

Civil Code (Part I, Part II, and Part III)

Act No. 89 of April 27, 1896

Part I General Provisions

Chapter I Common Provisions

(Fundamental Principles)

Article 1 Private rights must conform to the public welfare.

- (2) The exercise of rights and performance of duties must be done in good faith.
- (3) No abuse of rights is permitted.

(Standard for Construction)

Article 2 This Code must be construed in accordance with honoring the dignity of individuals and the essential equality of both sexes.

Chapter II Person

Section 1 Capacity to Hold Rights

Article 3 The enjoyment of private rights shall commence at birth.

- (2) Unless otherwise provided by applicable laws, regulations or treaties, foreign nationals shall enjoy private rights.

Section 2 Capacity to Act

(Age of Majority)

Article 4 The age of majority is reached when a person has reached the age of 20.

(Juristic Act of Minors)

Article 5 A minor must obtain the consent of his/her statutory agent to perform any juristic act; provided, however, that, this shall not apply to an act merely intended to acquire a right or to be relieved of a duty.

- (2) A juristic act in contravention of the provision of the preceding paragraph may be rescinded.
- (3) Notwithstanding the provision of paragraph (1), in cases the statutory agent permits the disposition of property by specifying the purpose thereof, a minor may freely dispose of the same to the extent of such purpose. The same shall apply in cases his/her statutory agent permits the disposition of the property without specifying any purpose.

(Permission for Minors to Carry on Business)

Article 6 A minor who is permitted to carry on one or more kinds of business shall have the same capacity to act as a person of the age of majority as far as such business is concerned.

- (2) In the case set forth in the preceding paragraph, if the minor may be unable to perform the relevant business for any reason, his/her statutory agent may revoke or limit permission in accordance with the provisions of Part IV (Relatives).

(Ruling for Commencement of Guardianship)

Article 7 With respect to any person who constantly lacks the capacity to discern right and wrong due to mental disability, the family court may order the commencement of guardianship at the request of the person in question, his/her spouse, any relative within the fourth degree of kinship, the guardian of a minor, the supervisor of the guardian of a minor, the curator, the supervisor of the curator, the assistant, the supervisor of the assistant, or a public prosecutor.

(Adult Ward and Guardian of Adult)

Article 8 A person who has become subject to the ruling of commencement of guardianship shall be an adult ward, and a guardian of an adult shall be appointed for him/her.

(Juristic Act of an Adult Ward under Guardianship)

Article 9 A juristic act performed by an adult ward may be rescinded; provided, however, that, this shall not apply to any act relating to daily life, such as the purchase of daily household items.

(Rescission of Ruling for Commencement of Guardianship)

Article 10 When the cause set forth in Article 7 ceases to exist, the family court must rescind the ruling of the commencement of guardianship at the request of the person in question, his/her spouse, any relative within the fourth degree of kinship, the guardian (hereinafter referring to the guardian of a minor and the guardian of an adult), the supervisor of the guardian (hereinafter referring to the supervisor of the guardian of a minor and the supervisor of the guardian of an adult), or a public prosecutor.

(Ruling of Commencement of Curatorship)

Article 11 With respect to any person who whose capacity is extremely insufficient to appreciate right or wrong due to any mental disability, the family court may order the commencement of curatorship upon a request by the person in question, his/her spouse, any relative within the fourth degree of kinship, the guardian, the supervisor of the guardian, the assistant, the supervisor of the assistant, or a public prosecutor; provided however, that, this shall not apply to any person in respect of whom a cause set forth in Article 7 exists.

(Person under Curatorship and his/her Curator)

Article 12 A person who has become subject to the ruling of commencement of curatorship shall be the person under curatorship, and a curator shall be appointed for him/her.

(Acts Requiring Consent of Curator)

Article 13 A person under curatorship must obtain the consent of his/her curator if he/she intends to perform any of the following acts; provided, however, that, this shall not apply to the acts provided for in the proviso of Article 9:

- (i) receive or use any principal;
- (ii) borrow any money or guarantee any obligation;
- (iii) perform any act with the purpose of obtaining or relinquishing any right regarding real estate or other valuable property;
- (iv) take any procedural action;
- (v) make a gift, make any settlement, or agree to arbitrate (referring to the agreement to arbitrate as provided in paragraph (1), Article 2 of the Arbitration Act (Act No. 138 of 2003));
- (vi) accept or renounce any inheritance, or partition any estate;

- (vii) refuse an offer of a gift, renounce any bequest, accept the offer of gift with burden, or accept any bequest with burden;
 - (viii) effect any new construction, renovation, expansion, or major repairs; or
 - (ix) make any lease agreement with a term which exceeds the period set forth in Article 602.
- (2) At the request of the person provided in the main clause of Article 11, or any curator or any supervisor of the curator, the family court may make a ruling that the person under curatorship must obtain the consent of his/her curator even in cases he/she intends to perform any act other than those set forth in each item of the preceding paragraph; provided, however, that this shall not apply to the acts provided for in the proviso to Article 9.
- (3) With respect to any act which requires the consent of the curator, if the curator does not give consent in cases where the interest of the person under curatorship is unlikely to be prejudiced, the family court may, at the request of the person under curatorship, give permission in lieu of the consent of the curator.
- (4) An act which requires the consent of the curator may be rescinded if it was performed without such consent or any permission in lieu thereof.

(Rescission of Ruling of Commencement of Curatorship)

Article 14 When the cause provided in the main clause of Article 11 ceases to exist, the family court must rescind the order of the commencement of curatorship at the request of the person in question, his/her spouse, any relative within the fourth degree of kinship, the guardian of a minor, the supervisor of the guardian of a minor, the curator, the supervisor of the curator, or a public prosecutor.

- (2) At the request of the person prescribed in the preceding paragraph, the family court may rescind, in whole or in part, the ruling under paragraph (2) of the preceding Article.

(Ruling of Commencement of Assistance)

Article 15 With respect to any person who has insufficient capacity to appreciate right or wrong due to any mental disability, the family court may rule the commencement of assistance upon a request by the person in question, his/her spouse, any relative within the fourth degree of kinship, the guardian, the supervisor of the guardian, the curator, the supervisor of the curator, or a public prosecutor; provided, however, that, this shall not apply to any person who has the cause set forth in Article 7 or the main clause of Article 11.

- (2) The ruling of commencement of assistance at the request of any person other than the person in question shall require the consent of the person in question.
- (3) The ruling of commencement of assistance must be made concurrent with the ruling under paragraph (1) of Article 17 or the ruling under paragraph (1) of Article 876-9.

(Person under Assistance and Assistant)

Article 16 A person who has become subject to the ruling of commencement of assistance shall be a person under assistance, and an assistant shall be appointed for him/her.

(Ruling Requiring Person to Obtain Consent of Assistant)

Article 17 At the request of the person provided in the main clause of paragraph (1) of Article 15, or any assistant or supervisor of the assistant, the family court may make the ruling that the person under assistance must obtain the consent of his/her assistant if he/she intends to perform any particular

juristic act; provided, however, that the act for which such consent must be obtained pursuant to such ruling shall be limited to the acts provided in paragraph (1) of Article 13.

- (2) The ruling set forth in the preceding paragraph at the request of any person other than the person in question shall require the consent of the person in question.
- (3) With respect to any act which requires the consent of the assistant, if the assistant does not give consent in cases where the interest of the person under assistance is unlikely to be prejudiced, the family court may, at the request of the person under assistance, give permission which is in lieu of the consent of the assistant.
- (4) An act which requires the consent of the assistant may be rescinded if it was performed without such consent or any permission in lieu thereof.

(Rescission of Ruling of Commencement of Assistance)

Article 18 When the cause provided in the main clause of paragraph (1) of Article 15 ceases to exist, the family court must rescind the ruling of commencement of assistance at the request of the person in question, his/her spouse, any relative within the fourth degree of kinship, the guardian of a minor, the supervisor of the guardian of a minor, the assistant, the supervisor of the assistant, or a public prosecutor.

- (2) At the request of the person prescribed in the preceding paragraph, the family court may rescind, in whole or in part, the ruling under paragraph (1) of the preceding Article.
- (3) In cases the ruling under paragraph (1) of the preceding Article and the order under paragraph (1) of Article 876-9 are to be rescinded in their entirety, the family court must rescind the ruling of commencement of assistance.

(Relationship between Rulings)

Article 19 In cases any ruling for commencement of guardianship is to be made, and the person in question is a person under curatorship or the person under assistance, the family court must rescind the ruling of commencement of curatorship or commencement of assistance pertaining to such person in question.

- (2) The provisions of the preceding paragraph shall apply *mutatis mutandis* in cases where the person in question, upon ruling of commencement of curatorship, is an adult ward or a person under assistance, or in cases where the person in question is, at the time of the ruling for commencement of assistance, an adult ward or a person under curatorship.

(Right of Demand by Person who is Counterparty to Person with Limited Capacity)

Article 20 The person who is the counterparty to a person with limited capacity (hereinafter referring to any minor, an adult ward, a person under curatorship, and a person under assistance who has become subject to the ruling under paragraph (1) of Article 17) may, after such person with limited capacity has become a person with capacity (hereinafter referring to a person free of any limitation on capacity to act), issue to such person a notice which demands, by establishing a certain period which is one month or more, that he/she should give a definite answer on whether or not such person will ratify such act which may be rescinded within such period. In such case, if such person fails to send any definite answer within such period, he/she is deemed to have ratified such act.

- (2) The second sentence of the preceding paragraph shall likewise apply in cases where, while such person with limited capacity has not yet become a person with capacity, the person who is the counterparty to the person with limited capacity issues to the statutory agent, curator, or assistant of

such person a notice prescribed in the preceding paragraph with respect to any act which is under the authority of any such officer, and the statutory agent, curator or assistant fails to issue any definite answer within the period referred to in such paragraph.

- (3) With respect to any act which requires any special formalities, if no notice to the effect that the perfection of such formalities has been completed is issued within the period set forth in the preceding two paragraphs, it is deemed that such act has been rescinded.
- (4) The person who is the counterparty to a person with limited capacity may issue a notice to any person under curatorship, or to any person under assistance who has been made subject to the ruling under paragraph (1) of Article 17 which demands that he/she should obtain the ratification of his/her curator or assistant, as the case may be, within the period set forth in paragraph (1) above. In such case, if the person under curatorship or person under assistance fails to issue, within the applicable period, a notice to the effect that such ratification has been obtained, it is deemed that such act has been rescinded.

(Fraudulent Means Committed by Person with Limited Capacity)

Article 21 If a person with limited capacity manipulates any fraudulent means to induce others to believe that he/she is a person with capacity, his/her act may not be rescinded.

Section 3 Domicile

(Domicile)

Article 22 The principal place wherein a person lives shall be his/her domicile.

(Residence)

Article 23 If the domicile of a person is unknown, his/her residence is deemed to be his/her domicile.

- (2) If a person does not have the domicile in Japan, his/her residence is deemed to be his/her domicile, whether he/she is a Japanese or a foreign national; provided, however, that, this shall not apply where the law of domicile controls in accordance with the applicable provision of laws which provide the governing law.

(Temporary Domicile)

Article 24 If any temporary domicile is selected for any act, such temporary domicile is deemed to be the domicile as far as such act is concerned.

Section 4 Management of Absentee Property and Adjudication of Disappearance

(Administration of Absentee Property)

Article 25 In cases any person who has left his/her domicile or residence (hereinafter referred to as "absentee") did not appoint an administrator of his/her property (hereinafter in this Section referred to simply as "administrator"), the family court may, at the request of any interested person or a public prosecutor, issue an order for necessary actions for the administration of such property. The same shall apply in cases the authority of the administrator ceases to exist during the absence of the absentee.

- (2) If, after the issuance of the order pursuant to the provision of the preceding paragraph, the absentee appoints an administrator, the family court must rescind the order at the request of his/her administrator, any interested person, or a public prosecutor.

(Replacement of Administrator)

Article 26 In cases an absentee appoints an administrator, and if it is not clear whether such absentee is dead or alive, the family court may replace such administrator with another at the request of any interested person or a public prosecutor.

(Duties of Administrator)

Article 27 An administrator who is appointed by the family court pursuant to the provision of the preceding two Articles must prepare a list of the property he/she is to administer. In such case, the expenses incurred shall be disbursed from the property of the absentee.

- (2) In cases it is not clear whether an absentee is dead or alive, if so requested by any interested person or a public prosecutor, the family court may also order the administrator appointed by the absentee to prepare the list set forth in the preceding paragraph.
- (3) In addition to provisions of the preceding two paragraphs, the family court may issue an order to the administrator to effect any action which the court may find to be necessary for the preservation of the property of the absentee.

(Authority of Administrator)

Article 28 If an administrator needs to perform any act beyond the authority set forth in Article 103, he/she may perform such act by obtaining the permission of the family court. The same shall likewise apply if the administrator needs to perform any act beyond the authority stipulated by the absentee in cases it is not clear whether the absentee is dead or alive.

(Provision of Security by and Remuneration for Administrator)

Article 29 The family court may require an administrator to provide reasonable security with respect to the administration and return of the property.

- (2) The family court may grant reasonable remuneration to the administrator from the property of the absentee with due regard to the relationship between the administrator and absentee and other circumstances.

(Adjudication of Disappearance)

Article 30 If it is not clear whether the absentee is dead or alive for 7 years, the family court may make the adjudication of disappearance at the request of any interested person.

- (2) The procedure of the preceding paragraph shall likewise apply with respect to any person who was engaged in any war zone, was aboard any vessel which later sank, or was otherwise exposed to any danger which could be the cause of death, if it is not clear whether such person is dead or alive for one year after the end of the war, after the sinking of the vessel, or after the termination of such other danger, as the case may be.

(Effect of Adjudication of Disappearance)

Article 31 Any person who has become the subject of the adjudication of disappearance pursuant to the provision of paragraph (1) of the preceding Article is deemed to have died upon elapse of the period set forth in such paragraph, and a person who is the subject of the adjudication of disappearance pursuant to the provision of paragraph (2) of the same Article is deemed to have died upon the termination of such danger.

(Rescission of Adjudication of Disappearance)

Article 32 If there is any proof that an absentee is alive, or that he/she died at a time differing from that provided in the preceding Article, the family court must, at the request of the absentee himself/herself or any interested person, rescind the adjudication of disappearance. In such case, the rescission shall not affect the validity of any act which was performed without knowledge after the adjudication of disappearance but before the rescission thereof.

(2) Any person who acquired any property by the adjudication of disappearance shall lose its/his/her right upon rescission thereof; provided, however, that such person shall have the obligation to return such property only to the extent he/she is actually enriched.

Section 5 Presumption of Simultaneous Death

Article 32-2 In cases more than one person dies, if it is not clear whether one of the deceased survived the other(s), it is presumed that they all died at the same time.

Chapter III Juridical Persons

Section 1 Establishment of Juridical Persons

(Establishment of Juridical Person)

Article 33 No juridical person can be formed unless it is formed pursuant to the applicable provisions of this Code or other laws.

(Establishment of Public Interest Corporation)

Article 34 Any association or foundation relating to any academic activities, art, charity, worship, religion, or other public interest which is not for profit may be established as a juridical person with the permission of the competent government agency.

(Restrictions on Use of Name)

Article 35 Any person who is neither an incorporated association nor an incorporated foundation shall not use in its name the words "incorporated association" or "incorporated foundation", or other words which is likely to be mistaken for those words.

(Foreign Juridical Person)

Article 36 With the exception of any state, any administrative division of any state, and any commercial corporation, no establishment of a foreign juridical person shall be approved; provided, however, that, this shall not apply to any foreign juridical person which is approved pursuant to the provisions of a law or treaty.

(2) A foreign juridical person which is approved pursuant to the provision of the preceding paragraph shall possess the same private rights as may be possessed by the juridical person of the same kind which can be formed in Japan; provided, however, that, this shall not apply to any right which may not be enjoyed by a foreign national, or a right for which special provision is made in a law or treaty.

(Articles of Incorporation)

Article 37 Any person who intends to form an incorporated association must prepare the Articles of incorporation and specify the following matters:

- (i) Purpose(s);
- (ii) Name;

- (iii) Location of the office;
- (iv) Provisions regarding the asset;
- (v) Provisions regarding the appointment and dismissal of directors; and
- (vi) Provisions regarding the acquisition and loss of membership status.

(Change of Articles of Incorporation)

Article 38 The articles of incorporation may be changed only if the consent of three-quarters or more of all members is obtained; provided, however, that, this shall not apply to the cases where it is otherwise provided in the articles of incorporation.

- (2) No change of the articles of incorporation shall take effect unless and until it is approved by the competent government agency.

(Act of Endowment)

Article 39 Any person who intends to form an incorporated foundation must provide for the matters set forth in items (i) to (v) inclusive of Article 37 in the act of endowment which is intended to form such foundation.

(Determination by Court of Name)

Article 40 When the person who intends to form an incorporated foundation dies without determining the name, location of the office, and the procedure of the appointment or dismissal of directors of such foundation, the court must, at the request of the interested person or a public prosecutor, determine such matters.

(Mutatis Mutandis Application of Provisions regarding Gifts and Bequests)

Article 41 The provisions relating to gifts shall apply mutatis mutandis to acts of endowment in the form of inter vivos dispositions to the extent this is not inconsistent with the nature thereof.

- (2) If an act of endowment is done by a will, the provisions relating to bequests shall apply mutatis mutandis to the extent it is not inconsistent with the nature thereof.

(Time of Vesting of Endowed Property)

Article 42 If an act of endowment was in the form of an inter vivos disposition, the endowed property shall vest in the juridical person at the time permission is given for the establishment of such juridical person.

- (2) If an act of endowment was done by a will, the endowed property shall vest in the applicable juridical person upon effectuation of such will.

(Capacity of Juridical Person)

Article 43 A juridical person shall have rights and assume duties to the extent of the purpose provided in the applicable articles of incorporation or act of endowment subject to the applicable provisions of the laws and regulations.

(Capacity of Juridical Person to Commit Tortious Acts)

Article 44 A juridical person shall be liable for damage caused to others by its directors or other agents during the course of the performance of their duties.

- (2) If any damages are inflicted to others due to any ultra vires act beyond the scope of the purpose(s) of the applicable juridical person, the member(s) and director(s) who consented to the resolution

pertaining to such act and the director(s) or other agent(s) who executed such resolution shall be jointly and severally liable for such damages.

(Registration of Establishment of Juridical Person)

Article 45 A juridical person must complete its registration within two weeks from the day of its establishment at the location of its principal office, and within three weeks at any location of its other office.

- (2) The establishment of a juridical person may not be asserted against a third party unless it is registered at the location of its principal office.
- (3) If, after the establishment of a juridical person, any new office is established, the registration at the location of such office must be filed within 3 weeks.

(Matters to be Registered upon Registration of Formation and Registration of Change)

Article 46 The following matters shall be registered upon registration of establishment of any juridical person:

- (i) Purpose(s);
 - (ii) Name;
 - (iii) Location of the office;
 - (iv) Date of the permission of the establishment;
 - (v) Term of existence, if such term is stipulated;
 - (vi) Total amount of assets;
 - (vii) Method of contribution, if such method is defined; and
 - (viii) Name and domicile of each director.
- (2) If there is any change in any matter listed in the respective items of the preceding paragraph, the registration of the change must be filed within two weeks at the location of its principal office, and within three weeks at any location of its other office. In each of the above cases, the change may not be asserted against a third party before its registration.
 - (3) If there is any ruling for the provisional disposition which suspends the execution of the duties of any director, or appoints any person who executes such duties in place of a director, or if there is any ruling to change or rescind such provisional disposition, the registration of such fact must be made at the location of the principal office or other office. The provision of the second sentence of the preceding paragraph shall apply mutatis mutandis to such case.

(Period for Registration)

Article 47 The period for the registration of any matter to be registered pursuant to the provision of paragraph (1) of Article 45 and the preceding Article which requires the permission of the government agency shall be calculated commencing from the day of the arrival of such permit.

(Registration of Relocation of Office)

Article 48 In cases a juridical person relocates its principal office, it must, within 2 weeks, register the fact of such relocation at the old location, and the matters listed in the respective items of paragraph (1) of Article 46 at the new location.

- (2) In cases a juridical person relocates any office other than its principal office, it must register the fact of such relocation at the old location within 3 weeks, and must register the matters listed in the

respective items of paragraph (1) of Article 46 at the new location within 4 weeks.

- (3) In cases any office is relocated to any location within the jurisdictional district of the same Registry, it shall be sufficient to register the fact of such relocation.

(Registration of Foreign Juridical Person)

Article 49 The provisions of paragraph (3) of Article 45, Article 46 and the preceding Article shall apply mutatis mutandis to the cases where any foreign juridical person establishes an office in Japan; provided, however, that, the period of registration for any matter which takes place in any foreign state shall be calculated commencing from the day of the arrival of the notice thereof.

- (2) When a foreign juridical person has established an office in Japan for the first time, a third party may deny the establishment of such juridical person until the registration has been completed at the location of such office.

(Domicile of Juridical Person)

Article 50 The domicile of a juridical person shall be at the location of its principal office.

(Inventory of Property and Directory of Members)

Article 51 A juridical person must prepare its inventory of property at the time of its establishment, and at any time between January and March of each year, and must keep it at its principal office at all times; provided, however, that, in cases a juridical person establishes any specific fiscal year, it must prepare the inventory of property at the time of its establishment and at the end of its respective fiscal year.

- (2) An incorporated association must keep its directory of members and make necessary changes whenever there is any change in the members.

Section 2 Management of Juridical Persons

(Director)

Article 52 A juridical person must have one or more director(s).

- (2) In cases there is more than one director, unless otherwise provided in the articles of incorporation or act of endowment, the business of the juridical person shall be determined by the majority of all directors.

(Representative of Juridical Person)

Article 53 The director(s) shall represent the juridical person with respect to any and all business of the juridical person; provided, however, that the director(s) may not act in contravention of the applicable provisions of the articles of incorporation or the purpose(s) of the act of endowment, and, in cases of an incorporated association, must comply with the applicable resolution of the general meeting.

(Limitation on Director's Authority of Representation)

Article 54 No limitation on a director's authority may be asserted against a third party without knowledge.

(Delegation of Director's Authority)

Article 55 A director may delegate his/her authority on a specific act to other person(s) only in cases such delegation is not prohibited by the applicable articles of incorporation, act of endowment, or resolution of the general meeting of the members.

(Provisional Director)

Article 56 In cases there is any vacancy in the office of directors, if any damage is likely to occur due to the delay in the business, the court must, at the request of any interested person or a public prosecutor, appoint a provisional director.

(Conflict of Interest)

Article 57 A director shall have no authority of representation as to any matter involving a conflict of interest between the juridical person and such director. In such case, the court must, at the request of any interested person or a public prosecutor, appoint a special agent.

(Auditor-Secretary)

Article 58 A juridical person may appoint one or more auditor-secretary(ies) under the authority of the articles of incorporation, act of endowment or the resolution of the general meeting of the members.

(Duties of Auditor-Secretary)

Article 59 The duties of an auditor-secretary shall be:

- (i) to audit the status of the property of the juridical person;
- (ii) to audit the status of the execution of the business by the director(s);
- (iii) to submit a report to the general meeting of the members or to the competent government agency when he/she finds any violation of the applicable laws and regulations, articles of incorporation or act of endowment, or any significant impropriety with respect to the status of the property or the execution of the business; and
- (iv) to convoke a general meeting of the members when it is necessary to submit the report set forth in the preceding item.

(Ordinary General Meeting)

Article 60 The director(s) of an incorporated association must convoke an ordinary general meeting of the members at least once a year.

(Extraordinary General Meeting)

Article 61 The director(s) of an incorporated association may convoke an extraordinary general meeting of the members whenever directors find it necessary.

- (2) The director(s) must convoke an extraordinary general meeting if one-fifth or more of all members so request by specifying the matter(s) which is/are the purpose(s) of the meeting; provided, however, that a ratio other than one-fifth may be stipulated by the articles of incorporation.

(Convocation of General Meeting)

Article 62 The notice of the convocation of the general meeting must be given at least five days prior to the scheduled day of the meeting in the manner provided in the articles of incorporation by specifying the matter(s) which is/are the purpose(s) of the meeting.

(Execution of Business of the Incorporated Association)

Article 63 The business of the incorporated association shall be carried out pursuant to the applicable resolution of the general meeting, except those delegated to the director(s) or other officer(s) by the articles of incorporation.

(Matters for Resolution of the General Meeting)

Article 64 The general meeting may adopt a resolution only with respect to any matter which is notified in advance pursuant to the provision of Article 62; provided, however, that, this shall not apply where the articles of incorporation provide otherwise.

(Voting Right of Members)

Article 65 The vote of each member shall be of equal value.

- (2) A member who is not present in the general meeting may vote in writing or by proxy.
- (3) The provisions of the preceding two paragraphs shall not apply if the articles of incorporation provide otherwise.

(No Right to Vote)

Article 66 In cases any resolution is to be made with respect to the relationship between the incorporated association and any particular member, such member shall have no vote.

(Supervision of Business of Juridical Person)

Article 67 The business of a juridical person shall be subject to the supervision by the competent government agency.

- (2) The competent government agency may issue to the juridical person any order which shall be necessary for the purpose its supervision.
- (3) The competent government agency may, by exercising its authority, inspect the status of the business and property of a juridical person at any time.

Section 3 Dissolution of Juridical Person

(Causes of Dissolution of Juridical Person)

Article 68 A juridical person shall be dissolved because of:

- (i) the occurrence of any cause of dissolution provided in the articles of incorporation or act of endowment, as the case may be;
 - (ii) the successful consummation of the business which is the purpose of the juridical person, or the impossibility of such successful consummation;
 - (iii) the ruling to commence bankruptcy procedures; or
 - (iv) the rescission of the permission of the establishment.
- (2) In addition to the causes listed in the respective items of the preceding paragraph, an incorporated association shall be dissolved because of:
- (i) the applicable resolution of the general meeting; or
 - (ii) the attrition of all members.

(Resolution for Dissolution of Juridical Person)

Article 69 An incorporated association may not adopt a resolution for dissolution without the affirmative votes of three-fourths or more of all the members; provided, however, that, this shall not apply to the cases where it is provided otherwise in the articles of incorporation.

(Commencement of Bankruptcy Procedures with respect to Juridical Person)

Article 70 In cases a juridical person is unable to pay its debts in full out of its property, the court shall, at the filing of any director or any obligee or by exercising its authority, provide the ruling to commence bankruptcy procedures.

(2) In the case prescribed in the preceding paragraph, the director(s) must immediately file a petition for the commencement of bankruptcy procedure.

(Rescission of Permission of Establishment of Juridical Person)

Article 71 In cases a juridical person carries on any business which is outside the scope of its purpose(s), or violates any conditions on which it obtained the permission of the establishment or any supervisory order issued by the competent government agency, or otherwise commits any act which is to prejudice the public interest, if the purpose of supervision cannot be achieved by any other means, the competent government agency may rescind its permission. The same shall apply if the juridical person, without any justifiable reason, does not conduct any business for three consecutive years or more.

(Vesting of Residual Assets)

Article 72 The assets of a dissolved juridical person shall vest in the person who is designated in the articles of incorporation or act of endowment.

(2) If the articles of incorporation or act of endowment does not designate any person with whom the right should be vested, or does not provide the manner to designate such person, the director(s) may, with the permission of the competent government agency, dispose of the assets of the relevant juridical person for any purpose which is similar to that of such juridical person; provided, however, that, in cases of an incorporated association, the resolution of the general meeting must be obtained.

(3) Any asset which cannot be disposed of pursuant to the provisions of the preceding two paragraphs shall vest in the national treasury.

(Juridical Person under Liquidation)

Article 73 A dissolved juridical person is deemed to still continue to exist to the extent of the purpose of the liquidation until the conclusion of such liquidation.

(Liquidator)

Article 74 Except in cases of dissolution by the operation of the ruling to commence bankruptcy procedures, when a juridical person is dissolved, its director(s) shall become the liquidator(s); provided, however, that, this shall not apply to the cases where an applicable provision of any articles of incorporation or act of endowment otherwise provides, or any person other than the director(s) has been appointed as the liquidator(s) in the general meeting.

(Appointment of Liquidator by Court)

Article 75 If no liquidator is identified pursuant to the provisions of the preceding Article, or if any damage is likely to occur due to the vacancy in the office of a liquidator, the court may appoint a liquidator at the request of any interested person or a public prosecutor, or by exercising its authority.

(Dismissal of Liquidator)

Article 76 If there is any important reason for doing so, the court may dismiss a liquidator at the request of any interested person or a public prosecutor, or by exercising its authority.

(Registration and Filing of Liquidators' Particulars and Dissolution)

Article 77 Except in cases of the ruling to commence bankruptcy procedures and the rescission of the permission of the establishment, the liquidator must register his/her name and domicile as well as the cause and the date of the dissolution within two weeks from the dissolution at the location of the principal office, and within three weeks from the dissolution at the location of its other office, and file such matter with the competent government agency.

- (2) A liquidator who has assumed his/her office during the course of the liquidation must register his/her name and domicile within two weeks from the assumption of his/her office at the location of the principal office, and within three weeks from the assumption of his/her office at the location of its other office, and file such matter with the competent government agency.
- (3) The provisions of the preceding paragraph shall apply mutatis mutandis to the liquidator who has assumed his/her office in the case of dissolution due to the rescission of the permission of the establishment.

(Duties and Authority of Liquidator)

Article 78 A liquidator shall have the duties to:

- (i) conclude the current business;
 - (ii) collect debts and perform obligations; and
 - (iii) deliver the residual assets.
- (2) The liquidator may perform any and all acts in order to perform its duties listed in the respective items of the preceding paragraph.

(Request for Filing of Claims)

Article 79 Within two months from the day when he/she takes office, the liquidator(s) must require the relevant obligees, by releasing a public notice on at least three occasions, to file their claims within a stated period, in which case such notice period may not be less than two months.

- (2) The public notice set forth in the preceding paragraph must note that any claim of an obligee shall be excluded from the liquidation procedure unless he/she submits his/her claim within the stated period; provided, however, that that the liquidator may not exclude any known obligee.
- (3) The liquidator must require the filing of the claim to each of the known obligees.
- (4) The public notice pursuant to the provision of paragraph (1) above shall be given by publishing it in the Official Gazette.

(Filing of Claim after Lapse of the Stated Period)

Article 80 Any obligee who submits its claim after the lapse of the period set forth in paragraph (1) of the preceding Article shall be entitled to make its claim only to the assets which, after all debts of the juridical person have been fully paid, is not yet delivered to the person with vested rights.

(Commencement of Bankruptcy Procedure with respect to Juridical Person under Liquidation)

Article 81 When it has become apparent during the liquidation procedure that the assets of the relevant juridical person is not sufficient to fully pay its debts, the liquidator must immediately file a petition for the commencement of bankruptcy procedures and make a public notice of such fact.

- (2) In cases any juridical person under the liquidation procedure has become subject to the ruling of the commencement of bankruptcy procedures, if the administration of the relevant procedure has been transferred to the trustee in bankruptcy, it is deemed that the liquidator has completed his/her duties.

- (3) In the case prescribed in the preceding paragraph, if the juridical person under the liquidation procedure has already paid any money to the obligees, or has delivered any asset to the person with vested rights, the trustee in bankruptcy may retrieve such money or asset.
- (4) The public notice pursuant to the provision of paragraph (1) above shall be made by publishing it in the Official Gazette.

(Supervision by the Court)

Article 82 The dissolution and liquidation of a juridical person shall be subject to the supervision of the court.

- (2) The court may, by exercising its authority, conduct any inspection which may be necessary for the supervision set forth in the preceding paragraph.

(Filing of Conclusion of Liquidation Procedure)

Article 83 When any liquidation procedure has been concluded, the liquidator must file such fact with the competent government agency.

Section 4 Supplementary Rules

(Delegation of Authorities of Competent Government agency)

Article 84 The authorities of the competent government agency provided in this Chapter may be delegated, in whole or in part, to any government agency of the national government pursuant to the applicable cabinet order.

(Processing of the Business of the Competent Government agency by Executive Agency of Prefectural Government)

Article 84-2 The execution of the authorities of the applicable competent government agency provided in this Chapter may be administered, in whole or in part, by the governor or other executive agency of the relevant prefectural government (hereinafter referred to as "prefectural executive agency") pursuant to the applicable cabinet order.

- (2) In the case set forth in the preceding paragraph, the applicable competent government agency may instruct the applicable prefectural executive agency with respect to the issuance of any order for supervisory purpose or the rescission of the permission of the establishment to the relevant juridical person pursuant to the applicable cabinet order.
- (3) In the case referred to in paragraph (1), the competent government agency may establish the standard to be complied with by the applicable prefectural executive agency in its administration.
- (4) When the applicable competent government agency establishes the standard set forth in the preceding paragraph, they must make a public announcement thereof.

Section 5 Penal Provisions

Article 84-3 A director, auditor-secretary, or liquidator of a juridical person shall be made subject to a civil fine of not more than 500,000 Yen if he/she:

- (i) fails to effect any registration provided in this Chapter;
- (ii) violates the provision of Article 51, or makes any false entry in the inventory of property or directory of members;

- (iii) has obstructed any inspection by the competent government agency, any government agency of the national government to which the authorities of the competent government agency are delegated, or any prefectural executive agency which administers the execution of the authorities of the competent government agency, or the court pursuant to the provision of paragraph (3) of Article 67 or paragraph (2) of Article 82;
 - (iv) violates any order for supervisory purpose issued by the competent government agency, any government agency of the national government to which the authorities of the competent government agency are delegated, or any prefectural executive agency which administers the execution of the authorities of the competent government agency pursuant to the provision of paragraph (2) of Article 67;
 - (v) has made any misrepresentation to, or has concealed any fact from, any government agency, any prefectural executive agency which administers the execution of the authorities of the competent government agency, or the general meeting;
 - (vi) fails to file a petition for the commencement of bankruptcy procedures pursuant to the provision of paragraph (2) of Article 70 or paragraph (1) of Article 81; or
 - (vii) has failed to make the public notice required under paragraph (1) of Article 79 or paragraph (1) of Article 81, or has made any improper public notice.
- (2) Any person who violates the provision of Article 35 shall be subject to a civil fine of not more than Yen 100,000.

Chapter IV Things

(Definition)

Article 85 The term "Things" as used in this Code shall mean tangible thing.

(Real Estate and Movables)

Article 86 Land and any fixtures thereto are regarded as real estate.

- (2) Any Thing which is not real estate is regarded as movable.
- (3) A bearer certificate of claims is deemed to be movable.

(Principal and Appurtenance)

Article 87 If the owner of a Thing attaches to it any other Thing he/she owns to make other Thing available for the permanent use of the former Thing, such other Thing which was attached is regarded as appurtenance.

- (2) Appurtenance shall be subject to the disposition of the principal.

(Natural Fruits and Legal Fruits)

Article 88 Products which are obtained from the intended use of a Thing are regarded as Natural Fruits.

- (2) Money or other Thing to be obtained in exchange for the use of any Thing are regarded as Legal Fruits.

(Vesting of Fruits)

Article 89 Natural Fruits shall vest in the person who has the right to obtain them when they are severed from the origin.

- (2) Legal Fruits shall be acquired in proportion to the number of days depending on the duration of the right to obtain them.

Chapter V Juristic Acts

Section 1 General Provisions

(Public Policy)

Article 90 A juristic act with any purpose which is against public policy is void.

(Manifestation of Intention Inconsistent with Default Rules)

Article 91 If any party to a juristic act manifests any intention which is inconsistent with a provision in any laws and regulations not related to public policy, such intention shall prevail.

(Custom Inconsistent with Default Rules)

Article 92 In cases there is any custom which is inconsistent with a provision in any law or regulation not related to public policy, if it is found that any party to a juristic act has the intention to abide by such custom, such custom shall prevail.

Section 2 Manifestation of Intention

(Concealment of True Intention)

Article 93 The validity of the manifestation of intention shall not be impaired even if the person who makes the manifestation knows that it does not reflect his/her true intention; provided, however, that, in cases the other party knew, or could have known, the true intention of the person who makes the manifestation, such manifestation of intention shall be void.

(Fictitious Manifestation of Intention)

Article 94 Any fictitious manifestation of intention made in collusion with another party(ies) shall be void.

- (2) The nullity of the manifestation of intention pursuant to the provision of the preceding paragraph may not be asserted against a third party without knowledge.

(Mistake)

Article 95 Manifestation of intention has no effect when there is a mistake in any element of the juristic act in question; provided, however, that the person who made the manifestation of intention may not assert such nullity by himself/herself if he/she was grossly negligent.

(Fraud or Duress)

Article 96 Manifestation of intention which is induced by any fraud or duress may be rescinded.

- (2) In cases any third party commits any fraud inducing any person to make a manifestation of intention to the other party, such manifestation of intention may be rescinded only if the other party knew such fact.

- (3) The rescission of the manifestation of intention induced by the fraud pursuant to the provision of the preceding two paragraphs may not be asserted against a third party without knowledge.

(Manifestation of Intention to Person at a Distance)

Article 97 Manifestation of intention to a person at a distance shall become effective at the time of the arrival of the notice to the other party.

- (2) The validity of manifestation of intention to a person at a distance shall not be impaired even if the person who made the manifestation dies or loses his/her capacity to act after the dispatch of the notice.

(Manifestation of Intention by Public Notice)

Article 98 Manifestation of intention may be made by means of public notice if the person who makes the manifestation is unable to identify the other party or is unable to identify the whereabouts of the other party.

- (2) The public notice set forth in the preceding paragraph shall be effected by posting the notice at the posting area of the relevant court and publishing the fact of such posting in the Official Gazette at least once in accordance with the applicable provisions of the Code of Civil Procedure (Act No. 109 of 1996) regarding the service of the public notice; provided, however, that the court may, if it finds it suitable, order to post the notice at a posting area of the city office, ward office, or town/village office or any facility equivalent to the above in lieu of the publication in the Official Gazette.
- (3) Manifestation of intention by means of public notice is deemed to have arrived at the other party upon elapse of two weeks after the day when the notice was last published in the Official Gazette, or the day on which any posting in lieu of such publication started, whichever comes first; provided, however, that the service of such notice shall not take effect if the person who makes the manifestation is negligent in not identifying the other party or not identifying the whereabouts of the other party.
- (4) The procedure regarding the public notice shall be subject to the jurisdiction of the summary court which has jurisdiction over the area where the person who makes the manifestation of intention has his/her domicile in cases he/she is unable to identify the other party, or over the area of the last known domicile of the other party in cases the whereabouts of the other party cannot be identified.
- (5) The court must require the person who makes the manifestation of intention to prepay the expenses regarding the public notice.

(Capacity to Receive the Manifestation of Intention)

Article 98-2 In cases the other party to the manifestation of intention is a minor or an adult ward at the time when the other party receives such manifestation of intention, the person who made the manifestation of intention may not assert his/her manifestation of intention against such other party; provided, however, that, this shall not apply after the statutory agent of such other party has acquired the knowledge of such manifestation of intention.

Section 3 Agency

(Requirements and Effect of Act of Agent)

Article 99 A manifestation of intention made by an agent representing that the same is made on behalf of the principal within the scope of the agent's authority binds the principal.

- (2) The provision of the preceding paragraph shall apply mutatis mutandis to any manifestation of intention made by a third party to an agent.

(Manifestation of Intention made with no Indication that it is made on behalf of the Principal)

Article 100 Any manifestation of intention made by an agent with no indication that it is made on behalf of the principal is deemed to have been made for the agent's own behalf; provided, however,

that, in cases the other party knew, or could have known, that the agent is acting on behalf of the principal, the provision of the preceding paragraph shall apply mutatis mutandis.

(Defect in Act of Agent)

Article 101 In cases the validity of a manifestation of intention should be affected by any absence of intention, any fraud, any duress, or any negligence in knowing or not knowing any particular circumstance, whether or not such fact existed shall be determined with reference to the agent.

- (2) In cases an agent is entrusted to perform any specific juristic act, if the agent performs such act in accordance with the instructions of the principal, the principal may not assert that the agent did not know a particular circumstance which the principal knew. The same shall apply to any circumstance which the principal did not know due to his/her negligence.

(Agent's Capacity to Act)

Article 102 An agent need not to be a person with the capacity to act.

(Authority of Agent with no Specified Authority)

Article 103 An agent who has no specified authority shall have the authority to do the following acts only:

- (i) acts of preservation; and
- (ii) acts which have the purpose of using or improving any Thing or right which is the subject of the agency to the extent such act does not change the nature of such property or right.

(Appointment of Sub-agent by Agent)

Article 104 A privately appointed agent may not appoint its sub-agent unless the authorization of the principal is obtained or there is an unavoidable reason to do so.

(Responsibility of Agent Who Appointed Sub-agent)

Article 105 If an agent appoints a sub-agent pursuant to the provisions of the preceding Article, it shall be responsible vis-a-vis the principal for the appointment and supervision of such sub-agent.

- (2) A privately appointed agent shall not assume the responsibility set forth in the preceding paragraph if it appointed the sub-agent in accordance with the nomination by the principal; provided, however, that, this shall not apply to the cases where the agent knows that the sub-agent is unsuitable or untrustworthy, and fails to notify the principal thereof or to dismiss the sub-agent.

(Appointment of Sub-agent by Statutory Agent)

Article 106 A statutory agent may appoint a sub-agent on its own responsibility. In such case, if there is any unavoidable reason, it shall assume only the responsibility set forth in paragraph (1) of the preceding Article.

(Authority of Sub-agent)

Article 107 A sub-agent shall represent the principal with respect to any act within the scope of its authority.

- (2) A sub-agent shall have the same rights and obligations as those of the agent vis-a-vis the principal and third parties.

(Self-Contract and Representation of both Parties)

Article 108 An agent may not be the agent of the other party or the agent of both parties in the same juristic act; provided, however, that, this shall not apply where the act constitutes the performance of any obligation, or the act is authorized by the principal in advance.

(Apparent Authority due to Manifestation of Grant of Authority of Agency)

Article 109 A person who manifested to a third party that he/she granted certain authority of agency to other person(s) shall be liable for any act performed by such other person(s) with third parties within the scope of such authority, unless such third parties knew, or were negligent in not knowing, that such other person(s) were not granted the authority of agency.

(Apparent Authority of Act Exceeding Authority)

Article 110 The provision of the main clause of the preceding Article shall apply mutatis mutandis to the case where an agent performs any act exceeding its authority and a third party has reasonable grounds for believing that the agent has the authority.

(Ground of Termination of Authority of Agency)

Article 111 The authority of agency shall be terminated upon:

- (i) death of the principal; and
 - (ii) death of the agent, or ruling of the commencement of bankruptcy procedures or ruling for commencement of guardianship against the agent.
- (2) The authority of a privately appointed agent by mandate shall be terminated, other than on the grounds listed in the respective items of the preceding paragraph, upon the termination of the contract appointing him/her.

(Apparent Authority After Termination of Authority of Agency)

Article 112 Termination of the authority of agency may not be asserted vis-a-vis a third party without knowledge; provided, however, that, this shall not apply to the cases where such third party was negligent in not knowing such fact.

(Unauthorized Agency)

Article 113 Any contract concluded by a person who holds himself/herself out as an agent of others without authority of agency shall be void vis-a-vis the principal unless ratified by the principal.

- (2) Any ratification or refusal to ratify may not be asserted vis-a-vis the counterparty unless it is made to such counterparty; provided, however, that, this shall not apply to the cases where the counterparty has come to know such fact.

(Right of Notice of Counterparty of Unauthorized Agency)

Article 114 In the case referred to in the preceding Article, the counterparty may require the principal, by fixing a reasonable period of time, to make a definite answer on whether or not he/she will ratify within such period of time. In such case, if the principal fails to make any definite answer within such period, he/she is deemed to have refused to ratify.

