

# Netherlands

## National Child Protection Legislation

### National Legislation

- **Age of Child – Under 18 years of age**  
[Dutch Civil Code – Book 1: Law of Persons and Family Law](#)  
**Title 1.13 – Infancy (minority of age)**  
**Art. 1:233 – Minors**  
Minors are persons who have not yet reached the age of eighteen years.
  
  - **Age of Consent – 16 years of age**  
[Criminal Code](#)  
**Sec. 247**  
Any person who engages in lewd acts with a person whom he knows to be unconscious, to have diminished consciousness or to be physically unable to resist, or to be suffering from such a degree of mental disease or defect that such person is incapable or not sufficiently capable of exercising or expressing his will in the matter or of offering resistance, or who engages in lewd acts, out of wedlock, with a person under the age of sixteen years, or who entices the latter into engaging in or tolerating such acts, out of wedlock, with a third party, shall be liable to a term of imprisonment not exceeding six years or a fine of the fourth category.
  
  - **Age of Marriage – 18 years of age**  
[Dutch Civil Code – Book 1: Law of Persons and Family Law](#)  
**Title 1.5 – Marriage**  
**Art. 1:31 – Minimum Age**
    1. A man and a woman must both have reached the age of eighteen years in order to be allowed to enter into a marriage.
    2. No impediment to a marriage as meant in the previous paragraph exists when the persons who intend to enter into a marriage with each other have both reached the age of sixteen years and the woman submits a declaration of a medical doctor that she is pregnant or that she already has brought a child into the world.  
**Art. 1:35 – Required approval for a marriage of a minor**
    1. A minor is not allowed to enter into a marriage without the approval of his parents.
    2. Where the mental capacity of one of the parents is disturbed in such a way that he is unable to determine his will or to understand the significance of his declaration, his approval is not required.
    3. A minor under guardianship needs an additional approval of his legal guardian.
  
  - **Age of Criminal Responsibility – 12 years of age**  
[Criminal Procedure Code](#)  
**Sec. 486**  
No person may be prosecuted for an offence committed before he reached the age of twelve years.
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- **Extraterritoriality**

- [Criminal Code](#)

- Sec. 4a**

1. The criminal law of the Netherlands shall apply to any person whose prosecution is transferred to the Netherlands by a foreign state on the basis of a treaty which confers jurisdiction to prosecute on the Netherlands.
2. The criminal law of the Netherlands shall also apply to any person whose extradition or surrender for a terrorist offence or a serious offence committed with the intention of preparing or facilitating a terrorist offence is declared impermissible or is rejected or refused.
3. The criminal law of the Netherlands shall apply to any person whose prosecution is transferred to the Dutch Public Prosecution Service on the basis of such application from the Public Prosecution Service of Bonaire, St. Eustatius and Saba.
4. The criminal law of the Netherlands shall also apply to any person whose prosecution is transferred to the Netherlands by an international court established pursuant to a treaty or a 4 decision of an organisation under international law.

- [Criminal Procedure Code](#)

- Sec. 552hh**

1. A request for extradition of a person who is in the Netherlands and who is suspected or has been convicted of a criminal offence, referred to in any of the provisions of the treaties referred to in subsection (2), shall be regarded as a request for the institution of criminal proceedings which has been granted, if that request is from a state which is bound to the provisions of the treaty concerned and if the extradition is declared inadmissible by court judgment or the request is refused by Ministerial Order.
2. Subsection (1) shall pertain to criminal offences, referred to in:
  - article 1 of the European Convention on the Suppression of Terrorism (*Treaty Series* 1977, 63);
  - articles 5, 6, 7 and 9 of the European Convention on the Prevention of Terrorism (*Treaty Series* 2006, 34).
3. The provisions of section 552y (1, opening lines) and (a) shall not apply to a request as referred to in the final passage of subsection (1).
4. In addition, the provisions of section 552y (1, opening lines) and (b)(2e) shall not apply to requests based on the European Convention on the Prevention of Terrorism and on the Agreement concerning Application of that Convention among the Member States of the European Communities (*Treaty Series* 1980, 14).

- **Dual Criminality**

- [Criminal Code](#)

- Sec. 5**

1. The criminal law of the Netherlands shall apply to any Dutch national who commits outside the territory of the Netherlands:
  1. any of the serious offences defined in Parts I and II of Book Two, and in sections 192a, 192b, 192c, 197a, 197b, 197c, 206, 237, 272 and 273 and – insofar as the serious offence is an offence against the administration of justice of the International Criminal Court, as referred to in article 70(1) of the Rome Statute of the International Criminal Court concluded in Rome on 17 July 1998 (*Treaty Series* 2000, 120) – in sections 177, 177a, 178, 179, 180, 189, 200, 207a, 285a and 361;

