For the purposes of indexation, the size of the alimony shall be established by the court as a definite number of the minimum sizes of the remuneration of labour.

#### **Article 118.** Payment of Alimony If the Person Obligated to Pay the Alimony Moves for Permanent Residence to a Foreign State

1. The person moving for permanent residence to a foreign state, shall have the right to conclude with the family members, for whom he is obliged by law to provide maintenance, an agreement on the payment of alimony in conformity with [Articles 99, 100, 103](#) and [104](#) of the present Code.

2. If no agreement is reached, the interested person shall have the right to turn to the court with a claim for defining the size of the alimony as a fixed monetary sum and for the lump payment of the alimony, or for offering a certain property instead of the alimony, or for the payment of the alimony in another way.

#### **Article 119.** Amending the Size of the Alimony Established by a Court, and Relief of the Payment of the Alimony

1. If, in the absence of an agreement on the payment of the alimony, the material situation or the family status of one of the parties has changed, the court shall have the right, upon the claim of any one of the parties, to amend the established size of the alimony or to relieve the person obliged to pay the alimony of its payment. In changing the size of the alimony or in relieving him/her of its payment, the court shall also have the right to take into account any other interest of the parties worthy of attention.

2. The court shall have the right to refuse the exaction of alimony for an adult capable person if it is established that he/she has committed, with respect to the person obliged to pay the alimony, a premeditated crime, or in the case of a mean behaviour of the capable adult person in the family.

#### **Article 120.** Termination of Alimony Obligations

1. Alimony obligations established by an agreement on the payment of alimony, shall cease with the death of one of the parties, with the expiry of the term of operation of this agreement, or on the grounds stipulates by this agreement.

2. The payment of the alimony exacted through the court shall cease:

- when the child reaches 18 or if the underaged children acquire full legal capacity

before their reaching 18;

- in case of adoption of the child for whose maintenance the alimony was exacted;
- if a court recognizes that the work capacity of the alimony recipient has been restored or that he is no longer in need of assistance;
- if the disabled ex-spouse in need of assistance who received the alimony enters into a new marriage;
- with the death of the person who received the alimony, or of the person obliged to pay the alimony.

## **Section VI. The Forms of Upbringing Children Left Without Parental Care**

### **Chapter 18. Identification and Accommodation of Children Left Without Parental Care**

#### **Article 121. Protection of the Rights and Interests of Children Left Without Parental Care**

*Federal Law No. 49-FZ of April 24, 2008 amended Item 1 of Article 121 of this Code.  
The amendments shall enter into force from September 1, 2008*

**1.** The protection of the rights and interests of children in the case of the death of their parents, of the deprivation of their parents of parenthood, of restricting them in the parental rights, of recognizing the parents as incapable, of the parents' illness, of the parents' long absence, of the parents' avoidance of bringing up their children or of protecting their rights and interests, including in the case of the parents' refusal to take their children from the educational establishments, medical centres, institutions for the social protection of the population and from other similar institutions, and also in other cases of the absence of parental care, shall be entrusted to the guardianship and trusteeship bodies.

The guardianship and trusteeship bodies shall identify children left without parental care shall register such children and, proceeding from the specific circumstances of the loss of parental care, shall select the forms, suitable for the accommodation of such children, left without parental care ([Article 123](#) of the present Code), and shall also exert control over the conditions of their maintenance, upbringing an education.

The activity of legal and natural persons, other than the guardianship and trusteeship bodies involved in the identification and accommodation of children left without parental care shall not be admissible.

*Federal Law No. 258-FZ of December 29, 2006 amended Item 2 of Article 121 of this Code. The amendments shall enter into force from January 1, 2008  
See the Item in the previous wording*

**2.** The guardianship and trusteeship bodies shall be the executive power bodies of a constituent entity of the Russian Federation. The questions related to the organisation and activity of the executive power bodies of a constituent entity of the Russian Federation involved in organising the guardianship and trusteeship over children left without parental care shall be defined by the laws of the subjects of the Russian Federation, with the present Code and with the [Civil Code](#) of the Russian Federation.

[Federal Law No. 94-FZ of June 27, 1998 introduced amendments to Article 122 of the present Code](#)

[See the previous text of the Article](#)

**Article 122.** Identification and Registration of Children Left Without Parental Care

1. The official persons of the institutions (pre-school educational establishments, general educational establishments, medical centres and other institutions) and other citizens disposing of information on the children indicated in [Item 1, Article 121](#) of the present Code, shall be obliged to report it to the guardianship and trusteeship bodies at the place of the children's actual stay.

The guardianship and trusteeship body shall, within three days from the date of receiving the information, carry out an inspection of the conditions of the child's life and, in the case of establishing the fact of the absence of care on the part of his parents or of his relatives, shall provide for protecting the child's rights and interests until the issue of his accommodation is resolved.

[Federal Law No. 49-FZ of April 24, 2008 reworded Item 1 of Article 122 of this Code. The new wording of the Item shall enter into force from September 1, 2008](#)

2. The heads of the educational establishments, medical centres, institutions for the social protection of the population and other similar institutions, into which children left without parental care are placed, shall be obliged, within a seven-day term from the date of learning that the child may be given for upbringing to a family, to inform about this the guardianship and trusteeship body at the place of location of the given institution.

[Federal Law No. 185-FZ of December 28, 2004 reworded Item 3 of Article 122 of this Code](#)

[See the text of the Item in the previous wording](#)

3. The body of guardianship and trusteeship shall, within a month from the day of receipt of the information indicated in [Items 1 and 2](#) of this Article, ensure the placement of the child ([Article 123](#) of this Code), and if it impossible transfer the child for upbringing to a family, shall send the information about such child upon the expiry of the indicated period to the relevant body of executive power of the subject of the Russian Federation for recording in the regional bank of data about children who have remained without parental care.

The executive body of the subject of the Russian Federation, within a month from the day of receipt of information on the child shall organise his(her) placement in a family of citizens residing on the territory of the given subject of the Russian Federation, and in the absence of such possibility shall send the indicated information to the federal body of executive power determined by the Government of the Russian Federation for recording in the federal bank of data about children who have remained without parental care, and for rendering assistance in the subsequent placement of the child for upbringing with a family of citizens of the Russian Federation, permanently residing on the territory of the Russian Federation.

The regional databases of children who have remained without parental care, and the federal database of children who have remained without parental care, shall make up the state database of children who have remained without parental care.

The procedure for the formation and use of state database of children who have remained without parental care shall be determined by a federal law.

*On the State Database of Children Left Without the Parental Care, see [Federal Law No. 44-FZ of April 16, 2001](#)*

*[Federal Law No. 49-FZ of April 24, 2008 amended Item 4 of Article 122 of this Code.](#) The amendments shall [enter into force from September 1, 2008](#)*

4. For the non-discharge of the obligations stipulated by Item 2 and Item 3 of the present Article, for supplying deliberately false information, and also for other actions aimed at concealing the child from his placing for upbringing into a family, the heads of the institutions and the officials of the bodies indicated in Items 2 and 3 of this Article shall be made answerable in the law-established procedure.

