

**CHAPTER III**  
**GUARDIANSHIP**

**Section 1585.** A person who is not *sui juris* and has no parents, or whose parents are deprived of their parental power, may be provided with a guardian during minority.

In case where the person exercising the parental power has been deprived of a part of the parental power under paragraph one of Section 1582, the Court may appoint a guardian to exercise the part of the parental power, or may, in case of the deprivation of the right of management from the person exercising the parental power having been effected under paragraph two of Section 1582, appoint the guardian for management of the property.

**Section 1586.** The guardian under Section 1585 shall be appointed by the order of the Court on application of a relative of the minor, the Public Prosecutor or of the person whose name has been specified in the will by the last surviving parent.

Subject to Section 1590, the Court shall, in case there is a testamentary disposition on the appointment of a guardian, appoint the guardian accordingly unless the will is not effective or the person specified in the will is prohibited to be guardian under Section 1587.

**Section 1587.** Any person *sui juris* may be appointed a guardian, except the following:

1. person adjudged incompetent or quasi incompetent;
2. person who is bankrupt;
3. person who is unfit to take charge of the person or property of the minor;
4. person having or having had a lawsuit against the minor, ascendants or brothers and sisters of full blood or brothers and sisters of half blood of the minor;
5. person having been excluded by name in writing from guardianship by the deceased parent.

**Section 1588.** If it appears that the person appointed as the guardian by the Court is at the time of appointment a prohibited person under Section 1587, the Court shall, upon the Court's own knowledge or on application of an interested person or of the Public Prosecutor, revoke the order of appointment of that person and shall give such order concerning the guardian as the Court thinks fit.

The revocation of the order of appointment of the guardian under paragraph one does not affect the right of the third person acting in good faith unless in the case of revocation of the order of appointment the prohibited person under Section 1587(1) or (2), the act done by the guardian are not binding the minor whether the third person acted in good faith or not.

**Section 1589.** *(Repealed)*

**Section 1590.** There can be only one guardian at the time; however, in case where there is a testamentary disposition directing that several guardians be appointed or there is an application by the person with proper reasons, several guardians may be appointed as the Court considers necessary. In case several guardians are appointed, the Court may order the guardians to act either jointly or in accordance with the power specially conferred upon each of them.

**Section 1591.** The status of guardian commences from the day when the notification of his appointment by the Court is known to him.

**Section 1592.** The guardian must without delay make an inventory of the ward's property within three months from the date when the appointment by the Court is known to him, but this period of time may be extended on application made by the guardian to the Court before the expiration of the three months.

The inventory shall be made in presence of at least two witnesses who must be *sui juris* and be relatives of the ward, but if no relative can be found, other persons may be witnesses thereto.

**Section 1593.** Within ten days after the completion of the inventory, the guardian shall submit one certified copy thereof to the Court, and the Court may require him to give supplementary information or to produce documents in order to show that the inventory is correct.

If the Court does not give an order otherwise within fifteen days after delivery of the inventory or the day of producing of supplementary information or documents, as the case may be, the inventory is deemed acceptable by the Court.

**Section 1594.** If the guardian does not comply with the provisions concerning the making of the inventory or the submission of a complete and correct inventory as described in Section 1592 or Section 1593, or does not comply with the order of the Court given under Section 1593, or the Court is dissatisfied with such inventory on the grounds of gross negligence, dishonesty or obvious inefficiency of the guardian, the Court may discharge the guardian.

**Section 1595.** Before the inventory has been Section 1595. Before the inventory has been accepted by the Court, a guardian may do nothing but urgent necessary acts, but such acts cannot be set up against third persons acting in good faith and for value.

**Section 1596.** If an obligation exist in favor of the guardian against the ward or in favor of the ward against the guardian, the guardian must give notice thereof to the Court before commencing the inventory.

If the guardian knows that an obligation exists in his favor against the ward and does not give notice thereof to the Court, such obligation is extinguished.

If the guardian knows that an obligation exists against him in favor of the ward and does not give notice thereof to the Court, the Court may discharge him.

**Section 1597.** The Court may, of its own motion or on application of any interested person or of the Public Prosecutor, order a guardian

1. To furnish proper security for the management as well as for the return of the ward's property
2. To give information as to the condition of the ward's property.

**Section 1598.** Where, during the guardianship the ward acquires a valuable property by succession or gift, Section 1592 to Section 1597 shall apply *mutatis mutandis*.

**Section 1598/1.** The guardian shall render account to the Court concerning the property once a year as from the day when he becomes guardian. However, the Court may, after the account of the first year has been rendered, order that the account be rendered at a longer interval than one year.

**Section 1598/2.** The guardian has the same rights and duties as a person exercising parental power as provided in Section 1564 paragraph one and Section 1567.

**Section 1598/3.** A guardian is the legal representative of the ward, Section 1570, Section 1571, Section 1572, Section 1574, Section 1575, Section 1576 and 1577 shall apply to the guardian and ward *mutatis mutandis*.

