

NATIONAL LEGISLATION: THE NETHERLANDS

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TITLE 14 CUSTODY OVER MINOR CHILDREN

Section 1 *General*

Article 245

1. Minors shall be subject to custody.
2. Custody includes parental authority as well as guardianship.
3. Parental authority is exercised by the parents jointly or by one parent. Guardianship is exercised by a person other than a parent.
4. Custody relates to the person of a minor, the administration of his or her estate and his or her representation in civil acts, both judicially and extra-judicially.
5. Parental authority of a parent who exercises this pursuant to Article 253sa or, pursuant to a judicial decision in accordance with Article 253t, jointly with a person other than a parent is considered to exercise joint parental authority unless the contrary follows from a statutory provision.

Article 246

Minors over whom a guardian has been appointed and persons whose mental capacity is disturbed to such extent that they find themselves in a position where they are unable to exercise custody, do not have capacity to exercise custody unless such disturbance is of a temporary nature.

Article 246a

Repealed

Article 247

1. Parental authority comprises the duty and the right of the parent to care for and raise his or her minor child.
2. Care and upbringing include the care and responsibility for the mental and corporal well being of the child and fostering the development of its personality.

Article 248

Article 247(2) of this Book applies *mutatis mutandis* to the guardian and to the person who cares for and raises a minor without having custody over such a minor.

Article 249

A minor must take into account the powers vested in the parent or guardian within the framework of the exercise of custody and the interests of the other members of the family of which he or she forms a part.

Article 250

When in matters regarding the care and upbringing or in respect of the capital of the minor there is a conflict between the interests of the minor and the parents entrusted with parental authority or of either of them or of the guardian or both guardians, the sub-district court shall appoint a special guardian to represent the minor in respect thereof, both judicially and extra-judicially at the request of an interested person or *ex officio*, if it considers this necessary in the best interests of the minor, having regard to the nature of the conflict of interests.

Section 2 **Parental Authority**

§1. Joint Parental Authority of Parents inside and outside Marriage and Parental Authority of one Parent after a Separation¹

Article 251

1. During their marriage the parents exercise joint parental authority.
2. After dissolution of the marriage, other than by death or after a judicial separation, parents who exercised joint parental authority shall continue to exercise such parental authority jointly unless the parents or either of them request the district court to provide that parental authority over a child or the children shall vest in only one of them, in the best interests of the child.
3. A decision based on paragraph (2) shall be given by a court order for a judicial separation, divorce or dissolution of the marriage after a judicial separation or by a subsequent order. Until the parental authority of one of both parents commences, this shall vest in the person who also exercised parental authority during the proceedings and this with the same powers and subject to the same obligations as were incumbent on that parent at that time.
4. If a decision on the basis of paragraph (2) did not relate to all of the children of the spouses, the court shall supplement it on the application of one of the parents, the Child Care and Protection Board or *ex officio*.

Article 251a

The court may give an order *ex officio* on the basis of Article 251(2), when it appears to the court that a minor aged twelve or older would appreciate this. The same shall apply if the minor has not yet reached the age of twelve but may be deemed able to reasonably consider his or her interests in the matter.

Article 252

1. Parents who are not and have not been married to each other and who never jointly exercised parental authority over their minor children, shall jointly exercise this if this has been recorded in the register referred to in Article 244 of this Book at the request of both of them.
2. The clerk of the court shall refuse to make the record if, at the time of the request:
 - (a) either or both parents do not have capacity to exercise parental authority; or
 - (b) one of both partners has been divested consensually or non-consensually of parental authority and the other parent exercises parental authority; or
 - (c) custody over the child has been entrusted to a guardian; or
 - (d) the provision in the custody of the child has ceased to exist; or
 - (e) the parent who has parental authority exercises it jointly with a person other than a parent.
3. An appeal is only possible against the refusal of the making of a record if this took place on the ground that either or both parents lacked authority either on account of minority or the appointment of a guardian. In that case the sub-district court may be requested to order that a record made. It shall reject the application if there is a well founded fear that the best interests of the child would be neglected if it were to be granted.

Article 253

¹ As the Dutch term *scheiding* is used, this could be interpreted to include judicial separation as well as divorce.

1. If former spouses remarry each other or enter into a registered partnership and immediately prior thereto one of the spouses exercised parental authority over the minor children, joint parental authority shall revive by operation of law unless one of the spouses lacks capacity for such parental authority or has been consensually or non-consensually divested therefrom or exercises joint parental authority with a person other than the parent.
2. A spouse whose parental authority has not revived may apply to the district court to entrust him or her therewith. This application shall be rejected only if there is a well founded fear that the best interests of the children would be neglected if it were to be granted.
3. Paragraphs (1) and (2) shall apply *mutatis mutandis* if a judicial separation ends by the reconciliation of the spouses.
4. Paragraphs (1) and (2) shall apply *mutatis mutandis* if former registered partners who exercised joint parental authority over a child enter into a registered partnership with one another anew or marry one another.

Article 253a

In the case of the exercise of joint parental authority, disputes between the partners in respect thereof may, on the application of both or either of them, be submitted to the district court. The district court shall first attempt to reach an agreement between the parents prior to taking a decision. The court shall give such an order as it shall consider desirable in the best interests of the child.

§1a Joint Parental Authority of Parents within a Registered Partnership

Article 253aa

1. The parents shall exercise joint parental authority over a child born during a registered partnership.
2. The provisions with regard to joint parental authority shall apply hereto, with the exception of Articles 251(2), (3) and (4) and 251a.

§ 2. Parental Authority of one Parent otherwise than after a Separation²

Article 253b

1. If only maternity is established in respect of a child or if the parents of a child are not married with one another or have been married and do not exercise joint parental authority, the mother shall exercise parental authority in respect of the child alone by operation of law unless she lacked capacity for parental authority at her confinement.
2. A mother referred to in paragraph (1) who lacked capacity for parental authority at the time of her confinement shall acquire this by operation of law at the time when such capacity is vested in her unless another is granted parental authority at that time.
3. If at the said time another person has parental authority, the parent with capacity for parental authority shall apply to the sub-district court to entrust him or her with such parental authority.
4. When the other parent exercises parental authority over the child this application shall be granted only if the sub-district court considers this desirable in the best interests of the child.
5. When a guardian exercises custody over the child, the application shall be rejected only if there is a well founded fear that the best interests of the child would be neglected if it were to be granted.

Article 253c

1. A father of the child with capacity for parental authority who never exercised joint parental authority with the mother may apply to the sub-district court to charge him with parental authority over the child.

² According to the Dutch text the word *scheiding* is used and therefore could be interpreted to include judicial separation as well as divorce.

2. When the mother exercises parental authority over the child, this application is granted only if the sub-district court considers this desirable in the best interests of the child.
3. When parental authority has not been provided or when a guardian exercises custody, the application shall be rejected only if there is a well-founded fear that the best interests of the child would be neglected if it were to be granted.

Article 253d

1. If the provision in the parental authority of a child referred to in Article 253b(1) of this Book shall cease to exist, both its mother and its father or both, to the extent they have capacity for parental authority, may apply to the sub-district court to be charged with parental authority or joint parental authority, as the case may be. If the provision in the parental authority shall cease to exist on account of the consensual or non-consensual discharge of parental authority, the application shall be addressed to the district court.
2. The application referred to in paragraph 1 shall be rejected only if there is a well founded fear that the best interests of the child would be neglected if it were to be granted.
3. Where both have lodged an application other than for the exercise of joint parental authority, the court shall grant the application of the person whose parental authority in respect of the child he or she considers to be most in the best interests of the child.
4. If, prior to a decision on the application of one parent, the other parent obtains the parental authority in respect of the child by operation of law, the court shall grant the application only if it considers this desirable in the best interests of the child.

Article 253e

Where an application of one of the parents referred to in Articles 253b, 253c and 253d of this Book is granted and the other parent exercised parental authority until that time, this shall cause the latter to loose such parental authority.

Article 253f

After the death of one of the parents the surviving parent shall exercise parental authority over the children by operation of law, if and to the extent he or she exercises parental authority at the time of death.

Article 253g

1. If the parent who dies exercised parental authority over their minor children alone, the court shall order that the surviving spouse or a third person be charged with custody over the children.
2. The court shall do so on the application of the Child Care and Protection Board, the surviving spouse or *ex officio*.
3. The application to charge the surviving spouse with parental authority shall be rejected only if there is a well-founded fear that the best interests of the children would be neglected where it to be granted.
4. The provision in the preceding paragraph shall also apply if the deceased parent had designated a guardian in accordance with Article 292 of this Book.
5. The district court shall have jurisdiction to give the orders referred to in this Article, if:
 - (a) it relates to the death of the parent who exercised parental authority alone after the judicial dissolution of the marriage or after a judicial separation or who was charged with sole parental authority after exercising joint parental authority as referred to in Article 252(1) of this Book;
 - (b) the surviving spouse was consensually or non-consensually vested with parental authority and an application is made to charge this parent with parental authority.

In other instances the sub-district court has jurisdiction.

Article 253h

1. If a guardian is appointed after the death of one of the parents, the court may alter such an order at any time in such a manner that the surviving parent, provided that such a parent has capacity thereto, is still charged with parental authority.
2. It shall only proceed hereto on the application of the surviving spouse and only on the basis that there has been a change of circumstances thereafter or that, when the decision was taken, it was based on incorrect or incomplete information.
3. When the other parent had designated a guardian in accordance with Article 292 of this Book and the latter has meanwhile acted as such, this Article shall apply *mutatis mutandis* provided, when this application of the surviving spouse is made within one year after commencement of the guardianship, that it is only rejected if there is a well-founded fear that the best interests of the children would be neglected were it to be granted.
4. Article 253g(5) of this Book shall apply *mutatis mutandis*.