2. an offence that is regarded as a serious offence under the criminal law of the Netherlands and is punishable under the law of the country where it was committed.
  3. any of the serious offences defined in sections 240b, 242 to 250 inclusive and 273f, insofar as the offence is committed against a person who has not yet reached the age of eighteen years or any of the serious offences defined in sections 300 to 303 inclusive, insofar as the offence constitutes genital mutilation of a person of the female sex who has not yet reached the age of eighteen years;
  4. any of the serious offences defined in sections 138ab, 138b, 139c, 139d, 161sexies, 225, 226, 227, 240a, 240b, 326, 326c, 350, 350a and 351, insofar as the offence falls within the definition of sections 2 to 10 inclusive of the International Convention on Cybercrime concluded in Budapest on 23 November 2001 (Treaty Series 2002, 18, and 2004, 290), and any of the serious offences defined in sections 137c to 137e inclusive, 261, 262, 266, 284 and 285, insofar as the offence falls within the definition of articles 3 to 6 inclusive of the Additional Protocol to the Convention on Cybercrime concluded in Strasbourg on 28 January 2003, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems;
  5. any of the serious offences defined in section 273f, insofar as the offence is committed against a person who has reached the age of eighteen years, and in sections 231, 321, 350 and 416 to 417bis inclusive, insofar as the offence falls within the definitions of article 20 of the Convention on Action against Trafficking in Human Beings concluded in Warsaw on 16 May 2005, if the offence is committed outside the jurisdiction of any state.
2. In the cases defined in subsection (1) (2°) and (3°), the suspect who only acquires Dutch nationality subsequent to commission of the offence may also be prosecuted.

#### **Sec. 5a**

1. The criminal law of the Netherlands shall apply to the foreign national who has his permanent place of residence or abode in the Netherlands and commits any of the serious offences defined in sections 240b, 242 to 250 inclusive and 273f outside the territory of the Netherlands, insofar as the offence is committed against a person who has not yet reached the age of eighteen years or any of the serious offences defined in sections 300 to 303 inclusive, insofar as the offence constitutes genital mutilation of a person of the female sex who has not yet reached the age of eighteen years, a terrorist offence, or any of the serious offences defined in sections 225(3), 311(1)(6°), 312(2)(5°), and 317(3) in conjunction with 312(2)(5°).
2. The criminal law of the Netherlands shall apply to the foreign national who has his permanent place of residence or abode in the Netherlands and commits any of the serious offences defined in section 273f outside the territory of the Netherlands, insofar as the offence is committed against a person who has reached the age of eighteen years, and in sections 231, 321, 350 and 416 to 417bis inclusive, and the offence is punishable under the law of the country where it was committed.
3. The criminal law of the Netherlands shall apply to the foreign national who has his permanent place of residence or abode in the Netherlands and commits any of the serious offences defined in section 273f outside the territory of the Netherlands, insofar as the offence is committed against a person who has reached the age of eighteen years, and in sections 231, 321, 350 and 416 to 417bis inclusive, insofar as the offence falls within the definitions of article 20 of the Convention on Action against Trafficking in Human Beings concluded in Warsaw on 16 May 2005, if the offence is committed outside the jurisdiction of any state.
4. Any suspect who only acquires his permanent place of residence or abode in the Netherlands subsequent to commission of the offence may also be prosecuted.

### **Sec. 5b**

The criminal law of the Netherlands shall apply to any person who commits:

1. any of the serious offences defined in section 273f, and in sections 231, 321, 350 and 416 to 417bis inclusive, insofar as the offence falls within the definitions of article 20 of the Convention on Action against Trafficking in Human Beings concluded in Warsaw on 16 May 2005, if the offence is committed against a Dutch national.
2. any of the serious offences defined in sections 240b, 242 to 250 inclusive and 273f, if the offence is committed against a Dutch national or a foreign national who has his permanent place of residence or abode in the Netherlands and has not yet reached the age of eighteen years.

### **Sec. 6**

The criminal law of the Netherlands shall apply to:

1. A Dutch civil servant who commits any of the serious offences defined in Part XXVIII of Book Two outside the territory of the Netherlands;
2. A person in the public service of an organisation under international law based in the Netherlands who commits any of the serious offences defined in sections 362 to 364a inclusive outside the territory of the Netherlands.

## ▪ **Mandatory reporting requirements**

### [Criminal Code](#)

#### **Sec. 135**

Any person who has knowledge of a criminal conspiracy, and who at a time when the commission of these serious offences could still be prevented, intentionally omits to give timely and proper notification thereof, either to judicial officers or police officers, or to the person threatened by the offence, shall be liable, if the serious offence followed, to a term of imprisonment not exceeding two months or a fine of the fourth category.

