

Federal Decree-Law No. (41) of 2024
On the Issuance of the Personal Status Law

We, Mohamed bin Zayed Al Nahyan,

President of the UAE,

- Upon reviewing the Constitution,
- Federal Law No. (1) of 1972 Concerning the Competencies of Ministries and the Powers of Ministers, as amended,
- Federal Law No. (28) of 2005 Concerning Personal Status, as amended,
- and based on the presentation of the Minister of Justice and the approval of the Cabinet,

Have promulgated the following Decree-Law:

Article One

The Personal Status Law attached to this Federal Decree-Law shall be implemented, and the provisions thereof shall apply to all matters covered by the articles therein contained. If the judge does not find a provision, he/she shall render a judgement in conformity with the Islamic Law “*Sharia*”, provided that the most appropriate solutions shall be chosen as interest requires. Otherwise, the judge shall render a judgement based on custom, provided that it does not contradict the rules of *Sharia*, public order, or public morality.

Article Two

The provisions of the Civil Procedure Law, the Evidence Law in Civil and Commercial Transactions, and the Civil Transactions Law shall apply to matters not specifically stated in the herewith-attached law.

Article Three

1. The Federal Judicial Council and the competent local judicial authorities shall issue, each within their jurisdiction, the following regulations and guides:
 - a. Regulations for certifications and documentation.

- b. Regulations for the function of the Personal Status litigation department and the competencies of the supervising judge.
 - c. Regulations governing the work of authorized marriage officers.
 - d. Regulations governing legacies and minors' assets.
 - e. Family Guidance regulations.
 - f. Visitation regulations for children in custody.
 - g. Regulations governing the work of the two arbitrators.
 - h. Regulatory procedural guide on Personal Status matters.
 - i. Guidebook regulating the rules necessary for estimating the value of alimonies, wages, and the like.
 - j. Any other regulations in implementation of the provisions of the attached law.
2. The Cabinet, based on the proposal of the Minister of Justice and after coordination with the relevant federal and local authorities, may assign the implementation of alimonies rulings and their collection to one of the government authorities or private legal persons, to undertake paying them to the judgment creditors and then collecting them from the judgment debtors in accordance with controls and procedures to be issued in this regard. It shall have the status of judgment creditors in following up on the collection of alimonies and any resulting fees and taking the necessary procedures.
 3. The Cabinet, based on the proposal of the Minister of Justice and after coordination with the relevant federal and local authorities, may issue a decision to assign the task of implementing visitation, handing over the child in custody, and implementing the rulings, orders, and decisions related to the affairs of the minor to any entity that has the qualifications to do so in accordance with the controls and procedures issued in this regard.
 4. The regulations and decisions issued in implementation of the provisions of Federal Law No. (28) of 2005 Concerning Personal Status shall remain in effect until the Cabinet and the Federal Judicial Council and the competent local judicial authorities, each within their jurisdiction, issue the regulations and guides referred to in Clause (1) of this Article.

Article Four

The law attached to this Decree-Law shall replace Federal Law No. (28) of 2005 Concerning Personal Status, and any provision that contradicts or conflicts with the provisions of this Decree-Law and the law attached to it shall be repealed.

Article Five

The present Decree-Law shall be published in the Official Gazette and shall come into force (6) six months following the date of its publication.

**Mohamed bin Zayed Al Nahyan,
President of the UAE**

Issued by us at the Presidential Palace in Abu Dhabi:

Date: Rabia I 28th, 1446 H

Corresponding to: October 1st, 2024

Personal Status Law

Chapter One

General Provisions

Article (1)

Scope of Application of the Law

1. The provisions of this Law shall apply to UAE citizens if both parties of the relationship or one of them is Muslim.
2. The provisions of this Law apply to non-Muslim UAE citizens unless they have provisions specific to their sect and religion or they agree to apply another law permitted by the legislation in force in the State.
3. The provisions of this Law shall apply to non-UAE citizens unless one of them insists on applying his/her law or any other law that has been agreed to be applied, as permitted by the legislation in force in the State.
4. The provisions of this Law shall apply to all events that occurred after its provisions are into force. In addition, it applies retrospectively to deeds of divorce, divorce proceedings, and proof or denial of lineage proceedings, for which a final judgement has not been issued.

Article (2)

Calculating the Durations

The Gregorian calendar shall be adopted for the durations mentioned in this Law unless otherwise stated.

Article (3)

Courts' Competence

1. The courts of the State shall be competent to consider cases related to Personal Status issues filed against citizens and foreigners who have a domicile, place of residence, or place of work in the State.

2. The court, within whose jurisdiction falls the respondent's domicile, place of residence or place of work, shall be competent. In case of multiple respondents, competence shall be granted to the court within whose jurisdiction falls the domicile, place of residence or place of work of one of them.
3. The court, within whose jurisdiction the plaintiff's or respondent's domicile, residence, or place of work or marital home falls, shall be competent to hear cases filed by the children, the wife, the parents, or the custodian, as the case may be, in the following matters:
 - a. Alimonies, wages, and the like.
 - b. Custody, visitation, and related issues.
 - c. Dowry, trousseau, gifts, and the like.
 - d. Divorce, *Khula'*, acquittal, revocation, and separation between spouses in all their forms.
4. The court within whose jurisdiction in the State falls the most recent domicile, residence, or place of work of the deceased, shall be competent to verify the proof of inheritance, wills, and liquidation of estates. If the deceased did not have a domicile, residence or place of work in the State, competence shall be attributed to the court within whose jurisdiction falls one of the assets of the estate.
5. Local jurisdiction in matters of guardianship is determined as follows:
 - a. In matters of guardianship (*Wilayah*)¹, at the domicile or place of residence of the guardian or minor, and in matters of tutorship (*Wisaya*)², at the most recent domicile or place of residence of the deceased or minor.
 - b. In matters of interdiction, at the domicile or place of residence of the person to be interdicted.
 - c. In matters of absence, at the most recent domicile, place of residence, or location of the absent person.
 - d. If none of those mentioned in paragraphs (a), (b), and (c) has a domicile or place of residence in the State, competence shall be vested in the court within whose jurisdiction

¹ Hereinafter, the term "guardianship" is used interchangeably with the Arabic term (*Wilayah*), unless otherwise expressly stated.

² Hereinafter, the term "tutorship" is used interchangeably with the Arabic term (*Wisayah*), unless otherwise expressly stated.

the domicile or place of residence of the applicant is located, or the court within whose jurisdiction the property of the person whose protection is sought is located.

- e. The court, that issued a ruling of interdiction or ordered the withdrawal or suspension of guardianship, shall refer the case to the court within whose jurisdiction the domicile or place of residence of the Minor is located to appoint someone to supervise him/her, whether a guardian (*Wali*)³ or tutor (*Wasi*)⁴.
6. If the respondent has no domicile, place of residence or place of work in the State, and it is not possible to designate the competent court by the provisions of the previous paragraphs, competence shall be to the court within whose jurisdiction the domicile, place of residence or place of work of the plaintiff is located, otherwise competence shall be vested to the court of the capital.

Article (4)

Competence of Courts in Cases Filed Against a Foreigner Who Has No Domicile in the State

The courts of the State have the competence to hear cases related to Personal Status filed against a foreigner who has no domicile, residence, or place of work in the State, in the following cases:

1. If the case is an objection to a marriage contract to be concluded in the State.
2. If the case is related to a request to revoke or annul a marriage contract, or to divorce or repudiation, and the case is filed by a State citizen wife or a wife who has lost the citizenship of the State, provided that she has a domicile or place of residence in the State, or if it is filed by a wife who has a domicile or place of residence in the State against her husband who had a domicile, place of residence or place of work in the State, provided that the husband has abandoned his wife and made his domicile or place of residence or place of work abroad, has been deported from the State or if his domicile abroad is unknown.

³ Hereinafter, the term "guardian" is used interchangeably with the Arabic term (*Wali*), unless otherwise expressly stated.

⁴ Hereinafter, the term "tutor" is used interchangeably with the Arabic term (*Wasi*), unless otherwise expressly stated.

3. If the case is related to a request for alimony for parents, wife, or a minor, who have a domicile, place of residence, or place of work in the State.
4. If the case concerns the lineage of a minor who has a domicile or place of residence in the State, or concerns a matter of guardianship over a person or property, provided that the minor or the person to be interdicted has a domicile or place of residence in the State, or that the absent person's most recent domicile, place of residence or place of work was there.
5. If the case is related to a personal status issue, and the plaintiff is a citizen or a foreigner with a domicile, place of residence, or place of work in the State, where the respondent does not have a known domicile or place of residence abroad or if the national law is the applicable law in the State.
6. If there are multiple respondents and one of them has a domicile, place of residence, or place of work in the State.
7. If he has a chosen domicile in the State.

Article (5)

The Competence of the Personal Status Judge and the Estate Judge

1. The Personal Status judge shall be competent to consider all disputes arising from the application of this Law and everything related to marriage, divorce, dowry, withdrawal of engagement, and all Personal Status matters.
2. By way of exemption to what is stated in Clause (1) of this Article, the estate judge shall have jurisdiction over the following:
 - a. Issuing a ruling to prove death, list of heirs, list and liquidate and distribute the estate, appoint a guardian (*Wasi*) for minors and a tutor (*Wasi*) on the estate, and take all that is required to preserve the estate.
 - b. Considering all disputes related to the inventory list, the liquidation of the estate, or the division and distribution of its assets among the heirs, and any civil, real estate, or commercial case arising, or deriving from, the estate related to its ownership, liquidation,

or any of its affairs between the heirs and others, and disputes that occur between the heirs, guardians, and those in their position.

- c. Any incidental requests relating to the removal or introduction of an heir, wills, endowments (*Waqf*), or settlement between heirs in grants arising from the estate or inseparably connected thereto.
- d. Certain competences mentioned in this Article may be assigned to a competent department or specialized court by a decision of the Federal Judicial Council or the head of the Local Judicial Authority.

Article (6)

Court Permit or Approval

1. In cases where the law requires obtaining the permit or approval of the court, or where the law requires that the matter be referred to a judge, the application shall be submitted to the court within whose jurisdiction the applicant's domicile or place of residence is located, by an order on petition unless the law provides otherwise.
2. The court may conduct the required investigation and request whatever it deems necessary; It shall hear the proof and request the required documents.
3. Any interested party may appeal this order within one week as of the day following its issuance if it was in person, and from the day following its announcement if it was deemed in person, the court shall issue its ruling on the appeal by upholding, amending, or cancelling it, such ruling shall be subject to appeal.

Article (7)

Directing the Dispute In Case of a Claim for a Missing Person Judgment

In the event of a claim for a missing person judgment, the dispute shall be directed to the potential heirs of the missing person, his/her agent or the person appointed as his/her agent, and to the Public Prosecution.

Article (8)

Family Guidance Department

1. Before referring the case to the competent court, the supervising judge may issue a decision to refer the parties of the case to the Family Guidance Department/ Section to resolve the dispute between them amicably if he/she deems it feasible. Matters of wills, inheritance, and the like, urgent and temporary cases, urgent and temporary orders concerning alimony, custody, tutorship (*Wisayah*), and cases in which reconciliation is not foreseeable such as cases to prove marriage and prove divorce, shall be exempted from referral to the Family Guidance Department/ Section
2. If a reconciliation is reached between the parties before the Family Guidance Department/ Section, it shall be recorded in a report signed by the parties and the family counselor. The report shall be approved by the supervising judge and have the force of execution writs. It shall not be subject to appeal in any way unless it contradicts the provisions of this Law.

Article (9)

Duration for Judgments Appeal and Cassation

The duration to file for appeal and cassation in rulings issued in personal status matters stipulated in this law is (30) thirty days.

Article (10)

Commencement of the Duration of Appeal

The commencement of the duration of appeal of the judgment shall begin on the day following the date of its issuance if it was in person, and on the day following the notice of the party against whom the judgment is rendered if it was deemed in person.

Chapter Two

Engagement

Article (11)

Definition of Engagement

Engagement is a man's request to marry a woman who is permissible for him and a promise to marry her. Engagement is not deemed to be a marriage.

Article (12)

Cancellation of Engagement

Both the fiancé and the fiancée have the right to withdraw from the engagement.

Article (13)

Gifts During the Engagement Period

Everything that the fiancé or fiancée presents to the other party during the engagement period is deemed a gift unless the fiancé proves that what he presented is deemed a dowry or is customarily deemed part of the dowry.

Article (14)

Redeeming Gifts

1. If one or both parties withdraw from the engagement, only gifts conditional on the completion of the marriage shall be returned, as well as valuable gifts each of which exceeds (25,000) twenty-five thousand dirhams in value, if they still exist, otherwise by their equivalent or their value on the day of receipt, unless the gift is consumable by nature.
2. If the engagement ends by death, or for a reason beyond the control of either party, none of the gifts may be redeemed.

Article (15)

Redeeming the Dowry Presented During the Engagement Period

1. If either the fiancé or the fiancée refrains from concluding the marriage contract or dies before the contract, and the fiancé had given his fiancée property before the contract as part of the dowry, the fiancé, or his heirs, is entitled to reclaim what was given in kind if it still exists, otherwise by its equivalent or its value on the day of receipt.
2. If the fiancée buys with the dowry, or part of it, trousseau to the purpose of the marriage, according to custom, and the fiancé's withdrawal is with no reason on her part, or her withdrawal is because of the fiancé, then she is entitled to choose between returning the dowry or handing over what she purchased in its condition unless an agreement stipulating otherwise exists.
3. If the fiancée buys with the dowry, or part of it, to the purpose of marriage, according to custom, and the withdrawal is from her part without a reason from the fiancé, then she is obliged to return the dowry, or else its equivalent or its value on the day of receipt.

Chapter Three

Marriage

Article (16)

Definition and Purpose of Marriage

Marriage is a contract concluded in accordance with the provisions of this Law with elements and conditions between a man and a woman with the intention of perpetuating the marital relationship between them. It establishes rights and duties among spouses, aiming at chastity and purity, and the establishment of a stable family that spouses care for with affection and mercy.