§ 2a. Parental Authority after the Declaration of Majority

Article 253ha

1. Where a minor woman with parental authority wishes to care for and raise her child, she may, when having reached the age of sixteen, apply to the children's court judge to declare her of age.
2. The application can also be made on behalf of the woman by the Child Care and Protection Board. It needs her written consent hereto. The application shall lapse if the woman withdraws her consent.
3. The application may also be made by or on behalf of the woman prior to the confinement and when the woman will only reach the age of sixteen around the time of her confinement. In this case a decision on the application shall not be made before the confinement or, if the woman is still not sixteen at that time, after she has reached that age.
4. The children's court judge shall only grant the application, if he or she considers this desirable in the best interests of the mother and her child. If another person is charged with custody, the mother is charged therewith.
5. A minor woman has legal capacity to act at law and to institute an appeal against such a decision.

§ 3. The Administration by the Parents

Article 253i

1. In the case of the exercise of joint parental authority, the parents shall jointly conduct the administration of the capital of a child and shall jointly represent the child in civil law acts provided that a parent shall also have capacity to do so alone provided there have appeared to be no objections from the other parent.
2. Article 253a of this Book applies *mutatis mutandis* provided that where mention is made of 'the district court' this shall read 'the sub-district court'.
3. Where a parent exercises parental authority alone, that parent shall conduct the administration of the capital of the child and represent the child in civil law acts.
4. There may be derogation from the provisions in paragraphs 1 and 3:
 - (a) if the court has provided in the order whereby it entrusts the exercise of parental authority over the child to one of the parents on the uniform application of the parents or on the application of either one of them, provided the other does not oppose it, that the parent who does not exercise parental authority over the child will conduct the administration of the capital of the child;
 - (b) in the case of consensual or non-consensual discharge of parental authority pursuant to Article 276(2) of this Book;
 - (c) if he or she who donates or bequeaths property to a minor or, as the case may be, by last will and testament, has provided that another will conduct the administration of such property.
5. In the latter case the parents or, when a parent exercises parental authority alone, that parent, shall have capacity to request the administrator to account for his or her administration.

6. On the lapse of the administration instituted by the donor or testator paragraphs (1) and (2) and, as the case may be, paragraph (3) shall apply.

Article 253j

The parents or a parent must act as good administrators in administering the capital of their child. In the case of bad administration they shall be liable for the loss attributable thereto, except for the benefits from such a capital to the extent that the enjoyment thereof is conferred to them by law.

Article 253k

Articles 342(2), 344 to 357, inclusive, and 370 of this Book applies *mutatis mutandis* to the administration by the parents or a parent.

Article 253l

1. Each parent who exercises parental authority over his or her child has a right of usufruct over the child's capital. If the child lives with the parent and enjoys income from labour other than incidentally, the child is obliged to contribute in accordance with its means to the cost of the household of the family.
2. Paragraph (1) applies *mutatis mutandis* in the case where a parent is divested of parental authority, unless the other parent exercises parental authority.
3. The duties incumbent on usufructaries shall apply to the said usufruct.

Article 253m

A parent does not have a right of usufruct in respect of a capital in respect of which the testator has provided by last will and testament or when making the gift that the parents will not have a right of usufruct in respect thereof.

Section 3.

Common Provisions with regard to the Exercise of Parental Authority by the Parents and the Conduct of Parental Authority by either one of them

Article 253n

1. On the application of parents who are not married to one another or of either one of them the district court may terminate the joint parental authority referred to in Articles 251(2), 252(1), 253q(5) or 277(1), if the circumstances have changed thereafter or if its decision was based, when taken, on incorrect or incomplete information. In this case the court shall lay down which of the parents shall thereafter have parental authority over each of the minor children in the best interests of the child.
2. Article 251(4) of this Book applies *mutatis mutandis*.

Article 253o

1. Decisions, whereby one parent alone is vested with parental authority, pursuant to the provisions of §1, §2 and §2a of this Title and pursuant to Article 253n of this Book may, on the application of the parents or of either one of them, be varied by the district court on the ground that there has been a change of circumstances thereafter or that when the decision was taken, it was based on incorrect or incomplete information. An application to still be charged with joint parental authority over their minor children may only originate from both parents.
2. The district court may also take cognisance of applications for a variation of decisions in respect of or connected to the parental authority issued by a foreign authority after a divorce or judicial separation effected outside the Netherlands, if the minor has his or her ordinary abode in the Netherlands. This court may also provide for parental authority or take a decision connected with parental authority, if the foreign decision does not lend itself to recognition or if, after the divorce or judicial separation, no such decision has been given and the minor has his or her ordinary abode in the Netherlands.
3. An application to vary a decision on parental authority shall be made to the sub-district court, if the sub-district court had given the decision to be varied.

Article 253p

1. In the instances in which both parents or either parent was alone vested with parental authority, this shall commence as soon as the decision involved has become final and binding or, when it was declared enforceable notwithstanding appeal, on the day after the decision was issued or dispatched.
2. After a judicial dissolution of the marriage or after a judicial separation, parental authority shall, however, not commence prior to registration of the order for a dissolution of the marriage in the registers of the Registry of Births, Deaths, Marriages and Registered Partnerships or prior to the recording of the order for a judicial separation in the Matrimonial Property Register specified in Article 116.
3. If a record was made as referred to in Article 252(1) of this Book, parental authority with which one of the parents is charged shall, however, commence only after such a record was struck by the clerk of the court. The clerk shall inform both parents in writing of such a cancellation.

Article 253q

1. When one of the parents who exercise joint parental authority over their minor children does not have capacity thereto on one of the grounds mentioned in Article 246, the other parent shall exercise parental authority over the children alone. When the ground for the incapacity has ceased, joint parental authority shall revive by operation of law.
2. When both parents who exercise joint parental authority over their minor children lack capacity thereto on one of the grounds mentioned in Article 246, the sub-district court shall appoint a guardian.
3. When a parent exercises parental authority lacks capacity thereto on one of the grounds mentioned in Article 246, the sub-district court shall charge the other parent with parental authority unless there is a well-founded fear that the best interests of the children would be neglected. In that case it shall appoint a guardian.
4. The decisions referred to in paragraphs (2) and (3) shall be given at the request of a parent, relatives by blood or marriage of the minor, the Child Care and Protection Board or *ex officio*.
5. When the ground for the lack of capacity of the parent first mentioned in paragraph (3) has ceased, he or she shall again be vested with parental authority upon his or her request, if the sub-district court is convinced that the child may again be confided to the parent. If the parents wish to be charged with joint parental authority, the application thereto must originate from both of them.

Article 253r

1. The provision in Article 253q of this Book applies *mutatis mutandis*, if:
 - (a) it is impossible, with respect to one or both of the parents, whether or not temporarily, to exercise parental authority; or

- (b) the existence or abode of one or both parents is unknown.
2. Parental authority vested in one or both parents shall be suspended during the period in which one of the circumstances referred to in paragraph (1) occurs.

Article 253s

1. If the child, with the consent of its parents who exercise parental authority over it, has been cared for and raised for at least one year by one or more other persons as a member of the family, the parents may only make a change in the abode of the child with the consent of the persons who have assumed the responsibility for its care and upbringing.
2. To the extent that consent is required pursuant to the preceding paragraphs and is not obtained, this may be replaced by that of the district court if the parents so request. Such a request shall be rejected only if there is a well founded fear that the best interests of the child would be neglected if it were to be granted.
3. In the case of a rejection of the request, the court order shall remain in force for a period, not exceeding six months, to be specified by the district court. However, if prior to the end of this period an application for a care and supervision order is made in respect of the child or for the consensual or non-consensual discharge or parental authority of one or both parents, the order shall remain in force until a final and binding decision has been taken.

Section 3A

Joint Parental Authority of a Parent together with a Person other than a Parent

§ 1. Joint Parental Authority of a Parent together with a Person other than a Parent by Operation of Law

Article 253sa

1. A parent and his or her spouse or registered partner who is not the parent, exercise joint parental authority over a child born during a marriage or registered partnership, unless legal familial ties exist between the child and another parent.
2. The provisions with regard to joint parental authority of parents apply hereto *mutatis mutandis* with the exception of Articles 251(2), (3) and (4), and 251a.
3. Article 5(4), (5) and (7) applies *mutatis mutandis* with regard to the child over whom the parent, jointly with his or her registered partner who is not the parent, exercise or will exercise parental authority provided that, if the parent and his or her partner have not made a choice of name at the latest on the occasion of the declaration of birth, the registrar of the Registry of Births, Deaths, Marriages and Registered Partnerships shall record the surname of the mother as the surname of the child on the birth certificate.

§ 2. Joint Parental Authority of a Parent together with a Person other than a Parent pursuant to a Judicial Decision

Article 253t

1. If parental authority over a child vests in one parent, the district court may, on the joint application of the parent who is charged with parental authority and a person other than the parent who has a close personal relationship with the child, jointly charge them with parental authority over the child.
2. If legal familial ties exist between the child and another parent, the application shall only be granted, if:
 - (a) on the date of the application the parent and the other person have jointly cared for the child for at least a continuous one year period immediately preceding the application; and
 - (b) on the date of the application the parent who makes the application is vested with sole parental authority for at least a continuous three year period.
3. The application shall be rejected if, also in the light of the interests of another parent, there is a well-founded fear that the best interests of the child would be neglected if it were granted.

4. Joint parental authority referred to in paragraph (1) may not be conferred in the instances referred to in Article 253q(1) and Article 253r. Legal persons shall not qualify for parental authority.

5. An application referred to in paragraph (1) may be accompanied by an application to alter the surname of the child to the surname of the parent charged with parental authority or of the other person. Such an application shall be rejected, if:

- (a) a child aged twelve or older has not agreed with the application at the hearing;
- (b) the application referred to in paragraph (1) is rejected; or
- (c) the best interests of the child oppose it being granted.