#### **Sec. 136**

1. Any person who has knowledge of an intention to commit any of the serious offences defined in sections 92-110, or to commit desertion in wartime, treason while a member of the armed forces, murder, kidnapping or rape or any of the offences defined in Part VII of this Book or a terrorist offence insofar as this causes danger to life and who, at a time when the commission of these serious offences could still be prevented, intentionally omits to give timely and proper notification thereof, either to judicial officers or police officers, or to the person threatened by the offence, shall be liable, if the serious offence followed, to a term of imprisonment not exceeding one year or a fine of the fourth category.
2. Any person who has knowledge of the commission of any of the offences listed in subsection (1) resulting in danger to life, and who, at a time at which the consequences could still be averted, intentionally omits to notify such shall be liable to the same punishment.

### [Law on Education and Vocational Education](#)

#### **Art. 1.3.8 – Obligation to consult and report on sex offenses**

1. If the competent authority has become known in any way that a person charged with the task of his institution is or may have committed a crime against the morals as referred to in Title XIV of the Penal Code against a minor participant of the institution, the competent

- authority shall immediately consult with the trust inspector referred to in [Article 6 of the Act on Educational Supervision](#).
2. If from the consultations referred to in the first paragraph, it must be concluded that there is a reasonable suspicion that the person in question has committed a crime as referred to in the first paragraph against a minor participant of the institution, The competent authority must immediately report this to an investigating officer as referred to in [Article 127](#) in conjunction with [Article 141 of the Code of Criminal Procedure](#) , and the competent authority will immediately inform the confidential inspector of this. Before the competent authority proceeds to make a declaration, it informs the parents of the participant concerned, or the person responsible for the institution with duties, of this.
  3. If a staff member has become aware that a person responsible for the institution with duties may or has committed a crime as referred to in the first paragraph against a minor participant of the institution, the staff member shall immediately inform the competent authority thereof. in knowledge.

**Art. 1.3.9 – Reporting code of domestic violence and child abuse**

1. The competent authority establishes a reporting code for the personnel of his institution, stating step by step how to deal with signs of domestic violence or child abuse and that reasonably contributes to providing help as quickly and adequately as possible.
2. Domestic violence is defined as domestic violence as referred to in [Article 1.1.1 of the Social Support Act 2015](#).
3. Child abuse refers to child abuse as referred to in [Article 1.1 of the Youth Act](#).
4. The competent authority promotes the knowledge and use of the reporting code.
5. By or pursuant to an order in council it is determined from which elements a reporting code exists in any case.

[Law on Primary Education](#)

**Art. 4a – Obligation to consult and report on sex offenses**

1. If the competent authority has become known in any way that a person charged with duties of his school may or has committed a crime against the morals as referred to in [Title XIV of the Penal Code](#) against a student of the school, the competent authority shall immediately consult with the trust inspector referred to in [Article 6 of the Act on Educational Supervision](#).
2. If from the consultations referred to in the first paragraph, it must be concluded that there is a reasonable suspicion that the person in question has committed a crime as referred to in the first paragraph against a pupil of the school, authority without delay report to an investigating officer as referred to in [Article 127](#) in conjunction with [Article 141 of the Code of Criminal Procedure](#) , and the competent authority informs the confidentiality inspector of this without delay. Before the competent authority proceeds to make a declaration, it informs the parents of the pupil concerned or the relevant person in charge of the school.
3. If a member of staff has become known in any way whatsoever that a person charged with the task of the school may or has committed a crime as referred to in the first paragraph against a pupil of the school, the staff member shall notify the competent authority. immediately informed.

**Art. 4b – Reporting code for domestic violence and child abuse**

1. The competent authority or the natural person or the legal entity that maintains a school that is not paid for out of the public greenhouse, establishes a reporting code for the personnel, stating step by step how signals of domestic violence or child abuse are

- handled and that it reasonably contributes to providing help as quickly and adequately as possible.
2. Domestic violence is defined as domestic violence as referred to in [Article 1, first paragraph, of the Social Support Act](#).
  3. Child abuse refers to child abuse as referred to in [Article 1 of the Youth Care Act](#).
  4. The competent authority or the natural person or the legal entity that maintains a school that is not paid from the public greenhouse promotes the knowledge and use of the reporting code.
  5. By or pursuant to an order in council it is determined from which elements a reporting code exists in any case.

### [Law on Secondary Education](#)

#### **Art. 3 – Obligation to consult and report on sex offenses**

1. If the competent authority has become known in any way that a person charged with the task of his school may or has committed a crime against the morals as referred to in [Title XIV of the Penal Code](#) against a minor student of the school, the competent authority shall immediately consult with the trust inspector referred to in [Article 6 of the Act on Educational Supervision](#).
2. If from the consultations referred to in the first paragraph, it must be concluded that there is a reasonable suspicion that the person in question has committed a crime as referred to in the first paragraph against a minor pupil of the school, The competent authority must immediately report this to an investigating officer as referred to in [Article 127](#) in conjunction with [Article 141 of the Code of Criminal Procedure](#), and the competent authority will immediately inform the confidential inspector of this. Before the competent authority proceeds to make a declaration, it informs the parents of the pupil concerned or the relevant person in charge of the school.
3. If a member of staff has become known in any way that a person charged with the task of the school is possibly guilty of having committed a crime as referred to in the first paragraph against a minor pupil of the school, the staff member shall make the competent authority thereof without delay.