(Right to Rescind of Counterparty of Unauthorized Agency)

Article 115 A contract concluded by a person without any authority of agency may be rescinded by the counterparty until the principal ratifies it; provided, however, that, this shall not apply to the cases

where the counterparty knew at the time of the conclusion of the contract that the agent had no authority of agency.

(Ratification of Act of Unauthorized Agency)

Article 116 Ratification shall be effective retroactively as of the time of the conclusion of the contract unless other intention is manifested; provided, however, that no right of a third party may be prejudiced.

(Liability of Unauthorized Agent)

Article 117 A person who concluded a contract holding himself/herself out as an agent of another person shall be liable to the counterparty for the performance of the contract or damages as chosen by such counterparty if he/she is unable to prove his/her authority of agency nor obtain the ratification of the principal.

(2) The provisions of the preceding paragraph shall not apply if the counterparty knew, or was negligent in not knowing, that the person who concluded a contract holding himself/herself out as an agent of another person had no authority of agency, or if the person who concluded a contract holding himself/herself out as an agent of another person had no capacity to act.

(Unauthorized Agency in Unilateral Juristic Act)

Article 118 With respect to a unilateral juristic act, the provisions of Articles 113 to the preceding Article inclusive shall apply mutatis mutandis only in cases the counterparty, at the time of such act, agrees that the person who holds himself/herself as an agent will act without authority of agency, or did not contest the authority of agency of such person. The above provisions shall also apply mutatis mutandis in cases any person performs a unilateral juristic act vis-a-vis any person without authority of agency with the consent of such person.

Section 4 Nullity and Rescission of Acts

(Ratification of Acts which are Void)

Article 119 An act which is void does not become effective by ratification; provided, however, that, if a party ratifies any act knowing that such act is void, it is deemed that he/she acted de novo.

(Persons with the Right to Rescind Act)

Article 120 An act which may be rescinded on the grounds of the limited capacity to act of the person who performed such act may be rescinded only by the person whose capacity to act is limited, or its agent, successor, or a person who has the authority to give consent.

(2) An act which may be rescinded on the grounds of fraud or duress may be rescinded only by the person who made such defective manifestation of intention, or his/her agent or successor.

(Effect of Rescission)

Article 121 An act which is rescinded is deemed void ab initio; provided, however, that a person with limited capacity to act shall have the obligation to reimburse to the extent that he/she is actually enriched as a result of such act.

(Ratification of Rescindable Acts)

Article 122 A rescindable act may not be rescinded from the time when the person set forth in Article 120 ratifies it; provided, however, that ratification may not prejudice the rights of third parties.

(Method of Rescission and Ratification)

Article 123 In cases the counterparty to a rescindable act is identified, the rescission or ratification of such act shall be made by the manifestation of intention to such counterparty.

(Requirements for Ratification)

Article 124 A ratification shall not be effective unless it is made after the circumstance(s) that made the act rescindable ceases to exist.

- (2) If an adult ward recognizes his/her act after he/she has become a person with capacity to act, he/she may ratify such act only after such recognition.
- (3) The provisions of the preceding two paragraphs shall not apply in cases the ratification is made by the statutory agent, or the curator or assistant of the person with limited capacity to act.

(Statutory Ratification)

Article 125 If, after the time when it has become possible to ratify an act pursuant to the provisions of the preceding Article, any of the following events occurs with respect to an act which is otherwise rescindable, it is deemed that ratification has been made, unless any objection is reserved:

- (i) performance of such act, in whole or in part;
- (ii) demand for the performance of such act;
- (iii) novation of such act;
- (iv) provision of security;
- (v) assignment, in whole or in part, of any right acquired as a result of such rescindable act; or
- (vi) compulsory execution of such act.

(Limitation on Period of Right to Rescind)

Article 126 The right to rescind an act shall be extinguished by the operation of the prescription if it is not exercised within five years from the time when it becomes possible to ratify the act. The same shall apply when twenty years has elapsed from the time of the act.

Section 5 Conditions and Time Limit

(Effect of Fulfillment of Conditions)

Article 127 A juristic act which is subject to a condition precedent shall become effective upon fulfillment of the condition.

- (2) A juristic act which is subject to a condition subsequent shall become ineffective upon fulfillment of the condition.
- (3) If the party manifests an intention to extend the effect of fulfillment of the condition retroactively to any time prior to the time of the fulfillment, such intention shall prevail.

(Prohibition of Infringement of Interest of Counterparty Pending Fulfillment of Conditions)

Article 128 Neither party to a juristic act which is subject to any condition may infringe the interests of the counterparty which should arise from such juristic act upon fulfillment of the condition while it is uncertain whether or not such condition has been fulfilled.

(Disposition of Rights Pending Fulfillment of Conditions)

Article 129 While it is uncertain whether or not a condition has been fulfilled, the rights and obligations of the party concerned may be disposed of, inherited or preserved, or any security may be provided therefor, in accordance with the usual provisions of the law.

(Prevention of Fulfillment of Conditions)

Article 130 In cases any party who will suffer any detriment as a result of the fulfillment of a condition intentionally prevents the fulfillment of such condition, the counterparty may deem that such condition has been fulfilled.

(Fulfilled Conditions)

Article 131 In cases a certain condition is already fulfilled at the time of the performance of the applicable juristic act, if such condition is a condition precedent, such juristic act shall be unconditional, and if such condition is a condition subsequent, such juristic act shall be void.

(2) In cases it is already established conclusively at the time of the performance of the applicable juristic act that a certain condition will not be fulfilled, if such condition is a condition precedent, such juristic act shall be void, and if such condition is a condition subsequent, such juristic act shall be unconditional.

(3) In the cases referred to in the provisions of the preceding two paragraphs, the provisions of Article 128 and Article 129 shall apply mutatis mutandis while the relevant parties are not aware that the relevant condition has been, or has not been, fulfilled, as the case may be.

(Unlawful Conditions)

Article 132 Juristic act which is subject to an unlawful condition shall be void. The same shall apply to any act which is subject to the condition that an unlawful act not be performed.

(Impossible Conditions)

Article 133 Juristic act subject to a condition precedent which is impossible shall be void.

(2) Juristic act subject to a condition subsequent which is impossible shall be unconditional.

(Potestative Conditions)

Article 134 A juristic act which is subject to a condition precedent shall be void if the condition is dependent upon the will of the obligor.

(Effect of Arrival of Assigned Time)

Article 135 If time of commencement of validity is assigned to a juristic act, the performance of such juristic act may not be demanded before the arrival of such time.

(2) If time of expiration of validity is assigned to a juristic act, the validity of such juristic act shall expire upon the arrival of such time.

(Benefit of Time and Its Waiver)

Article 136 It is presumed that a time specified is provided for the benefit of the obligor.

(2) The benefit of time may be waived; provided, however, that such waiver may not prejudice the interest of the counterparty.

(Forfeiture of Benefit of Time)

Article 137 The obligor may not assert the benefit of time if:

- (i) the obligor has become subject to the ruling of the commencement of bankruptcy procedures;
- (ii) the obligor has destroyed, damaged, or diminished the security; or
- (iii) the obligor fails to provide security when it has the obligation to do so.

Chapter VI Calculation of Period

(Common Rules on Calculation of Period)

Article 138 The method of calculation of a period shall be subject to the provision of this Chapter unless otherwise provided in the laws and regulations or any judicial order, or unless the relevant juristic act otherwise specifies.

(Commencement of Period)

Article 139 When a period is defined by the hour, the period commences immediately at the specified time.

Article 140 When a period is defined by the day, week, month, or year, the first day of the period shall not be included for the purpose of the calculation; provided, however, that, this shall not apply to the cases where the period commences at twelve midnight.

(Expiration of Period)

Article 141 In the case referred to in the preceding Article, the period shall expire at the end of the last day of such period.

Article 142 If the last day of a period falls on a Sunday, a holiday as provided in the Act on National Holidays (Act No. 178 of 1948), or any other holiday, only when it is customary not to do business on such day, the period shall expire on the immediately following day.

(Calculation of Period with Reference to Calendar)

Article 143 When a period is defined by the week, month, or year, the period shall be calculated with reference to the calendar week, month, or year.

(2) When a period does not commence at the beginning of the week, month, or year, such period shall expire in the last week, month, or year on the day immediately preceding the day which corresponds to the commencement day; provided, however, that if the period is defined by the month or year and the last month does not contain the corresponding day, the period shall expire on the last day of such month.

Chapter VII Prescription

Section 1 General Provisions

(Effect of Prescription)

Article 144 The prescription shall take effect retroactively as of the commencement day.

(Invocation of Prescription)

Article 145 The court may not make a judgment relying on the prescription unless the party invokes it.

(Waiver of Benefits of Prescription)

Article 146 The benefits of the prescription may not be waived in advance.

(Ground of Interruption of Prescription)

Article 147 The prescription shall be nullified upon issuance of:

- (i) any claim;
- (ii) any attachment, provisional seizure, or provisional disposition; or
- (iii) any acknowledgment.

(Persons Affected by Interruption of Prescription)

Article 148 The nullification of prescription pursuant to the provision of the preceding Article shall be effective solely among the parties with respect to whom the ground of such interruption arose, and their respective successors.

(Judicial Claims)

Article 149 A judicial claim shall not have the effect of interruption of the prescription in cases where the action is dismissed or withdrawn.

(Demand for Payment)

Article 150 A demand for payment shall not have the effect of interruption of the prescription in cases where it loses its effect because the obligee fails to file for the declaration of provisional execution within the period set forth in Article 392 of the Code of Civil Procedure.

(Filing for Settlement and Conciliation)

Article 151 The filing for settlement or the filing for conciliation under the Civil Conciliation Act (Act No. 222 of 1951) or Family Affairs Adjudication Act (Act No. 152 of 1947) shall not have the effect of interruption of the prescription in cases where, when the counterparty fails to appear in the court or when the settlement or conciliation is not satisfactorily concluded, the action is not brought within one month.

(Participation in Bankruptcy Procedures)

Article 152 Participation in a bankruptcy procedures, participation in a rehabilitation procedures, or participation in a reorganization procedures shall not have the effect of interruption of the prescription when the obligee withdraws its filing, or its filing has been dismissed.

(Demand)

Article 153 A demand shall not have the effect of interruption of the prescription unless a judicial claim, filing for demand of payment, filing for settlement, filing for conciliation under the Civil Conciliation Act or Family Affairs Adjudication Act, participation in bankruptcy procedures, participation in a rehabilitation procedures, participation in a reorganization procedures, attachment, provisional seizure, or provisional disposition is commenced within six months.

(Attachment, Provisional Seizure, and Provisional Disposition)

Article 154 An attachment, provisional seizure, and provisional disposition shall not have the effect of interruption of the prescription if it is avoided at the request of any rights holder, or for failure to comply with any provisions of the law.

Article 155 When an attachment, provisional seizure, or provisional disposition is not effected vis-a-vis a person who acquires any benefit of the prescription, it shall not have the effect of interruption of the prescription unless a notice is given to such person.

(Acknowledgment)

Article 156 An acknowledgment which has the effect of interruption of the prescription shall not require the capacity to act or authority with respect to the disposition of the rights of the counterparty.

(Running of Prescription following Interruption)

Article 157 A prescription which is interrupted shall resume running at the time the applicable grounds for suspension cease to exist.

(2) Any prescription which is interrupted by a judicial claim shall resume running at the time of the final and binding judgment.

(Minor or Adult Ward and Suspension of Prescription)

Article 158 If a minor or an adult ward, as the case may be, has no statutory agent during the period of six months preceding the expiration of period of the prescription, the prescription shall not be completed with respect to such minor or adult ward until six months elapse from the time when such minor or adult ward becomes a person with a capacity to act, or a statutory agent is appointed.

(2) In cases where a minor or an adult ward has any right vis-a-vis his/her father, mother, or guardian who manages his/her property, the prescription shall not be completed with respect to such right until six months elapse from the time when such minor or adult ward becomes a person with a capacity to act, or a succeeding statutory agent is appointed.

(Suspension of Prescription of Rights Between Husband and Wife)

Article 159 With respect to any right which either husband or wife has vis-a-vis the other spouse, the prescription shall not be completed until six months elapse from the time of the dissolution of the relevant marriage.

(Suspension of Prescription Regarding Inherited Property)

Article 160 With respect to any inherited property, the prescription shall not be completed until six months elapse from the time when the applicable heir is identified, the administrator is appointed, or the ruling of the commencement of bankruptcy procedures is made.

(Suspension of Prescription due to Natural Disaster)

Article 161 If the prescription may not be interrupted upon expiration of period of the prescription due to any natural disaster or other unavoidable contingency, the prescription shall not be completed until two weeks elapse from the time when such impediment has ceased to exist.

Section 2 Acquisitive Prescription

(Acquisitive Prescription of Ownership)

Article 162 A person who possesses any property of another for 20 years peacefully and openly with an intention to own shall acquire the ownership thereof.

(2) A person who possesses any property of another for 10 years peacefully and openly with an intention to own shall acquire the ownership thereof if he/she was without knowledge and was not negligent when the possession started.

(Acquisitive Prescription of Property Rights other than Ownership)

Article 163 A person who exercises any property right other than the ownership peacefully and openly with an intention to do so on his/her own behalf shall acquire such right after the elapse of 20 years or

10 years consistent with the distinction provided in the preceding Article.

(Interruption of Acquisitive Prescription due to Discontinuation of Possession)

Article 164 The prescription pursuant to the provision of Article 162 shall be interrupted when the possessor discontinues the possession voluntarily, or he/she is deprived of his/her possession by others.

Article 165 The provision of the preceding Article shall apply mutatis mutandis to the case under Article 163.

Section 3 Extinctive Prescription

(Running of Extinctive Prescription)

Article 166 The extinctive prescription commences to run when it has become possible to exercise the right.

(2) The provision of the preceding paragraph shall not preclude the commencement of acquisitive prescription for the benefit of a third party who possesses any subject matter which is a right subject to the time of commencement or a right subject to a condition precedent, at the time of commencing such possession; provided, however, that the holder of the right may demand the possessor to give his/her acknowledgment at any time to interrupt the prescription.

(Extinctive Prescription of Claim)

Article 167 A claim shall be extinguished if not exercised for ten years.

(2) Any property right other than the claim or ownership shall be extinguished if not exercised for twenty years.

(Extinctive Prescription of Periodic Payments)

Article 168 A claim for periodic payments shall be extinguished if not exercised for twenty years after the first due date. The same shall apply if not exercised for ten years after the last due date.

(2) The obligee of periodic payments may require its obligor at any time to issue a written acknowledgment in order to acquire the evidence of the interruption of the prescription.

(Short-term Extinctive Prescription of Claim for Periodic Performance)

Article 169 Any claim for the delivery of money or other Thing for periodic performance of one year or shorter shall be extinguished if not exercised for five years.

(Short-term Extinctive Prescription of Three Years)

Article 170 The claims listed below shall be extinguished if not exercised for three years; provided, however, that the prescription of the claims listed in item (ii) shall commence upon completion of the work referred to in the same item:

(i) any claim regarding a diagnosis, assistance in baby delivery, or the preparation of medicine by a doctor, delivery assistant, or pharmacist; or

(ii) any claim, regarding the construction work, of a person engaged in design, execution, or supervision of the work.

Article 171 An attorney or a legal professional corporation, or a notary shall be relieved of their responsibility for any document received in connection with its/his/her service upon the elapse of three

years after the termination of the relevant case with respect to an attorney or a legal professional corporation, and after the execution of his/her duties with respect to a notary.

(Short-term Extinctive Prescription of Two Years)

Article 172 Any claim regarding the duties of an attorney, a legal professional corporation, or a notary shall be extinguished if not exercised for two years after the close of the case which was the cause of such claim.

(2) Notwithstanding the provisions of the preceding paragraph, if five years have elapsed after the close of any particular matter included in the case referred to in such paragraph, the claim regarding such matter shall be extinguished even in the middle of the period set forth in such paragraph.

Article 173 The following claims shall be extinguished if not exercised for two years:

- (i) a claim pertaining to the price of any product or goods sold by a manufacturer, wholesale merchant, or retail merchant;
- (ii) a claim regarding the work of any person whose business is to manufacture any Thing or to perform the work in his/her own workplace for the benefit of others upon placement of an order using his/her own skill; and
- (iii) a claim possessed by any person who provides education in the arts and sciences, or technical skills, with respect to the price of the education, food and clothing and accommodation for students.

(Short-term Extinctive Prescription of One Year)

Article 174 The following claims shall be extinguished if not exercised for one year:

- (i) a claim pertaining to the salary of an employee which is fixed by one month or any shorter period;
- (ii) a claim pertaining to the remuneration of any person whose business is to provide his/her own labor or entertainment, or the price of any Thing supplied by such person;
- (iii) a claim pertaining to freight for transportation;
- (iv) a claim pertaining to room charges, food and beverage charges, admission fees, entrance fees, the price of goods consumed or monies to be reimbursed to any hotel, establishment providing food and beverages, seating hire facility, or place of amusement; and
- (v) a claim pertaining to the rent for movables.

(Extinctive Prescription of Right Established in Judgment of Court)

Article 174-2 The period of prescription of any right established in a unappealable judgment shall be ten years even if any period of prescription shorter than ten years is provided. The same shall apply to any right which is established in a settlement in a court proceeding or conciliation, or any other action which has the effect equivalent to that of the unappealable judgment.

(2) The provision of the preceding paragraph shall not apply to any claim which is not yet due and payable yet at the time when the judgment becomes unappealable.

Part II Real Rights

Chapter I General Provisions

(Establishment of Real Rights)

Article 175 No real rights can be established other than those prescribed by laws including this Code.

(Creation and Transfer of Real Rights)

Article 176 The creation and transfer of real rights shall take effect solely by the manifestations of intention of the relevant parties.

(Requirements of Perfection of Changes in Real Rights concerning Immovable properties)

Article 177 Acquisitions of, losses of and changes in real rights concerning immovable properties may not be asserted against third parties, unless the same are registered pursuant to the applicable provisions of the Real Estate Registration Act (Act No. 123 of 2004) and other laws regarding registration.

(Requirements of Perfection of Transfer of Real Rights concerning Movables)

Article 178 The transfers of real rights concerning movables may not be asserted against third party, unless the movables are delivered.

(Confusion of Rights)

Article 179 If ownership and other real rights with respect to the same Thing have vested in the same person, such other real rights shall be extinguished; provided, however, that, this shall not apply to cases where that Thing is, or such other real rights are, the object of the rights of a third party.

- (2) If any real rights other than ownership and other rights for which those real rights are the object have vested in the same person, such other rights shall be extinguished. In such cases, the provisions of the proviso to the preceding paragraph shall apply mutatis mutandis.
- (3) The provisions of the preceding two paragraphs shall not apply to possessory rights.

Chapter II Possessory Rights

Section 1 Acquisition of Possessory Rights

(Acquisition of Possessory Rights)

Article 180 Possessory rights shall be acquired by holding Thing with an intention to do so on one's own behalf.

(Possession by Agents)

Article 181 Possessory rights may be acquired by an agent.

(Actual Delivery and Summary Delivery)

Article 182 The transfers of possessory rights shall be effected by the delivery of the Thing possessed.

- (2) In cases where a transferee or his/her agent actually holds a Thing, the transfers of possessory rights may be effected by the parties' manifestations of intention alone.

(Constructive Transfers)

Article 183 If an agent manifests an intention that The thing possessed by it shall thenceforward be possessed on behalf of its principal, the principal shall thereby acquire possessory rights.

(Transfers of Possession by Instructions)

Article 184 In cases where a Thing is in an agent's possession, if the principal orders that agent to thenceforward possess that Thing on behalf of a third party, and such third party consents thereto, that third party shall acquire possessory rights.

(Change in Nature of Possession)

Article 185 In cases where it is assumed, due to the nature of the title, that a possessor does not have the intention to own, the nature of the possessor's possession shall not change unless that possessor manifests to the person who made him/her possess the Thing that he/she has the intention of ownership, or commences possession under a new title with an intention to own from that time.

(Presumption regarding Nature of Possession)

Article 186 It shall be presumed that a possessor possesses Thing with the intention to own, in good faith peacefully and in public.

- (2) If there is evidence of possession at two different points in time, it shall be presumed that possession continued during the interval.

(Succession to Possession)

Article 187 A successor to a possessor may, at the option of the successor, assert either his/her possession only, or his/her possession together with that of the predecessor.

- (2) In cases where a person asserts the possession of the predecessor together with his/her own, he/she shall also succeed to defects in the same.

Section 2 Effect of Possessory Rights

(Presumption of Lawfulness of Rights Exercised with respect to Possessed Thing)

Article 188 It shall be presumed that a possessor lawfully has the rights that a possessor exercises with respect to Thing in his/her possession.

(Acquisition of Fruits by Possessor in Good Faith)

Article 189 A possessor in good faith shall acquire fruits derived from Thing in his/her possession.

- (2) If a possessor in good faith is defeated in an action on the title, he/she shall be deemed to be a possessor in bad faith as from the time when such action was brought.

(Return of Fruits by Possessors in bad faith)

Article 190 A possessor in bad faith shall be obligated to return fruits, and reimburse the price of fruits that he/she has already consumed, has damaged due to negligence or has failed to collect.

- (2) The provisions of the preceding paragraph shall apply mutatis mutandis to persons who possess Thing through violence or duress, or by concealing the same.

(Compensation for Damages by Possessors)

Article 191 If possessed Thing has suffered loss or damage due to reasons attributable to the possessor, a possessor in bad faith shall be liable to compensate the person recovering the loss for the entire loss, and a possessor in good faith shall be liable to compensate such person for the loss to the extent he/she is actually enriched as a result of such loss or damage; provided, however, that a possessor who does not have the intention of holding as owner must compensate the entire loss, even if he/she is in good faith.

(Immediate Acquisition)

Article 192 A person who commences the possession of movables peacefully and openly by a transactional act acquires rights to exercise with respect to such movables immediately if he/she is in

good faith and faultless.

(Recovery of Stolen or Lost Goods)

Article 193 In the cases provided for in the preceding Article, if the possessed Thing is lost or stolen goods, the victim or person who lost the Thing may demand the recovery of that Thing from the possessor within two years from the time of the loss or theft.

Article 194 If a possessor purchased lost or stolen goods in good faith at an auction or in a public market, or from a merchant who sells similar Things, the victim or person who lost the Thing may not recover the Thing unless he/she reimburses the possessor for the price paid.

(Acquisition of Rights through Possession of Animals)

Article 195 A person who possesses a non-domestic animal bred by others acquires rights to exercise with respect to that animal if he/she was in good faith at the beginning of the possession, and if recovery is not demanded by the owner of the animal within one month of the time when that animal left the possession of its owner.

(Possessors' Claims for Reimbursement of Expenses)

Article 196 In cases where a possessor returns Thing in his/her possession, he/she may have the person recovering the Thing reimburse necessary expenses including amounts paid to preserve that Thing, provided, however, that, if the possessor has acquired fruits, ordinary necessary expenses shall be borne by the possessor.

(2) With respect to beneficial expenses including amounts paid by a possessor to improve Thing in his/her possession, limited to cases where there is a current increase in value, the possessor may, at the choice of the person recovering the Thing, have the person recovering the Thing reimburse monies the possessor paid or the amount of the increased value; provided, however, that, with regard to a possessor in bad faith, the court may, at the request of the person recovering the Thing, grant a reasonable period for same.

(Possessory Actions)

Article 197 A possessor may bring a possessory action in accordance with the provisions of the following Article through Article 202. The same shall apply to a person who takes possession on behalf of others.

(Actions for Maintenance of Possession)

Article 198 When a possessor is disturbed in his/her possession, he/she may claim for the discontinuation of the disturbance and compensation for damages by bringing an action for maintenance of possession.

(Actions for Preservation of Possession)

Article 199 When a possessor is likely to be disturbed of his/her possession, he/she may claim either for the prevention of the disturbance or for the submission of security for the compensation for damages by bringing an action for preservation of possession.

(Actions for Recovery of Possession)

Article 200 When a possessor is forcibly dispossessed, he/she may claim for the restoration of the Thing and compensation for damages by bringing an action for recovery of possession.

- (2) An Action for recovery of possession cannot be filed against a specific successor of the usurper of possession; provided, however, that this shall not apply if that successor had knowledge of the fact of usurpation.

(Periods of Time for Bringing Possessory Actions)

Article 201 Actions for maintenance of possession must be brought during the disturbance or within one year after the disturbance is extinguished; provided, however, that, in cases where possessed Thing is damaged due to construction, if one year has elapsed from the time when that construction started or if that construction has been completed, such action cannot be brought.

- (2) Actions for preservation of possession may be brought so long as the danger of disturbance exists. In such cases, the proviso to the preceding paragraph shall apply *mutatis mutandis* if possessed Thing is likely to be damaged by construction.
- (3) Actions for recovery of possession must be brought within one year of the time when possession was unlawfully usurped.

(Relationship with Actions on Title)

Article 202 Possessory Actions do not preclude actions on title, and actions on title do not preclude possessory actions.

- (2) With respect to possessory actions, no judgment may be made based on reasons relating to title.

Section 3 Extinction of Possessory Rights

(Grounds for Extinction of Possessory Rights)

Article 203 Possessory rights shall be extinguished when the possessor renounces his/her intention to possess, or loses possession of the possessed Thing; provided, however, that this shall not apply if the possessor brings an action for recovery of possession.

(Grounds for Extinction of Agent's Possessory Rights)

Article 204 In cases where a person possesses a Thing through an agent, possessory rights shall be extinguished on the grounds listed below:

- (i) That the principal renounces his/her intention to have his/her agent possess;
 - (ii) That the agent manifests his/her intention to the principal to thenceforward possess the possessed Thing on behalf of himself/herself or a third party; or
 - (iii) That the agent has lost the direct control over the possessed Thing.
- (2) Possessory rights shall not be extinguished solely as a result of the extinction of the power of representation.

Section 4 Quasi-Possession

Article 205 The provisions of this Chapter shall apply *mutatis mutandis* to cases where a person exercises his/her property rights with an intention to do so on his/her own behalf.

Chapter III Ownership

Section 1 Extent of Ownership

Subsection 1 Content and Scope of Ownership

(Content of Ownership)

Article 206 An owner has the rights to freely use, obtain profit from and dispose of the Thing owned, subject to the restrictions prescribed by laws and regulations.

(Scope of Ownership in Land)

Article 207 Ownership in land shall extend to above and below the surface of the land, subject to the restrictions prescribed by laws and regulations.

Article 208 Deleted

Subsection 2 Neighboring Relationships

(Requests for Use of Neighboring Land)

Article 209 An owner of land may request the use of the neighboring land to the extent necessary for constructing or repairing walls or buildings on or in the vicinity of the boundary; provided, however, that he/she may not enter the dwelling house of the neighbor without the approval of the same.

(2) In the cases provided for in the preceding paragraph, if the neighbor sustained damages, he/she may claim compensation.

(Right of Passage over Other Land for Access to Public Roads)

Article 210 An owner of land that is surrounded by other land and has no access to public roads may pass through the other land that surrounds his/her land to reach the public roads.

(2) The preceding paragraph shall likewise apply in cases where an owner cannot access the public roads unless he/she passes through ponds, lakes, rivers, waterways or seas, or in cases where there is a considerable difference in height between the land and the public road on account of a cliff.

Article 211 In the cases provided for in the preceding Article, the location and method of passage must be so chosen as to meet the needs of the person who is entitled to the right of passage under the provisions of that Article, and cause the least damage to the other land.

(2) A person who holds the right of passage under the provisions of the preceding Article may construct a road if necessary.

Article 212 A person who is entitled to the right of passage pursuant to the provisions of Article 210 must pay compensation for damage caused to the other land that he/she passes through; provided, however, that, except for damage arising from the construction of a road, compensation may be paid on an annual basis.

Article 213 If the partition of land creates a parcel of land that has no access to public roads, the owner of such parcel of land may pass to the public roads only through the lands owned by others who participated in the partition. In such cases, it shall not be necessary to pay compensation.

(2) The provisions of the preceding paragraph shall apply mutatis mutandis to cases where the owner of land assigns part of his/her land to others.

(Prohibition of Obstruction of Natural Water Streams)

Article 214 A landowner may not interfere with a natural water stream flowing from neighboring land.

(Removal of Barriers to Water Streams)

Article 215 If a stream is blocked at low-lying ground due to a natural disaster or other unavoidable event, an owner of higher ground may carry out construction work necessary to remove the barrier to the stream at his/her own expense.

(Repairs of Structures related to Streams)

Article 216 If land suffers, or is likely to suffer, damage due to destruction or blockage of a structure installed on other land to store, discharge or draw water, the owner of that land may have the owners of such other lands repair the structure or remove the barriers, or, if necessary, have the same carry out preventive construction work.

(Customs with respect to Allocation of Expenses)

Article 217 In the cases provided for in the preceding two Articles, if there are other customs with respect to the allocation of expenses, those customs shall prevail.

(Prohibition of Installation of Structures that Discharge Rainwater to Neighboring Lands)

Article 218 A landowner may not install any structure including a roof that discharges rainwater directly onto neighboring land.

(Changes to Streams)

Article 219 An owner of land containing a stream including a channel or moat may not change the course or width of the same if the land on the other side is owned by others.

- (2) If the land on both sides of a stream is owned by the owner of the land containing the stream, that owner may change the course or the width of the same; provided, however, that he/she must return the stream to its natural course at the point where the stream meets neighboring land.
- (3) If there are customs that differ from the provisions of the preceding two paragraphs, those customs shall prevail.

(Running Water through Lower Ground for Discharge)

Article 220 An owner of a higher ground may run water through lower grounds to dry out his/her higher ground in cases where that land is flooded, or to discharge surplus water for household or agricultural or industrial use until the water meets a public stream or sewage system. In such cases, the location and method that cause the least damage to the lower ground must be selected.

(Use of Structures to Direct Water)

Article 221 A landowner may use structures established by owners of higher ground or lower ground in order to cause water from his/her land to pass through the same.

- (2) In the cases provided for in the preceding paragraph, the person who uses the structures of others must bear the expenses of the establishment and preservation of the structures in proportion to the benefit he/she enjoys.

(Construction and Use of Dams)

Article 222 If the owner of land containing a stream needs to construct a dam, he/she may construct that dam by fixing it to the other side even if the land on the other side is owned by others; provided, however, that he/she must pay compensation for damages arising as a result.

- (2) The owner of the land on the other side may use the dam under the preceding paragraph if he/she owns part of the land containing the stream.

(3) The provisions of paragraph (2) of the preceding Article shall apply mutatis mutandis to the cases provided for in the preceding paragraph.

(Installation of Boundary Markers)

Article 223 A landowner may install boundary markers, sharing the expenses with the owner of the neighboring land.

(Expenses of Installation and Preservation of Boundary Markers)

Article 224 The expenses of installation and preservation of boundary markers shall be borne equally by neighbors; provided, however, that measuring expenses shall be borne in proportion to the sizes of the relevant land parcels.

(Installation of Fences)

Article 225 If two buildings are owned by different owners and there is an open lot between them, each owner may install a fence on the boundary, sharing the expenses with the other owner.

(2) If no agreement can be reached between the parties, the fence under the preceding paragraph must be wooden fencing, bamboo fencing or fencing made of similar material and must be two meters high.

(Expenses of Installation and Preservation of Fences)

Article 226 The expenses of installation and preservation of the fences under the preceding Article shall be borne equally by the neighbors.

(Installation of Fences by One of Neighbors)

Article 227 One of neighboring owners may install a fence using materials better than those provided for in paragraph (2) of Article 225 or elevating the height provided for under the same paragraph; provided, however, that he/she must bear the increase in expenses arising as a result of the same.

(Customs relating to Installation of Fences)

Article 228 If there are customs that differ from the provisions of the preceding three Articles, those customs shall prevail.

(Presumption of Co-ownership of Boundary Markers)

Article 229 Boundary markers, fences, walls, channels and moats installed on boundary lines shall be presumed to be co-owned by the neighbors.

Article 230 The provisions of the preceding Article shall not apply to a wall on a boundary line that forms a part of a building.

(2) If the height of a wall that separates two neighboring buildings of different heights is higher than the height of the lower building, the preceding paragraph shall likewise apply with respect to such portion of that wall that is higher than the lower building; provided, however, that this shall not apply to fire walls.

(Construction Work raising Height of Co-owned Walls)

Article 231 One of neighboring owners may raise the height of a co-owned wall; provided, however, that, if the wall cannot withstand the construction work, he/she must reinforce that wall as necessary or rebuild the same.

- (2) If the height of a wall is raised under the provisions of the preceding paragraph, the raised portion shall be owned solely by the person who carried out the construction work.

Article 232 In the cases provided for in the preceding Article, if a neighbor suffers damage, he/she may demand compensation for the same.

(Cutting of Branches and Roots of Trees and Bamboo)

Article 233 If a tree or bamboo branch from neighboring land crosses a boundary line, the landowner may have the owner of that tree or bamboo sever that branch.

- (2) If a tree or bamboo root from neighboring land crosses a boundary line, the owner of the land may sever that root.

(Restrictions on Buildings near Boundary Lines)

Article 234 In order to construct a building, the building must be distanced 50 centimeters or more away from the boundary line.

- (2) If a person attempts to construct a building in violation of the provisions of the preceding paragraph, the owner of the neighboring land may have construction suspended or changed; provided, however, that, if one year has lapsed from the time when such construction started or if that building has been completed, the owner may only claim damages.

Article 235 A person who installs a window or porch (hereinafter in this and the following paragraph including a veranda) at a distance of less than one meter from a boundary line allowing the observation of the residential land of others, must put up a privacy screen.

- (2) The distance under the preceding paragraph shall be calculated by measuring the length of a straight line from the point on the window or porch closest to the neighboring land to where it reaches the boundary line at a right angle.

(Customs relating to Construction near Boundary Lines)

Article 236 If there are customs that differ from the provisions of the preceding two Articles, those customs shall prevail.

(Restrictions on Digging near Boundary Lines)

Article 237 In order to dig a well, service water pit, sewage pit or compost pit, the same must be distanced two or more meters from the boundary line, and in order to dig a pond, cellar or urine pit, the same must be distanced one or more meters from the boundary line.

- (2) In order to bury water pipes, or dig a channel or moat, the same must be distanced from the boundary line by a measurement equivalent to at least half the depth of the same; provided, however, that the distance is not required to be more than one meter.

(Duty of Care regarding Digging near Boundary Lines)

Article 238 When construction under the preceding Article is to be carried out near a boundary line, necessary care must be taken to ensure the prevention of earth collapses or leakages of water or contaminated liquids.

Section 2 Acquisition of Ownership

(Ownership in Ownerless Thing)

Article 239 Ownership of movables without an owner shall be acquired by possessing the same with the intention to own.

(2) Ownership of real estate without an owner shall vest in the National Treasury.

(Finding of Lost Property)

Article 240 If the owner of lost property is not identified within three months of the time when public notice thereof is effected as prescribed by the Lost Property Act (Act No. 73 of 2006), the person who found the lost property shall acquire ownership in the same.

(Discovery of Hidden Treasure)

Article 241 If the owner of hidden treasure is not identified within six months of the time when public notice thereof is effected as prescribed by the Lost Property Act, the finder shall acquire ownership in the same; provided, however, that, with respect to hidden treasure discovered in a Thing belonging to other person, the finder and such other person shall acquire equally proportionate ownership in the same.

(Accession to Real Estate)

Article 242 The owner of real estate shall acquire ownership in a Thing that has been attached thereto as its accessory; provided, however, that the rights of the other person who attached such Thing by virtue of his/her title shall not be precluded.

(Accession to Movables)

Article 243 If two or more movables with different owners are so joined to each other that they can no longer be separated without damaging the same, ownership of the composite Thing shall vest in the owner of the principal movables. The same shall apply if excessive expense would be required to separate the same.

Article 244 If the distinction of principal and accessory cannot be made between the joined movables, the owner of each movable shall co-own the composite Thing in proportion to the respective price current at the time of the accession.

(Mixture)

Article 245 The provisions of the preceding two Articles shall apply mutatis mutandis to cases where the Things of different owners are mixed together and can no longer be distinguished.

(Processing)

Article 246 If a person (hereinafter in this Article referred to as "Processor") contributes work to the movables of others, ownership of the Thing so worked up shall vest in the owner of the materials; provided, however, that, if the value derived from the work significantly exceeds the value of the materials, the Processor shall acquire ownership in the processed Thing.

(2) In the cases provided for in the preceding paragraph, if the Processor supplies a portion of the materials, the Processor shall acquire ownership in the processed Thing, limited to if the value of such supplied materials plus the value derived from the work exceeds the value of the materials of others.

(Effect of Accession, Mixture or Processing)

Article 247 If the ownership of a Thing is extinguished in accordance with the provisions of Article 242 through the preceding Article, other rights in existence in relation to such Thing shall also be

extinguished.

- (2) In the cases provided for in the preceding paragraph, if the owner of a Thing has become the sole owner of the Thing formed by accession, mixture or processing (hereinafter in this paragraph referred to as "composite Thing"), other rights in existence in relation to such Thing shall thereafter exist in relation to the composite Thing, and if the owner of the Thing becomes a co-owner of the composite Thing, other rights in existence in relation to such Thing shall thereafter exist in relation to his/her share in the same.

(Demands for Compensation in conjunction with Accession, Mixture or Processing)

Article 248 A person who suffers loss because of the application of the provisions of Article 242 through the preceding Article may demand compensation in accordance with the provisions of Article 703 and Article 704.

Section 3 Co-Ownership

(Use of property in co-ownership)

Article 249 Each co-owner may use the entire property in co-ownership in proportion to his/her share.

(Presumption of Proportion of Co-owner's Shares)

Article 250 Each co-owner's share shall be presumed to be equal.

(Changes to Co-owned Thing)

Article 251 No co-owner may make any alteration to the property in co-ownership without the consent of the other co-owners.

(Management of Co-owned Thing)

Article 252 Matters regarding the management of property in co-ownership shall be determined by a majority of the value of the shares of the co-owners, except for cases provided for in the preceding paragraph; provided, however, that any co-owner may carry out acts of preservation.

(Obligations to bear Burdens regarding property in co-ownership)

Article 253 Each co-owner shall pay the expenses of management and otherwise bear burdens regarding the property in co-ownership, in proportion to his/her share.

- (2) If a co-owner does not perform the obligations under the preceding paragraph within one year, other co-owners may acquire the share of such person by paying reasonable compensation.

(Claims on property in co-ownership)

Article 254 A claim that one of co-owners holds against other co-owners with respect to the property in co-ownership may be exercised against their specific successors.

(Renunciation of Shares and Death of Co-owners)

Article 255 If one of co-owners renounces his/her share or dies without an heir, his/her share shall vest in other co-owners.

(Demands for Partition of property in co-ownership)

Article 256 Each co-owner may demand the partition of property in co-ownership at any time; provided, however, that this shall not preclude concluding a contract to the effect that a partition will

not occur for a period within five years.

- (2) The contract under the proviso to the preceding paragraph may be renewed; provided, however, that the period thereof may not exceed five years from the time of the renewal.

Article 257 The provisions of the preceding Article shall not apply to the property in co-ownership provided for in Article 229.

(Partition of property in co-ownership by Judgment)

Article 258 If no agreement is reached among co-owners with respect to the partition of property in co-ownership, a demand for partition of the same may be submitted to the court.

- (2) In cases provided for in the preceding paragraph, if the property in co-ownership cannot be partitioned in kind, or it is likely that the value thereof will be significantly reduced by the partition, the court may order the sale of the same at auction.

(Performance of Obligations regarding Co-ownership)

Article 259 If one of the co-owners holds a claim regarding co-ownership against other co-owners, upon partition, the portion of the property in co-ownership that vests in the obligors may be appropriated for the performance of the same.

- (2) If it is necessary to sell the portion of the property in co-ownership that vests in the obligors to obtain the performance under the preceding paragraph, the obligee may demand the sale of the same.

(Participation in Partition of property in co-ownership)

Article 260 Persons who hold rights with respect to property in co-ownership and the obligee of any co-owner may participate in partitions at their own expense.

- (2) If, notwithstanding a request for participation under the provisions of the preceding paragraph, partition is effected without allowing the participation of the person who submitted the request, that partition may not be asserted against the person who submitted the request.

(Co-owners' Warranties upon Partitions)

Article 261 Each co-owner shall bear, in proportion to his/her share, the responsibility of warranty that a seller would have as to the Thing other co-owners have acquired by partition.

(Documents regarding property in co-ownership)

Article 262 If a partition has been completed, each person who participated in the partition must retain the documents regarding the Thing he/she acquired.

- (2) Documents regarding the Thing that is partitioned for some or all co-owners must be retained by the person who acquired the largest portion of that Thing.
- (3) In the cases provided for in the preceding paragraph, if no person acquired the largest portion, the person who is to retain the documents shall be determined by mutual agreement among the persons who participated in the partition. If no agreement is reached, the court shall designate the same.
- (4) The person who is to retain the documents must allow other persons who participated in the partition to use the documents at the request of the same.

(Rights of Common with Nature of Co-ownership)

Article 263 Rights of common that have the nature of co-ownership shall be governed by local custom and shall otherwise be subject to the application of the provisions of this Section.

(Quasi Co-ownership)

Article 264 The provisions of this Section shall apply mutatis mutandis to the cases where two or more persons share property rights other than the ownership; provided, however, that this shall not apply if laws and regulations provide otherwise.

Chapter IV Superficies

(Content of Superficies)

Article 265 A superficiary shall have the right to use the land of others in order to own structures, or trees or bamboo, on that land.

(Rents)

Article 266 The provisions of Articles 274 through 276 shall apply mutatis mutandis to cases where the superficiary must pay periodical rent to the owners of the land.

(2) In addition to the provisions of the preceding paragraph, provisions on leasehold shall apply mutatis mutandis to rent to the extent that application is not inconsistent with the nature of the same.

(Mutatis Mutandis Application of Provisions regarding Neighboring Relationships)

Article 267 The provisions of Subsection 2, Section 1 of the preceding Chapter (Neighboring Relationships) shall apply mutatis mutandis between superficiaries or between a superficiary and a landowner; provided, however, that the mutatis mutandis application of the provisions of Article 229 to holders of superficies shall be limited to cases where structures on the boundary line are installed after the creation of the superficies.

(Duration of Superficies)

Article 268 In cases where the duration of superficies is not fixed by the act that established the same, if there is no other custom, the superficiary may renounce their rights at any time; provided, however, that, if rent must be paid, the superficiary must give notice one year or more in advance or pay rent for one year that has not yet become due and payable.

(2) If the superficiary does not renounce its rights in accordance with the provisions of the preceding paragraph, the court may, at the request of the parties concerned, fix a duration of twenty years or more but not more than fifty years, taking into consideration the kind and status of the structures, or trees or bamboo and other circumstances at the time of the creation of the superficies.

(Removal of Structures)

Article 269 When the right of the superficiary is extinguished, he/she may restore the land to its original condition and remove structures and trees or bamboo on the same; provided, however, that, if the owner of the land gives notice that he/she will purchase the same by offering to pay an amount equivalent to the market price, the superficiary may not refuse that offer without justifiable grounds.

(2) If there are customs that differ from the provisions of the preceding paragraph, those customs shall prevail.

(Superficies for Underground or Overhead Space)

Article 269-2 Underground or overhead space may be used as the object of superficies in order to own structures by specifying limits in the vertical dimension. In such cases, restrictions on the use of that

land may be added in the act that establishes superficies for the purpose of facilitating the exercise of the superficies.

- (2) The superficies under the preceding paragraph may be established even in cases where third parties hold rights to use or receive profits from land if all persons who hold those rights or rights underlying the same consent. In such cases, persons who hold the rights to use or receive profits from the land cannot preclude the exercise of the superficies to the same.

Chapter V Emphyteusis

(Content of Emphyteusis)

Article 270 An emphyteuta shall have the right to engage in cultivation or livestock farming on the land of others by paying rent.