Article 253u

Joint parental authority commences on the date on which the order whereby the appointment is made becomes final and binding or, when it is declared enforceable notwithstanding appeal on the day after the order has been issued or dispatched.

Article 253v

1. Articles 246, 247, 249, 250, 253a, 253j to 253m, inclusive, 253q (1) and 253r applies *mutatis mutandis* to the exercise of joint parental authority by the parent and the other person.

2. Article 253i applies *mutatis mutandis* unless the parent charged with parental authority does not conduct the administration pursuant to Article 253i(4)(a) or (c).

3. Article 253n applies *mutatis mutandis* provided the district court shall not give an order for the termination of joint parental authority referred to in Article 253t without first having given the parent not charged with parental authority or both parents jointly an opportunity to apply, in the best interests of the child, to charge him or her with parental authority over the child or to charge them jointly therewith.

4. If the district court, after termination of joint parental authority of the parent and the other person, has charged such another person with guardianship, it may at any time, on account of a change of circumstances, charge a parent with parental authority on his or her application in the best interests of the child or charge the parents with joint parental authority when they have jointly exercised parental authority, on their application and in the best interests of the child.

5. Article 253q(2) applies *mutatis mutandis* provided that the sub-district court shall not appoint a guardian without first having given the parent not charged with parental authority an opportunity to apply to be charged with parental authority over the child in the best interests of the child. The application referred to in Article 253q(2) may also be made by a person other than the parent.

6. Sections 4 and 5 of this Title shall apply *mutatis mutandis* to joint parental authority of the parent and the other person provided that in the case of consensual or non-consensual discharge of parental authority of the parent who, jointly with the other, exercises parental authority, the other person shall not be vested with sole parental authority without the district court first having given the parent not charged with parental authority an opportunity to apply to charge him or herself with parental authority over the child.

§ 3. Common Provisions in respect of Joint Parental Authority of a Parent together with a Person other than a Parent

Article 253w

The other person who, with the parent, exercises joint parental authority is obliged to provide maintenance for the child subject to his or her parental authority. If joint parental authority ends as a result of the child reaching the age of majority, the maintenance obligation shall continue until the child has reached the age of twenty-one. After a judicial decision for termination of joint parental authority has become final and binding or after the death of the parent with whom parental authority was jointly exercised until the time of death, such a maintenance obligation shall continue over the period that joint parental authority has lasted, unless, in special circumstances, the court on the application of the parent or of the other person, has specified a longer period. It shall end no later than at the time the child has reached the age of twenty-one. Articles 392(3), 395a(1), 395b, 397, 398, 399, 400, 401(1), (4) and (5), 402, 402a, 403, 404(1), 406 and 408 apply *mutatis mutandis*.

Article 253x

1. After the death of a parent who, with another person, exercises joint parental authority, such another person will act as guardian over the children by operation of law.
2. On the application of the surviving parent the district court may provide at any time that he or she shall still be charged with parental authority if he or she has capacity thereto.
3. Articles 253g and 253h shall not apply.

Article 253y

1. Joint parental authority referred to in Articles 253sa and 253t ends on the date on which the order has become final and binding whereby the parents were jointly charged with parental authority or joint parental authority of the parent and of the other person has ended.
2. When the order referred to in paragraph (1) has been declared enforceable notwithstanding appeal, joint parental authority of the parent and the other person shall end after the order has been issued or dispatched.

Section 4 **Care and Supervision Orders for Minors**

Article 254

1. If a minor grows up in a manner which constitutes a serious threat to his or her moral or mental interests or his or her health and other means for aversion of such threats have failed or, if it is foreseeable that these will fail, the children's court judge may vest an institution for family guardianship referred to in Article 60 of the Wet op de jeugdhulpverlening (Juvenile Assistance Act) (*Bulletin of Acts and Decrees 1989, No. 360*) with the care and supervision over him or her.
2. The judge may do so on the application of a parent, another person who cares for and raises the minor as a member of the family, the Child Care and Protection Board or the public prosecution service.
3. When applying paragraph 1, the children's court judge shall have regard to the religious conviction and the minor's outlook on life³ and of the family to which he or she is a member.
4. On the application of the institution for family guardianship, the parents charged with parental authority or of a minor aged twelve or older, the children's court judge may replace the institution for family guardianship which has the care and supervision by another. The Child Care and Protection Board is entitled lodge an application referred to in the preceding sentence, if it remains of the opinion that a care and protection order⁴ based on Article 263(1) should not be terminated.

Article 255

The children's court judge may, pending an investigation, issue an interim care and supervision order in respect of a minor, if this is urgently needed and no delay can be afforded. The judge shall specify the duration of such an interim care and supervision order which may not exceed three months and may revoke the decision at any time.

Article 256

1. The children's court judge shall specify the duration of the care and supervision although this may not exceed one year.

³ The term *levensovertuiging* is translated as outlook on life, a loose translation of an equally loose term in Dutch.

⁴ The term *uithuisplaatsing* is translated as care and protection order, which is to be construed as an order for the removal of a minor from the family home.

2. A children's court judge may each time extend the duration for at most one year and may do so on the application of the institution for family guardianship, a parent, another person who cares for and raises the minor as a member of the family, the Child Care and Protection Board or the public prosecution service.
3. If the institution for family guardianship does not proceed to apply for an extension, it shall notify the Child Care and Protection Board as soon as possible while submitting a progress report of the care and supervision.
4. The children's court judge may discontinue the care and supervision when there is no longer a ground therefor. The judge may do so on the application of the institution for family guardianship, the parent charged with parental authority or of a minor aged twelve or older.

Article 257

1. The institution for family guardianship shall supervise the minor and ensure that assistance and support is offered to the minor and the parent charged with parental authority in order to avert the threat to moral or mental interests or the health of the minor.
2. Such help and support shall be directed to ensure that the parent charged with parental authority shall as much as possible remain responsible for the care and upbringing.
3. If the level of age and development of the minor and the capability and need to act independently and to give direction to his or her life in accordance with his or her own insight so necessitate, the help and support shall be directed at enhancing the independence of the minor more than enhancing the possibilities of the parents to care for and raise their child.
4. The institution for family guardianship shall foster the family ties between the parent charged with parental authority and the minor.

Article 258

1. The institution for family guardianship may, when fulfilling its tasks, give written directions with regard to the care and raising of the minor.
2. The parent who is charged with parental authority and the minor must act in accordance with such directions.
3. The minor shall only be placed outside the family pursuant to Article 261 during the day and overnight, except in the instances where the parent charged with parental authority proceeds thereto without objection of the institution for family guardianship.

Article 259

1. On the application of the parent charged with parental authority or of a minor aged twelve or older, the children's court judge may declare that a direction shall lapse, in full or in part. The application has no suspensive effect unless the children's court judge provides otherwise.
2. When the application is lodged, the decision of the institution for family guardianship shall be submitted.
3. An application with the children's court judge may be lodged within two weeks commencing from the day following the day on which the decision was sent or given.
4. An application made after expiry of this term shall not be inadmissible on account thereof, if the applicant cannot reasonably be considered to have been in default.

Article 260

1. The parent charged with parental authority and a minor aged twelve or older may request the institution for family guardianship to withdraw a designation on account of a change of circumstances, in full or in part.
2. The institution for family guardianship shall give a written decision within two weeks from receipt of the request.
3. Article 259 applies *mutatis mutandis*.
4. Where the institution for family guardianship does not or does not timely take a decision, this shall be deemed to constitute a rejection of the application for the purpose of this provision. The term within which the

application must be lodged with the children's court judge shall, in that case, continue as long as the institution for family guardianship has not taken a decision and ends when the institution for family guardianship still takes a decision, two weeks thereafter.

Article 261

1. Where this is necessary, in the interest of the care and upbringing of the minor or for an examination of his or her mental or physical condition, the children's court judge may authorise the institution for family guardianship, on its application, to instruct the minor to stay elsewhere during the day and overnight. In the application it shall be stated for which provision, kind of provision or other place of accommodation authorisation is requested.
2. The authorisation may also be granted on the application of the Child Care and Protection Board or of the public prosecution service. Paragraph (1) applies *mutatis mutandis*.
3. For a care order whereby the minor is placed in a closed institution, an explicit authorisation for such a purpose of the children's court judge is required. Such an authorisation shall only be granted, if so required because of serious problems in the minor's conduct. As soon as an application for such an authorisation or extension is lodged with the children's court judge, the judge shall, *ex officio*, instruct the Legal Aid Office to assign a counsellor to the minor.
4. The Minister of Justice shall designate institutions which are to be considered closed institutions within the meaning of this Article. This designation shall be published in the Government Gazette.
5. When granting and implementing such an authorisation, the children's court judge and institution for family guardianship shall have regard to the religious persuasion and minor's outlook on life and the family of which the minor is a member.
6. The placement in a home of a category mentioned in Section II(1) to (4), inclusive, or Section III(2) of the Annex to the Wet op de jeugdhulpverlening (Juvenile Assistance Act), insofar as it is maintained by the Minister of Justice, shall also end by a decision of the Minister of Justice, having heard the institution for family guardianship, when the Minister of Justice considers this necessary in connection with a correct apportionment of the accommodation available in such homes.

Article 262

1. The children's court judge shall specify the duration of the care and protection order for the minor although this may not exceed one year. On the application of the institution for family guardianship or of the Child Care and Protection Board, the judge may always extend such duration for no more than one year.
2. If the institution for family guardianship does not proceed to apply for an extension, it shall so notify the Child Care and Protection Board as soon as possible and submit a report on the progress of the child under a care and protection order.
3. An authorisation shall lapse if it is not implemented within three months.

