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## ARTICLE 762

Property belonging to either a husband or wife from a time prior to the marriage and property acquired during the subsistence of the marriage in his or her own name constitutes his or her separate property.

Any property in regard to which it is uncertain whether it belongs to the husband or the wife, is presumed to be the property in their co-ownership.

SECTION IV  
DIVORCESUB-SECTION I  
DIVORCE BY AGREEMENT

## ARTICLE 763

Husband and wife may effect by agreement divorce.

## ARTICLE 764

The provisions of Arts. 738, 739 and 747 shall apply with the necessary modifications to a divorce by agreement.

## ARTICLE 765

The notification of divorce may not be accepted unless the divorce does not contravene the provisions of Art. 739, para. 2 and Art. 819 para. 1 and of other laws or ordinances. The validity of divorce shall not be affected even in cases when the notification of divorce has been accepted in contravention of the provisions of the preceding paragraph.

## ARTICLE 766

In case a father and mother effect a divorce by agreement, the person who is to take the custody of their children and other matters necessary for the custody shall be determined by their agreement, and if no agreement is reached or possible, such matters shall be determined by the Court of Domestic Relations.

The Court of Domestic Relations, if it deems necessary for the benefit of the children, may change the person to take the custody of them or order such other dispositions as may be appropriate for the custody.

The provisions of the preceding two paragraphs shall not cause any change in the rights and duties of father and mother outside the scope of the custody.

## ARTICLE 767

A husband or a wife who has changed his or her surname by reason of marriage, resumes, by reason of divorce by agreement, the surname which he or she had assumed before the marriage.

## ARTICLE 768

Husband or wife who has effected divorce by agreement may demand the distribution of property from the other spouse.

If no agreement is reached or possible between the parties



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with respect to the distribution of property in accordance with the provisions of the foregoing paragraph, any of the parties may apply to the Court of Domestic Relations for measures to take the place of such agreement, except, however, after the lapse of two years from the time of the divorce.

In the case mentioned in the preceding paragraph, the Court of Domestic Relations shall determine whether any such distribution is to be made or not and, if it is to be made, the sum as well as the mode of the distribution, taking into account the sum of such property as is acquired by cooperation of the parties and all other circumstances.

## ARTICLE 769

If a husband or wife who had changed his or her surname by reason of the marriage, has effected divorce by agreement after his or her succession to the right stated in Article 897, paragraph 1, the person who is to succeed to the right shall be determined by an agreement between the parties and other persons concerned.

If no agreement contemplated in the preceding paragraph is reached or possible the person who is to succeed to the right mentioned in the preceding paragraph shall be determined by the Court of Domestic Relations.

## SUB-SECTION II

Husband or wife can bring an action for divorce only in the following cases:

1. If the other spouse has committed an act of unchastity;
2. If he or she has been deserted maliciously by the other spouse;
3. If it is unknown for three years or more whether the other spouse is alive or dead;
4. If the other party is attacked with severe mental disease and recovery therefrom is hopeless;
5. If there exists any other grave reason for which it is difficult for him or her to continue the marriage.

Even in cases where any or all of the grounds mentioned in items numbered 1 to 4 inclusive of the preceding paragraph exist the Court may dismiss the action for divorce, if it deems the continuance of the marriage proper in view of all the circumstances.

## ARTICLE 771

The provisions of Arts. 766 to 769 inclusive shall apply with the necessary modifications to judicial divorce.

CHAPTER III  
PARENT AND CHILDSECTION I  
CHILDREN OF THE BODY

## ARTICLE 772

A child conceived by a wife during marriage shall be presumed to be the child of the husband.



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A child born two hundred days or more after the day on which the marriage was formed or born within three hundred days from the day on which the marriage was dissolved or annulled, shall be presumed to have been conceived during marriage.

## ARTICLE 773

If, in cases where a woman who has re-married in contravention of the provisions of Art. 733, para. 1 has been delivered of a child, it is impossible to determine the father of the child in accordance with the provisions of the preceding Article, the Court shall determine the paternity.

## ARTICLE 774

In any case mentioned in Art. 772 the husband may deny that the child is legitimate.

## ARTICLE 775

The right of denial mentioned in the preceding Article shall be exercised by an action against the child or the mother exercising parental power. In case there is no mother who exercises parental power, the Court of Domestic Relations must appoint a special representative.

## ARTICLE 776

If, after it has been born, a husband acknowledges that the child is legitimate, he loses the right of denial.

## ARTICLE 777

An action of denial must be brought within one year from the time when the husband became aware of the child's birth.

## ARTICLE 778

In case the husband is a person adjudged incompetent, the period specified in the preceding Article shall be computed as from the time when the husband became aware of the child's birth after the revocation of the adjudication of incompetency.

## ARTICLE 779

A child who is not legitimate may be recognized by its father or mother.

## ARTICLE 780

A father or mother, even when under disability need not obtain the consent of his or her legal representative in order to recognize a child.

## ARTICLE 781

The recognition of a child is affected by giving notification thereof in accordance with the law concerning registration of Families Recognition may also be effected by means of will.

## ARTICLE 782

A child of full age cannot be recognized without his or her assent.



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## ARTICLE 783

A father may recognize even a child on ventre sa mere. In this case the assent of the mother must be obtained.

A father or mother may recognize even a deceased child, but only when a lineal descendant of the child is living. In this case if such lineal descendant is of full age his or her assent must be obtained.

## ARTICLE 784

Recognition shall be effective retroactively as from the time of birth; but the rights acquired by third persons prior thereto shall not be prejudiced thereby.

## ARTICLE 785

A father or mother who has effected recognition cannot revoke such recognition.

## ARTICLE 786

A child or any other person interested may allege any fact adverse to recognition.

## ARTICLE 787

A child, any of its lineal descendants or the legal representative of any of them can bring an action for recognition, this shall not apply after the lapse of three years from the time when the father or mother died.

## ARTICLE 788

The provisions of Article 766 shall apply with the necessary modifications in cases where a father effects recognition.

## ARTICLE 789

A child recognized by its father acquires the status of a legitimate child by reason of the marriage of its father and mother.

A child recognized by its father and mother during the subsistence of their marriage acquire the status of a legitimate child as from the time of such recognition.

The provisions of the preceding two paragraphs shall apply with the necessary modifications in cases where the child is already dead.

## ARTICLE 790

A legitimate child assumes the surname of its father and mother. If, however, before the birth of the child its father and mother have divorced, the child assumes the surname of its father and mother at the time of the divorce.

An illegitimate child assumes the surname of its mother.

## ARTICLE 791

In case where the surname of a child differs from that of its father or mother, the child may, with the leave of the Court of Domestic Relations, assume the surname of its father or mother.



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In cases where a child is under fifteen years, the legal representative thereof may effect the act mentioned in the preceding paragraph in behalf of the child.

The minor child who has changed its surname in accordance with the provisions of the two preceding paragraphs, may resume its prior surname within one year as from the day on which he attained majority.

SECTION II  
ADOPTIONSUB-SECTION I  
REQUISITES FOR ADOPTION

## ARTICLE 792

Any person who has attained majority may adopt another.

## ARTICLE 793

No ascendant or person of older age may be adopted.

## ARTICLE 794

A guardian must obtain the leave of the Court of Domestic Relations in order to adopt the ward. The same shall also apply after the duties of the guardian have come to an end, so long as the accounts of the management have not been completed.

## ARTICLE 795

A person who has a spouse may not effect adoption except jointly with the spouse. But this shall not apply in cases where the husband or wife adopts any of the children of the other spouse.

## ARTICLE 796

If, in the case of the preceding Article, either the husband or wife is unable to declare his or her intention, the other may effect adoption in the name of both.

## ARTICLE 797

If the person to be adopted is under fifteen years of age, his legal representative can assent to the adoption in his place.

## ARTICLE 798

In order to adopt a minor child, the leave of the Court of Domestic Relations must be obtained, excepting, however, the case where a person adopts any of the lineal descendants of his own or of the other spouse.

## ARTICLE 799

The provisions of Arts. 738 and 739 shall apply with the necessary modifications to an adoption.

## ARTICLE 800

The notification of adoption may not be accepted unless the adoption does not contravene the provisions of Arts. 792 to 799 inclusive and of other laws and ordinances.



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## ARTICLE 801

In cases Japanese subjects resident in a foreign country desire to effect an adoption of the one by the other, notification thereof may be made to the Japanese Ambassador, Minister or a Japanese Consul acting in that foreign country. In this case the provisions of Art. 739 and the preceding Article shall apply with the necessary modifications.

SUB-SECTION II  
NULLITY AND ANNULMENT OF ADOPTION

## ARTICLE 802

An adoption is void in the following cases only:

1. Where there is no intention to effect adoption common to the parties owing to a mistake as to the identity of the person or through any other cause;

2. Where the parties do not make notification of the adoption: but if the notification only fails to fulfill the conditions prescribed in Art. 739, para. 2, the validity of the adoption shall not be affected thereby.

## ARTICLE 803

An adoption cannot be annulled except in accordance with the provisions of Arts. 804 to 808 inclusive.

## ARTICLE 804

In the case of an adoption effected in contravention of the provisions of Art. 792, an application may be made to the Court for its annulment by the parent by adoption or his legal representative: but this shall not apply if six months have elapsed or if the parent by adoption has ratified it after having attained majority.

## ARTICLE 805

In the case of an adoption effected in contravention of the provisions of Art. 793, an application may be made to the Court for its annulment by either party thereto or any of each party's relatives.

## ARTICLE 806

In the case of an adoption effected in Contravention of Art. 794, an application may be made to the Court for its annulment by the adopted child or any of its relatives on the side of its original family; but this shall not apply if the adopted child has ratified it, or six months have elapsed, after the account of the management had been completed.

The ratification does not become effective unless made after the adopted child has attained majority or has recovered its capacity.

In cases where the account of the Management has been completed before the adopted child attains majority or recovers its capacity, the period specified in the proviso to the first paragraph shall be computed as from the time when the adopted child has attained majority or has recovered its capacity.



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## ARTICLE 807

In case of an adoption effected in contravention of the provisions of Article 798, an application may be made to the Court for its annulment by the adopted child or by any of its relatives on the side of its original family, or by the person who has assented to the adoption in place of the adopted child. But this shall not apply if six months have elapsed from the time when the adopted child attained to the majority, or if it has ratified the adoption.

## ARTICLE 808

The provisions of Arts. 747 and 748 shall apply with the necessary modifications to an adoption; but the period specified in Art. 747, para. 2 shall be one of six months.

The provisions of Arts. 769 and 816 shall apply with necessary modifications to the annulment of adoption.

SUB-SECTION III  
EFFECT OF ADOPTION

## ARTICLE 809

An adopted child acquires as from the day of adoption the status of a legitimate child of the parent by adoption.

## ARTICLE 810

An adopted child assumes the surname of the parent by adoption.

SUB-SECTION IV  
DISSOLUTION OF ADOPTIVE RELATION

## ARTICLE 811

The parties to an adoption may effect by agreement a dissolution of the adoptive relation.

If an adopted child is under fifteen years of age dissolution of adoptive relation may be effected by agreement between the parent by adoption and the person who would have the right to assent to an adoption in place of the adopted child.

If an adopted child desires to effect a dissolution of adoptive relation after the death of the parent by adoption, the child may effect it with the leave of the Court of Domestic Relations.

## ARTICLE 812

The provisions of Arts. 738, 739, 747 and Art. 808 paragraph 1, proviso shall apply with the necessary modifications to dissolution of adoptive relation by agreement.

## ARTICLE 813

The notification of dissolution of the adoptive relation may not be accepted unless the dissolution does not contravene the provisions of Art. 739, para. 2 and Art. 811 and of other laws of ordinances.



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The validity of a dissolution of the adoptive relation shall not be affected even when the otification has been accepted in contravention of the provisions of the preceding paragraph.

## ARTICLE 814

One of the parties to an adoption can bring an action for dissolution of adoptive relation in the following cases only:

1. If such party has been deserted maliciously by the other;
2. If it is unknown for three years or more whether the adopted child is alive or dead;
3. If there exist any other grave reason for which it is difficult for such party to continue the adoptive relation.

The provisions of Article 770, paragraph 2 shall apply with the necessary modification to the cases mentioned in any of items numbered 1 and 2 of the preceding paragraph.

## ARTICLE 815

So long as an adopted child has not completed its fifteenth year, any person who would have the right to assent to his adoption can bring an action for dissolution of adoptive relation.

## ARTICLE 816

An adopted child resumes, by reason of dissolution of the adoptive relation, the surname assumed by it before the adoption.

## ARTICLE 817

The provision of Article 769 shall apply with the necessary modifications to the case of dissolution of adoption.

CHAPTER IV  
PARENTAL POWERSECTION I  
GENERAL PROVISIONS

## ARTICLE 818

A child who had not yet attained majority is subject to the parental power of its father and mother.

If such child is an adopted one, it is subject to the parental power of its parents by adoption.

While father and mother are in matrimonial relation, they jointly exercise the parental power. But, if either the father or the mother is unable to exercise the parental power, the other parent exercises it.

## ARTICLE 819

If father and mother have effected divorce by agreement, they shall determine one of them to have the parental power by agreement.



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In cases of judicial divorce the Court determines a father or mother to have the parental power.

If the father and mother have effected divorce before the birth of child, the parental power is exercised by the mother. But the father and mother may determine the father to have the parental power by agreement after the birth of child.

The parental power over a child recognized by its father shall be exercised by its father, if and only if the father and mother determine the father to have the parental power by their agreement.

If no agreement mentioned in any of paras, 1 and 3 and preceding paragraph is reached or possible, the Court of Domestic Relations may render judgement in place of agreement on application of the father or mother.

If it deems necessary for the benefit of a child, the Court of Domestic Relations may transfer the parental power from one of parents to other on application of any relative of the child.

#### ARTICLE 820

A person who exercises parental power has the right and incurs the duty of providing for the custody and education of his or her child.

#### ARTICLE 821

A child must establish its place of residence in the place designated by the person who exercises parental power.

#### ARTICLE 822

A person who exercises parental power can, in so far as is necessary, personally chastise his or her child or, with the permission of the Court of Domestic Relations, can place it in a disciplinary institution.

The period for which a child is to be placed in a disciplinary institution shall be determined by the Court of Domestic Relations at not more than six months, but such period may be shortened at any time on the application of the person who exercises parental power.

#### ARTICLE 823

A child may not carry on an occupation unless with the permission of the person who exercises parental power.

In the case of Art. 6, para. 2 the person who exercises parental power may revoke or restrict the permission mentioned in the preceding paragraph.

#### ARTICLE 824

A person who exercises parental power manages the property of a child and represents the child in juristic acts concerning its property--in cases, however, where an obligation is to be created having for its subject any act of the child, the consent of the child itself must be obtained.



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## ARTICLE 825

In case either a father or mother who shall exercise parental power jointly with the other has performed a juristic act in place of the child or has given consent to its performance by the child, in the names of both of them the validity of such act shall not be affected thereby, even if it should be contrary to the intention of the other. But this shall not apply if the other party to such act was acting in bad faith.

## ARTICLE 826

In respect of acts in which the interests of a father or mother who exercises parental power conflict with those of his or her child, the person who exercises the parental power must apply to the Court of Domestic Relations for the appointment of a special representative on behalf of the child.

In case where a person who exercises parental power over two or more children the provisions of the preceding paragraph shall, on behalf of one party, apply with the necessary modifications in respect of acts in which the interests of one child conflict with those of the other or others.

## ARTICLE 827

A person who exercises parental power must exercise his or her right of management with the same care as he or she uses when acting on his or her own behalf.

## ARTICLE 828

When a child has attained majority, the person who has been exercising parental power must without delay render an account of the management; but the expenses of the maintenance of the child and of the management of the property on the one hand and the profits of the child's property on the other shall be deemed to have been set-off against each other.

## ARTICLE 829

If a third person who gratuitously transfers property to a child has declared an intention contrary to the provisions of the proviso to the preceding Article, they shall not apply to such property.

## ARTICLE 830

If a third person who gratuitously transfers property to a child has declared an intention not to permit its father or mother who exercises parental power to manage it, such property shall not come under the management of such father or mother.

If, in the case where neither the father nor mother has the right of management with respect to the property mentioned in the preceding paragraph, the third person has designated no manager, the Court of Domestic Relations shall appoint one on the application of the child, or any of its relatives or of a Public Procurator.

Even when the third person has designated a manager the same shall apply if, in cases where the powers of such manager have come to an end or it has become necessary to appoint another manager in his stead, the third person fails to appoint a manager anew.



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The provisions of Arts. 27 to 29 inclusive shall apply with the necessary modifications to the cases mentioned in the preceding two paragraphs.

## ARTICLE 831

The provisions of Arts. 654 and 655 shall apply with the necessary modifications to cases where a person who exercises parental power manages the property of the child, and also the case mentioned in the preceding Article.

