

Civil Code (Part IV and Part V)

(Act No. 89 of April 27, 1896)

Part IV Relatives

Chapter I General Provisions

(Range of Relatives)

Article 725 The following persons are relatives:

- (i) blood relatives of up to the sixth degree;
- (ii) spouses; and
- (iii) relatives by affinity of up to the third degree.

(Determining Degrees of Kinship)

Article 726 (1) The degree of kinship between two relatives is determined by counting the number of generations between them.

(2) The degree of kinship between collateral relatives is determined by the number of generations between a person or that person's spouse and the common ancestor shared with another person, plus the number of generations back down to that other person.

(Kinship through Adoption)

Article 727 From the time of adoption, the kinship between the adopted child and the adoptive parent (and the blood relatives of the adoptive parent) is the same as that of blood relatives.

(Termination of Relationships of Affinity upon Divorce)

Article 728 (1) Relationships of affinity are terminated by divorce.

(2) The preceding paragraph also applies if one party to a marriage dies and the surviving spouse manifests the intention to terminate the relationships of affinity.

(Termination of Kinship upon Dissolution of Adoptive Relationship)

Article 729 The kinship of an adopted child and the spouse thereof, as well as the kinship of the adopted child's lineal descendants and their spouses, to the adoptive parent and the blood relatives thereof, is terminated by the dissolution of the adoptive relationship.

(Help Among Relatives)

Article 730 Lineal blood relatives and cohabiting relatives must act so as to help

one another.

Chapter II Marriage

Section 1 Formation of a Marriage

Subsection 1 Requirements for Marriage

(Marriageable Age)

Article 731 A man may not marry until the age of 18, and a woman may not marry until the age of 16.

(Prohibition of Bigamy)

Article 732 A person who has a spouse may not enter into another marriage.

(Period During Which Remarriage Is Prohibited)

Article 733 (1) A woman may not remarry until six months have passed since the day of the dissolution or cancellation with prospective effect of her previous marriage.

(2) If a woman conceives a child before the dissolution or cancellation of her previous marriage, the provisions of the preceding paragraph do not apply as from the day of delivery.

(Prohibition of Marriage between Close Relatives)

Article 734 (1) Lineal blood relatives may not marry, nor may collateral blood relatives of up to the third degree of kinship; provided, however that this does not apply with respect to a marriage between an adopted child and a collateral blood relative through adoption.

(2) The preceding paragraph also applies after kinship is terminated pursuant to the provisions of Article 817-9.

(Prohibition of Marriage between Lineal Relatives by Affinity)

Article 735 Lineal relatives by affinity may not marry. This also applies after relationships of affinity are terminated pursuant to the provisions of Article 728 or Article 817-9.

(Prohibition of Marriage between Adoptive Parent and Child)

Article 736 Even after the termination of kinship pursuant to the provisions of Article 729, marriage is not permissible between the adopted child, the spouse thereof, the lineal descendant of the adopted child, or the spouse thereof, and the adoptive parent or lineal ascendant thereof.

(Parental Consent to Marriage of a Minor)

Article 737 (1) A minor must obtain the consent of both parents in order to marry.

(2) If one parent does not consent, the consent of the other parent is sufficient. This also applies if one parent is unknown, has died, or is unable to manifest an intention.

(Marriage of an Adult Ward)

Article 738 An adult ward does not need the consent of a guardian in order to marry.

(Application to Register a Marriage)

Article 739 (1) A marriage becomes valid when an application to register the marriage is filed pursuant to the Family Register Act (Act No. 224 of 1947).

(2) The application referred to in the preceding paragraph must be filed using a paper document bearing the signatures of both parties and no fewer than two adult witnesses, or must be filed orally by these persons.

(Acceptance of Application to Register a Marriage)

Article 740 It is not permissible to accept an application to register a marriage until the marriage has been found not to violate the provisions of Article 731 through Article 737, the provisions of paragraph (2) of the preceding Article, or the provisions of any other law or regulation.

(Marriage between Japanese Nationals in a Foreign Country)

Article 741 If two Japanese nationals in a foreign country seek to marry, they may file an application to register their marriage with the Japanese Ambassador, Minister of the Japanese Embassy, or Consul stationed in that country. The provisions of the preceding two Articles apply *mutatis mutandis* in such a case.

Subsection 2 Nullity and Cancellation of Marriages

(Nullity of Marriage)

Article 742 A marriage is void only in one of the following cases:

- (i) if the parties did not have the mutual intention to enter into a marriage due to a party being mistaken as to the identity of the other or any other such cause; or
- (ii) if the parties have failed to file an application to register the marriage; provided, however, that if the application to register merely lacks a formality prescribed in Article 739, paragraph (2), this does not impair the validity of the marriage.

(Cancellation of a Marriage)

Article 743 A marriage may not be canceled other than pursuant to the provisions of Article 744 through Article 747.

(Cancellation of an Unlawful Marriage)

Article 744 (1) Either of the parties, their relatives, or the public prosecutor may request the family court to cancel the marriage if it violates any provision of Article 731 through Article 736; provided, however, that the public prosecutor may not request this after the death of one of the parties.

(2) The spouse or previous spouse of a party to a marriage that violates the provisions of Article 732 or Article 733 may request that the marriage be canceled.

(Cancellation of the Marriage of a Person Not of Marriageable Age)

Article 745 (1) It is not permissible to request that a marriage violating the provisions of Article 731 be canceled once the person that was not of marriageable age reaches marriageable age.

(2) A person formerly not of marriageable age may request that the person's own marriage be canceled within a further period of three months after reaching marriageable age; provided, however, that this does not apply if the person ratifies the marriage after reaching marriageable age.

(Cancellation of a Marriage Entered Into within the Period during Which Remarriage Is Prohibited)

Article 746 It is not permissible to request that a marriage violating the provisions of Article 733 be canceled once six months have passed since the day on which the previous marriage was dissolved or canceled, nor is a request that such a marriage be canceled permissible if the woman conceives a child after remarriage.

(Cancellation of a Marriage Resulting from Fraud or Duress)

Article 747 (1) A person who has married due to fraud or duress may request the family court to cancel the marriage.

(2) The right to cancel a marriage as under the preceding paragraph expires if, after discovering the fraud or escaping from the duress, the party allows three months to pass or ratifies the marriage.

(Effect of Cancellation of a Marriage)

Article 748 (1) The cancellation of a marriage has only prospective effect.

(2) A party who did not know of the grounds to cancel at the time of marriage

must make restitution for property gained as a result of the marriage, to the extent of the benefit that that party retains.

(3) A party who had knowledge of the grounds to cancel at the time of marriage must make restitution for all benefits obtained as a result of the marriage. In such a case, the party with knowledge is liable to compensate the other party for damage if the other party entered into the marriage in good faith.

(Mutatis Mutandis Application of Divorce Provisions)

Article 749 The provisions of Article 728, paragraph (1); Article 766 through Article 769; the proviso to Article 790, paragraph (1); and Article 819, paragraphs (2),(3),(5), and (6) apply mutatis mutandis to the cancellation of a marriage.

Section 2 Legal Effect of Marriage

(Surname of Husband and Wife)

Article 750 A husband and wife take the surname of either the husband or the wife, as decided at the time of marriage.

(Surviving Spouse Reverting to Previous Surname)

Article 751 (1) If one party to a marriage dies, the surviving spouse may revert to the surname used before the marriage.

(2) The provisions of Article 769 apply mutatis mutandis to a case as referred to in the preceding paragraph or Article 728, paragraph (2).

(Duty to Live Together, Cooperate, and Be of Assistance to Each Other)

Article 752 A husband and wife must live together, cooperate with each other, and act so as to be of assistance to each other.

(Deemed Majority Due to Marriage)

Article 753 If a minor enters into marriage, the minor is deemed to have attained the age of majority.

(Right to Rescind Contracts between Husband and Wife)

Article 754 Either of the parties to a marriage may at any time during the marriage rescind a contract entered into between them; provided, however, that this may not prejudice the rights of a third party.

Section 3 Marital Property Systems

Subsection 1 General Provisions

(Property Relations of Husband and Wife)

Article 755 Unless husband and wife enter into an agreement setting forth otherwise with regard to their property before filing the application to register the marriage, their property relations are as prescribed in the following subsection.

(Requirement for the Perfection of Prenuptial Property Agreement)

Article 756 If a husband and wife have entered into an agreement that departs from the statutory property system, the agreement may not be asserted against the successor in title of the husband or wife or against a third party unless it is registered by the time that the application to register the marriage is filed.

Article 757 Deleted

(Restrictions on Modification of Property Relations of a Husband and Wife)

Article 758 (1) The property relations of a husband and wife may not be modified after registration of their marriage.

(2) If one party to a marriage manages the property of the other and imperils that property through mismanagement, the other party may file a request with the family court to personally manage that property.

(3) A claim may be filed for the division of property held in coownership together with the claim referred to in the preceding paragraph.

(Requirements for the Perfection of a Change in the Person Managing the Property or the Division of Property Held in Coownership)

Article 759 If the person managing the property changes or property held in coownership is divided pursuant to the provisions of the preceding Article or as a result of the agreement referred to in Article 755, this may not be asserted against the successor in title of the husband or wife or against a third party unless it is registered.

Subsection 2 Statutory Marital Property System

(Sharing of Living Expenses)

Article 760 A husband and wife share the expenses that arise from their marriage, in consideration of their assets, income, and all other circumstances.

(Joint and Several Liability for Debts Incurred for Household Necessities)

Article 761 When one party to a marriage performs a juridical act with a third party in respect of a household necessity, the other party to the marriage is jointly and severally liable for the debt arising from that act; provided,

however, that this does not apply if advance notice is given to the third party indicating that the other party to the marriage will not bear such liability.

(Vesting of Property in the Husband and Wife)

Article 762 (1) Property owned by one party before marriage and property obtained in the name of that party during the marriage is separate property (meaning property that one party to a marriage owns independently of the other party).

(2) Property that does not clearly belong to either husband or wife is presumed to be held in coownership.

Section 4 Divorce

Subsection 1 Divorce by Agreement

(Divorce by Agreement)

Article 763 A husband and wife may divorce by agreement.

(Mutatis Mutandis Application of Marriage Provisions)

Article 764 The provisions of Articles 738, 739, and 747 apply mutatis mutandis to a divorce by agreement.

(Acceptance of Application to Register a Divorce)

Article 765 (1) It is not permissible to accept an application to register a divorce until the divorce has been found not to violate the provisions of Article 739, paragraph (2) as applied mutatis mutandis pursuant to the preceding Article, the provisions of Article 819, paragraph (1), or the provisions of any other law or regulation.

(2) Even if an application to register a divorce is accepted in violation of the provisions of the preceding paragraph, this does not impair the validity of the divorce.

(Determining Issues of Child Custody Following Divorce)

Article 766 (1) If parents divorce by agreement, the issues that need to be determined in connection with child custody, such as who will have custody over the child, visitation and other contact between the father or mother and the child, and the sharing of expenses that custody of the child requires, are determined in that agreement. The child's interests must be given the highest priority in the consideration of these issues, in such a case.

(2) If the agreement referred to in the preceding paragraph is not reached or if discussions toward such an agreement cannot be held, the issues referred to in the preceding paragraph are determined by the family court.

- (3) The family court may change a determination under the provisions of the preceding two paragraphs and order any other proper disposition regarding child custody if it finds this to be necessary.
- (4) Parental rights and duties beyond the scope of custody are not altered by the provisions of the preceding three paragraphs.

(Reversion to Previous Surname upon Divorce)

Article 767 (1) The surname of the husband or wife who changed surnames upon marriage reverts to the surname used before marriage upon divorce by agreement.

- (2) The husband or wife whose surname has reverted to the surname used before marriage pursuant to the provisions of the preceding paragraph may take the surname used at the time of divorce by filing a registration pursuant to the Family Register Act within three months of the day of divorce.

(Division of Property)

Article 768 (1) One party to a divorce by agreement may ask the other party to effectuate a division of property.

- (2) If no agreement between the parties is reached with respect to the division of property under the preceding paragraph or if discussions toward such an agreement cannot be held, either party may file a request with the family court for a disposition in lieu of such an agreement; provided, however, that this does not apply once two years have passed since the time of divorce.
- (3) In a case as referred to in the preceding paragraph, the family court determines whether the parties should be subject to a division of property and the value and method of the division, taking into consideration the value of the property that the parties obtained together through their combined efforts and all other circumstances.

(Succession of Rights after Reversion to Previous Surname upon Divorce)

Article 769 (1) If the husband or wife who changed surnames upon marriage becomes party to a divorce by agreement after succeeding to rights as referred to in Article 897, paragraph (1), the matter of who succeeds to those rights must be determined through the agreement of the parties and any other interested persons.

- (2) If the agreement referred to in the preceding paragraph is not reached or if discussions toward such an agreement cannot be held, the family court determines who succeeds to the rights referred to in that paragraph.

Subsection 2 Judicial Divorce

(Judicial Divorce)

Article 770 (1) One party to a marriage may independently initiate an action for divorce only in one of the following cases:

- (i) if the other spouse commits adultery;
- (ii) if the party has been willfully abandoned by the other spouse;
- (iii) if it has been unclear whether the party's spouse is dead or alive for three or more years;
- (iv) if the party's spouse is suffering from severe mental illness and there is no prospect of recovery; or
- (v) if there are any other material grounds that make it difficult for the marriage to continue.

(2) Even if any grounds as set forth in items (i) through item (iv) of the preceding paragraph are present, the court may dismiss a divorce filing if, taking into consideration all circumstances, it finds it to be reasonable for the marriage to continue.

(Mutatis Mutandis Application of Divorce by Agreement Provisions)

Article 771 The provisions of Article 766 through Article 769 apply mutatis mutandis to a judicial divorce.

Chapter III Parent and Child

Section 1 Natural Children

(Presumption of Child in Wedlock)

Article 772 (1) A child that a wife conceives while married is presumed to be the child of her husband.

(2) A child born more than 200 days after the formation of a marriage or within 300 days of the dissolution or cancellation of a marriage is presumed to have been conceived during the marriage.

(Action to Determine Paternity)

Article 773 If a woman remarrying in violation of the provisions of Article 733, paragraph (1) gives birth and the paternity of the child cannot be determined pursuant to the provisions of the preceding Article, the court determines the paternity of the child.

(Rebutting the Presumption of Child in Wedlock)

Article 774 In a case as referred to in Article 772, the husband may rebut the presumption of the child in wedlock.