Article 263

1. The execution of a care and protection order may be terminated by the institution for family guardianship. The institution for family guardianship shall inform the Child Care and Protection Board hereof as soon as possible and submit a report on the progress of the child under a care and protection order.
2. The parent charged with parental authority, another person who cares for and raises the minor as a member of the family and a minor aged twelve or older may request the institution for family guardianship on account of a change in circumstances:
 - (a) to terminate the execution of the care and protection order;
 - (b) to shorten its duration;
 - (c) to desist from a change of accommodation of the minor which is permitted pursuant to the authorisation. A change of accommodation includes a placement of the minor with the parent who has parental authority.
3. The institution for family guardianship shall make a written decision within two weeks from receipt of the request.

4. At the request of the person mentioned in paragraph (2) the children's court judge may revoke the authorisation in full or in part or shorten its duration. Article 259(1), second sentence, (2), (3) and (4) and Article 260(4) apply.

Article 263a

1. Insofar as necessary, having regard to the object of the care and protection order of a minor referred to in Article 261, the institution for family guardianship may limit contact between the parent charged with parental responsibility and the child for the duration of the care and protection order.
2. The decision of the institution for family guardianship is considered a direction. Article 259 and Article 260 apply *mutatis mutandis* provided that the children's court judge may adopt such an arrangement as the court considers desirable in the best interests of the child.

Article 263b

1. For the duration of the measure the children's court judge may, at the request of the institution for family guardianship, vary a judicial decision for adoption of an arrangement on the exercise of the right of access insofar as necessary, having regard to the object of the care and supervision order.
2. At the request of the parent charged with parental authority, a person with a right of access, a minor aged twelve or older and the institution for family guardianship may apply to the children's court judge to vary the decision mentioned in paragraph 1 on account of a subsequent change of circumstances or that when the decision was taken it was based on incorrect or incomplete information.
3. As soon as the care and supervision order has ended, an arrangement referred to in Article 377a or 377f shall apply as an arrangement adopted pursuant to this provision.

Article 264

If medical treatment of a minor who is less than twelve years old is necessary in order to prevent a serious risk to it's health and a parent charged with parental authority refuses consent thereto, such consent may be replaced by that of the children's court judge on the application of the institution for family guardianship.

Article 265

1. Applications made on the basis of Article 254(4) and Articles 256 to 264, inclusive, must be made in writing. Insofar as they are addressed to the children's court judge, they may be lodged without the need for a member of the local Bar.
2. When the institution for family guardianship lodges an application or is summoned to appear, the institution for family guardianship shall send, together with the application or without delay after the summons, the plan of assistance and a progress report of the care and supervision order to the children's court judge.
3. The plan and report referred to in paragraph (2) shall also be sent to Child Care and Protection Board.
4. The applications addressed to the court by the institution for family guardianship in the implementation of its remit may be lodged without the need of a member of the local Bar and shall be heard at no cost; the execution copies, the signed copies and extracts which are applied for such a purpose shall be issued to it by the clerks of the court without charge.

Section 5

Consensual and Non-Consensual Divestment of Parental Authority

Article 266

Provided this is not contrary to the best interests of the children, the district court may divest a parent of parental authority over one or more of his or her children on the ground that such a parent is unfit or unable to fulfil the duty of caring or raising the child.

Article 267

1. Consensual discharge may be pronounced only on the application of the Child Care and Protection Board or of the public prosecution service.
2. In the instance referred to in Article 268(2)(d) of this Book the consensual discharge may also be applied for by the person who has cared for and raised the child for one or more years at the time of the application, if the children's court judge has rejected a request of the parents for consent to change the place where their child will reside. If the child has been cared for and raised by more than one person, may only be made on their joint request. Where a consensual discharge is applied for, Article 253s(2) of this Book shall not apply until a final and binding decision has been made on the application.

Article 268

1. A consensual discharge may not be pronounced when this is opposed by the parent.
2. There shall be an exception to this rule:
 - (a) if it appears after the implementation of a care and supervision order of six months or more, or from the execution of a care and protection order pursuant to Article 261 of more than eighteen months, that there is a well-founded fear that such a measure, due to the parent being unfit or powerless to fulfil his or her duty of care and upbringing of the child, will be insufficient to remove the threat referred to Article 254;
 - (b) if, without the consensual discharge of one parent, the discharge of the other parent would not prevent the children from being subjected to the latter's influence;
 - (c) if the mental faculties of the parent are so disturbed that he or she is unable to determine his or her will or the significance of his or her statement;
 - (d) if, after the care and upbringing of the child with the consent of the parent, otherwise than pursuant to a care and supervision order or a placement under an interim guardianship of one or more years by a family other than the parental family, a continuation thereof is necessary since if the child were to return to the parent serious prejudice to the child's interests must be feared.

Article 269

1. If the district court considers this necessary in the best interests of the children, it may divest a parent non-consensually of parental authority over one or more of such a parent's children on grounds of:
 - (a) abuse of parental authority, or gross neglect of the care or raising of one or more children;
 - (b) of irresponsible behaviour;
 - (c) irrevocable conviction:
 - (1) on account of wilful participation in a criminal offence with a minor under his or her authority;
 - (2) on account of the commission of a criminal offence vis-à-vis the minor described in Titles XIII-XV and XVIII-XX of Book 2 of the Penal Code;
 - (3) to a custodial sentence of two years or more;
 - (d) the serious disregard of the directions of the institution for family guardianship or obstruction of a care and protection order pursuant to the provision of Article 261;
 - (e) the existence of a well-founded fear of neglect the best interests of the child because of the parent reclaiming or taking back the child from others who had assumed the care and upbringing of the child.
2. A criminal offence in this Article includes being an accessory to and an attempt to commit a criminal offence.

Article 270

1. Non-consensual discharge of parental authority shall be pronounced only at the request of the other parent, one the relatives by blood or marriage of the children up to and including the fourth degree,⁵ the Child Care and Protection Board or the public prosecution service.

⁵ See footnote to Article 201().

2. In the case referred to in paragraph (1)(e) of the preceding Article, the non-consensual discharge of parental authority may further be applied for by the person who has assumed the care and upbringing of the child.

Article 271

1. Where this is urgently necessary and no delay can be afforded, the district court may suspend, wholly or in part, a parent in whose respect the non-consensual discharge is applied for, pending the inquiry, from exercising parental authority over one or more of such a parent's children. It shall have equal power as regards a parent whose consensual discharge is applied for in the instances referred to in Article 268(2) of this Book.
2. If the other parent also exercises parental authority, parental authority shall be exercised by such parent alone during the suspension.
3. When, in the latter case, the court considers a suspension of the parent who is to be divested on a non-consensual basis insufficient to prevent the children from being subjected to such a parent's influence, it may also suspend the other parent.
4. Where a suspension relates to both parents or a parent who exercises sole parental authority, the court shall charge an institution for family guardianship referred to in Article 60 of the Wet op de jeugdhulpverlening (Juvenile Assistance Act) with the interim guardianship over the child. It shall specify the powers to be conferred as regards the person and capital of this child.
5. The court orders referred to in this Article shall remain in effect until the decision in respect of the non-consensual or consensual discharge has become final and binding. However, the district court may revoke such an order with effect from an earlier date.

Article 271a

This must in the case of suspension of both parents or a parent in exercising parental authority and a provision for interim guardianship referred to in Article 271, the district court may issue a care and supervision order referred to in Article 254 of this Book in respect of the child.

Article 272

1. On the basis of facts which may give rise to a non-consensual discharge or to a consensual discharge referred to in Article 268(2) of this Book and if this is urgent and no delay can be afforded, the children's court judge may suspend the parents, wholly or in part, in their exercising parental authority over a child and charge an institution for family guardianship as referred to in Article 60 of the Wet op de jeugdhulpverlening (Juvenile Assistance Act) with interim provisional guardianship over a child.
2. The children's court judge shall give an order on the application of the Child Care and Protection Board or the public prosecutor. It shall specify the powers to be conferred with regard to the person and capital of this child and the duration of the measure.
3. The measure shall lapse on expiry of a six-week period unless an application for non-consensual or consensual discharge of parental authority was made prior to the end of the term. In the latter case the measure shall remain in force until a decision made by an order in respect of the non-consensual or consensual discharge of parental authority has become final and binding, unless the judge has laid down a shorter term.
4. The measure can be repealed or varied by the children's court judge who ordered it, unless an application referred to in paragraph (3) has been lodged. In that case the judge shall decide with whom this application is pending.

Article 272a

The district court which rejects an application for non-consensual or consensual discharge of parental authority is competent to place a minor under supervision as referred to in Article 254 of this Book.

Article 273

Repealed

Article 274

1. If, after consensual or non-consensual discharge of parental authority of one of the parents, the parents exercise joint parental authority, joint parental authority shall from then on only be exercised by the other parent.
2. In the case of consensual or non-consensual discharge of parental authority of a parent who exercises sole parental authority, the other parent may request the district court at any time to be charged with the exercise of parental authority. This request shall be rejected only if there is a well founded fear that the best interests of the children would be neglected if it were to be granted.
3. The district court which has rejected a request referred to in the preceding paragraph may always vary such an order. It will only do so, however, at the request of the parent involved and only on the ground that circumstances existed which the court could not take into account when issuing the order.

Article 275

1. If, from then on, the other parent does not exercise parental authority alone, the court shall appoint a guardian over the minors.
2. Each person who, during the investigation, may exercise guardianship may request the court in writing to be charged with guardianship.
3. In the case of consensual discharge with application of Article 268(2)(d) of this Book, the district court shall preferably appoint a person or persons who have cared for and raised the child for one year or more at the time of the request as a guardian, provided they have capacity to act as a guardian.