(Restrictions on Alterations to Land by Emphyteutas)

Article 271 An emphyteuta may not make any alteration of the land that will result in irreparable damage.

(Transfer of Emphyteusis or Leasing of Land)

Article 272 An emphyteuta may assign his/her rights to others, or lease the land during the duration of his/her rights to cultivate or farm livestock; provided, however, that this shall not apply if such acts are prohibited by the act that established his/her rights.

(Mutatis Mutandis Application of Provisions regarding Lease)

Article 273 In addition to the provisions of this Chapter and those provided for in the act that established the emphyteusis, provisions regarding lease shall apply mutatis mutandis to the obligations of a emphyteuta, to the extent that application is not inconsistent with the nature of the same.

(Rent Reductions or Exemptions)

Article 274 An emphyteuta may not demand an exemption from or reduction in the rent even if a loss of profits has been suffered due to force majeure.

(Waiver of Emphyteusis)

Article 275 If an emphyteuta has gained no profit whatsoever for three or more consecutive years or has gained profits less than the rent for five or more consecutive years due to force majeure, he/she may surrender his/her rights.

(Demand for Extinction of Emphyteusis)

Article 276 If an emphyteuta fails to pay the rent for two or more consecutive years, the landowner may demand the extinction of the emphyteusis.

(Customs regarding Emphyteusis)

Article 277 If there are customs that differ from the provisions of Article 271 through the preceding Article, those customs shall prevail.

(Duration of Emphyteusis)

Article 278 The duration of the emphyteusis shall be twenty years or more but no more than fifty years. Even if an act establishing emphyteusis provides for a period longer than fifty years, the duration shall be fifty years.

(2) The establishment of emphyteusis may be renewed; provided, however, that the duration of the same may not exceed fifty years from the time of renewal.

(3) If an act establishing emphyteusis does not provide for the duration of the emphyteusis, the duration of the same shall be thirty years unless there is a custom to the contrary.

(Removal of Structures)

Article 279 The provisions of Article 269 shall apply *mutatis mutandis* to emphyteusis.

Chapter VI Servitudes

(Content of Servitudes)

Article 280 A person entitled to a servitude shall have the right to make lands of others available for the benefit of their own lands in accordance with purposes prescribed in the acts establishing the servitudes; provided, however, that those rights should not violate the provisions (limited to those that relate to public policy) under Section 1 of Chapter III (Extent of Ownership).

(Appurtenant Nature of Servitudes)

Article 281 Servitudes are appurtenant to ownership in the dominant land (hereinafter referring to the land of a person entitled to a servitude, enjoying benefits from the land of others) and shall be transferred together with that ownership, or shall be the subject of other rights that exist in relation to the dominant land; provided, however, that this shall not apply if the act establishing the servitude provides otherwise.

(2) Servitudes may neither be assigned nor made the subject of other rights apart from the dominant land.

(Indivisibility of Servitudes)

Article 282 One of the co-owners of land may not extinguish, with respect to his/her own share, a servitude that exists on behalf of or in relation to the land.

(2) In cases where land is partitioned or a portion thereof is assigned to others, a servitude shall exist on behalf of or in relation to the respective portions of the same; provided, however, that this shall not apply if the servitude, by its nature, relates only to a portion of the land.

(Acquisition of Servitudes by Prescription)

Article 283 A servitude can be acquired by prescription so long as it is continuously exercised and can be externally recognized.

Article 284 If one of the co-owners of land acquires a servitude by prescription, the other co-owners shall also acquire the same.

(2) Interruption of prescription shall not be effected against co-owners unless it is made against each co-owner who exercises the servitude.

(3) In cases where there are two or more co-owners who exercise a servitude, even if there is cause to suspend the prescription with respect to one of them, the prescription shall run in favor of each co-owner.

(Water Servitude)

Article 285 If water on servient land (hereinafter referring to a land of any person other than the one entitled to the servitude, made available for the benefit of the dominant land) subject to a water servitude is insufficient for the demand of the dominant land and the servient land, the water shall be used in proportion to the demand on each parcel of land, firstly for household purposes with the remaining portion used for other purposes; provided, however, that this shall not apply if the act establishing the servitude provides otherwise.

(2) If more than one water servitude is created with respect to the same servient land, the persons subsequently entitled may not prevent the use of water by those previously entitled.

(Obligations of Owners of Servient Land to Install Structures)

Article 286 If the owner of servient land has assumed obligations to install or repair structures for the exercise of a servitude at his/her own expense by the act establishing the servitude or by a contract executed after the same, specific successors of the owner of the servient land shall also assume those obligations.

Article 287 An owner of servient land may be exempted from obligations of the preceding Article at any time by abandoning the ownership in the portion of the land necessary for the servitude and transferring the same to the person entitled to a servitude.

(Use of Structures by the Owner of Servient Lands)

Article 288 The owner of a servient land may use structures installed on the servient land for the exercise of the servitude to the extent his/her use does not obstruct the exercise of that servitude.

(2) In the cases provided for in the preceding paragraph, the owner of the servient land must bear the expense for the installation and preservation of the structures in proportion to the benefit he/she receives.

(Extinction of Servitude by Acquisition by Prescription of Servient Lands)

Article 289 If the possessor of servient land has so possessed the same as to satisfy the requirements for acquisitive prescription, the servitude shall be extinguished thereby.

Article 290 The extinctive prescription of the preceding Article is nullified by the person entitled to the servitude exercising his/her rights.

(Extinctive Prescription of Servitudes)

Article 291 The period of the extinctive prescription provided for in paragraph (2) of Article 167 shall commence upon the final exercise of the servitude if the servitude is not exercised continuously, and upon the occurrence of a fact that prevents the exercise of the servitude if the servitude is exercised continuously.

Article 292 In cases where dominant land is co-owned by more than one person, if there is a suspension or interruption of prescription in favor of one co-owner, such suspension or interruption shall also be effective for the benefit of other co-owners.

Article 293 If a person entitled to a servitude does not exercise a portion of his/her rights, only that portion shall be extinguished by prescription.

(Rights of Common without the Nature of Co-Ownership)

Article 294 Rights of common that do not have the nature of co-ownership shall be governed by local customs and shall otherwise be subject to the mutatis mutandis application of the provisions of this Section.

Chapter VII Rights of Retention

(Content of Rights of Retention)

Article 295 If a possessor of a Thing belonging to another person has a claim that has arisen with respect to that Thing, he/she may retain that thing until that claim is satisfied; provided, however, that this shall not apply if such claim has not yet fallen due.

- (2) The provisions of the preceding paragraph shall not apply in cases where possession commenced by means of a tortious act.

(Indivisibility of Rights of Retention)

Article 296 A holder of a right of retention may exercise his/her rights against the whole of the Thing retained until his/her claim is satisfied in its entirety.

(Collection of Fruits by Holders of Rights of Retention)

Article 297 A holder of a right of retention may collect fruits derived from the Thing retained, and appropriate the same to the satisfaction of his/her claim prior to other obligees.

- (2) The fruits under the preceding paragraph must be appropriated first to the payment of interest on the claim, and any remainder must be appropriated to the satisfaction of the principal.

(Keeping the Thing Retained by Holders of Rights of Retention)

Article 298 A holder of a right of retention must possess the Thing retained with the care of a good manager.

- (2) A holder of rights of retention may not use, lease or give as a security the Thing retained unless he/she obtains the consent of the obligor; provided, however, that this shall not apply to uses necessary for the preservation of that Thing.
- (3) If the holder of a right of retention violates the provisions of the preceding two paragraphs, the obligor may demand that the right of retention be extinguished.

(Demands for Reimbursement of Expenses by Holders of Rights of Retention)

Article 299 If a holder of a right of retention incurs necessary expenses with respect to the Thing retained, he/she may have the owner reimburse the same.

- (2) If a holder of a right of retention incurs beneficial expenses with respect to the Thing retained, to the extent that there is currently an increase in value as a result of the same, he/she may have the expenses incurred or the increase in value reimbursed at the owner's choice; provided, however, that the court may, at the request of the owner, grant a reasonable period for the reimbursement of the same.

(Exercise of Rights of Retention and Extinctive Prescription of Claims)

Article 300 The exercise of a right of retention shall not preclude the running of extinctive prescription of claims.

(Extinction of Rights of Retention by Tender of Security)

Article 301 An obligor may demand that a right of retention be extinguished by tendering reasonable security.

(Extinction of Rights of Retention by Loss of Possession)

Article 302 A right of retention shall be extinguished if the holder of the right of retention loses possession of the Thing retained; provided, however, that this shall not apply if the Thing retained is leased or it is made the subject of a pledge in accordance with the provisions of paragraph (2) of Article 298.

Chapter VIII Statutory Liens

Section 1 General Provisions

(Content of Statutory Liens)

Article 303 A holder of a statutory lien shall have the rights to have his/her own claim satisfied prior to other obligees out of the assets of the relevant obligor in accordance with the provisions of laws including this Act.

(Extension of Security Interest to Proceeds of Collateral)

Article 304 A statutory lien may also be exercised against Things including monies that the obligor is to receive as a result of the sale, lease or loss of, or damage to, the subject matter of the statutory lien; provided, however, that the holder of the statutory lien must attach the same before the payment or delivery of the monies or other Thing.

(2) The provisions of the preceding paragraph shall likewise apply to the consideration for real rights established by the obligor on the subject matter of the statutory lien.

(Indivisibility of Statutory Liens)

Article 305 The provisions of Article 296 shall apply *mutatis mutandis* to statutory liens.

Section 2 Kinds of Statutory Liens

Subsection 1 General Statutory Lien

(General Statutory Lien)

Article 306 A person who has a claim that arose from the causes listed below shall have a statutory lien over the entire property of the obligor:

- (i) Expenses for the common benefit;
- (ii) An employer-employee relationship;
- (iii) Funeral expenses; or
- (iv) The supply of daily necessities.

(Statutory Liens for Expenses for Common Benefit)

Article 307 Statutory liens for expenses for the common benefit shall exist with respect to the expenses of preservation, liquidation or distribution of the property of the obligor incurred for the common benefit of all obligee.

(2) With respect to expenses that were not beneficial for all obligees, a statutory lien shall exist solely for obligees who received a benefit as a result of such expenses.

(Statutory Liens for Employer-Employee Relationships)

Article 308 Statutory liens for employer-employee relationships shall exist with respect to salaries and other claims that arose under the employer-employee relationship between the obligor and his/her employee.

(Funeral Expenses)

Article 309 Statutory liens for funeral expenses shall exist with respect to the reasonable expenses of a funeral observed for the obligor.

(2) The statutory lien under the preceding paragraph shall also exist with respect to the reasonable expenses of a funeral observed by the obligor for a relative whom the obligor is bound to support.

(Statutory Liens for Household Items)

Article 310 Statutory liens for daily necessities shall exist with respect to the supply of food and drink items, fuel and electricity for the most recent six months required for the household of the obligor or his/her relatives who reside with the obligor and whom the obligor is bound to support and the domestic servants of the same.

Subsection 2 Statutory Liens over Movables

(Statutory Liens over Movables)

Article 311 A person who has a claim that arose from the causes listed below shall have a statutory lien over certain movables of the obligor:

- (i) A lease of immovable property;
- (ii) A lodging at a hotel or inn;
- (iii) The transportation of passengers or luggage;
- (iv) The preservation of movables;
- (v) The sale of movables;
- (vi) The supply of seed or fertilizer (hereinafter including eggs of silkworms or mulberry leaves used to feed silkworms);
- (vii) Agricultural labor; or
- (viii) Industrial labor.

(Statutory Liens for Leases of Immovable Properties)

Article 312 Statutory liens for a lease of immovable property shall exist with respect to the movables of the lessee in connection with obligations of the lessee that arose from the lease relationship including rent for that immovable property.

(Scope of Subject Matter of Statutory Liens for Leases of Immovable Properties)

Article 313 The statutory lien of a lessor of land shall exist with respect to movables furnished to that land or buildings for the use of that land, movables provided for the use of that land, and fruits of that land in the possession of the lessee.

(2) The statutory lien of a lessor of a building shall exist with respect to movables furnished to that building by the lessee.

Article 314 In the cases of assignment of lessee's rights or subleasing, the statutory lien of the lessor shall extend to the movables of the assignee or sublessee. The same shall apply to monies that the assignee or sublessee is to receive.

(Scope of Secured Claims under Statutory Liens for Leases of Immovable Properties)

Article 315 In cases where all of the lessee's property is to be liquidated, the statutory lien of the lessor shall exist only with respect to obligations, including rent, for the previous, current and next terms, and obligations to compensate for damage that arose in the previous and current terms.

Article 316 In cases where a lessor has received a security deposit, he/she shall have a statutory lien solely in respect of the portion of his/her claim that will not be satisfied by that security deposit.

(Statutory Liens for Lodging at Hotels)

Article 317 Statutory lien for lodging at hotels shall exist with respect to the hand luggage of a hotel guest left at that hotel, in connection with room charges, and food and beverage charges, that should be borne by the hotel guest.

(Statutory Liens for Transportation)

Article 318 Statutory liens for transportation shall exist with respect to luggage in the possession of the transporter, in connection with transportation charges for passengers or luggage and expenses incidental to the same.

(Mutatis Mutandis Application of Provisions on Immediate Acquisition)

Article 319 The provisions of Articles 192 through 195 shall apply mutatis mutandis to statutory liens under the provisions of Article 312 through the preceding Article.

(Statutory Liens for Preservation of Movables)

Article 320 Statutory liens for the preservation of movables shall exist with respect to movables, in connection with expenses required for the preservation of those movables, or expenses required for the preservation, approval or execution of rights regarding those movables.

(Statutory Liens for Sale of Movables)

Article 321 Statutory liens for the sale of movables shall exist with respect to movables, in connection with the price of those movables and interest on the same.

(Statutory Liens for Supply of Seed or Fertilizer)

Article 322 Statutory liens for the supply of seed or fertilizer shall exist with respect to fruits (including eggs of silk worms or any Thing derived from the use of mulberry leaves used to feed silkworms) derived from land where the seed or fertilizer was used, within one year of that use, in connection with the price of that seed or fertilizer and interest on the same.

(Statutory Liens for Agricultural Labor)

Article 323 Statutory liens for agricultural labor shall exist, with respect to fruits derived from labor, in connection with the most recent year's wages of the person who engages in that labor.

(Statutory Liens for Industrial Labor)

Article 324 Statutory liens for industrial labor shall exist, with respect to manufactured things derived from labor, in connection with the most recent three months' wages of the person who engages in that

labor.

Subsection 3 Statutory Liens for Immovable Properties

(Statutory Liens for Immovable Properties)

Article 325 A person who has a claim that arose from the causes listed below shall have a statutory lien over certain immovable property of the obligor:

- (i) The preservation of immovable property;
- (ii) Construction work for immovable property; or
- (iii) The sale of immovable property.

(Statutory Liens for Preservation of Immovable Properties)

Article 326 Statutory liens for the preservation of immovable property shall exist with respect to immovable property, in connection with the expenses required for the preservation of that immovable property or the expenses required for the preservation, approval or execution of rights regarding that immovable property.

(Statutory Liens for Construction Work for Immovable Properties)

Article 327 Statutory lien for construction work for immovable property shall exist, with respect to immovable property, in connection with the expenses of construction work performed by a person who designs, carries out or supervises construction work regarding the immovable property of the obligor.

- (2) The statutory liens under the preceding paragraph shall exist, in cases where there is a current increase in the value of the immovable property resulting from the construction work, with respect to that increased value.

(Statutory Liens for Sales of Immovable properties)

Article 328 Statutory liens for sales of immovable properties shall exist, with respect to immovable property, in connection with the price of that immovable property and interest on the same.

Section 3 Order of Priority of Statutory Liens

(Order of Priority of General Statutory Liens)

Article 329 In cases where there is conflict among general statutory liens, the order of priority shall follow the order listed in each item of Article 306.

- (2) In cases where there is conflict between a general statutory lien and a special statutory lien, the special statutory lien shall prevail over the general statutory lien; provided, however, that statutory liens on expenses for the common benefit shall have the effect of prevailing over all obligees who received the benefit of the same.

(Order of Priority of Statutory Liens over Movables)

Article 330 In cases where there is conflict among special statutory liens with respect to the same movables, the order of priority shall follow the order listed below. In such cases, if there are two or more preservers with respect to the statutory liens for preservation of movables listed in item (ii), a new preserver shall prevail over previous preservers.

- (i) Statutory liens for leases of immovable properties, lodging at hotels and transportation;
- (ii) Statutory liens for the preservation of movables; and

- (iii) Statutory liens for the sale of movables, the supply of seed or fertilizer, agricultural labor and industrial labor.
- (2) In the cases provided for in the preceding paragraph, if a holder of a statutory lien ranked first knew at the time he/she acquired that claim of the existence of a holder of a statutory lien of the second or third rank, he/she cannot exercise his/her rights against those persons. The same shall likewise apply against persons who preserved Things on behalf of the holder of a statutory lien of the first rank.
- (3) Regarding fruits, the first rank shall belong to persons who engage in agricultural labor, the second rank shall belong to persons who supply seed or fertilizer, and the third rank shall belong to lessors of land.

(Order of Priority of Statutory Liens over Immovable properties)

Article 331 In cases where there is conflict among special statutory liens with respect to the same immovable properties, the order of priority shall follow the order of the items of Article 325.

- (2) In cases where successive sales are made with respect to the same immovable properties, the order of priority of the statutory liens for the sale of the immovable properties among sellers shall follow the chronological order of the sales.

(Statutory Liens with Same Priority)

Article 332 If there are two or more holders of statutory liens with the same priority with respect to the same object, the holders of statutory liens shall be paid in proportion to the amounts of their claims.

Section 4 Effect of Statutory Liens

(Statutory Liens and Third-party Acquirers)

Article 333 Statutory liens may not be exercised with respect to the movables that are the subject matter of the same after the obligors have delivered those movables to third-party acquirers.

(Conflict between Statutory Liens and Pledges of Movables)

Article 334 In cases where there is conflict between a statutory lien and a pledge of movables, the pledgee of such movables shall have the same rights as those of the holder of a statutory lien of the first rank under Article 330.

(Effect of General Statutory Liens)

Article 335 Holders of general statutory liens cannot be paid out of immovable properties unless they are first paid out of property other than immovable properties and a claim that is not satisfied remains.

- (2) With respect to immovable properties, holders of general statutory liens must first be paid out of those that are not the subject matters of special security.
- (3) If holders of general statutory liens fail to participate in distributions in accordance with the provisions of the preceding two paragraphs, they cannot exercise their statutory liens against registered third parties with respect to amounts that would have been paid to them if they had participated in the distribution.
- (4) The provisions of the preceding three paragraphs shall not apply to cases where the proceeds of immovable properties are distributed prior to the proceeds of assets other than immovable properties, or the proceeds of immovable properties that is the subject matter of a special security are distributed prior to the proceeds of other immovable properties.

(Perfection of General Statutory Liens)

Article 336 General statutory liens may be asserted against obligees without special security, even if the liens are not registered with respect to the relevant immovable property; provided, however, that this shall not apply to registered third parties.

(Registration of Statutory Liens for Preservation of Immovable Properties)

Article 337 In order to preserve the effectiveness of statutory liens for preservation of immovable properties, registration must be carried out immediately after the completion of the act of preservation.

(Registration of Statutory Liens for Construction Work for Immovable Properties)

Article 338 In order to preserve the effectiveness of statutory liens for construction work for immovable properties, the budgeted expenses of the construction work must be registered prior to the commencement of the same. In such cases, if the expenses of the construction work exceed the budgeted amount, a statutory lien shall not exist with respect to the amount in excess of the same.

(2) The amount of increase in value of immovable properties that resulted from construction work must be evaluated by an appraiser selected by the court at the time of the participation in the distribution.

(Registered Statutory Liens for Preservation of Immovable Properties or Construction Work for Immovable Properties)

Article 339 Statutory liens registered in accordance with the provisions of the preceding two Articles may be exercised prior to mortgages.

(Registration of Statutory Liens for Sales of Immovable Properties)

Article 340 In order to preserve the effectiveness of statutory liens for the sale of immovable properties, a statement to the effect that the price of the immovable properties or interest on the same has not been paid must be registered simultaneously with the execution of the sales contract.

(Mutatis Mutandis Application of Provisions regarding Mortgages)

Article 341 In addition to the provisions of this Section, the provisions regarding mortgages shall apply mutatis mutandis to the effects of statutory liens, to the extent that application is not inconsistent with the nature of the same.

Chapter IX Pledges

Section 1 General Provisions

(Content of Pledges)

Article 342 Pledgees shall have the right to possess Thing received from obligors or third parties as security for their claims and to have their own claims paid prior to other obligees out of that Thing.

(Subject Matter of Pledges)

Article 343 Pledges cannot be created over a Thing that cannot be assigned to others.

(Creation of Pledges)

Article 344 The creation of a pledge shall take effect by delivering the subject matter of the same to the obligee.

(Prohibition of Possession by Pledgors as Agents)

Article 345 A pledgee may not allow a pledgor to possess the Thing pledged on behalf of the pledgee.

(Scope of Secured Claims under Pledges)

Article 346 Pledges shall secure the principal, interest, penalties, expenses of executing the pledge, expense of preserving the Thing pledged and the compensation of damage arising from failure to perform obligations or latent defects in the Thing pledged; provided, however, that this shall not apply if the act establishing the pledge provides otherwise.

(Retention of the Thing Pledged)

Article 347 Pledgees may retain the Thing pledged until the claims provided for in the preceding Article are satisfied; provided, however, that this right cannot be asserted against obligees who have priority over the pledgees.

(Sub-pledges)

Article 348 Pledgees may sub-pledge the Thing pledged within the duration of their rights, upon their own responsibility. In such cases, the pledgees shall be responsible for any loss arising from the - pledge even if the same is caused by force majeure.

(Prohibition on Disposition of the Thing Pledged by Contract)

Article 349 Pledgors cannot, either by the acts establishing pledges or by contracts made prior to the due dates for performance of their obligations, allow pledgees to acquire ownership of the Thing pledged as payment, nor promise to allow pledgees to dispose of it in any manner other than is prescribed by law.

(Mutatis Mutandis Application of Provisions on Rights of Retention and Statutory Liens)

Article 350 The provisions of Articles 296 through 300 and those of Article 304 shall apply mutatis mutandis to pledges.

(Third Party Pledgors' Rights to Obtain Reimbursement)

Article 351 If persons who created pledges to secure the obligations of others have performed those obligations or have lost ownership of the Thing pledged due to the execution of the pledges, they shall have the right to obtain reimbursement from the obligors in accordance with the provisions regarding guarantee obligations.

Section 2 Pledges of Movable

(Requirements for the Perfection of Pledges of Movable)

Article 352 Pledgees of movables cannot assert their pledges against third parties unless they are in continuous possession of the Thing pledged.

(Recovery of Possession of the Thing Pledged)

Article 353 Pledgees of movables may, if the pledged Thing is usurped, recover the same solely by bringing actions for recovery of possession.

(Execution of Pledges of Movable)

Article 354 If claims of pledgees of movables are not performed, they may, limited to cases where there are reasonable grounds, demand from a court immediate appropriation of the Thing pledged to the

performance of the claims in accordance with the evaluation of an appraiser. In such cases, the pledgees of movables must notify the obligors in advance of the demand.

(Order of Priority of Pledges of Movables)

Article 355 If more than one pledge is created with respect to the same movables, the order of priority of those pledges shall follow the chronological order of their creation.

Section 3 Pledges of Immovable Properties

(Use and Profit by Pledgees of Immovable Properties)

Article 356 Pledgees of immovable property may use and receive the profits from the immovable property that is the subject matter of a pledge, in accordance with the method of its use.

(Management Expenses Borne by Pledgees of Immovable Properties)

Article 357 Pledgees of immovable properties shall pay the expenses of management and otherwise bear burdens in relation to the immovable properties.

(Prohibition on Charging of Interest by Pledgees of Immovable Properties)

Article 358 Pledgees of immovable properties cannot demand interest on their claims.

(Cases of Other Provisions in Act of Establishment)

Article 359 The provisions of the preceding three Articles shall not apply in cases where the acts establishing pledges provide otherwise or execution against profits derived from the immovable properties as collateral (hereinafter referring to the execution against profits from secured immovable properties provided for in item (ii) of Article 180 of the Civil Execution Act (Act No. 4 of 1979)) has been commenced.

(Duration of Pledges of Immovable Properties)

Article 360 The duration of pledges of immovable properties cannot exceed ten years. Even if a longer period is provided for in the act establishing the pledge, the duration of the same shall be ten years.

(2) The creation of pledges may be renewed; provided, however, that the duration of the same cannot exceed ten years from the time of the renewal.

(Mutatis Mutandis Application of Provisions on Mortgages)

Article 361 In addition to the provisions of this Section, the provisions of the next Chapter shall apply mutatis mutandis to pledges of immovable properties to the extent that application is not inconsistent with the nature of the same.

Section 4 Pledges of Rights

(Subject Matter of Pledges of Rights)

Article 362 Pledges may have property rights for their subject matters.

(2) In addition to the provisions of this Section, the provisions of the preceding three Sections (General Provisions, Pledges of Movables and Pledges of Immovable properties) shall apply mutatis mutandis to pledges under the preceding paragraph, to the extent that application is not inconsistent with the nature of the same.

(Creation of Pledges over Claims)

Article 363 When a pledge is to be created over a claim, and the delivery of an instrument evidencing it is required for its assignment, the creation of the pledge shall take effect by the delivery of such instrument.

(Requirements for Perfection of Pledges over Nominative Claims)

Article 364 If a pledge is created over a nominative claim, that pledge cannot be asserted against third parties including third party obligors unless notice of the creation of the pledge is given to third party obligors in accordance with the provisions of Article 467, or unless the third party obligors acknowledge the same.

(Requirements for Perfection of Pledges over Debts Payable to Order)

Article 365 If a pledge is created over debts payable to order, that pledge cannot be asserted against third parties unless the creation of the pledge is endorsed on the instrument of the same.

(Collection of Claims by Pledges)

Article 366 A pledgee may directly collect the claim that is the subject matter of the pledge.

- (2) If monies are the subject matter of a pledged claim, the pledgee may collect the same to the extent of the portion that corresponds to the amount of the pledgee's own claim.
- (3) If the due date of the pledged claim under the preceding paragraph arrives prior to the due date of the claim of the pledgee, the pledgee may have the third party obligor deposit that amount to be paid to the pledgee. In such cases, the pledge shall exist over the amount so deposited.
- (4) If the subject matter of the pledged claim is not monies, the pledgee shall have the pledge over the Thing received as performance of the obligation.

Article 367 Deleted

Article 368 Deleted

Chapter X Mortgages

Section 1 General Provisions

(Content of Mortgages)

Article 369 A Mortgagee shall have the right to receive the performance of his/her claim prior to other obligees out of the immovable properties that the obligor or a third party provided to secure the obligation without transferring possession.

- (2) Superficies and emphyteusis can be the subject matter of a mortgage. In such cases, the provisions of this Chapter shall apply mutatis mutandis.

(Scope of Effect of Mortgages)

Article 370 A mortgage shall extend to the Things that is an integral part of immovable properties that is the subject matter of the mortgage (hereinafter referred to as "Mortgaged Immovable Properties") except for buildings on the mortgaged land; provided, however, that this shall not apply in cases where the act establishing the mortgage provides otherwise or the obligee can rescind the act of the obligor in accordance with the provisions of Article 424.

Article 371 If there is a default with respect to a claim secured by a mortgage, the mortgage shall extend to the fruits of the Mortgaged Immovable Properties derived after the default.

(Mutatis Mutandis Application of Provisions on Right of Retention)

Article 372 The provisions of Article 296, Article 304 and Article 351 shall apply mutatis mutandis to mortgages.

Section 2 Effect of Mortgages

(Order of Priority of Mortgages)

Article 373 If more than one mortgage is created with respect to the same immovable properties, the order of priority of those mortgages shall follow the chronological order of their registration.

(Changes in Order of Priority of Mortgages)

Article 374 The order of priority of mortgages may be changed with the agreement of all mortgagees; provided, however, that, if there are interested persons, the consent of the same must be obtained.

(2) The changes in order under the preceding paragraph shall not take effect unless registered.

(Scope of Secured Claims under Mortgages)

Article 375 If mortgagees have rights to demand periodic payments including interest, they may exercise their mortgages solely with respect to payments that have fallen due in the most recent two years; provided, however, that, if special registration is effected with respect to prior periodical payments that have fallen due, the mortgagees shall not be precluded from exercising their mortgages as from the time of that registration.

(2) In cases where mortgagees have rights to demand the compensation for damages resulting from defaults in obligations, the provisions of the preceding paragraph shall apply mutatis mutandis to the damages of the most recent two years; provided, however, that the aggregate period including the interest and other periodical payments may not exceed two years.

(Disposition of Mortgages)

Article 376 A mortgagee may apply his/her mortgage to secure other claims, or assign or waive his/her mortgage, or its order of priority, for the benefit of other obligees of the same obligor.

(2) In the cases provided for in the preceding paragraph, if a mortgagee disposes of his/her mortgage for the benefit of two or more persons, the order of priority of the rights of persons who receive the benefit of that disposition shall follow the chronological order noted in the registration of the mortgage.

(Requirements for Perfection of Disposition of Mortgages)

Article 377 In the cases in the preceding Article, in accordance with the provisions of Article 467, mortgagees cannot assert the disposition of mortgages against principal obligors, guarantors, mortgagors or their respective successors unless the disposition is notified to the primary obligors or the principal obligors acknowledge that disposition.

(2) If the principal obligors have received the notice or given acknowledgement under the provisions of the preceding paragraph, performance effected without the approval of the persons who receive the benefit of the disposition of mortgages cannot be asserted against those beneficiaries.

(Payment of Mortgage Proceeds)

Article 378 If a third party who purchases the ownership or superficies of Mortgaged Immovable Properties pay the price of the same to the relevant mortgagee at the request of the mortgagee, the

mortgage shall be extinguished for the benefit of that third party.

(Claims for Extinction of Mortgages)

Article 379 A third party acquirer of Mortgaged Immovable Properties may make a claim for the extinction of a mortgage as prescribed in Article 383.

Article 380 No primary obligor, guarantor or successor of the same may make a claim for the extinction of a mortgage.

Article 381 A third party acquirer of Mortgaged Immovable Properties that is subject to a condition precedent may not make a claim for the extinction of a mortgage whilst whether or not the condition precedent is satisfied is still undetermined.

(Timing of Claims for Extinction of Mortgages)

Article 382 A third party acquirer of Mortgaged Immovable Properties must make a claim for the extinction of a mortgage before attachment by auction as a result of the execution of the mortgage takes effect.

(Procedures for Claims for Extinction of Mortgages)

Article 383 If a third party acquirer of Mortgaged Immovable Properties intends to make a claim for the extinction of a mortgage, he/she must send the documents listed below to each registered obligee:

- (i) A document that specifies the cause and date of the acquisition, the name and address of the assignor and the acquirer, the nature, location and price of the Mortgaged Immovable Properties and burdens of the acquirer;
- (ii) A certificate of registered matters regarding the Mortgaged Immovable Properties (limited to certificates certifying all registered matters currently in effect); and
- (iii) A document to the effect that, if the obligee does not file a petition for auction by executing the mortgage within two months, the third party acquirer of the immovable properties will pay or deposit the price provided for in item (i) or an amount specifically designated in accordance with the order of priority of claims.

(Deemed Approval of Obligees)

Article 384 In the cases listed below, obligees who have received the documents listed in each item of the preceding Article shall be deemed to have approved the price or amount that the third party acquirer of Mortgaged Immovable Properties has offered as stated in the document listed in item (iii) of that Article:

- (i) If the obligee does not file a petition for auction by executing the mortgage within two months after receipt of the documents listed in each item of the preceding Article;
- (ii) If the obligee withdraws a petition under the preceding item;
- (iii) If a ruling dismissing a petition under item (i) has become final and binding; or
- (iv) If a ruling rescinding auction procedures based on a petition under item (i) (excluding rulings under the provisions of paragraph (3) of Article 63 or paragraph (3) of Article 68-3 of the Civil Execution Act applied mutatis mutandis under Article 188 of the same Act, or under the provisions of paragraph (2) of Article 183 of the same Act in cases where the certified copy under item (v), paragraph (1) of the same Article is provided) has become final and binding.

(Notice of Petitions for Auction)

Article 385 If an obligee who has received the documents listed in each item of Article 383 files a petition under item (i) of the preceding Article, he/she must give notice to such effect to the obligor and assignor of the Mortgaged Immovable Properties within the period under that item.

(Effect of Claims for Extinction of Mortgages)

Article 386 A mortgage shall be extinguished if all registered obligees approve the price or amount offered by the third party acquirer of the Mortgaged Immovable Properties, and the third party acquirer of the Mortgaged Immovable Properties has paid or deposited the price or amount approved.

(Perfection of Leases with Registered Consent of Mortgagees)

Article 387 If all persons holding mortgages, the registrations of which precede the registration of a lease, give their consent, and such consents are registered, the lease so registered can be asserted against those mortgagees who gave their consent.

(2) For a mortgagee to give the consent under the preceding paragraph, the approval of the persons who hold rights for which the mortgage is the object and other persons who will suffer detriment as a result of the consent of the mortgagee must be obtained.

(Statutory Superficies)

Article 388 In cases where land and a building on the land belong to the same owner, if a mortgage is created with respect to that land or building, and the execution of that mortgage results in the creation of different owners, it shall be deemed that a superficies has been created with respect to that building. In such cases, the rent shall be fixed by the court at the request of the parties.

(Auction of Buildings on Mortgaged Lands)

Article 389 If a building is constructed on mortgaged land after the creation of a mortgage, the mortgagee may auction the building together with the land; provided, however, that his/her right of priority may be exercised solely against the proceeds of the land.

(2) The provisions of the preceding paragraph shall not apply in cases where the owner of that building has rights with respect to the possession of the mortgaged land that can be asserted against the mortgagee.

(Purchases of Mortgaged Immovable Properties by Third Party Acquirers)

Article 390 A third party acquirer of Mortgaged Immovable Properties may be the purchaser at the auction of the same.

(Claims for Reimbursement of Expenses by Third Party Acquirers of Mortgaged Immovable Properties)

Article 391 If a third party acquirer of Mortgaged Immovable Properties has incurred necessary or beneficial expenses with respect to the Mortgaged Immovable Properties, he/she shall be entitled to obtain reimbursement of the same out of the proceeds of the Mortgaged Immovable Properties prior to other obligees, in accordance with the distinctions in Article 196.

(Distribution of Proceeds in cases of Joint Mortgage)

Article 392 In cases where an obligee holds mortgages on several immovable properties to secure the same claim, if the proceeds of those immovable properties are to be distributed simultaneously, the

obligee shall divide the burden of the claim in proportion to the value of each immovable property.

- (2) In cases where an obligee holds mortgages on several immovable properties to secure the same claim, if the proceeds from a particular immovable property alone are to be distributed, the mortgagee may receive the payment of his/her entire claim out of those proceeds. In such cases, subordinated mortgagees may exercise their mortgages in subrogation of that mortgagee, up to the amount that that mortgagee who receives payment would otherwise be entitled to receive from the proceeds of other immovable properties, in accordance with the provisions of the preceding paragraph.

(Note in Registration of Subrogation in case of Joint Mortgages)

Article 393 A person who exercises a mortgage by way of subrogation under the provisions of the second sentence of paragraph (2) of the preceding Article may note his/her subrogation in the registration of that mortgage.

(Payment from Assets other than Mortgaged Immovable Properties)

Article 394 A mortgagee may receive payment from assets other than the Mortgaged Immovable Properties, limited to the extent of the portion of his/her claim not paid from the proceeds of that Mortgaged Immovable Properties.

- (2) The provisions of the preceding paragraph shall not apply to cases where the proceeds of other assets are to be distributed prior to the proceeds of the Mortgaged Immovable Properties. In such cases, each other obligee may demand that the amount to be distributed to the mortgagee be deposited in order to have the mortgagee receive payment under the provisions of that paragraph.

(Suspension of Delivery by Users of Mortgaged Buildings)

Article 395 Any person who uses or receives profits from a building subject to a mortgage by virtue of a lease that cannot be asserted against the mortgagee, and who is listed as follows (in the following paragraph referred to as "Mortgaged Building User") shall not be required to deliver that building to the purchaser thereof until six months have elapsed from the time when the purchaser purchased that building at auction:

- (i) A person who has been using or receiving profits from the building since prior to the commencement of auction procedures; or
 - (ii) A person who is using or receiving profits from the building by virtue of a lease given after the commencement of auction procedures by the administrator of compulsory administration or execution against profits from secured immovable properties.
- (2) The provisions of the preceding paragraph shall not apply in cases where the purchaser issues a notice to the Mortgaged Building User demanding payment of consideration for a period of one month or more with respect to the use of the building in that paragraph that has occurred after the time of purchase by the purchaser, establishing a reasonable period, and no payment is made within that reasonable period.

Section 3 Extinction of Mortgages

(Extinctive Prescription of Mortgages)

Article 396 No mortgage shall be extinguished by prescription in relation to obligors and mortgagors unless it is extinguished simultaneously with the claim the mortgage secures.

(Extinction of Mortgages by Acquisition by Prescription of Mortgaged Immovable Properties)

Article 397 If a person who is neither an obligor nor a mortgagor has possessed the Mortgaged Immovable Properties in complete conformity with the requirements for acquisitive prescription, the mortgage shall be extinguished thereby.

(Renouncement of Mortgaged Superficies)

Article 398 Even if a holder of superficies or an emphyteuta who created mortgage on his/her superficies or emphyteusis renounces his/her rights, the renouncement cannot be asserted against the mortgagee.

Section 4 Revolving Mortgages

(Revolving Mortgages)

Article 398-2 Mortgages may be created, by an establishing act, in order to secure unspecified claims of a certain scope, up to the limit of a maximum amount.

- (2) The scope of the unspecified claims to be secured by the mortgage under the provisions of the preceding paragraph (hereinafter referred to as "Revolving Mortgage") must be prescribed by limiting the scope to claims arising from specific contracts with the obligor for continuous transactions or other claims arising from certain kinds of transactions with the obligor.
- (3) Claims that accrue continuously with the obligor pursuant to a specific cause, or claims on negotiable instruments or checks may be treated as claims that are to be secured by a Revolving Mortgage, notwithstanding the provisions of the preceding paragraph.

(Scope of Secured Claims under Revolving Mortgages)

Article 398-3 A revolving mortgagee may exercise his/her Revolving Mortgage up to the maximum amount with respect to all fixed payments of principal as well as periodical payments including interest and compensation for damages resulting from failure to perform obligations.

- (2) In cases where a claim on a negotiable instrument or check acquired by way of causes other than the transactions with the obligor is treated as a claim to be secured by a Revolving Mortgage, if any of the following grounds exist, such Revolving Mortgage may be exercised only with respect to claims acquired before such grounds arose; provided, however, that even with respect to claims acquired after such grounds arose, the exercise of the Revolving Mortgage shall not be precluded as far as the claims were acquired without knowledge of those grounds:
 - (i) The suspension of payments by the obligor;
 - (ii) A petition for the commencement of bankruptcy procedures, the commencement of rehabilitation procedures, the commencement of reorganization procedures or the commencement for special liquidation with respect to the obligor; or
 - (iii) A petition for auction in relation to Mortgaged Immovable Properties or attachment for delinquent taxes.

(Alterations in Scope of Secured Claims under Revolving Mortgages and of Obligors)

Article 398-4 The scope of the claims to be secured by a Revolving Mortgage may be altered if the alteration is effected before the principal is fixed. The same shall likewise apply with respect to alterations of obligors.

- (2) In order to effect the alterations under the preceding paragraph, it is not required that the approval of third parties including subordinated obligees be obtained.

- (3) If the alteration under paragraph (1) is not registered before the principal is fixed, it shall be deemed that such alteration was not effected.

(Alterations in Maximum Amounts of Revolving Mortgages)

Article 398-5 Alterations in the maximum amount of a Revolving Mortgage cannot be made unless the approval of the interested parties is obtained.

(Provision of Date for Fixing Principal of Revolving Mortgage)

Article 398-6 With respect to the principal secured by a Revolving Mortgage, the date when the principal is to be fixed may be prescribed or changed.

- (2) The provisions of paragraph (2) of Article 398-4 shall apply mutatis mutandis to the cases under the preceding paragraph.
- (3) The date under paragraph (1) must be within five years of the day when the date was prescribed or changed.
- (4) If registration with respect to an alteration in the date under paragraph (1) is not effected before the old date, the principal secured shall be fixed on that old date.

(Assignments of Secured Claims under Revolving Mortgages)

Article 398-7 A person who acquires a claim from a revolving mortgagee before the principal is fixed may not exercise the Revolving Mortgage with respect to such claim. The same shall likewise apply to a person who made payment for or on behalf of an obligor before the principal was fixed.

- (2) If an obligation is assumed before the principal is fixed, the revolving mortgagee may not exercise his/her Revolving Mortgage with respect to the obligation of the person who assumes the obligation.
- (3) If any novation due to a change of obligee or obligor is effected before the principal is fixed, the parties may not transfer the Revolving Mortgage to the obligations after the novation, notwithstanding the provisions of Article 518.

(Inheritances of Revolving Mortgagees or Obligors)

Article 398-8 If an inheritance of a revolving mortgagee commences before the principal is fixed, the Revolving Mortgage shall secure the claims that exist at the time of the commencement of the inheritance and shall otherwise secure claims the heir prescribed by agreement between the heirs and the revolving mortgagor acquires after the commencement of the inheritance.

- (2) If an inheritance of an obligor commences before the principal is fixed, the Revolving Mortgage shall secure the obligations that exist at the time of the commencement of the inheritance and shall otherwise secure the claims that the heir prescribed by agreement between the revolving mortgagee and the revolving mortgagor assumes after the commencement of the inheritance.
- (3) The provisions of paragraph (2) of Article 398-4 shall apply mutatis mutandis to cases where an agreement is made under the preceding two paragraphs.
- (4) If the agreements under paragraph (1) and paragraph (2) are not registered within six months of the commencement of the inheritance, principal secured shall be deemed to have been fixed at the time of the commencement of the inheritance.

(Mergers of Revolving Mortgagees or Obligors)

Article 398-9 If there is a merger with respect to a revolving mortgagee before the principal is fixed for that revolving mortgagee, the Revolving Mortgage shall secure the claims that exist at the time of the

merger and shall otherwise secure claims that a juridical person that survives the merger or a juridical person that is incorporated by the merger acquires after the merger.

- (2) If there is a merger with respect to an obligor before the principal is fixed for that obligor, the Revolving Mortgage shall secure the obligations that exist at the time of the merger and shall otherwise secure the obligations that a juridical person that survives the merger or a juridical person that is incorporated by the merger assumes after the merger.
- (3) In the cases provided for in the preceding two paragraphs, the revolving mortgagor may demand that the principal secured be fixed; provided, however, that this shall not apply, in the cases provided for in the preceding paragraph, if the relevant obligor is the revolving mortgagor.
- (4) If a demand is made in accordance with the provisions of the preceding paragraph, the principal secured shall be deemed to have been fixed at the time of the merger.
- (5) The demand under the provisions of paragraph (3) may not be made if two weeks have elapsed since the day when the revolving mortgagor acquired knowledge of the merger. The same shall apply if one month has elapsed from the day of the merger.

(Company Splits of Revolving Mortgagees or Obligors)

Article 398-10 If, before the principal is fixed, a split in which the relevant revolving mortgagee is the company to be split is effected, the Revolving Mortgage shall secure the claims that exist at the time of the split and shall otherwise secure claims acquired after the split by the split company and the company incorporated by the split, or claims acquired after the split by the company that succeeded to some or all of the rights and obligations of the split company regarding its business.