(Action to Rebut the Presumption of Child in Wedlock)

Article 775 The right to a rebuttal under Article 774 is exercised through the filing of an action to rebut the presumption of the child in wedlock against the child, or against the mother exercising parental authority. If there is no mother exercising parental authority, the family court must appoint a special agent.

(Acknowledgment of Child in Wedlock)

Article 776 If a husband acknowledges a child to be his child in wedlock after the child is born, he loses the right to rebut the presumption of the child in wedlock.

(Statute of Limitations for Filing an Action to Rebut the Presumption of Child in Wedlock)

Article 777 A husband must bring an action to rebut the presumption of the child in wedlock within one year of learning of the child's birth.

Article 778 If the husband is an adult ward, the period referred to in Article 777 begins from the time at which the husband learns of the child's birth after the rescission of a decision to establish a guardianship.

(Acknowledgment of Parentage)

Article 779 A father or a mother may acknowledge a child born out of wedlock to be his or her child.

(Competency to Acknowledge Parentage)

Article 780 A father or a mother does not need the consent of a legal representative in order to acknowledge parentage, even if that father or mother is a minor or an adult ward.

(Formalities for Acknowledging Parentage)

Article 781 (1) Parentage is acknowledged through the filing of a registration pursuant to the provisions of the Family Register Act.

(2) Parentage may also be acknowledged in a will.

(Acknowledging Parentage of an Adult Child)

Article 782 A father or mother may not acknowledge parentage of an adult child without that adult child's consent.

(Acknowledging Parentage of an Unborn Child or a Child Who Has Died)

Article 783 (1) A father may acknowledge paternity even if the child is still in utero. The mother's consent must be obtained in such a case.

(2) A father or mother may acknowledge parentage even if the child has died, but only if that child had a lineal descendant. In such a case, the consent of the lineal descendant must be obtained if that lineal descendant is an adult.

(Legal Effect of an Acknowledgment of Parentage)

Article 784 An acknowledgement of parentage is effective retroactive to the time of birth; provided, however, that this may not prejudice a right already acquired by a third party.

(Prohibition on Rescission of Acknowledgments of Parentage)

Article 785 A father or a mother who has acknowledged parentage may not rescind that acknowledgment.

(Assertion of Opposing Facts against an Acknowledgment of Parentage)

Article 786 A child or any other interested person may assert opposing facts against an acknowledgment of parentage.

(Filiation Proceedings)

Article 787 A child, the lineal descendant thereof, or the legal representative of either, may bring filiation proceedings; provided, however that this does not apply if three years have passed since the day on which the father or mother died.

(Determining Issues of Child Custody after Acknowledgment of Paternity)

Article 788 The provisions of Article 766 apply mutatis mutandis when a father acknowledges paternity.

(Legitimation)

Article 789 (1) A child whose paternity the father acknowledges acquires status as a child in wedlock upon the marriage of the child's father and mother.
(2) A child whose parentage the parents acknowledge while married to each other acquires status of a child in wedlock from the time of that acknowledgment.
(3) The provisions of the preceding two paragraphs apply mutatis mutandis if the child has already died.

(Child's Surname)

Article 790 (1) A child born in wedlock takes the surname of the parents; provided, however that if the parents divorce before the child is born, the child takes the surname used by the parents at the time of divorce.
(2) A child not born in wedlock takes the surname of the mother.

(Changing a Child's Surname)

Article 791 (1) If a child's surname differs from that of the father or mother, the child may take the surname of the father or mother after obtaining the permission of the family court, through the filing of a registration pursuant to the provisions of the Family Register Act.

(2) If a child's surname differs from that of the parents due to the father or mother changing surnames, the child may take the name of the parents without obtaining the permission referred to in the preceding paragraph only if the parents are married to each other, through the filing of a notification pursuant to the provisions of the Family Register Act.

(3) If a child is under 15 years of age, the legal representative thereof may perform the acts referred to in the preceding two paragraphs on the child's behalf.

(4) A minor who has changed surnames pursuant to the provisions of one of the preceding three paragraphs may revert to the previous surname within one year of attaining majority, through the filing of a notification pursuant to the provisions of the Family Register Act.

Section 2 Adoption

Subsection 1 Requirements for Adoption

(Age of Adoptive Parents)

Article 792 A person who has attained the age of majority may adopt a child.

(Prohibition against Adopting an Ascendant or a Person of Greater Age than One's Self)

Article 793 It is not permissible to adopt an ascendant or a person of greater age than one's self.

(Adoption of a Ward by the Guardian)

Article 794 A guardian must obtain the permission of the family court in order to adopt a ward (meaning a minor ward or an adult ward; the same applies hereinafter). The same applies if the person's role as guardian has ended but the person has not finished accounting for the management of the ward's property.

(Adoption of a Minor by a Spouse)

Article 795 In order for one spouse to adopt a minor the other spouse must do so as well; provided, however, that this does not apply with respect to one spouse's adoption of the child in wedlock of the other spouse, nor does it apply if the other spouse is incapable of manifesting an intention.

(Adoption Involving a Spouse)

Article 796 One spouse may only adopt or be adopted by another with the consent of the other spouse; provided, however, that this does not apply if one spouse adopts or is adopted by another together with the other spouse, or if the other spouse is incapable of manifesting an intention.

(Adoption of Persons under the Age of 15)

Article 797 (1) If a person being adopted is under 15 years of age, the legal representative thereof may give consent to the child's adoption on behalf thereof.

(2) If the person being adopted has another parent that is entitled to custody thereof, the legal representative must obtain the consent of that parent before giving the consent referred to in the preceding paragraph. The same applies if a parent's parental authority in respect of the person being adopted has been suspended.

(Adoption of a Minor)

Article 798 A person must obtain the permission of the family court in order to adopt a minor; provided, however, that this does not apply if the person to be adopted is the lineal descendant of either the adoptive parent or the adoptive parent's spouse.

(Mutatis Mutandis Application of Marriage Provisions)

Article 799 The provisions of Article 738 and Article 739 apply mutatis mutandis to adoption.

(Acceptance of Application to Register an Adoption)

Article 800 It is not permissible to accept an application to register an adoption until the adoption has been found not to violate any of the provisions of Article 792 through Article 799 or the provisions of any other law or regulation.

(Formalities for Adoption between Japanese Nationals in a Foreign Country)

Article 801 If a Japanese national in a foreign country seeks to adopt, or to be adopted by, another Japanese national in that country, the application to register the adoption may be filed with the Japanese Ambassador, Minister of the Japanese Embassy, or Consul stationed in that country. The provisions of Article 739 as applied mutatis mutandis pursuant to Article 799 and the provisions of the preceding Article apply mutatis mutandis, in such a case.

Subsection 2 Nullity and Annulment of Adoptions

(Nullity of Adoption)

Article 802 An adoption is void only in one of the following cases:

- (i) if the parties did not have the mutual intention to enter into the adoption due to a party being mistaken as to the identity of the other or any other cause; or
- (ii) if the parties have failed to register the adoption; provided, however, that if the registration merely lacks a formality prescribed in Article 739, paragraph (2) as applied mutatis mutandis pursuant to Article 799, this does not impair the validity of the adoption.

(Annulment of an Adoption)

Article 803 An adoption may not be annulled other than pursuant to the provisions of Article 804 through Article 808.

(Annulment of an Adoption; Adoptive Parent Is a Minor)

Article 804 An adoptive parent or the legal representative thereof may request the family court to annul an adoption that violates the provisions of Article 792; provided, however, that this does not apply if, after the adoptive parent attains the age of majority, six months are allowed to pass or the adoptive parent ratifies the adoption.

(Annulment of an Adoption; Adopted Child Is the Ascendant or a Person of Greater Age Than the Adoptive Parent)

Article 805 Either of the parties to an adoption or any relative thereof may request the family court to annul an adoption that violates the provisions of Article 793.

(Annulment of an Adoption between a Guardian and Ward Occurring Without the Permission of the Family Court)

Article 806 (1) An adopted child or a natural relative of thereof may request the family court to annul an adoption that violates the provisions of Article 794; provided, however, that this does not apply if, after a full account is rendered of the management of the child's property, the adopted child ratifies the adoption or six months are allowed to pass.

(2) A ratification as referred to in the proviso to the preceding paragraph does not take effect unless the adopted child ratifies the adoption after attaining the age of majority or recovering the legal capacity to act.

(3) If a full account is rendered of the management of the adopted child's property but the child has not attained the age of majority or recovered the legal capacity to act, the period referred to in the proviso to paragraph (1) is

calculated beginning from the time that the adopted child attains the age of majority or recovers the legal capacity to act.

(Annulment of an Adoption Effected Without Spousal Consent)

Article 806-2 (1) The person not consenting to an adoption that violates the provisions of Article 796 may request the family court to annul the adoption; provided, however, that this does not apply if, after learning of the adoption, the person allows six months to pass or ratifies the adoption.

(2) A person giving the consent referred to in Article 796 due to fraud or duress may request the family court to annul the adoption; provided, however, that this does not apply if, after discovering the fraud or escaping from the duress, the person allows six months to pass or ratifies the adoption.

(Annulment of an Adoption Effected Without the Consent of the Person Entitled to Custody of the Child)

Article 806-3 (1) A person not consenting to an adoption that violates the provisions of Article 797, paragraph (2) may request the family court to annul the adoption; provided, however, that this does not apply if the person ratifies the adoption, nor does it apply if, after the adopted child reaches the age of 15, six months are allowed to pass or the child ratifies the adoption.

(2) The provisions of paragraph (2) of the preceding Article apply mutatis mutandis to consent as referred to in Article 797, paragraph (2) that is given due to fraud or duress.

(Annulment of an Adoption Effected Without the Permission of the Family Court; Adopted Child Is a Minor)

Article 807 The adopted child, a natural relative thereof, or the person consenting to the adoption on the adopted child's behalf may request the family court to annul the adoption if it violates the provisions of Article 798; provided, however, that this does not apply if, after the adopted child attains the age of majority, six months are allowed to pass or the child ratifies the adoption.

(Mutatis Mutandis Application of Provisions on Cancellation of a Marriage)

Article 808 (1) The provisions of Article 747 and Article 748 apply mutatis mutandis to adoption. In this case, the term "three months" in Article 747, paragraph (2) is deemed to be replaced with "six months".

(2) The provisions of Article 769 and Article 816 apply mutatis mutandis to the annulment of an adoption.

Subsection 3 Legal Effect of Adoption

(Acquisition of Status as a Child in Wedlock)

Article 809 An adopted child acquires status as the child in wedlock of the adoptive parent or parents from the date of the adoption.

(Adopted Child's Surname)

Article 810 An adopted child takes the surname of the adoptive parent or parents; provided, however, that this does not apply with respect to a person who has changed surnames upon marriage and continues to use the surname decided on at the time of marriage.

Subsection 4 Dissolution of Adoptive Relationships

(Dissolution of Adoptive Relationship by Agreement)

Article 811 (1) Parties to an adoption may agree to dissolve the adoptive relationship.

- (2) If an adopted child is under 15 years of age, the adoptive parent or parents and the person or persons that are to become the legal representatives of the child after the dissolution of the adoptive relationship may agree to dissolve the adoptive relationship.
- (3) In a case as referred to in the preceding paragraph, if the parents of the adopted child are divorced, they must reach an agreement in which they decide which of them is to be the person having parental authority with respect to the child after the dissolution of the adoptive relationship.
- (4) If the agreement referred to in the preceding paragraph is not reached or if discussions toward such an agreement cannot be held, the family court may issue a ruling to stand in place of that agreement, at the request of the father or mother referred to in that paragraph or at the request of an adoptive parent.
- (5) If there is no person to become the legal representative as referred to in paragraph (2), at the request of a relative of the adopted child or any other interested party, the family court may appoint a person to become the guardian of the minor after the dissolution of the adopted child's adoptive relationship.
- (6) If one of the parties to an adoption dies and a surviving party seeks to dissolve the adoptive relationship, that party may do so with the permission of the family court.

(Dissolution of Adoptive Relationship between a Married Couple and a Minor)

Article 811-2 In order for adoptive parents who are married to each other to dissolve their adoptive relationship with a minor, they must do so jointly; provided, however, that this does not apply if one party to the marriage is incapable of manifesting an intention.

(Mutatis Mutandis Application of Marriage Provisions)

Article 812 The provisions of Article 738, Article 739, and Article 747 apply mutatis mutandis to the dissolution of an adoptive relationship. In this case, the term "three months" in Article 747, paragraph (2) is deemed to be replaced with "six months".

(Acceptance of Application to Register the Dissolution of an Adoptive Relationship)

Article 813 (1) It is not permissible to accept an application to register the dissolution of an adoptive relationship until the dissolution thereof has been found not to violate any of the provisions of paragraph (2) of Article 739 as applied mutatis mutandis pursuant to the preceding Article, Article 811, Article 811-2, or the provisions of any other law or regulation.

(2) Even if an application to register the dissolution of an adoptive relation is accepted in violation of the provisions of the preceding paragraph, this does not impair the validity of the dissolution.

(Judicial Dissolution of an Adoptive Relationship)

Article 814 (1) A party to an adoption may independently initiate proceedings to dissolve the adoptive relationship only in one of the following cases:

- (i) if the party has been willfully abandoned by the other party;
- (ii) if it has been unclear whether the other party is dead or alive for three years or more; or
- (iii) if there are any other material grounds that make it difficult for the adoptive relationship to continue.

(2) The provisions of Article 770, paragraph (2) apply mutatis mutandis to a case as set forth in item (i) or item (ii) of the preceding paragraph.

(Party to an Action to Dissolve an Adoptive Relationship: Adopted Child Is Under the Age of 15)

Article 815 If an adopted child has not attained the age of 15, an action to dissolve the adoptive relationship may be initiated by or against a person who may reach an agreement with the adoptive parent or parents to dissolve the adoptive relationship pursuant to the provisions of Article 811.

(Reversion of the Surname upon Dissolution of the Adoptive Relationship)

Article 816 (1) An adopted child reverts to the surname used before the adoption upon dissolution of the adoptive relationship; provided, however, that this does not apply in the event of a dissolution of the adoptive relationship between the adopted child and only one of the adoptive parents that adopted that child together with the spouse.

(2) A person who has reverted to the surname used before adoption pursuant to the provisions of the preceding paragraph and who has done so after seven years have passed since the date of the adoption may take the surname used at the time of the dissolution of the adoptive relationship by filing a registration pursuant to the provisions of the Family Register Act within three months of the date of its dissolution.

(Succession of Rights after Reversion to Previous Surname Due to Dissolution of the Adoptive Relationship)

Article 817 The provisions of Article 769 apply mutatis mutandis to the dissolution of adoptive relationships.