## ARTICLE 832

Any obligatory right arising as between a person who has exercised parental power and the child, with respect to the management of the property, shall be extinguished by prescription if not exercised within five years from the time when the right of management became extinguished.

If the right of management has been extinguished and there is no legal representative of the child before the child attains majority, the period mentioned in the preceding paragraph shall be computed as from the time when the child has attained majority or a succeeding legal representative has assumed office.

## ARTICLE 833

A person who exercises parental power exercises, in place of the child subjected to his parental power, the parental power of such child.

SECTION III  
LOSS OF PARENTAL POWER

## ARTICLE 834

If a father or mother abuses parental power or is guilty of gross misconduct, the Court of Domestic Relations may, on the application of any of the child's relatives or of a Public Procurator, adjudge the forfeiture of the parental power.

## ARTICLE 835

If a father or mother who exercises parental power endangers by mismanagement the property of his or her child, the Court of Domestic Relations may, on the application of any of the child's relatives or of a Public Procurator, adjudge the forfeiture of the right of management.

## ARTICLE 836

If the causes mentioned in the preceding two Articles have ceased to exist, the Court of Domestic Relations may, on the application of the party concerned or of any of his relatives, revoke the adjudication of the forfeiture of the power of right.

## ARTICLE 837

A father or mother who exercises parental power may, where circumstances make it imperative, decline the exercise of parental power or the right of management with the leave of the Court of Domestic Relations.

If the circumstances mentioned in the preceding paragraph cease to exist, a father or mother may recover the parental power or the right of management with the leave of the Court of Domestic Relations.



FEC-RESTRICTEDCHAPTER V  
GUARDIANSHIPSECTION I  
COMMENCEMENT OF GUARDIANSHIP

## ARTICLE 838

Guardianship commences in any of the following cases:

1. If there is no one to exercise parental power over a minor, or if the person who exercises parental power has no right of management;
2. If an adjudication of incompetency has been made.

SECTION II  
ORGANS OF GUARDIANSHIPSUB-SECTION I  
GUARDIAN

## ARTICLE 839

The person who last exercises parental power over a minor can designate a guardian by will, unless such person has no right of management.

If either a father or mother who exercises parental power has no right of management, the other parent may designate a guardian in accordance with the provisions of the preceding paragraph.

## ARTICLE 840

If either husband or wife has been adjudged incompetent, the other spouse becomes his or her guardian.

## ARTICLE 841

If there is no person to become guardian in accordance with the provisions of the preceding two Articles, the Court of Domestic Relations shall appoint a guardian on the application of any of the ward's relatives or of any other persons interested. The same shall also apply in cases where a vacancy occurs in the position of guardian.

## ARTICLE 842

In case it has become necessary to appoint a guardian for the reason that a father or mother has declined to exercise his or her parental power or to manage the property, or that a father or mother has forfeited his or her parental power, such father or mother guardian must, without delay, apply to the Court of Domestic Relations for the appointment of a guardian.

## ARTICLE 843

There cannot be more than one guardian.

## ARTICLE 844

A guardian may, where any reasonable ground exists, resign his office with the leave of the Court of Domestic Relations.



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## ARTICLE 845

If any unjust act or gross misconduct has been done by a guardian, or there is any other ground for which a guardian is unfit to perform his duties the Court of Domestic Relations may remove such guardian from his office on the application of a supervisor of the guardian or of any of the ward's relatives.

## ARTICLE 846

None of the persons mentioned below can become a guardian:

1. A minor;
2. A person adjudged incompetent or quasie incompetent;
3. A legal representative or curator who has been removed by the Court of Domestic Relations;
4. A bankrupt;
5. A person who brings or has brought an action against the ward, or the spouse of any of the lineal relatives by blood of such person;
6. A person whose whereabouts is unknown.

## ARTICLE 847

The provisions of Arts. 840 to 846 inclusive shall apply with the necessary modifications to a curator.

In respect of acts in which the interests of a curator or the person whom he represents conflict with those of the person adjudged incompetent, the curator must apply to the Court of Domestic Relations for the appointment of a curator ad hoc.

SUB-SECTION II  
SUPERVISOR OF GUARDIAN

## ARTICLE 848

A person who can designate a guardian can designate by will a supervisor of the guardian.

## ARTICLE 849

In cases where no supervisor of the guardian is designated in accordance with the provisions of the preceding Article, the Court of Domestic Relations may, if it deems necessary, appoint a supervisor of the guardian on the application of any of the ward's relatives or of the guardian. The same shall also apply in cases where a vacancy occurs in the position of a supervisor of the guardian.

## ARTICLE 850

The spouse, the lineal relatives by blood and the brothers and sisters of a guardian cannot become a supervisor of the guardian.

## ARTICLE 851

The duties of a supervisor of the guardian are as follows:

1. To supervise the conduct of the affairs by the guardian;



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2. In case a vacancy occurs in the position of guardian, to apply to the Court of Domestic Relations for the appointment of a guardian;

3. To adopt such measures as may be necessary in cases where circumstances of urgency exist;

4. To represent the ward in respect of acts in which the interests of the guardian or any person whom he represents conflict with those of the ward.

## ARTICLE 852

The provisions of Arts. 644 and 844 to 846 shall apply with the necessary modifications to a supervisor of the guardian.

SECTION III  
FUNCTIONS OF GUARDIANSHIP

## ARTICLE 853

A guardian must without delay enter upon a survey of the ward's property, and must complete such survey and prepare an inventory of such property within one month but this period may be extended by the Court of Domestic Relations.

The survey of property and the preparation of the inventory thereof are of no effect unless conducted in case there is a supervisor of the guardian, in his presence.

## ARTICLE 854

Until a guardian has completed the preparation of the inventory, he has authority to do acts of urgent necessity only; but this cannot be set up against a third person acting in good faith.

## ARTICLE 855

If, in cases where a guardian possesses an obligatory right as against, or is under an obligation towards, the wards, there is a supervisor of the guardian, he must make a report thereof to the supervisor of the guardian before he enters upon the survey of the property.

If a guardian, notwithstanding that he is aware of the fact that he possesses an obligatory right as against the ward, fails to make a report thereof, then he forfeits such obligatory right.

## ARTICLE 856

The provisions of the preceding three Articles shall apply with the necessary modifications to cases in which the ward has acquired property by a universal title after the guardian has assumed office.

## ARTICLE 857

The guardian of a minor has, with regard to the matters mentioned in Arts. 820 to 823 inclusive the same rights and duties as a person who exercises parental power; but he must obtain the consent of the supervisor of the guardian if there is any, in order to change the mode of education or the place of residence determined by the father or mother who exercised parental power, to place the minor in a disciplinary institution, to permit him to carry on business or to revoke or to restrict such permission.



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## ARTICLE 858

The guardian of a person adjudged incompetent must be diligent in the medical treatment and care of the person adjudged incompetent, according to the latter's financial capacity.

In order to place a person adjudged incompetent in a lunatic asylum or any other similar institution or to put such a person under restraint in a private house, it is required to obtain the leave of the Court of Domestic Relations.

## ARTICLE 859

A guardian manages the ward's property and represents the ward in juristic acts concerning the latter's property.

The provisions of the proviso to Art. 824 shall apply with the necessary modifications to the case mentioned in the preceding paragraph.

## ARTICLE 860

The provisions of Article 826 shall apply with the necessary modifications to guardian, excepting, however, the case where there is a supervisor of the guardian.

## ARTICLE 861

A guardian must, on assuming office, estimate the amount of money to be expended annually for the livelihood, the education, the medical treatment and care of the ward and for the management of his property.

## ARTICLE 862

The Court of Domestic Relations may allow reasonable remuneration to the guardian out of the ward's property having regard to the financial capacity of the guardian and the ward and other circumstances.

## ARTICLE 863

At any time, a supervisor of the guardian or the Court of Domestic Relations may demand a guardian to report his guardianship affairs or to submit the inventory, or may investigate such affairs or the state of the ward's property.

The Court of Domestic Relations may, on the application of a supervisor of the guardian, of any of the ward's relatives or of any other persons interested, or of its own motion, order such dispositions as may be necessary for the management of the ward's property or other guardianship affairs.

## ARTICLE 864

A guardian must obtain, in case there is a supervisor of the guardian, his consent in order to conduct business or to do any of the acts mentioned in Art. 12, para. 1 in place of the ward, or to give consent to its performance by the minor; but this shall not apply to the receipt of capital.

## ARTICLE 865

Any act done or consented to by a guardian in contravention of the provisions of the preceding Article may be avoided by the ward or by the guardian; in this case the provisions of Art. 19 shall apply with the necessary modifications.



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The provisions of the preceding two paragraphs shall not preclude the application of Articles 121 to 126,

## ARTICLE 866

If a guardian has acquired by assignment the ward's property of a third person's right as against the ward, the ward may avoid the assignment. In this case the provisions of Art. 19 shall apply with the necessary modifications.

The provisions of the preceding paragraph shall not preclude the application of the provisions of Arts. 121 to 126 inclusive.

## ARTICLE 867

A guardian exercises parental power in place of a minor.

The provisions of Arts. 853 to 857 and 861 to 866 inclusive shall apply with the necessary modifications to the cases mentioned in the preceding paragraph.

## ARTICLE 868

In cases where the person who exercises parental power does not possess the right of management, the guardian possesses only such powers as relate to the property.

## ARTICLE 869

The provisions of Arts. 644 and 830 shall apply with the necessary modifications to guardianship.

## SECTION IV

## TERMINATION OF GUARDIANSHIP

## ARTICLE 870

When the duties of a guardian have terminated, the guardian or his successor must render an account of his management within two months, but such period may be extended by the Court of Domestic Relations.

## ARTICLE 871

The accounts of the guardianship must be made up, in case there is a supervisor of the guardian, in his presence.

## ARTICLE 872

Any contract entered into between a minor and the guardian or his successor, after the former has attained majority but before the accounts of the guardianship have been completed may be avoided by the former. The same shall apply to any unilateral act effected by such person towards the guardian or his successor.



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The provisions of Arts. 19 and 121 to 126 inclusive shall apply with the necessary modifications to the cases mentioned in the preceding paragraph.

## ARTICLE 873

Money to be returned by a guardian to the ward or by a ward to the guardian shall bear interest as from the time when the accounts of the guardianship has been completed.

If a guardian has expended the ward's money on his own behalf, such money shall bear interest as from the time of the expenditure, and if there has been any damage, he is bound also to make compensation for it.

## ARTICLE 874

The provisions of Arts. 654 and 655 shall apply with the necessary modifications to guardianship.

## ARTICLE 875

The prescription provided in Art. 832 shall apply with the necessary modifications to obligatory rights which have arisen in respect to guardianship as between the guardian or the supervisor of the guardian and the ward.

In cases where a juristic act has been avoided in accordance with the provisions of Art. 872, the prescription mentioned in the preceding paragraph shall be computed as from the time of the avoidance.

## ARTICLE 876

The provisions of para. 1 of the preceding Article shall apply with the necessary modifications as between a curator and a person adjudged quasi-incompetent.

## CHAPTER VI

## SUPPORT

## ARTICLE 877

The lineal relatives by blood and brothers and sisters shall be under duty to furnish support each other.

If there are special circumstances, the Court of Domestic Relations may impose a duty to furnish support as between the relatives within the third degree other than those mentioned in the preceding paragraph.

If, after the decision pursuant to the provisions of the preceding paragraph had been rendered, any change has taken place in the circumstances, the Court of Domestic Relations may revoke the decision.

## ARTICLE 878

If, in cases where there exist two or more persons under a duty to furnish support, no agreement is reached or possible between the parties with respect to the order in which they are to furnish support, such order shall be determined by the Court of Domestic Relations. If, in cases where there exist two or more persons entitled to support, the financial capacity of the person who is under duty to furnish support is insufficient to support all of them, the same as provided above shall also apply with respect to the order in which they receive support.



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## ARTICLE 879

If no agreement is reached or possible between the parties concerned with respect to the extent and mode of support, the Court of Domestic Relations shall determine such matters, taking into account the needs of the person entitled to support, the financial capacity of the person under duty to support and all other circumstances.

## ARTICLE 880

If after an agreement had been arrived at or a decision rendered with respect to the order in which the persons who are under duty to furnish support are to furnish support or in which the persons entitled to support are to receive support on the extent and mode of support any change has taken place in the circumstances, the Court of Domestic Relations may alter or revoke the agreement or the decision.

## ARTICLE 881

The right to be supported cannot be the subject of disposition.

BOOK V  
SUCCESSIONCHAPTER I  
GENERAL PROVISIONS

## ARTICLE 882

Succession is opened by reason of death.

## ARTICLE 883

Succession is opened at the permanent residence of the person to be succeeded to.

## ARTICLE 884

The right to demand recovery of succession shall be extinguished by prescription, if it is not exercised within five years from the time the successor or his legal representative became aware of the facts constituting a violence of the right of succession. The same shall also apply if twenty years have elapsed from the time of the opening of the succession.

## ARTICLE 885

Expenses relating to the property succeeded to shall be defrayed out of such property, excepting, however, such as are caused by the negligence of the successor.

A person entitled to a legally secured portion cannot be compelled to defray the expenses mentioned in the preceding paragraph out of any property acquired by him through an abatement of gifts.

CHAPTER II  
SUCCESSORS

## ARTICLE 886

A child on ventre sa mere shall in respect of succession be deemed to have been already born.



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The provisions of the preceding paragraph shall not apply in cases where the child en ventre sa mere is born dead.

## ARTICLE 887

The lineal descendants of a person to be succeeded to become successors in accordance with the following provisions:

1. As between persons standing in different degrees of relationship, those nearer in degree are preferred;
2. Persons standing in the same degree of relationship become successors in the same rank.

## ARTICLE 888

If, in cases where a person who would become successor in accordance with the provisions of the preceding Article dies or loses his right of succession previous to the opening of the succession, there exist lineal descendants of such person, the lineal descendants become successors in the same rank as that person, in accordance with the provisions of the preceding Article.

For the application of the provisions of the preceding paragraph, a child en ventre sa mere shall be deemed to have been already born, except however, in case where it is born dead.

## ARTICLE 889

In cases where there exists no person who is to become successor in accordance with the provisions of the preceding two Articles, the persons mentioned below become successors in the order stated therein:

- I. Lineal ascendants;
- II. Brothers and sisters.

In the case mentioned in number first of the preceding paragraph, the provisions of Article 887, and in the case mentioned in number second thereof, those of Article 887, item numbered 2 and of the preceding Article shall respectively apply with the necessary modifications.

## ARTICLE 890

The spouse of a person succeeded to becomes, in every case, a successor. In the case, there is any person who is to become successor in accordance with the provisions of the preceding three Articles, the order of succession of the spouse shall be in the same rank with such person.

## ARTICLE 891

None of the persons mentioned below can become an successor

1. Any person who has been sentenced to punishment for having intentionally caused or attempted to cause the death of the person to be succeeded to, or of any person who has a prior or the same rank with respect to the succession;
2. Any person who, knowing that the person to be succeeded to has been killed by homicide, has omitted to give information on or to bring a formal charge, except when such person has no



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capacity to discern right and wrong, or when the guilty party is the spouse or a lineal relative by blood of such person;

3. Any person who has by fraud or duress prevented the person to be succeeded to from making, revoking or altering a will relating to the succession;

4. Any person who has by fraud or duress induced the person to be succeeded to make, revoke or alter a will relating to the succession;

5. Any person who has forged, altered, destroyed, or concealed a will of the person to be succeeded to relating to the succession.

## ARTICLE 892

In case a presumptive successor who is entitled to a legally secured portion has treated the person to be succeeded to with cruelty or has offered him a gross insult, or in case a presumptive successor has been guilty of any other gross misconduct, the latter may apply to the Court of Domestic Relations for the disinheritance of such presumptive successor.

## ARTICLE 893

In case a person to be succeeded to has declared by will his intention to disinherit the presumptive successor, the executor of will must apply to the Court of Domestic Relations for the disinheritance without delay after the will has become effective. In this case, the disinheritance shall be effective retroactively as from the time of the death of the person succeeded to.

## ARTICLE 894

A person to be succeeded to may at any time apply to the Court of Domestic Relations for the revocation of the disinheritance of a presumptive successor.

The provisions of the preceding Article shall apply with the necessary modifications to annulment of disinheritance.

## ARTICLE 895

If succession is opened after an application has been made for the disinheritance of a presumptive successor or for the revocation thereof, but before the decision on such application has become final and conclusive, the Court of Domestic Relations may, on the application of any relative or any person interested, or of a public Procurator, order such disposition as may be necessary for the management of the estate. The same shall also apply when there exists a will disinheriting a successor.

In case where the Court of Domestic Relations has appointed an administrator, the provisions of Articles 27 to 29 shall apply with the necessary modifications.

CHAPTER III  
EFFECT OF SUCCESSIONSECTION I  
GENERAL PROVISIONS

## ARTICLE 896

A successor succeeds, as from the time of the opening of the



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succession, to all the rights and duties pertaining to the property of the person succeeded to except such as are entirely personal to that person.