- (2) If, before the principal is fixed, a split in which the relevant obligor is the company to be split is effected, the Revolving Mortgage shall secure the obligations that exist at the time of the split and shall otherwise secure obligations that are assumed after the split by the split company and the company incorporated by the split, or claims acquired after the split by the company that assumed some or all of the rights and obligations of the split company regarding its business.
- (3) The provisions of paragraphs (3) through (5) of the preceding Article shall apply *mutatis mutandis* to cases under the preceding two paragraphs.

(Disposition of Revolving Mortgages)

Article 398-11 Before the principal is fixed, a revolving mortgagee cannot dispose of a Revolving Mortgage under the provisions of paragraph (1) of Article 376; provided, however, that he/she shall not be precluded from applying that Revolving Mortgage to secure other claims.

- (2) The provisions of paragraph (2) of Article 377 shall not apply to payments made before the principal is fixed in the cases provided for in the proviso to the preceding paragraph.

(Assignments of Revolving Mortgages)

Article 398-12 Before the principal is fixed, a revolving mortgagee may assign a Revolving Mortgage, with the approval of the revolving mortgagor.

- (2) A revolving mortgagee may divide his/her Revolving Mortgage into two Revolving Mortgages and assign either of the same in accordance with the provisions of the preceding paragraph. In such cases, the rights for which that Revolving Mortgage is the subject matter shall be extinguished with respect to the Revolving Mortgage that was assigned.
- (3) In order to effect an assignment under the provisions of the preceding paragraph, the approval of the person who holds the rights for which that Revolving Mortgage is the subject matter must be

obtained.

(Partial Assignments of Revolving Mortgages)

Article 398-13 Before the principal is fixed, a revolving mortgagee may, with the approval of the revolving mortgagor, effect a partial assignment of the Revolving Mortgage (hereinafter in this Section referring to assignments of Revolving Mortgages that the assignor effects without dividing the Revolving Mortgage in order to co-own the same with the assignee).

(Co-ownership of Revolving Mortgages)

Article 398-14 Co-owners of a Revolving Mortgage shall be paid in proportion to the amount of their respective claims; provided, however, that, if before the principal is fixed, a proportion other than the above is agreed, or if it is agreed that a certain person should be paid prior to the others, that agreement shall prevail.

(2) A co-owner in a Revolving Mortgage may, with the consent of the other co-owners, assign rights of the same in accordance with the provisions of paragraph (1) of Article 398-12.

(Assignments or Waivers of Order of Priority of Mortgages and Assignments or Partial Assignments of Revolving Mortgages)

Article 398-15 If a revolving mortgagee who has accepted an assignment or waiver of the order of priority of a mortgage has assigned or partially assigned his/her Revolving Mortgage, the assignee shall receive the benefit of the assignment or waiver of that order of priority.

(Joint Revolving Mortgages)

Article 398-16 The provisions of Articles 392 and 393 shall apply with respect to Revolving Mortgages, limited to cases where, simultaneously with the establishment of the same, it is registered that a Revolving Mortgage has been established on several immovable properties to secure the same claim.

(Alterations of Joint Revolving Mortgages)

Article 398-17 An alteration in the scope, obligors or maximum amount of the claims to be secured, or assignment or partial assignment of the Revolving Mortgages for which registration is effected in accordance with the preceding Article shall not take effect unless registration is effected with respect to all immovable properties over which that Revolving Mortgages are established.

(2) The principal that is to be secured by the Revolving Mortgages for which the registration under the preceding Article is effected shall be fixed even where grounds that would fix the same with respect to one immovable property alone arise.

(Aggregate Revolving Mortgages)

Article 398-18 A person who has Revolving Mortgages on several immovable properties may exercise his/her right of priority with respect to the proceeds of each immovable property up to the respective maximum amounts, except for cases provided for in Article 398-16.

(Requests for Fixing of Principal of Revolving Mortgages)

Article 398-19 If three years have elapsed from the time of the creation of a Revolving Mortgage, the revolving mortgagor may request the fixing of the principal secured. In such cases, the principal secured shall be fixed when two weeks have elapsed since the time of that request.

- (2) A revolving mortgagee may request the fixing of the principal secured at any time. In such cases, the principal secured shall be fixed on the request of the same.
- (3) The provisions of the preceding two paragraphs shall not apply in cases where the date on which the principal secured is to be fixed is prescribed.

(Grounds for Fixing of Principal of Revolving Mortgages)

Article 398-20 The principal secured by a Revolving Mortgage shall be fixed in the following cases:

- (i) If the revolving mortgagee has filed, with respect to the Mortgaged Immovable Properties, a petition for auction or execution against profits from secured immovable properties or the attachment under the provisions of Article 304 cited in Article 372; provided, however, that this provision shall apply only in cases where the commencement of either auction procedures or execution procedures against secured immovable properties to realize profits, or an attachment has been effected;
 - (ii) If the revolving mortgagee has effected an attachment for delinquent taxes against the Mortgaged Immovable Properties;
 - (iii) If two weeks have elapsed from the time when the revolving mortgagee acquired knowledge of the commencement of auction procedures or attachment for delinquent taxes against the Mortgaged Immovable Properties; or
 - (iv) If the obligor or revolving mortgagor has become subject to a ruling for the commencement of bankruptcy procedures.
- (2) If the effect of the commencement of auction procedures, the attachment under item (iii) of the preceding paragraph or the ruling to commence bankruptcy procedures under item (iv) of that paragraph has been extinguished, it shall be deemed that the principal secured was not fixed; provided, however, that this shall not apply if any person has acquired that Revolving Mortgage or a right for which the Revolving Mortgage is the subject matter on the assumption that the principal was fixed.

(Requests for Reductions in Maximum Amount of Revolving Mortgages)

Article 398-21 After the principal is fixed, the revolving mortgagor may request a reduction in the maximum amount of that Revolving Mortgage, to the amount of the obligations actually in existence plus the amount of the periodical payments including interest and the amount of damages due to default in obligations that will arise in the following two years.

- (2) As to reductions in the maximum amount of Revolving Mortgages for which registration under Article 398-16 has been effected, the request under the preceding paragraph shall be sufficient if made with respect to one of those immovable properties.

(Requests for Extinction of Revolving Mortgages)

Article 398-22 If the amount of the obligations actually in existence after the principal is fixed exceeds the maximum amount of the Revolving Mortgage, a person who created his/her Revolving Mortgage to secure obligations of others or a third party who acquired ownership, superficies, emphyteusis or a lease that can be asserted against any third party with respect to the Mortgaged Immovable Properties, may request the extinction of that Revolving Mortgage by tendering or depositing an amount equivalent to that maximum amount. In such cases, that tender or deposit shall have the effect of payment.

- (2) Revolving Mortgages for which registrations are effected under Article 398-16 shall be extinguished if the request for extinction in accordance with the preceding paragraph is made with respect to one immovable property.

- (3) The provisions of Articles 380 and 381 shall apply mutatis mutandis to the requests for extinction under paragraph (1).

Part III Claims

Chapter I General Provisions

Section 1 Subject of Claim

(Subject of Claim)

Article 399 Even a matter that cannot be given an estimated monetary value may be the subject of a claim.

(Duty of Care in cases of Delivery of Specified Things)

Article 400 If the subject of a claim is the delivery of any specified things, the obligor must take custody of such property with due care of a prudent manager until the completion of such delivery.

(Fungible Claim)

Article 401 In cases the subject of the claim is specified only with reference to a type and if the quality of such property cannot be identified due to the nature of the juristic act or intention of the relevant party(ies), the obligor must deliver the property of intermediate quality.

- (2) In the case set forth in the preceding paragraph, if the obligor has completed the acts necessary to deliver the Thing, or has identified the Thing he/she is to deliver with the consent of the obligee, such Thing shall thenceforth constitute the subject of the claim.

(Monetary Claim)

Article 402 If the subject of the claim is money, the obligor may, at his/her choice, make the payment in currency of any kind; provided, however, that, this shall not apply to the cases where the delivery of specific kind of currency is identified as the subject of the claim.

- (2) If the specific kind of currency that is the subject of the claim is no longer in mandatory circulation at the time of the payment, the obligor must make payment in other currency.
- (3) The provisions of the preceding two paragraphs shall apply mutatis mutandis to the cases where the delivery of the currency of a foreign state is the subject of the claim.

Article 403 When the amount of the claim is specified in the currency of a foreign state, the obligor may make the payment in the legal currency of Japan using the foreign exchange rate current in the place of the performance.

(Statutory Interest Rate)

Article 404 Unless the parties otherwise manifest their intention with respect to a claim which bears interest, the rate of such interest shall be 5% per annum.

(Incorporation of Interest into Principal)

Article 405 In cases the payment of interest corresponding to one year or more is delayed, and if the obligor does not pay such interest notwithstanding the demand by the obligee, the obligee may incorporate such interest into the principal.

(Attribution of Right of Choice in cases of Alternative Obligation)

Article 406 If the subject of the claim is to be identified by way of choice among more than one performance, the right to make the choice shall vest in the obligor.

(Exercise of Right of Choice)

Article 407 The right of choice under the preceding Article shall be exercised by manifesting the intention to the counterparty.

(2) The manifestation of intention set forth in the preceding paragraph may not be revoked without the acknowledgment of the counterparty.

(Transfer of Right of Choice)

Article 408 In cases a claim is due and, notwithstanding a demand by the counterparty stipulating a reasonable period of time, the party who holds the right of choice does not exercise the right within such period of time, the right of choice shall be transferred to the counterparty.

(Right of Choice of Third Party)

Article 409 In cases a third party holds the right of choice, such choice shall be made by manifesting its intention to either the obligee or the obligor.

(2) In the case prescribed in the preceding paragraph, if the third party is unable to make the choice or has no intention to make the choice, the right of choice shall be transferred to the obligor.

(Identification of Alternative Obligation due to Impossibility)

Article 410 If any performance which is included in the subject of a claim is impossible from the beginning, or later becomes impossible, the claim shall exist to the extent of the performance which still remains.

(2) If any performance has become impossible due to the negligence of any party who does not have any right of choice, the provision of the preceding paragraph shall not apply.

(Effect of Choice)

Article 411 The choice shall become effective retroactively as of the time of the accrual of the claim; provided, however that this shall not prejudice the rights of a third party.

Section 2 Effect of Claims

Subsection 1 Responsibility for Default

(Time for Performance and Delay in Performance)

Article 412 If any specified due date is assigned to the performance of an obligation, the obligor shall be responsible for the delay on and after the time of the arrival of such time limit.

(2) If any unspecified due date is assigned to the performance of a claim, the obligor shall be responsible for the delay on and after the time when he/she becomes aware of the arrival of such time limit.

(3) If no time limit is assigned to the performance of an obligation, the obligor shall be responsible for the delay on and after the time he/she receives the request for performance.

(Obligee's Delay in Acceptance)

Article 413 If the obligee refuses, or is unable, to accept the tender of the performance of any obligation, the relevant obligee shall be responsible for the delay on and after the time of the tender of the performance.

(Enforcement of Performance)

Article 414 If an obligor voluntarily fails to perform any obligation, the obligee may request the enforcement of specific performance from the court; provided, however, that, this shall not apply to the cases where the nature of the obligation does not permit such enforcement.

- (2) In cases the nature of the obligation does not permit the enforcement of the specific performance, if it is an obligation for an act, the obligee may request the court to cause a third party to perform such act at the expense of the obligor; provided, however, that with respect to any obligation for any juristic act, the manifestation of intention of the obligor may be achieved by a judgment.
- (3) With respect to any obligation for an inaction, a request may be made to the court at the expense of the obligor seeking the removal of the outcome of the action performed by the obligor, or an appropriate ruling against any future action.
- (4) The provisions of the preceding three paragraphs shall not preclude demanding damages.

(Damages due to Default)

Article 415 If an obligor fails to perform consistent with the purpose of its obligation, the obligee shall be entitled to demand damages arising from such failure. The same shall apply in cases it has become impossible to perform due to reasons attributable to the obligor.

(Scope of Damages)

Article 416 The purpose of the demand for the damages for failure to perform an obligation shall be to demand the compensation for damages which would ordinarily arise from such failure.

- (2) The obligee may also demand the compensation for damages which arise from any special circumstances if the party did foresee, or should have foreseen, such circumstances.

(Method of Compensation for Damages)

Article 417 Unless other intention is manifested, the amount of the damages shall be determined with reference to monetary value.

(Comparative Negligence)

Article 418 If the obligee is negligent regarding the failure of performance of the obligation, the court shall determine the liability for damages and the amount thereof by taking such elements into consideration.

(Special Provisions for Monetary Debt)

Article 419 The amount of the damages for failure to perform any obligation for the delivery of any money shall be determined with reference to the statutory interest rate; provided, however, that, in cases the agreed interest rate exceeds the statutory interest rate, the agreed interest rate shall prevail.

- (2) The obligee shall not be required to prove his/her damages with respect to the damages set forth in the preceding paragraph.
- (3) The obligor may not raise the defense of force majeure with respect to the damages referred to in paragraph (1).

(Liquidated Damages)

Article 420 The parties may agree on the amount of the liquidated damages with respect to the failure to perform the obligation. In such case, the court may not increase or decrease the amount thereof.

- (2) The liquidated damages shall not preclude the demand for performance or the exercise of the cancellation right.
- (3) Any penalty is presumed to constitute liquidated damages.

Article 421 The provisions of the preceding Article shall apply mutatis mutandis to the cases where the parties agree in advance to allocate anything other than money to the compensation for damages.

(Subrogation for Damages)

Article 422 If an obligee receives the full value of any Thing or right which is the subject of the claim as the compensation for damages, the obligor shall be subrogated to the creditor in relation to such property or right by operation of law.

Subsection 2 Obligee's Subrogation Right and Obligee's Right to Demand Rescission of Fraudulent Act

(Obligee's Subrogation Right)

Article 423 An obligee may exercise the right vested in the obligor in order to preserve his/her own claim; provided, however, that, this shall not apply to rights which are exclusive and personal to the obligor.

- (2) Until exercised by way of subrogation admitted in a judicial proceeding, the obligee may not exercise the right set forth in the preceding paragraph unless and until his/her claim has become due; provided, however, that, this shall not apply to any act of preservation.

(Obligee's Right to Demand the Rescission of Fraudulent Act)

Article 424 An obligee may demand the court to rescind any juristic act which an obligor commits knowing that it will prejudice the obligee; provided, however, that, this shall not apply to the cases where any person who benefits from such act, or any person who succeeds to such benefit, did not know, at the time of such act or succession, the fact that the obligee is to be prejudiced.

- (2) The provision of the preceding paragraph shall not apply to a juristic act with a subject other than property rights.

(Effect of Rescission of Fraudulent Act)

Article 425 The rescission pursuant to the provision of the preceding Article shall have an effect for the benefit of all obligees.

(Limitation Period of Obligee's Right to Rescind Fraudulent Act)

Article 426 The right to rescind pursuant to the provision of Article 424 shall be extinguished by operation of prescription if not exercised within two years from the time that the obligee acquired knowledge of the cause of the rescission. The same shall apply if twenty years pass from the time of the act.

Section 3 Claims and Obligations of Multiple-Parties

Subsection 1 General Provisions

(Divisible Claims and Divisible Obligations)

Article 427 In cases there are more than one obligee or obligor, unless any other intention is manifested, each obligee or each obligor shall have the equally proportionate rights or obligations.

Subsection 2 Indivisible Claims and Indivisible Obligations

(Indivisible Claim)

Article 428 In cases the subject of a claim is indivisible by its nature or due to the manifestation of intention of the parties involved, if there are more than one obligees, each obligee may demand the performance for the benefit of all obligees, and the relevant obligor may tender its performance to each obligee for the benefit of all obligees.

(Effect of Circumstances on Particular Circumstance which Arises with respect to One Indivisible Oblige)

Article 429 Even in cases where there is a novation or release between one indivisible obligee and the obligor, other indivisible obligee(s) may request the obligor to tender the entire performance. In such cases, the benefit which would have been allocated to the above-mentioned one indivisible obligee if he/she did not lose his/her right must be reimbursed to the relevant obligor.

(2) Other than as prescribed in the preceding paragraph, any act of one indivisible obligee, or any circumstance which arises with respect to one indivisible obligee shall not have any effect on the other indivisible obligee(s).

(Indivisible Obligation)

Article 430 The provisions of the preceding Article, and the provisions of the following Subsection 3 (Joint and Several Obligation)(excluding the provisions of Articles 434 to 440 inclusive) shall apply mutatis mutandis to the cases where more than one person bears any indivisible obligation.

(Changing into Divisible Claims or Divisible Obligations)

Article 431 If any indivisible claim becomes a divisible claim, each obligee may request the performance only to the extent of such portion of the claim on which he/she has his/her own right, and if any indivisible obligation becomes a divisible obligation, each obligor shall bear his/her responsibility only to the extent of the portion of the obligation which he/she bears.

Subsection 3 Joint and Several Obligations

(Request for Performance)

Article 432 If more than one person bears a joint and several obligation, the obligee may request one of the joint and several obligors, or all of such joint and several obligors, simultaneously or successively, to perform the obligation, in whole or in part.

(Invalidity of Juristic Act with respect to One Joint and Several Obligor)

Article 433 Even if there are any grounds for the voidance or rescission of a juristic act with respect to only one joint and several obligor, the validity of the obligation(s) of other joint and several obligor(s) shall not be impaired.

(Request for Performance to One Joint and Several Obligor)

Article 434 A request for performance made to one joint and several obligor shall also be effective with respect to other joint and several obligor(s).

(Novation with One Joint and Several Obligor)

Article 435 If there is any novation between one joint and several obligor and the obligee, the claim shall be extinguished for the benefit of all joint and several obligors.

(Setoffs by One Joint and Several Obligor)

Article 436 In cases one joint and several obligor has a claim vis-a-vis the obligee, if such joint and several obligor invokes a setoff, the claim shall be extinguished for the benefit of all joint and several obligors.

(2) So long as the joint and several obligor who has the claim set forth in the preceding paragraph does not invoke the set-off, other joint and several obligor(s) may invoke the set-off solely to the extent of the portion of the obligation which is borne by such joint and several obligor.

(Releases of One Joint and Several Obligor)

Article 437 A release of an obligation effected for one joint and several obligor shall also be effective for the benefit of other joint and several obligor(s) solely to the extent of the portion of the obligation which is borne by such joint and several obligor.

(Merger with One Joint and Several Obligor)

Article 438 If there is any merger between one joint and several obligor and the relevant obligee, it is deemed that such joint and several obligor has performed his/her obligation.

(Completion of Prescription with respect to One Joint and Several Obligor)

Article 439 If the prescription is completed with respect to one joint and several obligor, the other joint and several obligors also shall be relieved of liability to the extent of the portion of the obligation which is borne by such joint and several obligor.

(Principle of Relative Effect)

Article 440 Except as set forth in Articles 434 to the preceding Article inclusive, any circumstance which arises with respect to one joint and several obligor shall be void vis-a-vis other joint and several obligor(s).

(Commencement of Bankruptcy Procedures for Joint and Several Obligors)

Article 441 When some or all of the joint and several obligors have become subject to the ruling of the commencement of bankruptcy procedures, the obligee may participate in the distribution of each bankruptcy estate with respect to the entire amount of his/her claim.

(Right to Obtain Reimbursement among Joint and Several Obligors)

Article 442 If one joint and several obligor performs the obligation, or has otherwise acquired any common discharge in exchange for his/her own property, such joint and several obligor shall have right to obtain reimbursement from other joint and several obligors to the extent of the respective portion of the obligations which is borne by each of other joint and several obligors.

(2) The reimbursement pursuant to the provision of the preceding paragraph shall include the compensation of the statutory interest which accrue on or after the day of the performance of the obligation or other discharge, any unavoidable expenses, and other damages.

(Limitation on Reimbursement to Joint and Several Obligor who Failed to give Notice)

Article 443 When one joint and several obligor performs his/her obligation or has otherwise acquired any common discharge in exchange for his/her own property without giving to the other joint and

several obligor(s) a notice that there was the request for the performance from the relevant obligee, if any of the other joint and several obligor(s) has any defense vis-a-vis the obligee, such joint and several obligor may raise such defense vis-a-vis the joint and several obligor who acquired the discharge to the extent of the portion of the obligation which is borne by himself/herself. In such case, if any defense vis-a-vis the joint and several obligor who acquired the discharge is raised on the grounds of set-off, the negligent joint and several obligor may request the relevant obligee to perform the obligation which should have been extinguished due to set-off.

- (2) When one joint and several obligor performs the obligation or has otherwise acquired any common discharge in exchange for his/her own property and has failed to give notice of such fact to other joint and several obligor(s), and as a result of such failure, any other joint and several obligor acquires discharge by performing the obligation or otherwise in exchange for an act performed for consideration without knowledge, the joint and several obligor who was so discharged shall be entitled to regard his/her act to perform or other act to acquire the discharge as effective.

(Allocation of Portion of Person who does not have Sufficient Financial Resources for Reimbursement)

Article 444 If there is any person among the joint and several obligors who does not have the sufficient financial resources to make the reimbursement, the portion that cannot be reimbursed shall be borne among the person(s) who demand(s) the reimbursement and other person(s) who has/have the financial resources, in proportion to the respective portion which is borne by each of such persons; provided, however, that the person who requests the reimbursement may not demand other joint and several obligor(s) to bear the burden if he/she is negligent.

(Release from Joint and Several Obligations and Allocation of Portion of Burden of Person who does not have Sufficient Financial Resources to Pay)

Article 445 In cases any one joint and several obligor is released from the joint and several obligation, if there is any person among other joint and several obligors who does not have the sufficient financial resources to pay the obligation, the obligee shall bear such portion of the obligation which may not be performed by such person without sufficient financial resources as should have been borne by the person who was released from the joint and several obligation.

Subsection 4 Guarantee Obligation

Division 1 General Provisions

(Responsibility of Guarantor)

Article 446 A guarantor shall have the responsibility to perform the obligation of the principal obligor when the latter fails to perform such obligation.

- (2) No contract of guarantee shall be effective unless it is made in writing.
- (3) If a contract of guarantee is concluded by electromagnetic record (meaning a record produced by electronic means, magnetic means, or any other means unrecognizable by natural sensory functions that is for computer data-processing use) which records the contents thereof, the contract of guarantee is deemed to be made in writing, and the provision of the preceding paragraph shall apply.

(Scope of Guarantee Obligation)

Article 447 The guarantee obligation shall include interest, penalty and compensation for damages in connection with the principal obligation, and all other charges incidental to such obligation.

- (2) A guarantor may stipulate the amount of penalty or compensation for damages with regard to his/her own guarantee obligation only.

(Cases where Burden of Guarantor is More Onerous than That of the Principal Obligor)

Article 448 If the burden of a guarantor is more onerous than that of the principal obligor as to either its subject or its terms, it shall be reduced to the extent of the principal obligation.

(Guarantee of Rescindable Obligation)

Article 449 If a guarantor, who has guaranteed an obligation which may be rescinded by reason of the principal obligor's limited capacity to act, was aware, at the time of entering into a contract guarantee, of the cause for its voidability, such guarantor shall be presumed to have assumed an independent obligation of the same subject in the event of nonperformance by the principal obligor or rescission of the obligation.

(Requirements for Guarantor)

Article 450 Where an obligor has the obligation to furnish a guarantor, such guarantor must:

- (i) be a person with capacity to act; and
 - (ii) have sufficient financial resources to pay the obligation.
- (2) If the guarantor ceases to meet the requirement set forth in item (ii) of the preceding paragraph, the obligee may demand that some other person meeting the requirements listed in any item of such paragraph be substituted for such guarantor.
- (3) The provisions of the preceding two paragraphs shall not apply in the case the obligee has designated the guarantor.

(Providing Other Security)

Article 451 If the obligor is unable to furnish a guarantor meeting the requirements listed in any item of paragraph (1) of the preceding Article, he/she may furnish other security in lieu thereof.

(Defense of Demand)

Article 452 If an obligee has demanded performance of an obligation from the guarantor, the guarantor may demand the obligee to demand performance of the principal obligor first; provided, however, that, this shall not apply to the cases where the principal obligor has received a ruling for the commencement of bankruptcy procedures or where his/her whereabouts are unknown.

(Defense of Reference)

Article 453 Even after the obligee has made a demand to the principal obligor in accordance with the provision of the preceding Article, the obligee must first execute on the property of the principal obligor if the guarantor has proved that the principal obligor has the financial resource to pay his/her obligation and that the execution would be easily performed.

(Special Provisions for Joint and Several Guarantee)

Article 454 If a guarantor has assumed an obligation jointly and severally with the principal obligor, the guarantor shall not have the rights set forth in the preceding two Articles.

(Effect of Defense of Demand and Defense of Reference)

Article 455 Where demand has been made or proof has been given by a guarantor pursuant to the provisions of Article 452 or Article 453, if the obligee fails to demand or to levy execution and is

subsequently unable to obtain full performance from the principal obligor, the guarantor shall be relieved of liability to the extent that the obligee would have received performance if the obligee had immediately demanded or levied execution.

(Cases where More Than One Guarantor Exists)

Article 456 Where there is more than one guarantor for a single obligation, the provision of Article 427 shall apply even if they have assumed their obligations by separate acts.

(Effect of Circumstance which Arises with respect to the Principal Obligor)

Article 457 The nullification of prescription by operation of a demand vis-a-vis the principal obligor or on any other grounds shall also be effective vis-a-vis the guarantor.

(2) A guarantor may raise a defense vis-a-vis the obligee by setting off any claim which the principal obligor may have vis-a-vis the obligee.

(Effect of Circumstance which Arises with respect to Jointly and Severally Liable Guarantor)

Article 458 The provisions of Articles 434 to 440 inclusive shall apply mutatis mutandis to the cases where the principal obligor assumes an obligation jointly and severally with the guarantor.

(Right to Obtain Reimbursement of Guarantor Entrusted by the Principal Obligor)

Article 459 In cases where a guarantor has given a guarantee as entrusted by the principal obligor, if he/she has, without negligence, had a judgment ordering him/her to perform the obligation to the obligee, or has performed the obligation on behalf of the principal obligor, or has otherwise in exchange for his/her own property performed any other act intended to cause the obligation to be extinguished, such guarantor shall have a right to obtain reimbursement from the principal obligor.

(2) The provision of paragraph (2) of Article 442 shall apply mutatis mutandis to the cases set forth in the preceding paragraph.

(Entrusted Guarantor's Right to Obtain Reimbursement in Advance)

Article 460 In cases where a guarantor has given a guarantee as entrusted by the principal obligor, the guarantor may exercise in advance his/her right to obtain reimbursement vis-a-vis the principal obligor if:

- (i) the principal obligor is subject to a ruling for the commencement of bankruptcy procedures, and the obligee does not participate in the distribution of the bankruptcy estate;
- (ii) the obligation is due; provided, however, that, no extension of time granted by the obligee to the principal obligor after the conclusion of the contract of guarantee may be raised as a defense vis-a-vis the guarantor; and
- (iii) ten years have elapsed after the conclusion of the contract of guarantee in the cases where the time for performing the obligation is uncertain and even its maximum duration cannot be ascertained.

(Cases where Principal Obligor Reimburses Guarantor)

Article 461 In cases where a principal obligor reimburses a guarantor pursuant to the provisions of the preceding two Articles, the principal obligor may demand the guarantor to provide security or to obtain the discharge of the principal obligor until and unless the obligee has received the full satisfaction of the entire obligation.

(2) In the case prescribed in the preceding paragraph, the principal obligor may be relieved of liability for reimbursement by making a deposit with an official depository, by providing security, or by procuring

the discharge of the liabilities of the guarantor.

(Right to Obtain Reimbursement of Guarantor Not Entrusted by Principal Obligor)

Article 462 If a person, who has become a guarantor without the entrustment of the principal obligor, has performed the obligation or has otherwise in exchange for his/her own property procured the release from liability of the principal obligor, the principal obligor must reimburse the guarantor to the extent that the principal obligor was enriched at the time of such performance of the obligation.

(2) A person who has become a guarantor against the will of the principal obligor shall have the right to obtain reimbursement only to the extent that the principal obligor is actually enriched. In such case, if the principal obligor asserts that he/she had, prior to the day of the demand for reimbursement, grounds for set-off against the obligee, the guarantor may demand that the obligee perform the obligation which would have been extinguished by operation of such set-off.

(Limitation on Reimbursement for Guarantor who Failed to give Notice)

Article 463 The provisions of Article 443 shall apply mutatis mutandis to a guarantor.

(2) In cases where a guarantor has become a guarantor as entrusted by the principal obligor, if he/she performed the obligation or otherwise in exchange for his/her own property performed any act to cause the obligation to be extinguished without knowledge, the provision of Article 443 shall apply mutatis mutandis also with respect to the principal obligor.

(Right to Obtain Reimbursement of Guarantor for Jointly and Several Obligation or Indivisible Obligation)

Article 464 A person who has become a guarantor for one of the jointly and several obligors or for one of the indivisible obligors shall have the right to obtain reimbursement from the other obligors only to the extent of such portion of the obligation which he/she bears.

(Right of Joint Guarantors to Obtain Reimbursement for One Obligation)

Article 465 Where there are several guarantors, if one guarantor has paid the entire amount of the obligation or any amount exceeding the portion which is borne by such guarantor because the principal obligation is indivisible, or because there is a special provision that each guarantor should pay the entire amount, the provisions of Articles 442 to 444 inclusive shall apply mutatis mutandis.

(2) Except in cases provided in the preceding paragraph, if one of the guarantors who are not jointly and severally liable has paid the entire amount or any amount exceeding the portion to be borne by that guarantor, the provisions of Article 462 shall apply mutatis mutandis.

Division 2 Revolving Guarantee on Loans

(Liability of Guarantor of Contract for Revolving Guarantee on Loans)

Article 465-2 A guarantor to a contract of guarantee the principal obligation of which is one or more unidentified obligations within a certain specified scope (hereinafter referred to as a "contract for revolving guarantee") whereby the scope of such obligation includes any obligation which is incurred as a result of the transaction of lending money or accepting discount of a negotiable instrument (hereinafter referred to as an "loan obligation")(excluding any contract in which the guarantor is a juridical person, hereinafter referred to as a "contract for revolving guarantee on loans") shall be liable for the satisfaction of the amount of the principal of the relevant principal obligation, interest, any penalty and damages in connection with such principal obligation, and all other amounts incidental to such obligation, as well as the amount of any penalty and damages which are agreed on with regard to such guarantee obligation,

which liability shall be limited in aggregate, however, to a certain maximum amount which pertains to all of the above-mentioned amounts.

- (2) A contract for revolving guarantee on loans shall not be effective unless the maximum amount set forth in the preceding paragraph is stipulated.
- (3) The provisions of paragraph (2) and paragraph (3) of Article 446 shall apply mutatis mutandis to the stipulation of a maximum amount in a contract for revolving guarantee on loans provided in paragraph (1).

(Principal Determination Date for Contract for Revolving Guarantee on Loans)

Article 465-3 In the cases where a contract for revolving guarantee on loans provides the date on which the principal of the principal obligation should be determined (hereinafter referred to as the "principal determination date"), if it is provided that such principal determination date shall fall on any day on and or after the day on which five years have elapsed after the day of the conclusion of the relevant contract for the revolving guarantee on loans, such provision for the principal determination date shall not be effective.

- (2) In the cases where a contract for revolving guarantee on loans does not provide a principal determination date (including cases where the provision on the principal determination date is not effective pursuant to the provision of the preceding paragraph), the principal determination date thereof shall fall on the day on which three years have elapsed after the day of the conclusion of the relevant contract for revolving guarantee on loans.
- (3) In the cases where any change of the principal determination date provided in a contract for revolving guarantee on loans is to be effected, if the principal determination date as changed falls on a day on and or after the day on which five years have elapsed after the day of such change, such change of the principal determination date shall not be effective; provided, however, that, this shall not apply to the cases where the change of the principal determination date is effected within two months immediately preceding the principal determination date, and the principal determination date as changed falls on a day within five years from the original principal determination date.
- (4) The provisions of paragraph (2) and paragraph (3) of Article 446 shall apply mutatis mutandis to the provisions of a principal determination date set forth in a contract for revolving guarantee on loans and a change thereof (excluding any provision which provides to the effect that the principal determination date shall fall on a day within three years from the day of the conclusion of such contract for revolving guarantee on loans, and any change which is intended to change the principal determination date to a day preceding the original principal determination date).

(Grounds for Determination of Principal in Contract for Revolving Guarantee on Loans)

Article 465-4 The principal for the principal obligation under a contract for revolving guarantee on loans shall be determined if:

- (i) an obligee has filed a petition for compulsory execution or exercise of any security interest with respect to a claim the subject-matter of which is payment of money on any property of the relevant principal obligor or guarantor; provided, however, that this provision shall apply only in cases where the proceedings for the compulsory execution or exercise of the security interest have been commenced;
- (ii) the relevant principal obligor or guarantor has become subject to a ruling of the commencement of bankruptcy procedures; or
- (iii) the relevant principal obligor or guarantor has died.

(Right to Obtain Reimbursement in Contract for Revolving Guarantees for Loan Obligation in cases where Guarantor is Juridical Person)

Article 465-5 In cases of a contract for revolving guarantee under which the guarantor is a juridical person and the scope of the principal obligation thereof includes an obligation on loans, if the maximum amount provided in paragraph (1) of Article 465-2 is not provided, if the principal determination date is not specified, or if the provision on the determination date or any change thereof would not be effective should the provisions of paragraph (1) or paragraph (3) of Article 465-3 be applied, a contract of guarantee with regard to the right to obtain reimbursement of the guarantor for the contract for revolving guarantee against the principal obligor (excluding cases where the guarantor is a juridical person) shall not be effective.

Section 4 Assignment of Claims

(Assignability of Claims)

Article 466 A claim may be assigned; provided, however, that, this shall not apply to the cases where its nature does not permit the assignment.

(2) The provisions of the preceding paragraph shall not apply in cases where the parties have manifested their intention to the contrary; provided, however, that such manifestation of intention may not be asserted against a third party without knowledge.

(Requirement for Assertion of Assignment of Nominative Claim against Third Parties)

Article 467 The assignment of a nominative claim may not be asserted against the applicable obligor or any other third party, unless the assignor gives a notice thereof to the obligor or the obligor has acknowledged the same.

(2) The notice or acknowledgement set forth in the preceding paragraph may not be asserted against a third party other than the obligor unless the notice or acknowledgement is made using an instrument bearing a fixed date.

(Defense of Obligor upon Assignment of Nominative Claim)

Article 468 In the cases where the obligor has given the acknowledgement referred to in the preceding Article without objection, even if there are grounds which could have been raised as a defense against the assignor, he/she may not raise such grounds as a defense against the assignee. In such case, if the obligor has paid any money or delivered anything or assumed a new obligation to or for the benefit of the assignor to obtain the extinction of his/her obligation, the obligor may recover the money paid or other thing delivered, or may deem that the new obligation had not been assumed, as the case may be.

(2) In cases where the assignor has merely given notice of the assignment, the obligor may raise any ground as a defense against the assignee which accrues vis-a-vis the assignor before he/she receives such notice as a defense against the assignee.

(Requirement for Assertion of Assignment of Debt Payable to Order against Third Parties)

Article 469 The assignment of any debt payable to order may not be asserted against the relevant obligor or any other third party unless the certificate representing such claim is tendered to the assignee with the endorsement of the relevant assignment.

(Examination Right of Obligor of Debt Payable to Order)

Article 470 The obligor of any debt payable to order shall have the right, but not the obligation, to examine the authenticity of the identity of the bearer of the relevant certificate and the signature and seal affixed thereon; provided, however, that the performance of the applicable obligation shall be void if the obligor has knowledge or is grossly negligent.

(Examination Right of Obligor of Claim Payable to Obligee or Holder)

Article 471 The provisions of the preceding Article shall apply mutatis mutandis to the cases where any certificate regarding the claim specifies the name of the obligee and note that the payment should be made to the bearer of such certificate.

(Limitation on Defense of Obligor in cases of Assignment of Debt Payable to Order)

Article 472 The obligor of a debt payable to order may not use any grounds which could have been raised as defenses against the obligee before the assignment of the relevant debt payable to order as defenses against an assignee without knowledge, except for the matter specified on the relevant certificate or any result which necessarily arises from the nature of such certificate.

(Limitation on Defense of Obligor in cases of Assignment of Bearer Certificate of Claims)

Article 473 The provisions of the preceding Article shall apply mutatis mutandis to a bearer certificate of claims.

Section 5 Extinction of Claims

Subsection 1 Performance

Division 1 General Provisions

(Performance by Third Parties)

Article 474 The performance of an obligation may be effected by a third party; provided, however, that, this shall not apply in cases where the nature of such obligation does not permit such performance or the parties have manifested their intention to the contrary.

(2) A third party who has no interest in an obligation may not perform the obligation against the will of the obligor.

(Recover of any Property Tendered to Perform Obligation)

Article 475 In cases where a person who performed his/her obligation delivered any property owned by others as the performance of the obligation, the person who made such performance may not recover such property unless he/she effects an effective performance de novo.

Article 476 In cases where any possessor who has limited capacity to act with respect to the act of assignment delivers any property to perform any obligation, and later rescinds such performance, the relevant possessor may not recover such property unless he/she effects an effective performance de novo.

(Effect of Performance in cases Any Property Delivered to Perform Obligation is Consumed or Assigned)

Article 477 In the case referred to in the preceding two Articles, if an obligee without knowledge consumes or assigns any property which he/she received as the performance of the obligation, such performance shall be effective. In such case, if the relevant obligee has received any request for

compensation from a third party, he/she shall not be precluded from seeking reimbursement from the person who performed the obligation.

(Performance to a Holder of Quasi-Possession of Claim)

Article 478 Any performance made vis-a-vis a holder of quasi-possession of the claim shall remain effective to the extent the person who performed such obligation acted without knowledge, and was free from any negligence.

(Performance to Person Without Authority to Receive Performance)

Article 479 Except as provided in the preceding Article, any performance made vis-a-vis any person who has no authority to receive the performance shall have the effect only to the extent the relevant obligee is enriched as a result thereof.

(Performance to Bearer of Receipt)

Article 480 A bearer of a receipt is deemed to have the authority to accept performance; provided, however, that, this shall not apply to the cases where the person who made the performance knew, or was negligent in not knowing, that the bearer did not have the authority.

(Performance by Third-party Obligor who had been Ordered to Suspend Payment)

Article 481 If a third-party obligor who has been enjoined from making payment has paid his/her obligation to his/her own obligee, the relevant attaching obligee shall be entitled to request such third-party obligor to make payment de novo to the extent he/she suffered the damages.

(2) The provision of the preceding paragraph shall not preclude the relevant third-party obligor from exercising his/her right to obtain reimbursement from his/her obligee.

(Substitute Performance)

Article 482 If an obligor, in lieu of the performance he/she originally incurred, provided any other type of performance with the acknowledgment of the obligee, such performance shall have the same effect as that of the original performance.

(Delivery of Specific Thing in its Existing State)

Article 483 If the subject of a claim is the delivery of a specific thing, the person who intends to effect any performance must deliver such thing on an "as-is" basis as of the time when the delivery is due.

(Place of Performance)

Article 484 Unless any other intention is manifested with respect to the place where the performance should take place, the delivery of a specific thing must be effected at the place where such thing was located when the relevant claim accrued, and the discharge of any other obligation must be effected at the current domicile of the obligee, respectively.

(Expense of Performance)

Article 485 Unless any other intention is manifested with respect to the expense of performance, such expenses shall be borne by the obligor; provided, however, that, in cases the relevant obligee caused the expense of performance to increase by relocating his/her domicile or taking any other actions, such incremental amount shall be borne by the obligee.

(Request for Issuance of Receipt)

Article 486 Any person who made the performance shall be entitled to request the person who received the performance to issue a receipt.

(Request for Return of Claim Instrument)

Article 487 In the cases where there is any instrument which evidences the claim, if the person who makes the performance has completed his/her entire performance, he/she may demand the return of such instrument.

(Designation of Obligations to be Performed)

Article 488 In the cases where an obligor owes to a single obligee more than one obligations which requires the performance of the same kind, if any performance tendered to discharge the obligation is not sufficient to extinguish all obligations, the person who tenders the performance may, at the time of such tender, designate particular obligations to which such performance should be allocated before any others.

(2) If the person who tenders the performance does not make the designation pursuant to the provision of the preceding paragraph, the person who receives the performance may, at the time of such receipt, designate a particular obligation to which such performance should be allocated before any others; provided, however, that, this shall not apply to the cases where the person who tenders the performance immediately raises his/her objection to such allocation.

(3) The designation of the performance under the preceding two paragraphs shall be effected by manifesting the intention to the counterparty.

(Statutory Allocation)

Article 489 In cases where neither the person who tenders the performance nor the person who receives such performance does not designate the allocation of performance pursuant to the provision of the preceding Article, the allocation shall be effected as stipulated in each of the following items:

- (i) if the obligations include those which are due and those which are not due yet, the applicable performance shall be allocated to those which are due;
- (ii) if all obligations are due, or none of the obligations are due, the applicable performance shall be allocated in the order of the obligations which shall result in more benefit to the obligor when performed;
- (iii) if all obligations would have equal benefit to the obligor when performed, the applicable performance shall be allocated in the order of the obligations which have, or should have, the earliest due date; and
- (iv) the performance of obligations which are equal in terms of the matters listed in the preceding two items shall be allocated in proportion to the amount of each obligation.

(Allocation in cases More than One Performance Should be Tendered)

Article 490 In the cases where more than one performance should be tendered to discharge a single obligation, if the person who must perform tenders any performance which is not sufficient to extinguish such obligation in its entirety, the provision of the preceding two Articles shall apply *mutatis mutandis*.

(Allocation in cases Principal, Interest, and Expenses Should be Paid)

Article 491 In cases where the obligor should pay the principal as well as the applicable interest and expenses with respect to one or more obligation(s), if the person who must perform tenders any performance which is not sufficient to extinguish such obligation in its entirety, such performance must be allocated first to the expense, and then to the interest and principal, in this order.

(2) The provision of Article 489 shall apply mutatis mutandis to the cases set forth in the preceding paragraph.

(Effect of Tender of Performances)

Article 492 Upon tendering the performance, the relevant obligor shall be relieved from any and all responsibilities which may arise from the nonperformance of the obligation.

(Method of Tender of Performances)

Article 493 The tender of the performance must be made actually consistent with the main purport of the obligation; provided, however, that, if the obligee refuses to accept such performance in advance, or any act is required on the part of the obligee with respect to the performance of the obligation, it shall be sufficient if the obligor demands the acceptance thereof by giving a notice that the tender of the performance has been prepared.

Division 2 Deposit of Subject-Matter of Performance

(Deposit)

Article 494 If an obligee refuses, or is unable, to accept the performance, the person who can make the performance (hereinafter in this Division referred to as the "performer") may be relieved from his/her obligation by depositing the subject-matter of the performance with an official depository. The same shall apply in cases the performer is unable to ascertain the obligee without any negligence on the part of the performer.

(Method of Deposit)

Article 495 The deposit pursuant to the provision of the preceding Article must be made with the official depository having jurisdiction over the district where the relevant obligation must be performed.

- (2) In cases where there is no specific provision in the laws and regulations with respect to the official depository, the court must, at the request of the performer, designate the depository and appoint a custodian of the property to be deposited.
- (3) A person who has effected a deposit pursuant to the provision of the preceding Article must notify the obligee of the deposit without delay.

(Recovery of Deposited Property)

Article 496 As long as the obligee does not accept the deposit, or the judgment which pronounces that the deposit is effective does not become unappealable, the performer may recover the deposited property. In such case, it is deemed that no deposit has been effected.

- (2) The provision of the preceding paragraph shall not apply in cases any pledge or mortgage has been extinguished due to the deposit.

