

**FAMILY CODE OF THE RUSSIAN FEDERATION<sup>1</sup>**

**English translation by W. Butler and J. Henderson<sup>2</sup>**

*Chapter 4. Termination of Marriage*

**Article 16. Grounds for Termination of Marriage**

1. Marriage shall be terminated as a consequence of death or as a consequence of the declaration by a court of one of the spouses to be deceased.
2. Marriage may be terminated by means of the dissolution thereof upon the application of one or both spouses, and also upon the application of the trustee of a spouse who is deemed by a court to lack dispositive legal capacity.

**Article 17. Limitation of Right of Husband to Present Demand Concerning Dissolution of Marriage**

A husband shall not have the right without the consent of the wife to initiate a case concerning dissolution of a marriage during pregnancy of the wife and within a year after the birth of the child.

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

A marriage shall be dissolved in agencies for the registry of acts of civil status, and in the instances provided for by Articles 21-23 of the present Code, in a judicial proceeding.

**Article 19. Dissolution of Marriage in Agencies for Registry of Acts of Civil Status**

1. In the event of mutual consent to the dissolution of a marriage of spouses not having common minor children, the marriage shall be dissolved in agencies for the registry of acts of civil status.

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<sup>1</sup> Adopted on 8 December 1995, in force since 1 March 1996 *Sobranie Zakonodatel'stva Rossiiskoi Federatsii*, 1996, No. 1, item 15.

<sup>2</sup> *Russian Legal Texts. The Foundation of a Rule-of-Law State and a Market Economy*, Simmons and Hill Publishing Ltd, The Hague, London, Boston, 1998, p. 517 - 593.

2. A marriage shall be dissolved upon the application of one of the spouses irrespective of whether the spouses have common minor children in agencies for the registry of acts of civil status if the other spouse:

- has been deemed by a court to be missing;
- has been deemed by a court to lack dispositive legal capacity;
- has been convicted for the commission of a crime to deprivation of freedom for a term exceeding three years.

3. A marriage shall be dissolved and a certificate concerning the dissolution of marriage shall be issued by the agency for the registry of acts of civil status upon the expiry of a month from the day of filing the application concerning the dissolution of the marriage.

4. The State registration of the dissolution of a marriage shall be made by the agency for the registry of acts of civil status in the procedure established for the State registration of acts of civil status.

**Article 20. Consideration of Disputes Arising Between Spouses in Event of Dissolution of Marriage in Agencies for Registry of Acts of Civil Status**

Disputes concerning the division of common property of spouses, payment of means for the maintenance of a need spouse lacking the capacity to labour, and also disputes concerning children, arising between spouses, one of whom is deemed by a court to lack dispositive legal capacity or has been convicted for the commission of the crime to deprivation of freedom for a term exceeding three years (point 19(2) of the present Code) shall be considered in a judicial proceeding irrespective of the dissolution of the marriage in agencies for the registry of acts of civil status.

**Article 21. Dissolution of Marriage in Judicial Proceeding**

1. A marriage shall be dissolved in a judicial proceeding when the spouses have common minor children, except for instances provided for by Article 19(2) of the present Code or in the absence of the consent of one spouse to the dissolution of the marriage.

2. A marriage shall be dissolved in a judicial proceeding also in instances when one of the spouses, despite the absence of objections on his part, evades dissolution of the marriage in an agency for the registry of acts of civil status (refuses to file application, does not appear for State registration of dissolution of the marriage, and others).

**Article 22. Dissolution of Marriage in Judicial Proceeding in Absence of Consent on One Spouse to Dissolution of Marriage**

1. A marriage shall be dissolved in a judicial proceeding if it is established by a court that the further joint life of the spouses and preservation of the family is impossible.

2. When considering a case concerning dissolution of marriage and in the absence of consent of one of the spouses to dissolution of the marriage, the court shall have the right to take measures to reconcile the spouses and shall have the right to postpone examination of the case, having designated a period of the spouses for reconciliation within the limits of three months.