## ARTICLE 897

Notwithstanding the provisions of the preceding Article, the ownership of genealogical records, of utensils for religious rites and of tombs and burial grounds is succeeded to by the person who, according to custom, is to hold as a president the worship to the memory of the ancestors. If, however, the person succeeded to has designated the person who is to hold as a president the worship to the memory of the ancestors, such person shall succeed to that ownership.

If in the case mentioned in the former sentence of the preceding paragraph the custom is unknown, the person who is to succeed to the right mentioned in the preceding paragraph shall be determined by the Court of Domestic Relations.

## ARTICLE 898

In case there exist two or more successors the property succeeded to is in their co-ownership.

## ARTICLE 899

Each co-successor succeeds to the rights and duties of the person succeeded to in proportion to his share in the succession.

SECTION II  
SHARES IN A SUCCESSION

## ARTICLE 900

If there exist two or more successors in the same rank, their shares in the succession shall be determined in accordance with the following provisions:

1. Where lineal descendants and a spouse are successors, their shares in the succession of the lineal descendants shall, in all, be two thirds, and that of the spouse shall be one third.
2. Where the spouse and lineal ascendants are successors, the share in the succession of the spouse and of the lineal ascendants shall respectively be one half.
3. Where the spouse and brothers and sisters are successors the share in the succession of the spouse shall be two thirds and those of the brothers and sisters shall be one third.
4. Where there exist two or more lineal descendants, or lineal ascendants, or brothers and sisters, their respective shares in the succession shall be equal. But, the share in the succession of lineal descendant who is not legitimate shall be one half of that of a legitimate lineal descendant, and the share in the succession of any of the brothers and sisters whose father or mother alone is the same with that of the person succeeded to, shall be one half of the share of any of the brothers and sisters whose father and mother both are the same with those of the person succeeded to.

## ARTICLE 901

The share in a succession of a lineal descendant is a successor in accordance with the provisions Art. 888 shall be the



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same as that which would have been received by his lineal ascendant but in case there exist two or more lineal descendants their shares in the succession shall, in respect of the share which would have been received by the lineal ascendant of each of them, be determined in accordance with the provisions of the preceding Article.

The provisions of the preceding paragraph shall apply with the necessary modifications in cases where a lineal descendant of brothers and sisters is a successor in accordance with the provisions of Article 889, paragraph 2.

## ARTICLE 902

A person to be succeeded to may, notwithstanding the provisions of the preceding two Articles, by will determine the shares of co-successors of commission a third person to determine them but neither the person to be succeeded to nor the third person may contravene the provisions relating to legally secured portions.

In case a person to be succeeded to has determined or caused to be determined the share of the other co-successors shall be determined in accordance with the preceding two Articles.

## ARTICLE 903

In case any of the co-successors has received from the person to be succeeded to a testamentary gift, or a gift for the purpose of his marriage, adoption, or as a means of livelihood, the value of the property owned by the person to be succeeded to at the time of the opening of the succession plus the value of such gift shall be deemed to be the property succeeded to, and the amount remaining after deducting the value of the gift, whether testamentary or not, from what would have been his share in the succession, as computed in accordance with the provisions of the preceding three Articles, shall constitute his share in the succession.

If the value of the gift, whether testamentary or not, equal or exceeds the value of the share in the succession, the donee may not receive such share.

If the person to be succeeded to has declared any intention different from the provisions of the preceding two paragraphs, such declaration of intention shall be effective in so far as it does not contravene the provisions relating to legally secured portions.

## ARTICLE 904

The value of gift mentioned in the preceding Article shall be determined by treating the property which forms the subject of the same as if it still existed in its original condition at the time of the opening of the succession, even if it has been lost or increased or decreased in value by an act of the donee.

## ARTICLE 905

In case one of the co-successors assigns his share in the succession to a third person before partition, other co-successor may have such share in the succession assigned to them upon effecting a reimbursement of its value and expenses.

The right mentioned in the preceding paragraph must be exercised within one month.



FEC-RESTRICTEDSECTION III  
PARTITION OF ESTATE

## ARTICLE 906

For effecting partition of estate, the kind and nature of the things or rights constituting the estate, the profession of each successor and all other circumstances shall be taken into account.

## ARTICLE 907

Except the case where partition of estate has been forbidden by the will of the person succeeded to in accordance with the provisions of Article 908, co-successors may, at any time, effect the partition of the estate by their agreement.

If no agreement is reached or possible between the co-successors for partition of the estate, each co-successor may apply to the Court of Domestic Relations for its partition.

If, in the case mentioned in the preceding paragraph, any special reason exists, the Court of Domestic Relations may forbid partition of all or a part of estate for a fixed period.

## ARTICLE 908

A person to be succeeded to may by will determine, or commission a third person to determine, the mode of partition, or forbid partition for a period not exceeding five years from the time of the opening of the succession.

## ARTICLE 909

Partition of estate shall be effective retroactively as from the time of the opening of the succession, but nothing in this Article shall prejudice any of the rights of third persons.

## ARTICLE 910

If, in cases where a person who has become successor by acknowledgment after the opening of the succession applies for the partition of estate, other co-successors have already effected the partition or other dispositions, he may claim only the payment of the value of the estate to which he is entitled.

## ARTICLE 911

Each co-successor shall in proportion to his share in the succession bear the same liability for warranty as that of a seller towards other co-successors.

## ARTICLE 912

Each co-successor shall in proportion to his share in the succession warrant the solvency of the obligor as at the time of partition in regard to obligations acquired by other co-successors through partition.

In regard to an obligation which is not yet due or an obligation subject to a suspensive condition each co-successor warrants the solvency of the obligor as at the time when performance is to be effected.

## ARTICLE 913

If any of the co-successors who incur a liability for warranty has not sufficient means to effect reimbursement, the



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part which he is unable to reimburse shall be borne by the person demanding reimbursement and the other solvent successors in proportion to their respective shares in the succession; but in case the party demanding reimbursement is in fault, he cannot demand that the other co-successors shall bear their proportions.

## ARTICLE 914

The provisions of the preceding three Articles shall not apply where the person to be succeeded to has declared any different intention by will.

CHAPTER IV  
ACCEPTANCE AND RENUNCIATION OF SUCCESSIONSECTION I  
GENERAL PROVISIONS

## ARTICLE 915

A successor must, within three months from the time when he became aware that the succession had been opened in his favor, effect an acceptance, either absolute or qualified, or a renunciation; but such period may be extended by the Court of Domestic Relations on the application of any person interested or of a Public Procurator.

A successor may make a survey of the property to be succeeded to before effecting acceptance or renunciation.

## ARTICLE 916

In case a successor dies without effecting either acceptance or renunciation, the period mentioned in para. 1 of the preceding Article shall be computed as from the time when his successor became aware that the succession had been opened in his favor.

## ARTICLE 917

In case a successor is a person under disability, the period mentioned in Art. 915, para. 1, shall be computed as from the time when his legal representative became aware that the succession had been opened in favor of the person under disability.

## ARTICLE 918

A successor must manage the property succeeded to with the same care as he uses in respect of his individual property, except when he has effected either acceptance or renunciation.

The Court of Domestic Relations may, on the application of any person interested or of a Public Procurator, at any time order the adoption of such measures as may be necessary for the management of the property succeeded to.

In cases where the Court of Domestic Relations appoints an administrator the provisions of Arts. 27 to 29 inclusive shall apply with the necessary modifications.

## ARTICLE 919

Acceptance and renunciation cannot be revoked even within the period mentioned in Art. 915, para. 1.

The provisions of the preceding paragraph shall not preclude



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the avoidance of acceptance or renunciation in accordance with the provisions of Book I and the preceding Book; but such right of avoidance shall be extinguished by prescription, if it is not exercised within six months from the time when it became possible to effect ratification, or if ten years have elapsed from the time of the acceptance or renunciation.

SECTION II  
ACCEPTANCESUB-SECTION I  
ABSOLUTE ACCEPTANCE

## ARTICLE 920

If a successor effects an absolute acceptance he succeeds without limitation to the rights and duties of the person succeeded to.

## ARTICLE 921

If the cases mentioned below a successor shall be deemed to have effected an absolute acceptance:

1. If he has disposed of the whole or part of the property succeeded to, but this shall not apply to effecting an act of preservation or a lease for any period not longer than those specified in Art. 602;

2. If he fails to effect either a qualified acceptance or a renunciation within the period mentioned in Art. 915, para. 1;

3. If, even after having effected a qualified acceptance or a renunciation, he has concealed or secretly consumed, or failed in bad faith to enter in the inventory, the whole or part of the property succeeded to; but this shall not apply after an acceptance has been effected by a person who has become successor in consequence of his having effected a renunciation.

SUB-SECTION II  
QUALIFIED ACCEPTANCE

## ARTICLE 922

A successor may effect an acceptance with the reservation that he shall perform the obligations and testamentary gift of the person succeeded to only to the extent of the property acquired through the succession.

## ARTICLE 923

If there exist two or more successors, qualified acceptance may be effected merely by joint acts of all co-successors.

## ARTICLE 924

If a successor desires to effect a qualified acceptance he must prepare an inventory within the period mentioned in Art. 915, para. 1 and present it to the Court of Domestic Relations with a declaration that he effects a qualified acceptance.

## ARTICLE 925

In case a successor effects a qualified acceptance any right and duties which he had towards the person succeeded to shall be deemed not to have been extinguished.



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## ARTICLE 926

A qualified acceptor must continue to manage the property succeeded to with the same care as he uses in respect of his individual property.

The provisions of Arts. 645, 646, 650 paras. 1 and 3, and Art. 918 paras. 2 and 3 shall apply with the necessary modifications to the case contemplated in the preceding paragraph.

## ARTICLE 927

A qualified acceptor must, within five days after he has effected the qualified acceptance, give public notice to all obligees of the person succeeded to and to all testamentary donees to the effect that he has effected a qualified acceptance and that they are called upon to present their claims within a specified period which must not be less than two months.

The provisions of Art. 79, paras. 2 and 3 shall apply with the necessary modifications to the case contemplated in the preceding paragraph.

## ARTICLE 928

A qualified acceptor may refuse performance to obligees of the person succeeded to and to testamentary donees until the expiration of the period mentioned in para. 1 of the preceding Article.

## ARTICLE 929

Upon the expiration of the period mentioned in Article 927, para. 1, a qualified acceptor must effect performance to those obligees who have presented their claims within such period and to all other obligees known to him, in proportion to the amounts of their respective obligations, out of the property succeeded to; but the rights of obligees who have priority may not be prejudiced thereby.

## ARTICLE 930

A qualified acceptor must perform in accordance with the provisions of the preceding Article even those obligations which are not yet due.

Conditional obligations and obligations of uncertain duration must be performed according to the valuation of an expert appointed by the Court of Domestic Relations.

## ARTICLE 931

A qualified acceptor may not effect performance to testamentary donees until after he has effected performance to each obligee in accordance with the provisions of the preceding two Articles.

## ARTICLE 932

In case it is found necessary to sell the property succeeded to in order to effect performance in conformity with the provisions of the preceding three Articles, a qualified acceptor must offer it for sale by official auction, but he may dispense with the sale by official auction of the whole or part of the property succeeded to upon paying the value thereof according to the valuation of an expert appointed by the Court of Domestic Relations.



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## ARTICLE 933

An obligee of a person succeeded to or a testamentary donee may at his own expense intervene in the sale by official auction or the valuation of the property succeeded to. In this case the provisions of Art. 260, para. 2 shall apply with the necessary modifications.

## ARTICLE 934

If a qualified acceptor has neglected to give the public or peremptory notice as prescribed in Art. 927 or has effected performance to some obligees or testamentary donees within the period mentioned in para. 1 of the same Article, and in consequence has become unable to effect performance to the other obligees or testamentary donees, he shall be bound to make compensation for any damage arising therefrom. The same shall apply where performance has been effected in contravention of any of the provisions of Arts. 929 to 931 inclusive.

The provisions of the preceding paragraph shall not prejudice the right of the other obligees or testamentary donees to demand reimbursement from such obligees or testamentary donees as have improperly received performance with knowledge of the circumstances.

The provisions of Art. 724 shall also apply in the cases of the preceding two paragraphs.

## ARTICLE 935

Obligees and testamentary donees who have failed to present their claims within the period mentioned in Art. 927, para. 1 and who were unknown to the qualified acceptor can exercise their rights with respect to the surplus assets only, except those who have special securities in respect to the property succeeded to.

## ARTICLE 936

In case there exist two or more successors, the Court of Domestic Relations must appoint an administrator of the property to be succeeded to from among the successors.

The administrator manages the property to be succeeded to, and does all acts necessary for performing obligations on behalf of, and in place of the successors.

The provisions of Articles 926 to 935 inclusive shall apply with necessary modifications to the administrator; but the period to give public notice prescribed in the first paragraph of Article 927 shall be within ten days as from the time when the administrator was appointed.

## ARTICLE 937

If there exists any of the grounds mentioned in item numbered 1 or 3 of Article 921 with regard to one or several of the co-successors who effected an qualified acceptance, an obligee of a person succeeded to may exercise the right over such co-successor's in proportion his (their) share (s) in the succession in respect of the amounts of obligations which have not been satisfied out of the property succeeded to.

SECTION III  
RENUNCIATION



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## ARTICLE 938

A person who desires to effect a renunciation of a succession must make a declaration to the Court of Domestic Relations to that effect.

## ARTICLE 939

Renunciation shall be effective retroactively as from the time of the opening of the succession.

If, in cases where there exist two or more successors, one of them has effected a renunciation, his share in the succession devolves on the other successors in proportion to their respective shares therein.

## ARTICLE 940

A person who has effected a renunciation of a succession must continue to manage the property succeeded to with the same care as he uses in respect of his own property until the person who becomes successor by reason of his renunciation is able to commence the management of the property.

The provisions of Arts. 645, 646, 650 paras. 1 and 2, and Art. 918 paras. 2 and 3 shall apply with the necessary modifications to the case contemplated in the preceding paragraph.

CHAPTER V  
SEPARATION OF PROPERTY

## ARTICLE 941

An obligee of a person succeeded to or a testamentary donee may, within three months from the time of the opening of the succession, apply to the Court of Domestic Relations for the separation of the property succeeded to from the property of the successor. The same shall apply even after the expiration of that period so long as the property succeeded to has not been intermingled with the successor's individual property.

If the Court of Domestic Relations has ordered a separation of property on an application as mentioned in the preceding paragraph, the person who made such application must, within five days, give public notice to the other obligees of the person succeeded to and to testamentary donees to the effect that an order for a separation of property has been made and that they are called upon to claim to intervene in the distribution within a specified period which must not be less than two months.

## ARTICLE 942

A person who has applied for a separation of property and those who have claimed to intervene in the distribution in accordance with the provisions of para. 2 of the preceding Article shall receive performance out of the property succeeded to in preference to the obligees of the successor.

## ARTICLE 943

In case an application has been made for a separation of property the Court of Domestic Relations may order the adoption of such measures as may be necessary for the management of the property succeeded to.



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In cases where the Court of Domestic Relations has appointed an administrator, the provisions of Arts. 27 to 29 inclusive shall apply with the necessary modifications.

## ARTICLE 944

If, even after a successor has effected an absolute acceptance, an application is made for a separation of property, the successor must thenceforth manage the property succeeded to with the same care as he uses in respect of his individual property except when an administrator has been appointed by the Court of Domestic Relations.

The provisions of Arts. 645 to 647 inclusive and Art. 650, paras. 1 and 2 shall apply with the necessary modifications to the case mentioned in the preceding paragraph.

## ARTICLE 945

As regards immovables a separation of property cannot be set up against a third person until it has been registered.

## ARTICLE 946

The provisions of Art. 304 shall apply with the necessary modifications to the case of a separation of property.

## ARTICLE 947

A successor may refuse performance to obligees of the person succeeded to and to testamentary donees until the expiration of the periods mentioned in Art. 941, paras. 1 and 2.

In case an application for a separation of property has been made, the successor must, upon the expiration of the period mentioned in Art. 941, para. 2, effect performance, out of the property succeeded to those obligees and testamentary donees who applied for the separation of property or claimed to intervene in the distribution in proportion to their respective obligations; but the rights of obligees who have priority may not be prejudiced thereby.

The provisions of Arts. 930 to 934 inclusive shall apply with the necessary modifications to the case mentioned in the preceding paragraph.

## ARTICLE 948

A person who applied for a separation of property or claimed to intervene in the distribution can exercise his rights with respect to the successor's individual property only in cases where he could not receive full performance out of the property succeeded to. In this case the obligees of the successor can receive performance in preference to such person.

## ARTICLE 949

A successor can prevent an application for a separation of property or extinguish its effect by effecting performance to the obligees of the person succeeded to and to testamentary donees out of his individual property or by furnishing adequate security to them; but this shall not apply where any obligee of the person succeeded to raises an objection with proof that he will thereby sustain damage.