Article 276

1. If a consensually or non-consensually divested parent administered the capital of the children, such a parent shall also be ordered to account for the administration to the successor in such administration.
2. Where the children have property in common but become subject to the custody of different persons, the district court may designate anyone of such persons or a third person to administer such property until its division. The designated administrator shall give such guarantees as the district court requires.
3. Article 253k shall apply to the administration pursuant to the preceding paragraph, if one of the parents is designated as administrator, otherwise §10 of Section 6 of this Title shall apply. The administrator shall have the exclusive right to avoid legal transactions of minor owners for the administration or disposal with regard to property which is subject to administration.

Article 277

1. Where the district court is convinced that a minor may again be confided to his or her consensually or non-consensually divested parent, it may reinstate such a parent with parental authority on the parent's request. If parents who are not married to each other wish to exercise joint parental authority, they shall both make the application thereto.
2. If, on the occasion of the non-consensual or consensual discharge of parental authority the other parent was vested with parental authority, the district court shall not vest the consensually or non-consensually divested parent who alone makes the application referred to in paragraph 1 with parental authority, unless the circumstances have changed since the order vesting the other parent with the responsibility or, unless at the time of the order, it was based on incorrect or incomplete information. Article 253e of this Book applies *mutatis mutandis*.

Article 278

1. An application referred to in Article 277 of this Book may also be made by the Child Care and Protection Board.

2. Pending the investigation both the Child Care and Protection Board and the parent to be reinstated may apply to the district court to stay a decision until the end of a trial period of no more than six months to be specified by the court; during such a period the child shall stay with the parent whose parental authority was reinstated. The district court may at any time bring the trial period to an end.

Section 6 Guardianship

§ 1. Guardianship in General

Article 279

Repealed

Article 280

Guardianship commences:

- (a) for a guardian appointed by a parent: at the time when the guardian declares, after the death of such a parent, to be prepared to accept the guardianship. The declaration must be made in person by the person involved or by a special attorney at the clerk's office of the district court having jurisdiction in accordance with Section 2 of Title 3 of Book 1 of the Code of Civil Procedure in matters relating to minors. The declaration must be made within fourteen days or, if the person who makes the declaration is outside the Netherlands, within two months after having been served with notice of the appointment. Any interested person and the Child Care and Protection Board may give instructions for such service.
- (b) for a guardian who, after having declared to be willing to accept the guardianship, is appointed by the district court: on the date on which the decision for the appointment has become binding and final or, where it is declared enforceable notwithstanding appeal, on the day after the decision for the appointment has been issued or dispatched. An oral declaration of willingness shall be made before the district court which makes the appointment; a written declaration of willingness shall be lodged at the clerk's office where the appointment will take place.

Article 281

1. Guardianship shall end on the date on which the court order has become binding and final whereby:
 - (a) the guardian is dismissed or divested without consent;
 - (b) custody over a minor subject to guardianship has been vested in one or both parents; or
 - (c) the guardianship in accordance with Article 299a or 302(4) of this Book has been vested in another guardian.
2. Where a court order referred to in paragraph (1) has been declared enforceable notwithstanding appeal, the guardianship shall end on the day after the court order has been issued or dispatched.

Article 282

1. On the uniform request of the guardian and another person who has a close personal relationship with the child, the court may determine that the guardianship shall be exercised by them jointly.
2. For the duration of the joint exercise of guardianship both persons referred to in paragraph 1 shall be considered to be guardians.
3. The request shall be rejected if there is a well founded fear that the best interests of the child would be neglected were it to be granted.
4. Joint exercise of guardianship is not possible with regard to a temporary guardianship referred to in Articles 296 and 297. Legal persons shall not qualify for guardianship.
5. Article 253a applies *mutatis mutandis*.
6. By derogation from Article 336 two guardians who exercise joint guardianship both have the duty and the right to care for and raise the minor child. Article 253w applies *mutatis mutandis* in respect of both as long as the joint guardianship continues.
7. A request as referred to in paragraph (1) may be accompanied by a request to alter the surname of the child to that of one of the guardians. Such a request shall be rejected, if:
 - (a) a child aged twelve or older did not agree to the request at the hearing;
 - (b) the request for a joint guardianship is rejected; or
 - (c) the best interests of the child oppose it being granted.

Article 282a

The joint exercise of guardianship shall end on the date on which the court order has become final and binding by which the exercise of joint guardianship is terminated or pursuant to which the guardianship has ended pursuant to Article 281, and on the death of one of the guardians.

Article 282b

After the death of a guardian who exercised joint guardianship with another person, the other guardian shall from then on exercise the guardianship over the children alone.

Articles 283-291a

Repealed

§ 2. Guardianship delegated by one of the Parents

Article 292

1. A parent may provide by last will and testament which person or which two persons will exercise custody over his or her children after the parent's death as guardian or joint guardians, as the case may be.
2. He or she may not nominate a legal person as guardian.
3. Where both parties have availed themselves of this right and die without there being a possibility to ascertain who died first, the sub-district court shall provide *ex officio* whose disposition shall take effect.

Article 293

The arrangement made by the parent shall not have effect or shall lapse:

- (a) if, after his or her death, the other parent by operation of law or pursuant to a judicial order exercises parental authority over his or her children;
- (b) if and to the extent the parent, at the time of death, does not have parental authority over his or her children;
- (c) if the other person who exercises joint parental authority with the parent becomes guardian over the children by operation of law.

Article 294

Repealed

§ 3. Appointment of a Guardian by the Court

Article 295

The sub-district court shall appoint a guardian over all minors who are not subject to parental authority and for whose guardianship no provision has been lawfully made unless such appointment has been delegated to the district court.

Article 296

1. Where a provision is necessary when the commencement of the guardianship is awaited in accordance with Article 280 of this Book, the sub-district court shall appoint a guardian for the duration of such circumstances.
2. As soon as such circumstances have ceased, the appointment as guardian shall be brought to an end by the sub-district court at the request of the person whom he or she replaces.

Article 297

1. The sub-district court shall likewise appoint a guardian when a provision is necessary because of:
 - (a) the guardian being in a situation in which it is temporarily impossible for him or her to exercise custody; or
 - (b) the existence or abode of the guardian is unknown; or
 - (c) the guardian fails to exercise custody.
2. Where there are grounds for appointment on the basis of paragraph (1)(c), the sub-district court may grant the appointed guardian a right to remuneration, while a guardian who is in default shall be liable towards the minor for the cost caused by the replacement and, save for recourse against the appointed guardian, for work performed by the latter.
3. As soon as the circumstances mentioned in paragraph (1) have ceased, the appointed guardian shall be discharged by the sub-district court upon his or her own request or at the request of the person whom he or she replaces unless there is a well-founded reason to fear that the best interests of the children would be neglected were it to be granted.
4. If, in the case of the exercise of joint guardianship, one of the circumstances referred to in paragraph (1) occur as regards either guardian, the other guardian shall exercise sole custody over the children. As soon as such circumstances have ceased, joint custody shall revive. Paragraph (2) shall not apply.

Article 298

During a guardianship referred to in both preceding Articles the exercise of guardianship shall be suspended with regard to the guardian concerned.

Article 299

Save for Article 282a, the sub-district court shall appoint the guardian on the application of relatives by blood or marriage of the minor, the Child Care and Protection Board, creditors or other interested persons, or *ex officio*.

Article 299a

1. A person who has cared for and raised a minor as a member of the family for one or more years with the consent of the guardian, other than under a supervision order or under an interim guardianship, may apply to

the children's court judge to appoint him, her or a legal person referred to in Article 302 of this Book as a guardian.

2. Where the minor is cared for and raised as a member of the family by more than one persons, the application may only be made by them jointly.
3. The application may also be made by the Child Care and Protection Board.
4. The children's court judge shall grant the application only if the judge considers this in the best interests of the minor and is satisfied that the guardian is not prepared to being discharged from office. In this case the judge shall preferably appoint the person whose appointment is requested as a guardian provided the latter has capacity to exercise the guardianship.
5. Where an application referred to in paragraph (1) is made, Article 336a(2) of this Book shall remain inapplicable until a decision on the application has become final and binding.
6. Where guardianship is exercised jointly, the consent referred to in paragraph (1) must be given by both guardians.

Article 300

Repealed

Article 301

1. The registrar of the Registry of Births, Deaths, Marriages and Registered Partnerships shall without delay notify the sub-district court:
 - (a) of the death of any person leaving minor children;
 - (b) a declaration of birth of any child over which the mother does not exercise parental authority by operation of law.
2. Where a marriage of the deceased leaving minor children was judicially dissolved or the deceased was judicially separated, the registrar of the Registry of Births, Deaths, Marriages and Registered Partnerships shall also, if the other parent is still alive, inform the sub-district court of such circumstances; the latter shall then send the notification received to the district court which has decided on the application for a dissolution of the marriage or for a judicial separation.

§ 4. Guardianship of Legal Persons

Article 302

1. The court may appoint an institution for guardianship which is subsidised thereto by the Minister of Justice by virtue of Article 60(1)(a) of the Wet op de jeugdhulpverlening (Juvenile Assistance Act) as guardian.
2. The court which appoints a legal person as guardian shall take into account the religious persuasion or minor's outlook on life and of the family of which he or she is a member.
3. Guardianship of a legal person which ceases to exist as a result of a merger or division shall devolve on the transferee legal person or, as the case may be, in accordance with the proposed terms of the division, on one of the transferee legal persons, provided the transferee legal person is a legal person which the court may appoint as a guardian pursuant to paragraph (1).
4. Nevertheless the sub-district court may subsequently appoint another person as guardian, on the application of relatives by blood or marriage of the minor, of the Child Care and Protection Board, of interested persons or *ex officio*.

Article 303

1. To the extent not otherwise provided by law, a legal person which is appointed as guardian shall have the same rights and obligations as other guardians.
2. The board shall exercise the guardianship. It may authorise one or more of its members in writing to exercise the guardianship over minors named in the authorisation.