Subsection 5 Special Adoptions

(Entering into a Special Adoption)

Article 817-2 (1) At the request of a person becoming an adoptive parent, the family court may allow an adoption to be entered into which extinguishes the kinship between the child and the natural relatives thereof (referred to hereinafter in this subsection as a "special adoption") if the requirements prescribed in the following Article through Article 817-7 are met.

(2) The permission referred to in Article 794 and Article 798 is not required in order for a person to make the request referred to in the provisions of the preceding paragraph.

(Joint Adoption by a Married Couple)

Article 817-3 (1) The person becoming an adoptive parent must have a spouse.

(2) One party to a marriage may not become an adoptive parent unless the other party to the marriage also becomes an adoptive parent; provided, however, that this does not apply if one party to a marriage becomes the adoptive parent of the child in wedlock of the other party to the marriage (but not of a child adopted other than through a special adoption).

(Age of Persons Becoming Adoptive Parents)

Article 817-4 A person who has not attained 25 years of age may not become an adoptive parent; provided, however, that even if, in a married couple becoming adoptive parents, one of the parties to the marriage has not attained 25 years of age, so long as that party has attained 20 years of age, this does not apply.

(Age of Persons Being Adopted)

Article 817-5 No person who has attained 6 years of age at the time of the request provided for in Article 817-2 may be adopted; provided, however, that

this does not apply if the person is under 8 years of age and has been continually cared for by the person becoming the adoptive parent since before the child attained 6 years of age.

(Parental Consent)

Article 817-6 In order for a special adoption to be entered into, both parents of the person being adopted must consent to the special adoption; provided, however, that this does not apply if the parents are incapable of manifesting an intention, nor does it apply in a case of abuse or willful abandonment by the parents of the person being adopted or if the parents have otherwise been the cause of grave harm to the interests of the person being adopted.

(Particular Necessity in the Interests of the Child)

Article 817-7 A special adoption is only to be allowed if it is exceedingly difficult or inappropriate for the parents of the person being adopted to care for the child or any other special circumstances exist, and the special adoption is found to be particularly necessary in the interests of the child.

(The Care Situation)

Article 817-8 (1) The state of affairs after not less than six months of the persons becoming the adoptive parents caring for the person being adopted must be taken into consideration before a special adoption is allowed to be entered into. (2) The period referred to in the preceding paragraph is calculated beginning from the time of the request provided for in Article 817-2; provided, however, that this does not apply if the care situation is evident prior to the request.

(Extinguishment of Kinship with the Natural Relatives)

Article 817-9 The kinship between an adopted child and the natural parents and blood relatives thereof is extinguished by a special adoption; provided, however, that this does not apply to the kinship with the other spouse provided for in the proviso to Article 817-3, paragraph (2) and the blood relatives thereof.

(Dissolution of a Special Adoption)

Article 817-10 (1) At the request of the adopted child, the natural parents thereof, or the public prosecutor, the family court may dissolve the adoptive relationship among the parties to a special adoption in a case that falls under both of the following items, if the court finds there to be a particular need to do so in the interests of the adopted child:
(i) there has been abuse or willful abandonment by the adoptive parents, or the adoptive parents have otherwise been the cause of grave harm to the interests of the adopted child;

- (ii) the natural parents are capable of providing reasonable care for the child.
- (2) The dissolution of a special adoption may not be effected other than in a case under the provisions of the preceding paragraph.

(Restoration of Kinship with the Natural Relatives upon Dissolution of the Adoptive Relationship)

Article 817-11 The same kinship that was extinguished by the special adoption arises between the adopted child and the natural parents and blood relatives thereof from the date of the dissolution of the adoptive relationship.

Chapter IV Parental Authority

Section 1 General Provisions

(Persons Having Parental Authority)

- Article 818 (1) A child who has not attained the age of majority is subject to the parental authority of the parents.
- (2) If a child is adopted, the child is subject to the parental authority of the adoptive parents.
 - (3) Parental authority is exercised jointly by married parents during their marriage to each other; provided, however, that if either parent is unable to exercise parental authority, the other parent does so.

(Person Having Parental Authority after Divorce or Acknowledgement of Paternity)

- Article 819 (1) If parents divorce by agreement, they must determine which one of them is to be the person having parental authority in that agreement.
- (2) In the case of a judicial divorce, the court determines which one of the parents is to be the person having parental authority.
 - (3) If parents divorce before the birth of the child, the mother exercises the parental authority; provided, however, that the parties may agree for the father to be the person having parental authority after the child is born.
 - (4) A father only exercises parental authority over a child whose paternity he has acknowledged if both parents agree for him to be the person having parental authority.
 - (5) If an agreement as referred to in paragraph (1), paragraph (3), or the preceding paragraph is not reached or discussions toward such an agreement cannot be held, the family court may issue a ruling to stand in place of such an agreement, at the request of the father or the mother.
 - (6) At the request of a child's relative, the family court may change the person having parental authority to the other parent, if it finds it to be necessary to do so in the interests of the child.

Section 2 Legal Effect of Parental Authority

(Rights and Duty of Care and Education)

Article 820 A person exercising parental authority has the right, and bears the duty, to care for and educate the child in the child's interests.

(Determination of Residence)

Article 821 A child must fix his or her residence at the place determined by the person exercising parental authority.

(Discipline)

Article 822 The person exercising parental authority may discipline a child to the extent necessary for the child's care and education under the provisions of Article 820.

(Permission to Work)

Article 823 (1) A child may not work without the permission of the person exercising parental authority.

(2) The person exercising parental authority may revoke or limit the permission referred to in the preceding paragraph in a case as referred to in Article 6, paragraph (2).

(Management of the Child's Property; Representation)

Article 824 The person exercising parental authority manages the child's property and represents the child in juridical acts involving that property; provided, however, that the person must obtain the consent of the child if a juridical act would give rise to the obligation of the child to act.

(Effect of Actions Taken by One Parent in the Name of Both Parents)

Article 825 In a case in which parents exercise parental authority jointly, when one parent, in the name of both parents, performs a juridical act on behalf of the child or gives consent for the child to perform a juridical act, even if that act or that consent is contrary to the intention of the other parent, this does not impair its validity; provided, however, that this does not apply if the other party to the juridical act has knowledge of the other parent's contrary intention.

(Conflict of Interest)

Article 826 (1) If an action involves a conflict of interest between the father or mother exercising parental authority and the child, the person exercising parental authority must request the family court to appoint a special agent for

the child in respect of that action.

- (2) If a person exercising parental authority exercises such authority over more than one child, the person exercising parental authority must request the family court to appoint a special agent for one of the children with respect to an action that involves a conflict of interest between one child and the other child or children.

(Duty of Care in Management of the Child's Property)

Article 827 A person exercising parental authority must exercise the right to manage the property under that person's authority with the same care the person would exercise for the person's own benefit.

(Accounting for Management of the Child's Property)

Article 828 Once a child attains the age of majority, the person exercising parental authority must account for the management of the child's property without delay; provided, however, that expenses incurred to raise the child and to manage the property are deemed to have been set-off against profit from the child's property.

Article 829 If a third party who gives property to a child without receiving compensation manifests a contrary intention, the provisions of the proviso to the preceding Article do not apply to that property.

(Management of Property That a Third Party Gives to a Child without Receiving Compensation)

- Article 830 (1) If a third party who gives property to a child without receiving compensation manifests the intention that the father or mother exercising parental authority not be permitted to manage that property, the management of that property does not come under the purview of the father or mother.
- (2) If neither parent has the right to manage the property referred to in the preceding paragraph and the third party does not designate a manager, the family court may appoint a manager at the request of the child, a relative thereof, or the public prosecutor.
 - (3) Even if the third party designates a manager, the preceding paragraph still applies if the authority of the manager is extinguished or if it becomes necessary to replace the manager, in the event that the third party does not designate another manager.
 - (4) The provisions of Article 27 through Article 29 apply *mutatis mutandis* to a case as referred to in one of the preceding two paragraphs.

(Mutatis Mutandis Application of Mandate Provisions)

Article 831 The provisions of Article 654 and Article 655 apply mutatis mutandis when a person exercising parental authority manages the property of a child and to a case as referred to in the preceding Article.

(Extinctive Prescription of Claims between Parent and Child Arising in Respect of Management of the Child's Property)

Article 832 (1) A claim arising in respect of the management of the child's property between a person who exercised parental authority and the child is extinguished by prescription if not exercised within five years from the time the right to manage the child's property lapses.

(2) If the right to manage a child's property lapses before the child attains the age of majority and the child has no legal representative, the period referred to in the preceding paragraph is calculated beginning from the time the child attains the age of majority or a new statutory agent is appointed.

(Exercising Parental Authority in Place of a Child)

Article 833 A person who exercises parental authority over a child also acts in place of that child in exercising any parental authority that child holds.

Section 3 Loss of Parental Authority

(Ruling Affirming the Loss of Parental Authority)

Article 834 If the father or mother abuses or willfully abandons the child, or if significant difficulty or impropriety in the father's or mother's exercise of parental authority otherwise greatly harms the interests of the child, the family court may issue a ruling affirming the father's or mother's loss of parental authority, at the request of the child, a relative thereof, the guardian, the guardian supervisor, or the public prosecutor; provided, however, that this does not apply if cause for such a ruling is expected to cease to exist within two years.

(Ruling Suspending Parental Authority)

Article 834-2 (1) If difficulty or impropriety in the father's or mother's exercise of parental authority harms the interests of the child, the family court may rule to suspend the parental authority of the father or mother, at the request of the child, a relative thereof, the guardian, the guardian supervisor, or the public prosecutor.

(2) If the family court rules to suspend parental authority, it must fix the term of no greater than two years during which parental authority is suspended in consideration of the time expected to be required for cause for such a ruling to cease to exist, the physical and mental condition of the child, circumstances in

the child's daily life, and all other circumstances.

(Ruling Affirming the Loss of the Right to Manage the Child's Property)

Article 835 If difficulty or impropriety in the father's or mother's exercise of the right to manage the child's property harms the interests of the child, the family court may issue a ruling affirming the father's or mother's loss of the right to manage the child's property, at the request of the child, a relative thereof, the guardian, the guardian supervisor, or the public prosecutor.

(Rescission of a Ruling Affirming the Loss of Parental Authority, Suspending Parental Authority, or Affirming the Loss of the Right to Manage the Child's Property)

Article 836 If the cause provided for in the main clause of Article 834, Article 834-2, paragraph (1); or the preceding Article ceases to exist, the family court may rescind a ruling affirming the loss of parental authority, suspending parental authority, or affirming the loss of the right to manage the child's property, at the request of the person concerned or a relative thereof.

(Surrender and Resumption of Parental Authority or the Right to Manage the Child's Property)

Article 837 (1) If there are compelling circumstances, a father or mother who exercises parental authority may surrender parental authority or the right to manage the child's property, with the permission of the family court.

(2) If the circumstances referred to in the preceding paragraph cease to exist, the father or mother may resume parental authority or the right to manage the child's property, with the permission of the family court.

Chapter V Guardianship

Section 1 Commencement of Guardianship

Article 838 Guardianship commences if:

- (i) there is no person exercising parental authority over a minor, or the person exercising parental authority does not have the right to manage the minor's property;
- (ii) there has been a decision to establish a guardianship.

Section 2 Guardianship Mechanisms

Subsection 1 Guardians

(Designation of a Guardian for a Minor)

Article 839 (1) The person last exercising parental authority over a minor may

designate a guardian for the minor by a will; provided, however, that this does not apply to a person who has no right to manage the minor's property.

- (2) If one of the parents exercising parental authority does not have the right to manage the child's property, the other parent may designate a guardian for the minor pursuant to the provisions of the preceding paragraph.

(Appointment of a Guardian for a Minor)

Article 840 (1) If there is no person to become the guardian of a minor pursuant to the provisions of the preceding Article, the family court may appoint a guardian for the minor at the request of the prospective minor ward, the relative thereof, or any other interested party. This also applies if the minor comes to no longer have such a guardian.

- (2) Even if a minor has a guardian, the family court may appoint a further guardian if it finds this to be necessary, at the request of a person provided for in the preceding paragraph, at the request of the guardian of the minor, or sua sponte.

- (3) In appointing a guardian for a minor, the family court must consider the age, physical and mental condition, circumstances in the daily life, and financial circumstances of the minor ward, the occupation and personal history of the person becoming the guardian, the existence of any vested interest between them (if the person becoming the guardian is a corporation, the type and content of its business and the existence of any vested interest between the minor ward and the corporation or its representative), the opinion of the minor ward, and all other circumstances.

(Request by the Parents for Appointment of a Guardian for a Minor)

Article 841 If the father or mother surrenders parental authority or the right to manage the child's property, or if the necessity of appointing a guardian for a minor arises as a result of a ruling affirming the loss of parental authority, suspending parental authority, or affirming the loss of the right to manage the child's property, the father or mother, without delay, must request the family court to appoint a guardian.

(Number of Guardians for a Minor)

Article 842 Deleted

(Appointment of a Guardian for an Adult)

Article 843 (1) The family court appoints a guardian for an adult sua sponte if it reaches the decision to establish a guardianship.

- (2) If an adult ward comes to no longer have a guardian, the family court appoints a guardian at the request of the adult ward, the relative or other

interested party thereof, or sua sponte.

(3) Even if an adult has been appointed a guardian, the family court may appoint a further guardian for the adult if it finds this to be necessary, at the request of a person provided for in the preceding paragraph, at the request of the guardian of the adult, or sua sponte.

(4) In appointing a guardian for an adult, the family court must consider the physical and mental condition, circumstances in the daily life, and financial circumstances of the adult ward, the occupation and personal history of the person becoming the guardian, the existence of any vested interest between them (if the person becoming the guardian is a corporation, the type and content of its business and the existence of any vested interest between the adult ward and the corporation or its representative), the opinion of the adult ward, and all other circumstances.

(Resignation of the Guardian)

Article 844 If there is a legitimate reason, the guardian of an adult may resign from the role of guardian, with the permission of the family court.

(Request by the Resigning Guardian for the Appointment of a New Guardian)

Article 845 If the need arises for a new guardian to be appointed due to a guardian's resignation from the role, the guardian, without delay, must request the family court to appoint a new guardian.

(Dismissal of the Guardian)

Article 846 In the event of an unlawful act or grave misconduct on the part of the guardian or in the event of any other circumstances that render the guardian unfit for the duties of guardianship, the family court may replace the guardian at the request of the guardian supervisor, the ward, the relative thereof, or the public prosecutor, or sua sponte.