*[Federal Law No. 49-FZ of April 24, 2008 amended Article 123 of this Code.](#) The amendments shall [enter into force from September 1, 2008](#)*

#### **Article 123.** Accommodation of Children Left Without Parental Care

*[Federal Law No. 32-FZ of January 2, 2000 amended paragraph 1 of Article 123](#)  
[See the previous text of the paragraph](#)*

1. Children left without parental care shall be subject to placing for upbringing into a family (for adoption, under guardianship (trusteeship) or into a foster family), and in the absence of such an opportunity, into any kind of institution for orphans or for children left without parental care (into educational establishments, including children's homes of the family type, medical centres, institutions for the social protection of the population and into other similar institutions).

Other forms of accommodation of children, left without parental care, may be stipulated by the laws of the subjects of the Russian Federation.

When accommodating the child, account shall be taken of his ethnical origin, affiliation to a certain religion and culture, his native tongue and the possibility of ensuring succession in his upbringing and education.

2. Until children left without parental care are placed for upbringing into a family or into the institutions pointed out in Item 1 of the present Article, the duties of the children's guardian (trustee) shall be temporarily imposed upon the guardianship and trusteeship body.

### **Chapter 19. Adoption of Children**

*[Federal Law No. 94-FZ of June 27, 1998 introduced amendments to Article 124 of the present Code](#)  
[See the previous text of the Article](#)*

#### **Article 124.** Children with Respect to Whom Adoption Shall Be Admitted

*On the application of the legislation by the courts in reviewing cases for adoption of*

*children, see [Resolution of the Plenum of the Supreme Court of the Russian Federation No. 8 of April 20, 2006](#)*

1. Adoption of a boy or a girl (hereinafter, adoption) shall be a priority form of placement of children who have remained without parental care.

2. The adoption shall be admitted with respect to underaged children and only in their interest, with the observance of the requirements of [paragraph three of Item 1 of Article 123](#) of this Code, and also with regard to the possibilities of the provision to children of adequate physical, psychic, spiritual and moral development.

3. The adoption of brothers and sisters by different persons shall not be admitted, with the exception of the cases when the adoption is effected in the children's interest.

*[Federal Law No. 185-FZ of December 28, 2004 reworded Item 4 of Article 124 this Code](#)*

*[See the text of the Item in the previous wording](#)*

4. The adoption of children by foreign citizens or by stateless persons shall be admitted only in cases when it is impossible to give these children for upbringing into the families of citizens of the Russian Federation, who permanently reside on the territory of the Russian Federation, or for adoption to the children's relatives, regardless of the citizenship or the place of residence of these relatives.

The children may be given for adoption to citizens of the Russian Federation who permanently reside outside of the territory of the Russian Federation, or to foreign citizens or to stateless persons who are not the children's relatives, after the expiry of six months from the date of the receipt of the information about such children by the federal bank of the data about children who have remained without parental care in conformity with [Item 3, Article 122](#) of the present Code.

*[Federal Law No. 94-FZ of June 27, 1998 introduced amendments to Article 125 of the present Code](#)*

*[See the previous text of the Article](#)*

#### **Article 125.** Procedure for Adopting a Child

1. The adoption shall be effected by the court upon the application of the persons (a person), wishing to adopt the child. The cases on instituting the adoption of the child shall be considered by the court by conducting special proceedings, according to the rules, stipulated by the [civil procedural legislation](#).

The cases on the establishment of the adoption of children shall be considered by a court with the obligatory participation of the adopters themselves, the bodies of trusteeship and guardianship, and also the procurator.

2. For the establishment of the adoption of a child a conclusion of the body of trusteeship and guardianship on the soundness of the adoption and on its conformity to the interests of the child shall be necessary being adopted, with an indication of the information about the fact of personal contracts of the adopters (or adopter) with the child being adopted.

*[Paragraph two of Item 2 of Article 125 of the present Code is \[put into effect\]\(#\) from the date of official publication of the corresponding legal acts of Government of the Russian Federation](#)*

*At present the [Regulations on the Procedure for the Transfer of Children - the Citizens of the Russian Federation for Adoption to Citizens of the Russian Federation and to Foreign Citizens, approved by \[Decision of the Government of the Russian Federation No. 917 of September\]\(#\), are in force](#)*

The procedure for the transfer of children for adoption, and also of the exercise of control over the conditions of the life and upbringing of children in the families of the adopters on the territory of the Russian Federation shall be determined by the Government of the Russian Federation.

**3.** The rights and duties of the adopter and of the adopted child ([Article 137](#) of the present Code) shall arise as from the date of the court decision on instituting the child's adoption coming into legal force.

The court shall be obliged, within three days from the court decision on instituting the child's adoption coming into legal force, to forward an excerpt from this court decision to the local registry office at the place of passing the decision.

The adoption of a child shall be subject to state registration in conformity with the procedure laid down for state registration of civil status acts.

*On the state recording of the adoption of a son (or daughter), see [Federal Law No. 143-FZ of November 15, 1997](#)*

#### **Article 126.** Registration of Children Subject to Adoption, and of Persons Wishing to Adopt a Child

**1.** Registration of the children subject to adoption shall be effected as established by [Item 3, Article 122](#) of the present Code.

**2.** The registration of the persons wishing to adopt a child, shall be effected in the way defined by the executive power bodies of the subjects of the Russian Federation.

The registration of the foreign citizens and of the stateless persons, wishing to adopt children, who are the citizens of the Russian Federation, shall be effected by the executive power bodies of the subjects of the Russian Federation or by the federal executive power bodies ([Item 3, Article 122](#) of the present Code).

*[Federal Law No. 94-FZ of June 27, 1998](#) supplemented the present Code with [Article 126.1](#)*

#### **Article 126.1** Impermissibility of Intermediary Activity in the Adoption of Children

**1.** Any intermediary activity in the adoption of children, that is, any activity of third parties with the purpose of selecting and transferring children for adoption in the name and in the interest of persons wishing to adopt children shall be impermissible.

**2.** Not deemed to be intermediary activity in the adoption of children shall be activity of the bodies of trusteeship and guardianship and of the bodies of the executive power in the performance of their incumbent duties in the revelation and placement of children who have remained without parental care, and also the activity of specially authorized bodies or organisations or foreign states in the adoption of children which is being carried out on the territory of the Russian Federation by virtue of an international treaty of the Russian Federation or on the basis of the principle of reciprocity. The bodies and organisations

indicated in this Item may not pursue commercial purposes in their activity.

*Paragraph two of Item 2 of Article 126.1 of the present Code is put into effect from the date of official publication of the corresponding legal acts of the Government of the Russian Federation*

The procedure for the activity of the bodies and organizations of foreign states in the adoption of children on the territory of the Russian Federation and the procedure for the control over its conduct shall be established by the Government of the Russian Federation as per a presentation of the Ministry of Justice of the Russian Federation and the Ministry of Foreign Affairs of the Russian Federation.