**Section 1598/4.** A guardian may dispose only of such part of the income of the ward as is necessary for the maintenance and education of the latter, The residue shall be invested only;

1. in bonds issued by the Thai Government or in bonds guaranteed by the Thai Government;
2. in taking sale with the right of redemption or in mortgage of immovable property of first rank, the amount of which must not exceed half of the market value of such property;
3. in fixed deposit in a bank established by law or authorized to carry in business in the Kingdom;
4. in any other investment which may specially authorized by the Court.

**Section 1598/5.** After the ward has reached discretion and his age is not less than fifteen years complete, the guardian must, in all important transactions, consult him first, so far as it is possible to do so. The fact that the ward has give consent does not exonerate the guardian from liability.

**Section 1598/6.** Guardianship is terminated by death of the ward or by the ward becoming *sui juris*.

**Section 1598/7.** The functions of the guardian are terminated when the guardian

1. is death
2. resigns by permission of the Court
3. becomes incompetent or quasi incompetent
4. becomes bankrupt
5. is revoked by the order of the Court.

**1598/ 8.** The guardian shall be discharged by the Court on the following grounds:

1. The guardian fails to perform his duties.
2. The guardian is guilty of gross negligence in performing his duties.
3. The guardian abuses his functions.
4. The guardian is guilty of such misconduct as to make unworthy of the post.
5. The guardian is so inefficient in his duties that the ward's interest is likely to be imperiled.
6. There as an occurrence as provided in Sections 1587 (3), (4) or (5).

**Section 1598/9.** An application for discharge of a guardian under Section 1598/8 may be made by the ward himself if his age is not less than fifteen years complete or by a relative of the ward or by the Public Prosecutor.

**Section 1598/10.** When an application for the discharge of a guardian is pending in Court, the Court may appoint in his stead a temporary manager of the property of the ward.

**Section 1598/11.** When the guardian or the functions of the guardian are terminated, the guardian or his heir must without delay hand over to the ward, his heir or the new guardian the property managed; and, within six months, he must render an account of management, and if there is any document relating thereto, it shall be handed over at the same time as the account, but this period of time may be extended by the Court on application of the guardian or his heir.

Section 1580 and Section 1581 shall apply *mutatis mutandis*.

**Section 1598/12.** Interest shall be paid on the amount of money which either the guardian or the ward has to repay to the other, from the time when the account of guardianship is delivered.

If the guardian has disposed of the ward's money otherwise that for the benefit of the latter, he shall pay interest thereon from the day when he disposed of such money.

**Section 1598/13.** The ward has preferential right over the whole property of the guardian for the performance of the obligation due to him.

This preferential right shall rank as (6) after the other general preferential rights specified in Section 253 of this Code.

**Section 1598/14.** A guardian is not entitled to receive remuneration, except in the following cases:

1. it is provided in the will that the guardian is entitled to the remuneration, in which case the guardian shall receive the remuneration at such amount as provided in the will;
2. in case no remuneration is provided in the will, but there is no restriction as to the guardian to receive the remuneration, the guardian may apply subsequently to the Court for determining the remuneration, and the Court may or may not determine it;
3. in case no appointment of the guardian is provided in the will and there is no restriction as to the guardian to receive the remuneration, the remuneration of the guardian may be determined by the Court in the order appointing the guardian, or, if not being determined, the guardian may apply subsequently to the Court for having it determined, and the Court may or may not determine it.

In determining the remuneration, the Court shall take the circumstances, income and condition of life of the guardian in consideration.

If the guardian or the ward can prove that the circumstances, income or condition in life of the guardian or of the ward has changed after the commencement of the guardianship, the Court may give an order effecting the payment, suspension, reduction, increase or recovery of payment of the remuneration, as the case may be; and, this shall also apply to the case where there are provisions in the will restricting the guardian to receive remuneration.

**Section 1598/15.** If the Court adjudges the husband or wife incompetent and makes the wife or the husband guardian, the provisions concerning the right and duty of the person exercising parental power shall apply *mutatis mutandis*, except the right under Section 1567 (2) and (3).

**Section 1598/16.** The spouse who is the guardian of the other spouse having been adjudged incompetent by the Court has the power to manage the **Sin Suan Tua** (*personal property*) of the latter and has the power to manage solely **Sin Somros** (*common marital property*). But management of **Sin Suan Tua** and **Sin Somros** as specified in paragraph one of Section 1476 cannot be made by that spouse except with the permission of the Court.

**Section 1598/17.** Where the husband or wife has been adjudged incompetent and the other spouse has been considered not proper to be the custodian and whereby his or her father or mother or an outsider had to be appointed the custodian, the custodian shall, in this case, be a joint manager of the **Sin Somros** with the other spouse, but the Court may order otherwise, if there are vital circumstances which may endanger the incapacitated person.

However, the other spouse has the right to apply to the Court for an order dividing the **Sin Somros** if there exist circumstances as provided in paragraph one.

**Section 1598/18.** In case where the parents are the guardian of the child who is not *sui juris* the provisions concerning power and duties of the person exercising parental power shall apply

*mutatis mutandis*. But, if the child become *sui juris*, the provisions concerning power and duties of the guardian shall apply *mutatis mutandis*, except the right under Section 1567 (2) and (3).