(Grounds for Ineligibility as Guardian)

Article 847 None of the following persons may become a guardian:

- (i) a minor;
- (ii) a legal representative, curator, or assistant who has been replaced by the family court;
- (iii) a bankrupt;
- (iv) a person who is bringing or has brought an action against the ward, the spouse of such a person, or a lineal blood relative thereof; or
- (v) a person whose whereabouts are unknown.

Subsection 2 Guardian Supervisors

(Designation of a Supervisor for the Guardian of a Minor)

Article 848 A person who may designate a guardian for a minor may designate a supervisor for the guardian of the minor, by a will.

(Appointment of a Guardian Supervisor)

Article 849 The family court may appoint a guardian supervisor if it finds this to be necessary, at the request of a ward or the relative thereof, at the request of the guardian, or sua sponte.

(Grounds for Ineligibility as Guardian Supervisor)

Article 850 The spouse, lineal blood relative, or sibling of the guardian may not become the supervisor of that guardian.

(Duties of the Guardian Supervisor)

Article 851 The duties of a guardian supervisor are as follows:

- (i) to supervise the administration of the guardian;
- (ii) to apply to the family court without delay to appoint a guardian if there comes to no longer be a guardian;
- (iii) to take the necessary measures in the event of an emergency; and
- (iv) to represent the ward with respect to acts that constitute a conflict of interest between the ward and the guardian or the person representing the guardian.

(Mutatis Mutandis Application of Mandate and Guardian Provisions)

Article 852 The provisions of Article 644; Article 654; Article 655; Article 844; Article 846; Article 847; Article 861, paragraph (2); and Article 862 apply mutatis mutandis to a guardian supervisor; the provisions of Article 840, paragraph (3) and Article 857-2 apply mutatis mutandis to the supervisor for the guardian of a minor, and the provisions of Article 843, paragraph (4); Article 859-2; and Article 859-3 apply mutatis mutandis to the supervisor for the guardian of an adult.

Section 3 Guardianship Administration

(Searching for Assets, Preparing an Inventory)

Article 853 (1) A guardian must undertake a search for the ward's assets without delay, and must finish the search and prepare an inventory within one month; provided, however, that this period may be extended with the approval of the family court.

(2) The search for assets and preparation of an inventory is not valid unless

conducted in the presence of the guardian supervisor, if there is one.

(Authority Prior to Completion of the Inventory of Property)

Article 854 Until completing the inventory of property, the guardian has only the authority to take those actions that urgently need to be taken; provided, however, that this may not be asserted against a third party in good faith.

(Guardian's Duty to Report Claims and Obligations in Respect of the Ward)

Article 855 (1) If a guardian holds a claim against the ward or bears an obligation thereto, the guardian must report this to the supervisor, if there is one, before undertaking the search for assets.

(2) If a guardian knows of a claim that the guardian holds against the ward and does not report it, this claim is lost.

(Mutatis Mutandis Application of Provisions If a Ward Acquires Property under Universal Title)

Article 856 The provisions of the preceding three Articles apply mutatis mutandis if the ward acquires property under universal title after the guardian begins that role.

(Rights and Duties in Respect of Physical Custody of a Minor Ward)

Article 857 The guardian of a minor has the same rights and duties as a person exercising parental authority with respect to the matters prescribed in Article 820 through Article 823; provided, however, that in order to change the plan of education or residence fixed by a person exercising parental authority, in order to give the minor permission to do business, or in order to revoke or limit that permission, the guardian must obtain the consent of the supervisor, if there is one.

(Exercise of Authority; Minor Ward with Multiple Guardians)

Article 857-2 (1) If a minor ward has multiple guardians, they exercise their authority jointly.

(2) If a minor ward has multiple guardians, the family court may determine sua sponte that some of the guardians may only exercise their authority over the minor's property.

(3) If a minor ward has multiple guardians, the family court may determine sua sponte that each guardian may exercise authority independently, or that the multiple guardians must exercise their authority according to a division of labor, in respect of their authority over the minor's property.

(4) The family court may rescind, sua sponte, a determination under the provisions of the preceding two paragraphs.

(5) If a minor ward has multiple guardians, it is sufficient for a manifestation of intention by a third party be made to one of them.

(Respect for the Wishes of the Adult Ward, Personal Consideration)

Article 858 The guardian of an adult, in undertaking administration in respect of the daily life, medical treatment or care, and management of the property of the adult ward, must respect the wishes of the adult ward and act with consideration for the ward's mental and physical condition and circumstances in the ward's daily life.

(Management of the Ward's Property; Representation)

Article 859 (1) The guardian manages the ward's property and represents the ward in juridical acts involving the same.

(2) The provisions of the proviso to Article 824 apply mutatis mutandis to a case as referred to in the preceding paragraph.

(Exercise of Authority; Adult Ward with Multiple Guardians)

Article 859-2 (1) If an adult ward has multiple guardians, the family court may determine, sua sponte, that the guardians must exercise their authority jointly or according to a division of labor.

(2) The family court may rescind, sua sponte, a determination under the provisions of the preceding paragraph.

(3) If an adult ward has multiple guardians, it is sufficient for a manifestation of intention by a third party to be made to one of them.

(Permission to Dispose of Real Estate Used as an Adult Ward's Residence)

Article 859-3 The guardian of an adult must obtain the permission of the family court to sell, rent out, cancel the lease on, establish a mortgage on, or otherwise similarly dispose, on the adult ward's behalf, of a building or site being used as the ward's residence.

(Acts in Conflict of Interest)

Article 860 The provisions of Article 826 apply mutatis mutandis to a guardian; provided, however, that this does not apply if there is a guardian supervisor.

(Estimation of Expenditures, Expenses of Guardianship Administration)

Article 861 (1) Upon beginning in the role of guardian, the guardian must estimate the amount of money that will be required in annual expenditures for the daily life, education, medical treatment and care, and management of the ward's property.

(2) A guardian pays the expenses necessary for administering the guardianship

out of the ward's property.

(Remuneration of the Guardian)

Article 862 The family court may grant reasonable remuneration to a guardian out of the ward's property, based on the financial capacity of the guardian and the ward and other circumstances.

(Supervision of Guardianship Administration)

Article 863 (1) At any time, the guardian supervisor or the family court may demand that the guardian submit a report on the guardianship administration or an inventory of property, and may investigate the guardianship administration or the financial status of the ward.

(2) The family court may order any necessary disposition with respect to the management of the ward's property or other guardianship administration, at the request of the guardian supervisor, the ward, the relative thereof, or any other interested person, or sua sponte.

(Acts Requiring the Consent of the Guardian Supervisor)

Article 864 A guardian must obtain the consent of the guardian supervisor, if there is one, in order to do business or perform an act set forth in one of the items of Article 13, paragraph (1) on behalf of a ward, or in order to give consent for a minor ward to do the same; provided, however, that this does not apply to the receipt of principal set forth in Article 13, paragraph (1), item (i).

Article 865 (1) The ward or guardian may disaffirm an act conducted or consented to by the guardian in violation of the provisions of the preceding Article. The provisions of Article 20 apply mutatis mutandis in such a case.

(2) The provisions of the preceding paragraph do not preclude the application of the provisions of Article 121 through Article 126.

(Ward's Disaffirmance of the Acquisition of Property)

Article 866 (1) If a guardian acquires the property of the ward or the right of a third party against the ward, the ward may disaffirm that acquisition. In this case, the provisions of Article 20 apply mutatis mutandis.

(2) The provisions of the preceding paragraph do not preclude the application of the provisions of Article 121 through Article 126.

(Exercising Parental Authority in Place of a Minor Ward)

Article 867 (1) The guardian of a minor acts in place of the minor ward in exercising any parental authority the ward holds.

(2) The provisions of Article 853 through Article 857 and Article 861 through

Article 866 apply mutatis mutandis to a case as referred to in the preceding paragraph.

(Guardian of a Minor with Authority Only over the Minor's Property)

Article 868 If the person exercising parental authority does not have the right to manage the minor's property, the guardian of that minor has authority only over the minor's property.

(Mutatis Mutandis Application of Mandate and Parental Authority Provisions)

Article 869 The provisions of Article 644 and Article 830 apply mutatis mutandis to guardianship.

Section 4 End of Guardianship

(Accounting for the Guardianship)

Article 870 When the duties of a guardian come to an end, the guardian or the heir thereof must account for the guardian's management of the ward's property (hereinafter referred to as "accounting for the guardianship") within two months; provided, however, that this period may be extended with the approval of the family court.

Article 871 Accounting for the guardianship must be done in the presence of the guardian supervisor, if there is one.

(Rescission of Contracts between the Minor Ward and the Guardian)

Article 872 (1) A minor ward may rescind a contract entered into with the guardian or the successor thereof after attaining the age of majority but before the accounting for the guardianship has been finalized. The same applies to a unilateral juridical act that the person performs against the guardian of a minor or the successor thereof.

(2) The provisions of Article 20 and Article 121 through Article 126 apply mutatis mutandis to a case as referred to in the preceding paragraph.

(Payment of Interest against Money Refunded)

Article 873 (1) Interest must be calculated to accrue on money to be refunded by the guardian to the ward and money to be refunded by the ward to the guardian from the time the accounting for the guardianship is finalized.

(2) If the guardian expends the ward's money for the benefit of the guardian, interest must be calculated to accrue on that money from the time of the expenditure. In such a case, if further damage is incurred by the ward, the guardian is liable for compensation.

(Mutatis Mutandis Application of Mandate Provisions)

Article 874 The provisions of Article 654 and Article 655 apply mutatis mutandis to guardianship.

(Extinctive Prescription of Claims Arising in Respect of Guardianship)

Article 875 (1) The provisions of Article 832 apply mutatis mutandis to the extinctive prescription of a claim that arises between the guardian or guardian supervisor and the ward in respect of the guardianship.

(2) If a juridical act is canceled pursuant to the provisions of Article 872, the period of extinctive prescription referred to in the preceding paragraph commences from the time of that cancellation.

Chapter VI Curatorship, Assistance

Section 1 Curatorship

(Commencement of Curatorship)

Article 876 Curatorship commences upon a decision to establish a curatorship.

(Appointment of a Curator or Temporary Curator)

Article 876-2 (1) If the family court issues a decision to establish a curatorship, it appoints a curator sua sponte.

(2) The provisions of Article 843, paragraphs (2) through (4) and Article 844 through Article 847 apply mutatis mutandis to a curator.

(3) If an action involves a conflict of interest between the curator or person representing the curator and the person under curatorship, the curator must request the family court to appoint a temporary curator; provided, however, that this does not apply if there is a curator supervisor.

(Curator Supervisor)

Article 876-3 (1) The family court may appoint a curator supervisor, if it finds this to be necessary, at the request of the person under curatorship, the relative thereof, the curator, or sua sponte.

(2) The provisions of Article 644; Article 654; Article 655; Article 843, paragraph (4); Article 844; Article 846; Article 847; Article 850; Article 851; Article 859-2; Article 859-3; Article 861, paragraph (2); and Article 862 apply mutatis mutandis to a curator supervisor. In this case, the phrase "to represent the ward with respect to" in Article 851, item (iv) is deemed to be replaced with "to represent the person under curatorship, or consent to the person under curatorship acting, with respect to".

(Ruling Granting the Curator the Authority to Represent)

- Article 876-4 (1) At the request of a person provided for in the main clause of Article 11, the curator, or the curator supervisor, the family court may issue a ruling that grants the curator authority to represent the person under curatorship in respect of specified juridical acts.
- (2) A ruling as referred to in the preceding paragraph which is issued at the request of any person other than the person under curatorship requires the consent of the person under curatorship.
- (3) The family court may rescind a ruling as referred to in paragraph (1), in whole or in part, at the request of a person provided for in that paragraph.

(Curatorship Administration; End of the Curator's Role)

- Article 876-5 (1) A curator, in administering the curatorship, must respect the wishes of the person under curatorship and act with consideration for the mental and physical condition of the person under curatorship and circumstances in that person's daily life.
- (2) The provisions of Article 644; Article 859-2; Article 859-3; Article 861, paragraph (2); Article 862; and Article 863 apply mutatis mutandis to the administration of a curatorship, and the provisions of the proviso to Article 824 apply mutatis mutandis when a curator represents a person under curatorship based on a ruling granting authority to represent as referred to in paragraph (1) of the preceding Article.
- (3) The provisions of Article 654, Article 655, Article 870, Article 871, and Article 873 apply mutatis mutandis when the duties of a curator end, and the provisions of Article 832 apply mutatis mutandis to claims that arise between the curator or curator supervisor and the person under curatorship in respect of the curatorship.

Section 2 Assistance

(Commencement of Assistance)

Article 876-6 Assistance commences upon a decision to establish an assistance.

(Appointment of an Assistant or Temporary Assistant)

- Article 876-7 (1) If the family court issues a decision to establish an assistance, it appoints an assistant sua sponte.
- (2) The provisions of Article 843, paragraphs (2) through (4) and Article 844 through Article 847 apply mutatis mutandis to an assistant.
- (3) If an action involves a conflict of interest between the assistant or person representing the assistant and the person under assistance, the assistant must request the family court to appoint a temporary assistant; provided, however,

that this does not apply if there is an assistant supervisor.

(Assistant Supervisors)

Article 876-8 (1) The family court may appoint an assistant supervisor if it finds this to be necessary, at the request of the person under assistance, the relative thereof, the assistant, or sua sponte.

(2) The provisions of Article 644; Article 654; Article 655; Article 843, paragraph (4); Article 844; Article 846; Article 847; Article 850; Article 851; Article 859-2; Article 859-3; Article 861, paragraph (2); and Article 862 apply mutatis mutandis to an assistant supervisor. In this case, the phrase "to represent the ward with respect to" in Article 851, item (iv) is deemed to be replaced with "to represent the person under assistance, or consent to the person under assistance acting, with respect to".

(Ruling Granting the Assistant the Authority to Represent)

Article 876-9 (1) At the request of a person provided for in the main clause of Article 15, paragraph (1), the assistant, or the assistant supervisor, the family court may issue a ruling that grants the assistant authority to represent the person under assistance in respect of specified juridical acts.

(2) The provisions of Article 876-4, paragraph (2) and paragraph (3) apply mutatis mutandis to the ruling referred to in the preceding paragraph.