#### **Art. 3a – Reporting code for domestic violence and child abuse**

1. The competent authority or the natural person or the legal entity that maintains a school that is not paid for out of the public greenhouse, establishes a reporting code for the personnel, stating step by step how signals of domestic violence or child abuse are handled and that it reasonably contributes to providing help as quickly and adequately as possible.
2. Domestic violence is defined as domestic violence as referred to in [Article 1.1.1 of the Social Support Act 2015](#).
3. Child abuse refers to child abuse as referred to in [Article 1.1 of the Youth Act](#).
4. The competent authority or the natural person or the legal entity that maintains a school that is not paid from the public greenhouse promotes the knowledge and use of the reporting code.
5. By or pursuant to an order in council it is determined from which elements a reporting code exists in any case.

## [Youth Act](#)

### **Chapter 1 – Definitions and Scope**

#### **Art. 1.1**

*child abuse*: any form of threatening or violent physical, psychological or sexual interaction for a minor that actively or passively impose on parents or other persons in relation to whom the minor is in a dependency or lack of freedom, damage is caused or threatens to be caused to the minor in the form of physical or psychological injury.

#### **Art. 4.1.7**

1. The youth aid provider and the certified institution establish a reporting code in which step-by-step instructions are given on how to deal with signs of domestic violence or child abuse.
2. The report code is designed in such a way that it reasonably contributes to providing help as quickly and adequately as possible.
3. The youth aid provider, referred to under 1° in [Article 1.1](#) and the certified institution, promote the knowledge and use of this reporting code among those working for him.
4. By or pursuant to an order in council it shall be determined from which elements a reporting code in any case exists.

#### ▪ **Obligations of Educational Institutions**

*(Also, see above – Mandatory Reporting Requirements)*

#### [Law on Secondary Education](#)

##### **Art. 3b – Duty of care and safety at school**

1. The competent authority is responsible for safety at school, whereby the competent authority in any case:
  - a. conducts safety policy,
  - b. to monitor the safety of pupils at school with an instrument that gives a representative and up-to-date picture, and
  - c. ensure that at least the following tasks are assigned to a person:
    1. coordinating the policy in the context of combating bullying, and
    2. acting as a point of contact in the context of bullying.
2. The safety referred to in the first paragraph means the social, psychological and physical safety of pupils.
3. Rules may be laid down by or pursuant to an Order in Council concerning the instrument referred to in the first paragraph, under b, which is designed or chosen by the school, including:
  - a. the areas of attention that make the instrument transparent,
  - b. the representativeness of the instrument, and
  - c. the frequency with which the instrument is used.

#### [Law on Education and Vocational Education](#)

##### **Art. 4.2.1 – Requirement for appointment or employment of teachers**

1. Teachers are appointed by the competent authority or employed without appointment.
2. A lecturer at an institution can only be appointed or employed without appointment, a person who:
  - a. is in possession of a statement of conduct, issued in accordance with the [Judicial and Criminal Data Act](#), which is not older than 6 months at the time of submission to the competent authority; and
  - b. meets the competence requirements referred to in [Article 4.2.3, first paragraph](#), which are attested by:

- 1 °.a certificate as referred to in Article 7.11, first paragraph, of the Higher Education and Scientific Research Act of a successfully passed final examination of a study program affiliated with a university of applied sciences that focuses on the profession of teacher in secondary education,
  - 2 °.a certificate as referred to in Article 175 of the Higher Education Act of a successfully passed state examination, insofar as it corresponds to a certificate as referred to under 1 °,
  - 3 °.a certificate as referred to in Article 7.11, first paragraph, of the Higher Education and Scientific Research Act of a successfully completed final examination of a university teacher training program,
  - 4 °.a certificate or diploma of a degree program that before 1 August 1991 was aimed at the profession of teacher in secondary education,
  - 5 °.a recognition of professional qualifications as referred to in Article 5 of the General Act on the recognition of EU professional qualifications in respect of the teaching to be provided by him ,
  - 6 °.an equivalent foreign certificate or diploma obtained in a country that does not belong to the EU Member States, or an equivalent Dutch-Antillean or Aruban certificate or diploma, or
- c. is in possession of a suitability statement issued by the competent authority as referred to in Article 4.2.4 , and
  - d. is not excluded from teaching by court order.

**\*\* [Application for statement of conduct](#)**

For more information on applying for a statement of conduct --  
<https://www.justis.nl/producten/vog/vog-aanvragen/index.aspx>.