*See Regulations on the Activity of Bodies and Organisations of Foreign States Engaged in Adoption of Children in the Territory of the Russian Federation and Control Over Conduct of Such Activity, approved by Decision of the Government of the Russian Federation No. 654 of November 4, 2006*

**3.** The obligatory personal participation of the persons (or person) wishing to adopt a child in the process of adoption shall not deprive them of the right to have simultaneously their representative, whose rights and duties have been established by the civil and civil-procedural legislation, and also to use the services of an interpreter where necessary.

**4.** The responsibility for the conduct of the intermediary activity in the adoption of children shall be established by the legislation of the Russian Federation.

Federal Law No. 185-FZ of December 28, 2004 reworded Article 127 of this Code  
See the previous wording of the Article

#### **Article 127.** The Persons Who Have the Right to Be Adopters

**1.** Adopters may be adult persons of both sexes, with the exception of:

- persons recognized by a court as incapable or as partially capable;
- spouses, one of whom is recognized by a court as incapable or as partially capable;
- persons deprived of parenthood by the court or restricted in the parental rights by the court;
- persons dismissed from the duties of a guardian (a trustee) for improper fulfilment of the obligations, imposed upon him by law;
- the former adopters, if the adoption has been cancelled by the court through their fault;
- persons who cannot perform parental duties because of the state of their health. The list of the diseases, which prevent a person from adopting a child, from acting as his guardian (his trustee) or from accepting him into a foster family, shall be compiled by the Government of the Russian Federation.
- persons who, as of the moment of establishment of adoption, have no income to ensure the child being adopted with a minimum of subsistence established in the subject of the Russian Federation on whose territory the adopters (or adopter) reside;
- persons having no permanent residence;
- persons having, as at the moment of the establishment of adoption, a record of conviction for an intentional crime against the life or health of citizens.
- persons residing in premises which do not comply with sanitary and technical rules and norms.

*List of diseases serving as an obstacle to adopting a child as a ward (acting as a guardian) or as a member of an adopted family, was approved by [Decision](#) of the Government of the Russian Federation No. 542 of May 1, 1996*

*On the Procedure for the Medical Examination of Individuals Desirous of Becoming Adopters, Guardians (Trustees) or Foster Parents, see [Order](#) of the Ministry of Public Health of the Russian Federation No. 332 of September 10, 1996*

**1.1.** When making a decision on the adoption of a child the court has the right to deviate from the provisions which were established by [paragraphs 8](#) and [11 of Item 1](#) of this Article with due account of the interests of the adopted child and circumstances worthy of attention.

**1.2.** The Provisions established by [Paragraphs 8](#) and [11 of Item 1](#) of this Article shall not cover the stepfather (stepmother) of the adopted child.

**2.** The unmarried persons shall not jointly adopt one and the same child.

**3.** In the presence of several persons wishing to adopt one and the same child the preferential right shall be granted to the relatives of the child on the condition of the obligatory observance of the requirements of Items 1 and 2 of this Article and the interest of the child being adopted.

#### **Article 128.** An Age Gap Between the Adopter and the Adoptee

**1.** The age gap between an unmarried adopter and the adopted child shall not be less than 16 years. For reasons recognized by a court as valid, the age gap may be reduced.

**2.** The existence of the age gap laid down by Item 1 of the present Article, shall not be required, if the child is adopted by his stepfather (his stepmother).

*[Federal Law](#) No. 94-FZ of June 27, 1998 introduced amendments to Article 129 of the present Code*

*[See the previous text of the Article](#)*

#### **Article 129.** The Parents' Consent to the Adoption of a Child

*[Federal Law](#) No. 49-FZ of April 24, 2008 amended Item 1 of Article 129 of this Code. The amendments shall [enter into force](#) from September 1, 2008*

**1.** To adopt a child, it shall be necessary to obtain the consent of his parents. In the adoption of a child of underaged parents who have not reached the age of 16 years, it shall also be necessary to obtain consent of their parents or guardians (trustees), and in the absence of the parents or guardians (trustees) - the consent of the guardianship and trusteeship body.

The consent of the child's parents to his adoption shall be expressed in an application, certified notarially or by the head of the institution in which the child, left without parental care, is maintained, or by the local guardianship and trusteeship body at the place of the child's adoption, or by the place of his parents' residence, and may also be expressed directly in court, while instituting the adoption.

**2.** The parents shall have the right to withdraw the consent they have given for the child's adoption before the court decision on the adoption is passed.

**3.** Parents may give their consent to the adoption of a child by a specific person or

without the indication of a concrete person. The consent of parents to the adoptions of a child may be given only after his or her birth.

**Article 130.** The Child's Adoption Without the Parents' Consent

The parents' consent to the child's adoption shall not be required if they:

- are unknown or are recognized by a court as missing;
- are recognized by a court as legally incapable;
- are deprived by a court of the parenthood (with the observance of [Item 6, Article 71](#) of the present Code);
- for reasons recognized by a court as invalid, do not live with the child and shirk the duties involved in his/her upbringing and maintenance, for over six months.

[Federal Law No. 49-FZ of April 24, 2008 amended Article 131 of this Code. The amendments shall enter into force from September 1, 2008](#)

**Article 131.** Consent to the Child's Adoption of His Guardians (Trustees), Foster Parents and Heads of Institutions Where the Children Left Without Parental Care Stay

1. To adopt children put under guardianship (trusteeship), the written consent of their guardians (trustees) shall be required.

To adopt children placed into foster families the written consent of the foster parents shall be required.

To adopt children left without parental care and maintained at educational establishments, medical centres the institutions for the social protection of the population and at other similar institutions, the written consent of the heads of the given institutions shall be required.

2. The court shall have the right to adopt a decision on the child's adoption in the interests of the child without the consent of the persons indicated in Item 1 of the present Article.

**Article 132.** The Adopted Child's Consent to Adoption

1. To adopt a child who has reached the age of 10 years, his/her consent shall be required.

2. If, prior to filing an application for his/her adoption, the child lived in the adopter's family and believes him/her to be his parent, the adoption, by way of an exception, may be effected without receiving the consent of the adopted child.

**Article 133.** Consent of the Adopter's Spouse to the Adoption of a Child

1. In the adoption of the child by one of the spouses, the consent of the other spouse shall be required if the child is not adopted by both spouses.

2. The consent of the other spouse to the child's adoption shall not be required if the spouses have ceased their conjugal relations and have not lived together for over a year, and the place of the other spouse's residence is unknown.

