

**TITLE II
OF THE FAMILY**

**CHAPTER 1
FROM MARRIAGE**

**PARAGRAPH I
General Dispositions**

ARTICLE 78. Marriage, the social institution. Marriage is a social institution in which a man and a woman are legally united, with the expectation of permanence and with the purpose of living together, procreating, feeding, and educating their children and helping each other.

ARTICLE 79. Marriage is based in equality of rights and obligations of both spouses, and in its celebration, they should meet all of the requisites and fill out the formalities that this Code demands for its validity.

ARTICLE 80. Engagements. Engagements do not produce an obligation to marry, but give place to demand restitution of things donated or delivered on the promise of a marriage that was not carried out.

ARTICLE 81. Ability to contract marriage. Being legally an adult determines the free ability to contract marriage. However, this can be excused: by a boy 16 years or older and a girl 14 years or older, whenever an authorization indicated in the following articles is given.

ARTICLE 82. The authorization should be given together from the father and the mother, or from the one that exercises, alone, parental authority.

The authorization for an adopted minor child will be given by the adopting father or mother.

In the case of a lack of parents, the authorization will be given by the guardian.

ARTICLE 83. Legal authorization. If authorization cannot be obtained from both the father and the mother, because of absence, sickness, or other motive, the authorization of one of the progenitors will be sufficient; and if neither of the two can do it, the judge of First Instance of the residence of the minor will give it.

ARTICLE 84. In the case of a disagreement of the parents or the negative answer of the person called upon to give authorization, the judge can concede it when the motives for the negative answer are not reasonable.

ARTICLE 85. Marriage by proxy. Marriage will be able to be celebrated by proxy. The order should be special, should express the identification of the person with whom they are contracting marriage and should contain a sworn declaration about the matters that article 93 mentions. The repeal of the proxy will not have an effect if the representative was legally notified when the marriage had already been celebrated.

ARTICLE 86. Marriage celebrated outside of the republic. Marriage celebrated outside of national territory, in the way and with the requisites that are established in the place where the celebration takes place, will produce all the same effects in the Republic, unless an absolute impediment intervenes to contract it because of any of the reasons that this Code determines.

ARTICLE 87. Nationality. The Guatemalan person married to a foreigner conserves their nationality, unless they want to adopt that of their spouse, in which case they should expressly state it in their marriage procedures.

PARAGRAPH II
Impediments for contracting marriage

ARTICLE 88. Cases of opposition. There is an absolute impediment for contracting marriage in these cases:

1. Blood relatives in a direct line, and in the collateral, siblings and half siblings;
2. The ascendants and descendants that have been bound by relationship; and
3. Married persons; and those united by common law with a person different from their co-habitant, while that union has not been legally dissolved.

ARTICLE 89. Illegality of marriage. Marriage cannot be authorized for:

1. A minor of less than eighteen years of age, without the express consent of their parents or guardian.
2. A male minor of less than sixteen years of age or a female minor of less than fourteen years of age, except for if the female minor had previously conceived and the people who have parental authority or guardianship give their consent.
3. A woman before three hundred days have passed since the dissolution of a previous marriage, or civil partnership, or since the marriage was declared annulled, unless there was a birth in this period, or if one of the spouses has been materially separated from the other or absent for an

GUATEMALA NATIONAL OFFICE OF CIVIL SERVICE

indicated time period. If the annulment of the separated marriage had been declared because of the husband's impotence, the woman can contract a new marriage without having to wait any period of time.

4. A guardian or caretaker or their descendants, with the person who is under their guardianship or custody.
5. A guardian or caretaker or their descendants, with the person who has been under their guardianship, except after having approved and cancelled the accounts with their administration.
6. Those who have children under their parental authority, who haven't done a legal inventory of the assets of those children, nor guaranteed their management, except if their administration is passed to another person; and
7. An adopter with the adopted person, while the adoption endures.

ARTICLE 90. Sanctions. If the marriage was celebrated in spite of what is prescribed in the previous article, the marriage will be valid, but the civil servant as well as the people guilty of the Infraction will be responsible in accordance with the law and the people referred to in Sections 4 and 5, will lose the administration of the assets of the minors, and will not be able to succeed them by intestate.

ARTICLE 91. If the civil servant that took part in the act had knowledge of the existence of any legal impediment, be it for reasons of office or from a complaint from the Public Ministry or any person, the suspension of marriage procedures will be ordered and they will not be able to proceed with them until the Interested parties obtain a favorable resolution from the competent authority. If the complaint is not confirmed, it will be without effect.

PARAGRAPH III Celebration of marriage

ARTICLE 92. Civil servants that can authorize marriage. Marriage should be authorized by the municipal town hall or the city councilor that acts in its name, or by a legally competent notary who exercises their profession.

It can also be authorized by the minister of any religion that has this faculty, given by the corresponding administrative authority.

ARTICLE 93. Formalities. The civilly capable persons trying to contract marriage, will state so before the competent civil servant of the residence of one of the spouses, who will receive under oath from each one of them of them, legally identified, a declaration about the following points, that will be stated on the certificate: names and last names, age, civil status, neighborhood, profession or occupation, nationality and origin, names of parents and grandparents if they know

GUATEMALA NATIONAL OFFICE OF CIVIL SERVICE

them, absence of parentage among them that impedes the marriage, not having any legal impediment for contracting it and an economic set of rules that they will adopt if they don't present the economic agreement of marriage in writing, and an express statement that they aren't legally united with a third person.

ARTICLE 94. Minors. Minors that request to contract marriage, should show up accompanied by their parents, or guardians, or present written authorization from them, in an authentic form, or legal if it is appropriate and, also, the birth certificates or, if this is not possible, certification of the legal category of age declared by the judge.

ARTICLE 95. Party that was married. The party that had been married, will present the legal document that accredits the dissolution or refutation of the previous marriage; if they have children, they will confirm that the obligation of feeding them is guaranteed; and if they have assets from minors under their administration, they will present the respective inventory.

ARTICLE 96. Foreigner party. The party that is a foreigner or naturalized Guatemalan, should confirm in an irrefutable way their identity and unmarried status. Before the celebration of the marriage, edicts will be published in the Official Bulletin and in others of major circulation, for a period of 15 days, setting a deadline to denounce to those who know of any legal impediment for the same.

If the marriage is not celebrated within six months of the publication of the edicts, these will lose their legal effect.

ARTICLE 97.¹ The health certificate is obligatory for both parties. It will be issued in the public health centers for medical attention or by an active certified doctor or surgeon, stating that the person examined does not suffer from an incurable, contagious illness detrimental to the other party or their descendants, or that they have no physical defects that won't make procreation impossible. Those who reside in places in which there is a lack of active certified member doctors or surgeons or public health centers for medical attention and those who have already had civil partnerships that make said certificate unnecessary, are not obligated to present the health certificate.

ARTICLE 98. Assignment of date and time. Once the civil servant verifies the capacity of the parties and fulfilled, in their case, the requisites that the previous articles demand, they will note, if the parties request it, a day and time for the celebration of marriage, or they will proceed to its Immediate celebration.

¹ Reformed as it appears in the text for Article 1 from Decree 08-2008, published in the Bulletin of Central America on March 15, 2007.

GUATEMALA NATIONAL OFFICE OF CIVIL SERVICE

ARTICLE 99. Ceremony of the celebration. Being present the parties, the civil servant will proceed to authorize the marriage, reading article 78, 108 to 114 of this Code; they will receive from each of the parties their express consent to take each other, respectively, as husband and wife and, right away, will declare them united in marriage.

The certificate should be accepted and signed by the parties and witnesses, if there were any, leaving their digital impression if they don't know how to, as well as the authorizing civil servant.

ARTICLE 100. Certificate of the ceremony. Once the marriage is completed, the civil servant that authorizes it will immediately deliver the certificate of the ceremony to the parties, they will account for the documents of the neighborhood and the rest of the identification documents that are presented to them, and they will send the notice to the respective Office of the Registry of Neighborhood Documents, within 15 days following the celebration of said ceremony, so that the corresponding annotations are made.

ARTICLE 101. Marriage certificates. The marriage certificates will be settled in a special book that the municipalities should have taken.

The notaries will state the marriage in the notarial certificate that should be made protocol, and the ministries of those groups, in books duly authorized by the Ministry of Governance.

ARTICLE 102. Copy of the certificate to the civil registry. Within fifteen working days following the celebration of marriage, the mayor's office that has authorized it should send a certified copy of the certificate, to the corresponding Civil Registry, and the notaries and ministers of the groups a detailed notice. The failure in compliance of this obligation will be sanctioned, in each case, with a fine of one to five quetzals, that the local judge will impose in support of the municipality.

ARTICLE 103. Every day and hour are good for the celebration of marriage. The procedures, records, certificates, notices, and relative testimonies to the same will be issued on single-sided paper.

ARTICLE 104. When it has to do with marriages that should be celebrated outside of the perimeter of the municipal headquarters, the mayor, or whoever acts in their name, will come together wherever necessary, whenever the interested parties provide the means of transport.

GUATEMALA NATIONAL OFFICE OF CIVIL SERVICE

ARTICLE 105. Marriage in article of death. In the case of a serious illness of one or both of the parties, the marriage will be able to be authorized without observing the established formalities, whenever there is no ostensible and evident impediment that makes the ceremony illegal and that clearly states the consent of the ill parties. The civil servant should set themselves up wherever it is required for the interested parties.

ARTICLE 106. Resources. Against the decrees and rulings of the civil servant that should celebrate the marriage, which places a wrongful obstacle in the way of its celebration, the interested parties will be able to appeal to the judges of First Instance or of peace of the jurisdiction, who, in view of the justifications presented, will resolve the case, without any delay.

ARTICLE 107. Members of the military. Members of the military and other individuals in the Army, that are found to be on campaign or in a besieged post, will be able to contract marriage before the head of the body or of the post, whenever there is no obvious impediment that makes the union impossible. Within fifteen days of finishing the campaign or vacating the site, the original certificate of marriage will be sent to the corresponding Civil Registry.

PARAGRAPH IV

Duties and rights arising from marriage

ARTICLE 108. Last name of the married woman. From marriage, the wife has the right to add to her own last name that of her husband and of conserving it forever, except if the marriage is dissolved by annulment or divorce.