Article (17)

Definition of Seclusion

Seclusion is the meeting of spouses before intercourse in a place where each of them feels safe with the other without being overseen. Seclusion is proven by their agreement if they acknowledge it or by the testimony of witnesses.

Article (18)

Elements of Marriage Contract

The elements necessary for the conclusion of a marriage contract are:

1. Offer and acceptance of spouses.
2. The guardian if the wife is Muslim, with the exception of a non-citizen Muslim wife, if the law of her nationality does not require her to have a guardian in marriage.

Article (19)

Eligibility for Marriage

1. The legal capacity for marriage is completed by sanity and the person reaching (18) eighteen Gregorian years of age.
2. It is prohibited to document a marriage contract for anyone who has not reached the age of (18) eighteen Gregorian years, whether male or female, except with the permit of the court and after verifying the existence of an interest in this marriage, and that it meets the controls and procedures for marrying those under the age of (18) eighteen Gregorian years, which are determined by a resolution issued by the Cabinet based on a proposal from the Minister of Justice.
3. If a person who has not reached the age of (18) eighteen Gregorian years requests marriage and his guardian refuses to get him married, the person may bring the matter to Court. The court shall specify a period for the guardian to attend after informing him, to clarify his statements. If he does not attend, or if he attends and his objection is unjustified, the court shall get the person married.

4. Anyone who has been legally married has the capacity to litigate and appoint an agent in all matters related to marriage and its effects if he/she is sane, even if he/she has not reached the age of majority.
5. If the fiancée is a virgin and the age difference between her and the fiancé is more than (30) thirty years, the marriage shall not be concluded except with the permit of the Court.

Article (20)

Marriage of a Prodigal, Lunatic, or Idiot

1. A male who has reached the age of majority and is prodigal or has become prodigal may get himself married. The guardian over property, before intercourse, may object to what exceeds twice the usual dowry. The exception to this is the waiver of financial rights arising from marriage.
2. The court may authorize the marriage of a lunatic or idiot based on the guardian's request, after the following conditions are met:
 - a. This marriage is in the interest of the lunatic or idiot.
 - b. The other party accepts to marry him after informing her of his condition.
 - c. That the guardian submits a medical report approved by a governmental body on the case of lunacy or idiocy, indicating the possibility of transmitting it to his offspring.

Article (21)

Order of Guardians in Marriage

The order of guardians in marriage is as follows:

1. The father, then the one he specifies in a will, then the paternal grandfather, even if he ascends, then the son, then the full brother, then whoever the woman chooses from: the son's son, even if he descends, then the paternal brother, then the son of the full brother, then the son of the paternal brother, even if they descend, then the full uncle, then the paternal uncle, or whoever the Court appoints from among them, or the judge himself/herself.

2. If the guardians are equal in rank, the one appointed by the woman shall take precedence. If she does not appoint one, then any guardian of them may undertake the marriage contract.
3. If the woman's guardian is unable to attend or cannot be informed, the Court shall, upon the request of the woman or any interested party, transfer the guardianship of marriage to the next guardian.
4. It is forbidden to get a girl married without her consent, and in all cases, the marriage contract shall include proof of consent.

Article (22)

Marriage of a Person Who Has No Guardian

The Judge is the guardian of anyone who has no guardian, and he is permitted to marry himself to the woman over whom he has guardianship.

Article (23)

Requirements of Guardian in Marriage

The guardian in marriage shall be a sane man who has reached the age of majority. If one of the conditions of guardianship is missing, the next guardian shall conduct the marriage.

Article (24)

The Woman's Prevention by Her Guardian from Getting Married

If the guardian, even if he is the father, prevents a woman over whom he has guardianship, from marrying a man of her equivalence, and whom she has accepted and with a usual dowry, the Court shall undertake the marriage of the woman at her request or the request of an interested party. The court may transfer her guardianship to any of the guardians for an interest it deems appropriate or authorize whomever it deems appropriate to conduct the contract.

Article (25)

Terms of the Offer and Acceptance

The offer and acceptance shall meet the following conditions:

1. They align explicitly in terms of words that convey the meaning of marriage in language and custom.
2. They must be coupled together at the same gathering *ipso facto*, and may be coupled together *ipso jure*, as prescribed by the legislation in force in this regard.
3. They shall be absolutely final, not subject to condition, not linked to the future, and not indicating timing.

Article (26)

Conditions for the Validity of the Marriage Contract

The following conditions shall be met for the marriage contract to be valid:

1. Specifying the spouses.
2. The wife should not be, permanently or temporarily, part of the category of women to whom marriage is prohibited for the specified man.
3. The consent of the wife.
4. The offer by the guardian (in case the wife is Muslim) and the other's acceptance, with the exception of the non-citizen Muslim wife if the law of her nationality does not require her to have a guardian in marriage.
5. Testimony of two witnesses.

Article (27)

Requirements of Witness

The witness shall be a sane man, has reached the age of majority, has heard the offer and acceptance and understood what is meant by them, and be a Muslim as long as the husband is a Muslim.

Article (28)

Prohibitions Due to Kinship

1. It is permanently forbidden, due to kinship, to marry:
 - a. Ascendants, even if they ascend.
 - b. Descendants, even if they descend.
 - c. The descendants of the parents, even if they descend.
 - d. The first layer of the descendants of grandfathers or grandmothers.
2. It is forbidden for a person to marry his/her descendant from adultery, even if they descend.

Article (29)

Prohibitions Due to Affinity

1. It is permanently forbidden for a man, due to affinity, to marry:
 - a. His wife's ascendants, even if they ascend.
 - b. The descendants of his wife with whom he had intercourse, even if they descend.
 - c. Whoever is the wife of one of his ascendants, even if they ascend, or the wife of one of his descendants, even if they descend.
2. Entering into an invalid marriage entails the same consequences of prohibitions due to affinity in a valid marriage.

Article (30)

Prohibitions Due to Accusation of Adultery

1. It is permanently forbidden for a man to marry a woman whom he accused of adultery before the Judiciary, even if he retrieved his accusation.
2. A person is prohibited from marrying his daughter that he denied due to an accusation of adultery.

Article (31)

Prohibitions Due to Breastfeeding

Breastfeeding relationship prohibits what is prohibited by lineage if the following conditions are met:

1. Breastfeeding should have occurred during the first two years of the newborn's life.
2. The number of times of breastfeeding shall be (5) five certain separate breastfeedings, even if they are close in time.
3. Breastfeeding is proven in the following order: the admission of the wet nurse, or the testimony of her husband, her descendants, or two women close to her.

Article (32)

Cases of Temporary Prohibition of Marriage

Marriage is temporarily forbidden in the following cases:

1. A man's marriage to someone else's wife.
2. A man's marriage to a woman in her Waiting Period from another man.
3. A man's marriage to a woman who has been irrevocably divorced from him by three divorces, unless her waiting period from another husband with whom she had intercourse in a valid marriage has ended.
4. Marrying more than four women, even if one of them is in the waiting period of a revocable divorce.
5. Combining in marriage two sisters, or a woman and her paternal aunt or maternal aunt. Such combining is deemed to have occurred even if one of them is in her waiting period from him, even if the divorce is irrevocable.
6. The marriage of a Muslim man to a woman of a non-Abrahamic religion⁵
7. The marriage of a Muslim woman to a non-Muslim man.

⁵ "Non-Abrahamic religions" is used as a term to refer to non-Christian and non-Jewish religions. Obviously, Abrahamic religions are Islam, Christianity, and Judaism.

Article (33)

Constraints on Conditions in the Marriage Contract

1. The spouses are bound by their conditions, except for a condition that makes permissible what is forbidden or forbids what is permissible.
2. If a condition that is stipulated in the marriage contract contradicts its essence, the contract is void.
3. If a condition is stipulated in a marriage contract that does not contradict its essence but contradicts its requirements or is forbidden by Islamic *Sharia*, the condition is void and the contract is valid.
4. If a condition is stipulated in a marriage contract that does not contradict its essence, nor its requirements, and is not forbidden by *Sharia*, the condition is valid and shall be fulfilled. If one of the spouses fails to fulfill the condition stipulated by the other, the one who stipulated it has the right to request revocation of the marriage contract unless he/she waives his/her right explicitly or implicitly. The passage of one year from the date of knowledge of the occurrence of the violation is deemed to be implicit consent, and the right of revocation shall also be extinguished by irrevocable divorce.
5. If the failure to fulfill the condition is on the part of the husband, the revocation shall be without consideration, and if it is on the part of the wife, it shall be with consideration not exceeding the dowry.
6. The condition shall not be deemed as proving the option to revoke the marriage contract unless the condition is stated in writing in the marriage contract document or acknowledged by the spouses.
7. No condition shall be considered in the event of denial unless it is stated in writing in the authenticated marriage contract.

Article (34)

Conclusion of the Marriage Contract

Marriage is concluded by the offer and acceptance between the parties to the contract, using the explicit wording of marriage, in writing in case of inability to speak, and by a comprehensible signal in case of inability to speak or write.

Article (35)

Types of Marriage Contracts

Marriage contracts are of two types:

1. Valid marriage contract.
2. Invalid marriage contract, including the following:
 - a. Invalid marriage contract in which one or more of the elements of the marriage contract are missing.
 - b. *Al-Fased*⁶ marriage contract in which one or more of the conditions for the validity of the contract are missing.

Article (36)

Valid Marriage Contract

A marriage contract is valid if its elements and conditions are met, and its effects are established from the moment it was concluded.

⁶ The literal translation of the word "Al-Fased contract" is "the tainted contract". The word is derived from the Islamic law (specifically the Hanafi doctrine/school). Hence, wherever the word "voidable" is used in this Code it means "Al-Fased". The other Arab Civil Codes instead adopted the concept of the "voidable contract" under French law which in this respect is similar to the English Law. Most of the said Civil Codes followed the Egyptian Code in providing for a three-year period during which either party to the contract may take measures to void it, otherwise it remains valid.

Article (37)

Invalid Marriage Contract

A marriage contract is invalid if one of its elements, or one of its validity conditions, is missing, or if a condition stipulated therein contradicts its essence.

Article (38)

Effects of Void Marriage Contract

1. A void marriage shall have no effect before intercourse.
2. A void marriage, after intercourse, results in a waiting period and proof of lineage.

Article (39)

Effects of *Al-Fased* Marriage Contract

1. The court shall revoke *Al-Fased* marriage contract, and it has no effect before intercourse, except for divorce if the husband issues it, in which case it becomes a minor irrevocable divorce.
2. The consequences of *Al-Fased* marriage after intercourse are the following:
 - a. The woman is entitled to the specified dowry or the usual dowry if the dowry is not specified,
 - b. Proof of lineage,
 - c. Obligation to waiting period,
 - d. The sanctity of affinity,
 - e. Woman's entitlement to alimony unless she was aware that the contract is *Al-Fased*.

Article (40)

Correction of the *Al-Fased* Marriage Contract

It is permissible for spouses in the case of *Al-Fased* marriage contract to conclude a new marriage contract that meets the elements and conditions without the need for a judicial ruling to revoke

the previous *Al-Fased* contract, provided that the procedures regulating the documentation of marriage contracts are met.

Article (41)

Documenting the Marriage Contract

1. The marriage contract shall be documented in the court in accordance with the legislation in force.
2. Any interested party may request proof of an undocumented marriage contract.
3. The marriage contract should fulfill the requirements and submit the documents and medical reports stipulated by the legislation in force in this regard.

Article (42)

Equivalency

1. The husband shall be equivalent to the woman at the time of concluding the marriage contract, and the loss of equivalency thereafter does not affect the contract. Equivalency is a right for both the woman and her guardian who is fully capacitated.
2. The criterion for equivalency is the husband's religious integrity, and custom is considered in determining equivalency in matters other than religion.
3. Distant guardians have no right to object the marriage due to non-equivalency except in the absence of the closest guardian or his lack of capacity.

Article (43)

The Right of the Wife and Her Guardian to Request Revocation of the Contract Due to Non-Equivalency

If a man claims equivalency or fabricates what deceives to its existence, or equivalency is stipulated in the contract, thereafter it appears that he is non-equivalent, then both the wife and her guardian have the right to request revocation. If the guardian refrains from doing so, the wife may refer the matter to court.

Article (44)

The Extinguishment of the Wife's Right to Request Revocation for the Lack of Equivalency

The right of the wife to request revocation due to the lack of equivalency is extinguished by her pregnancy, the passing of one year since the date of intercourse or receiving prior consent from the person requesting the revocation.

Article (45)

Dowry

1. Dowry is the property paid by the man to the woman by virtue of the marriage contract, and its determination is subject to the dowry determination law.
2. Dowry is the woman's ownership, and she shall not be obliged to any disposal thereof, and any condition to the contrary shall not be considered.

Article (46)

Postponement of Dowry

1. It is permissible to agree in the marriage contract to postpone the payment of all or part of the dowry.
2. If the contract does not stipulate that the dowry payment be postponed and does not specify a particular time for its delivery, it shall be delivered upon request.
3. If the contract provides that the dowry be deferred, and a specific known term is mentioned, then the dowry becomes due by the end of that term. However, if an unknown term is mentioned, then it shall be due in advance.
4. If the dowry is subject to a condition, it becomes due upon its occurrence, irrevocable separation, or the death of one of the spouses.
5. In all cases, the dowry becomes due upon irrevocable separation or the death of one of the spouses.

Article (47)

The Obligation, Confirmation, and Entitlement to the Dowry

1. Except in the case of void marriage contract, the dowry is obligatory in accordance with the marriage contract.
2. The full dowry or the usual dowry is confirmed by intercourse, proper seclusion, or the death of one of the spouses.
3. A woman who is divorced before intercourse is entitled to half of the dowry if it is specified, otherwise, she is entitled to no more than half of the usual dowry.

Article (48)

Usual Dowry

A woman is entitled to the usual dowry in the following cases:

1. Silence about naming the dowry.
2. Denying the dowry in the marriage contract,
3. Not specifying the dowry correctly in the contract.