▪ **Prohibition to hold certain positions**

[Criminal Code](#)

**Sec. 28**

1. The rights, from which the offender may be disqualified by judgment, in the cases prescribed by law, are:
  1. Holding offices or certain offices;
  2. Serving in the armed services;
  3. Electing the members of the general representative bodies and standing for election to these bodies;
  4. Serving as a defence counsel or court-appointed administrator
  5. Practicing certain professions

**Sec. 29**

Disqualification from holding offices or certain offices and from serving in the armed forces, except for the cases defined in Book Two, may be imposed upon conviction of a serious offence involving official misconduct or of any serious offence in the commission of which the offender violated a specific duty of his office or whereby he made use of the power, opportunity or means afforded him by virtue of his office.

**Sec. 31**

1. In cases where disqualification from certain rights is imposed, the court shall determine the period of such disqualification as follows:
  1. in the case of a lifelong sentence, disqualification for life;



2. in the case of a determinate term of imprisonment or of detention, disqualification for a period of time that exceeds the principal punishment by a minimum of two years and a maximum of five years;
3. in the case of a fine, disqualification for a minimum period of two years and a maximum period of five years;
4. where disqualification is not imposed concurrently, for a minimum period of two years and a maximum period of five years.

### **Sec. 32**

The court may appoint a probation service designated by Governmental Decree to supervise the convicted offender's compliance with disqualification from the right to hold offices or certain offices and the right to practise certain professions. The convicted offender shall be obliged to cooperate with the probation service supervision, including cooperation with home visits. If the convicted offender fails to comply with the disqualification order, the probation service shall promptly notify the Public Prosecution Service.

### **Sec. 251**

1. In the case of conviction for any of the serious offences defined in sections 240b to 247 inclusive and 248a to 250 inclusive, disqualification from the rights listed in section 28(1) (1°) (2°) and (4°) may be imposed.
2. If the offender commits any of the serious offences defined in sections 240b to 247 inclusive and 248a to 250 inclusive in the practice of his profession, he may be disqualified from the practice of that profession.

## ▪ **Employment Law**

### [Civil Code – Book 7: Particular agreements](#)

#### **Title 7.1 – Sale and exchange**

#### **Art. 7:669 – Notification of the reason of termination**

The party who terminates the employment agreement must notify the other party, upon his request, in writing of the reason for termination.

#### **Art. 7:677 – Liability due to an irregular termination**

1. Each of the parties is entitled to terminate the employment agreement with immediate effect as a consequence of an urgent reason which at the same time is announced to the opposite party. A party who terminates the employment agreement without an urgent reason or without a simultaneous notification of this urgent reason to the opposite party, is liable for damages.
2. A party who terminates the employment agreement at an effective termination date prior to the date which is relevant between parties in view of their legal relationship, is liable for damages.
3. A party is also liable for damages when he has willfully or blamefully given the opposite party an urgent reason to terminate the employment agreement with immediate effect and that opposite party has used this urgent reason to terminate the employment agreement or the court has dissolved the employment agreement on that ground pursuant to Article 7:685.
4. In the event that one of the parties is liable for damages due to an irregular termination, the opposite party may, at his choice, claim a fixed compensation for damages as provided for by Article 7:680a or a full compensation for the damage actually suffered.

5. The fact that an employer has not observed the provisions of Article 7:670, paragraph 1 up to and including 9, or of Article 7:670, does not make him liable for damages. In such events the employee may, within two months after the effective termination date, nullify the voidable termination. This nullification is effectuated by notifying the employer that the relevant ground of voidability is invoked. Article 3:55 of the Civil Code does not apply.

**Art. 7:678 – Urgent reasons for the employer to terminate the employment agreement immediately**

1. An urgent reason for the employer in the meaning of Article 7:677, paragraph 1, consists of such acts, characteristics or behaviour on the part of the employee, having the result that the employer reasonably cannot be expected to continue the employment agreement.
2. An urgent reason may, among others, exist:
  - a. when the employee has misled the employer at the conclusion of the employment agreement by showing false or forged testimonials or by deliberately providing false information about the way in which his previous employment ended;
  - b. when the employee seriously seems to lack the competence or the capability to perform the work to which he has engaged himself;
  - c. when the employee, despite warning, takes to drunkenness or other dissipated behaviour;
  - d. when the employee makes himself guilty of theft, embezzlement, deceit, fraud or other indictable offences as a result of which he becomes unworthy of the employer's trust;
  - e. when the employee batters, crudely insults or seriously threatens the employer, his family members or other employees;
  - f. when the employee tempts or tries to tempt the employer, his family members or other employees to perform or participate in actions contradictory to law or good morals;
  - g. when the employee deliberately, or despite warning, recklessly damages the property of the employer or exposes it to serious danger;
  - h. when the employee deliberately, or despite warning, recklessly exposes himself or others to serious danger;
  - i. when the employee makes public characteristics regarding the household or enterprise of the employer which he was expected to keep confidential;
  - j. when the employee persistently refuses to comply with reasonable instructions or orders given by or on behalf of the employer;
  - k. when the employee crudely neglects the obligations imposed on him by the employment agreement;
  - l. when the employee deliberately or because of reckless behaviour becomes or remains unable to perform the contracted work.
3. Contractual provisions leaving the decision whether an urgent reason in the meaning of Article 7:677, paragraph 1, exists to the discretion of the employer, are null and void.