**Article 134.** The First Name, Patronymic and Surname of the Adopted Child

1. The adopted child shall retain his first name, patronymic and surname.

2. At the request of the adopter, the child may be given the adopter's surname and the

first name he suggests. The patronymic of the adopted child shall be defined by the adopter's name if the adopter is a man, and if the adopter is a woman - by the name of the person, whom she indicates as the father of the adopted child. If the adopter spouses bear different surnames, the adopted child shall be awarded, by agreement between the adopter spouses, the surname of one of them.

**3.** If the child is adopted by an unmarried person, at his request the surname, first name and patronymic of the mother (father) of the adopted child shall be entered into the Register of Births at the suggestion of this person (of the adopter).

**4.** The surname, first name and patronymic of the adopted child who has reached the age of 10 years old, may be changed only with his consent, with the exception of the cases, stipulated by Item 2, Article 132 of the present Code).

**5.** The change of the adopted child's surname, first name and patronymic shall be pointed out in the court decision on his adoption.

#### **Article 135.** Changing the Date and Place of the Adopted Child's Birth

[Federal Law No. 185-FZ of December 28, 2004 reworded Item 1 of Article 135 of this Code](#)

[See the text of the Item in the previous wording](#)

**1.** To ensure the secret of adoption, the date of the adopted child's birth may be changed, but not by more than three months, as well as the place of his birth.

The change of the adopted child's date of birth shall be admitted only if the child is adopted at the age of less than twelve months. For reasons recognized by a court as valid, the change of the date of birth of the adopted child can be permitted when adopting a child who has reached the age of one year or older.

**2.** The change of the date and (or) of the place of birth of the adopted child shall be indicated in the court decision on his adoption.

#### **Article 136.** The Entry of the Adopters as the Adopted Child's Parents

**1.** At the request of the adopters, the court may take a decision on the entry of the adopters into the Register of Births as the parents of the child they have adopted.

**2.** Before making such an entry with respect to the adopted child who has reached the age of 10 years old, his consent shall be required, with the exception of the cases stipulated by [Item 2, Article 132](#) of the present Code.

**3.** The need for making such an entry shall be pointed out in the court decision on the child's adoption.

#### **Article 137.** Legal Consequences of the Child's Adoption

**1.** The adopted children and their progeny with respect to the adopters and their relatives, and the adopters and their relatives with respect to the adopted children and their progeny, shall be equalized in the personal non-property and property rights and duties to the relatives by kinship.

**2.** The adopted children shall lose their personal non-property and property rights and shall be relieved of their duties with respect to their parents (their relatives).

**3.** If the child is adopted by one person, his personal non-property and property rights and duties may be retained at the wish of the mother, if the adopter is a man, or at the wish of the father, if the adopter is a woman.

**4.** If one of the parents of the adopted child dies, at the request of the deceased parent's parents (the child's grandfather or his grandmother), his personal non-property

and property rights with respect to the deceased parent's relatives may be retained, if this is required by the child's interests. The right of the deceased parent's relatives to communicate with the adopted child shall be exercised in conformity with [Article 67](#) of the present Code.

**5.** The adopted child's maintaining relations with one of his parents or with the deceased parent's relatives shall be pointed out in the court decision on the child's adoption.

**6.** The legal consequences of the child's adoption, stipulated by Item 1 and Item 2 of the present Article, shall arise regardless of the writing down of the adopters as the child's parents in the official entry on the birth of this child.

#### **Article 138.** The Adopted Child's Retaining the Right to a Pension and to Allowances

The child, who by the moment of his adoption has the right to a pension and to the allowances due to him in connection with his parents' death, shall retain this right if he is adopted.

#### **Article 139.** The Secret of the Child's Adoption

**1.** The secret of the child's adoption shall be protected by law.

The judges who have passed a decision on the child's adoption, or the official persons who have effected the state registration of the adoption, as well as the persons who have learned about the adoption in another way, shall be obliged to keep the secret of the child's adoption.

**2.** The persons indicated in Item 1 of the present Article, who have divulged the secret of the child's adoption contrary to the will of his adopters shall be called to answer in the law-established order.

#### **Article 140.** Cancelling the Child's Adoption

**1.** The child's adoption shall be cancelled by the court.

**2.** The case on cancelling the child's adoption shall be considered with the participation of the guardianship and trusteeship body and of the Prosecutor.

**3.** The adoption shall cease from the date, when the court decision on cancelling the child's adoption comes into legal force.

The court shall be obliged, within three days from the court decision on cancelling the child's adoption coming into legal force, to forward an excerpt from this decision to the registry office at the place of the state registration of the adoption.

#### **Article 141.** The Grounds for Cancelling the Child's Adoption

**1.** The child's adoption may be cancelled if the adopters shirk the discharge of parental duties imposed upon them, abuse parental rights, treat the adopted child cruelly or suffer from chronic alcoholism or drug addiction.

**2.** The court shall cancel the child's adoption also on the other grounds, proceeding from the child's interests and taking into account his opinion.

#### **Article 142.** The Persons Who Have the Right to Claim Cancellation of the Child's Adoption

The right to claim that the child's adoption be cancelled shall be possessed by his parents, by the child's adopters, by the adopted child who has reached the age of 14 years, by the guardianship and trusteeship body, and by the Prosecutor.

**Article 143.** The Consequences of Cancelling the Child's Adoption

1. If a court cancels the child's adoption, the mutual rights and duties of the adopted child and of the adopters (of the adopter's relatives) shall cease, and the mutual rights and duties of the child and of his parents (of his relatives) shall be reinstated, if this is required by the child's interests.

2. If the adoption is cancelled, the child shall be given back, by the court decision, to his parents. In the absence of parents, and also if the child's return to his parents is contrary to his interests, the child shall be put into the charge of the guardianship and trusteeship body.

3. The court shall also resolve the question of whether the child shall retain the first name, patronymic and surname awarded to him in connection with the adoption.

The first name, patronymic and surname of the child who has reached 10 years shall be changed only with his consent.

4. The court shall have the right, proceeding from the child's interests, to oblige the ex-adopter to pay out the means for the child's maintenance in the amount fixed by [Article 81](#) and [Article 83](#) of the present Code.

**Article 144.** Inadmissibility of Cancelling the Adoption upon the Child's Reaching 18

The cancellation of the child's adoption shall not be admissible if at the moment of filing a claim for cancelling the adoption the adopted child has reached 18, with the exception of cases, when there is the mutual consent of both the adopter and of adopted child to such cancellation, and also of the adopted child's parents, if they are alive, not deprived of parenthood and not recognized by a court as legally incapable.

**Chapter 20. Guardianship and Trusteeship over Children**

*Federal Law No. 49-FZ of April 24, 2008 amended Article 145 of this Code. The amendments shall [enter into force](#) from September 1, 2008*

**Article 145.** The Children over Whom Guardianship or Trusteeship Is Instituted

1. Guardianship or the trusteeship shall be instituted over children, left without parental care ([Item 1, Article 121](#) of the present Code) for the purposes of their maintenance, upbringing and education, and also for protecting their rights and interests.