The marriage shall be dissolved if measures relating to reconciliation of the spouses proved to be without results and the spouses (or one of them) insists upon dissolution of the marriage.

**Article 23. Dissolution of Marriage in Judicial Proceeding in Event of Mutual Consent of Spouses to Dissolution of Marriage**

1. In the event of the mutual consent to dissolution of the marriage of spouses having common minor children, and also of spouses specified in Article 21(2) of the present Code, the court shall dissolve the marriage without eliciting the reasons for the divorce. The spouses shall have the right to submit for consideration of the court an agreement concerning the children provided for by article 24(1) of the present Code. In the absence of such agreement or if the agreement violates the interests of children, the court shall take measures to defend their interests in the procedure provided for by Article 24(2) of the present Code.

2. The marriage shall be dissolved by a court not earlier than a month from the date of the filing by spouses of the application concerning dissolution of the marriage.

**Article 24. Questions to be Settled by Court When Rendering Decision Concerning Dissolution of Marriage**

1. When dissolving a marriage in a judicial proceeding the spouses may submit for consideration of the court an agreement concerning with which of them minor children will reside, the procedure for payment of means for maintenance of the children, and/or the lack of labour capacity of a needy spouse, the amounts of such means, or the division of common property of the spouses.
2. If there is no agreement between the spouses with regard to questions specified in point 1 of the present Article, and also if it is established that the particular agreement violates the interests of the children or one of the spouses, the court shall be obliged to:
  - determine with which of the parents minor children will reside after the divorce;
  - determine from which of the parents and in what amounts alimony shall be recovered for their children;
  - at the demand of the spouses (or one of them) divide the property in their joint ownership;
  - at the demand of the spouse having the right to receive maintenance from the other spouse, determine the amount of this maintenance.
3. If the division of property affects the interests of third persons, the court shall have the right to separate out the demand concerning the division of property into an individual proceeding.

**Article 25. Moment of Termination of Marriage in Event of its Dissolution**

1. A marriage dissolved in agencies for the registry of acts of civil status shall terminate from the day of State registration of dissolution of the marriage in the book for the registration of acts of civil status, and in the event of dissolution of a marriage in a court, from the day of entry of the decision of the court into legal force.
2. Dissolution of a marriage in a court shall be subject to State registration in the procedure established for the State registration of acts of civil status.

The court shall be obliged within three days from the day of entry into legal force of the decision of the court concerning the dissolution of the marriage to send an extract from this decision of the court in the agency for the registry of acts of civil status at the place of State registration of the conclusion of the marriage.

Spouses shall not have the right to enter into a new marriage before receiving the certificate concerning dissolution of the marriage in an agency for the registry of acts of civil status at the place of residence of one of them.

**Article 26. Reinstatement of Marriage in Event of Appearance of Spouse Declared to be Deceased or Deemed to be Missing**

1. In the event of the appearance of a spouse declared by a court to be deceased or deemed by a court to be missing, and the vacating of respective judicial decisions, a marriage may be reinstated by the agency for the registry of acts of civil status upon the joint application of the spouses.

2. A marriage may not be reinstated if the other spouse has entered into a new marriage.

*Chapter 14. Alimony Obligations of Spouses and Future Spouses*

**Article 89. Duties of Spouses With Regard to Mutual Maintenance**

1. Spouses shall be obliged to maintain one another materially.

2. In the event of the refusal of such support and the absence of an agreement between spouses concerning the payment of alimony, there shall have the right to demand the granting of alimony in a judicial proceeding from the other spouse possessing means necessary for this:

- a needy spouse lacking labour capacity;
- a wife in the period of pregnancy and within three years from the day of birth of a common child;
- a needy spouse who has effectuated care for a common disabled child until the attainment by the child of eighteen years of age or for a common disabled child of the first group from childhood.