ARTICLE 109. Conjugal representation. Conjugal representation corresponds in an equal way to both husband and wife, who will have equal authority and consideration in the home, in common agreement they will determine the place of residence and they will set up everything regarding the education and raising of children and the family economy.

In case of disagreement between the spouses, the family judge will decide to whom it corresponds.

ARTICLE 110. Protection of the woman. The husband owes protection and assistance to his wife and is obligated to provide everything necessary for the maintenance of the agreed-upon home with their economic possibilities.

Both spouses have the obligation to attend to and take care of their children, while they are minors.

ARTICLE 111. Obligations of the wife in the maintenance of the home.

The wife should also equally contribute to the maintenance of the home, if she has her own assets or works at some type of job, profession, trade, or business; but if it is impossible for the husband to work and he lacks his own assets, the wife should cover all the expenses with the income that she receives.

ARTICLE 112. Rights of the wife regarding the income of her husband.

The wife will always have the preferential right to the wages, salary, or income of the husband, for the quantity that corresponds to the food that she and their minor children need.

The husband takes part in an equal right in the cases in which the wife has the obligation of contributing all or part of the family expenses.

ARTICLE 113.² Repealed.

ARTICLE 114.³ Repealed.

ARTICLE 115. Representation of the wife. In the case of disagreement between the spouses regarding the exercise of spousal representation, the Family Judge, considering the conduct of each of the members of the couple, outside the home as well as inside it, will designate to which of the spouses they confer representation, indicating the time for which it is conferred to them and the conditions which the other spouse should fulfill to recuperate the possibility of exercising it again.

In each case the administration will be exercised individually, without the necessity of a judicial declaration for such as effect in the following cases:

1. If the judicial interdiction is declared by one of the spouses;
2. In the case of voluntary abandonment of the home or by declaration of absence, and
3. By a prison sentence, for all the time that it lasts.

² Repealed by Article 3 from Decree 80-98 published in the Bulletin of Central America on December 31, 1998.

³ Ibid.

PARAGRAPH V
Economic regimen of the marriage

ARTICLE 116. Prenuptial agreement. The economic regimen of the marriage is regulated by the prenuptial agreement given by the husband and wife before or during the act of the celebration of the marriage.

ARTICLE 117. The prenuptial agreement is a pact that the husband and wife give to establish and regulate the economic regimen of the marriage.

ARTICLE 118. The prenuptial agreement is obligatory in the following cases:

1. When either the husband or wife has assets whose value is more than two thousand quetzals;
2. If either the husband or wife exercises a profession, art, or trade that produces income or remuneration that exceeds two hundred quetzals per month;
3. If one of them has in administration the assets of minors or disabled persons that are under their parental authority, responsibility, or guardianship; and
4. If the wife is Guatemalan and the husband is a foreigner or naturalized Guatemalan.

ARTICLE 119. The prenuptial agreement should state in public writing or in a certificate brought before the civil servant that has authorized the marriage. The testimony of the writing or certification of the certificate will be registered at the Civil Registry once the marriage is carried out; and also at the Registry of Property, if real estate or rights in real estate of the same will be affected.

ARTICLE 120. The clauses of the agreement that contravene the regulations of the law, or restrict the rights and obligations of the spouses among themselves or with respect to their children are invalid and will be held as not placed.

ARTICLE 121. The prenuptial agreement should contain:

1. The detailed designation of all the assets that each of the spouses has upon contracting marriage.
2. Declaration of the sum of debts of each one; and
3. Express declaration of the spouses regarding the adoption of the regimen of joint ownership, separate ownership, or that community property; or with the modalities and conditions to which they wish to subject it.

GUATEMALA NATIONAL OFFICE OF CIVIL SERVICE

ARTICLE 122. Joint ownership. In the regimen of joint ownership, all the assets contributed to the marriage by the spouses or acquired during the marriage, belong to the conjugal patrimony and will be divided in half upon dissolving the marriage.

ARTICLE 123. Separate ownership. In the regimen of separate ownership, each spouse conserves the property and administration of the assets that belong to them and will be the exclusive owner of results, products, and the accessions of them.

The salaries, wages, remunerations, and wages that are obtained from personal services or in the exercising of business or industry will also be property of each of the spouses.

ARTICLE 124. Community property. By means of the regimen community property, the husband and wife conserve the property of the assets that they had upon contracting marriage and of those acquired during it, received without valuable consideration or with value to everyone; but the following assets will be divided in half, upon dissolving the conjugal patrimony.

1. The profits of the personal assets of each of the spouses, minus costs of production, repairs, conversation, and tax and municipal burdens of the respective assets;
2. That which is bought or traded with those profits, although the acquisition is made in the name of one of the spouses; and
3. That which each spouse acquired with their work, employment, profession, or industry.

ARTICLE 125. Alteration of the prenuptial agreement. The spouses have the inalienable right to change the prenuptial agreement and adopt another economic regimen of the conjugal patrimony, during the marriage.

The modification of the prenuptial agreement should be made by means of public writing that will be registered in the respective registries, and will only affect a third party beginning on the date of registry.

ARTICLE 126. Subsidiary regimen. If there is no prenuptial agreement regarding the assets the marriage will be understood to be contracted under the regimen of community property.

ARTICLE 127. Personal assets of each spouse. Despite what is established in the previous articles, the assets of each spouse that are acquired from inheritance, donation or other without valuable consideration, and compensations for accidents or from life insurance, from personal or sickness damages, minues the first payments during the regimen, are personal assets.

ARTICLE 128. Maintenance of the home. The separate ownership of assets does not exempt the spouses, in any case, from the joint obligation of maintaining the expenses of the home, the food and education of the children and the rest of the responsibilities of marriage.

ARTICLE 129. Furnishings. The furnishing of the conjugal home corresponds exclusively to the wife, except the objects of personal use of the husband.

ARTICLE 130. Foreign spouses. The regimen of assets between foreign spouses of the same nationality, is determined, lacking prenuptial agreements, by the personal law that is common to them in the moment of the celebration of the marriage; and if they are of different nationalities, by the place in which the spouses determined their first conjugal home to be.

The change of nationality of the spouses, or of one of them, will not have any influence on the regimen of assets.

ARTICLE 131. Administration. Under the regimen of joint ownership or in the separate ownership of assets gained before and during the marriage, both spouses will administrate the conjugal patrimony, be it together or separately.

Each spouse or partner has free disposition of assets that are found registered in their name in the public registries, without prejudice to respond to the other for the disposition that they make with the shared assets.

ARTICLE 132. Opposition. Either spouse can oppose to the other realizing acts that result in or could result in the damage of the conjugal patrimony.

They can also ask the judge to obligate the other spouse to cease administration and modify the economic regimen of the marriage to that of separate ownership, when the other spouse incurs negligence, incapacity, or imprudence in the administration of the conjugal patrimony, putting at risk the patrimony or the adequate supply of food for the family.

ARTICLE 133.⁴ Repealed.

ARTICLE 134. Husband of minor age. If the husband is less than eighteen years of age, he should be assisted in the administration of his assets and those of the conjugal patrimony, by the person that exercises parental authority or guardianship

⁴ Repealed by Article 7 from Decree No. 80-98 published in the Bulletin of Central America on December 31, 1998.

GUATEMALA NATIONAL OFFICE OF CIVIL SERVICE

over him; but if the wife is of legal age, she will exercise the administration of the assets until the husband reaches legal age.

ARTICLE 135. Responsibility of the shared assets. Of the obligations that either spouse contracts for the maintenance of the family, the shared assets will respond, and if those are insufficient, the personal assets of each one of them.

ARTICLE 136. Illicit acts. The civil responsibility for illicit acts of a spouse does not obligate the other in their personal assets nor in their part of the shared ones.

ARTICLE 137. Debts before the marriage. Debts before the marriage will be paid with the personal assets of the person that contracted them, even when they are governed by the shared regimen.

ARTICLE 138. Illness and funeral expenses. The expenses that are caused by illnesses, just as those that are originated from funerals and mourning because of the death of a spouse or of the children of both of them, are considered shared debts of the marriage, for which the personal assets of the spouses are responsible, in the case of the share assets being insufficient.

ARTICLE 139. Dissolution of sharing of assets. Sharing assets ends:

1. With the dissolution of the marriage;
2. With separation of assets; and
3. For one of the spouses being convicted in a final judicial sentence for a crime committed against the other.

ARTICLE 140. Liquidation of the conjugal patrimony. Once the shared assets concluded, their liquidation will proceed immediately.

If the economic regimen were that of partial ownership, the assets that remain after paying the responsibilities and obligations of the ownership and of reintegrating the personal assets of each spouse, is income that will correspond to husband and wife by halves, or to their respective heirs.

ARTICLE 141. The unjustified abandonment of the conjugal home by one of the spouses, makes the effects of sharing assets cease for that person from the day of the abandonment, insofar as it would have benefited them.

ARTICLE 142. In case of a de facto separation, the culpable spouse will not have right to the income during the time of separation.

ARTICLE 143. When the annulment of the marriage is declared, the spouse that has acted in bad faith will not have any part of the income.

If both acted in bad faith, the acts of both will remain compensated.

PARAGRAPH VI
Opposition and annulment of marriage

ARTICLE 144. Opposition of the marriage. The marriage is unsubstantiated in the cases that article 88 enumerates. A declaration of opposition can be done in the office of the judge, with intervention from the spouses and from the Public Ministry.

ARTICLE 145. Capacity to annul the marriage. A marriage annulable:

1. When one or both spouses have consented by mistake, deceit, or coercion;
2. Due to absolute or relative impotence for procreation, whenever it is perpetual, incurable, and previous to the marriage by nature;
3. From any person suffering from mental incapacity upon celebrating it; and
4. From the perpetrator, accomplice, or abettor of the death of a spouse, with the surviving spouse.

ARTICLE 146. Error or deceit. An error makes a marriage annulable if it relates to the personal identity of the other spouse, or is produced by the ignorance of some substantial defect of the same spouse, of such seriousness, that it makes shared life unbearable or constitutes a danger for the offspring.

The action of annulment that is born from error or deceit, can only be initiated by the deceived spouse, within thirty days of having realized the error or the deceit.

ARTICLE 147. Violence. An annulment for the reason of coercion must be sought by the injured spouse against the other, within sixty days counted from the date in which the violence, threat, or intimidation ceased. In the case of a marriage of kidnapper and the kidnapped, the time will begin to be counted from when the wife has regained her full freedom.