2. Guardianship shall be instituted over children who have not reached the age of 14 years.

Trusteeship shall be established over children aged from 14 to 18 years.

3. The institution and the termination of the guardianship and of the trusteeship over children shall be defined by the Civil Code of the Russian Federation.

**Article 146.** The Children's Guardians (Trustees)

1. Appointed as the children's guardians (trustees) may be only adult, legally capable persons. The persons deprived of the parenthood shall not be appointed as the children's guardians (trustees).

2. In appointing a guardian (a trustee) for the child, taken into account shall be the guardian's (the trustee's) moral and other personal features, his capability to discharge the guardian's (the trustee's) duties, the relations between the guardian (the trustee) and the

child, the attitude to the child of the guardian's (the trustee's) family members and also, if it is possible, the wishes of the child himself/herself.

**3.** Not to be appointed as guardians (trustees) shall be persons suffering from chronic alcoholism or from drug addiction, persons dismissed from discharging the guardian's (trustee's) duties, persons restricted in the parental rights, the ex-adopters, if the adoption was cancelled through their guilt, and also the persons, who, because of the state of their health ([Item 1, Article 127](#) of the present Code) cannot discharge the duties involved in the child's upbringing.

[Federal Law No. 49-FZ of April 24, 2008 abrogated Article 147 of this Code from September 1, 2008](#)

**Article 147.** The Guardianship (Trusteeship) over the Children, Staying at Educational Establishments, at Medical Centres and at the Institutions for Social Protection of the Population

**1.** For children fully maintained at state expense at educational establishments, medical centres, institutions for the social protection of the population and at other similar institutions, guardians (trustees) shall not be appointed. Their duties shall be imposed upon the administration of these institutions.

The temporary placement of the child by the guardian (by the trustee) into such an institution shall not terminate the rights and duties of the guardian (trustee) with respect to this child.

**2.** The guardianship and trusteeship bodies shall exert control over the conditions of the maintenance, upbringing and education of the children staying at the institutions indicated in Item 1 of the present Article.

**3.** The protection of the rights of children who are released from the institutions named in Item 1 of the present Article, shall be imposed upon the guardianship and trusteeship bodies.

**Article 148.** The Rights of the Children Put under Guardianship (Trusteeship)

**1.** The children put under the guardianship (trusteeship) shall have the right:

- to be brought up in the guardian's (trustee's) family, to enjoy the care of the guardian (trustee) and to reside with him, with the exception of the cases stipulated by [Item 2, Article 36](#) of the Civil Code of the Russian Federation;

- to be provided proper conditions for the maintenance, upbringing, education, and all-round development and respect for their human dignity;

- to alimony, pensions, allowances and other social payments due to them;

- to retaining the right of ownership for the living premises or the right to use living premises, and in the absence of the living premises, to receiving the living premises in conformity with the housing legislation;

- to protection from abuses on the part of the guardian (the trustee), in conformity with [Article 56](#) of the present Code.

**2.** The children, put under the guardianship (under the trusteeship), shall also possess the rights, stipulated by [Article 55](#) and by [Article 57](#) of the present Code.

[Federal Law No. 49-FZ of April 24, 2008 supplemented Article 148 of this Code with Item 3. The Item shall enter into force from September 1, 2008](#)

Federal Law No. 49-FZ of April 24, 2008 supplemented this Code with Article 148.1.  
The Article shall enter into force from September 1, 2008

Federal Law No. 49-FZ of April 24, 2008 abrogated Article 149 of this Code from September 1, 2008

**Article 149.** The Rights of Children, Left Without Parental Care and Staying at Educational Establishments, at Medical Centres and at Institutions for the Social Protection of the Population

1. Children left without parental care and staying at educational establishments, at medical centres, at institutions for social protection of the population and at other similar institutions, shall have the right to:

- maintenance, upbringing, education, all-round development, respect for their human dignity and provision for their interests;
- alimony, pensions, allowances and other social payments, due to them;
- retaining the right of ownership to the living premises or the right to use of the living premises, and in the absence of the living premises, the right to receive the living premises in conformity with the housing legislation;
- the privileges and the employment stipulated by the legislation on labour, after the end of their stay at the said institutions.

2. Children left without parental care and staying at the institutions pointed out in Item 1 of the present Article shall also possess the rights stipulated by Articles 55-57 of the present Code.

Federal Law No. 49-FZ of April 24, 2008 abrogated Article 150 of this Code from September 1, 2008

**Article 150.** The Rights and Duties of the Child's Guardian (Trustee)

Federal Law No. 194-FZ of July 21, 2007 amended Item 1 of Article 150 of this Code.  
The new wording shall enter into force from September 1, 2007  
See the Item in the previous wording

1. The guardian (the trustee) of the child shall have the right and shall be obliged to bring up the child, put under the guardianship (trusteeship), to take care of his health and of his physical, mental, spiritual and ethical development.

The guardian (trustee) shall have the right to define on his own the method of bringing up the child placed under his guardianship (trusteeship), with account for the child's opinion and for the recommendations of the guardianship and trusteeship body, and observing the requirements stipulated by Item 1, Article 65 of the present Code).

The opinion of a child being taken account of, the trustee (guardian) can choose an educational institution and the form of receiving the education by the child and must also ensure the receiving of basic general education by the child and create conditions for him to receive the secondary (full) general education.

2. The guardian (trustee) shall have the right to claim through court that the child placed under guardianship (trusteeship), be returned from any persons who keep the child without legal grounds, including from the child's close relations.

3. The guardian (trustee) shall not have the right to interfere with the child's communication with his parents or with his other close relations, with the exception of

cases when such communication does not answer the child's interests.

4. The civil rights and duties of the guardian (trustee) shall be defined by [Articles 36-38](#) of the Civil Code of the Russian Federation.

*Federal Law No. 122-FZ of August 22, 2004 amended Item 5 of Article 150 of this Code from January 1, 2005*

[See the text of the Article in the previous wording](#)

5. The duties involved in the guardianship or trusteeship with respect to the child, placed under guardianship (trusteeship), shall be discharged by the guardian (trustee) free of charge.

The guardian (trustee) shall be paid monthly the monetary means in conformity with the procedure and in the amount defined by the laws of a subject of the Russian Federation.

## Chapter 21. The Foster Family

[Federal Law No. 49-FZ of April 24, 2008 abrogated Article 151 of this Code from September 1, 2008](#)

### Article 151. Starting a Foster Family

1. A foster family shall be started on the ground of an agreement on giving the child (the children) for upbringing into a family.

The agreement on giving the child (the children) into a family shall be concluded between the guardianship and trusteeship body and the foster parents (the spouses or the individual citizens, wishing to take the children for upbringing into the family).

Given for upbringing into a family shall be the child (the children), who have not reached 18, for a term, stipulated by the said agreement.