(Assistance Administration; End of the Assistant's Role)

Article 876-10 (1) The provisions of Article 644; Article 859-2; Article 859-3; Article 861, paragraph (2); Article 862; Article 863; and Article 876-5, paragraph (1) apply mutatis mutandis to the administration of assistance, and the provisions of the proviso to Article 824 apply mutatis mutandis when an assistant represents a person under assistance based on a ruling granting the assistant authority to represent as referred to in paragraph (1) of the preceding Article.

(2) The provisions of Article 654, Article 655, Article 870, Article 871, and Article 873 apply mutatis mutandis when the duties of the assistant end, and the provisions of Article 832 apply mutatis mutandis to claims that arise between the assistant or assistant supervisor and the person under assistance in respect of the assistance.

Chapter VII Support

(Persons under a Duty to Support One Another)

Article 877 (1) Lineal blood relatives and siblings have a duty to support one another.

(2) If there are special circumstances, the family court may also impose a duty of support between relatives of up to the third degree, beyond what is prescribed in the preceding paragraph.

(3) If an alteration in circumstances arises after a ruling under the provisions of the preceding paragraph is issued, the family court may revoke that ruling.

(Order in Which Persons Support a Relative)

Article 878 In the event that several persons are under a duty to support a relative, if no agreement between the parties is reached with respect to the order in which they will support that relative or if discussions toward such an agreement cannot be held, the family court determines that order. The same applies if there are several persons entitled to receive such support and the financial capacity of the person under a duty to support them is insufficient to support them all.

(Extent and Form of Support)

Article 879 If no agreement between the parties is reached with respect to the extent and form of support or if discussions toward such an agreement cannot be held, the family court determines this in consideration of the needs of the person entitled to support, the financial capacity of the person under a duty to give support, and all other circumstances.

(Alteration or Revocation of an Agreement or Ruling with Regard to Support)

Article 880 If an alteration in circumstances arises after an agreement or ruling on the order in which persons are under a duty to support a relative, the order in which persons are entitled to receive support, or the extent or form of support, the family court may alter or revoke the agreement or ruling.

(Prohibition on Disposal of the Right to Claim Support)

Article 881 The right to receive support may not be disposed of.

Part V Succession

Chapter I General Provisions

(Cause for the Opening of the Succession)

Article 882 Succession opens at the death of the person.

(Place for the Opening of Succession)

Article 883 Succession opens in the domicile of the decedent.

(Right to File for the Recovery of a Succession)

Article 884 The right to file for the recovery of a succession is extinguished by the operation of the prescription if it is not exercised within five years of the time when the heir or the legal representative thereof learns of the fact that the right of inheritance has been infringed. The same applies when twenty years have elapsed from the time the succession opened.

(Expenses Relating to an Estate)

Article 885 (1) The expenses of an estate are paid out of that estate; provided, however, that this does not apply to expenses resulting from the negligence of the heir.

(2) The expenses referred to in the preceding paragraph are not required to be paid out of property that a person entitled to a statutory reserved share obtains through a reduction of gifts.

Chapter II Heirs

(Unborn Child's Legal Capacity to Hold Rights of Succession)

Article 886 (1) An unborn child is deemed to have already been born as regards succession.

(2) The provisions of the preceding paragraph do not apply if the child is stillborn.

(Right of Inheritance of Children and Their Heirs, Per Stirpes)

Article 887 (1) The children of the decedent become heirs thereof.

(2) If a child of the decedent dies before the opening of the succession or loses the right of inheritance through the application of the provisions of Article 891 or through disinheritance, the children of such a child become heirs of the decedent, per stirpes; provided, however, that this does not apply to a person who is not a lineal descendant of the decedent.

(3) The provisions of the preceding paragraph apply mutatis mutandis if a person who would have become an heir per stirpes dies before the opening of the succession or if that person loses the right to take per stirpes through the application of the provisions of Article 891 or through disinheritance.

Article 888 Deleted

(Right of Inheritance of Lineal Ascendants and Siblings)

Article 889 (1) If no one becomes an heir pursuant to the provisions of Article 887, the following persons become heirs in accordance with their places in the line of succession, in the following order:

(i) lineal ascendants of the decedent; provided, however, that between persons of differing degrees of kinship, persons of a closer degree of kinship to the

- decedent have priority in inheritance;
- (ii) siblings of the decedent.
- (2) The provisions of Article 887, paragraph (2) apply mutatis mutandis in a case as referred to in item (ii) of the preceding paragraph.

(Spousal Right of Inheritance)

Article 890 The spouse of the decedent always becomes an heir. In this, if someone is to become an heir pursuant to the provisions of Article 887 or the preceding Article, the spouse takes the same place in the line of succession as that person.

(Grounds for Ineligibility as an Heir)

Article 891 None of the following persons may become heirs of the decedent:

- (i) a person who has received a criminal sentence for intentionally causing or attempting to cause the death of the decedent or the death of a person with an equal or prior place in the line of succession;
- (ii) a person who knows that the decedent was killed by someone but made no formal accusation or criminal complaint about this; provided, however, that this does not apply if the person cannot discern right from wrong, or if the killer was that person's spouse or lineal relative;
- (iii) a person who has prevented the decedent from making, revoking, rescinding, or changing a will as regards succession, through fraud or duress;
- (iv) a person who has forced the decedent to make, revoke, rescind, or change a will as regards succession, through fraud or duress; or
- (v) a person who forges, alters, destroys, or conceals the will of the decedent as regards succession.

(Disinheritance of a Presumptive Heir)

Article 892 A person leaving an estate may file a request with the family court to disinherit a presumptive heir (meaning a person who would become an heir if the succession were to open; the same applies hereinafter) for whom there is statutory reserved share, if the presumptive heir has abused or given grave insult to the person leaving the estate, or if there has been any other grave misconduct on the part of the presumptive heir.

(Disinheritance of a Presumptive Heir by Will)

Article 893 If the decedent, by will, has manifested the intention to disinherit a presumptive heir, the executor of the will must apply to the family court to disinherit the presumptive heir without delay after the will becomes effective. The disinheritance of that presumptive heir is effective retroactive to the time of death of the decedent, in such a case.

(Rescission of the Disinheritance of a Presumptive Heir)

Article 894 (1) A person leaving an estate may at any time file a request with the family court to rescind the disinheritance of a presumptive heir.

(2) The provisions of the preceding Article apply mutatis mutandis to the rescission of the disinheritance of a presumptive heir.

(Administration of the Estate before a Ruling Involving the Disinheritance of a Presumptive Heir Becomes Final and Binding)

Article 895 (1) If succession opens after a request is filed to disinherit a presumptive heir or to rescind the disinheritance of the same but before the ruling on this becomes final and binding, the family court may order any necessary measures with regard to the administration of the estate at the request of a relative, an interested party, or the public prosecutor. The same applies if the decedent has left a will in which a presumptive heir is disinherited.

(2) The provisions of Article 27 through Article 29 apply mutatis mutandis if the family court appoints an administrator to the estate pursuant to the provisions of the preceding paragraph.

Chapter III Effect of Succession

Section 1 General Provisions

(General Effect of Succession)

Article 896 From the time the succession opens, the heirs succeed to all rights and duties attached to the property of the decedent; provided, however, that this does not apply to rights or duties of the decedent that are purely personal.

(Assumption of Rights in Respect of Rituals)

Article 897 (1) Notwithstanding the provisions of the preceding Article, rights of ownership in genealogical records, implements used in rituals, and graves are succeeded to by the person that custom dictates is to preside over ancestral rituals; provided, however, that if the decedent has designated a person to preside over ancestral rituals, this person succeeds to these rights.

(2) In a case as referred to in the main clause of the preceding paragraph, if it is not evident whom custom dictates, the family court determines who succeeds to the rights referred to in that paragraph.

(Effect of Joint Succession)

Article 898 If there are two or more heirs, the estate belongs to those heirs in coownership.

Article 899 Each coheir succeeds to the rights and duties of the decedent in proportion to that heir's share of the estate.

Section 2 Shares of the Estate

(Intestate Shares)

Article 900 If there are two or more heirs of the same place in the line of succession, their shares of the estate are as prescribed in the following items:

- (i) if a child or children and a spouse are the heirs, the child's or children's share of the estate is one-half and the spouse's share of the estate is one-half;
- (ii) if a spouse and a lineal ascendant or ascendants are the heirs, the spouse's share of the estate is two-thirds and the lineal ascendant's or ascendants' share of the estate is one-third;
- (iii) if a spouse and a sibling or siblings are the heirs, the spouse's share of the estate is three-quarters, and the sibling's or siblings' share of the estate is one-quarter;
- (iv) if there are two or more children, lineal ascendants, or siblings, each share in the estate is to be equal; provided, however, that the share of a sibling who has only one parent in common with the decedent is one half of the share of a sibling who has both parents in common with the decedent.

(Share of an Heir Taking per Stirpes)

Article 901 (1) The share in the decedent's estate of a lineal descendant who becomes an heir pursuant to the provisions of Article 887, paragraph (2) or paragraph (3) is the same as the share that person's lineal ascendant would have received; provided, however, that if there are two or more such lineal descendants, their shares of the estate are determined in accordance with the provisions of the preceding Article.

(2) The provisions of the preceding paragraph apply mutatis mutandis if the child of a sibling becomes an heir pursuant to the provisions of Article 889, paragraph (2).

(Designation of a Person's Share of the Estate by Will)

Article 902 (1) Notwithstanding the provisions of the preceding two Articles, a person leaving an estate may decide by will the share of a coheir or entrust a third party by will with deciding the same; provided, however, that it is not permissible for the person leaving the estate or the third party to violate provisions regarding the statutory reserved share.

(2) If a person leaving an estate decides, or has a third party decide, only one or some of the coheirs' shares in the estate coheir, the shares of the other coheirs

are decided pursuant to the provisions of the preceding two Articles.

(Share in the Decedent's Estate of an Heir Who Has Received a Special Benefit)

- Article 903 (1) If any of the coheirs has received from the decedent a legacy or other gift for marriage or adoption or as capital for subsistence, the estate of the decedent is deemed to comprise the value of the property belonging to the decedent at the time the succession opens plus the value of all such legacies and other gifts, and the share in the estate of a coheir who has received such a legacy or other gift is the amount remaining after the value of all such legacies and other gifts thereto is deducted from the heir's share of the estate as calculated pursuant to the provisions of the preceding three Articles.
- (2) If the value of legacies and other gifts is equal to or exceeds the value of the share in the estate of the legatee or donee, that legatee or donee may not receive a share of the estate.
- (3) If the decedent has manifested an intention differing from the provisions of one of the preceding two paragraphs, that intention is effective, to the extent that it does not violate the provisions regarding the statutory reserved share.

Article 904 Even if the conduct of the donee leads to the loss of the property that was the object of a gift and even if there is a fluctuation in the value of such property, the property is deemed to be in its original state, as it was at the time the succession opened, as regards the determination of the value of the gift as prescribed in the preceding Article.

(Amount of Contribution to the Estate)

- Article 904-2 (1) If a coheir has made a special contribution to maintaining or increasing the assets of the decedent, by supplying labor or providing financially for the business of the decedent, through a contribution to the medical treatment or care of the decedent, or in any other way, the estate is deemed to comprise the value of the assets held by the decedent at the time the succession opens, less the amount that the coheirs determine by agreement to be the heirs' contribution to the estate; and the share in the estate of a coheir who has made such a contribution is the amount of that heir's contribution plus the heir's share of the estate as calculated pursuant to the provisions of Article 900 through Article 902.
- (2) If an agreement as referred to in the preceding paragraph is not reached or if discussions toward such an agreement cannot be held, the family court determines the amount of contribution to the estate at the request of a person making a contribution to the estate as prescribed the preceding paragraph, in consideration of the timing of the contribution, the means and extent of the

contribution, the value of the estate, and all other circumstances.

- (3) The amount of contribution to an estate may not exceed the amount remaining after the value of legacies is deducted from the value of the property held by the decedent at the time the succession opens.
- (4) The request referred to in paragraph (2) may be filed if a request under the provisions of Article 907, paragraph (2) has been filed, or in the case prescribed in Article 910.

(Right to Recover a Share in the Estate)

- Article 905 (1) If one coheir assigns that heir's share in the estate to a third party before the division of the estate, any other coheir may acquire that share by reimbursing the third party for the value and expenses thereof.
- (2) The right referred to in the preceding paragraph must be exercised within one month.

Section 3 Division of the Estate

(Standards for the Division of the Estate)

Article 906 The division of an estate is made in consideration of the type and nature of goods and rights belonging to the estate, the age, occupation, mental and physical condition, and financial circumstances of each heir, and all other circumstances.

(Agreement or Ruling on the Division of the Estate)

- Article 907 (1) Unless the decedent has prevented them from doing so by will pursuant to the provisions of the following Article, coheirs may at any time divide the estate by agreement.
- (2) If an agreement between coheirs with regard to the division of the estate is not reached or if discussions toward such an agreement cannot be held, any one of the coheirs may file a request with the family court to divide the estate.
 - (3) If there is a special reason for doing so in a case as referred to in the preceding paragraph, the family court may prohibit the division of the estate in whole or part during a specified period.

(Designation of How the Estate Is Divided; Prohibition of Division)

Article 908 A person leaving an estate, by will, may decide how the estate is to be divided, entrust a third party with deciding the same, or prohibit the division of the estate for a specified period not exceeding five years from the time the succession opens.

(Effect of the Division of the Estate)

Article 909 The division of an estate is effective retroactive to the time the succession opens; provided, however, that this may not prejudice the rights of a third party.

(Right of a Person Whose Parentage Is Acknowledged after the Opening of the Succession, to Payment of the Value of That Person's Share)

Article 910 If a person who becomes an heir through an acknowledgment of parentage or filiation after succession is opened seeks to request the division of the estate, but the other coheirs have already divided or otherwise disposed of it, that person is entitled to payment of that person's share in terms of its value only.

(Warranties among Coheirs)

Article 911 Each coheir, in proportion to that heir's share of the estate, is liable under warranty to all of the other coheirs in the same manner that a seller would be.

(Liability under a Guaranty on a Claim Received in the Division of the Estate)

Article 912 (1) Each coheir, in proportion to that heir's share of the estate, guarantees the solvency, at the time of division, of any obligor of a claim that another coheir receives in the division of the estate.

(2) As regards a claim that is either not yet due or is subject to a condition precedent, each coheir guarantees the solvency of the obligor at the time when the payment is due.

(Sharing of Liability under a Warranty or Guaranty; Coheir Is Insolvent)

Article 913 If, among the coheirs who are liable to one another under a warranty or guaranty, there is an heir who is without the financial means to reimburse one of the others, the portion that the insolvent heir is unable to reimburse is shared among the heir seeking reimbursement and the other solvent heirs, in proportion to their shares of the estate; provided, however, that if there is negligence on the part of the heir seeking reimbursement, that heir may not request that the other coheirs share liability.