▪ **Criminal Law - Defamation**

[Criminal Code](#)

**Sec. 261**

1. Any person who, by alleging a particular fact, intentionally injures the honour or reputation of another person, with the evident intention of giving publicity to the allegation, shall be guilty of slander and shall be liable to a term of imprisonment not exceeding six months or a fine of the third category.
2. If such is done by means of written material, or images, which are either distributed, publicly displayed or posted, or by means of written material the contents of which are

publicly uttered, the offender shall be guilty of libel and shall be liable to a term of imprisonment not exceeding one year or a fine of the third category.

3. Neither slander nor libel shall exist if the offender's act was necessary in defence of his own or another person's interests or if he could have believed in good faith that the allegation was true and was required in the public interest.

#### **Sec. 262**

1. Any person who commits the serious offence of slander or of libel, knowing that the allegation is untrue, shall be guilty of aggravated defamation and shall be liable to a term of imprisonment not exceeding two years or a fine of the fourth category.
2. Disqualification from the rights listed in section 28 (1) (1°) and (2°) may be imposed.

#### **Sec. 265**

1. If the person defamed is found guilty in a final judgment of the allegation imputed to him, a conviction for aggravated defamation shall be precluded.
2. If the person defamed has been acquitted of the allegation in a final judgment, that judgment shall be deemed to be full proof of the untruth of the allegation.
3. If criminal proceedings have been instituted against the person defamed in regard of the allegation, prosecution for aggravated defamation shall be suspended until an irrevocable final judgment in respect of the allegation has been given.

#### **Sec. 266**

1. Any insult, which is not of a slanderous or libelous nature, intentionally expressed either in public verbally or in writing or by means of an image, or verbally against a person in his presence or by other acts, or by means of written matter or an image sent or offered, shall constitute simple defamation and shall be punishable by a term of imprisonment not exceeding three months or a fine of the second category.
2. Acts which are intended to express an opinion about the protection of public interests and which are not at the same time designed to cause any more offence or cause offence in any other way than follows from that intent, shall not be punishable as simple defamation.

### ▪ **Private Fostering**

#### [Dutch Civil Code – Book 1: Law of Persons and Family Law](#)

##### **Title 1.14 – Authority over minor children**

##### **Art. 1:327 – Grounds for a removal of guardianship**

1. If the District Court thinks this is necessary in the best interests of the involved minor, it may remove a guardian from exercising guardianship over one or more children on account of:
  - a. A poor lifestyle;
  - b. abuse of powers, neglect of duties or the fact that he is unable to exercise his guardianship properly;
  - c. the fact that, on the basis of one of the two before mentioned grounds, he has been removed from another guardianship or deprived from parental authority;
  - d. the fact that he has been declared bankrupt or that he is falling under the Debt Repayment Scheme for Natural Persons;
  - e. the fact that he or one of his parents, his spouse or his child is prosecuting a legal action against the minor who is under his guardianship, which legal claim involves the minor's legal capacity to perform juridical acts or a considerable part of the minor's property;
  - f. an irrevocable conviction:

1. for willfully participating in a crime with a minor who is under his authority;
  2. for committing one of the criminal offences, defined in Chapters XIII-XV and XVIII-XX of Book 2 of the Penal Code, against the minor who is under his authority;
  3. to an imprisonment of two years or longer;
  - g. a serious disregard of the instructions of a Foundation as meant in Article 1, under point (f), of the Youth Care Act or obstructing the minor's placement in care away from home under Article 1:261;
  - h. the existence of well-substantiated grounds to fear that the interests of a minor under his authority will be neglected when he claims the minor back or takes him back from other persons who have taken on the task of caring for and raising the minor;
  - i. the fact that he does not have a principle authorisation as required under Article 2 of the Act concerning the Placement in the Netherlands of Foreign Children with a view to Adoption.
2. For the purpose of this Article a criminal offence includes acting as an accomplice to a criminal offence as well as an attempt to commit a criminal offence.

## Sexual Offenses Against Children

### Criminal Code

#### **Part XIC. – Serious Offences against Public Morals**

##### **Sec. 239**

A term of imprisonment not exceeding three months or a fine of the second category shall be imposed for indecency:

1. In or at a place intended or designed to be frequented or resorted to by the general public;
2. In a public place, other than the public place referred to in 1., to which persons under the age of sixteen years have access;
3. In a non-public place, if another person present there is exposed to it against his will.

##### **Sec. 240**

Any person who knows or has serious reason to suspect that an image or object is offensive to decency and who:

1. publicly displays or offers that image or object in or at a place intended or designed to be frequented or resorted to by the general public;
  2. sends that image or object to a person, other than at the request of that person;
- shall be liable to a term of imprisonment not exceeding two months or a fine of the third category.