(Property Not Suitable for Deposit)

Article 497 If any subject of the performance is not suitable for deposit, or such property is likely to suffer any loss or damage, the performer may, with the permission of the court, sell such property at public auction and deposit the proceeds of such sales with the official depository. The same shall apply in cases excessive expenses are required for the preservation of such property.

(Requirements for Acceptance of Deposited Property)

Article 498 In cases where the obligor is required to perform in exchange for the performance of the obligee, the obligee may not accept the relevant deposited property unless he/she tenders his/her performance.

Division 3 Subrogation by Performance

(Voluntary Subrogation)

Article 499 A person who has performed the obligation for the benefit of an obligor may be subrogated to the claim of the obligee by acquiring the acknowledgment of the obligee upon such performance.

(2) The provision of Article 467 shall apply mutatis mutandis to the case set forth in the preceding paragraph.

(Statutory Subrogation)

Article 500 A person who has legitimate interest in effecting performance shall be subrogated by operation of law to the claim of the obligee by effecting performance.

(Effect of Subrogation by Performance)

Article 501 A person who is subrogated to the claim of the obligee pursuant to the provisions of the preceding two Articles may exercise any and all rights possessed by such obligee as the effect of, and as a security for, such right to the extent he/she may seek reimbursement under his/her own right; provided, however, that:

- (i) unless the fact of subrogation is noted in advance in the register of an applicable statutory lien, pledge of real estate, or mortgage, a guarantor may not be subrogated to the claim of the obligee vis-a-vis any third party acquirer of the real estate which is encumbered by such statutory lien, pledge of real estate, or mortgage;
- (ii) a third party acquirer may not be subrogated to the claim of the obligee vis-a-vis the guarantor;
- (iii) one of the third party acquirers of the real estate shall be subrogated to the claim of the obligee vis-a-vis other third party acquirers in proportion to the value of each real estate;
- (iv) one of the third party pledgors shall be subrogated to the claim of the obligee vis-a-vis other third party pledgors in proportion to the value of each property;
- (v) as between a guarantor and a third party pledgor, the subrogation to the claim of the obligee shall be effected depending on the number of such persons involved; provided, however, that, if there are more than one third party pledgor, such persons shall be subrogated to the claim of the obligee in proportion to the value of each property with respect only to the residual amount which remains after deduction of the portion to be borne by the guarantor; and
- (vi) in the cases referred to in the preceding item, if the property in question is real estate, the provisions of item (i) shall apply mutatis mutandis.

(Subrogation by Partial Performance)

Article 502 If any performance by subrogation occurs with respect to any portion of a claim, the subrogee shall exercise his/her right together with the obligee in proportion to the value of his/her performance.

(2) In the case set forth in the preceding paragraph, the cancellation of a contract based on the failure to perform the obligation may be effected only by the obligee. In such case, the obligee must reimburse to the subrogee the value of the performance he/she effected plus interest.

(Delivery of Claim Instrument by Obligee)

Article 503 An obligee who has received full performance by way of performance by subrogation must deliver to the subrogee the instruments regarding the claim and any security he/she possesses.

- (2) In cases where any performance by subrogation occurs with respect to any portion of a claim, the obligee must enter such subrogation in the instruments regarding the claim and allow the subrogee to supervise the preservation of the security he/she possesses.

(Loss of Security by Obligee)

Article 504 In cases where there exists a person who has the right of subrogation pursuant to the provision of Article 500, if the obligee lost, or diminished, his/her security due to his/her intentional act or negligence, the person who has the right of subrogation shall be relieved to the extent he/she can no longer seek the reimbursement due to such loss or diminution.

Subsection 2 Set-offs

(Requirements for Set-offs)

Article 505 In cases where two persons mutually owe to the other any obligation with the same kind of purpose, if both obligations are due, each obligor may be relieved from his/her own obligation by setting off each value thereof against the corresponding amount of the obligation of the other obligor; provided, however, that, this shall not apply to the cases where the nature of the obligation does not permit such set-off.

- (2) The provisions of the preceding paragraph shall not apply in cases where the relevant party manifests his/her intention to the contrary; provided, however, that such manifestation of intention may not be asserted against a third party without knowledge.

(Method and Effect of Set-offs)

Article 506 Set-offs shall be effected by means of manifestation of one party's intention to the other. In such case, no condition or time limit may be added to such manifestation of intention.

- (2) The manifestation of intention set forth in the preceding paragraph shall take effect retroactively as of the time when the obligations of both parties became due and suitable for set-off.

(Set-offs between Obligations with Different Places of Performance)

Article 507 Set-offs may be effected even if the place of performance of both obligations are different. In such case, the party who intends to effect the set-off shall be liable for any damages suffered by the counterparty as result of such set-off.

(Set-offs Intended to Invoke a Claim Extinguished by Prescription)

Article 508 In cases where any claim which was extinguished by a prescription had been suitable for set-off prior to such extinguishment, the relevant obligee may effect the set-off.

(Prohibition of Effecting Set-offs Against Any Claim Arising from Tortious Acts)

Article 509 If any claim arises from a tortious act, the relevant obligor may not assert the set-off against the obligee.

(Prohibition of Set-offs Against Any Claim Immune from Attachment)

Article 510 If any claim is immune from any attachment, the relevant obligor may not assert the set-off against the obligee.

(Prohibition of Set-offs Against Any Claim Subject to Injunction)

Article 511 A third-party obligor who has been enjoined from making payment may not assert the set-off against any after-acquired claim against the relevant attaching obligee.

(Allocation of Set-off)

Article 512 The provisions of Articles 488 to 491 inclusive shall apply mutatis mutandis to the set-off.

Subsection 3 Novation

(Novation)

Article 513 If the parties conclude a contract which changes any element of an obligation, such obligation shall be extinguished by novation.

(2) It is deemed that an element of obligation has been changed if a conditional obligation is made an unconditional obligation, if a condition is added to an unconditional obligation, or if any condition on an obligation is changed.

(Novation by Substitution of Obligor)

Article 514 A novation by substitution of obligor may be effected between the obligee and a person who becomes the obligor after the novation; provided, however, that, this shall not apply to the cases where it is contrary to the intention of the obligor prior to the novation.

(Novation by Substitution of Obligee)

Article 515 A novation by substitution of obligee may not be asserted against a third party unless it is made using an instrument bearing a fixed date.

Article 516 The provisions of paragraph (1) of Article 468 shall apply mutatis mutandis to the novation by substitution of obligee.

(Cases where Obligations Existing Prior to Novation are not Extinguished)

Article 517 If any obligation which arises by novation is not established or is rescinded on the ground of illegality or due to reasons unknown to the parties, the obligation which existed prior to the novation shall not be extinguished.

(Conversion of Security to Obligation After Novation)

Article 518 To the extent of the purpose of the obligation in effect prior to the novation, the parties to the novation may convert the pledge or mortgage created as the security of such obligation to the obligation in effect after the novation; provided, however, that, in cases where any third party created such security, the acknowledgment of such third party must be obtained.

Subsection 4 Release

Article 519 If an obligee manifests his/her intention to release an obligation to the obligor, such obligation shall be extinguished.

Subsection 5 Merger

Article 520 If a claim and obligation becomes vested in the same person, such claim shall be extinguished; provided, however, that, this shall not apply to the cases where such claim is the subject-

matter of the right of a third party.

Chapter II Contracts

Section 1 General Provisions

Subsection 1 Formation of Contracts

(Offers that Specify Period for Acceptance)

Article 521 An offer which specifies a period for acceptance may not be revoked.

- (2) If an offeror does not receive notice of acceptance of the offer set forth in the preceding paragraph within the period referred to in the same paragraph, the offer shall cease to be effective.

(Late Arrival of Notices of Acceptance)

Article 522 Even in cases where the notice of acceptance of the offer under paragraph (1) of the preceding Article arrives after the lapse of the period referred to in the same paragraph, if the offeror is in a position to know that the notice was dispatched at a time which, under normal circumstances, would have allowed the notice to arrive within that period, the offeror must dispatch a notice of late arrival to the other party without delay; provided, however, that this shall not apply when the offeror dispatches the notice of delay before the arrival of the notice of acceptance.

- (2) When the offeror fails to give the notice of late arrival referred to in the main clause of the preceding paragraph, the notice of acceptance shall be deemed to have arrived within the period referred to in paragraph (1) of the preceding Article.

(Effect of Delayed Acceptance)

Article 523 The offeror may deem a delayed acceptance to be a new offer.

(Offers that do not Specify Period for Acceptance)

Article 524 An offer made to a person at a distance without specifying a period for acceptance may not be revoked until the lapse of a reasonable period for the offeror to receive a notice of acceptance.

(Offeror's Death or Loss of Capacity to Act)

Article 525 The provisions of paragraph (2) of Article 97 shall not apply where the offeror expresses his/her intention to the contrary, or the other party has come to know the fact of the offeror's death or loss of capacity to act.

(Time of Formation of Contract between Persons at Distance)

Article 526 A contract between persons at a distance shall be formed upon dispatch of the notice of acceptance.

- (2) In cases where no notice of acceptance is required due to the offeror's manifestation of intention or usage of trade, the contract shall be formed upon the occurrence of any fact which ought to be regarded as a manifestation of intention of acceptance.

(Late Arrival of Notices of Revocation of Offer)

Article 527 Even if a notice to revoke an offer arrives after the dispatch of the acceptance notice, if the offeree is in a position to know that the notice was dispatched at a time which, under normal circumstances would have allowed the notice to arrive before the dispatch of the acceptance notice, the offeree must dispatch a notice of the late arrival to the offeror without delay.

- (2) If the offeree fails to give the notice of late arrival referred to in the preceding paragraph, it shall be deemed that no contract was formed.

(Acceptances which Modify Offer)

Article 528 If the offeree has accepted the offer by adding any condition or by making any other modification, it shall be deemed that the offeree has refused the offer and has made a new offer.

(Advertisements Offering Prizes)

Article 529 A person who places an advertisement to the effect that any person who performs a defined act will be given a set reward (hereinafter in this Subsection referred to as an "advertiser offering prizes") shall be obligated to give the reward to the person who has performed the act.

(Revocation of Advertisements Offering Prizes)

Article 530 In the case set forth in the preceding Article, the advertiser offering prizes may revoke its advertisement using a method identical to that used for the above advertisement whilst no person has completed the designated act; provided, however, that this shall not apply when a statement to the effect that the offer will not be revoked was made in the advertisement.

- (2) Where revocation may not be carried out by the method provided in the main clause of the preceding paragraph, the revocation may be carried out by another method. In such cases, the revocation shall only be effective against persons with knowledge of the revocation.
- (3) If the advertiser offering prizes specifies the period during which the designated act must be performed, it shall be presumed that the advertiser has waived its right to revoke.

(Right to Receive Rewards in Advertisements Offering Prizes)

Article 531 If more than one person has performed the act designated in the advertisement, only the person who performed the act first shall be entitled to receive the reward.

- (2) Where two or more persons have performed the act set forth in the preceding paragraph simultaneously, each shall be entitled to receive an equal share of the reward; provided, however, that the person entitled to the reward shall be selected by lot if the reward is by nature indivisible, or the advertisement provides that only one person is entitled to receive the reward.
- (3) The provisions of the preceding two paragraphs shall not apply if the advertisement expresses any intention to the contrary.

(Advertisement Offering Prizes to Most Outstanding Applicant)

Article 532 If, in cases where two or more persons have performed the act designated in the advertisement, the reward is to be given only to the most outstanding applicant, the advertisement shall be effective only if it specifies the application period.

- (2) In the cases of the preceding paragraph, the most outstanding applicant shall be judged by the person specified in the advertisement and if no such person is specified in the advertisement, by the person who places the advertisement.
- (3) Applicants may not raise any objection to the judge's decision referred to in the preceding paragraph.
- (4) The provision of the second paragraph of the preceding Article shall apply mutatis mutandis to cases where the acts of two or more persons are judged to be equal.

Subsection 2 Effect of Contracts

(Defense for Simultaneous Performance)

Article 533 A party to a bilateral contract may refuse to perform his/her own obligation until the other party tenders the performance of his/her obligation; provided, however, that this shall not apply if the obligation of the other party is not yet due.

(Obligees to Assume Risk)

Article 534 In cases where the purpose of a bilateral contract is the creation or transfer of real rights regarding specified things, if the things have been lost or damaged due to reasons not attributable to the obligor, such loss or damage shall fall on the obligee.

- (2) The provisions of the preceding paragraph shall apply to any contract regarding unspecified things from the time when the things have been identified in accordance with the provisions of paragraph (2) of Article 401.

(Assumption of Risk in Bilateral Contract with Condition Precedent)

Article 535 The provisions of the preceding Article shall not apply where the subject matter of a bilateral contract with conditions precedent is lost whilst the conditions are pending.

- (2) If the subject matter of a bilateral contract with conditions precedent has been lost or damaged due to reasons not attributable to the obligor, the loss or damage shall fall on obligee.
- (3) In cases where the subject matter of a bilateral contract with conditions precedent has been lost or damaged due to reasons attributable to the obligor, if the condition has been satisfied, the obligee may, at his/her choice, demand performance or exercise the obligee's right to cancel. In such cases, claims for damages shall not be precluded.

(Obligors' Assumption of Risk)

Article 536 Except in the cases provided for in the preceding two Articles, if the performance of any obligation has become impossible due to reasons not attributable to either party, the obligor shall not have the right to receive performance in return.

- (2) If the performance of any obligation has become impossible due to reasons attributable to the obligee, the obligor shall not lose his/her right to receive performance in return. In such cases, if the obligor gains any benefit as a result of being released from his/her own obligation, the obligor must reimburse the obligee for the benefit.

(Contracts for the Benefit of Third Parties)

Article 537 If one of the parties promises in a contract that he/she will tender a certain performance to any third party, the third party shall have the right to claim that performance directly from the obligor.

- (2) In the cases set forth in the preceding paragraph, rights of the third party shall accrue when the third party has expressed his/her intention to the obligor to enjoy the benefit of the contract under that paragraph.

(Determination of Rights of the Third Party)

Article 538 After rights of the third party have come into existence in accordance with the provisions of the preceding Article, the parties may not modify or extinguish those rights.

(Obligors' Defense)

Article 539 The obligor may raise the defense founded on the contract referred to in paragraph (1) of Article 537 against a third party who is to enjoy the benefit of the contract.

Subsection 3 Cancellation of Contracts

(Exercise of Right to Cancel)

Article 540 If one of the parties has a right to cancel in accordance with the provisions of the contract or law, the cancellation shall be effected by manifestation of intention to the other party.

(2) The manifestation of intention under the preceding paragraph may not be revoked.

(Right to Cancel for Delayed Performance)

Article 541 In cases where one of the parties does not perform his/her obligations, if the other party demands performance of the obligations, specifying a reasonable period and no performance is tendered during that period, the other party may cancel the contract.

(Right to Cancel for Delayed Performance where Time is of the Essence)

Article 542 In cases where, due to the nature of the contract or a manifestation of intention by the parties, the purpose of the contract cannot be achieved unless the performance is carried out at a specific time and date or within a certain period of time, if one of the parties has failed to perform at the time that period lapses, the other party may immediately cancel the contract without making the demand referred to in the preceding Article.

(Right to Cancel for Impossibility of Performance)

Article 543 If performance has become impossible, in whole or in part, the obligee may cancel the contract; provided, however, that this shall not apply if the failure to perform the obligation is due to reasons not attributable to the obligor.

(Indivisible Nature of Right to Cancel)

Article 544 If one party is constituted of two or more persons, the cancellation of the contract may be effected only by, or against, all of those persons.

(2) In the case set forth in the preceding paragraph, if the right to cancel is extinguished with respect to one of the persons who constitute a party, it shall also be extinguished with respect to the other persons.

(Effect of Cancellation)

Article 545 If one of the parties exercises his/her right to cancel, each party shall assume an obligation to restore the other party to that other party's original position; provided, however, that this shall not prejudice the rights of a third party.

(2) In the case set forth in the main clause of the preceding paragraph, if any monies are to be refunded, interest must accrue from the time of the receipt of those monies.

(3) The exercise of the right to cancel shall not preclude claims for damages.

(Cancellation of Contract and Simultaneous Performance)

Article 546 The provisions of Article 533 shall apply mutatis mutandis to the preceding Article.

(Extinguishment of Right to Cancel by Demand)

Article 547 If no period is provided for the exercise of the right to cancel, the other party may issue a notice of demand to the holder of the right to cancel, specifying a reasonable period, to the effect that the holder of the right to cancel is to give a definite answer as to whether or not the right will be

exercised within that period. In such cases, if no notice of cancellation is received within that period, the right to cancel shall be extinguished.

(Extinguishment of Right to Cancel by Acts of Holder of Right to Cancel)

Article 548 The right to cancel shall be extinguished if the holder of the right to cancel has significantly damaged, or has become unable to return, the subject matter of the contract due to his/her act or negligence, or has converted the subject matter into any other kind of thing by processing or alteration.

(2) The right to cancel shall not be extinguished if the subject matter of the contract has been lost or damaged due to reasons not attributable to any act or negligence of the holder of the right to cancel.

Section 2 Gifts

(Gifts)

Article 549 Gifts shall become effective by the manifestation by one of the parties of his/her intention to give his/her property to the other party gratuitously, and the acceptance of the other party thereof.

(Revocation of Gift Not in Writing)

Article 550 Gifts not in writing may be revoked by either party; provided, however, that this shall not apply to any portion of the gift for which performance has been completed.

(Warranty by Donor)

Article 551 The donor shall not be liable for any defect in or absence of the thing or right that is the subject matter of the gift; provided, however, that this shall not apply if the donor has knowledge of the defect or absence and fails to inform the donee thereof.

(2) With respect to encumbered gifts, the donor shall assume a warranty identical to that borne by the seller, to the extent of that encumbrance.

(Periodic Gifts)

Article 552 Periodic gifts shall lose its effect on the death of the donor or the donee.

(Encumbered Gifts)

Article 553 With respect to gifts with burden, in addition to the provisions of this Section, the provisions regarding bilateral contracts shall apply mutatis mutandis, to the extent those provisions are not inconsistent with the nature of gifts with burden.

(Gifts on Donor's Death)

Article 554 With respect to gifts that become effective on the death of the donor, the provisions regarding testamentary gifts shall apply mutatis mutandis, to the extent they are not inconsistent with the nature of gifts that become effective on the death of the donor.

Section 3 Sale

Subsection 1 General Provisions

(Sale)

Article 555 A sale shall become effective when one of the parties promises to transfer a certain real rights to the other party and the other party promises to pay the purchase money for it.

(Pre-contract of Sales Exercisable by One Party)

Article 556 A pre-contract to sell or purchase made by one party shall take the effect of a sale when the other party has manifested his/her intention to complete such sale.

- (2) If no period is provided in relation to the manifestation of intention set forth in the preceding paragraph, the other party to the pre-contact may issue a notice of demand to the other party, specifying a reasonable period, to the effect that the other party is to give a definite answer as to whether or not he/she will complete the sale within that period. In such cases, if the other party fails to give a definite answer within that period, the pre-contract of sale by one party shall lose its effect.

(Earnest Money)

Article 557 When the buyer delivers earnest money to the seller, the buyer may cancel the contract by forfeiting his/her earnest money or the seller may cancel the contract by reimbursing twice its amount, until either party commences performance of the contract.

- (2) The provisions of paragraph (3) of Article 545 shall not apply to cases set forth in the preceding paragraph.

(Expenses of Contracts for Sale)

Article 558 The expenses of contracts for sale shall be borne equally by both parties.

(Mutatis Mutandis Application to Contracts for Value)

Article 559 The provisions of this Section shall apply mutatis mutandis to contracts for value other than contracts for sale; provided, however that this shall not apply when it is not permitted by the nature of the contract for value.

Subsection 2 Effect of Sale

(Seller's Obligation when Selling Rights of Others)

Article 560 If the subject matter of the sale is the rights of others, the seller shall assume an obligation to acquire the rights and transfer the same to the buyer.

(Seller's Warranty when Selling Rights of Others)

Article 561 In the cases set forth in the preceding Article, if the seller cannot acquire and transfer to the buyer the rights the seller has sold, the buyer may cancel the contract. In such cases, if the buyer knew, at the time of the contract, that the rights did not belong to the seller, the buyer may not demand compensation for damages.

(Innocent Seller's Right of Cancellation in a Sale of Others' Rights)

Article 562 In cases where the seller, at the moment of the contract, does not know that the rights the seller has sold do not belong to him/her, if the seller cannot acquire the rights and transfer the same to the buyer, the seller may cancel the contract by compensating any damages.

- (2) In the cases set forth in the preceding paragraph, if the buyer, at the moment of the contract, knows that the rights the buyer has bought do not belong to the seller, the seller may cancel the contract by simply notifying the buyer to the effect that the seller cannot transfer the rights sold.

(Seller's Warranty where Rights Partially Belonged to Others)

Article 563 If the seller cannot transfer any part of the rights which are the subject matter of the sale because the part of the rights belongs to others, the seller may demand a reduction of the purchase

money in proportion to the value of the part in shortage.

- (2) In the cases set forth in the preceding paragraph, a buyer in good faith may cancel the contract if the buyer would not have bought the rights if the rights consisted only of the remaining portion.
- (3) A demand for the reduction in the purchase money or cancellation of the contract shall not preclude a buyer in good faith from making a claim for damages.

Article 564 The rights under the preceding Article must be exercised within one year from the time when the buyer knew the facts if the buyer was in good faith, or within one year from the time of the contract if the buyer had knowledge, as the case may be.

(Seller's Warranty in Cases of Shortage in Quantity or Partial Loss of Object)

Article 565 The provisions of the preceding two Articles shall apply mutatis mutandis in cases where there is any shortage in the object of a sale made for a designated quantity, or in cases where part of the object was already lost at the time of the contract, if the buyer did not know of the shortage or loss.

(Seller's Warranty in cases of Superficies or Other Rights)

Article 566 In cases where the subject matter of the sale is encumbered with for the purpose of a superficies, an emphyteusis, an easement, a right of retention or a pledge, if the buyer does not know the same and cannot achieve the purpose of the contract on account thereof, the buyer may cancel the contract. In such cases, if the contract cannot be cancelled, the buyer may only demand compensation for damages.

- (2) The provisions of the preceding paragraph shall apply mutatis mutandis in cases where an easement that was referred to as being in existence for the benefit of immovable property that is the subject matter of a sale, does not exist, and in cases where a leasehold is registered with respect to the immovable property.
- (3) In the cases set forth in the preceding two paragraphs, the cancellation of the contract or claim for damages must be made within one year from the time when the buyer comes to know the facts.

(Seller's Warranty in cases of Mortgage or Other Rights)

Article 567 If the buyer loses his/her ownership of immovable property that is the object of a sale because of the exercise of an existing statutory lien or mortgage, the buyer may cancel the contract.

- (2) If the buyer preserves his/her ownership by incurring expenditure for costs, he/she may claim reimbursement of those costs from the seller.
- (3) In the cases set forth in the preceding two paragraphs, the buyer may claim compensation if he/she suffered loss.

(Warranty in cases of Compulsory Auctions)

Article 568 The successful bidder at compulsory auction may cancel the contract or demand a reduction from the purchase money against the obligor in accordance with the provisions from Article 561 through to the preceding Article.

- (2) In the cases set forth in the preceding paragraph, if the obligor is insolvent, the successful bidder may demand total or partial reimbursement of the proceeds against the obligees who received the distribution of the proceeds.
- (3) In the cases set forth in the preceding two paragraphs, if obligors knew of the absence of the object or right and did not disclose the same, or if obligors knew of the absence but demanded an auction, the

successful bidder may demand compensation for damages against those persons.

(Seller's Warranty for Claims)

Article 569 If the seller of a claim warrants the solvency of the obligor, it shall be presumed that the seller warranted the solvency as at the time of the contract.

(2) If the seller of a claim which is not due yet warrants the future solvency of the obligor, it shall be presumed that he/she warranted the solvency as at the due date.

(Seller's Warranty against Defects)

Article 570 If there is any latent defect in the subject matter of a sale, the provisions of Article 566 shall apply mutatis mutandis; provided, however, that this shall not apply in cases of compulsory auction.

(Seller's Warranty and Simultaneous Performance)

Article 571 The provisions of Article 533 shall apply mutatis mutandis to the cases set forth from Article 563 through to Article 566 and in the preceding Article.

(Special Agreement Disclaiming Warranty)

Article 572 Even if the seller makes a special agreement to the effect that the seller will not provide the warranties set forth from Article 560 through to the preceding Article, the seller may not be released from that responsibility with respect to any fact that the seller knew but did not disclose, and with respect to any right that the seller himself/herself created for or assigned to a third party.

(Due Date for Payment of Purchase money)

Article 573 If there is a due date for the delivery of the subject matter of the sale, it shall be presumed that the same due date was also agreed for the payment of the purchase money.

(Place of Payment of Purchase money)

Article 574 If the purchase money is to be paid simultaneously with delivery of the subject matter of the sale, the payment must be made at the place of delivery.

(Ownership in Fruit and Payment of Interest on Purchase money)

Article 575 If any subject matter of a sale that is not delivered yet bears any fruit, the fruit shall vest in the seller.

(2) The buyer shall assume an obligation to pay the interest on the purchase money from the day of delivery; provided, however, that, if a due date is provided for the payment of the purchase money, it shall not be necessary to pay the interest until that due date arrives.

(Refusal by Buyer to Pay Purchase money where Loss of Rights is Likely)

Article 576 If the buyer is likely to lose the rights he/she has bought, in whole or in part, due to the existence of persons who assert rights to the subject matter of the sale, the buyer may refuse to pay the purchase money, in whole or in part, in proportion to the extent of that likelihood; provided, however, that this shall not apply if the seller has provided reasonable security.

(Refusal by Buyer to Pay Purchase money in cases of Registered Mortgage)

Article 577 If any mortgage is registered on immovable property that has been purchased, the buyer may refuse to pay the purchase money until the completion of the procedures of the claim for

extinguishment of the mortgage. In such cases, the seller may demand that the buyer file the claim for extinguishment of the mortgage without delay.

- (2) The provisions of the preceding paragraph shall apply *mutatis mutandis* to cases where a statutory lien or pledge is registered on the immovable property that has been bought.

(Seller's Demand for Deposit of Purchase money)

Article 578 In the cases of the preceding two paragraphs, the seller may demand that the buyer deposit the purchase money.

Subsection 3 Redemption

(Special Agreement on Redemption)

Article 579 The buyer of immovable property may cancel the sale by refunding the purchase money and costs of the contract paid by the buyer in accordance with a special agreement on redemption executed simultaneously with the contract for sale. In such cases, unless a contrary intention is manifested by the parties, it shall be deemed that the fruit of the immovable property and the interest on the purchase money have been set off against each other.

(Period for Redemption)

Article 580 The period for the redemption may not exceed ten years. If any special agreement provides for any period longer than the above, the period shall be ten years.

- (2) If a period for the redemption is agreed, no further extension may be effected subsequently.
- (3) If no period for the redemption is agreed, the redemption must be effected within five years.

(Perfection of Special Agreement on Redemption)

Article 581 If the special agreement on redemption is registered simultaneously with the contract for sale, the redemption shall also be effective against third parties.

- (2) The rights of a lessee who effected registration can be asserted against the seller while the lease remains effective, limited to a period not exceeding one year; provided, however, that this shall not apply if the lease is entered into with the purpose of harming the seller.

(Exercise of Right of Redemption by way of Subrogation)

Article 582 If an obligee of the seller intends to effect redemption on behalf of the seller in accordance with the provisions of Article 423, the buyer may extinguish the right of redemption by paying the debts of the seller, to the extent of the balance obtained by deducting the amount the seller is to pay from the current value of the immovable property as evaluated by a court-appointed appraiser, and, if any positive balance remains, by refunding the same to the seller.

(Implementation of Redemption)

Article 583 A seller may not effect redemption unless the seller provides the purchase money and the costs of the contract within the period provided for in Article 580.

- (2) If a buyer or subsequent acquirer incurs expenses with respect to immovable property, the seller must reimburse those expenses in accordance with the provisions of Article 196; provided, however, that, with respect to useful expenses, the court may, at the seller's request, grant a reasonable period for the reimbursement.

(Sale of Co-ownership Interest with Special Agreements on Redemption)

Article 584 If one of the co-owners of immovable property sells his/her equity interest with special agreements on its redemption and the immovable property is then divided or subjected to auction, the seller may redeem the portion or purchase money that the buyer receives or is to receive; provided, however, that any division or auction effected without notice to the seller may not be asserted against the seller.

Article 585 In the cases of the preceding Article, if the buyer is the successful bidder at the auction of the immovable property, the seller may effect the redemption by paying the auction price and the costs provided for in Article 583. In such cases, the seller shall acquire full ownership of the immovable property.

(2) If the buyer has become the successful bidder at an auction as the result of the request of division by other joint owner(s), the seller may not effect the redemption with respect only to his/her own share.

Section 4 Exchange

Article 586 An exchange shall become effective by the mutual promises by the parties to transfer any property right other than the ownership of money.

(2) In cases where one of the parties promises to transfer the ownership of money together with other rights, the provisions regarding purchase money for sale contracts shall apply *mutatis mutandis* to that money.

Section 5 Loans for Consumption

(Loans for Consumption)

Article 587 A loan for consumption shall become effective when one of the parties receives money or other things from the other party by promising that he/she will return by means of things that are the same in kind, quality and quantity.

(Quasi-loans for Consumption)

Article 588 In cases where any person has an obligation to provide money or other things under any arrangement which is not a loan for consumption, if the parties agree to regard such things as the subject matter of a loan for consumption, it shall be deemed that this establishes a loan for consumption.

(Pre-contract of Loans for Consumption and Commencement of Bankruptcy Procedures)

Article 589 The pre-contract of a loan for consumption shall lose its effect if a ruling for the commencement of bankruptcy procedures is subsequently made against one of the parties.

(Lender's Warranty)

Article 590 If there is any latent defect in any borrowed Thing in a loan for consumption with interest, the lender must replace it with another Thing without defect. In such cases, claims for damages shall not be precluded.

(2) In a loan for consumption without interest, the borrower may return the value of a borrowed Thing that is defective. In such cases, the provisions of the preceding paragraph shall apply *mutatis mutandis* if the lender knew of the defect but did not disclose the same to the borrower.

(Timing of Returns)

Article 591 If the parties do not define the time for return of borrowed Things, the lender may demand their return, specifying a reasonable period.

(2) The borrower may return borrowed Things at any time.

(Reimbursement of Value)

Article 592 If the borrower has become unable to return Things in the same kind, quality and quantity as that of the Things the borrower received from the lender, the borrower must return the current value of the Things; provided, however, that this shall not apply in the cases provided for in paragraph (2) of Article 402.

Section 6 Loans for Use

(Loans for Use)

Article 593 A loan for use shall become effective when one of the parties receives a defined Thing from the other party by promising that he/she will return the Thing after he/she has gratuitously made use of and taken the profits of the same.

(Borrower's Use and Profit)

Article 594 A borrower must make use of and take the profits of the Thing in compliance with the method of use specified by the contract or by the nature of the Thing which is the subject matter of the contract.

(2) A borrower may not allow third parties to make use of or take the profits of the Thing without obtaining the approval of the lender.

(3) If a borrower has made use of or taken the profits of the Thing in violation of the preceding two paragraphs, the lender may cancel the contract.

(Responsibility for Costs of Borrowed Things)

Article 595 The borrower shall bear the ordinarily necessary costs of borrowed Things.

(2) The provisions of paragraph (2) of Article 583 shall apply mutatis mutandis to costs other than the ordinarily necessary costs under the preceding paragraph.

(Lender's Warranty)

Article 596 The provisions of Article 551 shall apply mutatis mutandis to loans for use.

(Timing of Returns of Borrowed Things)

Article 597 A borrower must return borrowed Things at the time specified in the contract.

(2) When the parties have not specified a time for return, the borrower must return the borrowed Things when he/she has completed to make use of or take the profits of the same in compliance with the purposes provided for in the contract; provided, however, that the lender may demand the immediate return of the borrowed Things even before the completion of using or taking profits if a period sufficient for using or taking profits has elapsed.

(3) If the parties have not specified the timing of the return and the purposes of the using and taking profits, the lender may demand the return of the borrowed Things at any time.

(Removal by Borrower)

Article 598 A borrower may restore a borrowed Thing to its original condition and remove anything attached to the same.

(Termination of Loan for Use upon Death of Borrower)

Article 599 Loans for use shall lose its effect on the death of the borrower.

(Restriction on Period of Rights to Demand Compensation for Damages and Reimbursement of Costs)

Article 600 Claims for compensation for damages resulting from using or taking profits of the Thing inconsistent with the main purport of the contract, and for the reimbursement of costs incurred by the borrower, must be submitted within one year from the time when the lender receives the return of the borrowed Things.

Section 7 Leases

Subsection 1 General Provisions

(Leases)

Article 601 A lease shall become effective when one of the parties promises to make a certain Thing available for the using and taking the profits by the other party and the other party promises to pay rent for the same.

(Short-term Leases)

Article 602 In cases where a person with limited capacity to act or a person with no authority with respect to the act of disposition makes a lease contract, the leases listed in the following items shall not exceed the terms prescribed respectively in those items:

- (i) Leases of forest for the purpose of planting or felling trees: 10 years;
- (ii) Leases of land other than the leases listed in the preceding item: 5 years;
- (iii) Lease of a building: 3 years; and
- (iv) Lease of a movable: 6 months.

(Renewal of Short-term Leases)

Article 603 The terms prescribed in the preceding Article may be renewed; provided, however, that the renewal must be carried out within one year prior to the expiration of the term for land, and within 3 months prior to the expiration of the term for a building, and within 1 month prior to the expiration of the term for a movable.

(Duration of Lease)

Article 604 The duration of a lease may not exceed twenty years. Even if the contract prescribes a longer term, the term shall be 20 years.

(2) The duration of a lease may be renewed; provided, however, that such period may not exceed twenty years from the time of the renewal.

Subsection 2 Effect of Lease

(Perfection of Leasehold)

Article 605 A lease of immovable property, when registered, shall also be effective against a person who subsequently acquires real rights with respect to the immovable property.

(Repairs of Leased Things)

Article 606 A lessor shall assume an obligation to effect repairs necessary for using and taking the profits of the leased Things.

(2) The lessee may not refuse if the lessor intends to engage in any act that is necessary for the preservation of the leased Thing.

(Act to Preserve against the Will of the Lessee)

Article 607 In cases where the lessor intends to engage in an act to preserve the leased Thing against the will of the lessee, if the lessee cannot achieve the purpose of the lease as a result of the same, the lessee may cancel the contract.

(Lessee's Demand for Reimbursement of Costs)

Article 608 If a lessee has defrayed necessary expenses with respect to the leased Thing which ought to be borne by the lessor, the lessee may immediately demand the reimbursement of the same from the lessor.

(2) If the lessee has incurred useful expenses with respect to the leased Thing, the lessor must reimburse those expenses on termination of the lease in compliance with the provisions of paragraph (2) of Article 196; provided, however, that the court may, at the lessor's request, grant a reasonable period for the reimbursement of the same.

(Demand for Reduction of Rent due to Decrease in Profits)

Article 609 A lessee of land for the purpose of profit making may, if he/she obtains profits less than the rent due to force majeure, demand that the amount of the rent be reduced to the level of the amount of the profits; provided, however, that this shall not apply with respect to leases of residential land.

(Termination due to Decrease in Profits)

Article 610 In the cases of the preceding Article, the lessee referred to in that Article may cancel the contract if he/she has made profits less than the rent for at least two consecutive years due to force majeure.

(Demands for Reduction of Rent due to Partial Loss of Leased Thing)

Article 611 If any part of a leased thing is lost due to reasons not attributable to the negligence of the lessee, the lessee may demand a reduction of the rent in proportion to the value of the lost part.

(2) In the cases set forth in the preceding paragraph, if the lessee cannot achieve the purpose of the lease with the remaining portion only, the lessee may cancel the contract.

(Restrictions on Assignment and Subleasing of Leasehold)

Article 612 A lessee may not assign the lessee's rights or sublease a leased Thing without obtaining the approval of the lessor.

(2) If the lessee allows any third party to make use of or take the profits of a leased Thing in violation of the provisions of the preceding paragraph, the lessor may cancel the contract.

(Effect of Subleases)

Article 613 If a lessee lawfully subleases a leased Thing, the sublessee shall assume a direct obligation to the lessor. In such cases, advance payment of rent may not be asserted against the lessor.

(2) The provisions of the preceding paragraph shall not preclude the lessor from exercising his/her rights against the lessee.

(Timing of Payment of Rent)

Article 614 Rent must be paid at the end of the month with respect to movables, buildings and land for residential purpose, and at the end of the year with respect to other land; provided, however, that, with respect to anything with a harvest season, the rent must be paid without delay after that season.

(Obligation of Lessee to Give Notice)

Article 615 If the leased Thing requires any repair, or if any person asserts rights with respect to the leased Thing, the lessee must notify the lessor without delay; provided, however, that this shall not apply if this is already known to the lessor.

(Mutatis Mutandis Application of Loans for Use)

Article 616 The provisions of paragraph (1) of Article 594, paragraph (1) of Article 597 and Article 598 shall apply mutatis mutandis to leases.

Subsection 3 Termination of Leases

(Offers to Terminate Leases with Indefinite Terms)

Article 617 If the parties do not specify the term of a lease, either party may request to terminate it at any time. In such cases, the leases listed in the following items shall terminate on the expiration of the respective periods from the day of the request to terminate prescribed respectively in those items:

- (i) Leases of land: one year;
- (ii) Leases of buildings: three months; and
- (iii) Leases of movables and seating hire facilities: one day.

(2) With respect to leases of land with harvest seasons, the request to terminate must be made after the end of that season and before the next start of cultivation.

(Reservation of Rights to Terminate Leases with Definite Terms)

Article 618 Even if the parties specify the term of a lease, the provisions of the preceding Article shall apply mutatis mutandis if one party reserves, or both parties reserve, the right to terminate during that period.

(Presumption of Renewal of Leases)

Article 619 In cases where a lessee continues to make use or take the profits of the Thing after the expiration of the term of the lease, if a lessor who knows of the same raises no objection, it shall be presumed that a further lease is entered into under conditions identical to those of the previous lease. In such cases, each party may request to terminate in accordance with the provisions of Article 617.

(2) If one of the parties has provided security for the previous lease, the security shall be extinguished upon expiration of the term; provided, however, that this shall not apply to a security deposit.

(Effect of Cancellations of Leases)

Article 620 In cases where a lease is cancelled, the cancellation shall be effective solely toward the future. In such cases, if one of the parties is negligent, claims for damages against that party shall not be precluded.

(Limitation on Periods of Rights to Demand Compensation for Damages and Reimbursement of Costs)

Article 621 The provisions of Article 600 shall apply mutatis mutandis to leases.

Article 622 deleted

Section 8 Employment

(Employment)

Article 623 An employment contract shall become effective when one of the parties promises to the other party that he/she will engage in work and the other party promises to pay remuneration for the same.

(Timing of Payment of Remuneration)

Article 624 An employee may not demand remuneration until the work he/she promised to perform has been completed.

(2) Remuneration specified with reference to a period may be claimed on the expiration of that period.

(Restrictions on Assignment of Employer's Rights)

Article 625 An employer may not assign his/her rights to third parties unless the employer obtains the employee's consent.

(2) An employee may not cause any third party to work on his/her behalf unless the employee obtains the employer's consent.

(3) If an employee causes any third party to work in violation of the provisions of the preceding paragraph, the employer may cancel the contract.

(Cancellation of Employment with a Definite Term)

Article 626 If the term of employment exceeds five years, or employment is to continue during the life of either party or any third party, either party may cancel the contract at any time after the expiration of five years; provided, however, that said five years shall be ten years with respect to employment for the purpose of apprenticeship in commerce and industry.

(2) If a person intends to cancel a contract under the provisions of the preceding paragraph, he/she must give notice three months in advance.

(Offer to Terminate Employment with Indefinite Term)

Article 627 If the parties have not specified the term of employment, either party may request to terminate at any time. In such cases, employment shall terminate on the expiration of two weeks from the day of the request to terminate.

(2) If remuneration is specified with reference to a period, the request to terminate may be made with respect to the following period of time onward; provided, however, that the request to terminate must be made in the first half of the current period.

- (3) If remuneration is specified with reference to a period of six months or more, the request to terminate under the preceding paragraph must be made three months before the termination.

(Cancellation of Employment due to Unavoidable Reasons)

Article 628 Even in cases where the parties have specified the term of employment, if there are unavoidable reasons, either party may immediately cancel the contract. In such cases, if the reasons arise from the negligence of either one of the parties, that party shall be liable to the other party for damages.

(Presumption of Renewal of Employment)

Article 629 In cases where an employee continues to engage in his/her work after the expiration of a term of employment, if an employer knows of the same and raises no objection, it shall be presumed that the further employment is entered into under conditions identical to those of the previous employment. In such cases, each party may request to termination under the provisions of Article 627.

- (2) If either party has provided security for the previous employment, the security shall be extinguished on the expiration of the term; provided, however, that this shall not apply to fidelity bonds.

(Effect of Cancellation of Employment)

Article 630 The provisions of Article 620 shall apply *mutatis mutandis* to employment.

(Request to Terminate due to Commencement of Bankruptcy Procedures for Employer)

Article 631 In cases where the employer is subject to a ruling for the commencement of bankruptcy procedures, the employee or the trustee in bankruptcy may request to terminate under the provisions of Article 627 even if the employment is for a definite term. In such cases, neither party may claim compensation from the other party for damages suffered as a result of the termination.

Section 9 Contracts for Work

(Contracts for Work)

Article 632 A contract for work shall become effective when one of the parties promises to complete work and the other party promises to pay remuneration for the outcome of the work.

(Timing of Payment of Remuneration)

Article 633 Remuneration must be paid simultaneously with delivery of the subject matter of work performed; provided, however, that, if no delivery of a Thing is required, the provisions of paragraph (1) of Article 624 shall apply *mutatis mutandis*.

(Contractor's Warranty)

Article 634 If there is any defect in the subject matter of work performed, the party ordering the work may demand that the contractor repair the defect, specifying a reasonable period; provided, however, that this shall not apply if the defect is not significant and excessive costs would be required for the repair.

- (2) The party ordering the work may demand compensation for damages in lieu of, or in addition to, the repair of the defect. In such cases, the provisions of Article 533 shall apply *mutatis mutandis*.

Article 635 If there is any defect in the subject matter of work performed and the purpose of the contract cannot be achieved because of the defect, the party ordering the work may cancel the contract;

provided, however, that this shall not apply to a building or other structure on land.

(No Application of Provisions on Contractor's Warranty)

Article 636 The provisions of the preceding two Articles shall not apply if the defect in the subject matter of the work arises due to the nature of the materials supplied by, or instructions given by, the party ordering the work; provided, however, that this shall not apply if the contractor knew that the materials or instructions were inappropriate but did not disclose the same.

(Duration of Contractor's Warranty)

Article 637 The demand for repair or claim for damages and cancellation of the contract under the preceding three Articles must be made within one year from the time of the delivery of the subject matter of the work.

(2) Where no delivery of the subject matter is required, the period referred to in the preceding paragraph commences to run from the time of the completion of the work.

Article 638 A contractor for a building or other structure on land shall be liable for a warranty against defects in the structure or ground for the period of five years from delivery; provided, however, that the period shall be ten years for structures made of stone, earth, bricks, concrete, steel and other similar structures.

(2) If any structure is lost or damaged due to the defects set forth in the preceding paragraph, the party ordering the work must exercise the rights under the provisions of Article 634 within one year from the time of the loss or damage.

(Extension of Duration of Warranty)

Article 639 The periods set forth in Article 637 and paragraph (1) of the preceding Article may be extended by contract so long as they do not exceed the period of time provided for the extinctive prescription under the provisions of Article 167.