Article (49)

Rights of Spouses

Both spouses shall consider the following:

1. Good companionship to each other in accordance with custom and exchanging respect in a manner leading to affection and mercy between them.
2. Neither party shall harm the other materially or morally.
3. Neither spouse shall refrain from sexual intercourse or having children except with the consent of the other party.
4. Living in the marital house unless otherwise stipulated in the contract, and the Court shall consider the interest of the family in the event of a dispute between the spouses.
5. Preserving family interests, caring for children, and raising them well.

6. The husband is obliged to provide maintenance in a manner consistent with custom, and is obliged to equity among his wives in treatment, division, and obligatory maintenance.
7. The wife shall obey her husband in a manner consistent with custom, and breastfeed their children unless there exists a legally permissible impediment.

Article (50)

The Wife's Right to Refrain from Intercourse and Moving into the Marital House

1. The wife may refrain from entering and moving into the marital home until she receives her due dowry and until the husband provides her with an appropriate house in accordance with the husband's financial capability.
2. If the wife accepts to consummate the marriage before receiving her due dowry, it remains a debt owed by the husband and she may request it at any time she wishes, but she does not have the right to refuse thereafter if he provides her with an appropriate house.

Article (51)

Wife's Property and Financial Entity

1. Each one of the spouses shall have an independent financial entity, and the wife is free to dispose of her property, and the husband shall not dispose of her property without her consent.
2. If one of the spouses participates with the other in developing property, building a house, or the like, he/she has the right to claim his/her share of it from the other party or the heirs.

Chapter Four

Spouses Separation

Article (52)

Cases of Spouses Separation

Separation occurs between spouses in any of the following cases:

1. Divorce.
2. Forced divorce.
3. *Khula'*.
4. Revocation of the marriage contract.
5. Death of one of the spouses.

Article (53)

Definition of Divorce

Divorce is the dissolution of the marriage contract by the will of the husband through the word indicating it. There are two types of this word:

1. Explicitly, which is the word of divorce or a derivative thereof.
2. Metaphorically, which is a word that may mean divorce or something else if the husband intends to divorce by it.

Article (54)

Divorce by Husband

1. Divorce is pronounced by the husband by speech or writing by any means, and if he is unable to do either, then by a comprehensible signal.
2. Divorce does not occur on the wife unless she is in a valid marriage.

Article (55)

The Husband's Authorization of Another Person to Divorce

1. The husband or the wife, if she has the right to divorce herself, may authorize another person, male or female, to issue the divorce using a special notarized Power of Attorney.
2. The authorizing person's⁷ statement, concerning the withdrawal of the notarized Power of Attorney after the divorce is issued by the authorized, is not accepted. It is accepted only if the husband or wife documented his/her withdrawal before the divorce occurred or proved that the authorized person knew about his withdrawal of the Power of Attorney before the divorce occurred.

Article (56)

Cases in Which Divorce Does Not Occur

Divorce does not occur in the following cases:

1. If the wife is in the waiting period of divorce or invalid marriage.
2. Divorce of an insane person or someone who has lost his sanity, even if such loss is by choice due to the consumption substance affecting sanity.
3. Divorce under duress.
4. Divorce of someone whose anger is so intense that it prevents him from controlling his words.
5. Divorce added to the future.
6. Divorce is conditional on doing or abandoning something, or on something happening or not happening, unless the intention to divorce is actually proven.
7. Divorce by breaking an oath of divorce or a forbidden oath, unless the intention to divorce is actually proven.

⁷ "Authorizing person" refers to the party granting Power of Attorney to the authorized.

Article (57)

Repeated Divorce

Repeated divorce or divorce coupled with a number, verbally, in writing, or by signal, is deemed only one divorce.

Article (58)

Documenting Divorce

1. The husband shall document the divorce before the competent court within a maximum period of (15) fifteen days from the date of its occurrence, and this does not prejudice the wife's right to file a case to prove the divorce.
2. If the husband does not document the divorce within the period specified in Clause (1) of this Article, without an excuse acceptable to the court, the wife shall be entitled to a compensation equivalent to the alimony from the date of the divorce to the date of its documentation.

Article (59)

Types of Divorce

Divorce is of two types:

1. A revocable divorce, which does not end the marriage contract until the waiting period has expired.
2. An irrevocable divorce, which ends the marriage contract upon its occurrence, and is divided into two types:
 - a. Minor irrevocable divorce: is the divorce that occurs for the first or second time and the divorcer does not take his divorced wife back during the waiting period, the divorced woman is not permissible for her divorcer except with a new contract and a new dowry.
 - b. Major irrevocable divorce, which is the divorce that completes three divorces. The divorced woman is not permissible for her divorcer until her waiting period from another husband who has actually had intercourse with her in a valid marriage.

Article (60)

Revocable Divorce

Every divorce in a valid marriage is deemed a revocable divorce except:

1. The third divorce, by which the woman becomes separated by a major irrevocable divorce.
2. Divorce before intercourse or seclusion, by which the woman becomes separated by minor irrevocable divorce.

Article (61)

Take Back

If the husband divorces his wife by way of a revocable divorce, he has the right to take her back as long as she is in the waiting period, and this right shall not be extinguished by waiving it.

Article (62)

Means of Take Back

1. Take back is valid by action or explicit verbal or written expression, and if both are not possible, then by a comprehensible signal.
2. The take back is only valid if it is absolutely final, and should not be suspended on a condition or added to the future.

Article (63)

Wife's Statement in Divorce and Take Back

1. The wife's statement in divorce and take back cases is not accepted, except with proof.
2. The wife's statement concerning the expiry of the waiting period for divorce before the take back is accepted if the period is such that the waiting period usually expires within it.

Article (64)

Documenting the Take Back

1. In a revocable divorce, the husband shall document the take back before the competent court within a maximum period of (15) fifteen days from the date of the take back if he has documented the divorce, and he shall inform the wife of the take back immediately upon its occurrence, even if the divorce has not been documented.
2. If the husband does not document the take back within the specified period, and the woman does not know about it and she marries another, then the take back shall be invalid.

Article (65)

Definition of *Khula'*

Khula' is a separation between spouses at the request of the wife and the husband's acceptance of the consideration offered by the wife or someone else, *Khula'* takes place as a minor irrevocable divorce.

Article (66)

Consideration in *Khula'*

1. Anything that can be deemed property can be deemed as a consideration in *Khula'*.
2. If the consideration in *Khula'* is the dowry, then surrendering what was received from the dowry will suffice, and the remainder shall be dropped even if it was deferred.
3. It is not permissible to agree that the consideration in *Khula'* is the waiver of any of the children's rights, their maintenance, or custody.
4. If the husband, stubbornly, refuses to accept the consideration in *Khula'*, the court shall order *Khula'* in exchange for an appropriate consideration that it determines.

Article (67)

Competence for *Khula'*

Khula' is valid between fully competent spouses, and the exchange in *Khula'* is valid if the person who provides it is competent.

Article (68)

Documenting *Khula'*

The spouses shall document *Khula'* in accordance with the procedures in force before the competent court within a maximum period of (15) fifteen days, any interested party may apply to the court to prove it by any means of proof.

Article (69)

Court's Revocation of Marriage Contract Due to Disease or Harmful Defect

1. If one of the spouses finds in the other a disease or a serious defect that is among repulsive or harmful defects, such as lunacy, leprosy, or elephantiasis, or that prevents sexual pleasure, such as impotence, horns, and the like, he/she may request revocation of marriage, whether that disease existed before the contract or occurred afterward.
2. The right to revocation extinguishes if he/she knew about the disease or defect before the contract or accepted it afterward explicitly or implicitly, provided that the wife's right to request revocation due to disease or defect preventing sexual pleasure shall not be extinguished in all circumstances.
3. If the disease or harmful defect cannot be cured, the court revokes the marriage contract without any need for a grace period. However, if their removal is possible, the court shall postpone the case for an appropriate period not exceeding one year. If the defect or disease does not disappear during that period and the person seeking revocation insists, the court will revoke the marriage contract.
4. The court may seek the assistance of experts in identifying the disease or defect, assessing it, and the possibility of treating it.

Article (70)

Effects of Revoking a Marriage Contract Due to Disease or Harmful Defect

If the marriage contract is revoked due to disease or harmful defect in one of the spouses, the court shall decide the following:

1. If the disease or defect in the wife preceded the contract, and the revocation occurred after intercourse or seclusion, then the wife is entitled to the dowry, and the husband may claim the dowry from the one who deceived him.
2. If the disease or defect occurred in either spouse prior to the contract and the revocation occurred before intercourse or seclusion, the husband shall recover what he paid of the dowry and the remainder shall be dropped even if it was deferred.
3. If the disease or defect in the husband occurred prior to the contract and the revocation occurred after intercourse or seclusion, the wife is entitled to the dowry.
4. If the husband knew of the defect in the wife before the contract, and then he requested revocation due to the same defect before intercourse and lawful seclusion, then she is entitled to half of the specified dowry or half of the usual dowry if it is not specified.
5. If the wife knew of the defect in the husband before the contract, and then requested revocation due to the same defect after intercourse and lawful seclusion, then she is obliged to return half of the named dowry or half of the usual dowry if it is not specified.

Article (71)

Revocation of Marriage Contract for Damage

Each spouse is entitled to request divorce due to damage that precludes the continuance of their living together according to custom. The court may rule for divorce if the damage is proven, and reconciliation is impossible.

Article (72)

Appointment of Arbitrators

If the damage is not proven, the court shall dismiss the case. If the discord between the spouses continues, the harmed one may file a new case after the judgment becomes final or after (6) six months from the issuance of the initial judgment, whichever is longer, unless a new harm occurred that necessitated revocation or new circumstances and facts arose that the court estimates. If reconciliation between them is impossible, each of the spouses shall choose an arbitrator from his/her family within the period specified by the court. Otherwise, the court shall appoint two arbitrators from their families if possible, or from outside their families who are expected to be able to reconcile. An arbitration period shall be set for them not to exceed (60) sixty days from the date of their appointment.

Article (73)

Arbitrators' Investigation of the Causes of Discord

The arbitrators shall listen to the spouses, investigate the causes of the discord, and make efforts to reconcile them. The arbitrators' work shall not be affected by either spouse's refusal to deal with the arbitrators.

Article (74)

Arbitrators' Report

If the Arbitrators are unable to make the spouses reconcile, they shall decide what they see as a way of their separation with or without consideration. The court shall estimate the consideration considering the factors that led them, and the role of each spouse in them. In all cases, the consideration paid by the woman shall not exceed the dowry stated in the marriage document. The arbitrators shall submit to the court a report that includes everything they have done to reconcile the spouses, and the opinion they have reached, clarifying the standing points on which they relied.

Article (75)

Revocation of Marriage Contract before Intercourse or Seclusion

1. The court shall rule to revoke the marriage contract if the wife requests its revocation before intercourse or seclusion and the husband refuses to divorce her or conduct *Khula'* with her, and if she returns the received dowry, and reconciliation between them is impossible, without the need to investigate the causes of harm and prove them.
2. If the wife requests the revocation of the marriage contract before intercourse or seclusion for a reason relating to her, she shall return -upon the husband's request- the dowry and what the husband has spent at her request for the sake of the marriage.

Article (76)

Revocation of Marriage Contract Due to Non-Payment of the Due Dowry

1. An order shall be issued to the wife, with whom the marriage has not been consummated, to revoke the marriage contract due to the husband's failure to pay her due dowry if the period set by the court for paying her due dowry has expired and he has not paid it, provided that the period does not exceed (30) thirty days from the date on which the court orders him to pay.
2. After intercourse, the wife, with whom the marriage has not been consummated, is not entitled to an order to revoke the marriage contract due to non-payment of her due dowry, which shall remain a debt owed by the husband, and the due dowry is to be ordered by the court upon the wife's request.

Article (77)

Divorce for Failure to Provide for the Wife

1. If the husband refrains from providing for his wife, or it is impossible to collect the maintenance from him, the court shall give him a period not exceeding (30) thirty days. If he refuses to pay without presenting an acceptable excuse, the court shall impose divorce on him.

2. If the husband claims to be insolvent in paying the obligatory maintenance to his wife and proves so, the judge shall give him a period not exceeding (90) ninety days. If he refuses to pay after the expiry of the period, the judge shall impose divorce on him. In all cases, the divorce in this case occurs as a minor irrevocable divorce.
3. If the case for non-support is filed more than twice and the court finds in each case that there has been no support, and the wife requests a divorce for non-support, the judge shall divorce her from him irrevocably.

Article (78)

Divorce Ruling for Desertion

The court shall revoke the marriage contract, upon the wife's request, in the following two cases:

1. If the husband swears not to have sexual intercourse with her for a period exceeding (4) four months unless he retracts his oath before the expiration of the four months.
2. If the husband refrains from having sexual intercourse with her for a period exceeding (6) six months without a legitimate excuse.

Article (79)

Divorce Ruling Due to Absence, Loss, and Imprisonment

1. The wife is entitled to request divorce due to the absence of her husband whose domicile or place of residence is known if he is absent from her for a period of not less than (6) six months, even if he has property from which maintenance can be paid, unless the absence is due to work. The ruling shall not be issued until after warning him either to reside with his wife, or to transfer her to him, or to divorce her, provided that he is given a period not exceeding (180) one hundred and eighty days from the date of serving the warning to him.
2. The wife of a missing person whose domicile or place of residence is unknown may request divorce, and she shall not be granted such a ruling until after investigation and searching for him and the passage of one year from the date of filing the case.

3. The wife of an imprisoned person who has been sentenced to a final judgment restricting freedom for a period of (3) three years or more may request the court -after one year of his imprisonment- to divorce her from him irrevocably, even if he has property from which she can spend. Such ruling in favor of the wife to revoke the marriage contract is subject to the condition that the husband does not get out of prison during the consideration of the case or that less than (6) six months remain of his imprisonment sentence.

Article (80)

Divorce Due to Addiction to Drugs, Psychotropic Substances or Alcohol

Either spouse may request divorce due to harm if the other is addicted to drugs, psychotropic substances, or alcohol.

Chapter Five

Waiting Period

Article (81)

Definition of the Waiting Period

The waiting period is the specified period during which a woman may not remarry due to separation.