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## ARTICLE 950

So long as a successor is at liberty to effect a qualified acceptance or the property succeeded to is not intermingled with the successor's individual property, his obligees may apply to the court of Domestic Relations for a separation of property.

The provisions of Arts. 304, 925, 927 to 934 inclusive, 943 to 945 inclusive and 948 shall apply with the necessary modifications to the case mentioned in the preceding paragraph but the public and peremptory notice as prescribed in Art. 927 must be given by the obligee who has applied for the separation of property.

CHAPTER VI  
DEFAULT OF SUCCESSORS

## ARTICLE 951

It is unknown whether or not there exists a successor, the property to be succeeded to shall constitute a juristic person.

## ARTICLE 952

In the case mentioned in the preceding Article the Court of Domestic Relations must, on the application of any person interested or of a Public Procurator, appoint an administrator of the property to be succeeded to.

The Court of Domestic Relations must without delay give public notice of the appointment of the administrator.

## ARTICLE 953

The provisions of Arts. 27 to 29 inclusive shall apply with the necessary modifications to an administrator of the property to be succeeded to.

## ARTICLE 954

If a demand is made by any of the obligees of the person to be succeeded to or of the testamentary donees, the administrator must report to such persons on the condition of the property to be succeeded to.

## ARTICLE 955

If it becomes known that there exists a successor the juristic person shall be deemed never to have existed, provided that the validity of acts done by the administrator within the scope of his authority shall not be effected thereby.

## ARTICLE 956

The power of representation of an administrator shall be extinguished at the time when a successor effects an acceptance of succession.

In the case mentioned in the preceding paragraph the administrator must without delay render an account of the management to the successor.

## ARTICLE 957

If it does not, within two months after the public notice prescribed in Art. 952, para. 2 has been given, becomes known



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that there exists a successor, the administrator must without delay give public notice to all obligees of the person to be succeeded to and to all testamentary donees, calling upon them to present their claims within a specified period which must not be less than two months.

The provisions of Art. 79, paras. 2 and 3, and Arts. 928 to 935 inclusive, except those of the proviso to Art. 932, shall apply with the necessary modifications to the case mentioned in the preceding paragraph.

## ARTICLE 958

If, even after the expiration of the period mentioned in para. 1 of the preceding Article, it is still unknown whether there exists any successor, the Court of Domestic Relations must, on the application of the administrator or of a Public Procurator give public notice calling upon the successor, if any, to assert his right within a specified period which must not be less than one year.

## ARTICLE 959

If no one asserts his rights as successor within the period mentioned in the preceding Article, the property to be succeeded to shall devolve on the National Treasury. In such case the provisions of Art. 956, para. 2 shall apply with the necessary modifications.

Obligees of the person to be succeeded to and testamentary donees cannot exercise their rights as against the National Treasury.

CHAPTER VII  
WILLSSECTION I  
GENERAL PROVISIONS

## ARTICLE 960

No will can be made otherwise than in conformity with the forms prescribed in this Code.

## ARTICLE 961

Any person who has completed his fifteenth year may make a will.

## ARTICLE 962

The provisions of Art. 4, 9 and 12 shall not apply to a will

## ARTICLE 963

A testator must at the time of making a will be invested with capacity to do so.

## ARTICLE 964

A testator may make a disposition of the whole or part of his property under either a universal or special title; but provisions relating to legally secured portions may not be contravened.



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## ARTICLE 965

The provisions of Arts. 886 and 891 shall apply with the necessary modifications to testamentary donees.

## ARTICLE 966

If, before the accounts of a guardianship have been completed, the ward makes a will under which the guardian, his spouse or any of his lineal descendants is to take a benefit, such will shall be void.

The provisions of the preceding paragraph shall not apply in cases where a lineal relative by blood, the spouse, or a brother or sister is the guardian.

SECTION II  
FORMS OF WILLSSUB-SECTION I  
ORDINARY FORMS

## ARTICLE 967

A will must be made by means of a holographic, or a notarial or a secret document, except when resort to special forms is permitted..

## ARTICLE 968

In order to make a will by a holographic document, the testator must write with his own hand the whole text, the date and his full name and must affix his seal thereto.

Any insertion, deletion or other alteration in a holographic document shall be ineffective unless the testator indicates the place thereof, makes an additional entry to the effect that an alteration has been made, specially adds his signature to such entry and also affixes his seal at the place of alteration.

## ARTICLE 969

In order to make a will by a notarial document, the following formalities must be complied with:

1. That two or more witnesses are present;
2. That the testator orally declares the tenor of the will to a notary;
3. That the notary writes down the testator's oral statement and reads it to the testator and the witnesses;
4. That the testator and each of the witnesses affix their signatures and seals to the writing after acknowledging it to be correct; but in cases where the testator is unable to sign the notary may make an additional entry of the fact in substitution for the signatures.
5. That the notary makes an additional entry to the effect that the document has been drawn up in compliance with the formalities specified under the preceding four heads and affixes signature and seal thereto.



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## ARTICLE 970

In order to make a will by a secret document, the following formalities must be complied with:

1. That the testator affixed his signature and seal to the document;
2. That the testator closes up the document and seals the cover with the same seal as he has used upon the document;
3. That the testator produces the sealed document before a notary and at least two witnesses and declares that it is his testamentary document and also declares the full name and permanent residence of the writer thereof;
4. That, after the notary has written down on the sealed cover the date of the production of the document and the declaration of the testator, he, the testator and the witnesses affix their signatures and settle thereto.

The provisions of Art. 968, para. 2 shall apply with the necessary modifications to a will made by a secret document.

## ARTICLE 971

Even if a will made by a secret document is defective as regards the formalities prescribed in the preceding Article it shall be valid as a will made by a holographic document if it fulfills the formalities specified in Art. 968.

## ARTICLE 972

In cases where a person who is unable to speak makes a will by a secret document, the testator must, in substitution for the declaration mentioned in Art. 970, para. 1, No. 3, write with his own hand in the presence of the notary and of the witnesses on the sealed cover a statement that the document is his testamentary one and also the full name and permanent residence of the writer thereof.

The notary must write on the sealed cover, in substitution for writing the declaration, a statement that the testator has complied with the formalities prescribed in the preceding paragraph.

## ARTICLE 973

In order to enable a person adjudged incompetent to make a will during a lucid interval, at least two medical practitioners must be present.

The medical practitioners present at the making of the will must make an additional entry upon the testamentary document to the effect that the testator was not in a condition of mental unsoundness at the time when he made the will and must affix their signatures and seals thereto; but in cases where a will is made by a secret document such entry, signatures and seals must be affixed to the sealed cover.

## ARTICLE 974

None of the persons mentioned can become a witness to a will or a person required to be present at the making thereof:

1. A minor;



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2. A person adjudged incompetent or quasi-incompetent.
3. A presumptive successor, a testamentary donee, and their spouses and lineal relatives by blood;
4. The spouse, any of the relatives up to the fourth degree of relationship and any of the clerks as well as of the servants, of the notary.

## ARTICLE 975

No will can be made by two or more persons by one and the same document.

SUB-SECTION II  
SPECIAL FORMS

## ARTICLE 976

In case a person who is in imminent danger of death through disease or from any other cause desires to make a will, he may do so in the presence of at least three witnesses by orally declaring its tenor to one of them. In this case the person to whom the oral declaration is made must write it down and read it to the testator and the other witnesses, and each witness, after having acknowledged the writing to be correct, must affix his signature and seal thereto.

A will made in accordance with the provisions of the preceding paragraph shall not be valid unless within twenty days from the day on which the will was made one of the witnesses or some person interested applies to the Court of Domestic Relations and obtains a confirmation thereof.

The Court of Domestic Relations may not confirm a will unless convinced that it represents the true intention of the testator.

## ARTICLE 977

A person who is in a place of communication with which is cut off by administrative measures on account of contagious disease may make a written will in the presence of a police officer and at least one witness.

## ARTICLE 978

A person on board ship may make a written will in the presence of the master or one of the clerical staff of the ship and at least two witnesses.

## ARTICLE 979

A person who, in the event of a ship's distress is on board the ship and is in immediate danger of death, may make a will orally in the presence of at least two witnesses.

A will made in compliance with the provisions of the preceding paragraph shall not be valid, unless witnesses write down its tenor and verify such writing with their signatures and seal impressions and one of the witnesses or some person interested also applies without delay to the Court of Domestic Relations and obtains a confirmation thereof.

The provisions of Article 976, paragraph 3 shall apply with the necessary modifications to the case mentioned in the preceding paragraph.



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## ARTICLE 980

In the cases mentioned in Arts. 977 and 978, the testator, the writer and the persons required to be present and the witnesses must each affix their signatures and seals to the testamentary document.

## ARTICLE 981

If, in the cases mentioned in Arts. 977 to 979 inclusive, there is concerned a person who is unable to affix his signature or seal, persons required to be present or witnesses must make an additional entry of the fact.

## ARTICLE 982

The provisions of Art. 968, para. 2 and Arts. 973 and 975 inclusive shall apply to a will made in accordance with the provisions of Arts. 976 to 981 inclusive.

## ARTICLE 983

A will made in accordance with the provisions of Arts. 976 to 982 inclusive shall not be valid if the testator survives for six months from the time when he becomes able to make a will in compliance with ordinary forms.

## ARTICLE 984

In cases a Japanese resident in a place where is stationed Japanese Consul desires to make a will by means of a notarial or secret document, the duty of a notary shall be performed by such Consul.

SECTION III  
EFFECT OF WILLS

## ARTICLE 985

A will becomes effective upon the death of the testator.

If, in cases where a will is subject to a suspensive condition, the condition is fulfilled after the death of the testator, the will becomes effective upon the fulfillment of the condition.

## ARTICLE 986

A testamentary donee may effect a renunciation of the testamentary gift at any time subsequent to the death of the testator

A renunciation of a testamentary gift shall be effective retroactively as from the time of the death of the testator.

## ARTICLE 987

A person charged with a testamentary gift or any person interested may give a peremptory notice to the testamentary donee to effect either an acceptance or a renunciation of the testamentary gift within a reasonable period fixed by him. If the testamentary donee fails to declare his intention to the person charged with the testamentary gift within such period, he shall be deemed to have accepted the testamentary gift.

## ARTICLE 988

In case a testamentary donee dies without effecting either



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an acceptance or a renunciation of the testamentary gift, his successor can effect either an acceptance or a renunciation within the scope of his own right of succession; but if the testator has declared a different intention in his will, such intention shall prevail.

## ARTICLE 989

An acceptance or a renunciation of a testamentary gift cannot be revoked.

The provisions of Art. 919, para. 2 shall apply with the necessary modifications to an acceptance or a renunciation of a testamentary gift.

## ARTICLE 990

A testamentary donee by a universal title has the same rights and duties as a successor.

## ARTICLE 991

So long as a testamentary gift is not yet due, the testamentary donee may demand adequate security from the person charged with the testamentary gift. The same shall apply as respects a testamentary gift subject to a suspensive condition during the pendency of the condition.

## ARTICLE 992

A testamentary donee acquires fruits as from the time when he can demand fulfilment of the testamentary gift; but if the testator has declared a different intention in his will, such intention shall prevail.

## ARTICLE 993

In case a person charged with a testamentary gift incurs any expenses in respect of the subject-matter of the testamentary gift after the death of the testator, the provisions of Art. 299 shall apply with the necessary modifications.

As regards ordinary necessary expenses incurred for the purpose of collecting fruits, the reimbursement thereof may be demanded to the extent of the value of the fruits.

## ARTICLE 994

A testamentary gift shall not take effect if the testamentary donee dies before the death of the testator.

The same shall apply with respect to a testamentary gift subject to a suspensive condition if the testamentary donee dies before the fulfilment of the condition but if the testator has declared a different intention in his will, such intention shall prevail.

## ARTICLE 995

In case a testamentary gift does not take effect, or becomes void of effect by reason of renunciation, whatever the testamentary donee would have received devolves on the successor; but if the testator has declared a different intention in his will, such intention shall prevail.



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## ARTICLE 996

A testamentary gift shall not take effect if the right which forms the subject thereof is not comprised in the property succeeded to at the time of the death of the testator, except when it appears that such right has been made the subject of the testamentary gift notwithstanding that it may not be comprised in the property succeeded to.

## ARTICLE 997

In case a testamentary gift having for subject a right which is comprised in the property succeeded to is effected in accordance with the provisions of the proviso to the preceding Article, the person charged with the testamentary gift is under a duty to acquire that right and transfer it to the testamentary donee. If he cannot acquire it or if excessive expense would be required in order to acquire it, he must pay over the value thereof, but if the testator has declared a different intention in his will, such intention shall prevail.

## ARTICLE 998

If, in cases where a non-specific thing has been made the subject of a testamentary gift, the testamentary donee is deprived by eviction of the thing delivered, the person charged with the testamentary gift shall assume the same liability in respect of warranty as that of a seller.

If, in the case mentioned in the preceding paragraph, any defect exists in the thing, the person charged with the testamentary gift must substitute in its place a thing free from any defect.

## ARTICLE 999

In case a testator has a right to demand compensation from a third person by reason of the loss or alteration of the subject matter of the testamentary gift or the loss of the possession thereof, such right shall be presumed to have been made the subject of the testamentary gift.

If, in cases where the subject matter of a testamentary gift has been united to or mixed with another thing, the testator has become the sole owner or a co-owner of the composite thing or the mixture in accordance with the provisions of Arts. 243 to 245 inclusive, the ownership or the co-ownership of the whole shall be presumed to have been made the subject of the testamentary gift.

## ARTICLE 1000

If the thing or right which constitutes the subject of a testamentary gift at the time of the death of the testator is the subject of a right belonging to a third person, the testamentary donee may not demand from the person charged with the testamentary gift that such right be extinguished; but if the testator has declared a different intention in his will, such intention shall prevail.

## ARTICLE 1001

If, in cases where an obligation has been made the subject of a testamentary gift, the testator has obtained performance and things which he has so received still remain among the property succeeded to, such things shall be presumed to have been made the subject of the testamentary gift.



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As regards an obligation which has money for its subject, the amount of such money shall be presumed to have been made the subject of the testamentary gift even though there is in the property succeeded to no sum of money corresponding to the amount of the obligation.

## ARTICLE 1002

A person who has received a testamentary gift subject to a charge is bound to perform the duty which he has assumed only to the extent of the value of the subject of the testamentary gift.

In case the testamentary donee has effected a renunciation, the person who is to receive the benefit of the charge may himself become testamentary donee; but if the testator has declared a different intention in his will, such intention shall prevail.

## ARTICLE 1003

In case the value of the subject of a testamentary gift which is subject to a charge is reduced by reason of a qualified acceptance of the succession or an action for the recovery of a legally secured portion, the testamentary donee shall in proportion to such reduction be relieved of the duty which he has assumed; but if the testator has declared a different intention in his will, such intention shall prevail.

SECTION IV  
CARRYING WILLS INTO EFFECT

## ARTICLE 1004

Upon becoming aware of the opening of the succession the custodian of a testamentary document must without delay present it to the Court of Domestic Relations and apply for probate thereof. In cases where there exists no custodian of the testamentary document, the same shall apply upon the discovery of the document by the successor.

The provisions of the preceding paragraph shall not apply to a will made by means of a notarial document.

A testamentary document closed up with the seal may not be opened except in Court of Domestic Relations and in the presence of the successors of their representatives.

## ARTICLE 1005

Any person who neglects to present a testamentary document in accordance with the provisions of the preceding Article, or who carries a will into effect without first procuring probate, or who opens a will out of Court of Domestic Relations, shall be held liable to an administrative penalty of not exceeding two hundred yen.

## ARTICLE 1006

A testator may designate one or more executors by will or commission a third person to designate them.

A person who has been commissioned to designate executors must without delay effect the designation and give notice thereof to the successors.

If a person who has been commissioned to designate executor desires to decline such commission, he must without delay give notice to that effect to the successors.



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## ARTICLE 1007

An executor who has consented to assume office must at once enter upon its duties.

## ARTICLE 1008

Successors or any other person interested may give a peremptory notice to the executor to make a definite answer within a reasonable period fixed by them as to whether he consents to assume office or not. If the executor fails to make a definite answer to the successor within such period, he shall be deemed to have consented to assume office.

## ARTICLE 1009

Persons under disability and bankrupts cannot become executors.

## ARTICLE 1010

If there exists no executor or if no executor remains, the Court of Domestic Relations may appoint one on the application of any person interested.

## ARTICLE 1011

An executor must without delay prepare an inventory of the property succeeded to and hand it over to the successors.

If an application is made by the successors, an executor must prepare an inventory in their presence or cause a notary to prepare it.

## ARTICLE 1012

An executor has the right and duty to manage the property succeeded to and to perform all acts necessary for carrying the will into effect.