(Special Agreement of No Warranty)

Article 640 Even if the contractor agrees to a special agreement to the effect that the contractor will not be liable for the warranty provided in Article 634 or Article 635, the contractor may not be released from the contractor's liability with respect to facts the contractor knew and did not disclose.

(Cancellation of Contract by Party Ordering Work)

Article 641 The party ordering work may cancel the contract at any time whilst the contractor has not completed the work by compensating any damages.

(Cancellation on Commencement of Bankruptcy Procedures for Party Ordering Work)

Article 642 In cases where the party ordering work is subject to a ruling for the commencement of bankruptcy procedures, the contractor or the trustee in bankruptcy may cancel the contract. In such cases, the contractor may participate in the distribution of the bankrupt estate with respect to remuneration for the work already performed and any costs not included in that remuneration.

(2) In the cases set forth in the preceding paragraph, claims for damages suffered as a result of the cancellation of the contract shall be permitted only for contractors under contracts cancelled by the trustee in bankruptcy. In such cases, the contractors shall participate in the distribution of the bankrupt estate with respect to such damages.

Section 10 Mandates

(Mandates)

Article 643 A mandate shall become effective when one of the parties mandates the other party to perform a juristic act, and the other party accepts the mandate.

(Duty of Care of Mandatary)

Article 644 A mandatary shall assume a duty to administer the mandated business with the care of a good manager compliance with the main purport of the mandate.

(Reports by Mandatary)

Article 645 A mandatary must, if so requested by the mandator, report the current status of the administration of the mandated business at any time, and must report the process and results without delay upon completion of the mandate.

(Delivery of Received Things by Mandatary)

Article 646 The mandatary must deliver to the mandator monies and other Things that he/she has received during the course of administering the mandated business. The same shall apply to fruits the mandatary has reaped.

(2) The mandatary must transfer to the mandator rights the mandatary has acquired in his/her own name on behalf of the mandator.

(Mandatary's Responsibility for Consumption of Monies)

Article 647 If the mandatary has consumed monies for his/her personal benefit that the mandatary is to deliver to the mandator, or any monies that are to be used for the benefit of the mandator, the mandatary must pay interest for the period from the day of that consumption. In such cases, if any damages still remain, the mandatary shall be liable to compensate for the same.

(Remuneration for Mandatary)

Article 648 In the absence of any special agreements, the mandatary may not claim remuneration from the mandator.

(2) In cases where the mandatary is to receive remuneration, the mandatary may not claim the same until and unless he/she has performed the mandated business; provided, however, that if the remuneration is specified with reference to period, the provisions of paragraph (2) of Article 624 shall apply *mutatis mutandis*.

(3) If the mandate terminates during performance due to reasons not attributable to the mandatary, the mandatary may demand remuneration in proportion to the performance already completed.

(Mandatary's Claims for Advance for Costs)

Article 649 If costs will be incurred in administering the mandated business, the mandator must, at the request of the mandatary, pay an advance for those costs.

(Mandatary's Claims for Reimbursement of Expense)

Article 650 If the mandatary has incurred costs found to be necessary for the administration of the mandated business, the mandatary may claim reimbursement of those costs from the mandator and any interest on the same from the day the costs were incurred.

- (2) If the mandatary has incurred any obligation found to be necessary for the administration of the mandated business, the mandatary may demand that the mandator perform the obligation on the mandatary's behalf. In such cases, if the obligation has not yet fallen due, the mandatary may require the mandator to tender reasonable security.
- (3) If the mandatary suffers any loss due to the administration of the mandated business without negligence in the mandatary, he/she may claim compensation for the loss from the mandator.

(Cancellation of Mandate)

Article 651 A mandate may be cancelled by either party at any time.

- (2) If one of the parties cancels a mandate at a time that is detrimental to the other party, the former party must compensate the damages suffered by the other party; provided, however, that this shall not apply if there are unavoidable grounds.

(Effect of Cancellation of Mandate)

Article 652 The provision of Article 620 shall apply mutatis mutandis to mandates.

(Grounds for Termination of Mandate)

Article 653 A mandate shall terminate when:

- (i) The mandator or mandatary dies;
- (ii) The mandator or mandatary is subject to a ruling for the commencement of bankruptcy procedures;
- (iii) The mandatary is subject to an order for the commencement of guardianship.

(Disposition after Termination of Mandate)

Article 654 In cases where a mandate has terminated, if there are pressing circumstances, the mandatary or his/her heir or legal representative must effect necessary dispositions until the time when the mandator or his/her heir or legal representatives is able to take charge of the mandated business.

(Requirement for Perfection of Termination of Mandate)

Article 655 The grounds of termination of mandate may not be asserted against the other party unless the other party was notified of or knew of the same.

(Quasi-Mandate)

Article 656 The provisions of this Section shall apply mutatis mutandis to mandates of business that do not constitute juristic acts.

Section 11 Deposits

(Deposits)

Article 657 A deposit shall become effective when one of the parties receives a certain Thing by promising that he/she will retain it for the other party.

(Use of Deposited Thing and Retention by Third Parties)

Article 658 A depositary may not use, or allow third parties to retain, the Thing deposited without obtaining the consent of the depositor.

(2) The provisions of Article 105 and paragraph (2) of Article 107 shall apply *mutatis mutandis* to cases where a depositary may allow third parties to retain deposited Things.

(Duty of Care of Gratuitous Depositary)

Article 659 A person who has undertaken a deposit gratuitously shall assume a duty to retain the Thing deposited exercising care identical to that he/she exercises for his/her own property.

(Obligation of Depositary to Give Notice)

Article 660 If a third party asserting rights with respect to the Thing deposited has brought a lawsuit against the depositary, or has effected an attachment, provisional attachment, or provisional disposition, the depositary must notify the depositor of that fact without delay.

(Compensation of Damages by Depositor)

Article 661 The depositor must compensate the depositary for damages that occur due to the nature of or defects in the Thing deposited; provided, however, that this shall not apply if the depositor did not, without negligence, know of such nature or defect, or the depositary knew of the same.

(Depositor's Demand for Return)

Article 662 Even if the parties specify the time for the return of the Thing deposited, the depositor may demand the return of the same at any time.

(Timing of Return of the Thing Deposited)

Article 663 If the parties have not specified the timing of the return of the Thing deposited, the depositary may return the same at any time.

(2) If the timing of the return is specified, the depositary may not return the deposited goods prior to the due date unless there are unavoidable grounds.

(Place of Return of the Thing Deposited)

Article 664 The place for the return of the Thing deposited must be at the place where they are to be retained; provided, however, that, if the depositary has changed the place of retention on reasonable grounds, the return may be made at that current place of retention.

(*Mutatis Mutandis* Application of Provisions on Mandate)

Article 665 The provisions of Article 646 to Article 650 (excluding paragraph (3) of this Article) shall apply *mutatis mutandis* to deposits.

(Deposits for Consumption)

Article 666 The provisions of Section 5 (Loans for Consumption) shall apply *mutatis mutandis* to cases where a depositary may, under the contract, consume the Thing deposited.

(2) Notwithstanding the provisions of paragraph (1) of Article 591 which shall apply *mutatis mutandis* under the preceding paragraph, if the contract referred to in the preceding paragraph does not specify the timing of the return, the depositor may demand the return at any time.

Section 12 Partnerships

(Partnership Contracts)

Article 667 A partnership contract shall become effective when each of the parties promises to engage in joint business by making a contribution.

(2) The subject of the contribution may be services.

(Joint Ownership in Partnership Property)

Article 668 The contributions of the partners and other partnership property shall be jointly owned by all partners.

(Responsibility for Failure to Provide Monetary Contribution)

Article 669 In cases where monies are the subject of the contribution, if any partner fails to contribute his/her share of the contribution, he/she must pay interest on the same and otherwise compensate for damages.

(Method of Business Management)

Article 670 The management of partnership business shall be determined by the majority of the partners.

(2) If more than one person is delegated to manage the business referred to in the preceding paragraph under the partnership contract (referred to in the following paragraph as "Operating Officers"), the same shall be determined by majority.

(3) Notwithstanding the provisions of the preceding two paragraphs, the ordinary business of a partnership may be performed by each partner or each Operating Officer individually; provided, however, that this shall not apply if other partners or Operating Officers raise objections prior to the completion of the business.

(Mutatis Mutandis Application of Provisions on Mandates)

Article 671 The provisions of Article 646 to Article 650 shall apply mutatis mutandis to partners who manage the business of a partnership.

(Resignations and Dismissals of Operating Partners)

Article 672 If one or more partners are delegated to manage partnership business under the partnership contract, those partners may not resign without reasonable grounds.

(2) The partners referred to in the preceding paragraph may be dismissed by the unanimous agreement of the other partners, limited to cases where there are justifiable grounds.

(Inspections by Partners of Condition of Partnership Business and Property)

Article 673 Each partner may inspect the condition of the business and property of the partnership even if he/she does not have the right to manage the business of the partnership.

(Proportions of Partners' Distributions of Profits and Losses)

Article 674 If partners have not specified the proportions of the distributions of the partnership's profits and losses, the proportions shall be determined in proportion to the value of each partner's contribution.

(2) If the proportions of the distributions are specified solely with respect to either profits or losses, it shall be presumed that the proportions are common to profits and losses.

(Exercise of Right of Creditors of the Partnership against Partners)

Article 675 If a creditor of a partnership did not, when his/her claim arose, the proportions of the partners' shares of losses, the creditor may exercise his/her rights against each partner in equal proportions.

(Disposal Partners' Shares and Division of Partnership Property)

Article 676 If a partner disposes of his/her share with respect to the partnership property, the disposal may not be asserted against the partnership and third parties who had dealings with the partnership.

(2) A partner may not seek the division of the partnership property before the same is liquidated.

(No Set-off by Obligor of Partnership)

Article 677 An obligor of a partnership may not set off his/her obligation against his/her claim against the partners.

(Withdrawal of Partners)

Article 678 If a partnership contract does not specify the duration of the partnership, or specifies that the partnership is to continue for the life of a certain partner, each partner may withdraw at any time; provided, however, that, unless there are unavoidable grounds, a partner may not withdraw at a time that is detrimental to the partnership.

(2) Even in cases where the duration of the partnership is specified, each partner may withdraw if there are unavoidable grounds.

Article 679 In addition to the cases referred to in the preceding Article, partners shall withdraw on the following grounds:

- (i) The partner dies;
- (ii) The partner is subject to a ruling for the commencement of bankruptcy procedures;
- (iii) The partner is subject to an order for the commencement of guardianship;
- (iv) The partner has been expelled.

(Expulsion of Partners)

Article 680 The expulsion of a partner may be effected by the unanimous agreement of the other partners, limited to cases where there are justifiable grounds; provided, however, that the expulsion may not be asserted against a partner who is expelled unless a notice to that effect is given to that partner.

(Refunds of Shares of Withdrawing Partners)

Article 681 Accounts as between the withdrawing partner and other partners must be settled according to the condition of the partnership property as at the time of the withdrawal.

- (2) The share of the withdrawing partner may be refunded in money, regardless of the kind of his/her contribution.
- (3) With respect to any matter not yet completed at the time of the withdrawal, accounts may be made up subsequent to the completion of that matter.

(Causes of Dissolution of Partnerships)

Article 682 A partnership shall be dissolved on the successful completion of the business that is its object, or by the impossibility of such successful completion.

(Request for Dissolution of Partnerships)

Article 683 Each partner may request the dissolution of the partnership if there are unavoidable grounds.

(Effect of Cancellation of Partnership Contracts)

Article 684 The provisions of Article 620 shall apply mutatis mutandis to partnership contracts.

(Liquidation of Partnerships and Appointment of Liquidators)

Article 685 When a partnership is dissolved, the liquidation shall be administered jointly by all partners or by a liquidator appointed by the same.

(2) A liquidator shall be appointed by a majority of all partners.

(Method of Management of Liquidators' Business)

Article 686 The provisions of Article 670 shall apply mutatis mutandis to cases where there is more than one liquidator.

(Resignations and Dismissals of Liquidators who are Partners)

Article 687 The provisions of Article 672 shall apply mutatis mutandis to cases where the liquidator is appointed from among the partners under the partnership contract.

(Duties and Authority of Liquidators and Method of Division of Residual Assets)

Article 688 A liquidator shall have the duties to:

- (i) conclude the current business
- (ii) collect debts and perform obligations; and
- (iii) deliver the residual assets.

(2) The liquidator may perform any and all acts in order to perform its duties listed in the respective items of the preceding paragraph.

(3) Residual assets shall be distributed in proportion to the value of the contributions of each partner.

Section 13 Life Annuities

(Life Annuities)

Article 689 Life annuities shall become effective when one of the parties promises to deliver monies or other Things to the other party or a third party periodically until the death of the first party, the other party or the third party.

(Accounting for Life Annuities)

Article 690 Life annuities shall be calculated on a daily basis.

(Cancellation of Contracts for Life Annuities)

Article 691 In cases where the obligor in a life annuity has received the principal for the life annuity, if the obligor fails to pay the life annuity or fails to perform other obligations, the other party may demand the return of the principal. In such cases, the other party must return the amount of the life annuity he/she has already received to the obligor of the life annuity, less the amount of the interest on that principal.

(2) The provisions of the preceding paragraph shall not preclude claims for damages.

(Cancellation of Contracts for Life Annuities and Simultaneous Performance)

Article 692 The provisions of Article 533 shall apply mutatis mutandis to cases referred to in the preceding Article.

(Declaration of Continuation of Claim for Life Annuity)

Article 693 If a death provided for in Article 689 occurs due to grounds attributable to the obligor in a life annuity, the court may, at the request of the obligee in the life annuity or the obligee's heirs, declare that the life annuity claim shall continue for a reasonable period.

(2) The provisions of the preceding paragraph shall not preclude the exercise of the rights provided in Article 691.

(Testamentary Gifts of Life Annuities)

Article 694 The provisions of this Section shall apply mutatis mutandis to testamentary gifts of life annuities.

Section 14 Settlements

(Settlements)

Article 695 A settlement shall become effective when the parties to a dispute promise to settle the dispute through reciprocal concessions.

(Effect of Settlements)

Article 696 In cases where it is admitted at settlement that one of the parties has the rights that are the subject of the dispute, or that the other party did not have the rights, if conclusive evidence is obtained to the effect that the first party did not have the rights in the past, or that the other party did have the rights, the rights are regarded as either transferred to the first party or extinguished at settlement.

Chapter III Negotiorum Gestio (Management of Business)

(Negotiorum Gestio (Management of Business))

Article 697 A person who commences the management of a business for another person without being obligated to do so (hereinafter in this Chapter referred to as "Manager") must manage that business (hereinafter referred to as "Management of Business") in accordance with the nature of the business, using the method that best conforms to the interests of that another person (the principal).

(2) The Manager must engage in Management of Business in accordance with the intentions of the principal if the Manager knows, or is able to conjecture that intention.

(Urgent Management of Business)

Article 698 If a Manager engages in the Management of Business in order to allow a principal to escape imminent danger to the principal's person, reputation or property, the Manager shall not be liable to compensate for damages resulting from the same unless he/she has acted in bad faith or with gross negligence.

(Obligation of Managers to Give Notice)

Article 699 A Manager must notify the principal that the Manager has commenced the Management of Business; provided, however, that this shall not apply if the principal already knows of the same.

(Continuation of Management of Business by Managers)

Article 700 A Manager must continue the Management of Business until the principal or his/her heirs or legal representatives can undertake it; provided, however, that this shall not apply in cases where it is evident that the continuation of the Management of Business is contrary to the intentions of the principal, or is disadvantageous to the principal.

(Mutatis Mutandis Application of Provisions on Mandates)

Article 701 The provisions from Article 645 through to Article 647 shall apply mutatis mutandis to the Management of Business.

(Managers' Claims for Reimbursement of Costs)

Article 702 If a Manager has incurred useful expenses for a principal, the Manager may claim reimbursement of those costs from the principal.

(2) The provisions of paragraph (2) of Article 650 shall apply mutatis mutandis to cases where a Manager has incurred useful obligations on behalf of the principal.

(3) If a Manager has engaged in the Management of Business against the intention of the principal, the provisions of the preceding two paragraphs shall apply mutatis mutandis, solely to the extent the principal is actually enriched.

Chapter IV Unjust Enrichment

(Obligation to Return Unjust Enrichment)

Article 703 A person who has benefited (hereinafter in this Chapter referred to as "beneficiary") from the property or labor of others without legal cause and has thereby caused loss to others shall assume an obligation to return that benefit, to the extent the benefit exists.

(Obligation of Beneficiaries in Bad Faith to Return)

Article 704 A Beneficiary in bad faith must return the benefit received together with interest thereon. In such cases, if any damages still remain, the Beneficiary shall be liable to compensate for the same.

(Performance knowing of Absence of Obligation)

Article 705 A person who has tendered anything as performance of an obligation may not demand the return of the thing tendered if the person knew, at the time, that the obligation did not exist.

(Performance before Due Date)

Article 706 If an obligor has tendered anything as performance of an obligation that has not yet fallen due, the obligor may not demand the return of the thing tendered; provided, however, that, if the obligor tendered anything by mistake, the obligee must return the benefit gained as a result.

(Performance of Obligations of Others)

Article 707 In cases where a person who is not an obligor has performed an obligation by mistake, if the obligee has, in good faith, allowed the instrument to be lost, damaged the instrument, waived the security or lost the claim by prescription, the person who performed the obligation may not demand the return of the performance.

(2) The provisions of the preceding paragraph shall not preclude the person who performed an obligation from exercising his/her right of subrogation against the obligor.

(Performance for Illegal Causes)

Article 708 A person who has tendered performance of an obligation for an illegal cause may not demand the return of the thing tendered; provided, however, that this shall not apply if the illegal cause existed solely in relation to the Beneficiary.

Chapter V Torts

(Damages in Torts)

Article 709 A person who has intentionally or negligently infringed any right of others, or legally protected interest of others, shall be liable to compensate any damages resulting in consequence.

(Compensation for Damages Other than Property)

Article 710 Persons liable for damages under the provisions of the preceding Article must also compensate for damages other than those to property, regardless of whether the body, liberty or reputation of others have been infringed, or property rights of others have been infringed.

(Compensation for Damages to Next of Kin)

Article 711 A person who has taken the life of another must compensate for damages to the father, mother, spouse and children of the victim, even in cases where the property rights of the same have not been infringed.

(Capacity for Liability)

Article 712 In cases where a minor has inflicted damages on others, if the minor does not have sufficient intellectual capacity to appreciate his/her liability for his/her own act, the minor shall not be liable to compensate for that act.

Article 713 A person who has inflicted damages on others while he/she lacks the capacity to appreciate his/her liability for his/her own act due to mental disability shall not be liable to compensate for the same; provided, however, that this shall not apply if he/she has temporarily invited that condition, intentionally or negligently.

(Liability of Person Obligated to Supervise a Person without Capacity)

Article 714 In cases where a person without capacity to assume liability is not liable in accordance with the provisions of the preceding two Articles, the person with the legal obligation to supervise the person without capacity to assume liability shall be liable to compensate for damages that the person without capacity to assume liability has inflicted on a third party; provided, however, that this shall not apply if the person who has the obligation to supervise did not fail to perform his/her obligation or if the damages could not have been avoided even if he/she had not failed to perform his/her obligation.

(2) A person who supervises a person without capacity to assume liability, on behalf of a person who has the obligation to supervise, shall also assume the liability under the preceding paragraph.

(Liability of Employers)

Article 715 A person who employs others for a certain business shall be liable for damages inflicted on a third party by his/her employees with respect to the execution of that business; provided, however, that this shall not apply if the employer exercised reasonable care in appointing the

employee or in supervising the business, or if the damages could not have been avoided even if he/she had exercised reasonable care.

- (2) A person who supervises the business on behalf of the employer shall also assume the liability under the preceding paragraph.
- (3) The provisions of the preceding two paragraphs shall not preclude the employer or supervisor from exercising their right to obtain reimbursement against the employee.

(Liability of Party Ordering Work)

Article 716 A party ordering work shall not be liable for the damages a contractor inflicted on a third party with respect to his/her work; provided, however, that this shall not apply if the party ordering work is negligent in his/her order or instructions.

(Liability of Possessor and Owner of Structure on Land)

Article 717 If any defect in the installation or preservation of any structure on land causes damages to others, the possessor of such structure shall be liable to the victims to compensate for those damages; provided, however, that, if the possessor has used necessary care to prevent the damages arising, the owner must compensate for the damages.

- (2) The provisions of the preceding paragraph shall apply *mutatis mutandis* to cases where there is any defect in the planting or support of bamboos and trees.
- (3) In the cases of the preceding two paragraphs, if there is another person who is liable for the cause of the damages, the possessor or owner may exercise their right to obtain reimbursement against such person.

(Liability of Possessor of Animal)

Article 718 A possessor of an animal shall be liable to compensate for the damages that the animal has inflicted on others; provided, however, that this shall not apply if he/she managed the animal with reasonable care according to the kind and nature of the animal.

- (2) A person who manages the animal on behalf of the possessor shall also assume the liability under the preceding paragraph.

(Liability of Joint Tortfeasors)

Article 719 If more than one person has inflicted damages on others by their joint tortious acts, each of them shall be jointly and severally liable to compensate for those damages. The same shall apply if it cannot be ascertained which of the joint tortfeasors inflicted the damages.

- (2) The provisions of the preceding paragraph shall apply to any person who incited or was an accessory to the perpetrator, by deeming him/her to be one of the joint tortfeasors.

(Self-Defense and Aversion of Present Danger)

Article 720 A person who, in response to the tortious act of another, unavoidably commits a harmful act to protect himself/herself, the rights of a third party, or any legally protected interest, shall not be liable for damages; provided, however, that the victim shall not be precluded from claiming damages against the person who committed the tortious act.

- (2) The provisions of the preceding paragraph shall apply *mutatis mutandis* to cases where a Thing belonging to others is damaged to avoid imminent danger arising from that Thing.

(Fetus' Capacity to Hold Rights regarding the Right to Demand Compensation for Damages)

Article 721 An unborn child shall be deemed to have been already born with respect to the right to demand compensation for damages.

(Method of Damages and Comparative Negligence)

Article 722 The provisions of Article 417 shall apply mutatis mutandis to compensation for damages in tort.

(2) If a victim is negligent, the court may determine the amount of compensation by taking that factor into consideration.

(Recovery in Defamation)

Article 723 The court may, at the request of the victim, order a person who defamed others, to effect appropriate measures to restore the reputation of the victim in lieu of, or in addition to, damages.

(Restriction of Period of Right to Demand Compensation for Damages in Tort)

Article 724 The right to demand compensation for damages in tort shall be extinguished by the operation of prescription if it is not exercised by the victim or his/her legal representative within three years from the time when he/she comes to know of the damages and the identity of the perpetrator. The same shall apply when twenty years have elapsed from the time of the tortious act.

Civil Code (Part IV and Part V (Tentative translation))

Act No. 89 of April 27, 1896

Part IV Relatives

Chapter I General Provisions

(Range of Relatives)

Article 725 The following persons shall be relatives

- (i) a relative by blood within the sixth degree
- (ii) A spouse; and
- (iii) a relative by affinity within the third degree.

(Determining Degree of kinship)

Article 726 The degree of kinship between two relatives shall be determined by counting the number of generations between them.

- (2) The degree of kinship between collateral relatives shall be determined by counting the number of generations between a person or his/her spouse up to a common ancestor and back down to the other person.

(Relationship through Adoption)

Article 727 From the time of adoption, the relationship between an adopted child and an adoptive parent (and his/her relative by blood) shall be deemed to be the same as that between relatives by blood.

(End of Relationship by Affinity by Divorce etc.)

Article 728 The relationship between relatives by affinity shall come to an end by divorce.

- (2) The same shall apply in the case where a spouse has died and the surviving spouse indicates an intention to end the relationship between relatives by affinity.

(End of Adoptive Relation by Dissolution)

Article 729 The relationship of an adopted child, his/her spouse, any of his/her lineal descendants and their spouses with an adoptive parent and his/her spouse shall come to an end by dissolution of adoptive relation.

(Mutual Help between Relatives)

Article 730 Lineal relatives by blood and relatives who live together shall help one another.

Chapter II Marriage

Section 1 Formation of Marriage

Subsection 1 Requirements for Marriage

(Marriageable Age)

Article 731 A man who has attained 18 years of age, and a woman who has attained 16 years of age may enter into marriage.

(Prohibition of Bigamy)

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

(Period of Prohibition of Remarriage)

Article 733 A woman may not remarry unless six months have passed since the day of dissolution or rescission of her previous marriage.

- (2) In the case where a woman had conceived a child before the cancellation or dissolution of her previous marriage, the provision of the preceding paragraph shall not apply.

(Prohibition of Marriage between Close Relatives)

Article 734 Neither lineal relatives by blood nor collateral relatives by blood within the third degree of kinship may marry; provided that this shall not apply between an adopted child and his/her collateral relatives by blood through adoption.

- (2) The preceding paragraph shall also apply after the termination of a family relationship pursuant to the provision of Article 817-9.

(Prohibition of Marriage between Lineal Relatives by Affinity)

Article 735 Lineal relatives by affinity may not marry. This shall also apply after the termination of a relationship by affinity pursuant to the provisions of Article 728 or Article 817-9.

(Prohibition of Marriage between Adoptive Parent and Child etc.)

Article 736 Even after the termination of a family relationship pursuant to the provision of Article 729, an adopted child or spouse of adopted child, or a lineal descendant or spouse of a lineal descendant, may not marry an adoptive parent or his/her lineal ascendant.

(Parental Consent for Marriage of Minor)

Article 737 A minor shall obtain the consent of both parents to marry.

- (2) If one parent does not consent, the consent of the other parent is sufficient. This shall also apply if one parent is unknown, has died, or is unable to indicate his/her intent.

(Marriage of Adult Ward)

Article 738 An adult ward does not require the consent of his/her guardian of adult to marry.

(Notification of Marriage)

Article 739 Marriage shall take effect upon notification pursuant to the Family Registration Act (Act No. 224 of 1947).

- (2) The notification in the preceding paragraph shall be given by document with the signatures of both parties and not less than two adult witnesses, or given orally by these persons.

(Acceptance of Notification of Marriage)

Article 740 Notification of marriage may not be accepted unless it has been found not to violate the provisions of Articles 731 to 737 inclusive, the provision of paragraph (2) of the preceding Article, or the provisions of any other laws and regulations.

(Marriage between Japanese Nationals in Foreign Country)

Article 741 Two Japanese nationals in a foreign country who intend to marry may give notification to the Japanese ambassador a minister of legation or consul stationed in that country. In this case, the provisions of the preceding two Articles shall apply mutatis mutandis.

Subsection 2 Void and Annulled Marriages

(Grounds on Which Marriage is Void)

Article 742 Marriage shall be void only in the following cases:

- (i) if one of the parties has no intention to marry due to mistaken identity or other cause; or
- (ii) if the parties do not lodge notification of marriage; provided however, that the effect of marriage shall not be prevented merely because notification was not given in the form prescribed in paragraph (2) of Article 739.

(Rescission of Marriage)

Article 743 Marriage may not be annulled, unless pursuant to the provisions of Articles 744 to 747 inclusive.

(Rescission of Unlawful Marriage)

Article 744 Either of the parties, their relatives, or a public prosecutor may make a claim to the family court to rescind a marriage if it violates the provisions of Articles 731 to 736 inclusive; provided, however, that a public prosecutor may not claim this after the death of one of the parties.

- (2) A spouse or previous spouse of a party to a marriage that violates the provisions of Article 732 or Article 733 may claim for rescission of marriage.

(rescission of Marriage in Violation of Marriageable Age)

Article 745 When a person of non-marriageable age reaches marriageable age, a claim for rescission of a marriage that violates the provisions of Article 731 may not be made.

- (2) A person of non-marriageable age may claim rescission of marriage within a further three months after he/she has reached marriageable age; provided that this shall not apply if he/she has ratified the marriage after reaching marriageable age.

(Rescission of Marriage Formed within the Period of Prohibition of Remarriage)

Article 746 A claim for rescission may not be made for a marriage that violates the provisions of Article 733 if six months have passed from the day on which the previous marriage was cancelled or rescinded, or if a woman has conceived a child after remarriage.

(Rescission of Marriage by Fraud or Duress)

Article 747 A person who has married due to fraud or duress may make a claim for rescission of marriage to the family court.

- (2) The claim for rescission of marriage pursuant to the preceding paragraph lapses upon the passage of three months after the party has discovered the fraud or escaped the duress, or upon ratification.

(Effect of Rescission of Marriage)

Article 748 Rescission of marriage shall not have retroactive effect.

- (2) A party who did not know of the cause of rescission at the time of marriage must return property obtained by the marriage to the extent of the gain he/she actually receives.

- (3) A party who was aware of the cause of rescission at the time of marriage must return all of the gain obtained by the marriage. In this case, the party is liable to compensate an adverse party without knowledge for damages.

(Application Mutatis Mutandis of Divorce Provisions)

Article 749 The provisions of paragraph (1) of Article 728, Articles 766 to 769 inclusive, the proviso to paragraph (1) of Article 790, and paragraphs (2),(3),(5) and (6) of Article 819 shall apply mutatis mutandis to the rescission of marriage.

Section 2 Effect of Marriage

(Surname of Husband and Wife)

Article 750 A husband and wife shall adopt the surname of the husband or wife in accordance with that which is decided at the time of marriage.

(Surviving Spouse Reverting to Previous Surname etc.)

Article 751 If a husband or wife dies, the surviving spouse may revert to using the surname he/she used before marriage.

- (2) The provisions of Article 769 shall apply mutatis mutandis to the preceding paragraph and to the case referred to in paragraph (2) of Article 728.

(Duty to Live Together, Cooperate, and Provide Mutual Assistance)

Article 752 A husband and wife shall live together and provide mutual cooperation and assistance.

(Constructive Adult by Marriage)

Article 753 If a minor enters into marriage, he/she shall be deemed to have attained majority.

(Right to Rescind Contract between Husband and Wife)

Article 754 Either husband or wife may at any time during marriage rescind a contract between husband and wife; provided, however, that this may not harm the rights of a third party.

Section 3 Marital Property

Subsection 1 General Provisions

(Marital Property of Husband and Wife)

Article 755 The property rights and duties of a husband and wife shall be prescribed by the following subsections, unless they entered into a contract setting forth otherwise, regarding their property before giving notification of the marriage.

(Requirements of Perfection of Contract on Property of Husband and Wife)

Article 756 If a husband and wife have entered into a contract that departs from the statutory property system, the contract may not be asserted against the successor in title of the husband or wife, or a third party unless registered prior to notification of marriage.

Article 757 Deleted

(Limitations on Altering Property Rights of Husband and Wife etc.)

Article 758 The property rights of a husband and wife may not be altered after notification of marriage.

- (2) In the case where one party to a marriage administers property and that property is imperiled by misadministration, the other party may make a claim to the family court for his own administration over that property.
- (3) A claim may be made for division of property held in co-ownership together with the claim referred to in the preceding paragraph.

(Requirements of Perfection of Change of the Administrator of Property or Division of Property in Co-ownership)

Article 759 If an administrator of property has been changed, or property held in co-ownership has been divided pursuant to the provisions of the preceding Article or as a result of the contract referred to in Article 755, this may not be asserted against the successor in title of the husband or wife, or a third party unless it is registered.

Subsection 2 Statutory Marital Property System

(Sharing of Living Expenses)

Article 760 A husband and wife shall share the expenses that arise from the marriage taking into account their property, income, and all other circumstances.

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

Article 761 If one party to a marriage engages in a juristic act with a third party regarding everyday household matters, the other party shall be jointly and severally liable for debts that arise from that act; provided that this shall not apply if prior notice is given to the third party to the effect that the other party will not assume such liability.

(Ownership of Property between Husband and Wife)

Article 762 Property owned by one party before marriage and property obtained in the name of that party during marriage shall be separate property (property owned singularly by one party to a marriage).

- (2) Property that does not clearly belong to either husband or wife shall be presumed to be held in co-ownership.

Section 4 Divorce

Subsection 1 Divorce by Agreement

(Divorce by Agreement)

Article 763 A husband and wife may divorce by agreement.

(Application Mutatis Mutandis of Marriage Provisions)

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

(Acceptance of Notification of Divorce)

Article 765 Notification of divorce may not be accepted unless the divorce has been found not to violate the provision of paragraph (2) of Article 739 applied mutatis mutandis to the preceding Article, paragraph (1) of Article 819, or the provisions of any other laws and regulations.

- (2) If notification of divorce has been accepted despite the violation of the provisions of the preceding paragraph, the effect of the divorce shall not be prevented because of this violation.

(Determination of Matters regarding Custody of Child after Divorce etc.)

Article 766 If parents divorce by agreement, the matters of who will have custody over a child, visitation and other contacts between the father or mother and the child, sharing of expenses required for custody of the child and any other necessary matters regarding custody over the child shall be determined by that agreement. In this case, the child's interests shall be considered with the highest priority.

- (2) If the agreement set forth in the preceding paragraph has not been made, or cannot be made, the matters set forth in the preceding paragraph shall be determined by the family court.
- (3) The family court may change the agreement or determination under the provisions of the preceding two paragraphs and order any other proper disposition regarding custody over the child, if it finds this necessary.
- (4) The rights and duties of parents beyond the scope of custody may not be altered by the provisions of the preceding three paragraphs.

(Reversion to Previous Surname by Divorce)

Article 767 The surname of a husband or wife who has taken a new name by marriage shall revert to the surname used before marriage by divorce by agreement.

- (2) A husband or wife whose surname has reverted to the surname before marriage pursuant to the provision of the preceding paragraph may use the surname he/she used at the time of divorce by notification pursuant to the Family Registration Act within three months of the time of divorce.

(Distribution of Property)

Article 768 One party to a divorce by agreement may claim a distribution of property from the other party.

- (2) If the parties do not, or cannot, settle on agreement with regard to the distribution of property pursuant to the provision of the preceding paragraph, either party may make a claim to the family court for a disposition in lieu of agreement; provided that this claim for distribution of property shall be extinguished at the expiration of two years from the day of divorce.
- (3) In the case referred to in the preceding paragraph, the family court shall determine whether to make a distribution, and the amount and method of that distribution, taking into account the amount of property obtained through the cooperation of both parties and all other circumstances.

(Assumption of Rights upon Reversion to Previous Surname by Divorce)

Article 769 If a husband or wife who has taken a new surname by marriage divorces by agreement after inheriting the rights contained in paragraph (1) of Article 897, the matter of who will be the successor of those rights shall be determined by agreement of the parties and any other interested persons.

- (2) If the agreement of the preceding paragraph is not, or cannot be, made, the family court shall determine who will be the successor of the rights in that paragraph.

Subsection 2 Judicial Divorce

(Judicial Divorce)

Article 770 Only in the cases stated in the following items may either husband or wife file a suit for divorce:

- (i) if a spouse has committed an act of unchastity;
 - (ii) if abandoned by a spouse in bad faith;
 - (iii) if it is not clear whether a spouse is dead or alive for not less than three years;
 - (iv) if a spouse is suffering from severe mental illness and there is no prospect of recovery; or
 - (v) if there is any other grave cause making it difficult to continue the marriage.
- (2) A court may dismiss a suit for divorce if it finds continuing the marriage reasonable taking into account all circumstances, even in the case where there is a cause listed in items (i) to (iv) inclusive of the preceding paragraph.

(Application Mutatis Mutandis of Divorce by Agreement Provisions)

Article 771 The provisions of Articles 766 to 769 inclusive shall apply mutatis mutandis to the case of judicial divorce.

Chapter III Parent and Child

Section 1 Natural Children

(Presumption of Child in Wedlock)

Article 772 A child conceived by a wife during marriage shall be presumed to be a child of her husband.

- (2) A child born after 200 days from the formation of marriage or within 300 days of the day of the dissolution or rescission of marriage shall be presumed to have been conceived during marriage.

(Determination of Paternity by Court)

Article 773 In the case where a woman gives birth in violation of the provisions of paragraph (1) of Article 733, if the paternity of the child cannot be determined pursuant to the provisions of the preceding Article, the court shall determine paternity of the child.

(Rebutting Presumption of Legitimacy)

Article 774 Under the circumstances described in Article 772, a husband may rebut the presumption of the child in wedlock.

(Action to Rebut Presumption of Legitimacy)

Article 775 The father's right to rebut the presumption of child in wedlock under Article 774 shall be exercised by an action of denial of child in wedlock against the child or a mother who has parental authority. If there is no mother who has parental authority, the family court shall appoint a special representative.

(Recognition of Legitimacy)

Article 776 If a husband recognizes that a child is his child in wedlock after the birth of the child, he shall lose his right to rebut the presumption of legitimacy.

(Limitation upon Action of Rebutting Presumption)

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

Article 778 If the husband is an adult ward, the period of Article 777 shall begin from the time the husband knew of the child's birth after the rescission of an order for commencement of guardianship.

(Affiliation)

Article 779 A father or a mother may affiliate his/her child out of wedlock.

(Competency for Affiliation)

Article 780 A father or a mother does not require the consent of a legal representative for affiliation, even if he/she is a minor or an adult ward.

(Method of Affiliation)

Article 781 Affiliation shall be made through notification pursuant to the provisions of the Family Registration Act.

(2) Affiliation may also be made by will.

(Affiliation of Adult Child)

Article 782 A father or mother may not affiliate his/her adult child without that adult child's consent.

(Affiliation of Unborn Child or Child who has Died)

Article 783 A father may also affiliate his unborn child. In this case, the mother's consent shall be obtained.

(2) If a child has died, a father or mother may still give affiliation, limited to the case where that child had a lineal descendant. In this case, if that lineal descendant is an adult, his/her consent shall be obtained.

(Effect of Affiliation)

Article 784 Affiliation has retroactive effect from the time of birth; provided that this shall not prejudice a right already acquired by a third party.

(Prohibition of Rescission of Affiliation)

Article 785 A father or a mother who has given affiliation may not rescind that affiliation.

(Assertion of Opposing Facts against Affiliation)

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

(Action for Affiliation)

Article 787 A child, his/her lineal descendant, or the legal representative of either, may bring an action for affiliation; provided that this shall not apply if three years have passed since the day of the death of the parent.

(Determination of Matters with Regard to Custody of Child after Affiliation etc.)

Article 788 In the case where a father gives affiliation, the provisions of Article 766 shall apply *mutatis mutandis*.

(Legitimation)

Article 789 By the marriage of his/her mother and father, a child affiliated by his/her father shall acquire the status of a child in wedlock.

- (2) A child affiliated by his/her parents while they are married shall acquire the status of a child in wedlock from the time of that affiliation.
- (3) The provisions of the preceding two paragraphs shall apply mutatis mutandis in the case where a child has already died.

(Child's Surname)

Article 790 A child in wedlock shall take the surname of his/her parents; provided that if the parents divorce before the child is born, the child shall take the surname of his/her parents at the time of divorce.

- (2) A child out of wedlock shall take the surname of his/her mother.

(Change of Child's Surname)

Article 791 In the case where a child's surname differs from that of his/her father or mother, he/she may take the name of his/her father or mother by notification pursuant to the provisions of the Family Registration Act after having obtained the family court's permission.

- (2) In the case where a child's surname differs from that of his/her parents due to his/her father or mother taking a new surname, he/she may take the name of his/her parents, if they are married, without obtaining the permission referred to in the preceding paragraph by notification pursuant to the provisions of the Family Registration Act.
- (3) If a child has not attained 15 years of age, his/her legal representative may perform the acts referred to in the preceding two paragraphs on his/her behalf.
- (4) A minor who has taken a new surname pursuant to the provisions of the preceding three paragraphs may revert to using his/her previous surname within one year of attaining majority by notification pursuant to the provisions of the Family Registration Act.

Section 2 Adoption

Subsection 1 Requirements for Adoption

(Age of Adoptive Parent)

Article 792 A person who has attained the age of majority may adopt another as his/her child.

(Prohibition of Adopting Ascendant or Person of Greater Age)

Article 793 Neither an ascendant nor a person of greater age may be adopted.

(Adoption of Ward by Guardian)

Article 794 Where a guardian adopts a ward (here and below, referring to a minor ward and an adult ward), he/she shall obtain the permission of the family court. The same shall apply in the case where the guardianship has ceased but the account of administration of the property has not been settled.

(Adoption of Minor by Married Person)

Article 795 A married person shall adopt a minor only jointly with the spouse; provided, however, that this shall not apply in cases where he/she adopts a child in wedlock of his/her spouse or his/her spouse is incapable of indicating her/his intention.

(Adoption by Married Person)

Article 796 A married person shall only adopt or be adopted by another with the consent of his/her spouse,; provided, however, that this shall not apply in the case he/she adopts or is adopted with his/her spouse jointly, or his/her spouse is incapable of indicating her/his intention.

(Adoption of Person under 15 years of age)

Article 797 If a person to be adopted has not attained 15 years of age, his/her legal representative may give his/her consent to the adoption of that person on behalf of that person.

(2) Where a person to be adopted is cared for by one of his/her parents and that parent does not have parental authority in relation to the person but cares for the person in accordance with Article 766, a legal representative shall obtain the consent of that parent before giving the consent referred to in the preceding paragraph. The same shall apply in the case where one of said person's parents has parental authority in relation to the person which is suspended.

(Adoption of Minor)

Article 798 Where a person to be adopted is a minor, the permission of the family court shall be obtained; provided that this shall not apply in the cases where the person to be adopted is a lineal descendant of either the adoptive parent or the adoptive parent's spouse.

(Application Mutatis Mutandis of Marriage Provisions)

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

(Acceptance of Notification of Adoption)

Article 800 No notification of adoption shall be accepted until it has been found that the adoption does not violate any of the provisions of Articles 792 to 799 inclusive or the provisions of any other laws and regulations.

(Formalities for Adoption between Japanese Nationals in Foreign Country)

Article 801 If a Japanese national in a foreign country intends to adopt, or to be adopted by , another Japanese national in that country, notification of adoption may be made to the Japanese ambassador, minister or consul acting in that country. In this case, the provisions of Article 739 applied mutatis mutandis to Article 799 and the provision of the preceding Article shall apply mutatis mutandis.

Subsection 2 Nullity and Rescission of Adoption

(Nullity of Adoption)

Article 802 Adoption shall be void only on the following grounds:

- (i) if there is no agreement to the adoption between the parties, as a result of mistaken identity or otherwise; or
- (ii) if the parties do not give notification of adoption; provided that the effect of adoption shall not be prevented merely because notification was not in the formality prescribed in paragraph (2) of Article 739 applied mutatis mutandis to Article 799.

(Rescission of Adoption)

Article 803 Adoption shall only be annulled pursuant to the provisions of Articles 804 to 808 inclusive.

(Rescission of Adoption Where Adoptive Parent Is Minor)

Article 804 An adoptive parent or his/her legal representative may petition the family court for rescission of an adoption that violates the provision of Article 792; provided that this shall not apply in the cases where six months have passed from the time the adoptive parent attains the age of majority or he/she has ratified the adoption.

(Rescission of Adoption Where Adoptive Parent is Ascendant or of Greater Age)

Article 805 Either of the parties to an adoption or any relative of them may apply to the family court for rescission of an adoption that violates the provision of Article 793.

(Rescission of Adoption between Guardian and Ward not Assented to by the Family Court)

Article 806 An adopted child or any natural relative of the child may apply to the family court for rescission of an adoption that violates the provisions of Article 794; provided, however, that this shall not apply after the account of administration has been settled if the adopted child ratifies the adoption or if six months have passed since settlement.

- (2) No ratification in the proviso to the preceding paragraph shall take effect, unless the adopted child ratified the adoption after he/she had attained the age of majority or had recovered legal capacity to act.
- (3) Where the account has been settled but the adopted child has not attained the age of majority or has not recovered legal capacity to act, the period referred to in the proviso to paragraph (1) shall be calculated from the time the adopted child attains the age of majority or recovers legal capacity to act.