Article (82)

Cases of Obligatory Waiting Period

Subject to Articles (38) and (39) of this Law, the waiting period is obligatory in the event of death in a valid marriage contract, even before intercourse, and it is obligatory if the separation occurs in a case other than death, by seclusion or intercourse of a valid marriage contract.

Article (83)

Calculation of the Waiting Period

1. The waiting period is calculated as follows:
 - a. The calculation of the waiting period for death begins from the date of death.
 - b. The calculation of the waiting period for divorce begins from the date on which the judgment becomes final in the event of separation by a judicial ruling in cases of divorce, revocation or annulment of the marriage contract, or from the date on which it is proven before the court by proof or admission. Divorce is attributed to the date of admission unless a prior date is proven to the court.
2. In the previous cases, a woman may not marry until the waiting period is ended.

Article (84)

The Waiting Period for a Nonpregnant Divorcée

The waiting period for a nonpregnant divorcée is as follows:

1. (3) Three periods of purity for menstruating women.
2. (3) Three lunar months for a post-menopausal woman, and (3) three lunar months for a woman who originally never menstruated. However, if she sees menstruation before the end of this time, the woman shall begin her waiting period as of purity.

Article (85)

Waiting Period of Pregnant Woman

The waiting period of a pregnant elapses by giving birth or miscarriage.

Article (86)

The Waiting Period of a Nonpregnant Woman Whose Husband Has Died

The waiting period of a nonpregnant woman whose husband has died is as follows:

1. Before intercourse or after, it is (4) four months and (10) ten days in the lunar months.

2. If a woman is in the waiting period from a revocable divorce, the waiting period shifts to the waiting period for death, and what has passed is not counted.
3. If a woman is in the waiting period from *khula'*, revocation or irrevocable divorce, she shall complete her waiting period and is not subject to waiting period for death, unless the divorce occurred during a dying sickness and without her request, in which her waiting period shall be the longer of the two Periods.
4. The waiting period of a woman who has been consummated with, by virtue of a void contract or by suspicion, if the man dies, shall be the waiting period for divorce.
5. In all cases, if one of the spouses dies during the hearing of the appeal or challenge before the higher courts, the waiting period is calculated from the date of issuance of the appealed judgment.

Chapter Six

Lineage

Article (87)

Methods of Proving Lineage

1. A child's lineage to his/her father is proven by birth in a marriage contract, by admission, by proof, or by scientific methods.
2. A child's lineage to his/her mother is proven by proof of birth.

Article (88)

Proof of Lineage in the Event of a Standing Marriage Contract

1. The minimum term of pregnancy is (180) one hundred and eighty days and the maximum is (365) three hundred and sixty-five days unless a medical committee formed for this purpose decides otherwise.
2. A child's lineage is proven to his father if he is born during a standing marriage contract after the expiry of the minimum term of pregnancy as of the date of the marriage contract, or after

it ends before the expiry of the maximum term of pregnancy, unless the impossibility of meeting between the spouses is proved.

Article (89)

Conditions of Proving Lineage by Admission

1. In order to prove lineage by admitting filiation, even during a dying sickness, the following conditions shall be met:
 - a. The admitting person is an adult, sane, and having free will.
 - b. The child's lineage is unknown.
 - c. The person to whom the admission is made confirms it if he/she is an adult and sane.
 - d. The age difference between the person making the admission and the child supports its truth.
2. The court may request a DNA test whenever it deems necessary.

Article (90)

Proof of lineage by DNA Test

In exceptional circumstances, or when newborns are mixed up in hospitals, or in the event of accidents or disasters, or when there is a dispute over proving a child's lineage, or upon a request from a competent authority, the court may order a DNA test to be conducted in accordance with applicable legislation. The court shall rule on the basis of the outcome of the test after verifying the following:

1. The child's lineage is unknown.
2. The age difference supports his/her lineage.

Article (91)

Proof of Lineage by the Wife's Admission

If the admitter is a married woman, or in her Waiting Period, the child's lineage to her husband shall not be proven except by his admission in accordance with the conditions mentioned in

Article (89) of this Law, or by the existence of a proof that the birth occurred in a valid, *Al-Fased* or void marriage contract.

Article (92)

Inadmissibility of Hearing a Claim of Lineage Denial

If the lineage is proven in accordance with the provisions of Articles (87), (89), (90) and (91) of this Law, the claim to deny lineage shall not be heard.

Article (93)

Denying a Child's Lineage by Accusation of Adultery

The husband may not deny the child's lineage except by an accusation of adultery if the following two conditions are met:

1. The case is filed within (15) fifteen days from the date of his knowledge of the birth.
2. The denial is not preceded with an acknowledgement of his paternity explicitly or implicitly.

Article (94)

Hearing Accusation of Adultery Case

1. If a case of accusation of adultery is filed to deny the child's paternity, the court shall consider it after conducting a DNA test based on a court order, if the woman agrees to conduct it.
2. If the woman does not agree to conduct a DNA test, the court shall proceed with the accusation of adultery case without it.
3. The accusation of adultery to deny the child's lineage shall be performed before the court in accordance with the formula prescribed by *Sharia*. If the man swears the oaths of accusation of adultery and the woman refuses to perform it, the court shall rule without her oaths.
4. The result of the accusation of adultery is the denial of the child's lineage. The child's lineage shall be established -even after a ruling denying it- if the man withdrew his accusation, any later child's lineage denial afterwards shall not be accepted.

Chapter Seven

Alimony

Article (95)

Definition of Alimony

Alimony is a right for the person entitled to it, and includes necessities and basic needs of food, clothing, housing, medical treatment, and education in accordance with customs.

Article (96)

Estimation of Expenses

1. When estimating the alimony, the extent of wellbeing of the spender, the condition of the person being spent on, and the economic situation at the time and place should be taken into consideration.
2. Alimony may be in cash.
3. Making property available, whether in kind or benefit, shall replace spending.

Article (97)

Increasing and Decreasing Alimony

1. Alimony may be increased or decreased upon the change of circumstances.
2. The court shall determine the increase or decrease of alimony in accordance with the circumstances and conditions and in consideration of the following:
 - a. In the event of an increase, the ruling shall not be retrospective for more than (6) six months.
 - b. In the event of a reduction, the ruling shall not be retrospective and shall be calculated from the date of issuance of the ruling unless the ruling specifies another date.
3. A claim for increase or decrease shall not be heard before one year has passed from the date on which the alimony ruling becomes final, unless in exceptional circumstances determined by the court.

Article (98)

Continuous Alimony

The continuous alimony, which is due from the date of filing the case to claim it for the wife, children and parents, is a privileged debt that takes precedence over all other debts, unlike past alimony, which is subject to the ruling of the other debts.

Article (99)

Spouse Maintenance

1. The husband shall provide maintenance for the wife -even if she is solvent- in accordance with a valid marriage contract, if she allows him to have intercourse with her in reality or if such is deemed by law.
2. The wife's right to maintenance is not extinguished except by payment or acquittal.
3. A claim for the wife's maintenance shall not be heard for a previous period exceeding two years preceding the date of filing the claim.

Article (100)

Temporary Alimony

The court may decide, during the hearings of the alimony case, based on the wife's request, to provide temporary alimony for her and her children from the respondent, and its decision shall be subject to immediate enforcement by force of law.

Article (101)

Maintenance and Housing for a Woman in Waiting Period

1. Maintenance for a woman in a waiting period from a revocable divorce, shall be obligatory
2. Maintenance is obligatory in favor of a pregnant woman who is in her waiting period after an irrevocable divorce until she gives birth.
3. Maintenance is not obligatory for a woman in her waiting period after an irrevocable divorce if she is not pregnant.

4. There is no maintenance for a woman in her waiting period after *khula'* or death.
5. If a woman is in her waiting period after death, and is not pregnant, her expenses shall be paid from the property of the fetus until she gives birth. If it has no property, the expenses shall be paid by the heir of the fetus.

In all cases stipulated in this Article, the woman in waiting period is entitled to reside in the marital home for the duration of her waiting period, unless it is unsuitable, in which case she is entitled to reside in a suitable home.

Article (102)

Compensation to a Divorced Woman

If the husband divorces his wife, with whom a valid marriage was consummated, by his sole will and without her request or cause, or if the divorce or revocation was due to him, she is entitled to compensation other than alimony during the waiting period, in accordance with the husband situation, not exceeding one-year maintenance for her peers. The court may divide it into installments in accordance with the husband's solvency or insolvency, the harm that has befallen the woman shall be considered in its assessment.

Article (103)

The Extinguishment of the Wife's Right to Alimony

The wife's right to alimony is extinguished if she denies herself to her husband, or refrains from moving to the marital home, declines to reside in it, or refuses to travel with her husband, without a legitimate excuse.

Article (104)

Marital House

The wife shall live with her husband in the appropriate marital house unless she stipulates otherwise in the marriage contract.

Article (105)

Categories that May Reside in the Marital House

1. The husband may have his parents and children from another wife live with his wife in the marital house, if he is responsible for their maintenance, provided that this does not cause harm to the wife.
2. The wife may have her children from another husband live with her in the marital house if they have no guardian other than her, or if they would be harmed by her separation, or if the husband agrees to that explicitly or implicitly. The husband has the right to withdraw if he is harmed by that.
3. If the spouses jointly own, rent or provide the marital house, neither of them may have anyone live with them except with the consent of the other party.
4. The husband may have more than one wife living in the same building, provided that the housing is suitable, each wife has almost complete independence in the housing in all aspects, for example, sanitary and service facilities, entrances and exits, and the court may add other conditions based on the request of the aggrieved wife.

Article (106)

Child Maintenance

1. The maintenance of a young child who has no money is the responsibility of his father, until the girl marries or works, and until the boy reaches the age at which his peers can earn a living, unless he is a student who continues his studies with usual success in accordance with custom and in accordance with what the court estimates.
2. The maintenance of an adult son, who is unable to earn a living due to a disability or otherwise, is the responsibility of his father if he does not have property from which to spend.
3. The maintenance of a female is the responsibility of her father if she is divorced or her husband dies, unless she has property, or that she works, or someone else is responsible for her maintenance.

4. If a child's money is not enough to cover his expenses, his father shall complete them within the previous conditions.
5. The father shall bear the costs of breastfeeding his child if the mother is unable to breastfeed him/her, this shall be deemed a sort of maintenance.
6. A child's maintenance shall be on his/her solvent mother if the father is lost and has no property, or is unable to provide for him/her. She has the right to be reimbursed from the father with what she spent if he becomes solvent and the spending was permissible by him or the court.

Article (107)

Parental Maintenance

1. The maintenance of parents falls upon their solvent child, male or female, adult or underaged if they do not have property to spend from.
2. If the parents' property is not enough for their maintenance, the solvent children are obligated to provide what fulfills it.

Article (108)

Distribution of Parental Maintenance Among Children

1. Parents' maintenance is distributed among their children in accordance with the solvency of each one of them.
2. If one of the children spends on his/her parents or one of them willingly, he/she has no right to be reimbursed by his/her siblings.
3. If one of the children spends on his/her parents or one of them subject to a ruling on the children to pay maintenance, then the one who spent may claim from each of his/her siblings what he/she spent in accordance with the ruling, as long as his/her spending was with the intention of being reimbursed.

Article (109)

Parents Joining the Child's Household

If the child's earnings do not exceed his needs and the needs of his wife and children, he shall include his parents who are entitled to maintenance in his household.

Article (110)

Order of Those Obligated to Provide Maintenance and Those Entitled to It

1. The maintenance of each person entitled to it is obligatory upon his/her solvent relatives who inherit from him/her in accordance with their order and their inheritance shares. If the heir is insolvent, it is imposed upon the next in line to him/her in inheritance.
2. If there are multiple people entitled to maintenance and the person who shall provide maintenance is unable to provide maintenance for all of them, the wife's maintenance shall have the ascendancy, then the children's maintenance, then the parents' maintenance, then the relatives' maintenance.

Article (111)

Date for Claiming Child's and Relatives' Maintenance

1. A claim to request a child's maintenance from their father shall not be heard for a previous period that exceeds one year from the date of the judicial claim.
2. Maintenance for relatives, other than children, shall be imposed from the date of the judicial claim.

Chapter Eight

Custody

Article (112)

Definition of Custody

1. Custody is the preservation, upbringing, and care of the child, and looking after his/her interests in a manner that does not contradict the guardian's right to guardianship.
2. The father, or else other guardians of the child in custody, shall look after his/her affairs, discipline, orientation, and education.
3. By way of exception from Clause (2) of this Article, a custodian mother, shall have the educational guardianship over the child, in a way that achieves the interest of the child in custody.
4. If there is a dispute concerning the interest of the child in custody, such dispute shall be presented by the concerned parties to the Judge of Summary Matters in order to render a decision in the form of an order on a petition, considering the extent of solvency of the guardian, in a manner not affecting the right of the custodian mother in educational guardianship.
5. If the interest of the child in custody requires the transfer of the educational guardianship from the custodian mother to the father or another person whose guardianship over the child in custody is proved, it is permissible for any of them to present the matter to the Judge of Summary Matters in order to render a decision in the form of an order on a petition concerning the person who shall have the educational guardianship over the child in custody.
6. If the right of custody of the child in custody is for females, within the prohibited degrees of kinship, apart from the mother, and guardianship is to anyone other than the father, the custodian woman, in accordance with the interest of the child in custody, may present the matter to the Judge of Summary Matters in order to render its decision in the form of an order on a petition concerning the person who shall have the educational guardianship over the child in custody .

7. The provisions of this Article shall not violate the duty of maintenance decided for the child in custody according to this Law.