(Determination of Warranties and Guaranties by Will)

Article 914 If a decedent, by will, has manifested an intention that differs from the provisions of the preceding three Articles, the provisions of those Articles do not apply.

Chapter IV Acceptance or Renunciation of Succession

Section 1 General Provisions

(Period for Acceptance or Renunciation of Succession)

Article 915 (1) An heir must either accept the succession unconditionally or with qualifications, or renounce it, within three months of the time the heir learns that succession has opened to that heir; provided, however, that this period may be extended by the family court at the request of an interested party or the public prosecutor.

(2) An heir may examine the estate before accepting or renouncing the succession.

Article 916 If an heir dies without having accepted or renounced the succession, the period referred to in paragraph (1) of the preceding Article is calculated from the time that the heir of the deceased heir learns that the succession has opened to the living heir.

Article 917 If an heir is a minor or an adult ward, the period referred to in Article 915, paragraph (1) is calculated from the time that the legal representative thereof learns that the succession has opened to the minor or adult ward.

(Administration of the Estate)

Article 918 (1) An heir must administer the estate with the same care that the heir would exercise over the heir's own property; provided, however, that this does not apply once the heir accepts or renounces the succession.

(2) The family court may at any time order the necessary measures to be taken for the preservation of the estate, at the request of an interested party or the public prosecutor.

(3) The provisions of Article 27 through Article 29 apply mutatis mutandis when the family court appoints an administrator to an estate pursuant to the provisions of the preceding paragraph.

(Revocation and Rescission; Acceptance and Renunciation of Succession)

Article 919 (1) The acceptance or renunciation of a succession may not be revoked even within the period referred to in Article 915, paragraph (1).

(2) The provisions of the preceding paragraph do not preclude the acceptance or renunciation of a succession from being rescinded pursuant to the provisions of Part I (General Provisions) and Part IV (Relatives).

(3) The right of rescission referred to in the preceding paragraph is extinguished by prescription if not exercised within six months of the time ratification becomes possible. It is also extinguished by prescription once ten years have passed since the time of acceptance or renunciation of the succession.

(4) A person seeking to rescind a qualified acceptance or renunciation of a

succession pursuant to the provisions of paragraph (2) must file a statement with the family court to that effect.

Section 2 Acceptance of Succession

Subsection 1 Unconditional Acceptance

(Effect of Unconditional Acceptance)

Article 920 An heir inherits the rights and obligations of the decedent without limitation upon unconditional acceptance of the succession.

(Statutory Unconditional Acceptance)

Article 921 An heir is deemed to have accepted the succession unconditionally if:

- (i) the heir disposes of the estate in whole or in part; provided, however, that this does not apply to an act of preservation or a lease that does not exceed the period prescribed in Article 602;
- (ii) the heir does not assert a qualified acceptance or renounce the succession within the period referred to in Article 915, paragraph (1);
- (iii) the heir, even after asserting a qualified acceptance or renouncing the succession, conceals the whole or part of the estate, personally expends the whole or part thereof, or knowingly fails to enter the whole or part thereof in the inventory of the estate; provided, however, that this does not apply if the original heir does so after the acceptance of the succession by a person who becomes an heir due to the original heir's renunciation of the succession.

Subsection 2 Qualified Acceptance

(Qualified Acceptance)

Article 922 An heir may accept a succession with the qualification that the debts and legacies of the decedent are to be paid and delivered only up to the limit of the assets acquired by succession.

(Qualified Acceptance by Coheirs)

Article 923 If there are multiple heirs, qualified acceptance is only permissible if all of the coheirs assert their qualified acceptance jointly.

(Formalities for Qualified Acceptance)

Article 924 If an heir seeks to assert a qualified acceptance, the heir must prepare an inventory of the estate and submit this to the family court with a statement indicating the heir's qualified acceptance within the period referred to in Article 915, paragraph (1).

(Rights and Obligations upon Qualified Acceptance)

Article 925 If an heir asserts a qualified acceptance, any rights or obligations that the heir held towards the decedent are deemed not to have lapsed.

(Administration by an Heir Asserting a Qualified Acceptance)

Article 926 (1) An heir asserting a qualified acceptance must continue to administer the estate with the same care that the heir would exercise over the heir's own property.

(2) Article 645; Article 646; Article 650 paragraph (1) and paragraph (2); and Article 918, paragraph (2) and paragraph (3) apply mutatis mutandis to a case as referred to in the preceding paragraph.

(Issuing Public Notice and Notice to File to Creditors of the Succession and Legatees)

Article 927 (1) An heir asserting a qualified acceptance must issue public notice to all creditors of the succession (meaning creditors with claims that are a part of the estate; hereinafter the same applies) and legatees, within five days of asserting the qualified acceptance, indicating that the person is asserting a qualified acceptance and that the creditors and legatees must file their claims within a fixed period. This period, in such a case, may not be of less than two months.

(2) A supplementary note must be placed in the public notice under the preceding paragraph, indicating that creditors of the succession and legatees failing to file within the period fixed therein will be excluded from payment or delivery; provided, however, that an heir asserting a qualified acceptance may not exclude any known creditor of the succession or legatee.

(3) An heir asserting a qualified acceptance must issue an individual notice to file to each known creditor of the succession and legatee.

(4) The public notice referred to in paragraph (1) is issued by publication in the Official Gazette.

(Refusal of Payment or Delivery before Expiration of the Period under Public Notice)

Article 928 An heir asserting a qualified acceptance may refuse payment or delivery to a creditor of the succession or legatee before the expiration of the period referred to in paragraph (1) of the preceding Article.

(Payment or Delivery after Expiration of the Period under Public Notice)

Article 929 After the expiration of the period referred to in Article 927, paragraph (1), an heir asserting a qualified acceptance must pay the creditors of the succession that have made the filing referred to in that paragraph within

the period fixed therein, and any other known creditor of the succession, out of the assets of the estate, in proportion to the amount of each of those creditor's claims; provided, however, that this may not prejudice the rights of any creditor with a right of priority.

(Payment of Debts Not Yet Due)

Article 930 (1) An heir asserting a qualified acceptance must make payment even of a claim which is not yet due, in accordance with the provisions of the preceding Article.

(2) Conditional claims and claims of indefinite duration must be paid based on the valuation of the appraiser appointed by the family court.

(Delivery to Legatees)

Article 931 An heir asserting a qualified acceptance may not make delivery to a legatee until after all creditors of the succession have been paid in accordance with the provisions of the preceding two Articles.

(Realization of the Estate for Payment of Claims)

Article 932 If it is necessary to sell off the estate in order to make payment or delivery in accordance with the provisions of the preceding three Articles, an heir asserting a qualified acceptance must put the estate up for auction; provided, however, that the heir may prevent such an auction by paying the value of all or part the estate in accordance with the valuation of the appraiser appointed by the family court.

(Participation of Creditors of the Succession and Legatees in the Realization Process)

Article 933 A creditor of the succession or legatee, at the creditor's or legatee's own expense, may participate in the auction or appraisal of the estate. The provisions of Article 260, paragraph (2) apply mutatis mutandis in such a case.

(Liability of an Heir Asserting a Qualified Acceptance Whose Payment or Delivery Is Unfair)

Article 934 (1) If an heir asserting a qualified acceptance fails to issue the public notice or notice to file referred to in Article 927, or if the heir's payment or delivery to a creditor of the succession or legatee within the period referred to in paragraph (1) of that Article causes the heir to become unable to make payment or delivery to another creditor of the succession or legatee, the heir is liable to compensate for damage arising from this. The same applies with regard to the liability of an heir asserting a qualified acceptance who violates any of the provisions of Article 929 through Article 931.

- (2) The provisions of the preceding paragraph do not preclude a claim for indemnification by a second creditor of the succession or legatee against a first creditor of the succession or legatee that has knowingly accepted unfair payment or delivery.
- (3) The provisions of Article 724 apply mutatis mutandis to a case as referred to in one of the preceding two paragraphs.

(Creditors of the Succession and Legatees Not Filing within the Period under Public Notice)

Article 935 A creditor of a succession or legatee that fails to make the filing referred to in Article 927, paragraph (1) within the period referred to in that paragraph and that was unknown to the heir asserting the qualified acceptance, may only exercise rights over the residuary estate; provided, however, that this does not apply to a person with a specific security interest in the estate.

(Administration of the Estate If There Are Multiple Heirs)

- Article 936 (1) If there are multiple heirs, the family court must appoint an administrator to the estate from among the heirs.
- (2) An administrator to an estate as referred to in the preceding paragraph undertakes all necessary acts to administer the estate and pay the debts thereof on behalf of the heirs.
 - (3) The provisions of Article 926 through Article 935 apply mutatis mutandis to an estate administrator as referred to in paragraph (1). In this case, the phrase "within five days of asserting the qualified acceptance" in Article 927, paragraph (1) is deemed to be replaced with "within ten days of the appointment of the administrator of the estate".

(Creditors of a Succession If There Is Cause for Statutory Unconditional Acceptance)

Article 937 If a cause set forth in Article 921, item (i) or item (iii) has occurred in respect of one or multiple coheirs who have asserted a qualified acceptance, a creditor of the succession may exercise rights over any amount of the claim not satisfied by the estate against that coheir or those coheirs, in proportion to each of the relevant heirs' shares in the estate.

Section 3 Renunciation of Succession

(Formalities for a Renunciation of Succession)

Article 938 A person seeking to renounce a succession must file a statement with the family court to that effect.

(Effect of a Renunciation of Succession)

Article 939 A person who has renounced a succession is deemed never to have been an heir as regards that succession.

(Administration by a Person Who Has Renounced a Succession)

Article 940 (1) A person renouncing a succession must continue to administer the estate with the same care that the person would exercise over the person's own property until a person who becomes an heir as a result of the renunciation begins to administer the estate.

(2) Article 645; Article 646; Article 650, paragraphs (1) and paragraph (2); and Article 918, paragraph (2) and paragraph (3) apply mutatis mutandis to a case as referred to in the preceding paragraph.

Chapter V Separation of Patrimony

(Separation of Patrimony at the Request of a Creditor of the Succession or Legatee)

Article 941 (1) A creditor of the succession or a legatee may file a request with the family court for the decedent's estate to be separated from the property of an heir, within three months of the time the succession opens. The same applies with respect to the filing of such a request even after that period has elapsed, if the decedent's estate has not been mixed with the heir's personal property.

(2) If the family court orders a separation of patrimony based on a request as referred to in the preceding paragraph, the person filing the request must issue public notice within five days indicating that an order for a separation of patrimony has been issued and that petitions for participation in the distribution must be filed within a specified period. This period, in such a case, may not be of less than two months.

(3) The public notice under the provisions of the preceding paragraph is issued by publication in the Official Gazette.

(Effect of a Separation of Patrimony)

Article 942 A person filing a request for a separation of patrimony and persons petitioning to participate in the distribution pursuant to the provisions of paragraph (2) of the preceding Article are paid out of the estate with priority over the creditors of the heir.

(Administration of the Estate after a Request for a Separation of Patrimony)

Article 943 (1) If a request has been filed for a separation of patrimony, the

family court may order any necessary measures for the administration of the estate.

- (2) The provisions of Article 27 through Article 29 apply mutatis mutandis if the family court appoints an administrator to the estate pursuant to the provisions of the preceding paragraph.

(Administration by Heir after a Request for a Separation of Patrimony)

Article 944 (1) Even after an heir unconditionally accepts the succession, the heir must administer the estate with the same care that the heir would exercise over the heir's own property if a request for a separation of patrimony is filed; provided, however, that this does not apply if the family court appoints an administrator to the estate.

- (2) The provisions of Article 645 through Article 647 and Article 650, paragraph (1) and (2) apply mutatis mutandis to a case as referred to in the preceding paragraph.

(Requirement for the Perfection of a Separation of Patrimony Involving Real Property)

Article 945 A separation of patrimony involving real property may not be asserted against a third party unless the separation is registered.

(Mutatis Mutandis Application of Provisions on the Extension of a Security Interest to the Proceeds of Collateral)

Article 946 The provisions of Article 304 apply mutatis mutandis in the case of a separation of patrimony.

(Making Payment and Delivery to Creditors of the Succession and Legatees)

Article 947 (1) An heir may refuse to make payment or delivery to a creditor of the succession or legatee before the expiration of the period referred to in Article 941, paragraph (1) or paragraph (2).

- (2) If a request has been filed for a separation of patrimony, after the expiration of the period referred to in Article 941, paragraph (2), the heir must make payment or delivery to the creditors of the succession and legatees that have requested the separation of patrimony or petitioned to participate in the distribution, out of the assets of the estate, in proportion to the amount of each of their claims; provided, however, that this may not prejudice the rights of any creditor with a right of priority.

- (3) The provisions of Article 930 through Article 934 apply mutatis mutandis to a case as referred to in the preceding paragraph.

(Payment or Delivery from the Heir's Own Assets)

Article 948 A person requesting a separation of patrimony or a person petitioning to participate in a distribution may exercise rights against the heir's own property only if it was not possible for the person to receive full payment or delivery from out of the estate. Such a person may receive payment or delivery with priority over the creditors of the heir, in such a case.

(Prevention of the Filing of Requests for a Separation of Patrimony)

Article 949 An heir may use the heir's own property to make payment or delivery to the creditors of the succession and legatees or to provide reasonable security thereto, thereby preventing the filing of a request for the separation of patrimony or causing its effect to be extinguished; provided, however, that this does not apply if a creditor of the heir files an objection and demonstrates that this would cause harm to that creditor.

(Separation of Patrimony at the Request of the Creditor of an Heir)

Article 950 (1) While an heir may yet assert a qualified acceptance, or while the estate has not yet been mixed with the heir's own property, a creditor of the heir may file a request with the family court for a separation of patrimony.
(2) The provisions of Article 304; Article 925; Article 927 through Article 934; Article 943 through Article 945; and Article 948 apply mutatis mutandis to a case as referred to in the preceding paragraph; provided, however, that the public notice and notice to file referred to in Article 927 must be issued by the creditor requesting the separation of patrimony.

Chapter VI Nonexistence of Heirs

(Formation of an Estate Corporation)

Article 951 If it is not evident whether there is an heir, the decedent's estate is a corporation.