(Rescission of Adoption Without Spousal Consent etc.)

Article 806-2 A person who does not give his/her consent to an adoption may apply to the family court for rescission of an adoption that violates the provisions of Article 796; provided that this shall not apply in the cases where six months have passed from the time the person had knowledge of the adoption or he/she ratified the adoption.

- (2) A person who gave the consent referred to in Article 796 by fraud or duress may apply to the family court for rescission of the adoption; provided that this shall not apply in cases where six months have passed from the time the person had knowledge of fraud or escaped from duress, or the person ratified the adoption.

(Rescission of Adoption made without Consent of Person Who Cares for Child etc.)

Article 806-3 A person who does not give his/her consent to the adoption may apply to the family court for rescission of an adoption that violates the provision of paragraph (2) of Article 797; provided that this shall not apply if the person has ratified the adoption, or if, after the adopted child has reached 15 years of age, six months have passed or the child has ratified the adoption.

- (2) The provisions of paragraph (2) of the preceding Article shall apply mutatis mutandis to the consent referred to in paragraph (2) of Article 797 made due to fraud or duress.

(Rescission of Adoption of Minor not Assented to by Family Court)

Article 807 An adopted child, any natural relative of the child, or a person who gave his/her consent to the adoption on the adopted child's behalf may apply to the family court for rescission of an adoption that violates the provisions of Article 798; provided, however, that this shall not apply if, after the adopted child attains majority, six months have passed or he/she has ratified the adoption.

(Application Mutatis Mutandis of Provisions regarding rescission of Marriage etc.)

Article 808 The provisions of Article 747 and Article 748 shall apply mutatis mutandis to adoption. In this case, 'three months' in paragraph (2) of Article 747 shall be read as 'six months'.

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

Subsection 3 Effect of Adoption

(Acquisition of Status of Child in wedlock)

Article 809 An adopted child acquires the status of a child in wedlock of his/her adoptive parent(s) from the time of adoption.

(Surname of Adopted Child)

Article 810 An adopted child shall take the surname of his/her adoptive parent(s); provided that this shall not apply to an adopted child who has changed his/her surname by marriage and continues to use the surname determined at the time of marriage.

Subsection 4 Dissolution of Adoptive Relations

(Dissolution of Adoptive Relations by Agreement etc.)

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

- (2) If an adopted child is under 15 years of age, an adoptive parent and a person to be a legal representative of the child after the dissolution of adoptive relation may agree to dissolve the adoptive relation.
- (3) If, in the case referred to in the preceding paragraph, the parents of the adopted child divorce, they may agree that one of them should have parental authority with respect to the child after the dissolution of adoptive relation.
- (4) If the parents of the adopted child do not, or cannot, make the agreement referred to in the preceding paragraph, the family court may, at the request of a father, a mother, or an adoptive parent referred to in that paragraph, make a ruling in lieu of the agreement.
- (5) If there is no person to be a legal representative of the adopted child for the purposes of paragraph (2), the family court may, at the request of any relative of the adopted child or any other interested party, appoint a person to be a guardian of a minor for the adopted child after the dissolution of adoptive relation.
- (6) If one of the parties to an adoption has died and the surviving party intends to dissolve the adoptive relation, he/she may do so with the permission of the family court.

(Dissolution of Adoptive relation Between Married Couple and Minor)

Article 811-2 Where adoptive parents who are married to each other intend to dissolve the adoptive relation with a minor, they shall do so jointly; provided, however, that this shall not apply if one of them is incapable of indicating his/her intention.

(Application Mutatis Mutandis of Marriage Provisions)

Article 812 The provisions of Article 738, Article 739, and Article 747 shall apply mutatis mutandis to dissolution of adoptive relation. In this case, 'three months' in paragraph (2) of Article 747 shall be read as 'six months'.

(Acceptance of Notification of Dissolution of Adoptive Relation)

Article 813 No notification of dissolution of adoptive relation shall be accepted until it has been found not to violate any of the provisions of paragraph (2) of Article 739 applied mutatis mutandis to the preceding Article, Article 811 and Article 811-2, or the provisions of any other laws and regulations.

(2) Where the notification of dissolution of adoptive relation has been accepted in violation of the provisions of the preceding paragraph, the dissolution is not prevented from taking effect due to the violation.

(Judicial Dissolution of Adoptive Relation)

Article 814 Either of the parties to an adoption may, in the following cases only, bring an action for dissolution of adoptive relation:

- (i) if he/she has been abandoned in bad faith by the other party;
- (ii) if it is not clear whether the other party is dead or alive for not less than three years; or
- (iii) if there is any other material ground making it difficult to continue the adoptive relation.

(2) The provision of paragraph (2) of Article 770 shall apply mutatis mutandis to the cases listed in item (i) and item (ii) of the preceding paragraph.

(Party to Action for Dissolution of Adoptive Relation When Adopted Child below 15 years of age)

Article 815 If an adopted child has not attained 15 years of age, a person who may make an agreement with the adoptive parent(s) to dissolve the adoptive relation pursuant to the provisions of Article 811 may bring or be subject to an action for dissolution of adoptive relation.

(Resumption of Surname by Dissolution of Adoptive Relation)

Article 816 An adopted child shall resume using the surname he/she used before the adoption by dissolution of adoptive relation; provided that this shall not apply where a married person adopted another as his/her child with his/her spouse jointly and the adopted child dissolved the adoptive relation with only one of adoptive parents.

(2) If a person resumes using the name h/she used before the adoption pursuant to the provision of the preceding paragraph after seven years have passed since the time of adoption, he/she may take the surname used at the time of dissolution of adoptive relation by giving notification, pursuant to the provisions of the Family Registration Act, within three months of the day of dissolution.

(Assumption of Rights upon Resumption of Surname by Dissolution of Adoptive Relations)

Article 817 The provisions of Article 769 shall apply mutatis mutandis to dissolution of adoptive relations.

Subsection 5 Special Adoption

(Making of Special Adoption)

Article 817-2 The family court may, at the request of a person to be an adoptive parent, make a ruling establishing an adoption which extinguishes the legal relationship between a child and his/her natural relatives (referred to in this subsection as 'special adoption').

(2) The permission referred to in Article 794 and Article 798 is not required for the application referred to in the provision of the preceding paragraph.

(Joint Adoption by Married Couple)

Article 817-3 A person to be an adoptive parent shall be a married person.

- (2) If one spouse does not become an adoptive parent, the other spouse may not be an adoptive parent; provided, however, that this shall not apply if that spouse intends to adopt a child in wedlock of the other spouse (excluding an adopted child who is not the subject of a special adoption ruling).

(Age of Person to be Adoptive Parent)

Article 817-4 A person who has not attained 25 years of age may not be an adoptive parent; provided that this shall not apply if one spouse of a married couple to be adoptive parents has attained 20 years of age but has not attained 25 years of age.

(Age of Person to be Adopted Child)

Article 817-5 No person who has attained 6 years of age at the time of the application referred to in the provisions of Article 817-2 shall be adopted; provided that this shall not apply if he/she has not attained 8 years of age and has been continually cared for by a person to be an adoptive parent since before the child attained 6 years of age.

(Parental Consent)

Article 817-6 A ruling of special adoption shall only be made if both parents of a person to be adopted gives his/her consent to the special adoption; provided that this shall not apply in cases where the parents are incapable of indicating their intention or the parents have abused the child, abandoned the child without reasonable cause, or there is any other cause of grave harm to the interests of the person to become the adopted child.

(Necessity Especially for the Interests of the Child)

Article 817-7 A ruling of special adoption shall only be made if both parents of a person to be adopted are incapable or unfit to care for the child or there are any other special circumstances, and it is found that the special adoption is especially necessary for the interests of the child.

(Circumstances of Care)

Article 817-8 In making a ruling of special adoption, the circumstances of not less than six months of the care given by the person(s) to become adoptive parent(s) over the person to become the adopted child shall be considered.

- (2) The period in the preceding paragraph shall be calculated from the time of the application referred to in the provisions of Article 817-2; provided that this shall not apply if the circumstances of care are evident prior to the application.

(Extinguishment of Legal Relationship with Natural Relatives)

Article 817-9 The legal relationship between an adopted child and his/her natural parents and relative by bloods shall be extinguished by a ruling of special adoption; provided that this shall not apply to the legal relationship with the other party referred to in the provision of the proviso to paragraph (2) of Article 817-3 and his/her relative by bloods.

(Dissolution of Special Adoption)

Article 817-10 The family court may, at the request of the adopted child, his/her natural parents or a public prosecutor, make a ruling dissolving the adoptive relation, if both of the following items are satisfied and the family court finds it especially necessary for the interests of the adopted child:

- (i) the adoptive parents have abused, or abandoned in bad faith, the adopted child or there is any other ground of extreme harm to the interests of the adopted child;

- (ii) the natural parent(s) are capable of providing reasonable care for the child.
- (2) Dissolution of special adoption shall only be made pursuant to the provision of the preceding paragraph.

(Restoration of Legal Relationship with Natural Relatives by Dissolution of Adoptive Relation)

Article 817-11 The same legal relationship that was extinguished by the special adoption shall arise between an adopted child and his/her natural parents and their relatives by blood from the time of dissolution of adoptive relation.

Chapter IV Parental Authority

Section 1 General Provisions

(Person Who Has Parental Authority)

Article 818 A child who has not attained the age of majority shall be subject to the parental authority of his/her parents.

- (2) If a child is an adopted child, he/she shall be subject to the parental authority of his/her adoptive parents.
- (3) Parental authority shall be exercised jointly by married parents; provided that if either parent is incapable of exercising parental authority, the other parent shall do so.

(Person Who Has Parental Authority in the Case of Divorce or Recognition)

Article 819 If parents divorce by agreement, they may agree upon which parent shall have parental authority in relation to a child.

- (2) In the case of judicial divorce, the court shall determine which parent shall have parental authority.
- (3) In the case where parents divorce before the birth of a child, the mother shall exercise parental rights and duties; provided that the parties may agree that the father shall have parental authority after the child is born.
- (4) A father shall only exercise parental authority with regard to a child of his that he has affiliated if both parents agree that he shall have parental authority.
- (5) When the parents do not, or cannot, make the agreements referred to in paragraph (1), paragraph (3), and the preceding paragraph, the family court may, at the request of the father or the mother, make a ruling in lieu of agreement.
- (6) The family court may, at the request of any relative of the child, rule that the other parent shall have parental authority in relation to the child if it finds it necessary for the interests of the child.

Section 2 Effect of Parental Authority

(Right and Duty of Care and Education)

Article 820 A person who exercises parental authority holds the right, and bears the duty, to care for and educate the child for the child's interests.

(Determination of Residence)

Article 821 Residence of a child shall be determined by a person who exercises parental authority.

(Discipline)

Article 822 A person who exercises parental authority may discipline the child to the extent necessary for the care and education under the provisions of Article 820.

(Permission for Occupation)

Article 823 A child may not have an occupation without the permission of a person who exercises parental authority.

(2) A person who exercises parental authority may revoke or limit the permission referred to in the preceding paragraph in the case referred to in paragraph (2) of Article 6.

(Administration and Representation over Property)

Article 824 A person who exercises parental authority shall administer the property of the child and represent the child in any legal juristic act in respect of the child's property; provided, however, that if an obligation requiring an act of the child is to be created, the consent of the child shall be obtained.

(Effect of Acts Done by One Parent in the Name of Both Parents)

Article 825 Where parents exercise parental authority jointly and one parent, in the name of both parents, performs a juristic act on behalf of a child, or give his/her consent for the child to perform a juristic act, the effect of that act shall not be prevented, even if it is contrary to the intention of the other parent; provided, however, that this shall not apply if the other party has knowledge.

(Conflict of Interest)

Article 826 If an act involves a conflict of interest between a father or mother who exercises parental authority and a child, a person who exercises parental authority shall apply to the family court to have a special representative for the child appointed.

(2) In the case where a person exercises parental authority for more than one child, if there is an act which involves a conflict of interest between one child and the other child or children, a person who exercises parental authority shall apply to have a special representative for that child appointed.

(Duty of Care in Administration of Property)

Article 827 A person who exercises parental authority shall exercise the right of administration of property with the same care he/she would exercise for him/herself.

(Accounts of Administration of Property)

Article 828 When a child attains the age of majority, a person who exercised parental authority shall account for the administration of property without delay; provided, however, that the expenses incurred in the care of the child and the administration of property shall be deemed to have been set-off against the profits from the child's property.

Article 829 If a third party who has granted property to a child gratuitously indicates a contrary intention, the provision of the proviso to the preceding Article shall not apply to that property.

(Administration of Property Given to Child by Third Party Gratuitously)

Article 830 If a third party who grants property to a child gratuitously indicates an intention not to allow a father or mother who exercises parental authority to administer that property, that property shall not be subject to the administration of the father or mother.

(2) If neither parent has the right to administer the property referred to in the preceding paragraph and the third party does not appoint an administrator for that property, the family court may, at the request

of a child, any relative of the child or a public prosecutor, appoint an administrator.

- (3) Even if a third party has appointed an administrator for the property, the preceding paragraph shall apply if the right of that administrator is extinguished or the replacement of that administrator is required, and the third party does not appoint another administrator.
- (4) The provisions of Articles 27 to 29 inclusive shall apply mutatis mutandis to the cases referred to in the preceding two paragraphs.

(Application Mutatis Mutandis of Mandate Provisions)

Article 831 The provisions of Article 654 and Article 655 shall apply mutatis mutandis to the case where a person who exercises parental authority administers the property of a child and the case referred to in the preceding Article.

(Extinctive Prescription of Obligations between Parent and Child That Arise from Administration of Property)

Article 832 Obligations that arise from the administration of property between a person who exercised parental authority and the child shall be extinguished by prescription if not exercised within five years from the time the right of administration of property is extinguished.

- (2) If the right of administration of property is extinguished while the child has not yet attained the age of majority and the child has no legal representative, the period in the preceding paragraph shall be calculated from the time the child attains the age of majority or a new legal representative takes office.

(Exercise of Parental Authority on Behalf of Child)

Article 833 A person who exercises parental authority with regard to a child shall exercise parental authority in lieu of that child regarding that child's child.

Section 3 Loss of Parental Authority

(Ruling of Loss of Parental Authority)

Article 834 If a father or mother has abused his/her child or abandoned the child in bad faith, or a child's interests are extremely harmed due to considerable difficulty or inappropriateness in the exercise of parental authority by his/her father or mother, the family court may, at the request of the child, any relative of the child, a guardian of a minor, a supervisor of a guardian of a minor, or a public prosecutor, make a ruling of loss of parental authority with regard to the father or mother; provided, however, that this shall not apply if the cause thereof is expected to cease to exist within two years.

(Ruling of Suspension of Parental Authority)

Article 834-2 If a child's interests are harmed due to difficulty or inappropriateness in the exercise of parental authority by his/her father or mother, the family court may, at the request of the child, any relative of the child, a guardian of a minor, a supervisor of a guardian of a minor, or a public prosecutor, make a ruling of suspension of parental authority with regard to the father or mother.

- (2) If the family court makes a ruling of suspension of parental authority, it shall determine the period of suspension of parental authority within a period not exceeding two years, taking into account the period expected to be required for the cause thereof to cease to exist, the physical and mental conditions, and the living circumstances of the child, and all other circumstances.

(Ruling of Loss of Right of Administration of Property)

Article 835 If a child's interests are harmed due to difficulty or inappropriateness in the exercise of the right of administration of property by his/her father or mother, the family court may, at the request of the child, any relative of the child, a guardian of a minor, a supervisor of a guardian of a minor, or a public prosecutor, make a ruling of loss of the right of administration of property with regard to the father or mother..

(Rescission of Ruling of Loss of Parental Authority, Suspension of Parental Authority or Loss of Right of Administration of Property)

Article 836 If the causes in the main clause of Article 834, paragraph (1) of Article 834-2, or the preceding Article have ceased to exist, the family court may, at the request of the person concerned or any relative of his/hers, rescind a ruling of loss of parental authority, suspension of parental authority, or loss of the right of administration of property.

(Surrender and Resumption of Parental Authority or Right of Management Administration of Property)

Article 837 If there is an unavoidable reason, a father or mother who exercises parental authority may, with the permission of the family court, surrender parental authority or the right of administration of property.

(2) If the reason in the preceding paragraph has ceased to exist, a father or mother may, with the permission of the family court, resume parental authority or the right of administration of property.

Chapter V Guardianship

Section 1 Commencement of Guardianship

Article 838 Guardianship shall commence in the following cases:

- (i) if there is no person with parental authority over a minor or if a person with parental authority is unable to exercise the right of administration of property.
- (ii) if there has been an order for commencement of guardianship.

Section 2 Organs of Guardianship

Subsection 1 Guardian

(Designation of Guardian of Minor)

Article 839 A person who last exercises parental authority over a minor may designate a guardian of a minor by will; provided that this shall not apply to a person who has no right of administration of property.

(2) If one of the parents who have parental authority has no right of administration of property, the other parent may designate a guardian of a minor pursuant to the provision of the preceding paragraph.

(Appointment of Guardian of Minor)

Article 840 If there is no person to become a guardian of a minor pursuant to the provisions of the preceding Article, the family court may appoint a guardian of a minor at the request of a minor ward or his/her relative, or other interested person. This shall also apply in a case where any vacancy in the position of a guardian of a minor occurs.

(2) Even if there is a guardian of a minor, the family court may appoint a further guardian, when it finds this necessary, at the request of the persons prescribed in the preceding paragraph, or a guardian of a

minor, or ex officio.

- (3) In the appointment of a guardian of a minor, the family court shall consider the age, the physical and mental condition, and the living and property circumstances of the minor ward, the occupation and personal history of the person to become the guardian, the existence of any vested interest between them (if the person to become the guardian of a minor is a juridical person, its type and content of business and the existence of any vested interest between the minor ward and the juridical person or its representative), the opinion of the minor ward, and all other circumstances.

(Application for Appointment of Guardian of Minor by Parents)

Article 841 If a father or mother surrenders parental authority or the right of administration of property, or if the necessity to appoint a guardian of a minor arises as a result of a ruling of loss of parental authority, suspension of parental authority or loss of the right of administration of property, the father or mother shall, without delay, apply to the family court for the appointment of a guardian of a minor.

(Number of Guardians of Minor)

Article 842 Deleted

(Appointment of Guardian of Adult)

Article 843 The family court shall appoint ex officio a guardian of an adult if it orders commencement of guardianship.

- (2) If the office of a guardian of an adult is vacant, the family court shall appoint a guardian of an adult at the request of an adult ward or his/her relative, or other interested person, or ex officio.
- (3) Even if a guardian of an adult has been appointed, the family court may appoint a further guardian, when it finds this necessary, at the request of the persons prescribed in the preceding paragraph, or a guardian of an adult, or ex officio.
- (4) In the appointment of a guardian of an adult, the family court shall consider the physical and mental condition and the living and property circumstances of the adult ward, the occupation and personal history of the person to become the guardian, the existence of any vested interest between them (if the person to become a guardian of an adult is a juridical person, its type and content of business and the existence of any vested interest between the adult ward and the juridical person or its representative), the opinion of the adult ward, and all other circumstances.

(Surrender of Guardianship)

Article 844 A guardian of an adult may, where any justifiable reason exists, surrender his/her office upon the permission of the family court.

(Application for Appointment of New Guardian upon the Surrender of Guardianship)

Article 845 If the necessity to appoint a new guardian arises through a guardian's surrender of office, the guardian shall, without delay, petition the family court to appoint a new guardian.

(Replacement of Guardian)

Article 846 If there is an unlawful act, grave misconduct, or other cause not befitting the office of guardianship on the part of a guardian, the family court may replace the guardian at the request of a supervisor of a guardian, a ward or his/her relative, or a public prosecutor, or ex officio.

(Causes of Disqualification of Guardian)

Article 847 Any person who falls under any of the following items may not 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 has brought or is bringing an action against the ward, or a spouse or lineal blood relative by blood of such person; or
- (v) a person whose whereabouts are unknown.

Subsection 2 Supervisor of a Guardian

(Designation of Supervisor of Guardian of Minor)

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

(Appointment of Supervisor of Guardian)

Article 849 The family court may appoint a supervisor of a guardian, when it finds this necessary, at the request of a ward or his/her relative, or a guardian, or ex officio.

(Causes of Disqualification of Supervisor of a Guardian)

Article 850 A spouse, lineal relative by blood, or sibling of a guardian may not become a supervisor of a guardian.

(Duties of Supervisor of Guardian)

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

- (i) to supervise the affairs of a guardian;
- (ii) to apply to the family court without delay to appoint a guardian in the case where any vacancy in the position of a guardian occurs;
- (iii) to take necessary measures in the case of an emergency; and
- (iv) to represent the ward in conduct where there is a conflict of interest between the ward and the guardian or his/her representative.

(Application Mutatis Mutandis of Mandate and Guardian Provisions)

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

Section 3 Affairs of Guardian

(Investigation of Property and Preparation of Inventory)

Article 853 A guardian shall, without delay, undertake an investigation of the ward's property, and finalize the investigation and prepare an inventory of property within one month; provided that this period may be extended with the approval of the family court.

- (2) An investigation of property and the preparation of an inventory of property shall not be valid unless conducted in the presence of a supervisor of the guardian, if one exists.

(Authority Prior to Completion of Inventory of Property)

Article 854 Until a guardian has completed the inventory of property, he/she shall not be entitled to exercise his/her authority unless there is an urgent need; provided that this may not be asserted against a third party in good faith.

(Guardian's Duty to Report Claims or Obligations in Relation to Ward)

Article 855 In the case where a guardian has any claim or bears any obligation in relation to a ward, he/she shall report this to the supervisor, if one exists, before undertaking an investigation of property.

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

(Application Mutatis Mutandis to the Case Ward Acquires Property under Universal Title)

Article 856 The provisions of the preceding three Articles shall apply mutatis mutandis to the case where a ward acquires property under universal title after a guardian has assumed office.

(Rights and Duties regarding Personal Supervision of Minor Ward)

Article 857 A guardian of a minor shall have, with respect to the matters prescribed in the Articles 820 to 823 inclusive, the same rights and duties as a person who exercises parental authority; provided that in order to change the plan of education or the residence determined by a person who exercises parental authority, to give permission to carry on business, or to revoke or limit that permission, he/she shall obtain the consent of a supervisor of a guardian of a minor, if one exists.

(Exercise of Authority where Multiple Guardians of a Minor Exist)

Article 857-2 If there are multiple guardians of a minor, they shall exercise their authority jointly.

- (2) If there are multiple guardians of a minor, the family court may determine ex officio that some of the guardians should only exercise their authority regarding property.
- (3) If there are multiple guardians of a minor, the family court may determine ex officio that each guardian should exercise his/her authority individually or that the multiple guardians should exercise their authority according to a division of labor, with regard to the authority regarding property.
- (4) The family court may rescind ex officio a determination made pursuant to the provisions of the preceding two paragraphs.
- (5) If there are multiple guardians of a minor, it is sufficient that a manifestation of intention by a third party be made to one guardian.

(Respect for Intention and Personal Consideration of Adult Ward)

Article 858 A guardian of an adult, in undertaking affairs related to the life, medical treatment and nursing, and administration of property of an adult ward, shall respect the intention of the adult ward, and consider his/her mental and physical condition and living circumstances.

(Administration and Representation over Property)

Article 859 A guardian shall administer the property of a ward and represent a ward in juristic acts concerning his/her property.

(2) The provision of the proviso to Article 824 shall apply mutatis mutandis to the case referred to in the preceding paragraph.

(Exercise of Authority where Multiple Guardians of Adult)

Article 859-2 If there are multiple guardians of an adult, the family court may determine ex officio that the guardians should exercise authority jointly or according to a division of labor.

- (2) The family court may rescind ex officio a determination made pursuant to the provisions of the preceding paragraph.
- (3) If there are multiple guardians of an adult, it is sufficient that a manifestation of intention by a third party be made to one guardian.

(Permission regarding Disposition of Real Estate Used for Adult Ward's Residence)

Article 859-3 A guardian of an adult shall obtain the permission of the family court for sale, rent, cancellation of lease, or establishment of a mortgage, or any other disposition equivalent to these, on the ward's behalf with regard to a building or site used for the adult ward's residence.

(Acts in Conflict of Interest)

Article 860 The provisions of Article 826 shall apply mutatis mutandis to a guardian; provided that this shall not apply in the case where there is a supervisor of a guardian.

(Expenditure Estimation and Expenses of Affairs of Guardianship)

Article 861 Upon assumption of office, a guardian shall estimate the amount of money that will be required in annual expenditure for the living, education, medical treatment and nursing, and administration of property of the ward.

- (2) A guardian shall pay the expenses necessary to undertake the affairs of guardianship out of the property of the ward.

(Remuneration to Guardian)

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

(Supervision of Affairs of Guardianship)

Article 863 A supervisor of a guardian or the family court may, at any time, demand that a guardian submit a report on the affairs of guardianship or an inventory of property, and may investigate the affairs of guardianship or the situation of the property of the ward.

- (2) The family court may order any necessary disposition concerning the administration of the property of a ward, or other affairs of guardianship, at the request of a supervisor of a guardian, the ward or his/her relative, or other interested person, or ex officio.

(Acts Requiring the Consent of a Supervisor of Guardian)

Article 864 For a guardian, on behalf of a ward, to undertake business or the acts listed in each item of paragraph (1) of Article 13, or to give consent for a minor ward to undertake the same, he/she shall obtain the consent of a supervisor of a guardian, if one exists; provided that this shall not apply to the receipt of principal listed in item (i) of paragraph (1) of Article 13.

Article 865 A ward or a guardian may rescind acts conducted or consented to by a guardian in violation of the provisions of the preceding Article. In this case, the provisions of Article 20 shall apply mutatis mutandis.

- (2) The provision of the preceding paragraph shall not preclude the application of the provisions of Articles 121 to 126 inclusive.

(Ward's Rescission of Reception of Property etc.)

Article 866 If a guardian has received the property of a ward or the right of a third party against the ward, the ward may rescind that reception. In this case, the provisions of Article 20 shall apply mutatis mutandis.

(2) The provision of the preceding paragraph shall not preclude the application of the provisions of Articles 121 to 126 inclusive.

(Exercise of Parental Authority on Behalf of Minor Ward)

Article 867 A guardian of a minor shall exercise parental authority in lieu of a minor ward with respect to that minor ward's child.

(2) The provisions of Articles 853 to 857 inclusive and Articles 861 to 866 inclusive shall apply mutatis mutandis to the case referred to in the preceding paragraph.

(Guardian of Minor with Rights and Duties regarding Property Only)

Article 868 In the case where a person who has parental authority does not have the right of administration of property, a guardian of a minor shall have authority regarding property and that authority only.

(Application Mutatis Mutandis of Mandate and Parental Authority Provisions)

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

Section 4 Termination of Guardianship

(Account of Guardianship)

Article 870 When the office of a guardian comes to an end, he/she or his/her successor shall render an account of his/her administration within two months; provided that this period may be extended with the approval of the family court.

Article 871 An account of guardianship shall be conducted in the presence of a supervisor of a guardian, if one exists.

(Rescission of Contract etc. between a Minor Ward and Guardian of Minor etc.)

Article 872 A person who, as an ex-minor ward, made a contract with a guardian, or the heir of the guardian, after attaining majority but before settlement of the account of guardianship may rescind such contract. The same shall apply to unilateral juristic acts that person makes toward a guardian of a minor or his/her successor.

(2) The provisions of Article 20 and Articles 121 to 126 inclusive shall apply mutatis mutandis to the case referred to in the preceding paragraph.

(Payment of Interest etc. upon Money Refunded)

Article 873 Money to be refunded by a guardian to a ward and money to be refunded by a ward to a guardian shall bear interest from the time the account of guardianship is settled.

(2) If a guardian has expended a ward's money for his/her own benefit, such money shall bear interest from the time of the expenditure. In this case, further damages are incurred by the ward, the guardian shall be liable for such damages.

(Application Mutatis Mutandis of Mandate Provisions)

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

(Extinctive Prescription of Claim That Arises from Guardianship)

Article 875 The provisions of Article 832 shall apply *mutatis mutandis* to the extinctive prescription of a claim that arises from guardianship between a guardian or a supervisor of a guardian and a ward.

- (2) In the case where a juristic act is rescinded pursuant to the provisions of Article 872, the period of the extinctive prescription prescribed in the preceding paragraph commences from the time of that rescission.

Chapter VI Curatorship and Assistance

Section 1 Curatorship

(Commencement of Curatorship)

Article 876 Curatorship shall commence by order of commencement of curatorship.

(Appointment etc. of Curator or Temporary Curator)

Article 876-2 If the family court orders commencement of curatorship, it will appoint a curator *ex officio*.

- (2) The provisions of paragraphs 2 to 4 of Article 843 and from Article 844 to 847 inclusive shall apply *mutatis mutandis* to a curator.
- (3) For acts where there is a conflict of interest between the curator or his/her representative and a person under curatorship, the curator shall apply to the family court for the appointment of a temporary curator; provided that this shall not apply in the case where there is a supervisor of a curator.

(Supervisor of Curator)

Article 876-3 The family court may appoint a supervisor of a curator, if it finds this necessary, at the request of a person under curatorship or his/her relative, or a curator, or *ex officio*.

- (2) The provisions of Article 644, Article 654, Article 655, paragraph (4) of Article 843, Article 844, Article 846, Article 847, Article 850, Article 851, Article 859-2, Article 859-3, paragraph (2) of Article 861, and Article 862 shall apply *mutatis mutandis* to a supervisor of a curator. In this case, the term 'represent the ward regarding' in item (iv) of Article 851 shall be deemed to be replaced with 'represent a person under curatorship regarding, or give consent for a person under curatorship to undertake the same'.

(Order Granting Power of Representation to Curator)

Article 876-4 At the request of a person prescribed by the main clause of Article 11 or a curator, or a supervisor of a curator, the family court may make an order that grants power of representation to the curator, concerning specified juristic acts for the person under curatorship.

- (2) An order referred to in the preceding paragraph made at the request of any person other than the person under curatorship shall require the consent of the person under curatorship.
- (3) The family court may rescind an order referred to in paragraph (1), in whole or in part, at the request of a person prescribed by that paragraph.

(Affairs of Curatorship and Termination of Office of Curator)

Article 876-5 A curator, in undertaking the affairs of curatorship, shall respect the intention of the person under curatorship, and consider his/her mental and physical condition and living circumstances.

(2) The provisions of Article 644, Article 859-2, Article 859-3, paragraph (2) of Article 861, Article 862, and Article 863 shall apply mutatis mutandis to the affairs of curatorship, and the provision of the proviso to Article 824 shall apply mutatis mutandis to the case where a curator represents a person under curatorship based upon an order granting the power of representation referred to in paragraph (1) of the preceding Article.

(3) The provisions of Article 654, Article 655, Article 870, Article 871 and Article 873 shall apply mutatis mutandis to the case of termination of office of a curator, and the provisions of Article 832 shall apply mutatis mutandis to claims that arise from curatorship between a curator, or a supervisor of a curator, and a person under curatorship.

Section 2 Assistance

(Commencement of Assistance)

Article 876-6 Assistance shall commence by order of commencement of assistance.

(Appointment etc. of Assistant or Temporary Assistant)

Article 876-7 If the family court orders commencement of assistance, it will appoint an assistant ex officio.

(2) The provisions of paragraphs (2) to (4) of Article 843 and from Article 844 to 847 inclusive shall apply mutatis mutandis to an assistant.

(3) For acts where there is a conflict of interest between the assistant or his/her representative and a person under assistance, the assistant shall apply to the family court for the appointment of a temporary assistant; provided that this shall not apply in the case where there is a supervisor of an assistant.

(Supervisor of Assistant)

Article 876-8 The family court may appoint a supervisor of an assistant, if it finds this necessary, at the request of a person under assistance, his/her relative, or an assistant, or ex officio.

(2) The provisions of Article 644, Article 654, Article 655, paragraph (4) of Article 843, Article 844, Article 846, Article 847, Article 850, Article 851, Article 859-2, Article 859-3, paragraph (2) of Article 861, and Article 862 shall apply mutatis mutandis to a supervisor of an assistant. In this case, the term 'represent the ward regarding' in item (iv) of Article 851 shall be deemed to be replaced with 'represent a person under assistance regarding, or give consent for a person under assistance to undertake the same.

(Order Granting Power of Representation to Assistant)

Article 876-9 At the request of a person prescribed by the main clause of paragraph (1) of Article 15, an assistant, or a supervisor of an assistant, the family court may make an order that grants power of representation to the assistant, concerning specified juristic acts for the person under assistance.

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

(Affairs of Assistance and Termination of Office of Assistant)

Article 876-10 The provisions of Article 644, Article 859-2, Article 859-3, paragraph (2) of Article 861, Article 862, Article 863, and paragraph (1) of Article 876-5, shall apply mutatis mutandis to the affairs of assistance, and the provision of the proviso to Article 824 shall apply mutatis mutandis to the case where an assistant represents a person under assistance based upon an order granting the power of representation referred to in paragraph (1) of the preceding Article.

- (2) The provisions of Article 654, Article 655, Article 870, Article 871 and Article 873 shall apply mutatis mutandis to the case of termination of office of an assistant, and the provisions of Article 832 shall apply mutatis mutandis to claims that arise from assistance between an assistant, or a supervisor of an assistant, and a person under assistance

Chapter VII Support

(Supporter under Duty)

Article 877 Lineal relative by blood and siblings have a duty to support each other.

- (2) If special circumstances exist, the family court may also impose a duty of support between relatives within the third degree, in addition to the case prescribed in the preceding paragraph.
- (3) If an alteration in circumstances arises after an order pursuant to the provision of the preceding paragraph, the family court may revoke that order.

(Order of Support)

Article 878 In the case where there exist several persons under a duty to give support, and agreement has not, or cannot be, reached between the parties with respect to the order in which they are to give support, the family court shall determine the order. In the case where there exist several persons entitled to support and the financial capacity of the person under a duty to give support is insufficient to support them all, the same shall apply.

(Extent and Form of Support)

Article 879 If agreement has not, or cannot be, reached between the parties with respect to the extent and form of support, the family court shall determine such matters, considering the needs of the person entitled to support, the financial capacity of the person under a duty to give support, and any other related circumstances.

(Alteration or Revocation of Agreement or Order with Regard to Support)

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

(Prohibition of Disposition of Claim for Support)

Article 881 The right to support may not be subject to disposition.

Part V Inheritance

Chapter I General Provisions

(Cause of Commencement of Inheritance)

Article 882 Inheritance shall commence upon the death of the decedent.

(Place of Commencement of Inheritance)

Article 883 Inheritance shall commence at the place of domicile of the decedent.

(Right to Claim for Recovery of Inheritance)

Article 884 If the right to claim for recovery of inheritance is not exercised within five years of the time an heir or his/her legal representative becomes aware of the fact that the inheritance right has been infringed, that right shall be extinguished by prescription. The right shall also be extinguished if twenty years have passed from the time of commencement of inheritance.

(Expenses relating to Inherited Property)

Article 885 Expenses relating to inherited property shall be paid out of that property; provided that this shall not apply to expenses resulting from the negligence of an heir.

(2) The expenses of the preceding paragraph are not required to be paid out of property obtained by a claimant to statutory reserved portion through abatement of a gift.

Chapter II Heir

(Unborn Child's Legal Capacity to Hold Rights Relating to Inheritance)

Article 886 In regard to inheritance, an unborn child shall be deemed to have already been born.

(2) The provision of the preceding paragraph shall not apply if the child is stillborn.

(Right to Inheritance of Child and Heir per Stirpes, etc.)

Article 887 The child of a decedent shall be an heir.

(2) If a decedent's child has died before the commencement of inheritance, or has lost the right to inheritance by application of the provisions of Article 891 or disinheritance, the child of the decedent's child shall be an heir as an heir per stirpes; provided that this shall not apply if the child is not a lineal descendant of the decedent.

(3) The provision of the preceding paragraph shall apply mutatis mutandis to the case where an heir per stirpes has died before the commencement of inheritance, or has lost the right of inheritance as an heir per stirpes by application of the provisions of Article 891, or by disinheritance.

Article 888 Deleted

(Right of Inheritance of Lineal Ascendant and Sibling)

Article 889 In the case where there is no person to become an heir pursuant to the provisions of Article 887, the following persons shall become heirs in accordance with the following order of rank:

(i) lineal ascendants of the decedent; provided that between persons of differing degree of kinship, the person who is of closer relationship shall have higher priority of inheritance;

(ii) siblings of the decedent.

(2) The provisions of paragraph (2) of Article 887 shall apply mutatis mutandis to the case referred to in item (ii) of the preceding paragraph.

(Right of Inheritance of Spouse)

Article 890 The spouse of a decedent shall always be an heir. In this case, if there is a person to become an heir pursuant to the provisions of Article 887 or the preceding Article, the spouse shall be of the same rank as that person.

(Causes of Disqualification of Heir)

Article 891 The following persons may not become an heir:

- (i) a person who has received punishment for intentionally causing, or attempting to cause, the death of a decedent or a person of equal or prior rank in relation to inheritance;
- (ii) a person who is aware that the decedent was killed by someone but made no accusation or complaint about this; provided that this shall not apply if that person cannot discern right from wrong, or if the killer was that person's spouse or lineal relative;
- (iii) a person who prevented a decedent from making, revoking, rescinding, or changing a will relating to inheritance through fraud or duress;
- (iv) a person who forced a decedent to make, revoke, rescind, or change a will relating to inheritance through fraud or duress; or
- (v) a person who has forged, altered, destroyed, or concealed a decedent's will relating to inheritance.

(Disinheritance of Presumed Heir)

Article 892 A decedent may make an application to the family court for the disinheritance of a presumed heir (here and below, referring to a person who would otherwise become an heir upon the commencement of inheritance) who has a legally reserved portion if that person has abused or given grave insult to the decedent, or if there has been any other grave misconduct on the part of the presumed heir.

(Disinheritance of Presumed Heir by Will)

Article 893 If a decedent has indicated an intention by will to disinherit a presumed heir, the executor of that will shall apply to the family court for disinheritance of the presumed heir without delay after the will has taken effect. In this case, the disinheritance of that presumed heir shall have retroactive effect from the time of the decedent's death.

(Rescission of Disinheritance of Presumed Heir)

Article 894 A decedent may at any time make an application to the family court to rescind the disinheritance of a presumed heir.

- (2) The provision of the preceding Article shall apply mutatis mutandis to the rescission of disinheritance of a presumed heir.

(Administration of Inherited Property before Ruling for Disinheritance of Presumed Heir Becomes Unappealable)

Article 895 If inheritance has commenced before a ruling has become final and binding after an application for the disinheritance of a presumed heir, or the rescission of that disinheritance, the family court may order any necessary disposition with regard to the administration of inherited property at the request of a relative, an interested party, or a public prosecutor. The same shall apply in the case where a will was made for the disinheritance of a presumed heir.

- (2) The provisions of Articles 27 to 29 inclusive shall apply mutatis mutandis to the case where the family court has appointed an administrator of inherited property pursuant to the provisions of the preceding paragraph.

Chapter III Effect of Inheritance

Section 1 General Provisions

(General Effect of Inheritance)

Article 896 From the time of commencement of inheritance, an heir shall succeed blanket rights and duties attached to the property of the decedent; provided that this shall not apply to rights or duties of the decedent that are purely personal.

(Assumption of Rights Relating to Rituals)

Article 897 Despite the provision of the preceding Article, rights to ownership of a genealogy, equipment used in rituals, and any grave, shall be succeeded by the person who custom dictates shall preside over rituals for ancestors; provided that if the decedent designates a person who shall preside over rituals for ancestors, this person shall succeed rights to ownership.

(2) If, in the case referred to in the main text of the preceding paragraph, the custom is not evident, the family court shall determine who shall succeed the rights in that paragraph.

(Effect of Joint Inheritance)

Article 898 If there are two or more heirs, the inherited property shall belong to those heirs in co-ownership.

Article 899 Each joint heir shall succeed the rights and duties of the decedent according to his/her share in inheritance.

Section 2 Share in Inheritance

(Statutory Share in Inheritance)

Article 900 If there are two or more heirs of the same rank, their shares in inheritance shall be determined by the following items:

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

(Statutory Share in Inheritance of Heirs per Stirpes)

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

(2) The provision of the preceding paragraph shall apply mutatis mutandis to the case where a child of a sibling becomes an heir pursuant to the provision of paragraph (2) of Article 889.

(Designation of Share in Inheritance by Will)

Article 902 Despite the provisions of the preceding two Articles, a decedent may by will determine the share in inheritance of joint heirs, or entrust a third party to determine the share; provided that a decedent or a third party may not violate provisions relating to legally reserved portion.

- (2) If a decedent determines, or has a third party determine, the share in inheritance of a single heir or several heirs amongst joint heirs, the share in inheritance of the other joint heir(s) shall be determined pursuant to the provisions of the preceding two Articles.

(Share in Inheritance of Heir who has Received Special Benefit)

Article 903 If there is a person from amongst joint heirs who has previously received a testamentary gift, or has received a gift for marriage, adoption, or as capital for livelihood, the total inherited property shall be deemed the value calculated by adding the value of the gift to the value of the property belonging to the decedent at the time of commencement of inheritance and the share in inheritance of that person shall be the remaining amount after deducting the value of that testamentary gift or a gift from the share in inheritance calculated pursuant to the provisions of the preceding three Articles.

- (2) If the value of the testamentary gift or gift is equal to, or exceeds, the value of a donee or recipient's share in inheritance, he/she may not receive the share in inheritance.
- (3) If the decedent indicates an intention contrary to the provisions of the preceding two paragraphs, that intention shall only have effect to the extent that it does not violate the provisions relating to legally reserved portion.

Article 904 With regard to the value of the gift referred to in the provisions of the preceding Article, even if, through the conduct of the recipient there the property of the gift is lost, or if there is a fluctuation in its value, the determination of value shall be deemed as the value at the time of commencement of inheritance in its original state.

(Contributory Portion)

Article 904-2 If there is a person from amongst joint heirs who has made a special contribution to the maintenance or increase of the decedent's property through the provision of labor or in the form of property relating to the decedent's business, medical treatment or nursing of the decedent, or other means, the total inherited property shall be deemed the value calculated by deducting the contributory portion as determined by agreement by the joint heirs from the value of the property of the decedent at the time of commencement of inheritance, and that person's share in inheritance shall be the amount of the contribution added to the share in inheritance calculated pursuant to the provisions of Articles 900 to 902 inclusive.

- (2) If the agreement of the preceding paragraph is not, or cannot be, settled, the family court shall determine the amount of contributory portion at the request of the person who has contributed referred to in the provision of the preceding paragraph, considering the period of contribution, the means and extent of contribution, the amount of the inherited property, and all other circumstances.
- (3) The contributory portion may not exceed the amount calculated by deducting the value of a testamentary gift from the value of the property belonging to the decedent at the time of commencement of inheritance.
- (4) The application referred to in paragraph (2) may be made in the case where there has been an application pursuant to the provision of paragraph (2) of Article 907, or in the case where there has been an application pursuant to the provision of Article 910.

(Recovery Right of Share of Inheritance)

Article 905 If one joint heir assigns his/her share of inheritance to a third party before a division of the inherited property, any other joint heir may obtain the share through the reimbursement of the value and expenses of that and recover the share in inheritance.

(2) The right of the preceding paragraph shall be exercised within one month.

Section 3 Division of Inherited Property

(Criteria of Division of Inherited Property)

Article 906 Upon the division of inherited property, the type and nature of goods or rights belonging to the inherited property, the age, occupation, mental and physical state, and financial circumstances of each heir, and all other matters, shall be considered.

(Agreement or Ruling for Division of Inherited Property etc.)