ARTICLE 148. Exercising of actions. The annulment of marriage in case of section 2 from article 145 can be requested by either spouse if the impotence is relative; but if it is absolute, the impotent spouse will not be able to sue for an annulment.

The action should be exercised within six months of having carried out the marriage.

ARTICLE 149. The action of annulment, in the case of section 4 of article 145, can be initiated by the innocent spouse, by the children of the victim or by the Public Ministry, within the period of six months counted, for the innocent spouse, from when had

GUATEMALA NATIONAL OFFICE OF CIVIL SERVICE

knowledge of the guilt of their new spouse and, for the children and the Public Ministry, from the celebration of the new marriage.

ARTICLE 150. An annulment for mental incapacity of one of the spouses can be sought by the capable spouse, by the father, mother, or guardian of the disabled spouse and by the Public Ministry, within sixty days counted from when they have knowledge of the marriage.

ARTICLE 151. The action of annulment, if it is not one of the determined cases in articles 149 and 150, does not pass to the heirs of the spouse, but they can indeed continue the lawsuit begun by its originator.

ARTICLE 152. The declaration of invalidity or of opposition of the marriage will be sent to be published by the judge in the Official Bulletin and will be communicated to the civil registries and property registries, so that the corresponding cancelations or annotations can be made.

PARAGRAPH VII Of separation and of divorce

ARTICLE 153. The marriage is modified by separation and is dissolved by divorce.

ARTICLE 154. Separation and divorce. The separation of persons, just as divorce, will be able to be declared:

1. By mutual agreement of the spouses; and
2. By will of one of them by means of a determined cause.

The separation or divorce by mutual agreement of the spouses, cannot be requested except for after one year, counted from the date on which the marriage was celebrated.

ARTICLE 155. Causes. The common causes to obtain a separation or divorce are:

1. Infidelity of either spouse;
2. Bad treatment of acts, quarrels or continuous disputes, serious insults or offenses to honor and, in general, conduct that makes common life unbearable;
3. The attempt of one of the spouses to take the life of the other or of the children;
4. The separation or voluntary abandonment of the conjugal house or unmotivated absence, for more than a year;

GUATEMALA NATIONAL OFFICE OF CIVIL SERVICE

5. The incident of the wife giving birth during the marriage, to a child conceived before its celebration, when the husband did not have knowledge of the pregnancy before the marriage;
6. The incitement of the husband to prostitute the wife or corrupt the children;
7. Baseless denial of one of the spouses to fulfill the duties of assistance and feeding of the other spouse or their shared children when they are legally obligated;
8. The squandering of the domestic property;
9. The habits of gambling or inebriation, or the wrongful and constant use of narcotics, when they threaten to cause the ruin of the family or constitute a continuous motive for spousal disagreement.
10. The complaint of crime or slanderous accusation made by a spouse against the other;
11. The conviction of one of the spouses, in a final sentence, for crime against property or for any other common crime that deserves a sentence of more than five years in prison;
12. Serious, incurable and contagious illness, damaging to the other spouse or the descendants;
13. Absolute or relative impotence for procreation, whenever by its nature it is incurable and subsequent to the marriage;
14. Incurable mental illness of one of the spouses that is sufficient to declare interdiction; and
15. Additionally, the separation of persons declared in a final judgement is cause to obtain the divorce.

ARTICLE 156. Referring to section 4 of the previous article, abandonment is presumed voluntary and absence unmotivated; but against such presumptions evidence to the contrary is admissible. The respective action should be initiated during the absence or abandonment of the sued spouse.

ARTICLE 157. Acts of infidelity committed in collusion or with the consent of the other spouse, or when after consummated and known by the other, they have continued to live together, are not cause for separation nor divorce.

ARTICLE 158. Who can request separation or divorce for a determined cause.

Divorce and separation can only be requested by the spouse that has not given cause to it, and within the following six months to the day on which they have arrived at their knowledge of the facts on which the claim is based.

GUATEMALA NATIONAL OFFICE OF CIVIL SERVICE

Divorce or separation cannot be declared with a simple search for the defendant. Likewise, the confession of the defendant about the cause that motivates it is not enough proof to declare divorce or separation.

PARAGRAPH VIII **Effect of separation and divorce**

ARTICLE 159. The common civil effects of separation and divorce are the following:

1. The liquidation of the conjugal patrimony
2. The right to alimony in favor of the guiltless spouse; in their case; and
3. The suspension or loss of parental authority, when the grounds for separation or divorce go with it and there is an express petition on behalf of the interested party.

ARTICLE 160. The appropriate effects of separation, in addition to the survival of the conjugal bond, are the following:

1. The right of the guiltless spouse to the intestate succession of the other spouse; and
2. The right of the wife to continue using the last name of the husband.

ARTICLE 161. The dissolution of the conjugal bond, that leaves the spouses at liberty to contract marriage again, is an appropriate effect of divorce.

ARTICLE 162. Protection of the wife and children. From the moment the request for separation or divorce is presented, the wife and children will remain under the protection of the authorities for the safety of persons and their assets, and urgent measures will be enacted when they are necessary. The children will remain provisionally in the power of the spouse that the Judge determines, until it is ultimately resolved, unless serious reasons obligate them to be trusted to a provisional guardian.

ARTICLE 162. Mutual agreement. If the separation or divorce is requested by mutual agreement, the spouses should present an agreement plan regarding the following points:

1. To whom the children of the marriage are entrusted;
2. On which spouses' account the children should be fed and educated, and when this obligation falls on both spouses, in what proportion each one of them should contribute;

3. What pension the husband should pay to the wife if she does not have her own income that is enough to cover their necessities; and
4. Guarantee given for the fulfillment of the obligations that by agreement the spouses have contracted.

ARTICLE 164. Obligation of the judge. For the effect expressed in the previous article, the judge, under their responsibility, should designate the guarantee, and if this one, in their judgment, is not sufficient, they will order its extension, in a way that what is stipulated satisfactorily assures the obligations of the spouses.

ARTICLE 165. If the separation or divorce is sued for because of a determined cause, the judge should resolve the questions that article 163 refers to; but, as in this case as well as in the mutual agreement, the separation or divorce cannot be declared while there are insufficient guarantees regarding the food and education of the children.

ARTICLE 166. To whom the children are entrusted. The parents can agree to whom the children are entrusted; but the judge, for serious and motivated reasons, can issue a different ruling after considering the wellbeing of the children. The judge will also be able to resolve the custody and care of the minors, relying on studies or reports from social workers or bodies specialized in the protection of minors. In any case, they ensure that the parents can freely communicate with them.

ARTICLE 167. Obligation of the separated parents. Regardless of the stipulations in agreement or a judicial decision, the father and the mother remain subject, whatever happens, to the obligations that they have towards their children and they conserve the right to be in contact with them and the obligation to watch over their education.

ARTICLE 168. Obligation of the judge regarding the children. At any time the judge can enact, at the request of one of the parents or the blood relatives, or the Public Ministry, the measures that they consider beneficial for the children and that are required because of new incidents.

ARTICLE 169.⁵ Pension for the wife. The guiltless wife has a right to alimony that Section 3 of article 163 refers to, which will be apportioned by the judge, if the spouses did not do it, keeping in mind the possibilities of who should give it and the needs of who is receiving it.

⁵ The sentence that says: "observes good conduct and" is declared unconstitutional, by File No. 541-2006 published in the Bulletin of Central America on August 13, 2008.

GUATEMALA NATIONAL OFFICE OF CIVIL SERVICE

The wife has right to the alimony if she does not contract in marriage again; and the guiltless husband will have the same right, only when it is impossible for him to dedicate himself to work that provides him means of subsistence and while he does not contract marriage again.

ARTICLE 170. Liquidation of the conjugal patrimony. Once the resolution is final regarding the opposition or annulment of the marriage, or the separation or divorce, the liquidation of the conjugal patrimony proceeds in the prescribed terms by the prenuptial agreement, by the law, or by the conventions that the spouses had celebrated.

ARTICLE 171. Loss of last name. The divorced wife does not have the right to use the last name of the husband.

ARTICLE 172. Effects. The effects and consequences of the opposition or annulment of the marriage, as well as those of the separation and the divorce, will be regulated, regarding the persons, by the laws of the country where they have been decreed.

CERTIFICATE OF TRANSLATION

I, ALAINA RYDZEWSKI, certify that I am fluent in Spanish and English and that I am competent to translate between these languages. I further certify that, on 10 May 2021, I translated the above Spanish-language CHAPTER 1 OF THE CIVIL CODE OF GUATEMALA into English to the best of my abilities.

05/10/21

Alaina Rydzewski

**Paseo los frailes, 7 2B
Palencia, España 34002**

CHAPTER II
Domestic partnership

ARTICLE 173. When it proceeds to declare it. The domestic partnership of a man and a woman with the capacity to contract marriage, can be declared by they themselves before the mayor of their neighborhood or a notary, so that it produces legal effects, whenever a home exists and a common life has been maintained constantly for more than three years before their family members and social relations, fulfilling the purposes of procreation, feeding, and education of children and mutual aid.

ARTICLE 174. How to state it. The manifestation which is referred to in the previous article, will be stated in a certificate that the mayor establishes, or in public writing or a notarial certificate if a notary was required.

Legally identified, it will declare under oath their names and last names, place and date of birth, domicile and residence, profession or occupation, day in which the domestic partnership began, any resulting children, indicating their names and ages, and assets acquired during their common life.

ARTICLE 175. Notice to the civil registry. Within the following fifteen days, the mayor or the notary will give a notice to the jurisdictional Civil Registry so that they can proceed with the registration of the domestic partnership, the office which will deliver to the interested parties a certificate of said registration, which will produce equal effects to that of a marriage certificate.

The lack of this notice will be sanctioned with a fine of five quetzals, which the local judge will impose on the party's behalf.

The certification of the municipal certificate or notarial testimony will be presented at the Registry of Property, if any property had been declared as shared assets.

ARTICLE 176. Transfer of assets. The shared assets will not be able to be transferred nor taxed without the consent of the two partners, while the partnership endures, and no liquidation or allocation will be made of them.

ARTICLE 177. Partnership of minors. Mayors or notaries will not be able to accept the declaration of domestic partnership of minors, without the consent of the parents or guardian or, in their place, authorization from a judge.