##### **Section 240b**

1. Any person who distributes, offers, publicly displays, produces, imports, conveys in transit, exports, obtains, possesses or accesses by means of a computerised device or system or by use of a communication service an image - or a data carrier that contains an image - of a sexual act involving or seemingly involving a person who is manifestly under the age of eighteen years, shall be liable to a term of imprisonment not exceeding four years or a fine of the fifth category.
2. Any person who makes a profession or habit of committing any of the serious offences defined in subsection (1), shall be liable to a term of imprisonment not exceeding eight years or a fine of the fifth category.

##### **Sec. 242**

Any person who by an act of violence or any other act or by threat of violence or threat of any other act compels a person to submit to acts comprising or including sexual penetration of the body shall be guilty of rape and shall be liable to a term of imprisonment not exceeding twelve years or a fine of the

fifth category.

**Sec. 243**

Any person who engages in acts comprising or including sexual penetration of the body with a person whom he knows to be unconscious, to have diminished consciousness or to be physically unable to resist, or to be suffering from such a degree of mental disease or defect that such person is incapable or not sufficiently capable of exercising or expressing his will in the matter or of offering resistance, shall be liable to a term of imprisonment not exceeding eight years or a fine of the fifth category.

**Sec. 244**

Any person who engages in acts compromising or including sexual penetration of the body with a person who is under the age of twelve years, shall be liable to a term of imprisonment not exceeding twelve years or a fine of the fifth category.

**Sec. 245**

Any person who, out of wedlock, engages in lewd acts compromising or including sexual penetration of the body with a person who has reached the age of twelve years but not yet sixteen years, shall be liable to a term of imprisonment not exceeding eight years or a fine of the fifth category.

**Sec. 246**

Any person who by an act of violence or any other act or by threat of violence or threat of any other act, compels another person to engage in or to tolerate lewd acts, shall be guilty of indecent assault and shall be liable to a term of imprisonment not exceeding eight years or a fine of the fifth category.

**Sec. 247**

Any person who engages in lewd acts with a person whom he knows to be unconscious, to have diminished consciousness or to be physically unable to resist, or to be suffering from such a degree of mental disease or defect that such person is incapable or not sufficiently capable of exercising or expressing his will in the matter or of offering resistance, or who engages in lewd acts, out of wedlock, with a person under the age of sixteen years, or who entices the latter into engaging in or tolerating such acts, out of wedlock, with a third party, shall be liable to a term of imprisonment not exceeding six years or a fine of the fourth category.

**Sec. 248**

2. The terms of imprisonment prescribed in sections 240B, 242 to 247 inclusive and 248a to 248e inclusive may be increased by one third, if the offender commits the offence against his child, a child over whom he exercises parental authority, a child whom he cares for or is raising as a party of his family, his ward, a minor with whose care, education or supervision he is entrusted or his employee or subordinate who is a minor.

**Sec. 248a**

Any person who, by means of gifts or promises of money or goods, by abuse of the authority arising from de facto relationships or by deception, intentionally induces a person, whom he knows or has reasonable cause to suspect is under the age of eighteen years, to engage in lewd acts or to tolerate such acts performed by him, shall be liable to a term of imprisonment not exceeding four years or a fine of the fourth category.

**Sec. 248b**

Any person who sexually abuses a person who makes himself available for the performance of sexual acts with a third party for remuneration and who has reached the age of sixteen years but is under the

age of eighteen years, shall be liable to a term of imprisonment not exceeding four years or a fine of the fourth category.

**Sec. 248c**

Any person who is intentionally present at the performance of lewd acts by a person whom he knows or has reasonable cause to suspect has not yet reached the age of eighteen years or who is intentionally present at the display of images of such acts in an establishment designated for that purpose, shall be liable to a term of imprisonment not exceeding four years or a fine of the fourth category.

**Sec. 248d**

Any person who, with lascivious intentions, induces another person, whom he knows or has reasonable cause to suspect has not yet reached the age of sixteen years, to witness sexual acts, shall be liable to a term of imprisonment not exceeding two years or a fine of the fourth category.

**Sec. 248e**

Any person who, by means of a computerized device or system or by making use of a communication service, arranges to meet a person whom he knows, or has reasonable cause to suspect has not yet reached the age of sixteen years, with the intention of engaging in lewd acts with this person or of creating an image of a sexual act in which this person is involved, shall, if he undertakes any action intended to bring about that meeting, be liable to a term of imprisonment not exceeding two years or a fine of the fourth category.