**Article 90. Right of Former Spouse to Receive Alimony After  
Dissolution of Marriage**

1. There shall have the right to demand the granting of alimony in a judicial proceeding from a former spouse possessing the means necessary for this:

- a former spouse in the period of pregnancy and during three years from the day of birth of a common child;
- a needy former spouse who has effectuated care for a common disabled child until the attainment by the child of eighteen years of age or for a common disabled child of the first group from childhood;
- a needy spouse who has attained pension age not later than five years from the moment of dissolution of the marriage, if the spouses were married for an extended time.

2. The amount of alimony and the procedure for granting it to a former spouse after dissolution of the marriage may be determined by an agreement between the former spouses.

**Article 91. Amount of Alimony to be Recovered for Spouses and  
Former Spouses in Judicial Proceeding**

In the absence of an agreement between spouses (or former spouses) concerning the payment of alimony, the amount of alimony to be recovered for a spouse (or former spouse) in a judicial proceeding shall be determined by a court, proceeding from the material and family status of spouses (or former spouses) and other interests of the parties deserving attention, in a lump monetary amount subject to payment monthly.

**Article 92. Relieving Spouse from Duty With Regard to  
Maintenance of Other Spouse or Limitation of this Duty by  
Term**

A court may relieve a spouse from the duty to maintain the other spouse who lacks labour capacity and who needs assistance or to limit this duty by a determined term both in the period of marriage and after the dissolution thereof:

- if the lack labour capacity of the spouse who needs assistance ensued as a result of abuse of alcoholic

- beverages, narcotic means, or as a result of the commission by him of an intentional crime;
- in the event of the spouses being married for a short period;
  - in the event of the unworthy behaviour in the family of the spouse demanding the payment of alimony.

*Chapter 16. Agreements Concerning Payment of Alimony*

**Article 99. Conclusion of Agreement Concerning Payment of Alimony**

An agreement concerning the payment of alimony (amount, conditions, and procedure for payment of alimony) shall be concluded between the person obliged to pay alimony and the recipient thereof, and in the event the person obliged to pay alimony and/or the recipient of the alimony lacks dispositive legal capacity, between the legal representatives of these persons. Persons who lack full dispositive legal capacity shall conclude the agreement concerning the payment of alimony with the consent of their legal representatives.

**Article 100. Form of Agreement Concerning Payment of Alimony**

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

The failure to comply with the form of agreement concerning the payment of alimony established by a law shall entail the consequences provided for by Article 165(1) of the Civil Code of the Russian Federation.

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

**Article 101. Procedure for Conclusion, Performance, Change, Dissolution, and Deeming Invalid of Agreement Concerning Payment of Alimony**

1. The norms of Civil Code of the Russian Federation regulating the conclusion, performance, dissolution, and deeming invalid of civil law transactions shall apply to the conclusion, performance,

dissolution, and deeming invalid of an agreement concerning the payment of alimony.

2. An agreement concerning the payment of alimony may be changed or dissolved at any time by mutual consent of the parties. The change or dissolution of an agreement concerning the payment of alimony must be done in the same form as agreement concerning the payment of alimony itself.

3. The unilateral repudiation of the performance of an agreement concerning the payment of alimony or unilateral change of its conditions shall not be permitted.

4. In the event of an essential change of the material or family status of the parties and in the event of the failure to reach agreement concerning the change or dissolution of the agreement concerning the payment of alimony, the interested party shall have the right to have recourse to a court with a suit concerning the change or dissolution of these agreement. When deciding the question of changing or dissolving the agreement concerning the payment of alimony, the court shall have the right to take into account any interests of the parties deserving attention.

**Article 102. Deeming invalid Agreement Concerning Payment of Alimony Violating Interests of Recipient of Alimony**

If the conditions for the granting of maintenance to a minor child or to a member of the family who has attained majority and who lacks labour capacity which are provided for the agreement concerning the payment of alimony materially violate their interests, in particular in the event of the failure to comply with the requirements of Article 103(2) of the present Code, such agreement may be deemed to be invalid in a judicial proceeding at the demand of the legal representative of the minor child or member of the family who has attained majority and who lacks dispositive legal capacity, and also of the trusteeship and guardianship agency or the procurator.