ARTICLE 178. Request of judicial recognition. The recognition of the domestic partnership can also be requested by one of the partners, either from the existence of opposition or because of the other having died, in which cases the interested party should present themselves before the competent Judge of the Lower Court,

GUATEMALA NATIONAL OFFICE OF CIVIL SERVICE

who in deciding will make the declaration of the domestic partnership if it had been fully proven. In said declaration, the judge will set the day or probable date in which the partnership began, the resulting children, and the assets acquired during it.

The certification of the decision favorable to the defendant should be presented at the Civil Registry and at the Registry of Property if there were property assets, so that the respective registrations can proceed.

ARTICLE 179. Term. The action referred to in the previous article should be initiated within three years since the union ceased, except for the right of the children to sue for the judicial declaration of the domestic partnership of their parents at any time, for the sole effect of establishing parentage.

ARTICLE 180. Illicit unions. A woman who, fully aware that the male has a domestic partnership registered with another woman, and a man who, fully aware that the woman has a domestic partnership registered with another man, make a life together, will not enjoy the protection of the law, while the registered partnership was not legally dissolved, and the shared assets liquidated.

ARTICLE 181. Preference in various partnerships. In the case of various women, equally single, suing for domestic partnership with the same single man, the judge will make a sole declaration in favor of that woman who proves the ends previously seen in article 173; and under the same circumstances, the declaration will be made in favor of the oldest union. What is set out in this article is applicable whenever the domestic partnerships that are claimed are declared, they coexist at either the moment of requesting the respective declaration or on the date on which the death of the person with whom the domestic partnership was maintained occurred.

ARTICLE 182. Effects of the registration. The domestic partnership registered in the Civil Registry, produces the following legal effects:

1. The children born after one hundred eighty days of the date set as the start of the domestic partnership, and those born within the three hundred days following the day in which the partnership ceased, are considered as children of the male with whom the mother was united, presumption against which evidence to the contrary can be admitted;
2. If there wasn't writing on the separation of assets, those acquired during the domestic partnership are considered to be assets of both, except for proof of the contrary that demonstrates that the asset was acquired by only one of them, of free consideration, or with the value or by exchange of another asset of their exclusive property;
3. The right of one of the partners to request the declaration of absence of the other and, once declared, to request the cessation of the partnership with the absent party, liquidation of the shared goods and allocation of the assets to which they correspond.

GUATEMALA NATIONAL OFFICE OF CIVIL SERVICE

4. In the case of the death of one of them, the surviving partner can request the liquidation of the shared goods and the allocation of assets, just as in the case of the previous section; and
5. Subjecting the man and the woman with the rights and obligations of spouses during marriage.

ARTICLE 183. Ceasing the partnership. The domestic partnership can be ceased by mutual agreement of the man and woman, in the same way it was formed; or for whichever of the causes marked in article 155 for divorce and separation, in which case the cessation should be declared legally.

The cessation of the domestic partnership by mutual agreement should be stated before the judge of the Lower Court of the domicile of the partners, or before a notary; but for it to be recognized and the respective annotation ordered in the Civil Registry, it should be carried out previously with what is set out in article 163 of this Code, in respect to the divorce of the spouses.

ARTICLE 184. The man and the woman, whose partnership was formed legally, will reciprocally inherit intestate in the same cases that this code determines for the husband and wife.

The dispositions of this Code relative to the duties and rights that are born with marriage and the economic regimen of it, have validity for the domestic partnerships, in which they are applicable.

ARTICLE 185. Notice to the Registry. Once the procedures of the cessation and the partnership are finished and satisfied with the legal demands, the authority that has taken part in them or the notary that authorized the writing of separation, liquidation, and allocation of assets, will give notice to the Civil Registry in which the domestic partnership was registered, so that the corresponding annotation can be made.

ARTICLE 186. Free state. The separation, once registered, leaves the man and the woman in a free state, but this does not affect the obligations that both must carry out with respect to their children, who will wholly conserve their right to be fed, in spite of any agreement of the parents.

ARTICLE 187. Marriage of one partner of the domestic partnership. So that the marriage of whichever one of the two that have made a common life together is registered can be authorized, it is indispensable that they proceed to carry out what is established in article 183.

ARTICLE 188. Opposition to the marriage. An interested party can be opposed to the marriage to demand that certain matters be resolved previously and that the shared assets are liquidated.

GUATEMALA NATIONAL OFFICE OF CIVIL SERVICE

The civil servant that takes part in the marriage cannot authorize it if the applicant does not confirm having liquidated the shared assets and guaranteed the food allowance of the children.

ARTICLE 189. Marriage of those who are in the domestic partnership. When the persons bound by domestic partnership wish to contract marriage between them, the respective authority or the notary whom they use, will carry it out with only having to present the certification of the Registration from the Civil Registry, in which said circumstance is stated. The subsequent marriage of the parents makes it so that the children had before its celebration and during the domestic partnership are from marriage.

CHAPTER III ON KINSHIP

ARTICLE 190. Grades of kinship. The law recognizes the kinship of consanguinity within the fourth grade, that of relationship within the second grade, and that of civil, that is born from adoption and only exists between the adopter and the adopted. The husband and wife are family members, but don't form a grade.

ARTICLE 191. Consanguinity. Kinship of consanguinity is that which exists between people descended from the same biological ancestor.

ARTICLE 192. Affinity. Kinship of affinity is the bond that unites a spouse with the other and their respective blood relatives.

ARTICLE 193. Grade. The kinship is organized by the number of generations; each generation constitutes a grade.

ARTICLE 194. Lines. The series of generations or grades originating from a common ancestor forms a line.

ARTICLE 195. The line is straight when the persons descend one from another, and collateral or cross when the persons come from a common ancestor but do not descend one from another.

ARTICLE 196. In a straight line, be it ascending or descending, there are as many grades as there are generations, or rather as many as persons, without including that of a common ancestor.

ARTICLE 197. In a collateral line the grades are counted equally by generations going up from the person whose kinship is required to verify until the common ancestor and going down from this one until the other relative.

ARTICLE 198. The kinship of affinity is calculated in the same way as that of consanguinity and concludes upon the dissolution of the marriage.

**CHAPTER IV
PATERNITY AND MATRIMONIAL PARENTAGE**

ARTICLE 199. Paternity of the husband. The husband is the father of the child conceived during the marriage, even if it is declared invalid, null, or annulable.

It is presumed conceived during the marriage if:

1. The child is born after one hundred eighty days from the celebration of the marriage, or from the reunion of the legally separated spouses; and
2. The child is born within the three hundred days following the dissolution of the marriage.

ARTICLE 200.⁶ Proof of the contrary. Against the presumption of the previous article other proof is not admitted, except the genetic molecular test of deoxyribonucleic acid (DNA), or evidence of it being physically impossible for the husband to have access to his spouse in the first one hundred twenty days of the three hundred that preceded the birth, because of absence, illness, impotence, or any other circumstance.

ARTICLE 201. Contestation by the husband. The child born within the one hundred eighty days following the celebration of the marriage is presumed to be the child of the husband if he does not contest his paternity.

The contestation cannot take place:

1. If before the marriage celebration he had knowledge of the pregnancy;
2. If being present in the procedure of the birth registration at the Civil Registry, he signed or consented for his name to be signed on the birth certificate; and
3. If by private or public document the child will have been recognized.

ARTICLE 202. The parentage of the child born after three hundred days from the dissolution of the marriage will be able to be contested by the husband; but the child and the mother will have the right to justify the paternity of them.

ARTICLE 203. Adultery by the mother. The husband cannot contest paternity from the child conceived or born during the marriage, alleging adultery of the mother, even when she declares against the paternity of the husband, except if she

⁶ Reformed by Article 1, from Decree No. 39-2008 published in the Bulletin of Central America on August 26, 2008

GUATEMALA NATIONAL OFFICE OF CIVIL SERVICE

had hidden the pregnancy and the birth of the child, in which case he can indeed deny paternity demonstrating all the facts that justify the contestation.

If a state of interdiction has been declared to the husband, his legal representative will be able to exercise that right.

ARTICLE 204. Term. The action of the husband denying paternity of the child born of his spouse, should be done judicially, within sixty days, counted from the date of birth, if he is present; from the day on which he returned to the conjugal residence, if he was absent; or from the day on which he discovered the fact, if the birth was hidden from him.

Only the heirs of the husband will be able to continue the legal challenge of paternity initiated by him, but they can only exercise this right within sixty days counted from the death of the husband.

ARTICLE 205. Action of the heirs. They will be also able to contest the parentage, if the child was posthumously born or if the presumed father had died before the stipulated time from the previous article passed.

The heirs should initiate the action within sixty days, counted from when the child has been put in possession of the assets of the father, or from when the heirs are challenged by the child in possession of the inheritance.

ARTICLE 206. Rights of the pregnant woman. In the case of separation or dissolution of the marriage, the woman that is pregnant should file a complaint to the judge or to the husband, by the end of ninety days counted from the separation or divorce. Additionally, if the woman becomes pregnant upon the death of her husband, she should report it to the competent judge, within the same time, with the purpose of, in one case or another, the necessary dispositions are taken in order to demonstrate the validity of the birth in the legal time and to establish the parentage.

ARTICLE 207. New nuptials of the mother. If upon dissolving a marriage, the mother contracts new nuptials within three hundred days following the date of the dissolution, the child that is born within one hundred eighty days from the celebration of the second marriage, is presumed to be conceived in the first.

The child that is born after one hundred eighty days from the celebration of the second marriage is presumed conceived in it, even though it is within the three hundred days after the dissolution of the first marriage.

The evidence referred to in article 200 is admissible against these presumptions.

ARTICLE 208. The mother shall be a party to all parentage proceedings, if she is alive.

**CHAPTER V
PATERNITY AND EXTRAMARITAL PARENTAGE**

ARTICLE 209. Equality of rights of the children. The children procreated outside of marriage will enjoy equal rights to the children born within marriage; however, for them to live in the conjugal home the express consent of the other spouse is necessary.

ARTICLE 210. Recognition of the father. When the parentage is not a result of the marriage nor from a domestic partnership registered by the parents, it is established and demonstrated, in relation to the mother, from the simple fact of the birth; and, with respect to the father, by voluntary recognition, or by a legal decision that declares paternity.