The provisions of Arts. 644 to 647 inclusive and 650 shall apply with the necessary modifications to an executor.

## ARTICLE 1013

In cases where there exists an executor, the successors may not in any way dispose of the property succeeded to or do any act which would obstruct the carrying of the will into effect.

## ARTICLE 1014

In cases where a will relates to some specific property, the provisions of the preceding Articles shall apply to such property only.

## ARTICLE 1015

An executor shall be deemed to be the representative of the successors.

## ARTICLE 1016

An executor may not procure a third person to perform his duties except for unavoidable reasons; but if the testator has declared a different intention in his will, such intention shall prevail.



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In cases where an executor procures a third person to perform his duties in accordance with the terms of the proviso to the preceding paragraph, he shall assume towards the succession the responsibility as prescribed in Art. 105.

## ARTICLE 1017

In cases where there exist two or more executors, the conduct of their duties shall be decided by the majority, but if the testator has declared a different intention in his will, such intention shall prevail.

Notwithstanding the provisions of the preceding paragraph, each executor is entitled to effect acts of preservation.

## ARTICLE 1018

The Court of Domestic Relations may determine the remuneration of an executor having regard to the conditions of the property succeeded to or other circumstances, except, however, when a testator provided the remuneration in his will.

In cases where an executor is to receive remuneration, the provisions of Art. 648, paras. 2 and 3 shall apply with the necessary modifications.

## ARTICLE 1019

If an executor neglects his duties or if there exists any other reasonable ground, any person interested may apply to the Court of Domestic Relation for his removal.

If reasonable ground exists, an executor may resign his office with leave of the Court of Domestic Relations.

## ARTICLE 1020

The provisions of Arts 654 and 655 shall apply with the necessary modifications in cases where the duties of an executor have terminated.

## ARTICLE 1021

Expenses relating to carrying a will into effect shall be borne by the property succeeded to: but legally secured portions cannot be diminished thereby.

SECTION V  
REVOCATION OF WILLS

## ARTICLE 1022

A testator can at any time revoke the whole or part of his will in accordance with any of the forms prescribed for wills.

## ARTICLE 1023

If a prior will is inconsistent with a subsequent will the prior will shall be deemed to have been revoked by the subsequent one in respect of the parts in which they are inconsistent.

The provisions of the preceding paragraph shall apply with a necessary modifications in cases where a will is inconsistent with a disposition inter vivos or any other juristic act effected subsequently to the will.



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## ARTICLE 1024

If a testator intentionally destroys his testamentary document he shall be deemed to have revoked the will in respect of such parts as have been destroyed. The same shall apply when a testator intentionally destroys the subject-matter of a testamentary gift.

## ARTICLE 1025

A will revoked in accordance with the preceding three Articles shall not be revived even though the act of revocation is avoided or becomes ineffective, except when such act has been induced either by fraud or duress.

## ARTICLE 1026

A testator cannot waive the right to revoke his will.

## ARTICLE 1027

If a person who has received a testamentary gift subject to a charge does not perform the duty which he has assumed, the successors may fix a reasonable period and give peremptory notice demanding its performance and may apply to the Court of Domestic Relations for the revocation of the will, if no performance is effected within such period.

CHAPTER VIII  
LEGALLY SECURED PORTIONS

## ARTICLE 1028

Any successors, with the exception of brothers and sisters of the person succeeded to, shall receive, as their legally secured portion, the following sum:

1. In cases where all of the successors are lineal descendants, or all of them are lineal descendants and the spouse, one half of the property of the person succeeded to;

2. In all other cases, one third of the property of the person succeeded to.

## ARTICLE 1029

A legally secured portion shall be calculated on the basis of adding to the value of the property which the person succeeded to had at the time of the opening of the succession the value of any property of which he had made gifts and deducting therefrom the total amount of his obligations.

The value of a conditional right or of a right of uncertain duration shall be determined according to the assessment of an expert appointed by the Court of Domestic Relations.

## ARTICLE 1030

The value of gifts shall be taken into account in accordance with the provisions of the preceding Article only if they were made within one year prior to the opening of the succession. But the rule shall apply even to gifts which were made more than a year before if both the parties acted with knowledge that loss would be caused to the person entitled to a legally secured portion.



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## ARTICLE 1031

A person entitled to a legally secured portion of his successor may demand an abatement of testamentary gifts and of gift inter vivos as mentioned in the preceding Article to the extent necessary for the protection of the legally secured portion.

## ARTICLE 1032

If, in cases where a conditional right of a right of uncertain duration is made the subject of a gift inter vivos or a testamentary gift, such gift or testamentary gift is to abate partially, persons entitled to a legally secured portion must at once pay to the donee or the testamentary donee the value of the remaining part according to the value as determined in accordance with the provisions of Art. 1029, para. 2.

## ARTICLE 1033

Gifts do not abate until testamentary gifts have abated.

## ARTICLE 1034

Testamentary gifts abate in proportion to the value of the subject; but if the testator has declared a different intention in his will, such intention shall prevail.

## ARTICLE 1035

Abatement of gifts shall commence with the latest and extend in a successive order to the earliest.

## ARTICLE 1036

In addition to the property to be returned, a donee must also return its fruits as from the day on which a demand for an abatement was made.

## ARTICLE 1037

Any loss arising from the insolvency of a donee whose gift is to abate shall be borne by the persons entitled to a legally secured portion.

## ARTICLE 1038

As to a gift subject to a charge, an abatement may be demanded in respect of the value of the subject less that of the charge.

## ARTICLE 1039

An act for value performed for an inadequate consideration shall be deemed to be a gift only if both the parties acted with knowledge that loss would be caused to the person entitled to a legally secured portion. In such case, the person entitled to a legally secured portion who demands abatement must make reimbursement for the consideration.

## ARTICLE 1040

In case a donee whose gift is to abate has assigned the subject of the gift to another person, he must pay its value to the person entitled to a legally secured portion; but if the assignee knew at the time of the assignment that loss would be caused to the person entitled to a legally secured portion, the latter may also demand an abatement as against the assignee.



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The provisions of the preceding paragraph shall apply with the necessary modifications to cases where a donee has created rights over the subject of the gift.

## ARTICLE 1041

A donee inter vivos or a testamentary donee may relieve himself of the duty of restoration by paying to the person entitled to a legally secured portion the value of the subject of the gift inter vivos or the testamentary gift to the extent that such gift is to abate.

The provisions of the preceding paragraph shall apply with the necessary modifications to the case mentioned in the proviso to the preceding Article, para.1.

## ARTICLE 1042

The right to demand abatement shall be extinguished by prescription, if it is not exercised within one year from the time when the person entitled to a legally secured portion became aware that the succession had been opened and that gifts inter vivos or testamentary gifts which are to abate had been made, or if ten years have elapsed from the time of the opening of the succession.

## ARTICLE 1043

The renunciation of a legally secured portion effected before the opening of the succession shall be effective, if, and only if, the approval of the Court of Domestic Relations is obtained.

No renunciation of a legally secured portion effected by one of the co-successors shall affect the legally secured portion of any other co-successors.

## ARTICLE 1044

The provisions of Art. 888, 900, 901, 903 and 904 shall apply with the necessary modifications to a legally secured portion.

## SUPPLEMENTARY PROVISIONS

## ARTICLE 1

The present law shall come into force from January first, the twenty-third Year of Showa (1948).

## ARTICLE 2

Law No. 37 of the thirty-fifth Year of Meiji (1902) is hereby repealed.

## ARTICLE 3

Within the meaning of these Supplementary Provisions, the New Code shall be taken to refer to the Civil Code as amended by the present Law, the Old Code shall to the Civil Code which have hitherto been in force and the Law concerning Temporary Measures shall to the Law No. 74 of the twenty-second Year of Showa (1947)

## ARTICLE 4

Except for cases otherwise provided, the New Code shall apply to any of the matters which have occurred before the comin



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into force of the New Code. But nothing in this Article shall prejudice any of the effects which have arisen under the Old Code and the Law concerning Temporary Measures.

## ARTICLE 5

No act can be avoided which has been done by a wife in contravention of the provisions of Article 14, paragraph 1 of the Old Code before the coming into force of the Law concerning Temporary Measures.

## ARTICLE 6

In cases where retirement from the headship of a House effected before the coming into force of the Law concerning Temporary Measures could be annulled under the Old Code, such retirement can be annulled in accordance with the Old Code. In this case, the provisions of Article 760 of the Old Code shall apply.

## ARTICLE 7

If, before the coming into force of the Law concerning Temporary Measures, rights of the head of a House have been lost by reason of retirement from the headship of the House or by reason of marriage with an incoming husband, the provisions of Article 761 of the Old Code shall continue to apply.

## ARTICLE 8

Even in cases where a marriage contracted before the coming into force of the New Code can be annulled under the Old Code, such marriage may not be annulled, if none of the matters constituting the grounds for the annulment is provided in the New Code.

## ARTICLE 9

The period of time fixed in Article 747, paragraph 2 of the Civil Code which are applicable with the necessary modifications in the provisions of Article 764 of the New Code shall be computed as from the day on which the New Code comes into force, if the party concerned discovered the fraud or became free from the duress before the coming into force of the New Code.

## ARTICLE 10

Each of the parties who have effected divorce after the coming into force of the Constitution of Japan and before the coming into force of the New Code, may demand distribution of property from the other party in accordance with the provisions of Article 768 of the New Code.

The provisions of the preceding paragraph shall apply, with the necessary modifications to annulment of marriage.

## ARTICLE 11

With respect to an application for divorce by reason of any of the grounds which have occurred before the coming into force of the New Code, the provisions which are hitherto in force shall continue to apply.

The provisions of Article 770, paragraph 2 of the New Code shall apply with the necessary modifications to cases mentioned in the preceding paragraph.



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## ARTICLE 12

In cases where a minor child has entered into the house of its father or mother in accordance with the provisions of any of Arts. 737 and 738 of the Old Code before the coming into force of the Urgent Measures Law, the child may resume its prior surname within one year as from the day on which he attained majority. If the child attains majority before the coming into force of this Law, the same shall apply also with regard to within one year as from the coming into force of this Law.

## ARTICLE 13

The provisions of Article 8, 9 and 10 shall apply with the necessary modifications to adoption.

## ARTICLE 14

In cases where the father and mother not in matrimonial relation exercise jointly the parental power over the minor child at the time of coming into force of the New Code, they shall exercise jointly the parental power continually after the coming into force of this Law. But the father and mother may determine one of them to have the parental power by agreement.

If no agreement mentioned in the latter part of the preceding paragraph is reached or possible, the Court of Domestic Relations may render decision in place of agreement on application of the father or mother.

The provisions of Art. 819, para. 6 of the New Code shall apply with the necessary modifications to the cases mentioned in any of the latter part of para. 1 and the preceding paragraph.

## ARTICLE 15

An act done or consented to in contravention of the provisions of Article 880 of the Old Code by a mother exercising parental power before the coming into effect of the Law concerning Temporary Measures cannot be avoided.

## ARTICLE 16

The provisions of Article 21 shall apply with the necessary modifications to a step-father or a step-mother, or a woman who is the wife of the father of an acknowledged child and belongs to the same House as that of the child (Tekibo), if such person has been exercising parental power before the coming into force of the Law concerning Temporary Measures.

## ARTICLE 17

The provisions of Article 894 of the Old Code shall continue to apply to any obligatory right which has arisen, with respect to the management of the property, as between any of the members of family council and a child who is subject to parental power, before the coming into force of the New Code.

## ARTICLE 18

Even if a mother resigned the management of property of her child according to the old provisions, her resignation shall have no effect after the enforcement of the New Code, in cases where guardianship for the child has not been commenced at the time of the coming into force of the New Code.



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## ARTICLE 19

If either a father or mother occupies the position of a guardian in accordance with the provisions of Article 902 of the Old Code, or if there is a guardian appointed in accordance with the provisions of Article 904 of the Old Code at the time of the coming into force of the New Code, the guardian shall not automatically forfeit such position by reason of the coming into force of the New Code. But such person shall forfeit the position mentioned above as a matter of course, if the guardianship terminated as a result of the coming into force of the New Code, or if there exists a legal guardian assuming his office under the New Code.

## ARTICLE 20

The provisions of the preceding Article shall apply with the necessary modifications to a supervisor of the guardian or to a curator.

## ARTICLE 21

An act done or consented to in contravention of the provisions of Article 929 of the Old Code by a guardian before the coming into force of the New Code can be avoided in accordance with the Old Code.

## ARTICLE 22

The provisions of Article 17 shall apply with the necessary modifications to relations between any of the members of a family council on one hand and a ward or a person adjudged incompetent on the other.

## ARTICLE 23

In respect of discontent with a resolution adopted at a family council before the coming into force of the New Code, the Old Code shall continue to apply.

Even if a judgment annulling a resolution adopted at a family council has become final and conclusive, it is not allowed to vote and pass a resolution at the family council again.

## ARTICLE 24

The provisions of Article 880 of the New Code shall apply with the necessary modifications to a judgment delivered with respect to support before the coming into force of the New Code.

## ARTICLE 25

With respect to succession which opened before the coming into force of the Law concerning Temporary Measures, the Old Code shall apply even after the coming into force of the New Code excepting the case mentioned in the second paragraph.

As to cases where a succession to the Headship of a House has been commenced before the coming into force of the Law concerning Temporary Measures and, according to the Old Code, it is necessary to appoint the successor to the headship of



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a House after the coming into force of the New Code, the New Code shall apply with respect to the succession. But as to cases where such succession has been commenced by reason of annulment or dissolution of marriage with incoming husband or by reason of annulment of adoptive relation the provisions of Article 28 shall apply with the necessary modification, deeming that succession has **not** been commenced as yet in respect to property.

## ARTICLE 26

In cases where a person who is the head of a House at the time of the coming into force of the Law concerning Temporary Measures is one who has entered therein from another House by reason of marriage or of adoption, any of such person's stepchildren who have originally belonged to the former House shall have the same rights not assume the same liabilities as those of the legitimate children, in so far as concerning succession to be commenced after the coming into force of the New Code.

In cases where succession with respect to a person who was the Head of House mentioned in the preceding paragraph opened-after the coming into force of the Law concerning Temporary Measures and before the coming into force of the New Code the step-children mentioned in the preceding paragraph may demand distribution of a part of the property succeeded to from the successor. The provisions of Article 27, paragraph 2 and 3 shall apply with the necessary modifications to those cases.

The provisions of the preceding two paragraphs shall not apply to cases where the person who was the head of a House mentioned in the first paragraph has changed his or her surname by reason of annulment of marriage or of adoption or by reason of divorce or of dissolution of adoptive relation after the coming into force of the Law concerning Temporary Measures.

## ARTICLE 27

With the exception of the case mentioned in the former sentence of Article 25, paragraph 2, in cases where succession to the headship of a House by reason of the death of the head thereof opened after the day of the coming into force of the Constitution of Japan, any person who would have become one of the co-successors under the New Code, may demand distribution of a part of the property succeeded to from the successor to the headship of the House.

In cases where no agreement is reached or possible between the parties in respect of the distribution of the property succeeded to in accordance with the provisions of the preceding paragraph any of the parties concerned may apply to the Court of Domestic Relations for measures to take the place of such agreement. But this shall not apply after the elapse of one year from the day of the coming into force of the New Code.

In cases mentioned in the preceding paragraph the Court of Domestic Relations shall determine whether the property be distributed or not and, if it be distributed, the sum of each share and the method of distribution, taking into account the condition of the property succeeded to, the number and financial capacity of the person who is to receive the distribution, the facts as to whether such person has received any distribution of property by an act inter vivos or by a will of the person succeeded to, and all other circumstances.



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## ARTICLE 28

If a person who was the head of a House at the time of the coming into force of the Law concerning Temporary Measures changed his or her surname, after the coming into force of the Law concerning Temporary Measures, by reason of annulment of marriage, divorce, annulment or dissolution of adoptive relation, the other spouse or adoptive parents, and in case where there is no such spouse or adoptive parents their successors may, according to the New Code, demand the distribution of a part of the property from such person. In this case the provisions of the second and the third paragraphs of the preceding Article shall apply with the necessary modifications.

## ARTICLE 29

If, a presumptive successor to the headship of a House or a successor to an estimate has been disinherited in accordance with the provisions of Article 975, paragraph 1, item numbered 1 or Article 998 of the Old Code, such person shall, for the application of the New Code, be deemed to have been disinherited in accordance with the provisions of Article 892 of the New Code.

## ARTICLE 30

In case succession is to be governed by the New Code pursuant to the provisions mentioned in the former sentence of the second paragraph of Article 25, any dispositions made with respect to the management of an estate in accordance with Article 978 of the Old Code (including the cases where this Article is applicable with the necessary modifications in Article 1000), shall be deemed to have been made in accordance with the provisions of Article 895 of the New Code.