Article (113)

Conditions in the Custodian

The following conditions shall be available in the custodian:

1. Sanity, and reaching the age of (18) eighteen Gregorian years if the custodian is the mother or father, and reaching the age of majority if the custodian is someone other than them.
2. Trustworthiness and the ability to raise the child in a proper manner, protect him/her, care for him/her, and supervise his/her education.
3. Free of infectious or dangerous diseases that may pose a threat to the life or health of the child in custody.
4. If the custodian is a woman, she shall be unmarried to a man who is not related to the child in custody, unless the interest of the child in custody requires otherwise, in accordance with the court discretion.
5. If the custodian is a man, he shall be a *Mahrem*⁸ to the child in custody if she is a female, and a woman suitable for custody resides with the custodian.
6. Not have been previously convicted of a sexual crime.
7. Not to be addicted to drugs, psychotropic substances or alcohol.
8. The custodian and the child in custody shall share the same religion, unless the custodian is a mother of a religion other than that of the child in custody and the court decides otherwise to the benefit of the child in custody in accordance with the conditions decided by the court.

Article (114)

Order of Right in Custody

Custody is a right to the child, and is upon both parents as long as the marital relationship between them stands. If they separate, custody shall be to the mother, then to the person who is

⁸ Forbidden.

most entitled to it in the following order: the father, then the mother's mother, then the father's mother, then the court decides what it deems to be in the best interest of the child in custody, the court may decide otherwise than this order, based on the best interest of the child in custody.

Article (115)

The Extinguishment of the Right to Custody

1. The right to custody is extinguished in the following cases:
 - a. If one of the conditions that shall be met by the custodian is lost.
 - b. If the custodian fails to perform the duties of custody or is unable to perform them.
 - c. If the custodian moves to a place with the intention of residence, with which the interests of the child in custody shall not be met.
 - d. If the person entitled to custody remains silent about claiming it for a period exceeding one year from the date on which he became aware of the reason of entitlement without an excuse, unless the interest of the child in custody requires otherwise.
 - e. If the new custodian lives with the person whose custody was lost for a reason other than health disability.
 - f. The custodian commits a disgraceful act that affects the child in custody.
2. A person whose right to custody has been extinguished may apply to the court to request it again if the reason of extinguishment ceases to exist.

Article (116)

Conditions for Travelling with the Child in Custody Out of The State

1. The custodial parent may travel with the child in custody out of the State with the written approval of the other parent or guardian over the person (*Wali Al-Nafs*) in the event of the father's death.
2. The court may authorize the custodian parents to travel with the child in custody for a period or periods not exceeding a total of (60) sixty days per year with a guarantee acceptable to the court that guarantees the return of the child in custody. The calculation of the year begins

from the first permit. The court may exceed this period if the travel is for the benefit of the child in custody, for treatment, or for a necessity that it determines after hearing the statements of the other parent or the guardian over the person (*Wali Al-Nafs*) in the event of the father's death, unless attendance is impossible.

3. The non-parent custodial may travel with the child out of the State with the written consent of the parents or one of them in case of the other's death or the guardian over the person (*Wali Al-Nafs*) in the event of the father's death or the death of both of them.
4. The court may authorize the non-parent custodian parent to travel with the child in custody for a period or periods not exceeding a total of (60) sixty days per year with a guarantee acceptable to the court that guarantees the return of the child in custody. The calculation of the year begins from the first permit. The court may exceed this period if the travel is for the benefit of the child in custody, for treatment, or for a necessity that it determines after hearing the statements of the parents or one of them in case of the other's death, or the guardian over the person (*Wali Al-Nafs*) in the event of the father's death or the death of both of them, unless attendance is impossible.

Article (117)

Passport of the Child in Custody

1. Without prejudice to the provisions of Article (116) of this Law, the guardian may keep the passport of the child in custody, except in the case of travel, in which case it shall be handed over to the custodian.
2. The court may order keeping the passport in the hand of the custodian if it sees obstinacy on the part of the guardian in handing it over to the custodian in times of need.
3. The custodian has the right to keep the original birth certificate and any other identification documents related to the child in custody, or an authenticated copy thereof, and she has the right to keep the identification card of the child in custody.

4. Anyone who has reached (18) eighteen years of age without any impediment to capacity, male or female, may keep his/her passport and any of his/her other identification documents unless the court decides otherwise.

Article (118)

Not Requesting Custody

1. If the child in custody is under two years old, and neither parent has requested custody, the mother shall take custody if she exists. Otherwise, the father shall take custody.
2. If the child in custody is more than two years old, and neither parent has requested custody, the father shall take custody if he exists. Otherwise, the mother shall take custody.
3. If the parents do not exist or refuse custody, and no relative accepts custody, the court shall choose whomever it deems suitable from among the relatives of the child in custody or others, or one of the institutions qualified for this purpose.

Article (119)

Custodian's Wage

1. The custodian woman is not entitled to a wage if she is the wife of the child in custody's father, or is in her waiting period during which she is entitled to maintenance from him.
2. The person obligated to pay the maintenance of the child in custody shall pay the rent of the custodian's residence unless the custodian owns a residence in which she resides, or which is designated for her residence. The judge may rule for maintenance of the rent of a residence in an amount that covers the costs of the children in her custody.

Article (120)

Mother Leaving Marital House

If the mother leaves the marital house due to a dispute or otherwise, her right to custody is not extinguished for that reason, unless the interest of the child in custody requires otherwise.

Article (121)

Visitation of the Child in Custody

1. If the child is in the custody of one of the parents, the other parent has the right to visit him/her, take him/her with them for visit, and take him/her for sleepover according to their mutual agreement, in the event of a dispute, the court shall decide what it deems to be in the interest of the child in custody.
2. If one of the parents of the child in custody is deceased or absent, or if the child in custody is with other than his/her parents, the court may specify an eligible visitor from among his/her relatives in accordance with the interest of the child in custody.
3. The court may require the custodian, or the person granted visitation rights, to bear the transportation expenses within the State to facilitate the visitation, in accordance with the circumstances of the case.
4. The enforcement judge may, with the agreement of the custodian and the person entitled to visitation, change the dates and places of visitation in a manner that achieves the best interests of the child in custody.
5. The court's ruling shall be enforced compulsorily if the custodian refuses to enforce it.

Article (122)

The Child in Custody's Choice to Reside with One of His/Her Parents

If the child in custody reaches the age of (15) fifteen, he/she is entitled to choose to reside with one of his/her parents, unless the interest of the child in custody requires otherwise.

Article (123)

End and Continuation of Custody

1. Custody ends when the child reaches the age of (18) eighteen Gregorian years.
2. If the child in custody is lunatic or idiot, or crippled due to illness, custody shall continue with the custodian or the next in line, unless the interest of the child in custody requires otherwise.

Article (124)

Identification Documents

Subject to the provisions of Articles (116) and (117) of this Law, the custodian shall keep the identification documents of the child in custody, provided that he/she does not use them for travel without the permit by the guardian or the court, and that he/she does not use them in a way that harms the guardian or conflicts his guardianship or contravenes the interest of the child in custody or benefits unlawfully from them. In the event of his/her contravention, the guardian may request the identification documents, and they shall not be handed to the custodian thereafter except with the permit of the court and as required by the interest of the child in custody. The father shall bear the expenses of obtaining and renewing the identification documents.

Chapter Nine

Guardianship, Tutorship and Trusteeship

Article (125)

The Minor

1. A minor is either of deficient capacity or incomplete capacity.
2. A non-discerning minor, lunatic, and idiot are of deficient capacity. A fetus, a missing person, or an absent person are also deemed of a deficient capacity.
3. A discerning minor and anyone who reached the age of majority but is prodigal or inadvertent are of incomplete capacity.
4. Subject to the provisions of Articles (19) and (113) of this Law, the capacity along with its impediments, or deficiency, or incompleteness, besides the age of majority, guardianship, and tutorship, are subject to the provisions of the Civil Transactions Law.

Article (126)

Appointment of Tutor

1. The father may appoint a tutor to manage the affairs of a minor, lunatic, idiot or a fetus in the event of the father's inability or after his death, or the court may appoint him/her for a specific or indefinite period, or to carry out a specific task whenever the interest requires so.
2. The court may appoint the minor's mother as a tutor over his/her property.
3. The tutor may be male or female, natural or legal person, sole or multiple.

Article (127)

Appointment of Trustee

1. The court shall appoint a trustee to manage the property and affairs of an incapacitated prodigal or inadvertent person, provided that he/she meets the conditions required for a tutor in accordance with the provisions of this Law.
2. The provisions of tutorship apply to trusteeship and judicial agency in matters not specifically stated for in this Law. The guardian over the property, the trustee or the tutor, as the case may be, shall assume the affairs of the minor and his/her representation.
3. The request to appoint a trustee shall be made by order on a petition, and such a request shall be informed to the Public Prosecution and the potential heirs.

Article (128)

Divisions of Guardianship Over the Minor

1. Guardianship over the minor is divided into the following:
 - a. Guardianship over the person (*Wilayah Ala AL-Nafs*)⁹, which means general supervision over the person of the minor in a manner that does not conflict with the authority of the custodian to manage the affairs of the child in custody.

⁹ For the purpose of this Law, the term "guardianship over the person" is used interchangeably with the Arabic term "*Wilayah Ala AL-Nafs*", unless otherwise expressly stated.

- b. Guardianship over property (*Wilayah Ala AL-Mal*)¹⁰, which means taking care of everything related to the minor's property.
2. Both guardianships may be combined in one person.

Article (129)

Order of Guardianship Over the Minor's Property

1. Guardianship over the minor's property shall be solely to the father, then to the tutor he names -if he/she exists, then to the paternal grandfather, then to the court.
2. A father or grandfather may not relinquish their guardianship except with the permission of the court.

Article (130)

Conditions that Shall be Met by the Guardian or Trustee

The guardian or trustee shall meet the following conditions:

1. To be of full legal capacity, trustworthy and able to carry out the requirements of the guardianship or trusteeship entrusted to him/her.
2. To be of the same religion as the person under guardianship if he/she is a Muslim with regard to guardianship over the person.
3. Not been convicted of a crime against honor or trust, unless his/her standing has been redeemed.
4. Not been declared insolvent or bankrupt due to his/her inability to manage his/her own property with regard to guardianship over property.
5. Not to have been sentenced to be removed from guardianship of another minor due to harming him/her or neglecting to preserve his/her property.
6. There is no enmity between him/her and the minor that would harm the interests of the minor.

¹⁰ For the purpose of this Law, the term "guardianship over property" is used interchangeably with the Arabic term "*Wilayah Ala AL-Mal*", unless otherwise expressly stated.

Article (131)

Extent of Father's Guardianship

The father's guardianship includes his son's minor children if their father is under guardianship.

Article (132)

Boundaries of Father's Guardianship Over His Minor Child's Property

1. The father's guardianship over his minor child's property shall include the preservation, management and investment thereof.
2. The father's actions are deemed correct, especially in the following cases:
 - a. Contracting on behalf of his child and disposing of his/her property.
 - b. Conducting trade to the benefit of his child, and shall not continue to do so except in the case of apparent benefit.
 - c. Accepting legitimate donations to the benefit of his child if they are free from harmful obligations.
 - d. Spending from his child's property on those whose maintenance is obligatory on him/her.

Article (133)

Guardianship and Donation Property for the Minor

Guardianship does not include property that is donated to the minor if so the donor conditions.

Article (134)

Nullification of the Disposition of a Minor's Property

It is not permissible to lend or donate the property of a minor, or its benefits. If any of this occurred, it shall be null and void and gives rise to liability and damage.

Article (135)

Depositing a List of the Minor's Assets to Court

1. The guardian shall prepare a list of the minor's property or what accrues to him/her, and shall deposit this inventory to the court in whose jurisdiction his/her residence is located within two months from the beginning of guardianship or from the accrual of such property to the minor.
2. The court may consider failure to submit this inventory list or delay in submitting it as endangering the minor's property.

Article (136)

Father's Liability for Misconduct and Causing Harm to the Minor

1. The father's actions become void if his misconduct is proven, and no interest in the action to the minor exists.
2. The father is deemed financially liable, on his own property, for a serious fault that resulted in harm to the minor.

Article (137)

Disposition of the Minor's Property

The guardian may not conduct the following with the minor's property except with the court's permit:

1. Disposing of the minor's immovable property by transferring ownership or creating a real right over it, except for a necessity or an apparent interest as determined by the court.
2. Borrowing for the benefit of the minor, provided that it does not violate the provisions of Islamic *Sharia*.
3. Renting the minor's immovable property for a period extending beyond one year after his/her age of majority.
4. Continuing a trade that is rendered to the minor.
5. Accepting a grant or gift to the minor that is burdened with obligations.

6. The guardian's spending on himself/herself from the minor's property if his/her expenses are obligatory upon the Minor.

Article (138)

Father's Actions Subject to the Court's Permit

The father's actions are subject to the court's permit in the following cases:

1. If he buys his child's property for himself, his wife, or all of his other children.
2. If he sells his property, or the property of his wife or all of his other children, to his child.
3. If he sells his child's property to invest its price for himself.

Article (139)

Provisions of Grandfather's Guardianship

The provisions stipulated for the father's guardianship shall apply to the grandfather.

Article (140)

Duty of the Tutor Authorized to Trade

The tutor authorized to trade with the minor's property shall submit to the court a periodic account of his/her actions.

Article (141)

Liability of the Supervisor Responsible of Monitoring the Tutor's Work

If the father appoints a supervisor to monitor the tutor's actions, the supervisor shall do what achieves this in accordance with what the minor's interest requires, and he/she shall be responsible before the court.

Article (142)

Tutor's Duty to Manage the Minor's Property

Without prejudice to the provisions of applicable federal or local legislation, the Cabinet or the competent local authority may assign the task of investing the minor's property, its management, care and undertaking their affairs to any competent or qualified party in this respect. The Cabinet or the head of the local judicial authority shall establish all controls, procedures, rules and provisions related to the management, investment and care of minors' property and handling their affairs, in addition to specifying and regulating the court or judicial circuits competent to consider requests or disputes related thereto.

Article (143)

Court's Monitoring of Tutor's Actions

The tutor's actions are subject to the court monitoring, and he/she shall submit periodic accounts to it concerning his/her actions in managing the minor's property and whomever is in its position.