ARTICLE 211. Forms of recognition. Voluntary recognition can be made:

1. On the birth certificate, by appearing before the civil registrar;
2. By a special certificate before the same registrar;
3. By public writing;
4. By will; and
5. By legal creed.

In the case of the last three parts of this article, they should present to the civil registrar testimony or certification of the document in which the recognition is stated for its registration and annotation on the respective birth certificate.

ARTICLE 212. Recognition is not revocable. Recognition is not revocable by the person who did it. If they have done it in a will and this is revoked, it does not mean the recognition is also revoked. It also cannot be subject to any other legal challenge.

ARTICLE 213. The recognition is valid if it is made by means of a will, even if it is declared null because of a lack of special testamentary requisites that would not have annulled the act if only the recognition had been granted.

ARTICLE 214. Recognition of both parents. The parents can recognize the child together or separately.

The recognition made by only one of the parents only produces effects with respect to that parent.

The father or the mother that does not take part in the act, just like the actual child or a legitimately third interested party, is able to contest the recognition, within six months counted from the day on which the act was made known to them.

GUATEMALA NATIONAL OFFICE OF CIVIL SERVICE

If the child is a minor, they can contradict the recognition within the year following their legal age.

ARTICLE 215. Separated recognition. When the father or the mother makes their recognition separately, they are not obligated to reveal the name of the person with whom they had the child.

It will not be permitted for the father to recognize children while attributing the maternity to a woman married to another person, except if the husband has contested paternity and obtained a favorable decision.

ARTICLE 216. Recognition by the grandparents. In the case of death or disability of the father or the mother, the child can be recognized by the paternal grandfather or the maternal grandfather, respectively.

If the disabled person recovers their health, they can contest the recognition within the following year to the day on which they had knowledge of said fact.

ARTICLE 217. Recognition by a minor. The male minor is not able to recognize a child without the consent of those who exercise parental authority over him, or of the person under whose guardianship he is, or, lacking this, without judicial authorization.

ARTICLE 218. The woman older than fourteen years old has the civil capacity necessary to recognize her children, without the necessity of obtaining the consent that is referred to in the previous article.

ARTICLE 219. Rights of the woman that has taken care of a child. The woman that has taken care of a child, as their own, and has provided their subsistence and education, has the right to not be separated from the child by effect of recognition that a man has made of the minor. But if she is obligated to hand over the child because of a judicial resolution, the father that intends to take the child should pay the quantity of what was spent on the maintenance of the child beforehand.

ARTICLE 220. Judicial action of parentage. The child that was not voluntarily recognized, has the right to request judicial declaration of their parentage and this right never expires regarding them.

The heirs of the child will be able to continue with the action that they began at the time of their death or try to if the child dies while a minor, or if they will have suffered from disability and dies in that state.

GUATEMALA NATIONAL OFFICE OF CIVIL SERVICE

ARTICLE 221.⁷ Cases in which paternity can be declared. Paternity can be legally declared:

1. When letters, writings, or documents exist in which it is recognized;
2. When the plaintiff has in obvious possession the status of the child of the presumed father;
3. In cases of rape, statutory rape, or kidnapping, when the time of the crime coincided with that of conception; and
4. When the presumed father has lived in a husbandly fashion with the mother during the time of conception.
5. When the result of the biological test, the deoxyribonucleic acid (DNA), scientifically determines the parentage of the presumed father, mother, and son. If the presumed father refuses to subject themselves to the practice of said test, ordered by a competent judge, his refusal will be proof of the paternity, except for proof of the contrary.

The deoxyribonucleic acid (DNA) test should be ordered by a competent judge, being able to carry it out at any institution of a public or private character specialized in said material, national or foreign. This means of proof should comply with the established requisites of the law for their admissibility. In trials of contestation of paternity or maternity the genetic molecular deoxyribonucleic acid (DNA) test will be admissible in equal conditions and circumstances.

ARTICLE 222. Presumption of paternity. Children are presumed from fathers that have lived in a husbandly fashion:

1. Those born after one hundred eighty days counted since they began their domestic partnerships; and
2. Those born within three hundred days following the day on which their common life stopped.

ARTICLE 223. Obvious possession of status. For there to be obvious possession of status the presumed child is required to have been treated as such by their parents or the family members of these and that, in addition, meet any of the following circumstances:

1. That they have provided subsistence and education;
2. That the child has used, constantly and publicly, the last name of the father; and
3. That the child has been presented as such in the social relations of the family.

⁷ The numeral 5 was added to this Article (221) by Decree No. 39-2008 published in the Bulletin of Central America on August 26, 2008.

GUATEMALA NATIONAL OFFICE OF CIVIL SERVICE

ARTICLE 224. Action of parentage after the death of the parents. The action of parentage can only be initiated during the life of the father or the life of the mother against whom it is directed, except in the following cases:

1. When the child is posthumous;
2. When the person against whom the action is directed would have died while the child was a minor; and
3. In the cases mentioned in article 221.

ARTICLE 225. Compensation of the mother. The mother has the right to be compensated for the moral damage in cases of criminal carnal access, or in being of minority of age at the time of conception.

ARTICLE 226.⁸ Inadmissibility of the action. The conceded action in the previous article and the declaration to which is referred in sections 3 and 4 of article 221 does not proceed in the following cases:

1. If during the time of conception, the mother had carnal business with a person different from the presumed father; and
2. If during the time of conception, it was demonstrably impossible for the defendant to have had carnal access to the mother.

ARTICLE 227. Recognition is a declarative act. Voluntary and judicial recognition are declarative acts of paternity and, therefore, furnish effects from the date of birth of the child.

Regarding the position of the child no transaction nor compromise can be celebrated; but regarding the pecuniary rights, they can indeed be deduced from parentage.

CHAPTER VI ON ADOPTION*

⁹This Chapter repealed by article 67 of Decree 77-2007 from the Congress of the Republic with date 11-12-2007.

ARTICLE 228.¹⁰ All the aspects relative to adoption are regulated by the Law of Adoptions.

⁸ The sentence that says: "led a notoriously slovenly life or" contained in numeral 1 was declared unconstitutional by File Number 541-2006 published on August 13, 2008.

⁹ This Chapter was repealed by Article 67 from Decree 77-2007 from the Congress of the Republic with date 11-12-2007.

¹⁰ Articles 229 to 251 were repealed by Article 67 from Decree No. 77-2007, published in the Bulletin of Central America on December 31, 2007.

ARTICLE 229-251.¹¹ Repealed

**CHAPTER VII
ON PARENTAL AUTHORITY**

ARTICLE 252. In marriage and out of marriage. Parental authority is exercised over minor children, jointly by the father and the mother in marriage and in de facto union; and by the father or the mother who has custody of the child, in any other case.

Children of legal age shall only remain under parental authority if they have been declared in a state of interdiction.

ARTICLE 253. Obligations of both parents. The father and the mother are obligated to take care of and to nourish their children, regardless of whether they were born out of wedlock, to educate them and to correct them, using prudent means of discipline, and they will be held accountable to criminal laws if they abandon them morally or materially and fail to fulfil the duties inherent to parental authority.

ARTICLE 254. Representation of the minor or the incapacitated. Parental authority includes the right to legally represent the minor or the incapacitated in all acts of civil life; to manage their assets and to avail themselves of its services attending to their age and condition.

ARTICLE 255.¹² While the marriage or the de facto union exists, the father and the mother shall jointly exercise parental authority, the representation of the minor or the incapacitated and the administration of their assets; they shall also have parental authority, both parents, jointly or separately, except for the cases regulated in article 115, or in the cases of separation or divorce, in which representation and administration will be exercised by whoever has guardianship of the minor or the incapacitated person.

ARTICLE 256. Conflict between the father and the mother. Whenever there is a conflict of rights and interests between the father and the mother, in carrying out parental authority, the respective judicial authority must determine what is more convenient to the well-being of the child.

¹¹ Articles 229 to 251 repealed, by Article 67 of Decree No. 77-2007, published in the Bulletin of Central America on December 31, 2007

¹² Reformed by Article 8 of Decree No. 80-98 published on December 31, 1998.

GUATEMALA NATIONAL OFFICE OF CIVIL SERVICE

ARTICLE 257. Minor parents. If the parents are minors, the administration of the assets of the children will be exercised by the person who has parental authority or guardianship of the father.

ARTICLE 258.¹³ Adopted child. Parental authority of the adopted child is only exercised by the person who has adopted him or her.

- 6. By judicial declaration of adoptability as dictated by the Court for Children and Adolescents.

ARTICLE 259. Relative capacity of minors. Those older than fourteen years have the capacity to contract their own work and to receive the agreed remuneration, with which they will help their parents for their own support.

ARTICLE 260. Children must live with their married or united parents. Minor children must live with their parents, or with the father or the mother who has them under their care; they cannot leave the paternal or maternal home or that in which their parents have placed them without their permission; the domestic authority should, in all cases, be helped by the public authority to return the children to the power and obedience of their parents.

ARTICLE 261. Single or separated mother. When the father and the mother are neither married nor in a de facto union, the children will be under the control of the mother, unless the mother agrees to pass on this control to the father, or if they are boarding in an educational establishment.

If the separation of the parents arises from the dissolution of their marriage, the provisions of article 166 shall apply.

In any case, whoever by de facto means removes the child from the control of the person who is legally in charge of them, shall be liable in accordance with the law; and authorities shall provide assistance for the return of the child, to restore parental authority to the person who exercises it.

ARTICLE 262. The interest of the children is predominant. Notwithstanding what is stipulated in the previous articles, when the conduct of the parents is detrimental to the child and the suspension or loss of parental authority is required, the judge must adopt urgent measures which provide for the interest and convenience of the minor and may also order, while the case is definitively resolved, that he/she leaves the house of his/her parents and is left in the care of the care of

¹³ Numeral 6 added to this article, from Article 64, of Decree No. 77-2007 published in the Bulletin of Central America on December 31, 2007.

GUATEMALA NATIONAL OFFICE OF CIVIL SERVICE

the closest relative, or of another person of recognized integrity, or if possible, in an educational center.

ARTICLE 263. Children must respect their parents. Children, even when they are of legal age and whatever their state and condition may be, must honor and respect their parents and are obliged to give them assistance in all circumstances of life.