**Article 103. Amount of Alimony to be Paid by Agreement Concerning Payment of Alimony**



1. The amount of alimony to be paid according to the agreement concerning the payment of alimony shall be determined by the parties to this agreement.

2. The amount of alimony to be established according to the agreement concerning the payment of alimony for minor children may not be lower than the amount of alimony which they might have received in the event of the recovery of alimony in a judicial proceeding (Article 81 of the present Code).

**Article 104. Means and Procedure for Payment of Alimony According to Agreement Concerning Payment of Alimony**

1. The means and procedure for the payment of alimony according to an agreement concerning the payment of alimony shall be determined by this agreement.

2. Alimony may be paid in participatory shares of the earnings and/or other revenue of the person obliged to pay alimony; in a lump monetary amount to be paid periodically; in a lump monetary amount to be paid at one time; by means of the granting of property, and also by other means relative to which agreement is reached.

The combining of various means of payment of alimony may be provided for in the agreement concerning the payment of alimony.

**Article 105. Indexation of Amount of Alimony to be Paid According to Agreement on Payment of Alimony**

The indexation of the amount of alimony to be paid according to an agreement concerning the payment of alimony shall be in accordance with this agreement. If the procedure of indexation is not provided in the agreement concerning the payment of alimony, the indexation shall be in accordance with Article 117 of the present Code.

*Chapter 17. Procedure for Payment and Recovery of Alimony*

**Article 106. Recovery of Alimony According to Decision of Court**

In the absence of an agreement concerning the payment of alimony, the members of the family specified in Articles 80-99 of the present Code shall have the right to apply to a court with a demand concerning the recovery of alimony.

**Article 107. Periods of Recourse for Alimony**

1. The person having the right to receive alimony shall have the right to apply to a court with an application concerning the recovery of alimony irrespective of the period elapsed from the moment of the arising of the right to alimony, if the alimony is not paid earlier according to the agreement concerning the payment of alimony.

2. Alimony shall be awarded from the moment of recourse to the court.

Alimony for the elapsed period may be recovered within the limits of a three-year period from the moment of recourse to the court if it is established by the court that before recourse to the court measures were taken to receive means for maintenance but alimony was not received as a consequence of the evasion by the person obliged to pay alimony to pay it.

**Article 108. Recovery of Alimony Before Settlement of Dispute by Court**

1. A court shall have the right with regard to a case concerning the recovery of alimony to render a decree concerning the recovery of alimony before the entry of the decision of the court concerning the recovery of alimony into legal force; when recovering alimony for minor children, before the rendering by the decision concerning the recovery of alimony.

2. The amount of alimony to be recovered shall be determined by a court by proceeding from the material and family status of the parties. The amount of alimony to be recovered for minor children shall be determined in accordance with Article 81 of the present Code.

**Article 109. Duty of Administration of Organisation to Withhold Alimony**

The administration of an organisation at the place of work of the person obliged to pay alimony on the basis of a notarially certified agreement concerning the payment of alimony or on the basis of a writ of execution shall be obliged to withhold alimony monthly from the earnings and/or other revenue of the person obliged to pay or to transfer it on the account of the person obliged to pay alimony to the person receiving the alimony not later than within a three-day period from the day of payment of the earnings and/or other revenue to the person obliged to pay the alimony.

**Article 110. Withholding of Alimony on Basis of Agreement Concerning Payment of Alimony**

Alimony may be withheld on the basis of a notarially certified agreement concerning the payment of alimony also in the event the total amount of withholdings on the basis of such agreement and documents of execution exceeds 50 % of the earnings and/or other revenue of the person obliged to pay the alimony.

**Article 111. Duty to Communicate Change of Place of Work of Person Obligated to Pay Alimony**

1. The administration of an organisation withholding the alimony on the basis of the decision of a court or a notarially certified agreement concerning the payment of alimony shall be obliged within a three-day period to communicate to the bailiff at the place of execution of the decision concerning the recovery of alimony and to the person receiving alimony about the dismissal of a person obliged to pay alimony, and also about the new place of his work or residence if this is known to it.
2. The person obliged to pay alimony must within the period established by point 1 of the present Article communicate to the bailiff and to the person receiving alimony the change of place of work or residence, and in the event of the payment of alimony to minor children , also the existence of additional earnings or other revenue.
3. In the event of the failure to communicate for an unjustifiable reason the information specified in points 1 and 2 of the present Article the official and other citizens guilty thereof shall be brought to responsibility in the procedure established by a law.