## ARTICLE 31

For the application of the provisions of Article 903 of the New Code, any property which has been donated, before the coming into force of the Law concerning Temporary Measures, for the purpose of establishment of a branch House or re-establishment of an abolished or extinct House, shall be deemed to have been donated as a means of livelihood.

## ARTICLE 32

The provisions of Article 906 and 907 of the New Code shall apply with the necessary modifications to cases where the Old Code applies to succession to estate, in accordance with the provisions of the first paragraph of Article 25.

## ARTICLE 33

With respect to a will which, before the coming into force of the New Code, has been made in accordance with the provisions of Article 1079, paragraph 1, of the Old Code, but has not been confirmed in compliance with the provisions of the second paragraph of the said Article, the provisions of Article 979, paragraph 2 and 3 of the New Code shall apply with the necessary modifications.

The same with the preceding paragraph shall apply also to a will which, has been made, before the coming into force of the New Code, in the event of distress of a ship belonging to the navy in accordance with the provisions of Article 1079, paragraph 1 of the Old Code which are applicable in Article 1081 thereof with the necessary modifications, but has not been confirmed in compliance with the provisions of the second paragraph of the aforesaid Article.



FEC-256FEC-RESTRICTEDFEC-25620 August 1947FAR EASTERN COMMISSION

FIRST SESSION OF JAPANESE NATIONAL DIET--  
DRAFT LAW IMPLEMENTING THE JAPANESE CONSTITUTION  
BILL CONCERNING THE ESTABLISHMENT OF A LABOR MINISTRY  
(Reference: Article 27, FEC-087/14,  
FEC-101/19, FEC-101/20)

Note by the Secretary General

1. The enclosure, entitled "Bill Concerning the Establishment of a Labor Ministry," implementing Article 27 of the Japanese Constitution has been received from the Supreme Commander for the Allied Powers and is circulated herewith by the United States Representative for the consideration of the Far Eastern Commission and referred to COMMITTEE NO. 3: CONSTITUTIONAL AND LEGAL REFORM.

2. The enclosure was approved by the Japanese Cabinet on 17 July, 1947 for submission to the National Diet where it is currently being considered, according to information now available to the Secretariat. The enclosure was filed with the Far Eastern Commission Secretariat on 15 August 1947.

3. The Japanese text of the enclosure will be circulated as soon as reproduction facilities permit.

4. Any amendments to the enclosure will be circulated as they become available.

SAMUEL S. STRATTON  
~~Acting Secretary General~~

FEC-256



FEC-RESTRICTEDE N C L O S U R EFIRST SESSION OF JAPANESE NATIONAL DIET--  
DRAFT LAW IMPLEMENTING THE JAPANESE CONSTITUTION  
BILL CONCERNING THE ESTABLISHMENT OF A LABOR MINISTRY

Article 1. The Government, aiming at the welfare of laborers and the security of employment in order to contribute to the economic growth and the stabilization of the national life, shall establish the Labor Ministry.

Article 2. The Labor Minister shall be in charge of affairs concerning labor unions, adjustment of labor relations, enlightenment and information concerning labor, working condition, workmen's accident compensation, workmen's accident compensation insurance and protection of laborers, as well as adjustment of supply and demand of labor such as employment exchanges, guidance and training; countermeasures against unemployment; unemployment insurance; labor statistics and research and other affairs relating to labor.

Article 3. There shall be in the Labor Ministry the Ministerial Secretariat and the following five Bureaus.

Labor Administration Bureau  
Labor Standard Bureau  
Women's and Minors' Bureau  
Employment Security Bureau  
Labor Statistics and Research Bureau

When it is necessary, a bureau or bureaus other than those specified in the preceding paragraph can be established additionally or parts of the functions of a bureau or bureaus can be transferred within the Ministry irrespective of the stipulations of the preceding paragraph and Article 4 to Article 9, in accordance with regulation of the Cabinet Order.

Article 4. In the Ministerial Secretariat the following affairs shall be managed:

Matters concerning

1. Confidential matters
2. Appointment and dismissal and standing of officials, except the matters assigned by the Minister to other Bureaus.
3. Custody of the official seal of the Minister and seal of the Ministry.
4. Research, planning, examination in general and coordination of administration within the ministerial jurisdiction.
5. Receiving, sending, compilation and keeping of official documents.
6. Budget of expenditures and revenues, settlement of accounts, accounts in general and audit of accounts.
7. Official property and articles.

Article 5. The Labor Administration Bureau shall be in charge of affairs relating to the following items.



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1. The enforcement of the Trade Union Law, except as delegated by law to the Relations Committee.
2. The enforcement of the Labor Relations Adjustment Law, except as delegated by law to the Labor Relations Committee.
3. Enlightenment and Information concerning labor problems.
4. Other labor affairs which are not within the jurisdiction of other Bureaus.

Article 6. The Labor Standard Bureau shall be in charge of affairs relating to the following items.

1. Wages, labor hours, rest periods, and holidays.
2. Industrial safety.
3. Labor hygiene.
4. Workmen's accident compensation and workmen's accident compensation insurance.
5. Improvement of labor efficiency.
6. Welfare of Laborers.
7. Inspection of factories, mines and other establishments.
8. Other working conditions and protection of laborers including all matters covering the enforcement of the Labor Standard Law which are not within the jurisdiction of other bureaus.

Article 7. Women's and Minors' Bureau shall be in charge of affairs relating to the following items.

1. Working conditions and labor protection peculiar to women and minor laborers.
2. Prohibition of employment of children.
3. Problems of family workers and domestic workers.
4. Other problems peculiar to women and minor laborers.
5. Problems of workers' families, excepting in so far as the responsibility is by law assigned to other Ministries.
6. Research, liaison and coordination of the problem of the promotion of women's status and all other women's problems, except that such liaison and coordination shall not include management of matters assigned by law to other Ministries.

Article 8. Employment Security Bureau shall be in charge of affairs relating to the following items.

1. Adjustment of supply and demand of labor such as employment exchanges, guidance and training.
2. Counter-measures against unemployment.
3. Unemployment insurance or unemployment compensation.



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4. Other problems on employment and vocation.

Article 9. Labor Statistics and Research Bureau shall be in charge of affairs relating to the following items.

1. Regular statistics and publications concerning Labor Unions, labor disputes and other labor relations.
2. Regular statistics and publications concerning working condition.
3. Regular statistics and publications concerning wages and remuneration.
4. Regular statistics and publications concerning Laborers' living cost.
5. Regular statistics and publications concerning Employment.
6. Collection, compilation, analysis and publications of the materials concerning home and foreign labor circumstances.
7. Special surveys and publications concerning economic problems affecting the welfare, remuneration and employment security of laborers.

Article 10. There shall be in the Ministry and Industrial Safety Laboratory which conducts research and investigations of, and training of technicians for, the prevention of accidents in factories and workshops.

Article 11. Necessary matters concerning divisions, bureaus, agencies and officials of the Labor Ministry shall be fixed by Cabinet Order.

Article 12. For the purpose of uniting and coordinating with administration of Labor Ministry in regard to the vital matters on the Labor of seamen, a Seamen's Labor Coordinating Committee will be established in the Labor Ministry which will be composed of the competent officials of the Ministries of Labor and Transport.

Matters necessary for the Committee will be decided by the Labor Minister in consultation with the Minister of Transport.

Supplementary Provisions

Article 13. The date of the enforcement of this law shall be fixed by Cabinet Order, but in no case shall the effective date be more than 30 days after the enactment of this Law.

Article 14. A part of the system of official organization of Welfare Ministry shall be amended as follows:

Of Article 1 "Labor" is cancelled and next to "Social Insurance" "Exclusive of those matters which are designated as the responsibility of Labor Ministry" shall be added.

Of Article 3 "nine bureaus" shall be amended as "six bureaus" and "Labor Administration Bureau, Labor Standard Bureau, Employment Security Bureau" be cancelled.

Article 7. (Abrogated)

Article 7-2 and Article 7-3 (abrogated)



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Of Article 8 item 1 "National Health Insurance and Insurance against liability for the aid of laborers disasters" shall be amended as "and National Health Insurance".

Article 23 (abrogated)

Article 15. A part of Labor Standard Law shall be amended as follows:

Article 100-2 Director of the Women's and Minors' Bureau within the Ministry of Labor; under the supervision and direction of Minister of Labor, shall administer matters concerning the establishment, revision and interpretation of stipulation peculiar to women and minors of this Law, and concerning matters pertaining to the enforcement thereof shall advise the Chief of Labor Standard Bureau and its subordinate office and assist in the direction and supervision of the Chiefs of the subordinate offices.

The Director of Women's and Minors' Bureau of Officials designated by director shall have access to inspection and other records relating to women and minors of the Labor Standard Bureau and its subordinate offices and their staffs.

The stipulation of Article 101, 1st paragraph, 4th paragraph and Article 105 shall apply to research to be carried out by the Director of Women's and Minors' Bureau or officials designated by the Director concerning the enforcement of the stipulation of this Law peculiar to women and minors.

Among Article 120 item 1, "Article 105 to Article 109 inclusive" shall be revised as "Article 105 (including the case applied by Article 100-2) to Article 109 inclusive", and among the same Article Item 4, "Article 101" shall be revised as "Article 101 (including the case applied by Article 100-2)" and "Labor Standard Inspector" shall be revised as "Labor Standard Inspector and the Director of Women's and Minors' Bureau or Officials designated by the Director".



FEC-256/1FEC-RESTRICTEDFEC-256/121 August 1947FAR EASTERN COMMISSION

FIRST SESSION OF THE JAPANESE NATIONAL DIET --  
JAPANESE TEXT OF DRAFT LAW IMPLEMENTING THE CONSTITUTION:  
BILL CONCERNING THE ESTABLISHMENT OF A LABOR MINISTRY  
(References: FEC-087/14, Article 27; FEC-101/19,  
FEC-101/20, FEC-256)

Note by the Secretary General

1. The enclosure, the Japanese text of a bill entitled "Bill Concerning the Establishment of a Labor Ministry", implementing Article 27 of the Japanese Constitution, has been received from the Supreme Commander for the Allied Powers and is circulated herewith by the United States Representative for the consideration of the Far Eastern Commission and referred to COMMITTEE NO. 3: CONSTITUTIONAL AND LEGAL REFORM.

2. The English text of the enclosure has been circulated as FEC-256 of 20 August 1947.

3. Due to the limited number of copies available, only one copy of the enclosure can be furnished each delegation.

SAMUEL S. STRATTON  
Acting Secretary General

FEC-256/1



Draft for Law Concerning (No. 84)  
the Establishment of Labor Ministry

Approved by Cabinet

第一條 <sup>労働省設置法案</sup> 政府は、労働者の福祉と職業の確保とを図り以て経済の興隆と國民生活の安定とに寄與するため、労働省を設置する。

第二條 労働大臣は、労働組合、労働関係の調整、労働に関する啓蒙宣傳、労働條件、労働者災害補償保険及び労働者保護に関する事務、職業の紹介、指導、補導その他労働関係の調整に関する事務、失業対策に関する事務、失業保険に関する事務、労働統計調査に関する事務その他労働に関する事務を管理する。

第三條 労働省に大臣官房及び左の五局を置く。

- 労働省
- 労働基準局
- 労働安全衛生局
- 労働保険局
- 労働統計局
- 労働青少年局

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Incl 23



## 関する事項

- 五 公文書類の接受、発送、編纂及び保存に関する事項
- 六 経費及び収入の予算、決算会計及び会計の監査に関する事項
- 七 官有財産及び物品に関する事項

## 第五條 労政局においては、左の事項を掌る。

- 一 労働組合法の施行に関する事項×但し、労働委員会が法律に基いてその職務に属せしめられた事項を行ふ事を妨げるものではない。

- 二 労働関係調整法の施行に関する事項×但し、労働委員会が法律に基いてその職務に属せしめられた事項を行ふことを妨げるものではない。



三 労働に関する啓蒙宣傳に関する事項

四 その他労働に関する事項で他の所管に属しないもの

第六條 労働基準局においては、左の事項を掌る。

一 賃金、労働時間及び休息に関する事項

二 雇員安全に関する事項

三 労働衛生に関する事項

四 労働者負傷補償及び労働者負傷補償保険に関する事項

五 労働能率の増進に関する事項

六 労働者の福利厚生に関する事項

七 工場、鉱山その他の場所における労働条件及び労働者の保護

に関する監督に関する事項



八 その他労働基準法の施行に関する事項その他労働条件及び労働者の保護に関する事項で他の所管に属しないもの

第七條 婦人少年局においては、左の事務を掌る。

一 婦人及び年少労働者に特殊の労働条件及び保護に関する事項

二 児童の使用禁止に関する事項

三 家族労働問題及び家事使用人に関する事項

四 その他婦人及び年少労働者に特殊の労働問題に関する事項

五 労働者の家族問題に関する事項。但し、法律に基いて他省の所管に属せしめられたものを除く。

六 婦人の地位の向上その他婦人問題の調査及び連絡調整に関する事項。但し、婦人問題の連絡調整は、他省が法律に基いて、



その所管に属せしめられた事務を行うことを妨げるものではない

す。

第八條 職業安定局においては、左の事務を掌る。

一 職業の紹介、指導及び補導その他労働需給の調整に関する事項

二 失業対策に関する事項

三 失業保険及び失業手当に関する事項

四 その他職業に関する事項

第九條 労働統計調査局においては、左に掲げる事項に関する事務を掌る。



一 労働組合、労働争議その他労働問題に関する定期統計及び  
刊行

二 労働条件に関する定期統計及び刊行

三 賃金、給料その他給與に関する定期統計及び刊行

四 労働者生計費に関する定期統計及び刊行

五 職業に関する定期統計及び刊行

六 内外労働事情に関する資料の蒐集整理分析及び刊行

七 労働者の生活、給與及び雇<sup>用</sup>場に関する経済問題に関する調査

及び刊行

第十條 労働省に産業安全研究所を置き、工場事業場における災害  
予防の調査研究及び工場事業場における災害予防に関する技術者



の養成訓練を掌らしめる。

第十一條 労働省の部局、機関及び職員について必要な事項は、政令でこれを定める。

第十二條 船員の労働に関する行政の重要事項について、労働省の所管行政との連絡統一を図るため、労働省に、労働、<sup>水産</sup>運輸両省部内の関係官を以て組織する船員労働連絡会議を置く。

船員労働連絡会議について必要を事項は、労働大臣が運輸大臣と協議して、これを定める。

#### 附 則

第十三條 この法律の施行期日は、その成立の日から三十日を超えない期間内において、政令で、これを定める。



第十四條 厚生省官制の一部を、次のように改正する。

第一條中「、勸業」を削り、「社会保険」の下に「(労働省ノ

所管ニ属スル事項ヲ除ク)」を加える。

第三條中厚生省本部に改め、<sup>九局を</sup>本局に改め、<sup>労働省</sup>労働基準局を削る

職業安定局

公衆保健局

医務局

予防局

社会局

児童局

保健局

第七條 削除



第七條ノ二及び第七條の三を削る。

第八條第一号中「、國民健康保險及労働者災害扶助責任保險」を「及國民健康保險」に改める。

第二十三條 削 除

第十五條 労働基準法の一部を、次のように改正する。

第百條の二 労働省の婦人少年局長は、労働大臣の指揮監督を受け、この法律中女子及び年少者に特殊の規定の制定改廃及び解釈に関する事項を掌り、その施行に関する事項については、労働基準局長及びその下級官廳の長に勸告を行うとともに、労働基準局長が、その下級官廳に対して行う指揮監督について援助を與える。

婦人少年局長は、自ら又はその指定する所属官吏をして、女子及



び年少者に關し労働基準局<sup>若しくは</sup>の下級官廳<sup>又は</sup>並びにその所属官吏の  
 行つた監督その他に關する文書を開覽し又は開覽せしめることがで  
 きる。

第一百一條第一項及び第四項並びに第一百五條の規定は、婦人少年局  
 長又はその指定する所属官吏が、この法律中女子及び年少者に特殊  
 の規程の施行に關して行ひ調査<sup>の場合に</sup>に於て、これを準用する。

第二百十條<sup>第三項</sup>第一号中「第一百五條乃至第九條」を「第一百五條（第  
 百條の二）<sup>第三項</sup>において準用する場合を含む。」乃至第九條」に改め、  
 同條第四号中「第一百一條」を「第一百一條（第百條の二）<sup>第三項</sup>において準用  
 する場合を含む。」に、「労働基準監督官」を「労働基準監督官  
 又は婦人少年局長若しくはその指定する所属官吏」に改める。



## 職 業 安 定 局

## 労働統計調査局

前項及び第四條乃至第九條の規定にかかわらず、必要があるときは、故令の定めるところにより前項の部局の外に部局を設け、又は省内において部局の所掌事務の一部を譲渡することができ、

第四條 大臣官房においては、左の事務を掌る。

## 一 機密に関する事項

二 官吏の進退身分に関する事項、但し、大臣官房<sup>0</sup>以外の部局の事務に属せしめたものを除く。

## 三 大臣の官印及び省印の管守に関する事項

四 所管行政に関する調査、企画及び考査一般並びに総合調整に



FEC-256/2FEC-RESTRICTEDFEC-256/222 September 1947FAR EASTERN COMMISSIONFIRST SESSION OF THE JAPANESE NATIONAL DIET DRAFT LAW  
IMPLEMENTING THE JAPANESE CONSTITUTION: PARTIAL AMENDMENTS TO  
THE BILL FOR THE ESTABLISHMENT OF A LABOR MINISTRY

(References: FEC-256, FEC-256/1,  
FEC-087/14, (Article 27), FEC-101/19,  
FEC-101/20)

Note by the Secretary General

The enclosure, "Partial Amendments to the Bill for the Establishment of a Labor Ministry," has been received from the Supreme Commander for the Allied Powers and is circulated in connection with FEC-256 and FEC-256/1 (Bill Concerning the Establishment of a Labor Ministry) for the consideration of COMMITTEE NO. 3: CONSTITUTIONAL AND LEGAL REFORM.