Article (144)

Tutor's Acts Requiring Court's Permit

The tutor may not do the following except with the court's permit:

1. Disposition of the minor's property through selling, buying, bartering, partnership, mortgage, or any other kind of dispositions that transfer ownership of property or arranges a real right on it.
2. Disposition of bonds and stocks, or dividends thereof, and the movable items that are not expected to be damaged unless they are of little value.
3. Transferring the minor's debts, or accepting subrogation on him/her if he/she is a debtor.
4. Investing the minor's property for his/her interest.
5. Borrowing property for the interest of the minor.
6. Renting a minor's immovable property.
7. Acceptance or rejection of conditional grants.

8. Spending from the minor's property on those whose maintenance is due on the minor, unless such maintenance is established by an enforceable judgment.
9. Payment of due obligations on the estate or on the minor.
10. Acknowledgment of a right against the minor.
11. Reconciliation and arbitration
12. Filing a case if the delay in its filing is not prejudicial or extinguishes a right to the minor.
13. Abandoning the case and not using the legal routes of appeal.
14. Selling or leasing the minor's property for himself/herself, his/her spouse or one of their ascendants or descendants, or to whom the tutor is an agent.
15. What is spent on the marriage of a minor, such as dowry and the like, in accordance with the applicable legislation.
16. Education of the minor if it needs expenditure.
17. Expenditure required for the minor to conduct a specific profession.

Article (145)

The Minor's Right to Hold the Tutor Accountable

After reaching the age of majority, the minor has the right to hold the tutor accountable for his/her actions during the period of tutorship.

Article (146)

Denying Guardianship Over Property and Termination of the Tutor

Guardianship shall be denied, and the tutor shall be terminated by a decision from the competent court in either of the following two cases:

1. If one of the conditions required for the guardian or trustee is not met.
2. If the guardian or trustee fails to fulfil the duties of guardianship or trusteeship, or is unable to fulfil them.

Article (147)

Tutor's Wage

1. Guardianship and trusteeship shall be without wage, unless the one appointing the tutor specifies a wage for him/her acceptable by custom.
2. The court may, upon the request of the guardian or tutor, decide for him/her a reward for a specific task, or decide for him/her a wage, to be calculated from the date of the request.

Article (148)

Scope of Tutor's Work

The tutor shall abide by what is assigned to him/her in the will, except for what is contrary to the law, public order, and morals.

Article (149)

Multiple Tutors

If there are multiple tutors, the order of tutorship shall be, unless the will includes otherwise, as follows:

1. If the father assigns tutorship to several people in one will, they shall share the tutorship, and none of them shall be isolated from the others unless the father assigns that to him/her, or the remaining tutors authorize him/her.
2. If the father assigns tutorship to multiple persons in more than one will and the latter one is not aware of it, they shall share tutorship unless the court deems their separability is in the interest of the minor.
3. If the father assigns tutorship to one person and then assigns it to another, it shall be for the latter, unless a presumption denotes that they be joint.

The court may specify the powers of each tutor if the father does not specify the powers of each of them.

Article (150)

The Court's Addition of One or More Tutor

The court may, on its own or upon a request of the tutor, add one or more tutors in case of his/her inability or need for assistance, or if this is in the interest of the minor.

Article (151)

Tutorship Effect

1. The effect of tutorship shall be suspended on the tutor's acceptance, the tutor's undertaking of his/her duties is deemed an implicit acceptance of the tutorship.
2. Anyone who has an interest may submit to the court a request to warn the tutor to carry out his/her duties, and it may grant him/her a period not exceeding (30) thirty days to carry out his/her duties from the date of warning, and the court shall decide what it deems appropriate concerning tutorship.

Article (152)

Dismissing and Resigning of the Tutor from Tutorship

1. The father is entitled to dismiss the tutor whenever he wishes.
2. The tutor may resign from tutorship whenever he/she wishes during the lifetime of the grantor of tutorship, the tutor shall submit a request to the court to resign if the grantor of tutorship is deceased or incapacitated.
3. The court may dismiss the tutors, or any of them, if the interest of the minor requires so.

Article (153)

Obligatory Denial of Guardianship Over the Person

Guardianship over the person shall obligatorily be denied in the following cases:

1. If one of the conditions required for the guardian is not met.
2. If the Guardian fails to fulfill the duties of guardianship or tutorship or is unable to fulfill them.
3. If the court finds that the minor's property is in danger.

4. If the guardian or tutor commits, together with the person under his/her guardianship or tutorship or with someone else, the crime of rape or sexual assault, or leads him/her into prostitution or the like.
5. If a final judgment is issued against the guardian or tutor in a felony or intentional misdemeanor, or something less, committed by him/her or someone else against the person under guardianship or tutorship.

Article (154)

Permissible Denying of Guardianship Over the Person

1. A guardian's power of guardianship over the person may be revoked, in whole or in part, permanently or temporarily, if the person under guardianship becomes exposed to serious danger to his/her safety, health, honour, morals, or education due to the guardian's mistreatment of him/her, or setting a bad example as a result of the guardian's reputation for bad conduct or addiction to intoxicants, drugs, or psychotropic substances, or due to lack of care. In this case, it is not required that a judgment be issued punishing the guardian for any of the same.
2. Instead of revoking guardianship, the court may entrust the minor to one of the specialized institutions while the guardian's guardianship continues.

Article (155)

Handing Over the Minor to a Trusted Person or a Specialized Institution

In the cases mentioned in Articles (153) and (154) of this Law, the court may, on its own or at the request of the investigating authority, temporarily entrust the minor to a trustworthy person or to one of the specialized institutions until the issue of guardianship is decided.

Article (156)

Cases of Termination of Guardianship and Trusteeship

Guardianship and tutorship shall end if any of the following cases occur:

1. The minor has reached the age of majority and owns his/her mental abilities.
2. Lifting the interdiction from the interdicted person.
3. Death of a minor.
4. The minor's father regains his legal capacity and his ability to carry out guardianship duties.
5. Dismissal of the guardian or tutor, or acceptance of his/her resignation.
6. Death of the guardian or tutor, or his/her deficiency in capacity or its incompleteness.
7. Proof of the loss or absence of the guardian or tutor.
8. The end of the state of loss or absence of the person under guardianship.

Article (157)

Continuation of Guardianship or Tutorship

If a minor who has reached the age of majority is of incomplete capacity or is not trustworthy over his/her money, the guardian or tutor appointed by the court shall apply to the court to consider the continuation of guardianship or tutorship over him/her.

Article (158)

Obligations of the Guardian or Tutor After the End of His/Her Mission

The guardian or tutor appointed by the court, upon completion of his/her mission, shall hand over the minor's property and all related accounts and documents to the person appointed by the court under its supervision, within a maximum period of (30) thirty days from the date of completion of his/her mission.

Article (159)

Death or Deficiency of the Capacity of the Guardian, Tutor or Trustee Appointed by the Court

1. Without prejudice to the provisions of the legislation in force in the state concerning the regulation of births and deaths, police stations shall inform the Public Prosecution of any death occurring within their jurisdiction. The Public Prosecution shall inform the court within whose jurisdiction it is located if it becomes clear to it that the deceased is a guardian, tutor or trustee of minors and there is fear that their property will be lost due to his/her death.
2. Without prejudice to the provisions of Clause (1) of this Article, if the guardian, trustee, or trustee appointed by the court dies or loses his legal capacity, his heirs or whoever takes possession of his estate or part thereof shall inform the competent court to protect the rights of the Minor.

Article (160)

Restoring Guardianship Over the Person

In cases other than those in which guardianship is obligatorily removed, the court may restore guardianship to the guardian over the person which was removed from him/her, partially or completely, based on his/her request, provided that six (6) months have passed since the reason for its removal ceased to exist.

Article (161)

Suspension of Guardianship

The court shall order the suspension of guardianship if the guardian is deemed absent or is imprisoned in execution of a sentence restricting freedom.

Article (162)

Effects of a Ruling Denying Guardianship

1. A ruling to deny guardianship over the person of a minor, shall result in its loss or suspension over property.
2. If the guardianship of the guardian is removed from some of those under his/her guardianship, it shall be removed from the rest of them.

Article (163)

Transfer of Guardianship After its Removal

If the court rules that the guardian's power of guardianship over the person be terminated, limited, or suspended, in this case, guardianship shall be transferred to the next in line if he/she is qualified. If the next in line refuses or is not qualified, the court may entrust guardianship to whomever it deems qualified, even if he/she is not a relative of the minor, or entrust this guardianship to one of the specialized institutions.

Article (164)

Government Agencies that Undertake Guardianship Over Minors' Property

The provisions of this Law shall not prejudice the powers granted to federal or local government agencies that have guardianship over the property of minors and those in their position.

Article (165)

Preventing the Authorities Responsible for Minors' Affairs

The authority responsible for minors' affairs or any competent official thereof shall be prohibited from purchasing or renting anything of the minor's property for himself/herself, his/her spouse, or any of their ascendants or descendants. It shall also be prohibited from selling to the minor anything that he/she, his/her spouse, or any of their ascendants or descendants owns.

Article (166)

The Case of the Interdicted to Remove His/Her Interdiction

The person under the interdiction has the right himself/herself to file a case to remove the interdiction.

Chapter Ten

The Absent and The Missing

Article (167)

Definition of the Absent and the Missing

1. The absent is a person whose domicile or place of residence is unknown, and whose financial affairs cannot be managed by himself/herself or by an agent for a period determined by the court, resulting in the disruption of his/her interests or the interests of others.
2. The missing is a person whose life or death is unknown.

Article (168)

The Court Appointment of a Tutor to Manage the Property of the Absent or the Missing

1. If the absent or missing person has no guardian, the court may appoint a tutor to manage all or part of his/her property.
2. The court-appointed tutor shall make an inventory of the property of the absent or missing person, and manage it in accordance with the provisions governing the management of minors' property.

Article (169)

Termination of Loss

1. The loss ends in either of the following two cases:
 - a. If the missing person's life is confirmed.

- b. If a court ruling is issued declaring the missing person presumably deceased, the court shall in all cases not rule the missing person dead, except in the following cases:
 1. Evidence of his/her death has been established.
 2. After one year has passed from the date of reporting his/her loss to the competent authority, if his/her loss was in circumstances in which his/her death is not likely.
 3. After a period of (3) three months from the date of loss, if his/her loss was in circumstances in which his/her death is likely.
2. The date of issuance of the judgment of death of the missing person shall be deemed the date of his/her death, unless the actual date of his/her death is proven later.

Article (170)

Reappearance of the Missing Person Alive

The following results from the issuance of a ruling presuming the missing person dead and then his/her appearance alive:

1. The missing person shall reclaim the existing of his/her in-kind property from the heirs.
2. That the wife of the missing person shall return to his marital bond unless she has married another husband and he consummates the marriage with her.

Chapter Eleven

The Will

Article (171)

Definition of the Will

1. A will is a legal disposition contingent on the death of the testator.
2. A will is valid whether it is absolute or restricted, added or subject to a valid condition.

Article (172)

Conditions Attached to the Will

If the will is accompanied by a condition contradicting the provisions of this Law, public order or morals, the condition is void and the will is valid.

Article (173)

Execution of the Will

The will is executed from the estate of the testator, within the limits of one-third of the estate, after deducting the expenses of preparing the funeral of the deceased and settling his/her debts.

Article (174)

Dispositions of a Deathbed Will

Every disposition of transferring ownership issued by a sick person on a deathbed is deemed to be a will if it is a donation, and if it is with consideration in which there is favoritism, the extent of favoritism is considered a will.

Article (175)

Elements of the Will

Elements of the will are:

1. The form.
2. The testator.
3. The devisee (legatee).
4. The bequest.

Article (176)

Formation of the Will

1. The will is formed by the word indicating it verbally or in writing, or else in the event of incapability of same, by a comprehensible signal.
2. In the event of denial, a claim for the existence, revocation or amendment of a will shall not be heard except with the testimony of two just witnesses or their equivalent.

Article (177)

Amendment and Revocation of a Will

1. The testator may amend the Will, or fully or partially revoke it, verbally or through an action indicative of the same.
2. If the will is formed by way of documentation before the competent authorities, the testator may not amend or revoke it fully or partially except in the same process.

Article (178)

Testator's Conditions

1. The testator shall be of full legal capacity.
2. A will made by an interdicted person for charitable causes is valid with the permission of the court.

Article (179)

Mandatory Will (*Al-Wasiya Al-Wajibah*)

1. If a person dies, even if such death is legally deemed, and has son's or daughter's children, and that son or daughter is deceased before him/her or with him/her, these grandchildren are entitled, within the limits of one-third of his/her estate, to a mandatory will according to the following amount and conditions:
 - a. The mandatory will for these grandchildren shall be equivalent to the amount of their share from what their father/mother would have inherited from their deceased

ascendant presuming that their father/mother dies following the death of his/her said ascendant, provided that this share does not exceed one-third of the estate.

- b. These grandchildren are not entitled to a mandatory will if they are heirs of their deceased grandfather or grandmother, or if he/she had bequeathed to them or given them during his/her lifetime without consideration the amount they are entitled to by virtue of this mandatory will. If he/she bequeathed to them less than that, it is obligatory to be supplemented. If he/she bequeathed more, the excess shall be treated as a discretionary will. If he/she bequeathed to some of them only, the will is mandatory for the other in accordance with his/her share.
 - c. This mandatory will applies to the son's children and the daughter's children, even if they descend, whether they are one or more, the male receiving twice the female's shares, in which each ascendant (root) excludes its descendants (branch), but not the descendant (branch) of another, where each descendant (branch) takes only the share of its ascendant (root).
2. The mandatory Will takes precedence over the discretionary wills in being taken from one-third of the estate.
 3. The murderer of the testator¹¹ and the apostate shall be deprived of deserving the mandatory will in accordance with the provisions of this Law.

Article (180)

Multiplicity of Wills

1. The multiplicity of wills is not deemed a revocation of the previous will unless the testator expressly declares his/her revocation thereof, and any interested party may prove its revocation.
2. If there are multiple wills, without specifying the bequeathed property and the insufficiency of the one-third, then the deficiency is proportionally imposed on all the devisees in

¹¹ i.e. the grandfather/grandmother.

accordance with his/her share. If the bequeathed property is specified, it shall be divided equally among all the devisees, unless variance is stipulated by the testator.