ARTICLE 264. Assets of children. Parents cannot alienate nor encumber the assets of their children nor enter commitments for obligations on their behalf that exceed the limits of their ordinary administration except for absolute necessity and evident utility and the prior authorization of the competent judge and intervention of the Public Prosecutor's Office.

ARTICLE 265. Nor can parents enter into leasing contracts for more than three years, or receive the anticipated rent for more than one year, without judicial authorization; nor sell commercial securities, industrial securities, rent titles, stocks, bonds, fruit and livestock, for less value than what is quoted in the market on the day of the sale; nor provide a guarantee on behalf of children in favor of a third person.

ARTICLE 266. Whenever the judge grants a license to dispose of or encumber property assets, he/she shall take the necessary measures to ensure that the proceeds of the sale or the amount of the credit is employed towards the objective that motivated the authorization and that the balance, if any, is duly invested, being deposited in the meantime in a bank.

ARTICLE 267. Except in the case of intestate succession, the parental authority cannot acquire, neither directly nor indirectly, assets or rights of the minor. Acts performed contrary to this prohibition may be annulled at the request of the child or his/her heirs.

ARTICLE 268. Special guardian. If conflict of interest arises between children subject to the same parental authority, or between them and the parents, the judge will name a special guardian.

ARTICLE 269. Separation of parental authority. If the person who exercises parental authority dissipates the assets of the children, or by their bad administration they diminish or depreciate, they will lose this authority, at the request of the ascendants of the minor, his/her collateral relatives within the fourth degree of consanguinity, or of the Public Ministry.

ARTICLE 270. When parents remarry or declared bankruptcy they are obligated to guarantee the conservation and administration of the children's assets.

GUATEMALA NATIONAL OFFICE OF CIVIL SERVICE

ARTICLE 271. If the person who is under the parental authority receives a donation or is left an inheritance or legacy with the express condition that the assets not be administered by the parents, the will of the donor or testator shall be respected, who must designate the person or institution that will administer the assets, and if they do not do so, the judge shall appoint a person of recognized solvency and integrity if there is no banking institution authorized for such duties.

ARTICLE 272. Parents must deliver to the children, as soon as they reach legal age, the assets that belong to them and be held accountable for their administration.

ARTICLE 273. Suspension. Parental authority is suspended for:

1. The absence of he/she who exercises it, as judicially declared;
2. Interdiction, declared in the same form;
3. Habitual drunkenness; and
4. Having a gambling habit or the undue and constant use of narcotics.

ARTICLE 274. Loss. Parental authority is lost:

1. For the depraved or scandalous habits of the parents, excessive harshness in the treatment of children or abandonment of their family duties;
2. For dedicating children to begging, or giving them corrupting orders, advice, insinuations and examples;
3. For a crime committed by one of the parents against the other, or against the person of one of their children;
4. For the exposure or abandonment by the father or mother of their children, for the parent who has exposed or abandoned them; and
5. For having been convicted two or more times for a common crime if the sentence exceeds three years' imprisonment for each crime.

Parental authority is also lost when the child is adopted by another person.

ARTICLE 275. The parent who has been suspended in the exercise of parental authority or has lost it will not be exonerated of the obligations towards their children, which are established in the present chapter.

GUATEMALA NATIONAL OFFICE OF CIVIL SERVICE

ARTICLE 276. Only the ascendant relatives of the minor, the collateral relatives within the fourth degree of consanguinity, and the Public Ministry may open a case for the loss or suspension of parental authority. The innocent parent and the Public Ministry will parties to the trial in all cases.

ARTICLE 277. Reestablishment. The judge, in view of the circumstances of each case, can, upon a party's request, re-establish the exercise of parental authority to the father or the mother in the following cases:

1. When the cause or causes of the suspension or loss are no longer present and were not for any crime against the persons or assets of the children;
2. When, in the case of a crime committed against the other spouse as referred to in Article 274, section 3, there has been no recurrence and there have been extenuating circumstances; and
3. When the rehabilitation is requested by children over fourteen years of age or by their guardian, provided that the cause for the loss of parental authority does not fall within the specific cases referred to in the first subsection of this article.

In all cases, good conduct of the person attempting to rehabilitate parental authority must be demonstrated for at least the three years prior to the date on which the respective application is filed.

CHAPTER VIII MAINTENANCE BETWEEN RELATIVES

ARTICLE 278. Concept. The definition of maintenance includes all that is indispensable for the sustenance, shelter, clothing, medical assistance and the education and instruction of a dependent when they are a minor.

ARTICLE 279. Maintenance must be proportionate to the personal and pecuniary circumstances of the person who provides it and of the person who receives it, and will be set by the judge, in a monetary amount.

The person obligated to pay maintenance can be allowed to provide it in another form when, as decided by the judge, there is reason to justify it.

ARTICLE 280. Maintenance shall be reduced or increased proportionally according to the increase or decrease of the necessities of the dependent, and the fortune of the person who pays it.

GUATEMALA NATIONAL OFFICE OF CIVIL SERVICE

ARTICLE 281. Maintenance is only owed in the part in which the assets and the work of the dependent are not sufficient to satisfy their necessities.

ARTICLE 282. The right to maintenance is not renounceable, nor transmissible to a third party, nor can it be seized.

Neither can they be compensated with what the dependent owes to the person who must pay them.

Overdue maintenance may, however, be offset, seized, waived, and transferred.

ARTICLE 283. Obligated persons. The spouses, ascendant relatives, descendants, and siblings are reciprocally obligated to provide each other maintenance.

When the father, for his personal and pecuniary circumstances, is not able to provide maintenance to his children, and the mother is not able to provide it either, such obligation corresponds to the paternal grandparents of the dependent, for the duration in which it is impossible for the father to do so.

ARTICLE 284. When the obligation to provide maintenance falls on two or more persons, the payment shall be divided among them, in an amount proportionate to their respective wealth; in case of urgent need, and for special circumstances, the judge may decree that one or several of the obligated persons provide it provisionally, without prejudice that he/she can claim from the others the part that corresponds to him/her.

ARTICLE 285. When two or more children have the right to maintenance from the same person, and this person does not have enough resources to take care of all of them, they will provide in the following order:

1. To their spouse;
2. To the descendants of the closest degree;
3. To the ascendant relatives, also of the closest degree; and
4. To the siblings.

If the concurrent maintained persons are the spouse, or several children subject to parental authority, the judge, considering the needs of one or the other, will determine the preference order or distribution.

GUATEMALA NATIONAL OFFICE OF CIVIL SERVICE

ARTICLE 286. Rights for maintenance. The father will be responsible for the payment of debts contracted by the mother for the maintenance of herself and of the children, in the case that the father does not provide what is necessary to cover maintenance.

ARTICLE 287. The obligation to provide maintenance shall be enforceable as soon as it is needed by the person who has the right to receive it. Maintenance will be provided in monthly anticipated payments, and if the dependent dies, their heirs will not be obligated to return what had been received in advance.

ARTICLE 288. Whoever has provided maintenance while objecting to this payment has the right to be compensated by the person that is obliged to provide it.

ARTICLE 289. The obligation to provide maintenance shall cease:

1. In the case of the death of the dependent;
2. When he/she who provides maintenance finds it impossible to continue to provide it, or when the need of the dependent receiving it ends;
3. In the case of injury, fault or serious damage committed by the dependent, against the person who must provide them;
4. When the necessity of the maintenance depends on the vicious conduct or the lack work of the dependent, as long as these causes exist; and
5. If minor children marry without the consent of the parents.

ARTICLE 290. Descendants cannot demand maintenance:

1. When they have reached eighteen years of age, unless they are habitually ill, handicapped or in a state of interdiction; and
2. When their subsistence has been assured until the same age.

ARTICLE 291. The provisions of this chapter are applicable to the other cases in which by law, by will, or by contract, there is a right to maintenance, except as agreed or ordered by the testator or as provided by law for the special case in question.

The right to maintenance that comes from contract or testamentary disposition does not prejudice, in any case, the preference that the law establishes in favor of the relatives of the obliged.

GUATEMALA NATIONAL OFFICE OF CIVIL SERVICE

ARTICLE 292. Obligation of guarantee. The person obliged to provide maintenance, against which there has been necessity for a judicial trial to obtain maintenance, must sufficiently guarantee the fulfilled provision of maintenance with a mortgage, if they have mortgageable goods, or with a bond or other securities, to the judge's discretion. In this case, the dependent shall be entitled to have sufficient assets of the person obligated to provide maintenance recorded, as long as he/she has not guaranteed them.

CHAPTER IX ON GUARDIANSHIP

PARAGRAPH I GENERAL PROVISIONS

ARTICLE 293. Pursuant to law. A minor child not in parental custody shall be subject to guardianship for the child's care and assets. Also subject to guardianship is a person who has been declared legally incapacitated and is without parents, even when the person is an adult.

The guardian is the legal representative of the minor child or incapacitated person.

ARTICLE 294. Guardianship shall be exercised by a guardian and a supervisory guardian, whose roles are theirs alone and may not be delegated, but who may grant special authority to another person for specific acts.

ARTICLE 295. Guardianship and supervisory guardianship are public responsibilities that all persons in the full enjoyment of their civil rights are required to meet.

ARTICLE 296. Types of guardianship. Guardianship may be testamentary, legal, and judicial.

ARTICLE 297. Testamentary. Testamentary guardianship is established in a will, by the surviving father or mother, for any children in their parental custody; by the grandfather or grandmother for any grandchildren subject to their legal guardianship; by any testator for a person named as heir or devisee if such a person lacks a guardian named by the father or the mother and lacks a legal guardian; and by an adoptive parent who designates an heir or devisee or their adopted child.

ARTICLE 298. Parents and grandparents, in turn, may name a guardian and a supervisory guardian for all or some of their children or for each one of their children individually. They may also name multiple guardians and supervisory

GUATEMALA NATIONAL OFFICE OF CIVIL SERVICE

guardians to perform the function in the absence of one of the other guardians and supervisory guardians, in the order of their designation.

1. **ARTICLE 299. Legal.** Legal guardianship of minors shall be assigned in the following order:
2. To the paternal grandfather;
3. To the maternal grandfather;
4. To the paternal grandmother;
5. To the maternal grandmother; and
6. To siblings without regard to sex, with preference to those who share both parents and, of those, the oldest and most capable.