(Appointment of an Administrator of the Estate)

Article 952 (1) In a case as referred to in the preceding Article, the family court must appoint an administrator to the estate at the request of an interested party or the public prosecutor.
(2) Once the administrator of an estate is appointed pursuant to the provisions of the preceding paragraph, the family court must issue public notice of this without delay.

(Mutatis Mutandis Application of Provisions on the Administrator of an Absentee's Property)

Article 953 The provisions of Article 27 through Article 29 apply mutatis

mutandis to the administrator of an estate as referred to in paragraph (1) of the preceding Article (referred to simply as the "Administrator of the Estate" hereinafter in this Chapter).

(Reporting by the Administrator of the Estate)

Article 954 At the request of a creditor of the succession or a legatee, the Administrator of the Estate must report the condition of the estate to the person who has so requested.

(Non-formation of an Estate Corporation)

Article 955 If it becomes evident that there is an heir, the corporation referred to in Article 951 is deemed not to have been formed; provided, however, that this does not prevent the validity of an action taken by the Administrator of the Estate that is within the scope of the authority thereof.

(Extinguishment of the Administrator of the Estate's Authority to Represent)

Article 956 (1) The Administrator of the Estate's authority to represent is extinguished once an heir accepts the succession.
(2) In a case as referred to in the preceding paragraph, the Administrator of the Estate must give an account of the Administrator's administration to the heir without delay.

(Making Payment or Delivery to the Creditors of the Succession and Legatees)

Article 957 (1) If whether there is an heir does not become evident within two months of the public notice referred to in Article 952, paragraph (2), the administrator of the estate must issue public notice to all creditors of the succession and legatees, without delay, indicating that they must file their claims within a fixed period. This period, in such a case, may not be of less than two months.
(2) The provisions of Article 927, paragraph (2) through (4) and Article 928 through Article 935 (excluding the proviso to Article 932) apply mutatis mutandis to a case as referred to in the preceding paragraph.

(Public Notice of the Search for an Heir)

Article 958 If, after the expiration of the period referred to in paragraph (1) of the preceding Article, it is still not evident whether there is an heir, the family court, at the request of the administrator of the estate or the public prosecutor, must issue a public notice indicating that if there is an heir, that heir must assert the rights thereof within a fixed period. This period, in such a case, may not be of less than six months.

(If No Person Asserts Rights as an Heir)

Article 958-2 If no person asserts rights as an heir within the period referred to in the preceding Article, it is not permissible for an heir or for any creditor of the succession or legatee unknown to the administrator of the estate, to exercise the rights thereof.

(Distribution of the Estate to a Person with a Special Connection to the Decedent)

Article 958-3 (1) In a case as referred to in the preceding Article, if the family court finds it to be reasonable and at the request of a person who shared living expenses with the decedent, who contributed to the medical treatment or care of the decedent, or who otherwise had a special connection with the decedent, the court may grant that person the residuum of the estate after liquidation, in whole or in part.

(2) The request referred to in the preceding paragraph must be filed within three months of the expiration of the period referred to in Article 958.

(Escheat of the Residuary Estate to the National Treasury)

Article 959 An estate not disposed of pursuant to the provisions of the preceding Article escheats to the national treasury. The provisions of Article 956, paragraph (2) apply mutatis mutandis in such a case.

Chapter VII Wills

Section 1 General Provisions

(Formalities of Wills)

Article 960 A person's will may be made only in accordance with the formalities prescribed by this Code.

(Testamentary Capacity)

Article 961 Any person who has attained 15 years of age may make a will.

Article 962 The provisions of Article 5, Article 9, Article 13, and Article 17 do not apply to wills.

Article 963 At the time of making a will, the testator must have the capacity to do so.

(Universal Legacy; Particular Legacy)

Article 964 A testator may make a disposition of all or part of the testator's property, under a universal or particular title; provided, however, that this

may not violate provisions regarding the statutory reserved share.

(Mutatis Mutandis Application of Provisions on Heirs)

Article 965 The provisions of Article 886 and Article 891 apply mutatis mutandis to legatees.

(Restrictions on the Will of a Person under Guardianship)

Article 966 (1) A will is void if a person under guardianship makes it to the benefit of the guardian or the guardian's spouse or lineal relative before the guardian has finished accounting for the guardianship.

(2) The provisions of the preceding paragraph do not apply if the guardian is a lineal relative, spouse, or sibling of the ward.

Section 2 Formalities of Wills

Subsection 1 Standard Formalities

(Types of Wills Made Using Standard Formalities)

Article 967 A will must be made in the form of a holographic instrument, notarial instrument, or sealed and notarized instrument; provided, however, that this does not apply if it is permissible to use a special formality.

(Holographic Wills)

Article 968 (1) To make a will in the form of a holographic instrument, the testator must write the entire text, the date, and the testator's full name in the testator's own hand, and affix the testator's seal thereto.

(2) An insertion, deletion, or any other alteration to a holographic instrument is not valid unless the testator specifically signs a supplementary note disclosing the location of the alteration and indicating that it has been made, and also affixes the testator's seal to the place that has been altered.

(Notarial Will)

Article 969 For a will to be made in the form of a notarial instrument, it must be prepared according to the following formalities:

- (i) at least two witnesses are present;
- (ii) the testator gives oral instructions to a notary as to the tenor of the will;
- (iii) the notary transcribes what the testator dictates and reads back the transcription for the testator and witnesses to hear or has them inspect it;
- (iv) the testator and witnesses sign and affix their seals to the transcription after confirming its accuracy; provided, however, that if the testator is unable to sign, the notary may sign on behalf of the testator, making a supplementary note of the reason for this; and

- (v) the notary makes a supplementary note indicating that the instrument has been prepared according to the formalities set forth in the preceding items, and signs and affixes the notary's seal thereto.

(Special Provisions on the Formalities of a Notarial Will)

- Article 969-2 (1) In order for a testator who cannot speak to make a will in the form of a notarial instrument, the testator must give a statement as to the tenor of the will through an interpreter, or in the testator's own hand, in lieu of the oral instructions referred to in item (ii) of the preceding Article. In applying the provisions of item (iii) of that Article in such a case, the phrase "what the testator dictates" in item (iii) is deemed to be replaced with "the statement given through the interpreter or in the testator's own hand".
- (2) If a testator or a witness as referred to in the preceding Article is deaf, the notary may convey the transcription referred to in the provisions of item (iii) of that Article to the testator or witness through an interpreter in lieu of reading it back as referred to in the same item.
 - (3) If a notarial instrument is prepared according to the formalities prescribed in the preceding two paragraphs, the notary must make a supplementary note on the instrument to that effect.

(Sealed and Notarized Wills)

- Article 970 (1) For a will to be made in the form of a sealed and notarized instrument, it must be prepared according to the following formalities:
- (i) the testator signs and affixes the testator's seal to the instrument;
 - (ii) the testator closes and seals the instrument and affixes a seal over the closure using the same seal as that which was used on the instrument;
 - (iii) the testator presents the closed and sealed instrument before one notary and at least two witnesses, indicating it to be the testator's own will and stating the full name and address of the person who wrote it;
 - (iv) after the notary writes the date on which the instrument was presented and the statement of the testator upon the closed and sealed instrument, the notary, together with the testator and the witnesses, sign it and affix their seals thereto.
- (2) The provisions of Article 968, paragraph (2) apply mutatis mutandis to a will in the form of a sealed and notarized instrument.

(Validity of a Sealed and Notarized Will with a Formal Deficiency)

- Article 971 Even if a will that is in the form of a sealed and notarized instrument is deficient in terms of a formality prescribed in the preceding Article, it is valid as a will made in the form of a holographic instrument if prepared according to the formalities provided for in Article 968.

(Special Provisions on the Formalities of a Sealed and Notarized Will)

Article 972 (1) In order for a testator who cannot speak to make a will in the form of a sealed and notarized instrument, the testator must indicate that the instrument is the testator's own will and state the full name and address of the person that wrote it through an interpreter or write the same on the closed and sealed instrument in the testator's own hand before the notary and witnesses, in lieu of the making the statement referred to in Article 970, paragraph (1), item (iii).

(2) In a case as referred to in the preceding paragraph, if the testator offers a statement through an interpreter, the notary must write an indication of this on the closed and sealed instrument.

(3) In a case as referred to in paragraph (1), if the testator writes on the closed and sealed instrument in the testator's own hand, the notary must write an indication of this on the closed and sealed instrument in lieu of writing the statement as prescribed in Article 970, paragraph (1), item (iv).

(Will of an Adult Ward)

Article 973 (1) At least two doctors must be present in order for an adult ward to make a will at a time that the ward's capacity to appreciate the situation at hand has recovered temporarily.

(2) The doctors present during the making of a will must make a supplemental note on the will indicating that the testator did not lack the capacity to appreciate the situation at hand at the time of making the will, and must sign it and affix their seals thereto; provided, however, that for a will in the form of a sealed and notarized instrument, the doctors must write an indication to that effect on the closed and sealed instrument, sign it, and affix their seals thereto.

(Grounds for Ineligibility as a Witness or Person Present)

Article 974 None of the following persons may be a witness or person present to observe a will:

- (i) a minor;
- (ii) a presumptive heir or legatee, or the spouse or lineal relative of either; or
- (iii) the spouse, relative within four degrees, secretary, or employee of the notary.

(Prohibition of Joint Wills)

Article 975 A will may not be made by two or more persons on the same instrument.

Subsection 2 Special Formalities

(Will Made by Person Rapidly Approaching Death)

Article 976 (1) If a person who is rapidly approaching death due to illness or any other reason seeks to make a will, that person may do so in the presence of not less than three witnesses by giving oral instructions as to the tenor of the person's will to one of the witnesses. The person receiving the oral instructions in such a case must transcribe them and read back the transcription for the testator and other witnesses to hear or have them inspect it, and then sign the transcription and affix the person's own seal thereto after each of the witnesses has confirmed its accuracy.

(2) In order for a testator who cannot speak to make a will pursuant to the provisions of the preceding paragraph, the testator must state the tenor of the will through an interpreter before the witnesses in lieu of the oral instructions referred to in that paragraph.

(3) If the testator or one of the other witnesses as referred to in the latter clause of paragraph (1) is deaf, the person receiving the oral instructions or statement as to the tenor of the person's will may convey the details of the transcription prescribed in that clause to the testator or other witness through an interpreter in lieu of reading it back for the person to hear as referred to in that clause.

(4) A will made pursuant to the provisions of the preceding three paragraphs is not valid unless declared so by the family court, as requested by one of the witnesses or an interested party within twenty days of the creation of the will.

(5) The family court may not issue a declaratory judgment that a will as referred to in the preceding paragraph captures the true intention of the testator unless it has the abiding conviction that such is the case.

(Will of a Person under Quarantine)

Article 977 A person that, due to a communicable disease, is in a place that has been isolated pursuant to an administrative disposition may make a will in the presence of one police official and at least one witness.

(Will of a Person Aboard a Vessel)

Article 978 A person aboard a ship may make a will in the presence of the ship's captain or crew member, and at least two witnesses.

(Will of a Person Aboard a Ship in Distress)

Article 979 (1) If a ship is in distress, a person rapidly approaching death aboard that ship may make a will orally in the presence of at least two witnesses.

(2) In order for a testator who cannot speak to make a will pursuant to the provisions of the preceding paragraph, the testator must do so through an

interpreter.

(3) A will made according to the provisions of the preceding two paragraphs is not valid unless a witness transcribes the tenor thereof and signs and affixes the witness' seal to the transcription, and is also not valid without being declared so by the family court, as requested without delay by one of the witnesses or an interested party.

(4) The provisions of Article 976, paragraph (5) apply mutatis mutandis to a case as referred to in the preceding paragraph.

(Signatures and Seals of Persons Connected with the Making of a Will)

Article 980 In a case as referred to in Article 977 or Article 978, the testator, person who transcribed the will, persons present, and witnesses must sign and affix their seals to the will.

(If It Is Not Possible to Sign or Affix a Seal)

Article 981 In a case as referred to in one of Article 977 through Article 979, if there is a person who is unable to sign or affix a seal, a person present or a witness must make a supplementary note of the reason for this.

(Mutatis Mutandis Application of Provisions on Wills Made Using Standard Formalities)

Article 982 The provisions of Article 968, paragraph (2) and Article 973 through Article 975 apply mutatis mutandis to a will under the provisions of Article 976 through Article 981.

(Validity of Wills Made Using Special Formalities)

Article 983 A will made pursuant to the provisions of Article 976 through Article 982 is not valid if the testator survives for a period of six months from the time the testator recovers the ability to make a will using standard formalities.

(Formalities for Wills by Japanese Nationals in a Foreign Country)

Article 984 If a Japanese national who is in a country where there is a Japanese consulate seeks to make a will in the form of a notarial instrument or sealed and notarized instrument, the duties of the notary are undertaken by the consulate.

Section 3 Effect of a Will

(When the Effect of a Will Arises)

Article 985 (1) A will takes effect at the time of the testator's death.

(2) If a will contains a condition precedent and the condition is fulfilled after the

death of the testator, the will takes effect from the time that condition is fulfilled.

(Renunciation of a Legacy)

Article 986 (1) A legatee may renounce a legacy at any time after the death of the testator.

(2) The renunciation of a legacy is valid retroactive to the time of the testator's death.

(Issuing Notice to Legatees to Accept or Renounce Their Legacies)

Article 987 The person charged with a legacy (meaning a person who bears a duty to discharge a legacy; hereinafter the same applies in this Section) or any other interested party may issue notice to a legatee that the legatee must accept or renounce the legacy within a reasonable, specified period of time. In such a case, if the legatee does not manifest an intention to the person charged with the legacy within that period, the legacy is deemed to have been accepted.

(Acceptance or Renunciation of a Legacy by the Legatee's Heir)

Article 988 If a legatee dies without accepting or renouncing a legacy, the legatee's heir may accept or renounce the legacy within the scope of the heir's own right of inheritance; provided, however, that if the testator manifests different intention by will, that intention prevails.

(Revocation and Rescission; Acceptance or Renunciation of a Legacy)

Article 989 (1) The acceptance or renunciation of a legacy may not be revoked.

(2) The provisions of Article 919, paragraphs (2) and (3) apply mutatis mutandis to the acceptance and renunciation of a legacy.

(Rights and Duties of a Universal Legatee)

Article 990 A universal legatee has the same rights and duties as an heir.

(Request for Security by a Legatee)

Article 991 Before a legacy becomes due, the legatee may request reasonable security from the person charged with the legacy. The same applies with respect to a legacy that is subject to a condition precedent while the fulfillment of that condition is pending.