Article 304

1. The directors shall be jointly and severally liable, together with the legal person, for any loss attributable to the improper performance of the guardianship.
2. Each director may, however, exonerate him or herself from liability by proving not to be at fault for the loss.
3. If the board has authorised one or several of its members in particular to exercise the guardianship in accordance with paragraph (2) of the preceding Article, the loss shall be presumed to be exclusively attributable to the fault of such members.

Article 305

1. A legal person which places minors confided to it elsewhere shall keep the Child Care and Protection Board informed in writing of the locations where they are to be found.
2. The locations where legal persons charged with guardianship have placed minors shall be visited by the Child Care and Protection Board as often as it considers this necessary in order to determine the condition of the minors.
3. Articles 261(3) to (6), inclusive, 262(1) and (3), 263(1), first sentence and (4), first sentence and 265(1) apply *mutatis mutandis*.

Article 306

1. Without the consent of the sub-district court a legal person may not place a minor confided to it outside the Netherlands.
2. The sub-district court shall grant such consent only where it deems the placement desirable for the minor.

Article 306a

Section 6 of this Title does not apply to the exercise of interim guardianship referred to in Articles 241, 271, 272, 331 and 332 of this Book.

Articles 307-319

Repealed

§ 5. Discharge of Guardianship

Articles 320-321

Repealed

Article 322

1. Each guardian may have him or herself discharged from office, if:
 - (a) he or she shows to be no longer able to act as such due to a mental or bodily defect arising since taking up office;
 - (b) he or she has reached the age of sixty-five;
 - (c) a person with capacity thereto has declared in writing to be willing to take over the guardianship, which assumption the sub-district court considers in the best interests of the minors.
2. In the case of the exercise of joint guardianship, paragraph (1) shall apply only if both guardians wish to be removed from their office.

Article 323

At the joint request of the guardians or of either of them the court shall bring the exercise of joint guardianship to an end. The court shall then specify in which of them custody shall from then on vest over each of the minor children.

§ 6. Incapacity to act as Guardian

Article 324

1. When a guardian does not have capacity to act as a guardian on one of the grounds mentioned in Article 246 of this Book, the sub-district court shall remove him or her and replace him or her with another guardian.
2. It shall do so at the request of the guardian, relatives by blood or marriage of the minor, the Child Care and Protection Board, creditors or other interested persons or *ex officio*.
3. If, in the case of the exercise of joint guardianship, one of the grounds mentioned in paragraph (1) occurs with regard to either one of the guardians, sole custody over the children shall be exercised by the other guardian.
4. As soon as the ground for such incapacity has ceased, joint guardianship shall revive.

Article 325

Repealed

§ 7. Care and Supervision Order for Minors subject to Guardianship

Article 326

1. A care and supervision order may be made in respect of children subject to the guardianship of natural persons.
2. The provisions of Articles 254-265, of this Book apply *mutatis mutandis* to such supervision, provided, however, that the supervision and any extension thereof may also be applied for by the guardian.

§ 8. Non-Consensual Divestment of Guardianship

Article 327

1. If the district court considers this necessary in the best interests of such minors, it may divest a guardian without the latter's consent of the guardianship over one or several minors subject to the same guardianship, on the ground:
 - (a) of irresponsible behaviour;
 - (b) of abuse of the capacity, neglect of obligations or of no longer being able to properly act as guardian;
 - (c) that the guardian was divested against his or her will, on either of the aforementioned grounds, of another guardianship or, on corresponding grounds, of parental authority;
 - (d) that the guardian is declared bankrupt or that a debt rescheduling scheme for natural persons is applicable in the guardian's respect;
 - (e) that the guardian personally or that the guardian's parent, spouse or child conducts litigation with a minor involving the latter's legitimate legal status or a considerable part of the of minor's capital;
 - (f) an irrevocable conviction:
 - (1) on account of wilful participation in a criminal offence with a minor under the guardian's authority;
 - (2) on account of the commission of a criminal offence vis-à-vis the minor described in Titles XIII-XV and XVIII-XX of Book 2 of the Penal Code;
 - (3) of a custodial sentence of two years or more;
 - (g) of the serious disregard of the directions of the institution for family guardianship or obstruction of a care and supervision order pursuant to the provision of Article 261;

- (h) of the existence of a well-founded fear of neglect of the best interests of the child subject to guardianship because of the parent reclaiming or taking back the child from others who assumed its care and upbringing;
 - (i) that the guardian does not have the required consent in principle pursuant to Article 2 of the Wet opnemend buitenlandse pleegkinderen ter adoptie vereiste beginseltoestemming (Act containing Rules Concerning the Placement in the Netherlands of Foreign Children with a view to Adoption Act).
2. A criminal offence in this Article includes being accessory to an offence and an attempt thereto.

Article 328

A non-consensual discharge of a legal person vested with guardianship may only be made on the grounds enumerated in paragraphs (1)(b)-(e), inclusive, of the preceding Article. Its discharge without its consent may also take place, if it neglects to keep the Child Care and Protection Board informed in accordance with Article 305 of this Book of the whereabouts of the minors confided to it or if it obstructs or impedes the Child Care and Protection Board in exercising supervision.

Article 329

1. Non-consensual discharge of guardianship may only be pronounced on the application of a guardian, one of the relatives by blood or marriage of the minor up to and including the fourth degree,⁶ the Child Care and Protection Board or the public prosecution service.
2. In the case referred to in Article 327(1)(h) of this Book, the non-consensual discharge may, moreover, be requested by the person who has assumed the care and upbringing of the minor.
3. In the case referred to in Article 367 of this Book, the district court may also order the non-consensual discharge when not applied for by the Child Care and Protection Board.

Article 330

Repealed

Article 331

1. When this is urgently needed and no delay can be afforded, the district court may suspend a guardian whose non-consensual discharge is applied for, in full or in part, and pending its investigation in the exercise of the guardianship over one or more minors.
2. If the district court, in the case of joint guardianship, considers a suspension of the guardian who is to be non-consensually divested of custody insufficient to keep the children beyond the influence of that guardian, it may also suspend the other guardian.
3. If, in the case of the exercise of joint guardianship, only one of the guardians is suspended, custody shall be exercised alone by the other guardian during the suspension.
4. In the instances referred to in paragraphs (1) and (2), the district court shall confide the interim guardianship over the minor to an institution for family guardianship referred to in Article 60 of the Wet op de jeugdhulpverlening (Juvenile Assistance Act). It shall specify the powers which are confided with regard to the person and capital of such a minor.
5. The orders referred to in this Article shall remain in effect until a decision in respect of the non-consensual discharge has become final and binding. The district court may, however, revoke such an order as from an earlier date.

Article 331a

⁶ See footnote to Article 270(1).

In the case of suspension of a guardian in the exercise of guardianship and a provision for interim guardianship referred to in Article 331, the district court may order the minor's supervision referred to in Article 254 of this Book.

Article 332

On the basis of facts which may give rise to non-consensual discharge of guardianship and where this is urgently necessary and no delay can be afforded, the children's court judge may suspend the guardian or guardians in full or in part, in the exercise of custody over a minor and vest an institution for family guardianship referred to in Article 60 of the Wet op de jeugdhulpverlening (Juvenile Assistance Act) with the interim guardianship over such a minor. Article 272(2), (3) and (4) of this Book applies *mutatis mutandis*.

Article 332a

A district court which rejects an application for a non-consensual discharge may issue a care and supervision order in respect of a minor as referred to in Article 254 of this Book.

Article 333

Repealed

Article 334

1. If the district court pronounces a non-consensual discharge, it shall also provide for custody, save for the provision in paragraph (3).
2. Any person who has capacity to exercise custody may request the district court to be charged therewith during the investigation.
3. When guardianship is exercised jointly and the non-consensual discharge only relates to one of the guardians, the guardianship shall be exercised alone from then on by the other guardian.

Article 335

A person who has been divested of guardianship over a certain minor without such a person's consent may not again be appointed as guardian over such a minor.

§ 9. Supervision by the Guardian of the Person of the Minor

Article 336

A guardian shall ensure that the minor shall be cared for and raised in accordance with his or her capital.

Article 336a

1. The guardian cannot change the residence of the minor, if a minor is cared for and raised as a family member by one or more persons other than such minor's guardian, with the consent of the guardian, for one year or more, except with the consent of the persons who have assumed the care and upbringing of the minor.
2. Insofar as the consent required pursuant to the preceding paragraph is not obtained, it may be substituted for that of the district court at the request of the guardian. Such a request shall be granted only if the district court considers this in the best interests of the minor.
3. In the case of rejection of the request, the court order shall be in force for a period not to exceed six months to be specified by the court. Where, however, a request for a care and supervision order in respect of the child is made prior to the end of this period, or for a non-consensual discharge of the custody of the guardian or an application referred to in Article 299a of this Book is pending, the order shall remain in force until a decision has been made on the request by a final and binding order.

4. In the case of the exercise of joint guardianship the consent referred to in paragraph (1) shall be given by both guardians.

§ 10. The Administration by the Guardian

Article 337

1. The guardian represents the child in civil law transactions.
2. The guardian must conduct the administration of the estate of the child as a good guardian. In the case of bad administration the guardian is liable for the loss caused thereby.
3. If property donated or bequeathed to the minor has been placed under administration, the guardian is entitled to demand that the administrator shall account for his or her administration. When such administration lapses, the property shall fall under the administration of the guardian.

Article 337a

1. When the guardianship is exercised jointly, the rights of the guardian pursuant to §10 and §11 shall be exercised by the guardians jointly, provided that the rights shall also vest in a guardian severally, unless there have appeared objections of the other guardian.
2. The obligations mentioned in the said Paragraphs shall be incumbent on each of the guardians.