Maternal lineage shall be granted preference over paternal lineage for guardianship of children outside of marriage. However, the court may modify such preference with just reason and name as guardian the relative who has the best relationship with and knowledge of the minor child, is most suitable, best prepared, and most financially sound, to ensure the satisfactory exercise of guardianship.

ARTICLE 300. Judicial. Judicial guardianship is appointed by a court with the proper jurisdiction in cases where there is no testamentary or legal guardian. To that end, the Public Ministry and any competent person shall inform the authorities of the circumstances leading to the unforeseen guardianship.

To designate a guardian, the court shall consider the circumstances referred to in the previous article.

ARTICLE 301. Guardianship of legally incapacitated persons. Guardianship of adults who have been declared legally incapacitated shall adhere as follows.

1. To the spouse;
2. To the father and to the mother;
3. To the adult children; and
4. To the grandparents, in the order set forth above.

GUATEMALA NATIONAL OFFICE OF CIVIL SERVICE

ARTICLE 302. If a testamentary guardian emerges while a legal or judicial guardian is performing the function, guardianship will be immediately transferred to the testamentary guardian.

ARTICLE 303. Rights of minors at age sixteen.

Upon reaching age sixteen, the guardian shall include the minor, for the minor's information and knowledge, in the administration of the assets; if the minor does not have a testamentary guardian, the minor has the right to propose a candidate for legal guardianship from among the minor's relatives, or, in their absence, propose a person of notable integrity to serve as judicial guardian.

ARTICLE 304. Supervisory guardian. The supervisory guardian will oversee the performance of the guardian for the purpose of ensuring that the guardianship is conducted correctly.

Designation of the supervisory guardian shall be done in the same manner as that of the guardian. The supervisory guardian may be a relative of the ward or another person, as long as the conditions of well-established integrity and social ties are met.

ARTICLE 305. It is the responsibility of the supervisory guardian to:

1. Conduct an inventory and valuation of the assets of the minor and evaluate the guardian's management and provision of the assets held in trust;
2. Defend the rights of the minor in court and out of court, whenever they conflict with the interests of the guardian;
3. Support the designation of a guardian when an acting guardian is removed or when guardianship is vacated or abandoned;
4. Hold the guardian to account;
5. Carry out other responsibilities as established by law.

ARTICLE 306. Specific guardians. When there is a conflict of interest among multiple wards subject to the same guardian, a court shall select a specific guardian.

ARTICLE 307. Until a guardian and a supervisory guardian are designated and their duties established, the court, of its own accord, or at the request of the Public Ministry, shall rule on the necessary measures for the care of the minor child or incapacitated person and for the security of their assets.

GUATEMALA NATIONAL OFFICE OF CIVIL SERVICE

ARTICLE 308. Legal guardians. Directors or executives of charitable organizations that provide shelter to minor children or incapacitated persons are their legal guardians and legal representatives from the time of admission and these positions do not require appointment by the court.

ARTICLE 309.¹⁴

ARTICLE 310. Foreign nationals are not required to accept positions as guardians or supervisory guardians except in cases of their relatives and fellow citizens. Acceptance of such positions does not grant Guatemalan nationality.

ARTICLE 311. Appointment of guardianship shall be governed by the laws of the location of the residence of the minor child or incapacitated person.

The position of guardian appointed in a foreign country, in accordance with the laws of that country, shall be recognized in Guatemala.

In terms of the rights and responsibilities of guardianship, these are governed by the laws of the location in which the appointment was made.

ARTICLE 312. The guardian's authority, concerning assets of the minor child or incapacitated person located outside Guatemala, shall be governed in accordance with the laws of the location of said assets.

ARTICLE 313. The legal provisions for guardianship shall also govern persons who manage the assets of minor children or incapacitated persons, in specific cases.

PARAGRAPH II INELIGIBILITY AND EXEMPTIONS FOR GUARDIANSHIP

ARTICLE 314. Prohibitions. A guardian or supervisory guardian may not be:

1. The minor child or the incapacitated person;
2. A person who has been convicted of robbery, theft, fraud, forgery, offenses or crimes against public trust, or other ordinary crimes that are punishable by a sentence of more than two years;

¹⁴ Repealed by Article 67 of Decree Num. 77-2007 published in the Bulletin of Central America on December 31, 2007.

GUATEMALA NATIONAL OFFICE OF CIVIL SERVICE

3. A person who has been removed from another guardianship, or has not provided an accounting of its administration, or whose accounting report was not approved;
4. A habitual drunkard, a person who regularly uses narcotics, a malingerer and a person of ill repute;
5. A debtor or bankrupt person whose solvency has not been reinstated;
6. A person who has pending litigation with the minor child or incapacitated person, or the progenitors or descendants or spouses of such a person;
7. Persons who have forfeited the exercise of parental custody or the administration of the assets of their children;
8. A person who is owed or owes the minor child assets of significant value in relation to the assets of the minor child, in the opinion of the court, unless, with the court's due consideration, said person is a testamentary beneficiary;
9. A person who is not a resident of Guatemala; and
10. A person who is blind or suffers from a serious, incurable, or contagious disease.

ARTICLE 315. Guardians or supervisory guardians who are unexpectedly incapacitated due to one of the abovementioned conditions shall be removed from their position by court order, following a report and confirmation of the facts by the Public Ministry or a relative of the ward.

ARTICLE 316. Removal. The following persons shall also be removed from guardianship and supervisory guardianship:

1. Persons who demonstrate bad faith or are inept or neglectful in the performance of their guardianship;
2. Persons who encourage the ward to engage in corrupt or criminal acts;
3. Persons who abuse the minor child;
4. Persons who knowingly miscalculated the value of the inventory, omitting assets, loans or debts;

GUATEMALA NATIONAL OFFICE OF CIVIL SERVICE

5. Persons who are absent for more than six months from the location where they perform their duties as guardians and supervisory guardians.

ARTICLE 317. EXEMPTIONS. The following persons may be exempted from guardianship and supervisory guardianship:

1. Persons who are already serving as guardians or supervisory guardians for another ward;
2. Persons over the age of sixty;
3. Persons who have parental custody of three or more children;
4. Women;
5. Persons who, due to limited resources, cannot serve as guardians and meet their basic needs for subsistence;
6. Persons who suffer from a chronic disease that prevents them from fulfilling the duties of a guardian; and
7. Persons who must be absent from Guatemala for more than one year.

ARTICLE 318. Persons who are not related to the minor child or incapacitated person shall not be required to accept an appointment to guardianship or supervisory guardianship if there are persons who are eligible for legal guardianship and do not qualify for an exemption or have an impediment to performing as guardians.

PARAGRAPH III EXERCISING GUARDIANSHIP

ARTICLE 319. Appointment to guardianship. The guardian or supervisory guardian shall not exercise guardianship until authorized by the court.

No guardianship may be authorized without having met all the requirements of the law.

ARTICLE 320. The obligation to conduct an inventory. The guardian shall conduct an inventory and valuation of the assets of the minor child or incapacitated person within thirty days following acceptance of the guardianship, a period that may be reduced or extended at the discretion of the court, depending on the circumstances.

GUATEMALA NATIONAL OFFICE OF CIVIL SERVICE

Under no circumstances, including a directive of the testator, shall the guardian be exempted from this responsibility.

ARTICLE 321. Establishment of account. After the inventory has been conducted, the guardian and the supervisory guardian together shall establish an account, unless there are no assets, or when a testamentary guardian has been relieved of the responsibility by the testator, with respect to assets related to an inheritance, gift, or legacy.

ARTICLE 322. Following the appointment of the guardianship, should there unexpectedly arise or be discovered a reason to require a sworn agreement to comply with the obligation, the guardian or supervisory guardian, or Public Ministry, shall inform the court, so that the account may be established.

ARTICLE 323. The account shall provide as surety:

1. The value of the personal property that the guardian receives;
2. The average income from the assets over the three years preceding the guardianship;
3. Earnings that the ward may receive from any business enterprises over the period of one year.

ARTICLE 324. The account will increase or decrease in value according to the increase or decrease in the value of the assets or items that secure the account.

ARTICLE 325. The account shall consist of a mortgage, pledge, or security guarantee at a banking institution or an institution legally authorized for such purposes. The account, as well as the sworn agreement to comply with the obligation with respect to the account, may be accepted by the court when, in its opinion, the account is deemed sufficient, taking into consideration the value of the assets that the guardian will administer and the solvency and good standing of the guardian.

ARTICLE 326. The security pledge that the guardian provides will be established by depositing the assets or securities in a credit institution authorized to receive deposits; or, in the absence of same, with a person of notable social standing.

ARTICLE 327. At the request and advice of the guardian, the court will establish an allowance, in accordance with the inventory and circumstances of the ward, without

GUATEMALA NATIONAL OFFICE OF CIVIL SERVICE

precluding modification of the allowance in accordance with the increase or decrease of the value of the account and other considerations of the court.

ARTICLE 328. Budget. During the first month of guardianship, the guardian shall submit for the court's approval the annual budget for administration of the account.

For special expenses of more than five hundred quetzales, the guardian must secure the court's authorization.

ARTICLE 329. Jewelry, valuable furniture, government securities, bonds, stocks, and securities that, in the court's opinion, should not be in the custody of the guardian, shall be deposited in an institution authorized by law to receive such deposits.

ARTICLE 330. Career, trade, or profession of minor child. The guardian will guide the minor child in whatever career, trade, or profession the child chooses, according to their circumstances. If the child previously initiated one of these activities while in parental custody, the guardian may not modify it without authorization by the court, which shall consider the aptitude and circumstances of the minor child.

ARTICLE 331. The ward must respect and obey the guardian. In this respect, the guardian is granted parental authority, within the limits of the law.

ARTICLE 332. Requirement for authorization by the court. The guardian must have authorization by the court:

1. To transfer or dispose of real property or property rights of the minor child or incapacitated person; to sign a lease for more than three years, or pay rent in advance for more than one year; to undertake or plan unnecessary improvements; to establish negative easements; and, in general, to enter into any other type of agreement that may affect the assets of the ward in an amount of more than five hundred quetzales.

The agreements referred to in this subsection cannot be extended:

2. To take out a cash loan; the conditions and guarantee of any cash loan must be set by the courts;
3. To refuse inheritances, legacies and gifts;
4. To bind and settle in arbitration issues involving the ward's interests;

GUATEMALA NATIONAL OFFICE OF CIVIL SERVICE

5. To pay off claims against the minor child or incapacitated person; and
6. To determine the form, conditions and guarantees regarding the location of the ward's money.