**Article 112. Levy of Execution Against Property of Persons Obligated to Pay Alimony**

1. Alimony in the amount established by the agreement concerning the payment of alimony or by decision of a court, and also indebtedness relating to alimony, shall be recovered from earnings and/or other revenue of the person obliged to pay alimony; in the event of the insufficiency of earnings and/or other revenue, the alimony shall be withheld from the monetary means situated in accounts in banks or in other credit institutions of the person obliged to pay alimony, and also from monetary means transferred according to contracts to commercial and noncommercial organizations, except for contracts entailing the transfer of the right of ownership. In the event of the insufficiency of these means, execution shall be levied against any property of the person obliged to pay alimony against which according to a law execution may be levied.

2. Levy of execution against monetary means in accounts of the person obliged to pay alimony and against his other property shall be in the procedure provided for by civil procedure legislation.

**Article 113. Determination of Indebtedness With Regard to Alimony**

1. The recovery of alimony for a lapsed period on the basis of an agreement concerning the payment of alimony or on the basis of a writ of execution shall be within the limits of a three-year period which preceded the bringing of the writ of execution or notarially certified agreement concerning the payment of alimony for execution.

2. In those instances when the withholding of alimony on the basis of a writ of execution or on the basis of a notarially certified agreement concerning the payment of alimony is not made through the fault of the person obliged to pay alimony, the alimony shall be recovered for the entire period irrespective of the three-year period established by Article 107(2) of the present Code.

3. The amount of indebtedness shall be determined by the bailiff by proceeding from the amount of alimony determined by decision of the court or by the agreement concerning the payment of alimony.

4. The amount of indebtedness relating to alimony to be paid for minor children in accordance with Article 81 of the present Code shall be determined by proceeding from the earnings and other revenue of the person obliged to pay alimony for the period during which the recovery of alimony is not made. If a person obliged to alimony had not worked in this period or if documents are not submitted confirming his earnings and/or other revenue, the indebtedness relating to alimony shall be determined by proceeding from the amount of average earnings in the Russian Federation at the moment of recovery of the indebtedness. If such determination of indebtedness materially violates the interests of one of the parties, the party whose interests are violated shall have the right to have recourse to a court, which may determine the indebtedness in a lump monetary amount by proceeding from the material and family status of the parties and other circumstances deserving attention.

5. In the event of disagreement with the determination of indebtedness relating to alimony by the bailiff, any of the parties may appeal the actions of the bailiff in the procedure provided for by civil procedure legislation.

6. The amounts of monthly benefit established by a Federal law for a child to be paid in the period of search for his parents who evade the payment of alimony, in the part of the 50% increase thereof, shall be recovered from these parents with 10% interest from the amounts paid to the revenue of the budgets of subjects of the Russian Federation. The said demands shall be equated to demands concerning the payment of alimony.

**Article 114. Relieving from Payment of Indebtedness Relating to Alimony**

1. Relieving from the payment of indebtedness relating to alimony or a reduction of this indebtedness in event of the payment of alimony by agreement of the parties shall be possible by mutual consent of the parties, except for instances of payment of alimony for minor children.

2. The court shall have the right upon the suit of the person obliged to pay alimony to relieve him fully or partially from the payment of indebtedness with regard to alimony if it establishes that the

failure to pay alimony occurred in connection with the illness of this person or for other justifiable reasons and his material and family status does not make it possible to repay the indebtedness which has formed with regard to the alimony.