Article 338

1. The guardian ensures that an inventory of the estate of the minor as at the commencement of his or her guardianship shall be made as soon as possible.
2. Within eight weeks from the commencement of the guardianship, the guardian shall lodge a written report at the clerk's office of the court within the district in which the minor has its residence of any readily available monies, transferable bearer securities and bank savings books present at such commencement.
3. Within eight months from the commencement of the guardianship, the guardian shall lodge an inventory of the estate signed for confirmation of its reliability at the clerk's office of the court within the district in which the minor resides.
4. The inventory of the estate shall include a report on the changes in the composition of the estate until the time when it is prepared.

Article 339

1. When the value of the property of the minor does not exceed €11,250 the guardian may lodge a declaration in respect thereof instead of a description of a signed inventory of the estate in accordance with the form adopted by the Minister of Justice. Such a declaration will suffice when the guardian acts for two or more minors of the same parents and the property of the minors does not exceed €22,500 in value in the aggregate.
2. The sub-district court may always specify that an inventory of a minor's estate as at the date of its order, shall be prepared and lodged in accordance with the preceding Article *mutatis mutandis*.

Article 340

1. Where this has appeared necessary, the sub-district court may set a longer period for the lodging of an inventory of the estate or a declaration referred to in the preceding Article.
2. If no inventory of the estate nor a declaration referred to in the preceding Article is lodged within the period set therefor, the sub-district court shall arrange that the guardian is summoned for a hearing within ten days from the end of such a period.

Article 341

1. In the inventory of the estate or in the declaration referred to in Article 339 of this Book the guardian must state what he or she has to claim from the child. In the absence hereof, the guardian will not be able to exercise a right of action prior to the former's majority.
2. As long as a guardian cannot exercise a right of claim there shall be no interest due on the principal of the guardian's claim.

Article 342

1. The four preceding Articles shall apply *mutatis mutandis* when the minor acquires capital during the guardianship as a result of a donation, succession or bequest.
2. The inspector with whom a declaration for succession duty must be lodged on account of a transmission or donation and who, *ex officio*, is aware that the minor has acquired capital, must notify the sub-district court of the minor's residence.

Article 343

Notwithstanding the guardian's liability for loss caused by bad administration, the guardian may perform all transactions for the minor which the guardian considers necessary, useful or desirable in the best interests of the minor, save for the provisions in the following Articles.

Article 344

1. Insofar as the sub-district court does not otherwise provide, a guardian shall deposit the bearer securities of the minor in the safe custody of *De Nederlandsche Bank* or a credit institution which is registered pursuant to Article 52 of the *Wet toezicht kredietwezen 1992* (Credit System (Supervision) Act 1992) (*Bulletin of Acts and Decrees 1992*, No. 722).
2. The sub-district court may give directions on the manner of safekeeping of bank savings books and monies of the minor. When the sub-district court must give approval for effecting a division, it may give directions as referred to herein. The sub-district court designated in Section 2 of Title 3 of Book 1 of the Code of Civil Procedure shall have jurisdiction in the matter.
3. The provisions in the preceding paragraphs shall apply to transferable bearer securities, bank savings books and monies to which the minor is jointly entitled with one or more other persons, when these are held by the guardian.

Article 345

1. The guardian requires authorisation from the sub-district court for the performance of the following transactions for the account of a minor:
 - (a) entry into contracts for the disposal of property of the minor, unless the transaction relates to money, or when it may be regarded as a normal administrative transaction, or when made pursuant to a judicial order;
 - (b) a bequest or gift, except if it is usual and not excessive;
 - (c) the acceptance of a bequest or gift subject to burdens or conditions;
 - (d) money loans or binding the minor as surety or several co-obligors;
 - (e) agreeing that an estate to which the minor is entitled remains undivided for a specific period.
2. The sub-district court may specify that the guardian requires its authorisation for the collection of claims of the minor, including disposing of balances at giro- or credit institutions.
3. For the entry into a contract to bring a dispute to an end in which the minor is involved, the guardian does not require authorisation in the case of Article 87 of the Code of Civil Procedure or if the object of the uncertainty or the dispute does not exceed a value of €700 or if the contract may be considered as an administrative act.

Article 346

1. The guardian may not purchase, rent or lease property or land, of the minor without approval by the sub-district court of the contract to be entered into.
2. In the case of a public sale, letting of property or lease of land the approval must be applied for within one month thereafter.

Article 347

1. A legal transaction performed in the name of the minor in breach of Article 345 or 346 may be nullified; the ground for nullification may only be invoked on the part of the minor.
2. The preceding paragraph does not apply to a legal transaction other than where this is gratuitous, when the other party was in good faith and for a legal transaction which did not cause the minor any prejudice.

Article 348

1. A guardian may not acquire for the account of a minor any outstanding debt or a limited right to property of the minor from a third person without the approval of the contract of the sub-district court.
2. Where there is no such approval the contract shall be null and void.

Article 349

1. A guardian who acts at law or appeals a judicial decision as claimant for the minor without authorisation of the sub-district court shall be declared to lack *locus standi*.
2. Without authorisation of the sub-district court the guardian may not acquiesce in a claim instituted against the minor or in a given decision.
3. The guardian may procure prior authorisation by the sub-district court justifying a defence at law for the minor or for an action to set aside a decision in default of appearance.

Article 350

1. The guardian shall ensure the effective investment of the estate of the minor.
2. The guardian requires the sub-district court's authorisation for any investment of the minor's monies. Nevertheless the guardian may, insofar as the sub-district court does not rule otherwise, invest monies in the minor's name without such authorisation at a credit institution registered pursuant to Article 52 of the Wet toezicht kredietwezen 1992 (Credit System (Supervision) Act 1992) in accounts earmarked for investment of monies of minors, with a stipulation that the monies are repaid only upon authorisation of the sub-district court.

Article 351

1. When the estate or part of the estate of a minor is invested in a commercial, agricultural or industrial enterprise, the guardian may only continue the business for the account either of the minor alone or of such a minor together with others with authorisation of the sub-district court.
2. Without authorisation of the sub-district court the guardian may not leave an estate undivided to which the minor is entitled.

Article 352

Transactions performed by a guardian in breach of Article 350 or Article 351 shall be valid, notwithstanding the lack of the required authorisation.

Article 353

A guardian may not renounce a share in dissolved matrimonial property accruing to a minor without authorisation from the sub-district court.

Article 354

The sub-district court may at any time arrange that the guardian is summoned for a hearing, at which the guardian is obliged to provide the sub-district court with any desired information.

Article 355

1. A parent in whom the parental authority is vested or a parent who only has the duty to administer the estate and has declared the intention to enter into a marriage or a registered partnership may be ordered by the sub-district court to prepare an inventory of the estate of the children within a specified period and to lodge such an inventory or a signed copy at the clerk's office of the district court.
2. Articles 339, 340 and 341 of this Book shall *mutatis mutandis*.

Article 356

1. Directions and authorisations referred to in §10 shall be given by the sub-district court only where this appears necessary, useful or desirable in the best interests of the minor. It may give a special or general authorisation subject to such conditions as it considers appropriate.
2. It may revoke any given direction or authorisation at any time or vary the conditions connected therewith.

Article 357

If the expenditure of a measure ordered on behalf of a minor by a judicial decision is charged to the minor's account following a directive of the sub-district court, and, as a result, such cost needs to be paid out of the minor's estate, the authorisation of the sub-district court referred to in Article 345 of this Book shall be substituted by the court's designation of the property that must be sold or encumbered.

Article 358

1. The guardian may charge the minor all necessary, proper and properly justified expenses.
2. If the sub-district court specifies an amount which may annually be spent on the care and upbringing of the minor or for the cost of administration of the minor's estate, the guardian need not present itemised accounts how that amount was spent.
3. The sub-district court may grant a guardian a remuneration payable by the minor if it considers this necessary having regard to the extent to which the administration constitutes a burden. Apart from this case, a guardian may not charge remuneration for him or herself unless it is conferred by a parent to the guardian by the instrument of the guardian's appointment by a parent.

Article 359

1. The sub-district court may at any time impose an obligation on the guardian, at the request of the other guardian or *ex officio*, to lodge at the clerk's office of the district court an account for the administration of the minor's property, annually or once every two or three years.
2. The sub-district court shall specify the date on which the account must be lodged.
3. If, when guardianship is exercised jointly, one of the guardians has lodged an account alone, he or she must at the same time provide the other guardian with a true copy of such an account. The other guardian may, within two months, lodge objections.

Article 360

1. Where there is a difference of opinion in respect of the account the sub-district court may order a correction thereof.
2. It may appoint one or more experts for an audit of the lodged account.
3. The sub-district court may charge the guardian the cost of such an audit, in full or in part, if bad administration has come to light.
4. The guardian shall receive a true copy of the written report to be lodged by the experts.
5. Where guardianship is exercised jointly, both guardians shall receive the true copy referred to in paragraph (4), while the court may also charge the cost referred to in paragraph (3) to the guardians jointly.

Article 361

The periodically made account by the guardian or a true and identical copy thereof shall remain in the keeping of the clerk's office of the district court.

Article 362

At the request of the other guardian or *ex officio*, the sub-district court may assess the loss suffered by the minor according to the account as a result of bad administration of the guardian and order the latter to indemnify such a loss.

Article 363

1. The sub-district court may order the guardian at any time to put up security for his or her administration. It shall assess the amount and specify the nature of the security. A pledge of transferable bearer securities by the guardian shall be effective by putting these in safe custody with *De Nederlandsche Bank*.
2. The sub-district court shall specify a reasonable period within which the guardian must show to the sub-district court's satisfaction to have put up the required security.
3. The sub-district court may permit the guardian to replace put up security by other security. If the interest of the guardian requires that a security must be released or if it is no longer necessary to maintain it, the sub-district court may authorise the guardian to waive it for and on behalf of the minor.