(Acquisition of the Fruits of a Legacy)

Article 992 A legatee acquires the fruits of the legacy beginning from when the legatee may request that the legacy be paid; provided, however, that if the testator manifests different intention by will, that intention prevails.

(Claim for Reimbursement of Expenses by the Person Charged with the Legacy)

Article 993 (1) The provisions of Article 299 apply mutatis mutandis if the person charged with a legacy incurs expenses in respect of the object of the legacy after the death of the testator.

(2) It is permissible to claim reimbursement for any normal and necessary expenses incurred in collecting the fruits of a legacy, up to the limit of the value of those fruits.

(Lapse of Legacy Due to the Death of the Legatee)

Article 994 (1) A legacy does not become effective if the legatee predeceases the testator.

(2) The preceding paragraph also applies in respect of a legacy that is subject to a condition precedent, if the legatee dies before the fulfillment of the condition; provided, however, that if the testator manifests different intention by will, that intention prevails.

(Devolution of Property If a Legacy Is Invalidated or Lapses)

Article 995 If the effect of a legacy does not arise, or if its effect is lost due to renunciation, that which the legatee would have received devolves to the heirs; provided, however, that if the testator manifests a different intention by will, that intention prevails.

(Legacy of Rights Not Belonging to the Estate)

Article 996 A legacy does not take effect unless the rights that are the object of that legacy belong to the estate at the time of the testator's death; provided, however, that, regardless of whether such rights are part of the estate, the foregoing does not apply if it is found that the testator made those rights the object of the legacy.

Article 997 (1) If a legacy having as its object rights not belonging to the estate takes effect pursuant to the proviso to the preceding Article, the person charged with the legacy bears a duty to obtain those rights and transfer them to the legatee.

(2) In a case as referred to in the preceding paragraph, if the rights prescribed in that paragraph cannot be obtained or if obtaining them would require excessive expenses, the person charged with the legacy must compensate the legatee for the value of those rights; provided, however, that if the testator manifests different intention by will, that intention prevails.

(Warranty of the Person Charged with a Legacy That Is Generic Thing)

Article 998 (1) If a legacy has as its object a generic thing and the legatee is required to return that thing to a third party, the person charged with the legacy is liable under warranty to the legatee in the same manner that a seller would be .

(2) If a legacy has as its object generic thing and that thing has a defect, the person charged with the legacy must exchange that thing for one that is without defect.

(Extension of a Security Interest to the Proceeds of a Legacy)

Article 999 (1) If the testator has the right to claim compensation from a third party because of the loss, alteration, or loss of possession of the object of a legacy, that right is presumed to have been made the object of the legacy.

(2) If accession or mixture has arisen in respect of the object of a legacy and another thing and the testator has become the sole owner or a co-owner of the thing formed by accession or mixture pursuant to the provisions of Articles 243 through 245, full ownership of that thing or the testator's share therein is presumed to have been made the object of the legacy.

(Legacy of Property Subject to the Rights of a Third Party)

Article 1000 If the thing or right that a legacy has as its object is subject to the rights of a third party at the time of the testator's death, the legatee may not demand that the person charged with the legacy extinguish the third party's rights; provided, however, that this does not apply if the testator manifests a contrary intention by will.

(Extension of a Security Interest to the Proceeds of a Legacy Constituting a Claim)

Article 1001 (1) In the event that a claim has been made the object of a legacy, if the testator has received payment or delivery in respect of that claim and a thing so received is among the estate, that thing is presumed to have been made the object of that legacy.

(2) If money is the object of a claim that has been made the object of a legacy, that money is presumed to have been made the object of the legacy even if funds equivalent to that claim are not among the estate.

(Conditioned Legacy)

Article 1002 (1) A person receiving a conditioned legacy is only liable for the performance of the obligations so borne up to the limit of the value of the object of the legacy.

(2) If a legatee renounces the legacy, the person who would have benefitted by

the burden may personally become a legatee; provided, however, that if the testator manifests different intention by will, that intention prevails.

(Exemption of the Legatee from a Conditioned Legacy)

Article 1003 If the value of the object of a conditioned legacy is reduced due to the qualified acceptance of a succession or through an action to recover the statutory reserved share, the legatee is exempted from a proportion of the obligations borne under that legacy, in line with the proportion of the reduction; provided, however, that if the testator manifests different intention by will, that intention prevails.

Section 4 Execution of Will

(Probating of Will)

- Article 1004 (1) Without delay after learning of the opening of the succession, the custodian of will must submit the will to the family court and file a request for probate. The same applies after an heir discovers the will, if no one is its custodian.
- (2) The provisions of the preceding paragraph do not apply to a will in the form of a notarial instrument.
- (3) A will that has been closed and sealed may not be opened except in the family court and in the presence of the heirs or their representatives.

(Civil Fines)

Article 1005 A person failing to submit a will pursuant to the provisions of the preceding Article, executing a will without it passing through probate, or opening a closed and sealed will in a place other than the family court is subject to a civil fine of not more than 50,000 yen.

(Designation of the Executor)

- Article 1006 (1) A testator may designate one or several executors, or entrust that designation to a third party, by will.
- (2) A person entrusted with the designation of an executor must make that designation and notify the heirs thereof without delay.
- (3) A person entrusted with the designation of an executor and seeking to decline to do so must notify the heirs that effect without delay.

(Commencement of Duties of Executor)

Article 1007 Upon consenting to act as executor, the executor must immediately undertake the duties of that role.

(Demanding the Executor to Act as Such)

Article 1008 An heir or other interested party may demand the executor to answer definitively as to whether the executor consents to act as such within a reasonable period of time specified by the heir or interested party. In such a case, if the executor does not answer the heir definitively within that period, the executor is deemed to consent to act as such.

(Grounds for Ineligibility as Executor)

Article 1009 A minor or a bankrupt may not become an executor.

(Appointment of Executor)

Article 1010 If there is no executor or there comes to no longer be an executor, the family court may appoint an executor at the request of an interested party.

(Preparation of an Inventory of Estate)

Article 1011 (1) The executor must prepare an inventory of the estate and deliver this to the heirs without delay.

(2) If an heir so requests, the executor must prepare the inventory of the estate in the heir's presence or have a notary prepare it.

(Rights and Duties of Executor)

Article 1012 (1) The executor has the right and the duty to administer the estate and to perform all other actions necessary to the execution of the will.

(2) The provisions of Articles 644 through 647 and 650 apply mutatis mutandis to the executor.

(Prohibition of Interference with the Execution of Will)

Article 1013 If there is an executor, it is not permissible for an heir to dispose of the estate or to take any other action that interferes with the execution of the will.

(Execution of the Testator's Will Concerning Specific Property)

Article 1014 If a testator's will concerns specific property from among the estate, the provisions of Articles 1011 through 1013 apply only with respect to that specific property.

(Status of Executor)

Article 1015 The executor is deemed to be the representative of the heirs.

(Executor's Right to Appoint a Subagent)

Article 1016 (1) An executor may only have a third party undertake the duties of

executor if there is a legitimate reason for doing so; provided, however, that this does not apply if the testator manifests a contrary intention by will.

- (2) If an executor has a third party undertake the duties of executor pursuant to the provisions of the proviso to the preceding paragraph, the executor owes the duty prescribed in Article 105 to the heirs.

(Execution of Duties If There Are Multiple Executors)

Article 1017 (1) If there are multiple executors, the way in which they execute their duties is decided by majority; provided, however, that if the testator manifests different intention by will, that intention prevails.

- (2) Notwithstanding the provisions of the preceding paragraph, any individual executor may undertake an act of preservation.

(Remuneration of Executor)

Article 1018 (1) The family court may set the remuneration of an executor based on the condition of the estate and other circumstances; provided, however, that this does not apply if the testator specifies the remuneration in the will.

- (2) The provisions of Article 648, paragraphs (2) and (3) apply mutatis mutandis when an executor receives remuneration.

(Dismissal and Resignation of Executor)

Article 1019 (1) An interested party may file a request with the family court to dismiss the executor if that executor fails to do the duties thereof or if there is any other legitimate reason for dismissal.

- (2) If there is a legitimate reason, an executor may resign from duties as executor with the permission of the family court.

(Mutatis Mutandis Application of Mandate Provisions)

Article 1020 The provisions of Articles 654 and 655 apply mutatis mutandis when duties of an executor come to an end.

(Burden of Expenses for the Execution of a Will)

Article 1021 Expenses for the execution of a will are borne by the estate; provided, however, that the statutory reserved shares may not be reduced by this.

Section 5 Revocation and Rescission of Wills

(Revocation of a Will)

Article 1022 A testator may at any time revoke a will in whole or in part, using the formalities for the making of a will to do so.

(Conflicting Previous and Later Wills)

Article 1023 (1) If a previous will conflicts with a later will, the testator is deemed to have revoked the conflicting part of the previous will by making the later will.

(2) The provisions of the preceding paragraph apply mutatis mutandis if a will conflicts with a disposition inter vivos, or any other such juridical act, that is undertaken after the will is made.

(Destruction of the Will or of the Thing Constituting the Object of the Legacy)

Article 1024 If a testator intentionally destroys a will, the testator is deemed to have revoked the part of the will that has been destroyed. The same applies if the testator intentionally destroys a thing constituting the object of a legacy.

(Validity of a Will That Has Been Revoked)

Article 1025 A will revoked pursuant to the provisions of Articles 1022 through 1024 does not recover validity even if the act of revocation is revoked, rescinded, or invalidated; provided, however, that this does not apply if the act of revocation was the result of fraud or duress.

(Prohibition on Waiver of the Right to Revoke One's Will)

Article 1026 A testator may not waive the right to revoke a will.

(Rescission of the Testator's Will as Regards a Conditioned Legacy)

Article 1027 If a person receiving a conditioned legacy is not performing the duty imposed thereby, an heir may demand that the person perform that duty within a reasonable period of time. In such a case, if the person does not perform the duty within that period of time, the heir may file a request with the family court to rescind the testator's will as regards the conditioned legacy.

Chapter VIII Statutory Reserved Share

(Devolution of the Statutory Reserved Share and the Proportion Thereof)

Article 1028 Heirs other than the siblings of the decedent, in accordance with the categories set forth in the following items, receive a proportion corresponding to the fraction prescribed in the relevant item as a statutory reserved share:

- (i) if only lineal ascendants are heirs: one-third of the decedent's estate;
- (ii) in any case other than that set forth in the preceding item: one-half of the decedent's estate.

(Calculation of the Statutory Reserved Share)

Article 1029 (1) The statutory reserved share is calculated based on the value of any gifts made by the decedent plus the value of the property held by the decedent at the time the succession opens minus all debts.

(2) The values of conditional claims and claims of indefinite duration are determined based on the valuation of the appraiser appointed by the family court.

Article 1030 Only gifts made within the one year period before the opening of the succession are included in the calculation pursuant to the provisions of the preceding Article. A gift made more than one year before that day is also included in the calculation if it was made with both parties' knowledge that it would harm persons entitled to a statutory reserved share.

(Requesting to Reduce Legacies and Gifts)

Article 1031 A person entitled to a statutory reserved share or the successor thereof may file a request to reduce legacies and any gift prescribed in the preceding Article to the extent that this is necessary for the protection of the statutory reserved share.

(Partial Reduction of Gifts and Legacies of Conditional Claims)

Article 1032 If a gift or legacy has as its object a conditional claim or a claim of indefinite duration and is to be partially reduced, the person entitled to the statutory reserved share must immediately deliver the remaining value of the claim to the donee or legatee, based on the value determined pursuant to the provisions of Article 1029, paragraph (2).

(Order of Reduction; Gifts and Legacies)

Article 1033 Gifts may not be reduced until after the reduction of legacies.

(Proportional Reduction of Legacies)

Article 1034 Legacies are reduced proportionally, based on the ratio of their values of the object of the legacies; provided, however, that if the testator manifests a different intention by will, that intention prevails.

(Order of Reduction; Gifts)

Article 1035 Gifts are reduced in order from later gifts to earlier gifts.

(Donee's Return of the Fruits)

Article 1036 In addition to property that must be returned, the donee must return any fruits of that property obtained after the day on which the request

for the reduction is filed.

(Bearing of Losses Due to Insolvency of Donee)

Article 1037 Losses arising from the insolvency of a donee who is subject to a reduction are borne by the persons entitled to the statutory reserved share.

(Requesting the Reduction of Conditioned Donations)

Article 1038 A request may be filed to reduce conditioned donations, comprising the value of the object of that gift less the value of the burden.

(Acts for a Valuable, but Inadequate, Consideration)

Article 1039 Any act for a valuable consideration that is done in exchange for inadequate consideration is deemed to be a gift if the act is done with both parties' knowledge that it will harm persons entitled to the statutory reserved share. If a person entitled to the statutory reserved share requests a reduction in such a case, that person must reimburse the donee for the consideration given.

(Object of a Gift Assigned by the Donee)

Article 1040 (1) If the donee of a gift that is to be reduced has assigned the object of the gift to another person, the donee must compensate persons entitled to the statutory reserved share for the value of the reduction; provided, however, that if the assignee knew at the time of the assignment that this would harm persons entitled to the statutory reserved share, a person entitled to the statutory reserved share may file a request for a reduction against the assignee.

(2) The provisions of the preceding paragraph apply *mutatis mutandis* if the donee establishes rights to the object of the gift.

(Payment of Value-Based Compensation to Persons Entitled to the Statutory Reserved Share)

Article 1041 (1) A donee or legatee may avoid the duty to return the gift or legacy by compensating the persons entitled to the statutory reserved share for the value of the object of that gift or legacy, to the extent subject to reduction.

(2) The provisions of the preceding paragraph apply *mutatis mutandis* to a case as referred to in the proviso to paragraph (1) of the preceding Article.

(Limitation on the Period for Requesting a Reduction)

Article 1042 If a person entitled to a statutory reserved share does not exercise the right to request a reduction within one year from the time the person learns of the opening of succession and the existence of a gift or legacy which

may be reduced, that right is extinguished by prescription. The same applies when ten years have passed since the time the succession opened.

(Renunciation of a Statutory Reserved Share)

Article 1043 (1) The renunciation of a statutory reserved share that occurs before the opening of the succession only takes effect with the permission of the family court.

(2) The renunciation of a statutory reserved share by coheir has no effect upon the statutory reserved share of another coheir.

(Mutatis Mutandis Application of Provisions on per Stirpes Distribution And Sharing of the Estate)

Article 1044 The provisions of Article 887, paragraphs (2) and (3); Article 900, 901, 903, and 904 apply mutatis mutandis to the statutory reserved share.