2. The Provisions on the Foster Family shall be approved by the Government of the Russian Federation.

[Federal Law No. 49-FZ of April 24, 2008 reworded Article 152 of this Code. The new wording of the Article shall \[enter into force\]\(#\) from September 1, 2008](#)

### Article 152. An Agreement on Giving a Child (Children) for Upbringing to a Family

1. The agreement on giving a child (children) for upbringing to a family shall stipulate the conditions of the maintenance, upbringing and education of the child (of the children), the rights and duties of the foster parents, the duties of the guardianship and trusteeship body with respect to the foster family, as well as the grounds and the consequences of terminating such an agreement.

The amount of the remuneration of labour of the foster parents and the privileges granted to the foster family, depending on the number of children accepted for bringing up, shall be established by the laws of the subjects of the Russian Federation.

2. The agreement on giving the child (the children) for upbringing into a family may be cancelled before the expiry of the term at the initiative of the foster parents because of sound reasons (an illness, a change of the family or of the property status, absence of mutual understanding with the child (children), conflict between the children, etc.) and also at the initiative of the guardianship and trusteeship body, in case of the development of

unfavourable conditions in the family for the upbringing and for education of the child (children), in case of the child's (children's) return to their parents, or in case of the child's (children's) adoption.

*Federal Law No. 49-FZ of April 24, 2008 reworded Article 153 of this Code. The new wording of the Article shall enter into force from September 1, 2008*

#### **Article 153.** The Foster Parents

1. Acting as foster parents may be adult persons of both sexes, with the exception of:
  - persons recognized by a court as incapable or as partially capable;
  - persons deprived by a court of the parenthood or restricted by a court in their parental rights;
  - the ex-guardian (ex-trustee), dismissed for improper discharge of the duties imposed upon him by law;
  - the ex-adopters, if the adoption has been cancelled by a court through their fault;
  - persons who cannot discharge the duties involved in the child's upbringing, because of the state of their health (Item 1, Article 127 of the present Code).
2. The foster parents shall be chosen by the guardianship and trusteeship bodies, observing the requirements stipulated by Item 2, Article 146 of the present Code.
3. The foster parents shall enjoy the rights and duties of a guardian (a trustee) with respect to the child (the children) they have accepted for upbringing.

*Federal Law No. 49-FZ of April 24, 2008 supplemented this Code with Article 153.1. The Article shall enter into force from September 1, 2008*

*Federal Law No. 49-FZ of April 24, 2008 supplemented this Code with Article 153.2. The Article shall enter into force from September 1, 2008*

*Federal Law No. 49-FZ of April 24, 2008 abrogated Article 154 of this Code from September 1, 2008*

#### **Article 154.** The Child (Children) Given for Upbringing into a Foster Family

1. For upbringing into a foster family shall be given a child (children) left without parental care, including he/she staying at an educational establishment, at a medical centre, at an institution for the social protection of the population or at another similar institution.
2. The preliminary selection of the child (the children) for giving into a foster family shall be effected by persons who wish to accept the child (children) into their family, by an agreement with the guardianship and trusteeship body.

The separation of brothers and sisters shall not be admissible, unless this answers their interests.
3. The giving of the child (children) into a foster family shall be effected taking into account his opinion. The child (children), who has reached the age of 10, may be given into a foster family only with his consent.
4. The child (children), given into a foster family, shall retain the right to the alimony due to him, to the pension, allowances and other social payments, as well as the right of ownership to the living premises or the right to use the living premises; in the absence of living premises, he shall have the right to receive the living premises in conformity with the

[housing legislation](#).

The child (children), given into a foster family, shall also possess rights, stipulated by [Articles 55-57](#) of the present Code.

[Federal Law No. 49-FZ of April 24, 2008 abrogated Article 155 of this Code from September 1, 2008](#)

**Article 155.** Maintenance of the Child (Children), Given into a Foster Family

[Federal Law No. 71-FZ of June 3, 2006 amended Item 1 of Article 155 of this Code](#)  
[See the previous text of the Item](#)

1. The foster family shall be monthly paid the monetary means for the maintenance of every child, in the order and in the amount, established by the laws of the subjects of the Russian Federation.

2. The guardianship and trusteeship body shall be obliged to render the necessary assistance to the foster family, to help create normal conditions for the life and the upbringing of the child (the children), and shall also have the right to exert control over the discharge of the duties, imposed upon the foster parents, involved in the maintenance, upbringing and education of the child (of the children).

[Federal Law No. 49-FZ of April 24, 2008 supplemented Section VI of this Code with Chapter 22. The Chapter shall enter into force from September 1, 2008](#)

## **Section VII. Application of the Family Legislation to Family Relations with the Participation of Foreign and of Stateless Persons**

**Article 156.** Entering into a Marriage on the Territory of the Russian Federation

1. The form and the procedure for entering into a marriage on the territory of the Russian Federation shall be defined by the legislation of the Russian Federation.

2. The terms for entering into a marriage on the territory of the Russian Federation shall be defined for each of the persons, entering into a marriage, by the legislation of the state, whose citizen the person is at the moment of entering into a marriage, while observing the requirements of [Article 14](#) of the present Code with respect to the circumstances, interfering with the entering into a marriage.

3. If the person, alongside the citizenship of a foreign state, also enjoys the citizenship of the Russian Federation, to the terms for entering into a marriage shall be applied the legislation of the Russian Federation. In the case the person has the citizenship of several foreign states, the legislation of one of these states shall be applied, at the preference of the given person.

4. The terms for entering into a marriage with a stateless person on the territory of the Russian Federation shall be defined by the legislation of the state, in which this person has a permanent place of residence.

**Article 157.** Entering into a Marriage at the Diplomatic Representations and at the Consular Institutions

1. The marriages between the Russian Federation citizens, living outside of the territory of the Russian Federation, shall be entered into at the diplomatic representations or at the consular institutions of the Russian Federation.

2. The marriages between foreign citizens, entered into on the territory of the Russian Federation at the diplomatic representations and at the consular institutions of foreign states, shall be recognized as valid in the Russian Federation on the terms of reciprocity, if these persons at the moment of entering into a marriage were the citizens of a foreign state, which has accredited an Ambassador or a consul in the Russian Federation.

#### **Article 158.** Recognition of Marriages, Entered into Outside of the Territory of the Russian Federation

1. The marriages between the citizens of the Russian Federation and the citizens of foreign states or the stateless persons, entered into outside of the territory of the Russian Federation, while observing the legislation of the state, on whose territory they were entered into, shall be recognized as valid in the Russian Federation, if there are no circumstances, interfering with entering into the marriage, stipulated by [Article 14](#) of the present Code.

2. The marriages between foreign citizens, entered into outside of the territory of the Russian Federation, while observing the legislation of the state, on whose territory they were concluded, shall be recognized as valid in the Russian Federation.

#### **Article 159.** Invalidity of the Marriage, Entered into on the Territory of the Russian Federation or Outside of the Territory of the Russian Federation

The invalidity of the marriage, entered into on the territory of the Russian Federation, or outside of the Russian Federation, shall be defined by the legislation, which, in conformity with [Article 156](#) and Article 158 of the present Code, was applied when entering into the marriage.