NELSON T. JOHNSON  
Secretary General

FEC-256/2



FEC-RESTRICTEDE N C L O S U R EFIRST SESSION OF THE JAPANESE NATIONAL DIET DRAFT LAW  
IMPLEMENTING THE JAPANESE CONSTITUTION: PARTIAL AMENDMENTS TO  
THE BILL FOR THE ESTABLISHMENT OF A LABOR MINISTRY

Article 3, par. 2 shall be deleted.

The following paragraph shall be added to Article 11:

When it is necessary, parts of the functions of a bureau or bureaus can be transferred within the Ministry irrespective of the stipulations of Article 4 to Article 9, in accordance with regulation of the Cabinet order.



256/3

FEC-RESTRICTEDFEC-256/38 October 1947FAR EASTERN COMMISSION

FIRST SESSION OF THE JAPANESE NATIONAL DIET DRAFT LAW  
IMPLEMENTING THE JAPANESE CONSTITUTION: PARTIAL AMENDMENTS TO  
THE BILL FOR THE ESTABLISHMENT OF A LABOR MINISTRY (JAPANESE TEXT)  
References: FEC-256, FEC-256/1, FEC-087/14, (Article 27),  
FEC-101/19, FEC-101/20, FEC-256/2)

Note by the Secretary General

1. The enclosure, the Japanese text of "Partial Amendments to the Bill for the Establishment of a Labor Ministry," has been received from the Supreme Commander for the Allied Powers and is circulated in connection with FEC-256 and FEC-256/1 (Bill Concerning the Establishment of a Labor Ministry) for the consideration of COMMITTEE NO. 3: CONSTITUTIONAL AND LEGAL REFORM.

2. The English text of the enclosure was circulated as FEC-256/2 of 22 September 1947.

3. The limited number available permits the circulation of only one copy of the enclosure to each delegation.

NELSON T. JOHNSON  
Secretary General

FEC-256/3



Labor Ministry Bill

労働省設置法案修正案

第三條第一項を削り、第七條に左の一項を加へる。

第四條乃至第九條の規定にかかわらざる必要があること

を以て、此令(定)めるところにより、本省内において部局の

所掌事務の一部を変更することができる。

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April 56



FEC-257FEC-RESTRICTEDFEC-25721 August 1947FAR EASTERN COMMISSION

FIRST SESSION OF THE JAPANESE NATIONAL DIET--  
DRAFT LAW IMPLEMENTING THE JAPANESE CONSTITUTION:  
BILL FOR AMENDMENTS TO THE SEAMEN'S INSURANCE ACT  
(Reference: Article 27, FEC-087/14, FEC-257/1)

Note by the Secretary General

1. The enclosure, entitled "Bill for Amendments to the Seamen's Insurance Act," implementing Article 27 of the Japanese Constitution, has been received from the Supreme Commander for the Allied Powers and is circulated herewith by the United States Representative for the consideration of the Far Eastern Commission and referred to COMMITTEE NO. 3: CONSTITUTIONAL AND LEGAL REFORM.

2. The enclosed draft law was prepared by the Japanese Welfare Ministry and was approved by the Japanese Cabinet on the 10th of July 1947. The date of its introduction into the Japanese Diet and passage by that body has not been received by the Secretariat. The enclosed text of the draft law was received by the Secretariat on the 21st of August 1947.

3. The enclosure is a verbatim copy of the original draft law translation received from the Supreme Commander. The Japanese text of the enclosure will be circulated as soon as reproduction facilities permit (FEC-257/1).

SAMUEL S. STRATTON  
Acting Secretary General

FEC-257



FEC-RESTRICTEDE N C L O S U R EFIRST SESSION OF THE JAPANESE NATIONAL DIET--  
DRAFT LAW IMPLEMENTING THE JAPANESE CONSTITUTION:  
BILL FOR AMENDMENTS TO THE SEAMEN'S INSURANCE ACT

A part of Seamen's Insurance Act shall be amended as follows.

Of this Act, "Imperial Ordinance", "the government office" "the competent government official" shall be respectively amended as "Government Ordinance", "the administrative office" and "the competent government or other public official".

To Art. 2, the following three paragraphs shall be added:

The Seamen's Insurance Committee shall be established for the purpose of referring thereto important matters concerning the administration of the Seamen's Insurance.

The respective equal numbers of representatives of insured persons, ship-owners and those representing the public interest shall be appointed the members of the Seamen's Insurance Committee by the competent Minister.

Besides matters prescribed in the preceding two paragraphs, necessary matters regarding the Seamen's Insurance Committee shall be regulated by Government Ordinance.

Of Art. 5, "funeral expenses or a lump sum provided by Art. 45-2" shall be amended as "or funeral expenses" and "one year" as "two years".

Of Art. 9, after "the ship-owners employing insured persons" "or an association organized by ship-owners employing insured persons which has been authorized by the competent Minister" shall be added.

Of Art. 12, "(Tokyo-Metropolis, in area where wards of Tokyo-to exist)" shall be amended as "(ward, in area where wards of Tokyo-to exist)", and after "the city, town or village concerned" "(ward, in area where wards of Tokyo-to exist)" shall be added.

Of Art. 15, "Metropolis, Hokkaido" shall be amended as "To Do".

Art. 16, Repealed.

Art. 17, A person who is employed by a ship-owner as a seaman stipulated in Art. 1 of the Seamen's Act (he shall be called "Seaman" hereafter) shall be an insured person of Seamen's Insurance.

Of Art. 18, "or on the day on which they cease to fall under the provisions of each item of preceding article" shall be repealed.

Of Art. 19, "the day of their retirement for service as seamen or the day on which they come to fall under the provisions of each item of Art. 17" shall be amended as "or on the day of ceasing to be employed by ship-owner as a seamen".

After Art. 27-2, the following article shall be added.

Art. 27-3. In this Chapter the term "the average basic monthly wages" signifies the average monthly wages of the whole term of coverage.



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In this Chapter the term "the last average monthly wages" signifies the average monthly wages of three consecutive months immediately preceding the month of origin of sickness or injury which occurred on or off duty and caused his incapacity or his death due to a cause on duty within the period fixed by Government Ordinance according to the provisions of Art. 42-3, Para. 1 (in case the consecutive term of coverage preceding such month is less than three months, such term shall be used instead of the three consecutive months).

In case the last average monthly wages is less than the average basic monthly wages, the average basic monthly wages shall be regarded as the last average monthly wages.

In this Chapter the term "the average basic daily wages" signifies the amount equal to 1/30 of the average basic monthly wages.

In this Chapter the term "the last average daily wages" signifies the amount equal to 1/30 of the last average monthly wages.

Art. 28, Para. 1, Item 4 shall be amended as follows.

4. Receiving into a hospital or a clinic, or supply of necessary lodging and food for medical treatment in a place other than his own house.

Art. 28-2. Shall be repealed, and Art. 28-3, 28-4, 28-5 and 28-6, shall be respectively Art. 28-2, 28-3, 28-4, and 28-5.

Art. 30. In case an insured person or a former insured person is incapable of work owing to medical treatment, he shall be granted a sickness allowance during such incapable term.

The amount of sickness allowance per day is the amount distinguished as follows.

1. With respect to sickness or injury due to a cause on duty, within the limit of four months, the whole of his daily wages (in case of a former insured person, the daily wages shall be such at the time when he lost the qualification of insured person, and the same as this hereafter), and, in case the incapable term is over four months, the amount of 60 percent of his daily wages after the four months.
2. Within the limit of one month after the day of ceasing to receive medical benefits concerning sickness or injury due to a cause on duty, the amount of 60 percent of his daily wages.
3. With respect to sickness or injury due to a cause other than a cause on duty (this cause shall be called "a cause off duty" hereafter), the amount of 60 percent of his daily wages.

Art. 34. In case a person whose term of coverage is 15 years or more loses his qualification of the insured, he shall be granted an old-age pension until his death.

The granting of the pension, however, shall be suspended until the day of attaining the age of 50.

Of Art. 35, "of the entire term of coverage (hereafter called average basic monthly salary)" and "(1/30 of average basic monthly salary)" shall be repealed.



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Of Art. 36. "a cause other than a cause on duty (hereafter called a cause off duty)" shall be amended as "a cause off duty".

Of Art. 40. Para. 3. "3 years during 6 years" shall be amended as "6 months".

Of Art. 41. Para. 1 and Para. 3, Art. 41-2, and Art. 42-3, para. 1, "the average basic monthly wages" shall be amended as "the last average monthly wages".

Of Art. 42, "or of a person whose term of coverage is more than 15 years and has been in receipt of invalidity pension for incapacity off duty" shall be repealed, and, to the same article, the following one paragraph shall be added.

If, in case of the death due to cause off duty of person, whose term of coverage is 15 years or more and who has been receipt of invalidity pension for his incapacity due to a cause off duty, there is no one to receive a survivor's pension and the total sum of invalidity pension which has been already paid does not amount to the sum of 6 times the yearly amount of old-age pension which he should have been granted (if this sum is less than the sum of 10 times the last average monthly wages, the latter instead of the former), the balance shall be granted to the survivor of the deceased in the form of lump sum.

Of Art. 42-2, "the average basic monthly wages" shall be amended as "the last average monthly wages", and, after, "reduced to 22 times average basic monthly wages", "Such aggregate sum, however, shall in no case be less than the amount of 10 times the last average monthly wages", shall be added.

Of Art. 42-3, Para. 1, "average basic monthly wages" shall be amended as "the last average monthly wages", and, of Para. 2 of the same article, "36 times" as "24 times".

Of Art. 45, "those who are entitled to" shall be amended to "a person in receipt of", and, after "invalidity pension." This rule however, shall not be applied to the case of invalidity allowance for incapacity due to a cause on duty" shall be added.

Art. 45-2 shall be repealed and Art. 45-3 shall be Art. 45-2.

Art. 46, Para. 1 shall be amended as follows.

In case a person whose term of coverage is 6 months or more but less than 15 years loses his qualification of the insured, he shall be granted retirement allowance. This rule, however, shall not be applied to a person who dies from a cause on duty within the term fixed in Government Ordinance according to the provision of Art. 42-3, Para. 1.

Of Art. 47-2 "3 years" shall be amended as "6 months",

Art. 47-3 shall be repealed.

Art. 50-2. The yearly amount of survivor's pension is the amount distinguished as follows.

1. In case of the death due to a cause off duty of a person in receipt of old-age pension, the amount of half the yearly amount of that pension.
2. In case of the death due to a cause off duty of a person whose term of coverage is 15 years or more without receiving old-age pension the amount of half the yearly amount of old-age pension which he should be granted.



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3. In case of the death due to a cause off duty of a person who has been in receipt of an invalidity pension for his incapacity due to a cause off duty and whose term of coverage is 15 years or more, the amount of half the yearly amount of old-age pension which he should have been granted.
4. In case of the death due to a cause off duty of a person in receipt of an invalidity pension for his incapacity due to a cause on duty, the amount equal to 2,5 times his last average monthly wages.
5. In case of the death due to a cause on duty of an insured person or a former insured person within the term fixed in Government Ordinance according to the provision of Art. 42-3, Para. 1, the amount of 5 times his last average monthly wages.

In the case of Item 4 or 5 of the preceding paragraph with regard to a person whose term of coverage is more than 15 years, the yearly amount of survivor's pension to be granted to his survivor is the amount prescribed in Item 4 or 5 of the same paragraph plus the additional amount of 3 times the average basic daily wages for each year in excess of 15 years.

Of Art. 50-3, after "the average basic wages", "(in case of Para. 1, Item 4 or 5 of the preceding article, the last average daily wages)" shall be added.

Of Art. 50-6, Item 1, "or invalidity pension" shall be repealed, Item 3 of the same article shall be Item 5 and, after Item 2 of the same article, the following two items shall be added.

3. If, in case a survivor's pension has been granted on account of the death due to a cause off duty of a person in receipt of invalidity pension for his incapacity due to a cause off duty, the total sum of invalidity pension and survivor's which has been already paid does not amount to the sum of 5 times the yearly amount of old-age pension which he should have been granted, the amount equal to the balance.

4. If, in case a survivor's pension has been granted on account of the death due to a cause off duty of a person in receipt of invalidity pension for his incapacity due to a cause on duty, the total sum of invalidity pension and survivor's pension which has been already paid does not amount to the sum of 6 times the yearly amount of his invalidity pension, the amount equal to the balance.

Of Art. 52, "invalidity allowance or lump sum provided in Article 45-2" and "quarrel, drunkenness or remarkable dissipation shall be respectively amended as "or invalidity allowance" and "wilful quarrel or remarkable dissipation, and before" disobedience," "wilful" shall be added.

The conditional clause, Item 1 and Item 2 of Art. 53, Para. 1 shall be repealed and Item 3, 4, 5 and 6 shall be respectively Items 1, 2, 3 and 4.

Of Art. 54, after "granted" and "who", "for ten days" and "wilfully" shall be respectively added.

Of Art. 58, Para. 1, after "and funeral expenses", "according to the provisions of Government Ordinance" shall be added, and, of Para. 2 of the same article, "and Article 76" shall be repealed.



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Of Art. 60, "in equal parts" and "The portion to be shared by the ship-owner, however may be increased according to the provision of Government Ordinance" shall be repealed, and after "employer" "as regulated by Government Ordinance" shall be added.

Art. 60-2 shall be repealed.

Of Art. 63, Para. 1, "the local Social Insurance Investigation Committee" shall be amended as "the Insurance Referee", "the Central Social Insurance Investigation Committee" as "the Seamen's Insurance Investigation Committee" and "an ordinary law-court" as "a law-court".

Art. 63-2. The Insurance Referee may, when considered necessary, make investigation regarding the settlement of insurance benefits with authority.

The Insurance Referee may, when considered necessary for his investigation, question the competent Government or other public official who has decided upon insurance benefits, or may make the ship-owner employing insured persons, the association which has been authorized by the competent Minister according to the provisions of Art. 9 or the person to receive benefits report or attend to the office, or may make a doctor diagnose or examine that person.

Of Art. 65, "the Central Social Insurance Investigation Committee" shall be amended as "the Seamen's Insurance Investigation Committee".

Art. 65-2. The same numbers of the representatives of insured persons ship-owners and those representing the public interest shall be appointed the members of the Seamen's Insurance Investigation Committee by the competent Minister.

Of Art. 66, "the Social Insurance Investigation Committee" shall be amended as "the Insurance Referee and the Seamen's Insurance Investigation Committee."

Of Art. 67, "30 days" shall be amended as "60 days".

Of Art. 68, Para. 1, "500 yen" shall be amended as "5,000 yen" and paragraphs 3--5 of the same article shall be repealed.

Art. 69. In case a ship-owner employing insured persons or an association which has been authorized by the competent Minister according to the provisions of Art. 9 falls under one of the following items, he or it shall be condemned to an imprisonment not exceeding 6 months or a fine not exceeding 10,000 yen.

1. In case he or it refuses to make reports under this Act, make false reports, refuses to present documents or refuses to attend to an office.

2. In case he or it refuses to answer or makes false statements to the inquiries of a competent Government or other public official under this Act, or refuses, hinders or evades the inspection of the latter.

Art. 69-2. In case a person to be granted insurance benefits and other persons concerned, except a person prescribed in the preceding article falls under one of the following items, they shall be condemned to an imprisonment not exceeding 6 months or a fine not exceeding 5,000 yen.



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1. In case they refuse to make reports notices or notifications under this Act, make false reports, notifications, refuse to present documents or refuse to attend to an office.

2. In case they refuse to answer or make false statements to the inquiries of a competent Government or other public official under this Act, or refuse, hinder or evade his inspection.

Art. 70. In case the representative of a juridical person, or an agency, an employee or other worker of a juridical person or a person commits an illegal act under the preceding two articles with respect to the business of the juridical person or the person, the person committing the act shall be punished, besides, the said juridical person or person shall be liable to the monetary penalty prescribed in those articles.