**Sec. 249**

1. Any person who sexually abuses his minor child, step-child or foster child, his ward, a minor with whose care, education or supervision he is entrusted, or his employee or subordinate who is a minor, shall be liable to a term of imprisonment not exceeding six years or a fine of the fourth category.
2. The following persons shall be liable to the same punishment:
  1. the civil servant who sexually abuses a person subject to his authority or entrusted to or placed under his supervision;
  2. the director, doctor, teacher, official, supervisor or staff member of a prison, state institution for the care and protection of children, orphanage, hospital, or charitable institution, who sexually abuses a person admitted to such institution;
  3. the person employed in the health care or social care sector who sexually abuses a person who has entrusted himself, as a patient or client, to his assistance or care.

**Sec. 250**

1. Any person who:
  1. intentionally arranges or encourages the sexual abuse of his minor child, step-child or foster child, his ward, a minor with whose care, education or supervision he is entrusted or his employee or subordinate who is a minor by a third party, shall be liable to a term of imprisonment not exceeding four years or a fine of the fourth category.
  2. intentionally arranges or encourages, other than in the cases referred to in 1°, the sexual abuse of a minor, whom he knows or has reasonable cause to suspect is a minor, by a third party, shall be liable to a term of imprisonment not exceeding three years or a fine of the fourth category.

**Part XVIII – Serious Offences against Personal Liberty**

**Sec 273f**

1. Any person who

1. by coercion, act of violence or any other act or threat of violence or threat of any other act, by extortion, fraud, deception or abuse of a position of authority arising from de facto circumstances, by abuse of a position of vulnerability or by giving or receiving remuneration or benefits in order to obtain the consent of a person who has control over this other person recruits, transports, transfers, harbours or receives another person with the intention of exploiting this other person or removing his organs;
  2. recruits, transports, transfers, harbours or receives another person with the intention of exploiting this other person or removing his organs whereas this person is under the age of eighteen years;
  3. recruits, removes or abducts another person with the intention of inducing this person to make himself available for the performance of sexual acts with or for a third party for remuneration;
  4. compels or persuades another person with one of the means referred to in 1° to make himself available for the performance of work or services or to make his organs available or under the circumstances referred to in 1°, takes any action which he knows or has reasonable cause to suspect will lead that other person to make himself available for the performance of labour or services or make his organs available;
  5. induces another person to make himself available for the performance of sexual acts with or for a third party for remuneration or make his organs available for remuneration or takes any action in regard of another person which he knows or has reasonable cause to suspect will lead that other person to make himself available for the performance of these acts or services or make his organs available, whereas this person is under the age of eighteen years;
  6. intentionally profits from the exploitation of another person;
  7. intentionally profits from the removal of the organs of another person while he knows or has reasonable cause to suspect that his organs have been removed under one of the circumstances referred to in 1°;
  8. intentionally profits from the sexual acts of another person with or for a third party for remuneration or the removal of his organs for remuneration, whereas this other person is under the age of eighteen years;
  9. compels or induces another person by any of the means referred to in 1° to provide him with the proceeds of his sexual acts with or for a third party or of the removal of his organs; shall be guilty of human trafficking and as such shall be liable to a term of imprisonment not exceeding eight years or a fine of the fifth category
2. Exploitation shall at least include exploitation of another person in prostitution, other forms of sexual exploitation, forced or compulsory labour or services, slavery or practices similar to slavery or servitude.
  3. The offender shall be liable to a term of imprisonment not exceeding twelve years or a fine of the fifth category, if:
    1. the offences, defined in subsection (1), are committed by two or more persons in concert;
    2. the offences defined in subsection (1) have been committed against a person who is under the age of sixteen years.
  4. If any of the offences defined in subsection (1) results in grievous bodily harm or is likely to endanger the life of another person, a term of imprisonment not exceeding fifteen years or a fine of the fifth category shall be imposed.
  5. If any of the offences defined in subsection (1) results in death, a term of imprisonment not exceeding eighteen years or a fine of the fifth category shall be imposed.
  6. Section 251 shall apply mutatis mutandis.

- **Female Genital Mutilation**

[Criminal Code](#)

**Sec. 5**

1. The criminal law of the Netherlands shall apply to any Dutch national who commits outside the territory of the Netherlands:
  3. any of the serious offences defined in sections 240b, 242 to 250 inclusive and 273f, insofar as the offence is committed against a person who has not yet reached the age of eighteen years or any of the serious offences defined in sections 300 to 303 inclusive, insofar as the offence constitutes genital mutilation of a person of the female sex who has not yet reached the age of eighteen years;

**Sec. 5a**

1. The criminal law of the Netherlands shall apply to the foreign national who has his permanent place of residence or abode in the Netherlands and commits any of the serious offences defined in sections 240b, 242 to 250 inclusive and 273f outside the territory of the Netherlands, insofar as the offence is committed against a person who has not yet reached the age of eighteen years or any of the serious offences defined in sections 300 to 303 inclusive, insofar as the offence constitutes genital mutilation of a person of the female sex who has not yet reached the age of eighteen years, a terrorist offence, or any of the serious offences defined in sections 225(3), 311(1)(6°), 312(2)(5°), and 317(3) in conjunction with 312(2)(5°).