Article 907 Joint heirs may at any time divide inherited property by agreement except in the case where this is prohibited by the decedent's will pursuant to the provision of the following Article.

(2) If agreement is not, or cannot be, settled between joint heirs regarding division of inherited property, each of the joint heirs may make an application to the family court for a division of the inherited property.

(3) In the case referred to in the preceding paragraph, if there is a special reason, the family court may prohibit the division of the inherited property, in whole or part, for a specified period.

(Designation of Form of Division of Inherited Property and Prohibition of Division)

Article 908 A decedent may by will determine the form of division of inherited property, or entrust this to a third party, or prohibit division for a period not exceeding five years from the time of commencement of inheritance.

(Effect of Division of Inherited property)

Article 909 Division of inherited property shall have retroactive effect from the time of the commencement of inheritance; provided that this shall not prejudice the rights of a third party.

(Claim of Payment for Value of Person Affiliated after Commencement of Inheritance)

Article 910 In the case where a person who becomes an heir through affiliation after the commencement of inheritance intends to apply for a division of the inherited property, if other heirs have already divided the inherited property or made another disposition, he/she shall only have a claim of payment for value.

(Mutual Liability to Guarantee Joint Heirs)

Article 911 Each joint heir shall, according to his/her share in inheritance, bear liability to guarantee any other joint heir, just as a seller.

(Liability to Guarantee Claim Arising from Division of Inherited Property)

Article 912 Each joint heir shall guarantee, according to his/her share in inheritance, the solvency of any obligor of the inherited property at the time of division regarding claims arising from the division of inherited property.

- (2) Each joint heir shall guarantee the solvency of any obligor of the inherited property at the time for performance regarding a claim that is either not yet due or has a condition precedent.

(Share of Liability to Guarantee Insolvent Joint Heir)

Article 913 If there is an insolvent joint heir who is liable to guarantee other joint heirs, the portion of the liability which the insolvent joint heir is to bear shall be apportioned amongst other joint heirs with a right to reimbursement, and other solvent joint heirs shall contribute to the portion unable to be reimbursed according to the share in inheritance of each; provided that if there is negligence on the part of the person who seeks reimbursement, he/she may not make a claim against other another joint heir to contribute.

(Determination of Liability to Guarantee by Will)

Article 914 If a decedent has expressed a different intent by will, the provisions of the preceding three Articles shall not apply.

Chapter IV Acceptance and Renunciation of Inheritance

Section 1 General Provisions

(Period for Acceptance or Renunciation of Inheritance)

Article 915 An heir shall give unconditional or qualified acceptance, or renunciation, regarding inheritance within three months of the time he/she has knowledge that there has been a commencement of inheritance for him/her; provided that this period may be extended by the family court at the request of an interested party or a public prosecutor.

- (2) An heir may investigate inherited property before making an acceptance or renunciation of inheritance.

Article 916 If an heir dies without having made acceptance or renunciation of inheritance, the period of paragraph (1) of the preceding Article shall be calculated from the time that person's heir comes to know of the commencement of inheritance for himself/herself.

Article 917 If an heir is a minor or an adult ward, the period in paragraph (1) of Article 915 shall be calculated from the time that legal representative comes to know of the commencement of inheritance for the minor or adult ward.

(Administration of Inherited Property)

Article 918 An heir shall administer inherited property with the same care he/she would exercise over his/her own property; provided that this shall not apply if he/she has accepted or renounced the inheritance.

- (2) The family court may at any time order any necessary disposition for the preservation of inherited property at the request of an interested party or a public prosecutor.
- (3) The provisions of Articles 27 to 29 inclusive shall apply mutatis mutandis to the case where the family court has appointed an administrator manager of inherited property pursuant to the provision of the preceding paragraph.

(Revocation and Rescission of Acceptance and Renunciation of Inheritance)

Article 919 Acceptance or renunciation of inheritance may not be revoked even within the period referred to in paragraph (1) of Article 915.

- (2) The provision of the preceding paragraph shall not prevent the rescission of acceptance or renunciation of inheritance made pursuant to the provisions of Part 1 (General Provisions) and Part 4 (Relatives).
- (3) The right of rescission in the preceding paragraph shall be extinguished by prescription if not exercised within six months of the time ratification becomes possible. The right of rescission in the preceding paragraph shall be extinguished if ten years have passed since the time of acceptance or renunciation of inheritance.
- (4) A person who intends to rescind qualified acceptance or renunciation of inheritance pursuant to the provision of paragraph (2) shall provide a statement to that effect to the family court.

Section 2 Acceptance of Inheritance

Subsection 1 Unconditional Acceptance

(Effect of Unconditional Acceptance)

Article 920 If an heir makes unconditional acceptance, he/she shall inherit the rights and duties of the decedent without limitation.

(Statutory Unconditional Acceptance)

Article 921 An heir shall be deemed to have made unconditional acceptance in the following cases:

- (i) if an heir has made a disposition of the inherited property in whole or in part; provided that this shall not apply to an act of preservation or a lease that does not exceed the period determined in Article 602;
- (ii) if an heir has not made qualified acceptance or renunciation of inheritance within the period of paragraph (1) of Article 915;
- (iii) if an heir, even after having made qualified acceptance or renunciation of inheritance, conceals inherited property in whole or part, uses that property for him/herself, or failed intentionally to enter it in the inventory of inherited property; provided that this shall not apply after the acceptance of a person who has become an heir due to the renunciation of inheritance of the original heir.

Subsection 2 Qualified Acceptance

(Qualified Acceptance)

Article 922 An heir may accept inheritance reserving to perform the obligation or testamentary gift of the decedent only within the extent of the property obtained by inheritance.

(Qualified Acceptance of Joint Heirs)

Article 923 If there are two or more heirs, qualified acceptance may only be made if all members of the joint heirs make qualified acceptance jointly.

(Form of Qualified Acceptance)

Article 924 If an heir intends to make qualified acceptance, he/she shall prepare an inventory of the inherited property and submit this to the family court with a statement to that effect within the period of paragraph (1) of Article 915.

(Rights and Duties upon Qualified Acceptance)

Article 925 If an heir makes qualified acceptance, the rights and duties that person has towards the decedent shall be deemed not to have been extinguished.

(Administration by Person who has Made Qualified Acceptance)

Article 926 A person who has made qualified acceptance shall continue administration of inherited property with the same care he/she would exercise over his/her own property.

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

(Public Notification and Notice to Inheritance Obligees and Donees)

Article 927 A person who makes qualified acceptance shall, within five days of making that qualified acceptance, make public notification to all inheritance obligees (here and below, an obligee with a claim towards the inherited property) and donees to the effect that qualified acceptance has been made and that filing of any claim should be made within a specified period. In this case, that period shall be not less than two months.

(2) In the public notification in the preceding paragraph, it shall be prescribed that inheritance obliges and donees who failed to file should be precluded from the payment; provided, however, that a successor who makes qualified acceptance may not preclude known inheritance obliges and donees.

(3) a successor who makes qualified acceptance shall demand each of known inheritance obliges and donees the filing.

(4) The public notice in paragraph (1) shall be made on the official gazette.

(Refusal of Performance before Expiration of Public Notification Period)

Article 928 A person who has made qualified acceptance may refuse to make performance to an inheritance obligee or donee before the expiration of the notification period of paragraph (1) of the preceding Article.

(Performance after Expiration of Public Notification Period)

Article 929 After the expiration of the period in paragraph (1) of Article 927, a person who has made qualified acceptance shall use the inherited property to make performance to inheritance obligees who have made the application of the same paragraph within the period prescribed, and any other known inheritance obligees, proportionally according to the amount of each claim; provided that this may not prejudice the rights of an obligee with priority rights.

(Performance of Obligation etc. Not Yet Due)

Article 930 A person who has made qualified acceptance must make performance even of a claim which is not yet due in accordance with the provision of the preceding Article.

(2) Conditional claims and claims of indefinite duration shall be performed in accordance with an evaluation by an appraiser appointed by the family court.

(Performance to Donees)

Article 931 A person who has made qualified acceptance may not make performance to a donee unless each of the inheritance obligees has been paid in accordance with the provisions of the preceding two Articles.

(Auction of Inherited Property for Performance of Obligation)

Article 932 If it is necessary to sell inherited property in order to perform in accordance with the provisions of the preceding three Articles, a person who has made qualified acceptance shall put that property to auction; provided that this auction may be averted by paying the entire or partial value of the inherited property in accordance with an evaluation by an appraiser appointed by the family court.

(Participation of Inheritance Obligees and Donees in Evaluation Proceedings)

Article 933 Inheritance obligees and donees may, by their own expense, participate in an auction or appraisal of inherited property. In this case, the provisions of paragraph (2) of Article 260 shall apply *mutatis mutandis*.

(Liability for Unfair Performance etc. of Person who has Made Qualified Acceptance)

Article 934 If a person who has made qualified acceptance fails to make the public notification or notice referred to in Article 927, or has made performance to an inheritance obligee or donee within the period of paragraph (1) of the same Article thereby precluding performance to any other inheritance obligee or donee, that person shall be liable to compensate for damages arising from this. If he/she has made performance that violates the provisions of Articles 929 to 931 inclusive, he/she shall be liable to compensate for damages arising from this.

- (2) The provision of the preceding paragraph shall not prevent a claim for damages against an inheritance obligee or donee who has accepted unfair performance with knowledge by another inheritance obligee or donee.
- (3) The provision of Article 724 shall apply *mutatis mutandis* to the cases referred to in the preceding two paragraphs.

(Inheritance Obligees or Donees who have not Made Application within Period of Public Notification)

Article 935 An inheritance obligee or donee who fails to make the application referred to in paragraph (1) of Article 927 within the period prescribed, and was unknown to the person who has made qualified acceptance, may only exercise his/her rights over the residual assets; provided that this shall not apply to persons who have a security over specific inherited property.

(Administration of Inherited Property where Two or more Heirs)

Article 936 In the case where there are two or more heirs, the family court shall appoint an administrator of the inherited property from amongst the heirs.

- (2) The administrator of the inherited property of the preceding paragraph shall undertake all necessary acts to administer the inherited property and perform any obligation on behalf of the heirs.
- (3) The provisions of Article 926 to 935 inclusive shall apply *mutatis mutandis* to an administrator of the inherited property of paragraph (1). In this case, 'within five days of making that qualified acceptance' in paragraph (1) of Article 927 shall be read as 'within ten days of the appointment of an administrator of the inherited property'.

(Inheritance Obligees Where There is Cause for Statutory Unconditional Acceptance)

Article 937 If there is a cause listed in item (i) or item (iii) of Article 921 relating to one or several joint heirs who have made qualified acceptance, an inheritance obligee may exercise his/her rights over the portion of his/her claim not satisfied by the inherited property against those joint heirs according to the share in inheritance of each.

Section 3 Renunciation of Inheritance

(Method of Renunciation of Inheritance)

Article 938 A person who intends to renounce inheritance shall make a statement to that effect to the family court.

(Effect of Renunciation of Inheritance)

Article 939 A person who has renounced inheritance shall be deemed as not originally having been an heir to the inheritance.

(Administration by Person who has Renounced Inheritance)

Article 940 A person who has renounced inheritance shall continue the administration of inherited property with the same care he/she would exercise over his/her own property until the person who has become an heir by that renunciation has commenced administration of the inherited property.

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

Chapter V Separation of Property

(Separation of Property by Claim of Inheritance Obligees or Donees)

Article 941 An inheritance obligee or a donee may make an application to the family court for a separation of inheritance property from the property of an heir within three months of the time of commencement of inheritance. The application may be filed even after that period has elapsed if the inherited property has not been mixed with the heir's own property.

(2) If the family court has made a ruling for separation of property pursuant to the application of the preceding paragraph, the applicant shall give public notice within five days to the effect that an order for separation of property has been made and that applications for entry into distribution proceedings should be made within a specified period. In this case, that period shall be not less than two months.

(3) The public notice of the provisions of the preceding paragraph shall be listed in the official gazette.

(Effect of Separation of Property)

Article 942 A person who has made an application for separation of property or a person who has applied for entry into distribution proceedings pursuant to the provisions of paragraph (2) of the preceding Article shall receive performance with priority over the obligees of an heir regarding the inherited property.

(Administration of Inherited Property after Claim for Separation of Property)

Article 943 If an application for separation of property is made, the family court may order any necessary disposition for the administration of the inherited property.

(2) The provisions of Articles 27 to 29 inclusive shall apply mutatis mutandis to the case where the family court appoints an administrator pursuant to the provision of the preceding paragraph.

(Administration by Heir after Application for Separation of Property)

Article 944 Even after an heir has made unconditional acceptance, if there has been an application for separation of property, he/she shall administer the inherited property with the same care he/she would

exercise over his/her own property; provided that this shall not apply if the family court has appointed an administrator of the inherited property.

- (2) The provisions of Articles 645 to 647 inclusive and paragraphs (1) and (2) of Article 650 shall apply mutatis mutandis to the case referred to in the preceding paragraph.

(Requirement of Perfection, against Third Party regarding Real Estate in the Case of Separation of Property)

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

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

Article 946 The provisions of Article 304 shall apply mutatis mutandis to the case of separation of property.

(Performance to Inheritance Obligees and Donees)

Article 947 Before the expiration of the period in paragraphs (1) and (2) of Article 941, an heir may refuse to make performance to an inheritance obligee or donee.

- (2) If an application for separation of property has been made, an heir shall use the inherited property to make performance to any inheritance obligee or donee who has made an application for separation of property or entry into distribution proceedings proportionally according to the amount of each claim, after the expiration of the period of paragraph (2) of Article 941; provided however, that this may not prejudice the rights of an obligee with priority rights.

- (3) The provisions of Articles 930 to 934 inclusive shall apply mutatis mutandis to the case referred to in the preceding paragraph.

(Performance from Heir's Own Property)

Article 948 A person who has made an application for separation of property or a person who has applied for entry into distribution proceedings may exercise his/her rights against an heir's own property only in the case where he/she was not able to receive performance in full from the inherited property. In this case, this person may receive performance with priority over the obligees of an heir.

(Prevention etc. of Application for Separation of Property)

Article 949 An heir may use his/her own property to make performance to an inheritance obligee or donee, or provide reasonable security, and thereby prevent an application for separation of property or have its effect extinguished; provided that this shall not apply if an obligee of the heir expresses an objection and can prove that he/she would receive damage from this.

(Separation of Property by Application of Obligee of Heir)

Article 950 While an heir may make qualified acceptance, or while the inherited property has not been mixed with the heir's own property, an obligee of the heir may make an application to the family court for a separation of property.

- (2) The provisions of Article 304, Article 925, Articles 927 to 934 inclusive, Articles 943 to 945 inclusive, and Article 948 shall apply mutatis mutandis to the case referred to in the preceding paragraph; provided, however, that the public notification and notice of Article 927 shall be made by an obligee who has made an application for separation of property.

Chapter VI Nonexistence of Heir

(Formation of Juridical Person for Inherited Property)

Article 951 If it is not evident whether an heir exists, an estate that would be inherited shall be as a juridical person.

(Appointment of Administrator of Inherited Property)

Article 952 In the case referred to in the preceding Article, the family court shall appoint an administrator of inherited property at the request of an interested party or a public prosecutor.

(2) If an administrator of inherited property has been appointed pursuant to the provisions of the preceding paragraph, the family court shall give public notice of this without delay.

(Provisions Relating to Administrator of Absentee's Property to be Applied Mutatis Mutandis)

Article 953 The provisions of Articles 27 to 29 inclusive shall apply mutatis mutandis to the administrator of inherited property referred to in paragraph (1) of the preceding Article (in this Chapter, 'administrator of inherited property').

(Reporting by Administrator of Inherited Property)

Article 954 If there is an application by an inheritance obligee or donee, an administrator of inherited property shall report the status of the inherited property to the person who has made the application.

(Non-formation of Juridical Person for Inherited Property)

Article 955 If it has become evident that there is an heir, the juridical person of Article 951 shall be deemed not to have been formed; provided, however, that this shall not prevent the effect of acts done by an administrator of inherited property within the administrator's authority.

(Extinguishment of Authority of Representation of Administrator of Inherited Property)

Article 956 The authority of representation of an administrator of inherited property shall be extinguished from the time that an heir accepts inheritance.

(2) In the case referred to in the preceding paragraph, the administrator of inherited property shall make an account of profit and loss to the heir without delay.

(Performance to Inheritance Obligees and Donees)

Article 957 If the existence of an heir has not become evident within two months of the public notice of paragraph (2) of Article 952, an administrator of inherited property shall, without delay, give public notice to all inheritance obligees and donees to the effect that a claim for performance should be made within a specified period. In this case, the period shall be not less than two months.

(2) The provisions of paragraphs (2) to (4) inclusive of Article 927 and Articles 928 to 935 (excluding the proviso to Article 932) shall apply mutatis mutandis to the case referred to in the preceding paragraph.

(Public Notice of Search for Heir)

Article 958 If, after the expiration of the period in paragraph (1) of the preceding Article, it is still not evident whether an heir exists, the family court shall, at the request of an administrator of inherited property or a public prosecutor, give public notice to the effect that if there is an heir, he/she should assert his/her right within a fixed period. In this case, the period shall be not less than six months.

(Case where No Person Claims a Right)

Article 958-2 If there is no person who asserts a right as an heir within the period of the preceding Article, an heir, or any obligee or donee unknown to the administrator of inherited property, may not exercise his/her right.

(Distribution of Inherited Property to Person with Special Connection)

Article 958-3 In the case referred to in the preceding Article, the family court may, if it finds it reasonable, at the request of a person who shared a livelihood with the decedent, a person who contributed to the medical treatment and nursing of the decedent, or any other person who had a special connection with the decedent, grant such person the remaining amount of the inherited property after liquidation, in whole or in part.

(2) The application of the preceding paragraph must be made within three months of the expiration of the period in Article 958.

(Residual Assets to Belong to National Treasury)

Article 959 Inherited property that has not been disposed of pursuant to the provisions of the preceding Article shall belong to the National Treasury. In this case, the provisions of paragraph (2) of Article 956 shall apply *mutatis mutandis*.

Chapter VII Wills

Section 1 General Provisions

(Formalities for Will)

Article 960 No will shall take effect unless made in accordance with the formalities provided in this Code.

(Capacity to Make Will)

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 shall not apply to a will.

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

(Comprehensive and Specific Testamentary Gifts)

Article 964 A testator may make a disposition of his/her property, in whole or in part, comprehensive or specific title(s); provided that this may not violate provisions regarding legally reserved portion.

(Provisions Relating to Heirs to be Applied *Mutatis Mutandis*)

Article 965 The provisions of Article 886 and Article 891 shall apply *mutatis mutandis* to a testamentary donee.

(Limitations on Will of Person under Guardianship)

Article 966 If a person under guardianship makes a will to the benefit of a guardian or the guardian's spouse or lineal relative before the completion of a profit and loss account for guardianship, that will shall be void.

(2) The provision of the preceding paragraph shall not apply in the case where a lineal relative, spouse, or sibling of the ward is a guardian.

Part 2 Formalities of Wills

Subsection 1 Ordinary Formality

(Types of Will Made by Ordinary form)

Article 967 A will shall be made by holograph document, notarized document, or sealed and notarized document; provided that this shall not apply to the case where it is permissible to use a special method.

(Will by Holograph Document)

Article 968 To make a will by holograph document the testator must write the entire text, the date, and his/her name in his/her own hand and affix his/her seal.

(2) Unless, for an insertion, deletion or any other alteration to the handwritten certificate, the testator indicates the place of alteration, makes a specifically signed addition to the effect that it has been changed, and furthermore affixes his/her seal to the place that has been altered, it shall have no effect.

(Will by Notarized Document)

Article 969 A will by notarized document shall be made in compliance with the following items:

- (i) no fewer than two witnesses shall be in attendance;
- (ii) the testator shall give oral instruction of the tenor of the will to a notary public;
- (iii) a notary public shall take dictation from the testator and read this aloud, or allow inspection, to the testator and witnesses;
- (iv) the testator and witnesses shall each sign, and affix his/her seal to, the certificate after having approved its accuracy; provided, however, that in the case where a testator is unable to sign, a notary public may sign on his/her behalf, with supplementary registration giving the reason for that; and
- (v) a notary public shall give supplementary registration to the effect that the certificate has been made in compliance with the formalities listed in each of the preceding items, sign this, and affix his/her seal.

(Special Provisions for Will by Notarized Document)

Article 969-2 In the case where a will by notarized document is made by a person who cannot speak, the testator shall make a statement of the tenor of the will through an interpreter, or by his/her own hand, in lieu of the oral instruction of item (ii) of the preceding Article. In this case, in the application of the provision of item (iii) of the same Article, 'oral instruction' in that item shall become 'statement through an interpreter, or by his/her own hand'.

- (2) In the case where the testator or a witness of the preceding Article is deaf, a notary public may convey the written contents of the provision of item (iii) of the same Article to the testator or witness through an interpreter, in lieu of the reading aloud provided for in the same item.
- (3) If a notarized document has been made in compliance with the formalities provided for in the preceding paragraphs (1) and (2), a notary public shall give supplementary registration on the certificate to this effect.

(Will by Sealed and Notarized Document)

Article 970 A will by sealed and notarized document shall be made in compliance with the following formalities:

- (i) the testator shall sign, and affix his/her seal to, the certificate;

- (ii) the testator shall seal the certificate and, using the same stamp as that used for the certificate, affix his/her seal;
 - (iii) the testator shall submit the sealed certificate before one notary public and not less than two witnesses, with a statement to the effect that it is his/her own will, giving the author's name and address;
 - (iv) after having entered the date of submission of the certificate and the statement of the testator upon the sealed document, a notary public shall, together with the testator and witnesses, sign it and affix his/her seal; and
- (2) The provision of paragraph (2) of Article 968 shall apply mutatis mutandis to the making of a will by sealed and notarized document.

(Effect of Will by Sealed and Notarized Document Failing to Satisfy Formalities)

Article 971 Even a will by sealed and notarized document which fails to satisfy the formalities provided for in the preceding Article shall have effect as a will made by holograph document, if prepared in accordance with the formalities provided for in Article 968.

(Special Provisions for Will by Sealed and Notarized Document)

Article 972 In the case where a will by sealed and notarized document is made by a person who cannot speak, the testator shall make a statement to the effect that the certificate is one's own will, giving the author's name and address through an interpreter, or by his/her own hand upon the sealed document, in lieu of the statement of item (iii) of paragraph (1) of Article 970.

- (2) In the case referred to in the preceding paragraph, if a testator has given a statement through an interpreter, a notary public shall make an entry on the sealed document to that effect.
- (3) In the case referred to in paragraph (1), if the testator has written on the sealed document in his/her own hand, a notary public shall make an entry to that effect on the sealed document in lieu of the entry of statement in the provision of item (iv) of paragraph 1 of Article 970.

(Will of an Adult Ward)

Article 973 For an adult ward to make a will at a time that his/her decision-making capacity has recovered temporarily, not less than two doctors shall be in attendance.

- (2) A doctor in attendance of the making of a will shall make an entry on the will to the effect that the testator was not in a condition lacking decision-making capacity at the time of making the will, sign it, and affix his/her seal; provided that in the case of a will by sealed and notarized document, he/she shall make an entry to that effect on the sealed document, sign it, and affix his/her seal.

(Causes of Disqualification of Witness or Observer)

Article 974 The following persons may not be a witness or observer to a will:

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

(Prohibition of Joint Wills)

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

Subsection 2 Special Formalities of Wills

(Will Made by Person Rapidly Approaching Death)

Article 976 If a person who is rapidly approaching death due to illness or another reason intends to make a will, he/she may do so in the attendance of not less than three witnesses by giving oral instruction of the tenor of the will to one of the witnesses. In this case, the person who received the oral instruction shall enter this, read it aloud, or allow inspection, to the testator and other witnesses, and after each witness has approved the accuracy of that entry, sign it, and affix his/her seal.

- (2) In the case where a person who cannot speak makes a will pursuant to the provisions of the preceding paragraph, the testator shall state of the tenor of that will through an interpreter before the witnesses, in lieu of the oral instruction of the same paragraph.
- (3) In the case where the testator, or a witness, referred to in the second sentence of paragraph (1) is deaf, the person who has received the statement or oral instruction of the tenor of the will shall convey to the testator or other witnesses the written contents referred to in the provision of that sentence through an interpreter in lieu of the reading aloud provided for in that sentence.
- (4) For a will made pursuant to the provisions of the preceding three paragraphs, effect shall not arise unless it has been confirmed by the family court at the request of one of the witnesses or an interested party within twenty days of the creation of the will.
- (5) The family court may not confirm a will referred to in the preceding paragraph unless it is convinced that the will captured the true intention of the testator.

(Will Made by Person with Infectious Disease in Quarantine)

Article 977 A person who is isolated through an administrative disposition due to an infectious disease may make a will in the attendance of one police official and at least one witness.

(Will Made by Person on Vessel)

Article 978 A person on a ship may make a will in the attendance of the ship's captain or a clerk, and at least two witnesses.

(Will Made by Person on Ship Meeting Disaster)

Article 979 In the case where a ship meets disaster, a person who is on that ship and rapidly approaching death may make a will orally in the attendance of at least two witnesses.

- (2) In the case where a person who cannot speak makes a will pursuant to the provision of the preceding paragraph, the testator shall do so through an interpreter.
- (3) The effect of a will made in compliance with the provisions of the preceding two paragraphs shall not arise unless a witness makes an entry of its tenor, signs this, affixes his/her seal, and furthermore, it gains confirmation by the family court at the request made without delay by one of the witnesses or an interested party.
- (4) The provision of paragraph (5) of Article 976 shall apply mutatis mutandis to the case described in the preceding paragraph.

(Signature and Seal of Relevant Parties to a Will)

Article 980 In the cases described in Article 977 and Article 978, a testator, author, observer, or witness shall sign and affix his/her seal to each will.

(Case Where Signature or Seal Is Impossible)

Article 981 In the cases described in Articles 977 to 979 inclusive, if there is a person who is unable to sign or affix his/her seal, an observer or witness shall make supplementary registration of the reason for that.

(Provisions Relating to Will by Ordinary Formalities to be Applied Mutatis Mutandis)

Article 982 The provisions of paragraph (2) of Article 968 and Articles 973 to 975 inclusive shall apply mutatis mutandis to a will made pursuant to the provisions of Articles 976 to 981.

(Effect of Will Made by Special Formalities)

Article 983 The effect of a will made pursuant to the provisions of Article 976 to 982 inclusive shall not arise if a testator survives for a period of six months from the time they recover the ability to make a will by ordinary formalities.

(Formalities for Japanese National in Foreign Country)

Article 984 For a Japanese national in a foreign country where a Japanese consulate is stationed to make a will by notarized document, or a sealed and notarized document, the duties of a notary public shall be undertaken by the consulate.

Section 3 Effect of Will

(When Effect of Will Arises)

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

(2) In the case where a will is subject to a condition precedent, if that condition is fulfilled after the death of the testator, the will shall take effect from the time that condition is fulfilled.

(Renunciation of Testamentary Gift)

Article 986 A testamentary donee may renounce a testamentary gift at any time after the death of a testator.

(2) The renunciation of a testamentary gift shall have retroactive effect from the time of the testator's death.

(Notice to Testamentary Donees for Acceptance or Renunciation of a Testamentary Gift)

Article 987 A person with a duty of testamentary gift (in this Section, a person who bears a duty to perform a testamentary gift) or any other interested party may give notice to a testamentary donee to the effect that acceptance or renunciation of a testamentary gift should be made within a specified period, fixing a period that is reasonable. In this case, if a donee does not indicate his/her intention to a person with a duty of testamentary gift within that period, the testamentary gift shall be deemed to have been accepted.

(Acceptance or Renunciation of Testamentary Gift by Heir or Testamentary Donee)

Article 988 If a testamentary donee dies without having made acceptance or renunciation of a testamentary gift, the heir of that person may accept or renounce the testamentary gift within the extent of his/her share in inheritance; provided that if the testator has indicated a particular intent in his/her will, this intent shall be complied with.

(Revocation and Rescission of Acceptance and Renunciation of Testamentary Gift)

Article 989 Acceptance or renunciation of a testamentary gift may not be revoked.

- (2) The provisions of paragraphs (2) and (3) of Article 919 shall apply mutatis mutandis to acceptance and renunciation of a testamentary gift.

(Rights and Duties of Testamentary Donee by a Universal Succession)

Article 990 A testamentary donee by a universal succession shall have the same rights as an heir.

(Claim for Security by a Testamentary Donee)

Article 991 While a testamentary gift is not due, a testamentary donee may make a claim for reasonable security from a person having an obligation with respect to testamentary gift. The same shall also apply for a testamentary gift with a condition precedent while the outcome of that condition is unknown.

(Collecting Fruits of Testamentary Gift)

Article 992 A testamentary donee may collect the fruits of a testamentary gift from the time that they are able to make a claim for the performance of that gift; provided that if the testator has indicated a particular intent in his/her will, that intent shall be complied with.

(Claim for Reimbursement of Expenses Incurred by Person with Duty of Testamentary Gift)

Article 993 The provisions of Article 299 shall apply mutatis mutandis to the case where expenses have been incurred by a person with a duty of testamentary gift in respect of the object of the testamentary gift after the death of the testator.

- (2) An application for reimbursement may be made for normal necessary expenses incurred in collecting the fruits of a testamentary gift, limited to an amount not exceeding the value of those fruits.

(Lapse of Testamentary Gift through Death of Donee)

Article 994 The effect of a testamentary gift shall not arise if the testamentary donee dies before the death of the testator.

- (2) The preceding paragraph shall also apply if, in the case of a testamentary gift with a condition precedent, the testamentary donee dies before the fulfillment of that condition; provided, however, that if the testator has indicated a particular intent in his/her will, that intent shall be complied with.

(Ownership of Property in Case of Invalidation or Lapse of Testamentary Gift)

Article 995 If the effect of a testamentary gift does not arise, or if its effect is lost by renunciation, that which should have been received by the testamentary donee shall belong to the heir(s); provided, however, that if the testator has indicated a particular intent in his/her will, that intent shall be complied with.

(Testamentary Gift of Rights Not Belonging to Inherited Property)

Article 996 A testamentary gift shall not take effect if the rights which are the object of that gift did not belong to the inherited property at the time of the testator's death; provided, however, that this shall not apply if it is found that those rights were made the object of a testamentary gift regardless of whether such rights belong to the inherited property.

Article 997 If a testamentary gift, the object of which are rights that do not belong to the inherited property, has effect pursuant to the provision of the proviso to the preceding Article, the person with a duty of testamentary gift shall bear a duty to obtain those rights and transfer them to the testamentary donee.

- (2) In the case referred to in the preceding paragraph, if the rights referred to in that paragraph cannot be obtained, or if obtaining them requires excessive expenses, a person with a duty of testamentary gift shall give compensation to the value of those rights; provided, however, that if the testator has indicated a particular intent in his/her will, that intent shall be complied with.

(Warranty Liability of Person Having Obligation for to Testamentary Gift for Unspecified Things)

Article 998 In the case where a testamentary gift has as its object unspecified Things but a third party as a rightful claimant retakes them from a testamentary donee, a person having an obligation in relation to testamentary gift shall be liable under the same warranty with respect to those unspecified Things, just as a seller.

- (2) In the case where a testamentary gift has as its object unspecified Things, if those goods are defective, a person having an obligation in relation to testamentary gift shall exchange them for Things that are not defective.

(Extension of Testamentary Gift over Right to Claim from Third Party)

Article 999 If a testator has a right to claim compensation from a third party resulting from loss or alteration, or loss of possession, of the object of a testamentary gift, that right shall be presumed to have been an object of the testamentary gift.

- (2) In the case of accession or mixture of the object of a testamentary gift with other Things, if a testator has become a sole owner or co-owner of a compound or mixture pursuant to the provisions of Articles 243 to 245 inclusive, that entire ownership, or share, shall be presumed to have been an object of the testamentary gift.

(Testamentary Gift of Property Subject to the Rights of Third party)

Article 1000 If Things or rights being the object of a testamentary gift were the object of the rights of a third party at the time of the testator's death, a testamentary donee may not demand a person having an obligation with respect to testamentary gift to extinguish the third party's rights; provided, however, that this shall not apply if the testator has indicated a contrary intent in his/her will.

(Extension of Testamentary Gift over Things Received for Satisfaction of Claim)

Article 1001 In the case where a claim is the object of a testamentary gift, if the testator has received performance for that claim and the received Things are already with the inherited property, those Things shall be presumed to have been an object of the testamentary gift.

- (2) In the case where money is the object of a claim which is the object of a testamentary gift, that money shall be presumed to have been an object of the testamentary gift even if there are insufficient funds equivalent to that claim in the inherited property.

(Testamentary Gift with Burden)

Article 1002 A person who has received a testamentary gift with burden shall bear a responsibility to perform the duties borne, limited to an amount not exceeding the object of the testamentary gift.

- (2) If a testamentary donee has renounced a testamentary gift with burden, the person who would have received gain from the discharge of burden may become a testamentary donee him/herself; provided that if the testator has indicated a particular intent in his/her will, that intent shall be complied with.

(Discharge of Testamentary Donee of Testamentary Gift with Burden)

Article 1003 If the value of an object of a testamentary gift with burden is reduced due to the qualified acceptance of an heir, or a filing for recovery of legally reserved portion, a testamentary donee may avoid the duties borne from that testamentary gift, proportional to the reduction; provided, however, that if the testator has indicated a particular intent in his/her will, that intent shall be complied with.

Section 4 Execution of Will

(Probate of Will)

Article 1004 A custodian of a will, after coming to know of the commencement of inheritance, shall without delay submit the will to the family court and apply for probate. In the case where there is no custodian of a will, the same shall apply after an heir discovers the will.

- (2) The provision of the preceding paragraph shall not apply to a will made by notarized document.
- (3) A will that has been sealed may not be opened unless in the family court in the attendance of an heir or his/her representative.

(Civil Fine)

Article 1005 A person who fails to submit a will pursuant to the provisions of the preceding Article, executes a will without passing through probate, or opens a sealed will in a place other than a family court shall be made subject to a civil fine of not more than 50,000 yen.

(Designation of Executor)

Article 1006 A testator may, by will, designate one or several executors, or entrust that designation to a third party.

- (2) A person who has been entrusted with the designation of an executor shall, without delay, make that designation and inform the heir(s) of the designation.
- (3) If a person who has been entrusted with the designation of an executor intends to resign from that entrustment, he/she shall notify the heir(s) to that effect without delay.

(Commencement of Duties of Executor)

Article 1007 If an executor consents to taking office, he/she shall undertake his/her duties immediately.

(Notice of Taking Office to Executor)

Article 1008 An heir or other interested party may, having specified a reasonable period, make a demand to an executor to the effect that that he/she make a definite answer within that period as to whether he/she consents to taking office. In this case, if the executor does not make a definite answer to the heir within this period, he/she shall be deemed to have consented to taking office.

(Causes for Disqualification of Executor)

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

(Appointment of Executor)

Article 1010 If an executor does not exist, or the office becomes vacant, the family court may appoint an executor at the request of an interested party.

(Preparation of Inventory of Inherited Property)

Article 1011 An executor shall, without delay, prepare an inventory of inherited property and deliver this to the heir(s).

- (2) At the request of an heir, an executor shall prepare an inventory of inherited property in the heir's attendance, or have a notary public create the inventory.

(Rights and Duties of Executor)

Article 1012 An executor shall have the rights and duties of administration of inherited property and all other necessary acts for the execution of a will.

- (2) The provisions of Articles 644 to 647 inclusive and 650 shall apply mutatis mutandis to an executor.

(Prohibition of Interference with Execution of Will)

Article 1013 In the case where there is an executor, an heir may not make a disposition of inherited property or any other act that interferes with the execution of the will.

(Execution of Will concerning Specified Property)

Article 1014 In the case where a will concerns specified property in the inherited property, the provisions of Articles 1011 to 1013 inclusive shall only apply to that specified property.

(Status of Executor)

Article 1015 An executor shall be deemed the representative of the heir(s).

(Executor's Right to Appoint Subagent)

Article 1016 An executor may not allow a third party to undertake the duties of an executor unless there are justifiable reasons; provided, however, that this shall not apply if the testator has indicated a contrary intent in his/her will.

- (2) In the case where an executor has allowed a third party to undertake the duties of an executor pursuant to the provision in the proviso to the preceding paragraph, the executor shall owe the responsibility referred to in Article 105 to the heir(s).

(Execution of Duties Where Two or More Executors)

Article 1017 In the case where there are two or more executors, execution of their duties shall be decided by majority; provided, however, that this shall not apply if the testator has indicated a contrary intent in his/her will.

- (2) Despite the provision of the preceding paragraph, each executor may undertake an act of preservation.

(Remuneration of Executor)

Article 1018 The family court may determine the remuneration of an executor according to the status of the inherited property and other circumstances; provided that this shall not apply in the case where a testator has specified remuneration in his/her will.

- (2) The provisions of paragraphs (2) and (3) of Article 648 shall apply mutatis mutandis to the case where an executor receives remuneration.

(Dismissal and Resignation of Executor)

Article 1019 If an executor has failed to perform his/her duties, or if there is any other justifiable reason, an interested party may apply to the family court for the dismissal of that executor.

(2) An executor may resign from his or her duties with the permission of the family court if there is a justifiable reason.

(Mandate Provisions to be Applied Mutatis Mutandis)

Article 1020 The provisions of Article 654 and Article 655 shall apply mutatis mutandis to the case of termination of duties of an executor.

(Burden of Expenses Relating to Execution of Will)

Article 1021 Expenses relating to the execution of a will shall be borne by the inherited property; provided, however, that legally reserved portion may not be reduced by this.

Section 5 Revocation and Rescission of Will

(Revocation of Will)

Article 1022 A testator may at any time revoke a will in whole or in part in compliance with the formalities for a will.

(Conflict between Previous and Later Will)

Article 1023 If there is a conflict between a previous and later will, the later will shall be deemed as having revoked the previous will with respect to the part that is in conflict.

(2) The provision of the preceding paragraph shall apply mutatis mutandis to the case where a will conflicts with a disposition or other juristic act made while the testator was still alive.

(Destruction of Will or Things made the Object of Testamentary Gift)

Article 1024 If a testator intentionally destroys a will, this shall be deemed a revocation of the will with respect to the part that has been destroyed. The same shall apply if the testator has intentionally destroyed goods the object of a testamentary gift.

(Effect of Will That Has Been Revoked)

Article 1025 The effect of a will that has been revoked pursuant to the provisions of Articles 1022 to 1024 inclusive shall not be recovered even if the act of revocation is revoked, rescinded, or invalidated; provided, however, that this shall not apply in the case where the act was the result of fraud or duress.

(Prohibition of Waiver of Right to Revocation)

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

(Rescission of Will concerning Testamentary Gift with Burden)

Article 1027 If a person who has received a testamentary gift with burden does not perform the duty imposed thereby, an heir may demand performance of that duty fixing a reasonable period to do so. In this case, if there is no performance within that period, an application may be made to the family court for rescission of the will concerning the testamentary gift with burden.

Chapter VIII Legally Reserved Portion

(Entitlement and Amount of Legally Reserved Portion)

Article 1028 Heirs other than siblings shall receive, as legally reserved portion, an amount equivalent to the ratio prescribed in each of the following items in accordance with the divisions listed therein:

- (i) in the case where only lineal ascendants are heirs, one third of the decedent's property;
- (ii) in cases other than that referred to in the preceding item (i), one half of the decedent's property.

(Calculation of Legally Reserved Portion)

Article 1029 Total legally reserved portion shall be calculated as the value of any gifts made by the decedent added to the value of the property held by the decedent at the time of commencement of inheritance minus the entire amount of obligations.

- (2) The determination of the value of conditional rights or rights of an uncertain duration shall be made in accordance with an evaluation by an appraiser appointed by the family court.

Article 1030 Only a gift made within one year before the commencement of inheritance shall be included in the amount calculated pursuant to the provisions of the preceding Article. A gift made before one year prior to commencement shall be included in the amount calculated pursuant to the provisions of the preceding Article if it was made with the knowledge of both parties that it would cause harm to a claimant for legally reserved portion.

(Claim for Abatement of Gift or Testamentary Gift)

Article 1031 A claimant for legally reserved portion, or his/her heir, may claim for abatement of a testamentary gift, or gift referred to in the preceding Article, to the extent necessary to preserve that legally reserved portion.

(Partial Abatement of Gifts and Testamentary Gifts of Conditional Rights etc.)

Article 1032 In the case where a gift or testamentary gift has as its object a right with conditions attached or a right of uncertain duration, if that gift or testamentary gift is to be partially abated, a claimant for legally reserved portion shall, in accordance with the amount determined by the provision of paragraph (2) of Article 1029, deliver the remainder to the beneficiary or donee immediately.

(Order of Abatement of Gifts and Testamentary Gifts)

Article 1033 A gift may not be abated until after the abatement of a testamentary gift.

(Proportion of Abatement of Testamentary Gift)

Article 1034 A testamentary gift shall be abated proportionally according to the value of the object of that testamentary gift; provided, however, that if the testator has indicated a particular intent in his/her will, that intent shall be complied with.

(Order of Abatement of Gifts)

Article 1035 A later gift shall be abated before an earlier gift.

(Return of Fruits of Gift by Beneficiary)

Article 1036 A beneficiary, in addition to the property to be returned, shall return the fruits of that property obtained after the day a claim for abatement was made.

(Burden of Loss Due to Insolvency of Beneficiary)

Article 1037 The burden of loss arising from the insolvency of a beneficiary subject to abatement shall lie with the claimant for legally reserved portion.

(Claim for Abatement of Gift with Burden)

Article 1038 A claim for abatement may be made regarding a gift with a burden for the amount of the object of that gift minus the amount of the burden.

(Act for Value with Inadequate Consideration)

Article 1039 An act for value with inadequate consideration shall be deemed a gift if both parties had knowledge that it would prejudice a claimant for legally reserved portion. In this case, if a claimant for legally reserved portion claims for abatement of the gift, he/she shall reimburse the consideration given for the act.

(Object of Gift Assigned by Beneficiary etc.)

Article 1040 If a beneficiary of gift subject to abatement has assigned the object of a gift to another person, he/she must compensate that amount to a claimant for legally reserved portion; provided, however, that if the person who received the object of the gift had knowledge at the time of assignment that this would prejudice a claimant for legally reserved portion, a claimant for legally reserved portion may claim for abatement of the object of the gift.

(2) The provision of the preceding paragraph shall apply mutatis mutandis to the case a beneficiary establishes rights with regard to the object of a gift.

(Compensation by Value to Claimant for Statutory Reserved Portion)

Article 1041 A beneficiary or donee may avoid a duty to refund by compensating a claimant to statutory reserved portion the value of the object of the gift or testamentary gift, to the extent subject to abatement.

(2) The provision of the preceding paragraph shall apply mutatis mutandis to the case referred to in the proviso to paragraph (1) of the preceding Article.

(Limitation on Period for Claim for Abatement)

Article 1042 If a claimant for legally reserved portion, within one year from the time of knowing of commencement of inheritance and the existence of a gift or testamentary gift which may be abated, does not exercise the claim of abatement, it shall be extinguished by prescription. This shall also apply if ten years have passed since the time of commencement of inheritance.

(Renunciation of Legally Reserved Portion)

Article 1043 Renunciation of legally reserved portion before the commencement of inheritance shall only have effect upon receiving permission from the family court.

(2) The renunciation of legally reserved portion by one joint heir shall have no effect upon the legally reserved portion of another joint heir.

(Provisions regarding Heirs per Stirpes and Share in Inheritance to be Applied Mutatis Mutandis)

Article 1044 The provisions of paragraph (2) and paragraph (3) of Article 887, Article 900, Article 901, Article 903, and Article 904 shall apply mutatis mutandis to legally reserved portion.