Article (181)

Devisee

The Devisee may be any of the following:

1. A specific living individual or fetus.
2. Limited or unlimited category.
3. Charity causes permissible by *Sharia*.
4. Mosque or endowment.
5. A legal person permitted by the laws in force in the State to accept wills.

Article (182)

Will Despite the Difference in Religion

A will is valid even if there is a difference in persons' religion, whether they are spouses, relatives, or others.

Article (183)

Bequeathing Property that Cannot be Owned by the Devisee

If the bequeathed is a property that the Devisee cannot own in accordance with the applicable legislation, the court may decide to transfer the devisee's right to the corresponding price within the limits of the will or its equivalent.

Article (184)

Will to an Heir

1. A will may not be made in favor of an heir except in the following two cases:
 - a. If it is approved by other mature heirs, in this case, it shall be enforceable on the share of the ones who consented it.

- b. If it is required by a likely interest acknowledged by the court, in which case, the will shall be enforceable despite the disapproval of the rest of the heirs.
2. The criterion of whether the devisee is an heir shall be the time of the testator's death.

Article (185)

The Binding Nature of the Will in Accordance with the Devisee

The will is binding in accordance with the devisee as follows:

1. If it is for a specific natural person and a limited group, upon its acceptance after the death of the testator, in which case ownership is transferred to the devisee from the time of acceptance.
2. If it is for a minor, then it is binding with the approval of his/her guardian.
3. If it is for charity causes permissible by *Sharia*, or for an unlimited group, then the will becomes binding upon the death of the testator without acceptance.
4. If it is for a legal person, then it is binding after the approval of the person authorized to accept it in accordance with the regulating provisions.
5. If it is for a mosque, then it is binding after the approval of the supervising authority, and if it is for an endowment (*Waqf*)¹², then it is binding after the approval of its trustee.

Article (186)

Rejection of the Will

1. A devisee, who has full legal capacity, may reject the will in whole or in part after the death of the testator.
2. The Minor's guardian may reject the will in whole or in part with the permission of the court.
3. A legal person may reject the will in whole or in part by the person authorized to return it in accordance with the applicable legislation.
4. If it is for a mosque, the supervising authority may reject the will in whole or in part, and if it is for an endowment, its trustee may do the same.

¹² Muslim trust.

Article (187)

Notifying the Devisee to Accept or Reject the Will

1. Acceptance or rejection of a will is not required immediately upon the testator's death.
2. If the devisee does not express acceptance or rejection, then anyone who has a right to the estate, or the will or its execution may submit to the court a request to notify the devisee, the court shall set a period for him/her to accept not exceeding (30) thirty days from the date of notifying him/her. In case of the devisee's failure to respond without an excuse acceptable by the court, he/she shall be deemed to have rejected it. If the devisee is a legal person, the court shall estimate the appropriate period for expressing acceptance or rejection.
3. If the devisee dies after the death of the testator and before accepting or rejecting the Will, the right to accept or reject shall be transferred to the devisee's heirs in proportion to each heir's share in the Will. Clause (2) of this Article shall apply to the devisee's heirs to determine their position on accepting or rejecting the will.

Article (188)

The Impossibility of Executing the Will

If execution of the will becomes impossible for any reason, the bequeathed property shall return as an inheritance.

Article (189)

Execution of the Will for an Unlimited Group

If the will is for an unlimited group, its executor is entitled to estimate its distribution among the devisees. The executor shall take into consideration prioritizing those in need among them without being bound by generality or equality, unless the will includes otherwise.

Article (190)

Distribution of the Will in the Event of Multiple Devisees

If devisees are multiple in one will -or in more than one will- and the share of each one of them is not specified, then the distribution of the will shall be as follows:

1. If the testator bequeaths to specific persons or a limited group, each of them shall have a share of the bequest.
2. If the testator bequeaths to specific persons and an unlimited category, each of the specific persons shall have a share, and the unlimited category shall have a share.

Article (191)

Conditions of the Bequest

The conditions of the bequest shall be as follows:

1. To be owned by the testator if it is specified.
2. To be existent or capable of existing.
3. The bequest shall not contravene the law, public order or morals.

Article (192)

Forms and Provisions of the Bequest

1. The bequest may be in-kind, a benefit, or a valued right, whether in common or specific.
2. If the bequest is in common, it includes all the testator's property at the time of his/her death, unless the heirs agree otherwise with the devisee.

Article (193)

If the Will Exceeds One-Third of the Estate

The will is executed if it does not exceed one-third of the estate, if the will exceeds one-third, it shall be as follows:

1. The excess shall be suspended upon the heirs' approval, in which case, it shall be executed in proportion to the share of those who approved it.

2. A will of more than one-third is valid for someone who has no heirs.
3. A will is valid for anything in excess of the husband's or wife's share if there is no other heir but them.

Article (194)

Controls for Calculating the Deduction of the Benefit of the Bequeathed Property from the Estate

If the will is the benefit of an in-kind property, its deduction from one-third of the estate is calculated as follows:

1. If the will for the benefit is perpetual, absolute, or for the life of the devisee, then it is at the value of the property whose benefit is bequeathed at the time of the testator's death.
2. If the will is for a temporary benefit, then it is at the value of the benefit during this period.

Article (195)

Returning the Bequeathed In-Kind Property's Benefit to the Owner of the In-Kind Property

The bequeathed benefit returns to the owner of the in-kind property, be they an heir or a devisee of the property, in the following cases:

1. If the term of the benefit has expired.
2. If the devisee dies.
3. If the devisee, one or more, are cut-off, and the will is for a limited or unlimited group who are thought to be cut-off.

Article (196)

Conversion of the Will into an Endowment (*Waqf*)

If the devisee of the benefit or its produce is a legal person or an unlimited group that is not thought to be cut-off, and the will is perpetual or absolute, then it shall take the provisions of an endowment.

Article (197)

Bequest of a Common Share in the Estate

If the will is for a common share in the estate, and some of it includes a debt or an absent property, the devisee shall receive his/her share of what is present, and whenever something becomes present, he/she shall receive his/her share of it unless the heirs agree otherwise with the devisee.

Article (198)

A Bequest Equivalent to a Share of a Specific Heir from the Testator's Heirs

1. If the will is for the same share as a specific heir of the testator's heirs, the devisee is entitled to the amount of this heir's share added to the origin of the issue, and the deficiency is imposed on all the heirs.
2. If the will is for the same share as a non-specific heir of the testator's heirs, the devisee is entitled to a share if the inheritance of the least of them added to the origin of the issue, and the deficiency is imposed on all heirs.

Article (199)

Cases of Nullification of the Will

The will is nullified in the following cases:

1. The testator's revocation of his/her Will, in words or deed.
2. The death of the specified devisee before the testator, or their simultaneous death, or it is unknown who died first, unless the will is to settle the devisee's debt.
3. The devisee's rejection of the Will after the death of the testator and before acceptance.
4. The testator's murder by the devisee in a way barring inheritance.
5. The destruction of the specified bequest, or its entitlement to a third party¹³ other than the testator.

¹³Disposition, or a decree stating that the property belongs to a third party (*Istihqaq*).

Chapter Twelve

The Estate

Article (200)

Definition of the Estate

The estate is the property and financial rights left by the deceased.

Article (201)

Order of rights Pertaining to the Estate

The rights pertaining to the estate are lined in the following order:

1. Proper preparation of the deceased's funeral.
2. Settlement of debts, whether they are due to *Allah* (God) or to people.
3. Execution of the will within a one-third limit, unless heirs consent to exceed it.
4. Division of the remainder of the estate among the heirs.

Article (202)

Conditions for the Entitlement to Inheritance

The following conditions shall be met for the entitlement of inheritance:

1. The death of the testator, whether actually or by a court's order.
2. The life of the heir after the death of his/her testator, actually or presumably.
3. The existence of an inheritance reasoning and the absence of its impediments.

Article (203)

Deprivation from Inheritance

Amongst the impediments to inheritance is the deliberate murder of the testator, whether the murderer was the principal perpetrator, an accomplice, or a causer, provided that the murder is not based on justice or excuse and that the murderer is sane and adult.

Article (204)

Inheritance in the Case of Revocable Divorce and Divorce on a Person's Deathbed

The separation between spouses during life bars inheritance from one another, except in the following two cases:

1. If the divorce is revocable, they inherit from each other as long as the woman is in her waiting period.
2. If a sick man divorces his wife on his deathbed without her request, she inherits from him unless she remarries before his death.

Article (205)

Cases Precluding Inheritance

1. Inheritance is barred with the difference of religion.
2. Inheritance is barred between the dead if they die at the same time and with no certainty as to who died first.

Article (206)

Forms of Inheritance

1. Inheritance is a fixed share (*Fard*), or agnates (*Al-Taa'seeb*), or both, or Uterus Relatives (*Rahem*).
2. The fixed share is a share determined by *Sharia* to the heir.
3. The agnate is a share not determined by *Sharia* to the heir.

Article (207)

The Inheriting Descendant (Branch)

The inheriting descendant is the one entitled to the inheritance, in whole or in part, and is among the deceased's descendants. They are the son and his children even if they descend, and the daughter. A descendant through a female line is not deemed an inheriting descendant.

Article (208)

The Inheriting Ascendant (Origin)

The inheriting ascendant is the one entitled to the inheritance, in whole or in part, and is among the deceased's parents, they are the father and his father and grandfathers of the father, the mother, and the grandmothers.

Article (209)

Fixed Shares (*Foroud*)

Fixed shares are: two-thirds, one-third, one-sixth, one-half, one-quarter, and one-eighth.

Article (210)

Heirs with Fixed Shares

Heirs with fixed shares are: the husband, the wife, the father, the mother, the paternal grandfather, even if he ascends, the grandmother, the daughter, the son's daughter, and so on, through purely male descendants, whether she is one or more, the full sister, the paternal sister, the maternal brother, and the maternal sister, whether they are one or more.

Article (211)

Inheritance of the Husband

The husband inherits "half the estate" if no inheriting descendant of the wife exists and "a quarter of the estate" if an inheriting descendant exists.

Article (212)

Inheritance of the Wife

1. The wife inherits “a quarter” if no inheriting descendant of the husband exists, and “one-eighth” in case of existence.
2. When wives are multiple, they divide the share of one wife.

Article (213)

Inheritance of the Father

1. The father inherits “one-sixth” as a fixed share if there is a male inheriting descendant.
2. The father inherits “one-sixth” as a fixed share, and the rest agnatically when there is a female inheriting descendant with no male.
3. The father inherits the entire Estate agnatically if there is no inheriting branch or one of the spouses.

Article (214)

Inheritance of the Grandfather

1. The inheriting grandfather is any grandfather who is not related to the deceased by a female.
2. The grandfather inherits in the absence of the father, and the great-grandfather is dropped in the presence of a closer inheriting grandfather.
3. The grandfather’s inheritance is the same as the father’s inheritance. If the heirs are limited to one of the spouses, a mother, and a grandfather, the grandfather inherits the remainder agnatically after one of the spouses receives his/her share and the mother receives “her third” of the entire Estate.

Article (215)

Inheritance of the Mother

1. The mother inherits “one-sixth” in either of the following two cases:
 - a. If the deceased has an inheriting descendant.
 - b. If the deceased has two or more siblings, males or females, from any side they may be, whether they are heirs or excluded.
2. Subject to Clause (3) of this Article, the mother inherits “one-third” of the Estate if the two conditions mentioned in Clause (1) of this Article are not met.
3. The mother inherits “one third” of the remaining Estate after the fixed share of one of the spouses, if the inheritance is limited to the parents and one of the spouses.

Article (216)

Inheritance of the Grandmother

1. The grandmother does not inherit except from these sources: the mother’s mother, the father’s mother, and the mother of the father’s parents, even if they maternally ascend. The father does not exclude his mother, nor his father’s mother.
2. The grandmother inherits “one-sixth” in the absence of the mother, and the inheriting grandmothers share “one-sixth” if they are multiple, and the distant grandmother on the father’s side is excluded by the close one on the mother’s side, and the distant grandmother on the mother’s side is not excluded by the close one on the father’s side, in which case they share “one-sixth”.

Article (217)

Inheritance of the Daughter

1. The daughter inherits “half” if she is one, and “two-thirds” if there are two or more if the deceased has no son.
2. The daughter, if there is one or more, inherits the remainder with the son of the deceased agnatically by others, with the male receiving twice the share of the female.

Article (218)

Inheritance of the Son's Daughter

1. The son's daughter inherits "half" if she is one, and "two-thirds" if they are two son's daughters or more if the following two conditions are met:
 - a. The deceased does not have a descendant heir above her.
 - b. The deceased does not have a son's son of her degree.
2. The son's daughter inherits "one-sixth" if there is one or more, if the following two conditions are met:
 - a. The presence of an inheriting daughter of "the half" as a fixed share.
 - b. The deceased does not have a son's son of her degree.
3. The son's daughter inherits, if there is one or more, the remainder with the deceased son's son of her degree or lower, agnatically by others, with the male receiving twice the share of the female, provided that there is no male inheriting descendant in a degree higher than hers.

Article (219)

Inheritance of the Full Sister

1. The full sister inherits "half" if she is one, and "two-thirds" if there are two or more if the following conditions are met:
 - a. The deceased does not have a male ascendant heir.
 - b. The deceased does not have a descendant heir.
 - c. The deceased does not have a full brother.
2. The full sister, if there is one or more, shall inherit the remainder with the full brother agnatically by others, with the male receiving twice the share of the female, if the following two conditions are met:
 - a. The deceased does not have a male ascendant heir.
 - b. The deceased does not have a male descendant heir.
3. The full sister, if there is one or more, shall solely inherit the remainder agnatically with others, if the following conditions are met:

- a. The deceased does not have a male ascendant heir.
- b. The deceased does not have a male descendant heir.
- c. The deceased does not have a full brother.
- d. The deceased has a female descendant heir.