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

1. When indebtedness forms through the fault of the person obliged to pay alimony according to an agreement concerning the payment of alimony, the guilty person shall bear responsibility in the procedure provided for by this agreement.
2. When indebtedness forms through the fault of the person obliged to pay alimony by decision of a court, the guilty person shall pay the recipient of the alimony a penalty in the amount of one-tenth of one percent of the unpaid amount of alimony for each day of delay.

The recipient of alimony shall have the right also to recover from the person guilty of the untimely payment of alimony and obliged to pay alimony all losses in the part not covered by the penalty caused by the delay of performance of alimony obligations.

**Article 116. Inadmissibility of Set-Off and Reserve Recovery of Alimony**

1. Alimony may not be set off against other counter demands.
2. Paid amounts of alimony may not be demanded and obtained back, except for instances of:
  - the vacating of the decision of a court concerning the recovery of alimony in connection with the communication by the recipient of alimony of false information or in connection with the submission by it of false documents;
  - the deeming of an agreement concerning the payment of alimony to be invalid as a consequence of the conclusion thereof under the influence of deceit, threat, or coercion on the part of the recipient of the alimony;
  - the establishment by the judgement of a court of the fact of the forgery of the decision of a court, agreement

concerning the payment of alimony, or writ of execution on the basis of which alimony was paid.

3. If the actions enumerated in point 2 of the present Article were committed by the representative of the minor child or recipient of alimony who has attained majority and lacks dispositive civil legal capacity, the alimony shall not be recovered back, and the amounts of alimony paid shall be recovered from the guilty representative upon the suit of the person obliged to pay the alimony.

**Article 117. Indexation of Alimony**

1. The indexation of alimony recovered according to the decision of a court in a lump monetary amount shall be made by the administration of the organisation at the place of withholding the alimony in proportion to the increase of the minimum amount of payment for labour established by a law.
2. For the purposes of indexation the amount of alimony shall be established by a court in a lump monetary amount corresponding to the determined number of minimum amounts of payment for labour.

**Article 118. Payment of Alimony in Event of Exit of Person Obligated to Pay Alimony to Foreign State for Permanent Residence**

1. A person exiting for permanent residence to a foreign State shall have the right to conclude an agreement concerning the payment of alimony with members of the family to whom he according to a law is obliged to grant maintenance in accordance with Articles 99, 100, 103, and 104 of the present Code.
2. In the event of not reaching agreement, the interested person shall have the right to apply to a court with a demand concerning the determination of the amount of alimony in a lump monetary amount and the one-time payment of the alimony, or concerning the granting of determined property on the account of the alimony, or concerning the payment of the alimony by other means.

**Article 119. Change of Amount of Alimony Established by Court and Relief from Payment of Alimony**

1. If in the absence of an agreement concerning the payment of alimony after the establishment in a judicial proceeding of the amount of alimony the material or family status of one of the parties has changed, the court shall have the right at the demand of either of the parties to change the established amount of alimony or to relieve the person obliged to pay the alimony from the payment thereof. When changing the amount of alimony or when relieving from the payment thereof the court shall have the right to take into account also another interest of the parties deserving attention.



2. The court shall have the right to refuse to recover alimony for a person who has attained majority and has dispositive civil legal capacity if it is established that he committed with respect to a person obliged to pay alimony an intentional crime or in the event of the unworthy behaviour of the person in the family who has attained majority and has dispositive civil legal capacity.

**Article 120. Termination of Alimony Obligations**

1. Alimony obligations established by an agreement concerning the payment of alimony shall be terminated by the death of one of the parties, the expiry of the period of operation of this agreement, or on the grounds provided for by this agreement.

2. The payment of alimony recovered in a judicial proceeding shall terminate:

- upon the attainment of majority by a child or in the event of the acquisition by minor children of full dispositive civil legal capacity before they attain majority;
- in the event of the adoption of a child for whose maintenance alimony is recovered;
- in the event of the deeming by a court of the restoration of labour capacity or the termination of needing assistance by the recipient of alimony;
- in the event of the former spouse-recipient of alimony who lacks dispositive civil legal capacity and needing assistance entering into a new marriage;
- the death of the person receiving alimony or the person obliged to pay the alimony.