#### **Article 160.** Dissolution of a Marriage

1. The dissolution of a marriage between the citizens of the Russian Federation and foreign citizens or stateless persons, and also of a marriage between foreign citizens on the territory of the Russian Federation shall be effected in conformity with the legislation of the Russian Federation.

2. A citizen of the Russian Federation, residing outside of the territory of the Russian Federation, shall have the right to dissolve his marriage with the spouse, residing outside of the territory of the Russian Federation, regardless of his citizenship, at the court of the Russian Federation. If, in conformity with the legislation of the Russian Federation, the dissolution of the marriage is admissible at the registry offices, the marriage may be dissolved at the diplomatic representations or at the consular institutions of the Russian Federation.

*[Federal Law No. 140-FZ of November 15, 1997 reworded Item 3 of Article 160 of the Family Code of the Russian Federation](#)*

*[See the previous text of the Item](#)*

3. The dissolution of a marriage between the citizens of the Russian Federation and foreign citizens or stateless persons, effected outside of the territory of the Russian Federation, while observing the legislation of the concerned foreign state on the authority

of the bodies, which have taken decisions on the dissolution of a marriage, as well as the legislation, subject to application in the dissolution of a marriage, shall be recognized as valid in the Russian Federation.

4. The dissolution of a marriage between foreign citizens, effected outside of the territory of the Russian Federation, while observing the legislation of the relevant foreign state on the authority of the bodies, which have taken decisions on the dissolution of a marriage, and the legislation, subject to application in the dissolution of a marriage, shall be recognized as valid in the Russian Federation.

#### **Article 161.** Personal Non-Property and Property Rights and Duties of the Spouses

1. The personal non-property and property rights and duties of the spouses shall be defined by the legislation of the state, on whose territory they have a joint place of residence, and in the absence of a joint place of residence - by the legislation of the state, on whose territory they have had the last joint place of residence. The personal non-property and property rights and duties of the spouses, who have not had a joint place of residence, shall be defined on the territory of the Russian Federation by the legislation of the Russian Federation.

2. When concluding a marriage contract or an agreement on the payment of an alimony to each other, the spouses, who do not have a common citizenship or a joint place of residence, may prefer the legislation, subject to application in defining their rights and duties by the marriage contract or by the agreement on the payment of an alimony. If the spouses have not preferred the legislation, subject to application, to the the marriage contract or to their agreement on the payment of an alimony shall be applied the provisions of Item 1 of the present Article.

#### **Article 162.** Establishing and Disputing the Fatherhood (the Motherhood)

1. The establishment and the disputing of the fatherhood (the motherhood) shall be defined by the legislation of the state, whose citizen the child is by birth.

2. The procedure for the establishment and the disputing of the fatherhood (the motherhood) on the territory of the Russian Federation shall be defined by the legislation of the Russian Federation. In the cases, when the legislation of the Russian Federation admits the establishment of the fatherhood (the motherhood) at the registry offices, the child's parents, living outside of the territory of the Russian Federation, if even only one of them is the citizen of the Russian Federation, shall have the right to turn with applications on establishing the fatherhood (the motherhood) to the Russian Federation's diplomatic representations or consular institutions.

#### **Article 163.** The Rights and Duties of Parents and Children

The rights and duties of the parents and of the children, including the parents' duty to maintain the children, shall be defined by the legislation of the state, on whose territory they have a joint place of residence. In the absence of a joint place of residence of the parents and of the children, the rights and duties of the parents and of the children shall be defined by the legislation of the state, whose citizen the child is. On the plaintiff's claim, to the alimony obligations and to other relationships between the parents and the children may be applied the legislation of the state, on whose territory the child permanently resides.

#### **Article 164.** The Alimony Obligations of Adult Children and of Other

## Family Members

The alimony obligations of the adult children in favour of the parents, and also the alimony obligations of the other family members shall be defined by the legislation of the state, on whose territory they have a joint place of residence. In the absence of a joint place of residence, such obligations shall be defined by the legislation of the state, whose citizen the person, who claims alimony is.

*Federal Law No. 94-FZ of June 27, 1998 introduced amendments to Article 165 of the present Code*

*[See the previous text of the Article](#)*

### **Article 165.** The Adoption

*On the adoption by foreign citizens of a child, see:*

*See [Regulations on the Activity of Bodies and Organizations of Foreign States Engaged in Adoption of Children in the Territory of the Russian Federation and Control Over Conduct of Such Activity, approved by \[Decision of the Government of the Russian Federation No. 654 of November 4, 2006\]\(#\)](#)*

**1.** The adoption, including the cancellation of the adoption, on the territory of the Russian Federation by foreign citizens or by stateless persons of a child who is a citizen of the Russian Federation, shall be effected in conformity with the legislation of the state whose citizen the adopter is. In the case of the child's adoption by a stateless person, this shall be done in conformity with the legislation of the state, in which this person has a permanent place of residence at the moment of filing an application for the adoption, or for cancelling the adoption.

In the adoption on the territory of the Russian Federation by foreign citizens or by stateless persons of a child who is a citizen of the Russian Federation, the requirements of [Articles 124-126](#), [Article 127](#) (with the exception of paragraph eight of Item 1), [Articles 128](#) and [129](#), [Article 130](#) (with the exception of paragraph five), and [Article 131-133](#) of the present Code with regard to the provisions of an international agreement of the Russian Federation on interstate cooperation in the field of the adoption of children shall be observed.

The adoption on the territory of the Russian Federation by foreign citizens or stateless persons married to citizens of the Russian Federation, of children who are citizens of the Russian Federation shall be effected in the procedure established by this Code for citizens of the Russian Federation, unless otherwise provided for by an international agreement of the Russian Federation.

In the adoption on the territory of the Russian Federation by citizens of the Russian Federation of a child who is a foreign citizen, it shall be necessary to obtain the consent of the child's legal representative and of an authoritative body of the state, whose citizen the child is, and also, if this is required in conformity with the legislation of the said state, the child's consent to the adoption.

**2.** If as a result of the adoption the child's rights may be violated, which have been established by the legislation of the Russian Federation and by the international treaties of the Russian Federation, the adoption shall not be effected, regardless of the adopter's citizenship, while an already effected adoption shall be subject to cancellation in court.

**3.** The protection of the rights and legal interests of children who are citizens of the Russian Federation and have been adopted by foreign citizens or stateless persons

outside the limits of the territory of the Russian Federation shall, unless otherwise provided for by an international agreement of the Russian Federation, be carried out within the limits permissible by the norms of international law by the consular institutions of the Russian Federation in which such children have been registered, until their coming of age.