ARTICLE 333. The sale of commercial or industrial securities, interest bearing securities, stocks, bonds, proceeds, and capital gains may be conducted without the court's intervention, but never for less than the market value on the date of sale, which the guardian shall confirm upon providing an accounting.

ARTICLE 334. The guardian shall account for the legal interests of the ward's capital when, due to the guardian's disregard or negligence, they fail to be productive or are underutilized.

ARTICLE 335. The guardian may not liquidate a business enterprise that forms part of the minor child's assets or modify the business or industry that the minor child or the minor child's testator previously established, without authorization by the court.

ARTICLE 336. Prohibitions. The guardian is forbidden to engage in the following:

1. To enter into a contract with the minor child or incapacitated person either directly or through a third party, or agree to claims, rights or actions against them, except in cases of legal subrogation;
2. To dispose of the minor child's or incapacitated person's assets at no charge;
3. To accept gifts from a former ward before the administration accounting has been approved and closed, unless the guardian is a grandparent, spouse or sibling of the person making the gift;
4. To voluntarily waive the minor child or incapacitated person's rights; and
5. To agree to be the beneficiary of an insurance policy of the ward.

ARTICLE 337. The guardian's relatives also may not enter into a contract involving the minor child or incapacitated person's assets, either directly or through a third party, unless the relatives are the ward's co-heirs or partners.

ARTICLE 338. The guardian may not acknowledge paternity of children of the ward without the express consent of the ward and may never do so in the case of an incapacitated person, nor allow, expressly or tacitly, any determinations that are unfavorable to the ward.

GUATEMALA NATIONAL OFFICE OF CIVIL SERVICE

ARTICLE 339. During the guardianship, the supervisory guardian is required to defend the rights of the minor child in court and out of court, whenever they conflict with the interests of the guardian; and is required to support the designation of a guardian when an acting guardian is removed or when guardianship is vacated or abandoned.

ARTICLE 340. Payment to the guardian. The guardian and the supervisory guardian have the right to recompense that shall be paid annually and will not be less than five percent and not more than fifteen percent of the annual income and liquid earnings from the ward's assets.

Where the payment was not established in the will, or when there is no income nor are there any liquid earnings, and that condition is not a result of negligence on the part of the guardian, the court will establish the payment, taking into consideration the importance of income for the ward and the effort involved in the exercise of guardianship. The payment will be divided between the guardian and the supervisory guardian, the former receiving seventy-five percent and the latter the remaining twenty-five percent.

ARTICLE 341. When the guardian and supervisory guardian are removed for being at fault, they shall not have a right to receive any payment whatsoever.

ARTICLE 342. The guardian is required to keep complete accounts with receipts of all administrative transactions, in certified accounting books, even when the testator has waived the requirement to keep accounts. At the end of the guardianship, the guardian will provide a report summarizing the administrative accounting.

PARAGRAPH IV Guardianship Accountability

ARTICLE 343. The guardian shall produce accounts annually and at the conclusion of the guardianship or when the guardian's position has ended.

ARTICLE 344. The annual report will be presented to the court with the participation of the supervisory guardian and the Public Ministry.

ARTICLE 345. The final report will be presented by the guardian or the guardian's heirs to the former ward or a representative of the same, within sixty days of the conclusion of the guardianship.

ARTICLE 346. A guardian who replaces another guardian is required to request delivery of the assets and report of the previous guardian. A guardian who fails to do

GUATEMALA NATIONAL OFFICE OF CIVIL SERVICE

so is responsible for any damages and losses to the ward that result from this omission.

ARTICLE 347. The report shall be accompanied by supporting documentation. Only expenses for which receipts are not customarily provided may be exempted.

ARTICLE 348. The costs of preparing the report will be charged to the minor child or incapacitated person.

ARTICLE 349. Delivery of assets. At the conclusion of the guardianship, the guardian is required to deliver to the former ward all the assets and documents belonging to the ward.

This obligation may not be suspended even when the accounting report remains pending.

ARTICLE 350. The balance of the account that may favor or may not favor the guardian, will produce interests.

In the first instance, starting when the ward is required to provide recompense, prior to delivery of the assets; in the second instance, starting when the accounting report is provided, if it is provided within the legal deadline, and, if not, starting when the deadline expires.

ARTICLE 351. Statute of Limitations. The actions or obligations that correspond reciprocally to the guardian and the former ward relating to the guardianship, expire five years after the guardianship has concluded.

CHAPTER X ON FAMILY TRUSTS

ARTICLE 352. Definition. A family trust refers to the legal-social institution in which one or more assets are set aside for the protection of the home and maintenance of the family.

ARTICLE 353. Assets that may constitute a family trust. Homes, agricultural parcels of land, industrial and commercial establishments that the family may benefit from can constitute a family trust, as long as their value does not exceed the maximum established in this chapter.

ARTICLE 354. Only one family trust may be established per family, by the father or the mother based on each of their assets, or by the husband and wife based on assets held in common.

GUATEMALA NATIONAL OFFICE OF CIVIL SERVICE

A family trust can also be established by a third party as a gift or legacy.

ARTICLE 355. Maximum value of the trust. A family trust cannot exceed one hundred thousand quetzales at the time it is established.

If the value of the assets is less than that amount, the value may increase to said amount, the increase being subject to the same procedural transactions as the original establishment of the trust.

ARTICLE 356. Character of the trust. Assets constituting a family trust are indivisible, inalienable, and not subject to attachment, and may not be taxed nor disposed of, except in the case of an easement.

ARTICLE 357. Prohibition on the establishment of family trust for the purpose of defrauding creditors. A family trust may not be established to defraud creditors. The assets must be free from encumbrances and taxes and the petition for judicial approval shall be made public so that anyone who may have an interest in opposing the establishment of the trust may be made aware of it.

ARTICLE 358. Obligations of the beneficiaries. The family members who are the beneficiaries of the trust are required to occupy the house or personally cultivate the agricultural land, or operate the industry or business, unless the court allows temporary exceptions for justifiable reasons.

ARTICLE 359. If the title to the property that comprises part of the family trust is in the name of the head of household alone, it shall be understood that it has been established as part of the trust for the purpose of maintaining the spouse, minor children or incapacitated children and those persons who have the right to be provided for by it.

ARTICLE 360. Obligation to establish trust. When there exists a risk that the person required to be the provider may lose the assets due to poor administration or by squandering them, those entitled to be provided for have the right to file a lawsuit demanding that a trust be created to meet the obligation.

ARTICLE 361. Approval by the court. The court's approval is required to form a family trust, and it must be recorded in the Registry of Property, prior to the procedural transactions set forth in the Civil and Commercial Procedural Code.

However, when the State pursues the allotment and distribution of a national asset, it can confer family trust status on each parcel, and this legal status is sufficient for the trust to be established and registered. This type of family trust is in other

GUATEMALA NATIONAL OFFICE OF CIVIL SERVICE

respects regulated in accordance with all applicable provisions set forth in this chapter.

ARTICLE 362. Administrator. The legal representative of the family shall be the administrator of the family trust as well as the representative of the beneficiaries in all matters related to the trust.

ARTICLE 363. The family trust is terminated:

1. When all the beneficiaries cease to have the right to be provided for;
2. When, without just cause and without judicial authorization, the family no longer occupies the house that is their designated home, or no longer cultivates the land or operates the related establishments;
3. When the end of the trust's utility and necessity, with respect to the family, is demonstrated;
4. When the assets that form the trust are expropriated; and
5. At the expiration date recorded when the trust was established.

ARTICLE 364. The family trust with a fixed end date should last until the youngest member of the current family reaches legal age; but in no case shall a family trust be formed for a period of less than ten years.

ARTICLE 365. When the right to the family trust ends, the assets with which it was established shall return to the person who established the trust or that person's heirs; but, if the beneficiaries are the owners, they shall have the right to terminate the undivided ownership of the assets.

ARTICLE 366. When the trust is terminated through expropriation of the property, the respective compensation shall be deposited in a banking institution until a new family trust is formed.

ARTICLE 367. The value of the family trust may be reduced if, after it was established, it increased above the maximum allowed, or if said decrease is useful to and necessary for the family.

ARTICLE 368. The Public Ministry will oversee the establishment, termination and drafting of the family trust.

**CHAPTER XI
ON THE CIVIL REGISTRY***

**PARAGRAPH I
General Provisions**

ARTICLES 369 TO 437¹⁵ REPEALED.

**PARAGRAPH IX
Registry of Legal Entities**

ARTICLE 438. Those entered in subsections 3 and 4 and in the last paragraph of article 15 of this Code shall be recorded in the special book of the Registry of Legal Entities.

ARTICLE 439. Entry into the record shall be made in accordance with the notarial instrument with which the legal entity was constituted, in full compliance with the requirements established in the corporate agreement of the respective Code of Law.

The notarial instrument shall be accompanied by one copy of same instrument, on stamped paper of the lowest value, to be placed in the files; the notarial instrument shall be returned with the registration confirming that the legal entity has been recorded.

ARTICLE 440. For their entry into the record, the associations referred to in subsection 3 of the abovementioned article 15 shall provide a single-sided notarized copy of their bylaws or regulations and the agreement of approval and recognition of legal identity, documents that will remain in the custody of the Registry.

**PARAGRAPH X
General Provision**

ARTICLE 441.¹⁶ REPEALED

¹⁵ Articles 369 to 437 repealed after the thirtieth of September of two thousand eight by Article 103, Decree Num. 90-2005, published in the Bulletin of Central America on February 20, 2006.

¹⁶ Repealed after the thirtieth of September of two thousand eight by Article 103, Decree Num. 90-2005, published in the Bulletin of Central America on February 20, 2006.

CERTIFICATE OF TRANSLATION

May 14, 2021

I, William Beadman, am competent to translate documents from Spanish to English, and certify that I have translated the preceding documents (Chapter II to Chapter XI) faithfully and accurately to the best of my ability.

A handwritten signature in black ink, appearing to read 'W Beadman', written in a cursive style.

William Beadman
Tehuantepec 78,
Roma Sur 06760, CDMX, Mexico
+52 55 8766 0589