Article 364

1. Security put up by the guardian shall be released as soon as the guardian's account has been approved or as soon as any rights of action relating to the guardian's administration have been prescribed in accordance with Article 377 of this Book.
2. In that case any mortgage registrations shall be deregistered at the expense of the minor and rights of pledge to registrations in the debt registers for National debentures shall be cancelled.

Article 365

The sub-district court may notify the Child Care and Protection Board if the guardian fails:

- (a) to comply with a summons of the sub-district court to appear before it;
- (b) to lodge an inventory of the estate or a declaration referred to in Article 339 of this Book;
- (c) to lodge a periodical account on the date specified by the sub-district court;
- (d) to keep in safekeeping in the prescribed manner bank savings books, monies or transferable bearer securities belonging to the minor, which have not been registered in the minor's name;
- (e) to provide the sub-district court with proof of having put up the required security; or
- (f) to pay the indemnification ordered by the sub-district court pursuant to Article 362 of this Book,

Article 366

Similarly the sub-district court may notify the Child Care and Protection Board that:

- (a) the guardian on his or her own authority conducts the administration in instances for which the authorisation of the sub-district court is required;
- (b) the guardian appears to be guilty of unfaithful administration, neglect of duty or abuse of power.

Article 367

The Child Care and Protection Board which receives such information from the sub-district court shall, within six weeks from the date of such information, apply to the district court, after having examined the other conduct of the guardian vis-à-vis the minor, to consider whether this should result in the non-consensual discharge of custody of the guardian on the basis of Article 327(1)(b) of this Book.

Article 368

Repealed

Article 369

1. If minors who are subject to guardianship of different guardians have joint property, the sub-district court of the residency of one of the minors may designate one of the guardians or a third person to conduct the administration over such property until its division. The designated administrator shall give the guarantees required by the court.
2. Where several courts are competent as described in paragraph (1), this shall lapse when one court has acted in accordance with it.
3. The provisions in respect of the administration by a guardian apply *mutatis mutandis* to the administration. The administrator shall exclusively be entitled to nullify legal transactions of the minor relating to the management or disposal of property subject to administration.

Article 370

1. At the request of the guardian or *ex officio*, the sub-district court may place an estate or a part of an estate of a minor under administration, including the benefits, for the duration of the minority, where this is regarded necessary in the best interests of the minor. Where guardianship is exercised jointly, the placement under administration shall only be decided, if both guardians make the request jointly.
2. The sub-district court shall appoint the administrator and specify the remuneration to which the administrator will be entitled. On instituting the administration it may provide that the guardian must indemnify the minor, in full or in part, for the cost caused by the estate being placed under administration, including the remuneration and that the guardian, save for the right of recovery against the administrator, shall be liable for the latter's conduct vis-à-vis the minor. In the case of the exercise of joint guardianship, these obligations shall be imposed on both guardians.
3. The provisions on the administration of a guardian shall apply to the administration *mutatis mutandis*. The administrator shall exclusively be entitled to nullify legal transactions of the minor pertaining to the management or disposal of property subject to administration.
4. The sub-district court shall specify which payments the administrator must make to the guardian from the property subject to administration and its benefits and, in the case of joint guardianship, to the guardians for the care and upbringing of the child or for management of property not subject to administration. It may vary such orders at any time on the application of a guardian or the administrator, or *ex officio*.
5. The administrator must at all times provide any information which the sub-district court requires.
6. The administrator shall further account for the administration to the sub-district court each year and, at the end of the administration, to the guardian and, in the case of joint guardianship, to the guardians and to the minor when it has reached the age of majority or to the heirs of the minor upon the latter's death.
7. Disputes which arise in respect of the account shall be settled by the sub-district court.
8. Where one of the parties fails to give its cooperation in respect of such an account, Articles 771 *et seq* of the Code of Civil Procedure shall apply.

9. The sub-district court may, at any time, on the application of the administrator, a guardian or *ex officio*, bring the administration to an end or remove the administrator and replace the administrator by someone else.

Article 371

The guardian must notify the clerk's office of the district court of any change of residency.

Article 371a

1. The clerk of the sub-district court which appoints a guardian must, without delay, notify the sub-district court section of the district court within whose district the guardian resides.
2. When the guardian no longer lives in the district or is succeeded by a guardian in another district, the clerk of the court shall, without delay, send the records relating to the guardianship to the clerk of the court in whose district the guardian or successor-guardian resides, with mention of the latter's residency.

§ 11. Accounting for the Administration at the End of the Guardianship

Article 372

When the administration ends the guardian shall account therefor without delay. The guardian shall pay for the costs. These are, however, for the account of the minor unless the administration ends on account of the non-consensual discharge of custody of the guardian. To the extent that the cost cannot be recovered from the minor, these shall be for the account of the parents and, when no recovery from them is possible, for the account of the State.

Article 373

1. The guardian shall account either to the person who has reached the age of majority or to the heirs of the minor when the latter has died or to the guardian's successor in the administration.
2. Where guardianship is exercised jointly has ended and, as a result thereof, custody is exercised by one of the guardians alone, the person whose guardianship has ended shall account to the person who exercises guardianship alone.

Article 374

1. The aforementioned account of the administration shall be made before the sub-district court within whose jurisdiction the guardian whose administration ends resides.
2. Disputes which may arise when the accounting is made shall be settled by the sub-district court.
3. Where one of the parties fails to co-operate to account for the administration, Articles 771 *et seq* of the Code of Civil Procedure shall apply.

Article 375

When a person, who has attained majority, addresses or performs a legal transaction vis-à-vis or with the guardian concerning the guardianship on the account thereof, such a transaction may be nullified, if it is made prior to the lodging of the account. A right to claim nullification may only be made on the part of the person who has reached the age of majority.

Article 376

No interest shall be payable by the minor to the guardian on what remains due so long as after the closure of the accounts the minor is not in default with the payment of what is due.

Article 377

Any right of action on account of the conducted administration during the guardianship, both on the part of the minor and of that of the guardian, is prescribed by the expiry of five years from the date on which the guardianship of the latter has ended.

TITLE 15 RIGHT TO CONTACT AND INFORMATION

Article 377a

1. The child and the parent in whom no parental authority is vested have the right to contact with each other.
2. On the application of the parents or either one of them, the court shall lay down an arrangement for exercising the right of contact, whether or not for a specific period or shall disallow a right of contact, whether or not for a specific period.
3. The court shall only disallow a right of contact if:
 - (a) contact would cause a serious detriment to the mental or physical development of the child, or
 - (b) the parent is manifestly unfit or clearly must be considered not to be in a position to have contact, or
 - (c) a child aged twelve or older has demonstrated, on its being heard, to seriously object against contact with the parent, or;
 - (d) contact is otherwise contrary to the paramount interests of the child.
4. The district court is competent to take cognisance of applications referred to in this Article. If, however, proceedings for the granting of custody are pending at the sub-district court, an application to provide for an arrangement of contact in connection therewith may be made to the sub-district court.

Article 377b

1. A parent in whom parental authority is vested must inform a parent not vested with parental authority of important matters as regards the person and estate of the child and must consult such a parent, where necessary through the intermediary of third persons, on decisions to be taken in its respect. This may be regulated by the court at the request of the parent.
2. If this is required in the best interests of the child, the court may, both on the application of the parent in whom parental authority is vested and *ex officio*, provide that paragraph (1) of this Article will remain inapplicable.
3. Articles 377a(4) and 377e of this Book shall apply *mutatis mutandis*.

Article 377c

1. Without prejudice to the provision in Article 377b of this Book, third persons who, on account of their profession, dispose of information in respect of important facts and circumstances relating to the person of the child or the child's care and upbringing shall inform a parent who is not vested with parental authority, when so requested, unless they would not equally provide such information to the person in whom authority over the child is vested or with whom the child has ordinarily abode or unless provision of the information is against the best interests of the child.
2. If the information is refused, the court may order, on the application of the parent referred to in paragraph (1) of this Article, that the information be provided in a manner to be specified by it. In any event the court shall refuse the application if provision of the information is against the best interests of the child.
3. Article 377a(4) of this Book applies *mutatis mutandis*.

Article 377d

1. Without prejudice to the provision in the second paragraph of this Article, the right of contact may be exercised as soon as the court order concerned has become final and binding or, in the case where it was declared enforceable notwithstanding appeal, as from the date of the issue or dispatch of the order.

2. The right of contact may be exercised, if the court order includes or included an order on parental authority, no earlier than at the time when parental authority has commenced for the other parent or custody for the guardian.

Article 377e

1. On the application of the parents or either one of them the district court may vary the right of contact and a contact arrangement made by the parents mutually on the ground of a change of circumstances since then or that, when the decision was taken, it was based on incorrect or incomplete information.
2. An application to vary a decision in respect of a right of contact shall be made to the sub-district court when the decision to be varied was made by the sub-district court.

Article 377f

1. Without prejudice to the provisions of Article 377a, the court may order provisions for a right of contact between the child and the person who has a close personal relationship with the child. The court may disallow the application if it is against the best interests of the child that it be granted or if the child aged twelve or older objects.
2. The provisions of Articles 377a(4), 377d and 377e of this Book apply *mutatis mutandis*.

Article 377g

If it appears to the court that a minor aged twelve or older would appreciate this, it may issue a decision, *ex officio*, on the basis of Articles 377a, 377b or 377f or vary it on the basis of Article 377e of this Book. The same shall apply if the minor has not yet reached the age of twelve but may be considered able to reasonably appraise his or her interests in the matter.

Article 377h

1. Where parental authority is exercised jointly the court may, on the application of the parents or either one of them, make an arrangement for the right of contact between the child and the parent with whom the child does not have his or her ordinary abode or in respect of the provision of information to, or the consultation with, such a parent as is referred to in Article 377b(1) or with regard to the provision of information referred to in Article 377c(1) and (2) of this Book.
2. Articles 377a(4), 377e and 377g of this Book apply *mutatis mutandis*.