The procedure for the registration by the consular institutions of the Russian Federation of children who are citizens of the Russian Federation and have been adopted by foreign citizens or stateless persons shall be determined by the Government of the Russian Federation.";

4. The adoption of a child who is a citizen of the Russian Federation and who resides outside the territory of the Russian Federation, effected by an authoritative body of the foreign state, whose citizen the adopter is, shall be recognized as valid in the Russian Federation, under the condition that preliminary permission for the adoption is obtained from the executive power body of the Russian Federation, on whose territory the child or his parents (one of them) resided before moving outside the territory of the Russian Federation.

#### **Article 166.** Establishing the Content of the Norms of Foreign Family Law

1. When applying the norms of foreign family law, the court or registry offices, or other bodies shall establish the content of these norms in conformity with their official interpretation, the practice of their application and the doctrine in the corresponding foreign state.

To establish the content of the norms of foreign family law, the court, the registry offices or other bodies may turn, in conformity with the established procedure, for assistance and explanations to the Ministry of Justice of the Russian Federation and to other authoritative bodies of the Russian Federation, or to draw on the services of experts.

The interested persons shall have the right to present the documents, confirming the content of the norms of foreign family law to which they refer to substantiate their claims or objections, and to assist the court or registry offices or the other bodies in establishing the content of the norms of foreign family law.

2. If the content of the norms of foreign family law, despite the measures taken in conformity with Item 1 of the present Article, has not been established, the legislation of the Russian Federation shall be applied.

#### **Article 167.** Restricting the Application of the Norms of Foreign Family Law

The norms of foreign family law shall not be applied if such application would contradict the fundamentals of law and order (of public order) of the Russian Federation. In this case, the legislation of the Russian Federation shall be applied.

### **Section VIII. Final Provisions**

#### **Article 168.** Procedure for Putting the Present Code into Force

1. To put the present Code into force as from March 1, 1996, with the exception of the provisions, for which the present Code envisages other terms of implementation.

2. To recognize as invalidated from March 1, 1996 the following:

- the [Code](#) of the RSFSR on Marriage and on the Family (Gazette of the Supreme Soviet of the RSFSR, No. 32, 1969, item 1086), with the exception of [Section IV](#), Civil Status Acts, which shall operate in the part not contradicting the present Code, until a

[federal law](#) on the civil status acts is enacted.

- the Decree of the Presidium of the Supreme Soviet of the RSFSR of October 17, 1969 on the Procedure for Putting in Operation the RSFSR Code on Marriage and on the Family (Gazette of the Supreme Soviet of the RSFSR, No. 43, 1969, item 1290).

**3.** As from the date of implementation of the present Code, to recognize as invalidated on the territory of the Russian Federation:

- the Fundamental Legislation of the Union of Soviet Socialist Republics and of the Constituent Republics on Marriage and on the Family, approved by the Law of the USSR of June 27, 1968 (Gazette of the Supreme Soviet of the USSR, No. 27, 1968, item 241);

- Decree of the Presidium of the Supreme Soviet of the USSR of September 20, 1968 on the Procedure for Putting into Operation the Fundamental Legislation of the Union of Soviet Socialist Republics and of the Constituent Republics on Marriage and Family (Gazette of the Supreme Soviet of the USSR, No. 39, 1968, item 353);

- Decree of the Presidium of the Supreme Soviet of the USSR of July 21, 1967 on Improving the Procedure for the Payment and for the Exaction of Alimony for the Maintenance of Children (Gazette of the Supreme Soviet of the USSR, No. 30, 1967, item 418);

- Decree of the Presidium of the Supreme Soviet of the USSR of February 1, 1985 (on an Amendment of the Procedure for Exacting Alimony for Underaged Children (Gazette of the Supreme Soviet of the USSR, No. 6, 1985, item 101).

#### **Article 169.** Application of the Norms of the Present Code

**1.** The norms of the present Code shall be applied to family relations which have arisen after its putting into operation.

Regarding family relations which have arisen before putting the present Code into operation, its norms shall be applied with respect to those rights and duties which will arise after its implementation.

**2.** A court order for children's adoption, laid down by [Article 125](#) of the present Code, shall be put into operation as from the date of implementation of the federal law on the introduction of the corresponding amendments and addenda into the [Civil Procedural Code](#) of the RSFSR.

Until the corresponding amendments and addenda are made, the adoption by citizens of the Russian Federation of children, who are citizens of the Russian Federation, shall be effected by decision of the head of the district, city or city district administration, and the adoption by foreign citizens of the children who are the citizens of the Russian Federation - by the decision of the executive body of the subject of the Russian Federation, while observing the norms of [Chapter 19](#) and of [Article 165](#) of the present Code.

**3.** [Article 25](#) of the present Code, laying down the moment of termination of the marriage after its dissolution in court as from the date of the court decision on the dissolution of the marriage coming into legal force, shall be applied in the dissolution of the marriage in court after May 1, 1996.

The marriage dissolved in court before May 1, 1996, shall be regarded as terminated as from the date of the state registration of the dissolution of the marriage in the Register of Civil Status Acts.

**4.** To recognize a marriage as annulled in conformity with [Article 15](#) of the present Code, the terms of legal limitation shall be applied, fixed by [Article 181](#) of the Civil Code of the Russian Federation for recognizing the disputed deal as invalid.

**5.** The terms and the procedure for concluding marriage contracts and agreements on the payment of alimony, laid down, respectively, by [Chapter 8](#) and by [Chapter 16](#) of the

present Code, shall be applied to the marriage contracts and to the agreements on the payment of alimony, which will be signed after March 1, 1996. The marriage contracts and the agreements on the payment of alimony, concluded before March 1, 1996, shall operate in the part, which does not contradict the provisions of the present Code.

**6.** The provisions on the joint property of the spouses and the provisions on the property of each of the spouses, laid down by [Articles 34-37](#) of the present Code, shall be applied to the property, acquired by the spouses (by one of them) before March 1, 1996.

**7.** The provisions on recognizing the legal force only of a marriage, whose state registration has been effected at [registry offices](#) ([Article 1](#) of the present Code), shall not be applied to marriages of citizens of the Russian Federation entered into according to the religious rites on the occupied territories, which were included into the USSR in the period of the Great Patriotic War, before the restoration of registry offices on these territories.

**Article 170.** Bringing the Legal Normative Acts into Compliance with the Present Code

**1.** Until the laws and the other legal normative acts operating on the territory of the Russian Federation, are brought into compliance with the present Code, the laws and the other legal normative acts of the Russian Federation shall be applied, within the limits and in conformity with the procedure stipulated by the Constitution of the Russian Federation insofar as they do not contradict the present Code.

**2.** To order to the Government of the Russian Federation, within a term of three months from the date of adopting the present Code:

- to bring the legal normative acts, issued by it, into compliance with the present Code;
- to prepare and to present in the established procedure proposals on introducing amendments and addenda into the legislation of the Russian Federation in connection with the adoption of the present Code;
- to pass legal normative acts which would provide for the implementation of the present Code.

President  
of the Russian Federation

Boris Yeltsin

Moscow, the Kremlin