Article (220)

Inheritance of the Paternal Half-Sister

1. Without prejudice to the conditions stipulated in Clause (1) of Article (219) of this Law, a paternal half-sister inherits “half” if she is one, and “two-thirds” if they are two or more, if the deceased does not have a full sister nor a paternal half-brother.
2. The paternal half-sister, if there is one or more, shall inherit “one-sixth” if the following two conditions are met:
 - a. The existence of a full sister inheriting “half” as a fixed share.
 - b. The deceased does not have a paternal half-brother.
3. The paternal half-sister, if there is one or more, shall inherit the remainder with the paternal half-brother agnatically by others, with the male receiving twice the share of the female, if the following two conditions are met
 - a. The deceased does not have a male ascendant heir.
 - b. The deceased does not have a male descendant heir.
 - c. The deceased does not have a full brother.
4. The paternal half-sister, if there is one or more, shall solely inherit the remainder agnatically with others, if the following conditions are met:
 - a. The deceased does not have a male ascendant heir.
 - b. The deceased does not have a male descendant heir.
 - c. The deceased has a female descendant heir.
 - d. The deceased does not have a full brother or a full sister.
 - e. The deceased does not have a paternal half-brother.

Article (221)

Inheritance of the Maternal Half-Brother and the Maternal Half-Sister

A maternal half-brother or the maternal half-sister shall inherit “one-sixth” if there is one, and “one-third” if there are two or more, if the following two conditions are met:

1. The deceased does not have a male ascendant heir.
2. The deceased does not have a descendant heir.

Article (222)

The Inheritance of a Group of Maternal Half-Siblings

If the deceased has a group of maternal half-siblings, males and females, one-third shall be divided equally among them, without distinction between the male and female share.

Article (223)

Definition of the Exclusion from Inheritance

Exclusion is depriving a person entitled to inherit from inheritance fully or partially.

Article (224)

Cases of Exclusion

1. A person, to whom an impediment precluding from inheritance applies, shall not exclude another.
2. A person, who is excluded from inheritance by way of deprivation or reduction, shall exclude another, if a reason for exclusion exists.

Article (225)

Types of Agnate

There are three types of agnates:

1. Agnate by person.
2. Agnate by others.
3. Agnate with others.

Article (226)

Agnate by Person

Agnates by person are men heirs by kinship, except the maternal half-brother. Their lined in order is as follows:

1. Sonship: including the deceased sons, and the son's sons, even if they descend.
2. Paternity: including the deceased father, the paternal grandfather, and so on, even if they ascend.
3. Brotherhood: including the deceased full brothers, or paternal half-brothers, and their sons, even if they descend.
4. Paternal Uncles: including the deceased full paternal uncles or half-paternal uncles, the paternal uncles of the father, the paternal uncles of the grandfather, and so on, even if they ascend (full or half-paternal uncles), and the paternal cousins and so even if they descend (full or half-paternal cousins).

Article (227)

Agnate by Others

1. Agnates by others are:
 - a. A daughter or more, with a son.
 - b. A son's daughter or more, with the son's son who is in her degree, or lower, in inheritance.
 - c. A full sister or more, with a full brother.
 - d. A paternal half-sister or more, with a paternal half-brother.

2. In the cases referred to in Clause (1) of this Article, the inheritance shall be for the male receiving twice the share of the female.

Article (228)

Agnate with Others

The agnates with others are: a full sister or a paternal half-sister or more, with a daughter or a son's daughter or more. The sister, in this case, shall be treated as a brother in entitlement to the remainder, and in excluding the rest of the agnates.

Article (229)

Inheritance of the Agnate by Person

If the agnate by person is unique, he shall take the entire Estate. If he is with an heir of a fixed share, he shall take the remainder of the estate after fixed shares, and the agnate by person is dropped in consideration of the provision of Article (240) of this Law.

Article (230)

Order of Agnates

1. In the case of agnatic heirship, the highest priority is given in accordance with the order mentioned in Article (226) of this Law, then the closest in degree to the deceased when the party is the same, then the one with the strongest kinship when the degree is equal.
2. The agnates share the entitlement to the remainder agnatically when they are united in direction and equal in degree and strength.
3. A full relative is stronger than a paternal half-relative on the same side.

Article (231)

Inheritance of the Agnate by Others and the Agnate with Others

The agnate by others and the agnate with others take the remainder of the estate after the fixed shares if one of them is agnate with an heir by fixed share, and is dropped if the fixed shares exhaust the estate.

Article (232)

Concurrence of those Entitled to Fixed Shares

If the shares of those entitled to fixed shares in the Estate are in concurrence, then their shares are reduced in proportion to their respective fixed shares.

Article (233)

Returning the Rest of the Estate to Those Deserving Fixed Shares

If fixed shares do not exhaust the entire estate, and there is no agnate, the remainder is returned to those, other than the spouses, who are entitled to fixed shares in proportion to their respective shares.

Article (234)

Definition of Uterine Relatives (*Thawo Al-Arham*)

Uterine relatives are all those who do not inherit by a fixed share or agnatically.

Article (235)

Types of Uterine Relatives

Uterine relatives are 3 parties divided as follows:

1. The paternal side, which includes all those related to the deceased through the father, and they are the following relatives:

- a. The non-inheriting grandfather in accordance with the provisions of Clause (1) of Article (214) of this Law.
 - b. The non-inheriting grandmother in accordance with the provisions of Clause (1) of Article (216) of this Law.
 - c. The paternal half-uncle.
 - d. The paternal aunt.
 - e. The daughter of a paternal uncle.
 - f. The daughter of a full brother or a paternal half-brother.
 - g. The son of a sister from another mother.
 - h. The son of a sister in general.
2. The maternal side, which includes all those related to the deceased through the mother, and they are the following relatives:
- a. The non-inheriting grandfather in accordance with the provisions of Clause (1) of Article (214) of this Law.
 - b. The non-inheriting grandmother in accordance with the provisions of Clause (1) of Article (216) of this Law.
 - c. The maternal uncle.
 - d. The maternal aunt.
 - e. The son of a maternal half-brother and a maternal half-sister.
 - f. The children of the previous relatives.
3. The sonship side, which includes all the descendants of the deceased, which are the following relatives:
- a. The daughter's son.
 - b. The grandson of the son through a daughter.
 - c. Children of the previous relatives.

Article (236)

Cases of Inheritance of Uterine Relatives

The uterine relatives inherit in either of the following two cases:

1. If there is no heir by fixed share or agnatically.
2. If one of the spouses exists, with no heir with him/her by fixed share or agnatically.

Article (237)

Division of the Inheritance of Uterine Relatives

Inheritance of uterine relatives is by substituting each of them in the position of the heirs from which they stem in terms of inheritance and exclusion, without distinction between the male and female shares.

Article (238)

Equality of Uterine Relatives Directions

If the directions of the uterine relatives are equal, and some of them are closer to the deceased, then the most distant one shall be dropped. If the directions are different, the most distant one inherits even if a closer one is present.

Article (239)

The *Akdaria* Case

The grandfather agnates the full sister or paternal half-sister, and she does not inherit with him by fixed share except in the case of the *Akdaria*, which is the presence of a husband, mother, grandfather, and full sister or paternal half-sister.

The husband gets half, the mother gets a third, the grandfather gets a sixth, the sister gets a fixed share of a half that is added to the grandfather's sixth, and the total is divided between them, with the male getting twice the share of the female.

Article (240)

The *Mushtaraka* Case

A full brother inherits by agnatic, except in the *Mushtaraka* case which is the presence of a husband, mother, or grandmother, several maternal half-brothers, and a full brother or brothers. The husband gets half, one-sixth to the mother or grandmother, and one-third is divided between the maternal half-brothers and the full brothers, with the male receiving the same share as the female.

Article (241)

Disposition of the Estate in the Absence of an Heir

If there is no heir either by fixed share, by agnatic, or by uterine relationship, the estate shall be governed by the rules of charitable endowments (*Awqaf*). It shall take place under the supervision of the relevant authorities after the approval of the competent court.

Article (242)

Inheritance of a Missing Person

1. The missing person's share of his/her testator's estate is reserved for him/her, on the assumption that the missing is still alive. If he/she then appears alive, he/she takes it. If he/she is declared dead before the death of his/her testator, his/her share is returned to the heirs who are entitled to it at the time of the judgment.
2. If the missing person is declared dead and his/her estate is distributed among his/her heirs and then he/she reappears alive, the provisions of Clause (1) of Article (170) of this Law shall apply.

Article (243)

Inheritance of a Fetus

The greater of the two shares for a male or a female, or more based on an approved medical report specifying the number of fetuses, shall be reserved for a gestation from its testator's estate, and

the remaining heirs shall be given the smallest of the two shares. Upon birth, knowing to be dead or alive, its gender and its number, the rest of the estate is distributed among the heirs in accordance with their shares.

Article (244)

Inheritance of an Acknowledged Heir

1. If some of the competent heirs acknowledge a sharer in the inheritance or an excluder of one of them, and the rest of the heirs deny or are incompetent, and proof is established, the inheritance -of the one to whom the acknowledgement is made- from the deceased is proved.
2. If evidence is not established, the person to whom the acknowledgement is made shares the right to the inheritance with the person making the acknowledgement, if he/she is an heir.

Article (245)

Inheritance of Someone Whose Lineage to His/Her Father Is Not Proved

The person who is not attributed to his/her father, who is denied lineage, and the child who is denied lineage due to an accusation of adultery, inherits from his/her mother and her relatives, and his/her mother and her relatives inherit from him/her.

Article (246)

Heirs' Acknowledgement of Lineage

1. The deceased's acknowledgement of lineage during his lifetime has no effect on the heirs unless the acknowledgement meets the conditions for its validity.
2. If he acknowledges a lineage to someone else and it is not proved in accordance with Article (91) of this Law, and he does not retract his acknowledgement, the person to whom the acknowledgement is made shall be entitled to the estate of the person who made the acknowledgement unless he has an heir.

3. If some of the heirs acknowledge the lineage of someone to their deceased, the one to whom the acknowledgement is made shares with the one who made the acknowledgement in his/her entitlement to the inheritance to the exclusion of others unless he/she is excluded.

Article (247)

***Al-Takharuj* from the Estate**

1. *Al-Takharuj* is the agreement that some of the heirs or devisees relinquish their share of the estate or part of it in consideration of a known thing thereof or something else.
2. *Al-Takharuj* shall be documented before the competent authority in accordance with applicable legislation.

Article (248)

Cases of *Al-Takharuj* from the Estate

1. The heirs may choose *Al-Takharuj* with each other or with the devisee if the estate is known to all those who chose *Al-Takharuj*, or unknown and it is usually impossible to know about it in a short period of time, the court determines this period in accordance with the nature of the property subject to *Al-Takharuj*, its location and its amount.
2. If the ignorance of the estate can usually be known within a short period, and *Al-Takharuj* was completed before those who chose *Al-Takharuj* became aware of the estate, then the one among them who was ignorant of the situation may request the nullification of *Al-Takharuj*.

Article (249)

Types of *Al-Takharuj* from the Estate

1. If one of the heirs chose to go for *Al-Takharuj* from the estate with another, he/she is entitled to his/her share and replaces him/her in the estate.
2. If one of the heirs chose to execute *Al-Takharuj* from the estate with the rest of them in return for a consideration from the estate, then his share shall be divided among the rest of the heirs in proportion to their shares in the estate.

3. If one of the heirs chose *Al-Takharaj* from the estate with the rest of the heirs in exchange for a known consideration from outside the Estate, then his share shall be divided among the rest of the heirs in proportion to what each one of them paid, unless they agreed otherwise.
4. If it is not known what each of the Heirs has given and the method of dividing the share of the one who chose *Al-Takharuj* is not specified in the *Al-Takharuj* contract, then his/her share is divided among the remaining heirs in proportion to their shares in the estate.

Article (250)

Fraud Over Inheritance

Any fraud over inheritance through sale, gift, will, or other dispositions shall be deemed void.

Chapter Thirteen

Penalties

Article (251)

Without prejudice to any harsher penalty, imprisonment and a fine of not less than (5,000) five thousand dirhams and not more than (100,000) one hundred thousand dirhams or one of these two penalties, shall be the punishment of anyone who is entrusted with the affairs of a minor, and those in the same category, and commits one of the following acts:

1. Disposes of, embezzles, uses, squanders, or conceals the property of a minor, or someone in the same category, or his/her documents, to his/her detriment, or disposes of them without the court permit, and the court does not approve the disposal thereafter.
2. Causes -through his/her fault or negligence- damage to the property of a minor, or someone in the same category.
3. Unjustifiably refuses to hand over the papers of the minor, or those in the same category, and all related accounts and documents, to the concerned party.
4. Disposes of or uses the minor's property and papers after his/her authority over the minor has ended.

The issuance of a criminal judgment of conviction in Clauses (1) and (2) of this Article shall be a compelling reason for the withdrawal of guardianship over property and the like.

Article (252)

Without prejudice to any harsher penalty, any custodian who travels with the child under his/her custody without the permit of his/her guardian or the court, or uses a document or a copy thereof belonging to the child in custody or benefits from it unlawfully, shall be punished by imprisonment and a fine of not less than (5,000) five thousand dirhams and not more than (50,000) fifty thousand dirhams, or one of these two penalties.

Article (253)

Anyone who conceals, squanders, destroys, or fraudulently seizes any of the property of the estate, even if he/she is an heir, shall be punished by imprisonment and a fine of no less than (5,000) five thousand dirhams and no more than (100,000) one hundred thousand dirhams, or one of these two penalties.

Article (254)

Imprisonment and a fine of no less than (5,000) five thousand dirhams and no more than (100,000) one hundred thousand dirhams, or one of these two penalties, shall be the punishment of anyone who:

1. Abuses, assaults, neglects, or refuses to care for his/her parents or one of them, or left them without care, despite his/her ability to do so.
2. Refrains from spending on his/her parents or one of them, when he/she is responsible for their expenses by the obligation of a court ruling.

Article (255)

A criminal case may not be filed concerning the acts stipulated in Articles (252), (253), and (254) of this Law except based on a complaint from the person concerned. The criminal case shall

expire if the waiver is made after the crime has occurred and before a final judgment is issued. If the waiver is made after the judgment has become final, its execution shall be suspended.