Chapter 7, Art. 71, Art. 72, and Chapter 8, Art. 73--76 shall be repealed.

Art. 6 of Supplementary Rules of (Act No. 24, of Feb. 19, 1945) shall be repealed.

The Separate Table No. 3 shall be amended as follows.

## Separate Table No. 3

Term of Coverage	Number of months
6 months or more	0.5
1 year or more	1.0
2 " "	2.0
3 " "	3.0
4 " "	4.0
5 " "	5.0
6 " "	6.0
7 " "	7.0
8 " "	8.5
9 " "	10.0
10 " "	11.5
11 " "	13.0
12 " "	14.5
13 " "	16.0
14 " "	18.0

The Separate Table No. 4 shall be amended as follows.

## Separate Table No. 4

Term of Coverage	Number of months
6 months or more	1.0
1 year or more	2.0
2 " "	3.5
3 " "	5.0
4 " "	6.5
5 " "	8.0
6 " "	9.5
7 " "	11.0
8 " "	12.5
9 " "	14.0
10 " "	15.5
11 " "	17.0
12 " "	19.0
13 " "	21.0
14 " "	23.0



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## Supplementary Rules

Art. 1. The date of the enforcement of this Act shall be fixed by Government Ordinance.

Art. 2. With respect to the insurance benefits to be granted to the persons who have the right to those benefits on the day of the enforcement of this Act, the former provisions shall be applied.

Art. 3. With respect to the term of coverage to be added, insurance benefits and the expenses to be born by the National Treasury prescribed in the provisions of former Art. 73-76, the former provisions shall be applied.

Art. 4. The Kwantung Seamen's Insurance Ordinance shall be abolished.

Art. 5. With respect to the person who has been insured according to the Kwantung Seamen's Insurance Ordinance, the term during which he has been insured according to the same Ordinance shall be regarded as the term during which he has been insured according to this Act.

Art. 6. A part of Act No. 24, 1945 shall be amended as follows:

Art. 6 of Supplementary Rules shall be repealed.



FEC-257/1FEC-RESTRICTEDFEC-257/129 August 1947FAR EASTERN COMMISSION

FIRST SESSION OF THE JAPANESE NATIONAL DIET--  
DRAFT LAW IMPLEMENTING THE JAPANESE CONSTITUTION:  
BILL FOR AMENDMENTS TO THE SEAMEN'S INSURANCE ACT  
(References: Article 27, FEC-087/14, FEC-257)

Note by the Secretary General

1. The enclosure, the Japanese text of a bill entitled "Bill for Amendments to the Seamen's Insurance Act", implementing Article 27 of the Japanese Constitution, has been received from the Supreme Commander for the Allied Powers and is circulated herewith by the United States Representative for the consideration of the Far Eastern Commission and referred to COMMITTEE NO. 3: CONSTITUTIONAL AND LEGAL REFORM.

2. The English translation of the enclosure was circulated as FEC-257 of 21 August 1947.

3. Due to the limited number of copies available, only one copy of the enclosure can be furnished each delegation.

SAMUEL S. STRATTON  
Acting Secretary General

FEC-257/1



Bill for Amendment to a Part of  
Seamen's Insurance Act

船員保険法の一部を改正する法律案

↑キキホ ↓キキ

船員保険法の一部を次のように改正する。

「勅令」を「政令」に、「行政官廳」を「行政廳」に、「當該官吏」

を「當該官吏吏員」に改める。

第二條に次の三項を加える。

船員保険事業ノ運営ニ関スル重要事項ヲ審議スル爲メ船員保険本員會ヲ

置ク

船員保険委員會ノ委員ハ被保険者ヲ代表スル者、船舶所有者ヲ代表ス

ル者及公益ヲ代表スル者ニ付主務大臣各同數ヲ委嘱ス

前二項ニ規定スルモノノ外船員保険委員會ニ關シ必要ナル事項ハ政令

ヲ以テ之ヲ定ム

第五條中「葬祭料」又ハ第四十五條ノ二ノ規定ニ依ル一時金」並「又

ハ葬祭料」に「一年」を「二年」に改める。

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Incl 7



第九條中「船舶所有者ヲシテ其ノ使用スル者ノレ以下に」又ハ被保險

者ヲ使用スル船舶所有者ノ組織スル團體ニシテ主務大臣ノ指定スルモノ

ヲシテ其ノ船舶所有者ノ使用スル者ノレを加ふる。

第十二條中「(東京都)區ノ存スル區域ニ於テハ東京都」を「(東

京都)區ノ存スル區域ニ於テハ區」に改め、「當該市町村」の下に「

(東京都)區ノ存スル區域ニ於テハ區」を加ふる。

第十五條中「(東京都、北海道、府縣)を」都道府縣」に改める。

第十六條 削除

第十七條 船賃法第一條ニ規定スル船員(以下船員ト稱ス)トシテ船舶

所有者ニ使用セララルル者ハ船員保險ノ被保險者トス

第十八條中「又ハ前條各號ノ規定ニ該當セザルニ至リタル日」を「又ハ

第十九條中「船員トシテ船舶所有者ニ使用セラレザルニ至リタル日」

又ハ第十七條各號ノ一ニ該當スルニ至リタル日」を「又ハ船員トシテ船

舶所有者ニ使用セラレザルニ至リタル日」に改める。





第二十七條ノ二の次に **次** の一條を加ふる。

第二十七條ノ三 本章ニ於テ平均報酬月額トハ被保険者タリシ全期間ノ平均報酬月額ヲ謂フ

本章ニ於テ最終平均報酬月額トハ被保険者又ハ被保険者タリシ者が痲疾ト爲リ又ハ職務上ノ事由ニ因リ第四十二條ノ三第一項ノ規定ニ依レテ令ノ定ムル期間内ニ死亡シタル場合ニ於テ其ノ痲疾又ハ死亡ノ原因ト爲リタル痲疾又ハ負傷ノ發シタル日ノ屬スル月前三月間(繼續シタル被保険者タリシ期間三月未滿ナルトキハ其ノ期間)ノ平均報酬月額ヲ謂フ

前項ノ規定ニ依リ算定シタル最終平均報酬月額ガ平均報酬月額ヨリ少額ナルトキハ平均報酬月額ヲ以テ最終平均報酬月額トス  
本章ニ於テ平均報酬月額トハ平均報酬月額ノ三十分ノ一ノ額ヲ謂フ  
本章ニ於テ最終平均報酬月額トハ最終平均報酬月額ノ三十分ノ一ノ額ヲ謂フ



第二十八條第一項第四号を次のように改める。

四 病院若ハ診療所へノ收容又ハ自宅以外ノ場所ニ於ケル療養ニ必要ナル宿泊及食事ノ支給

第二十八條ノ二を削リ、第二十八條ノ三を第二十八條ノ二とし、以下

第二十八條ノ六<sup>条</sup>一條<sup>を</sup>繰上<sup>げ</sup>げる。

第三十條 被保険者又ハ被保険者タリシ者ガ療養ノ爲職務ニ服スルコト

能ハザルトキハ其ノ期間傷病手當金ヲ支給ス

傷病手當金ノ額ハ左ノ區別ニ依ル金額トス

一 職務上ノ事由ニ因ル疾病又ハ負傷ニ付テハ四月ノ範圍内ニ於テハ

一日ニ付報酬日額(被保険者タリシ者ニ在リテハ被保険者ノ資格喪

失當時ノ報酬日額以下同ジシ)ノ全額、四月ヲ超ユル場合ニ於テハ一

日ニ付報酬日額ノ百分ノ六十二相當スル金額

二 職務上ノ事由ニ因ル疾病又ハ負傷ニ關シ療養ノ給付ヲ受ケザルニ

至リタル日以後一月ノ範圍内ニ於テハ一日ニ付報酬日額ノ百分ノ六



十二相當スル金額

三 職務上ノ事由以外ノ事由（以下職務外ノ事由ト稱ス）ニ因ル疾病

又ハ負傷ニ付テハ一日ニ付報酬月額ノ百分ノ六十ニ相當スル金額

第三十四條 十五年以上被保険者タリシ者ガ其ノ資格ヲ喪失シタルトキ

ハ其ノ者ノ死亡ニ至ル迄養老年金ヲ支給ス但シ其ノ者ガ五十歳ニ至ル

迄其ノ支給ヲ停止ス

第三十五條中「被保険者タリシ全期間」トシ「以下平均報酬月額ト

稱ス」トシ「平均報酬月額」ノ三十分ノ一ノ額トス以下同ジ」トシ

第三十六條中「職務上ノ事由以外ノ事由（以下職務外ノ事由ト稱ス）」

を「職務外ノ事由」ト改める。

第四十條第三項中「六年間ニ三年」トシ「六月」ト改める。

第四十條第三項、第三項、第四十一條ノ二及び第四十二條ノ三第一

項中「平均報酬月額」を「最終平均報酬月額」ト改める。

五



第四十二條中「又、十五年以上被保險者タリシ者ニシテ職務外ノ事由ニ因ル廢座ト爲リタルニ因リ障害年金ノ支給ヲ受クルモノ」を削り、同條に次の一項を加ふる。

十五年以上被保險者タリシ者ニシテ職務外ノ事由ニ因ル廢疾ト爲リタルニ因リ障害年金ノ支給ヲ受クルモノが職務外ノ事由ニ因リ死亡シタル際其人者ノ死亡ニ關シ遺族年金ノ支給ヲ受クベキ者ナキ場合ニ於テ既ニ支給ヲ受ケタル障害年金ノ總額が其人者ノ支給ヲ受クルコトヲ得ベカリシ養老年金ノ六年分ニ相當スル金額（最終平均報酬月額ノ十月分ニ相當スル金額ニ滿タザルトキハ其ノ金額）ニ滿タザルトキハ其ノ差額ヲ一時金トシテ其ノ遺族ニ支給ス

第四十二條ノ二中「及平均報酬月額」を「及最終平均報酬月額」に、「止ム」を「止ム但シ最終平均報酬月額ノ十月分ヲ下ルコトヲ得ズ」に改めらる。



第四十五條中「ヲ受ケル者」を「ノ支給ヲ受ケル者」に  
改め、同條に **本次** の但書を加える。

但し職務上ノ事由ニ因ル障害手當金ニ付テハ此ノ限ニ在ラズ  
第四十五條ノ二を削り、第四十五條ノ三を第四十五條ノ二とする。

第四十六條第一項を次のように改める。

六月以上十五年未満被保険者タリシ者ガ其ノ資格ヲ喪失シタルトキ  
脱退手當金ヲ支給スルシ、職務上ノ事由ニ因リ第四十二條ノ三第一項ノ  
規定ニ依ル政令ノ定ムル期間内ニ死亡シタル者ニ付テハ此ノ限ニ在ラ  
ズ。

第四十七條ノ二中「三年」を「六月」に改める。

第四十七條ノ三を削る。

第五十條ノ二、遺族年金ノ額ハ左ノ區別ニ依ル金額トス



- 一 養老年金ノ支給ヲ受クル者ガ職務外ノ事由ニ因リ死亡シタル場合ニ於テハ其ノ旨ニ支給セラリル養老年金ノ額ノ二分ノニ相當スル金額
- ニ 十五年以上被保険者タリシ者ガ養老年金ノ支給ヲ受クルコトナクシテ職務外ノ事由ニ因リ死亡シタル場合ニ於テハ其ノ旨ニ支給ヲ受クルコトヲ得ベカリシ養老年金ノ額ノ二分ノニ相當スル金額
- 三 十五年以上被保険者タリシ者ニシテ職務外ノ事由ニ因リ廢疾ト爲リタルニ因リ障害年金ノ支給ヲ受クル者ガ職務外ノ事由ニ因リ死亡シタル場合ニ於テハ其ノ旨ニ支給ヲ受クルコトヲ得ベカリシ養老年金ノ額ノ二分ノニ相當スル金額
- 四 職務上ノ事由ニ因リ廢疾ト爲リタルニ因リ障害年金ノ支給ヲ受クル者ガ職務外ノ事由ニ因リ死亡シタル場合ニ於テハ最終平均報酬額ノ二月半分ニ相當スル金額
- 五 被保険者又ハ被保険者タリシ者ガ職務上ノ事由ニ因リ第四十二條



ベキ者ニ對シ報告ヲ應サシメ若ハ出頭ヲ命ジ又ハ醫師ニ診斷若ハ檢

査ヲ應サシムルコトヲ得  
第六十五條中「行政裁判所ニ訴レを削了」

第六十五條ノニ、船員保險審査會ノ委員ハ被保險者ヲ代表スル者、船舶

所有者ヲ代表スル者及公益ヲ代表スル者ニ付主務大臣各同數ヲ本囑大  
第六十六條中「社會保險審査會」を「保險審査官及船員保險審査會」  
に改める。

第六十七條中「三十日」を「六十日」に改めり。

第六十八條第一項中「五百圓」を「五千圓」に改め、同條第三項乃至  
第五項を削る。

第六十九條 被保險者ヲ使用スル船舶所有者又ハ第九條ノ規定ニ依リ主  
務大臣ノ指定シタル團體左ノ各號ノ一ニ該當スル場合ニ於テハ六月  
以上ノ總役又ハ一萬圓以下ノ罰金ニ處ス  
一 本法ノ規定ニ依ル報告ヲ怠サズ若ハ虛偽ノ報告ヲ爲シ、文書ノ



ベキ者ニ對シ報告ヲ應サシメ若ハ出頭ヲ命ジ又ハ醫師ニ診斷ヲ受

案ヲ應サシムルコトヲ得  
第六十四條中「又ハ行政裁判所ニ訴レ」を削リ、

第六十五條中「中央社會保險審査會」を「船員保險審査會」に改メ、

第六十五條ノニ、船員保險審査會ノ委員ハ被保險者ヲ代表スル者、船主

所有者ヲ代表スル者及公益ヲ代表スル者ニ付主務大臣各同數ヲ委嘱ス

第六十六條中「社會保險審査會」を「保險審査官及船員保險審査會」

に改める。

第六十七條中「三十日」を「六十日」に改める。

第六十八條第一項中「五百圓」を「五千圓」に改め、同條第三項乃至

第五項を削る。

第六十九條 被保險者ヲ使用スル船舶所有者又ハ第九條ノ規定ニ依リ主

務大臣ノ指定シタル團體左ノ各號ノ一ニ該当スル場合ニ於テハ六月

以上ノ總役又ハ一萬圓以下ノ罰金ニ處ス

一 本法ノ規定ニ依ル報告ヲ怠サズ若ハ虚偽ノ報告ヲ爲シ、文書ノ



提出ヲ為サズ又ハ出頭セザルトキ

本法ノ規定ニ依ル審該官吏職員ノ質問ニ對シ答辯ヲ為サズ若ハ虚

偽ノ陳述ヲ為シ又ハ其ノ検査ヲ拒ミ、妨ゲ若ハ忌避シタルトキ

第六十九條ノ二 前條ニ規定スル者以外ノ **積**ニシテ保險給付ヲ受ク

キモノ其ノ他ノ關係者左ノ各號ノ一ニ該書スル場合ニ於テハ六月以下

ノ懲役又ハ五千圓以下ノ罰金ニ處ス

一 本法ノ規定ニ依ル報告、申出若ハ届出ヲ為サズ、虚偽ノ報告、申

出若ハ届出ヲ為シ、文書ノ提出ヲ為サズ又ハ出頭セザルトキ

ニ 本法ノ規定ニ依ル審該官吏職員ノ質問ニ對シ答辯ヲ為サズ若ハ虚

偽ノ陳述ヲ為シ又ハ其ノ検査ヲ拒ミ、妨ゲ若ハ忌避シタルトキ

第七十條 法人ノ代表者又ハ法人若ハ人ノ代理人、使用人其ノ他ノ従業

者ガ其ノ法人又ハ人ノ業務ニ關シ前二條ノ違反行為ヲ為シタルトキハ

行爲者ヲ罰スルノ外其ノ法人又ハ人ニ對シ各本條ノ罰金刑ヲ科ス

第七章 第七十一條、第七十二條、第八章及び第七十三條乃至第七十



一 四 年 以 上	一 三 年 以 上	一 二 年 以 上	一 一 年 以 上	一 〇 年 以 上	九 年 以 上	八 年 以 上	七 年 以 上	六 年 以 上	五 年 以 上	四 年 以 上
二 三 〇	二 一 〇	一 九 〇	一 七 〇	一 五 五	一 四 〇	一 二 五	一 一 〇	九 五	八 〇	六 五



附 則

第一條 この法律施行の期日は、政令でこれを定める。

第二條 この法律施行の日において、既に保険給付の支給を受けている権利を

有する者に支給するものについては、なお従前の例による。

第三條 従前の第七十三條乃至第七十六條の規定による加算、保険給付

及び國庫の負担すべき費用については、なお従前の例による。

第四條 関東州船員保険令は、これを廃止する。

第五條 関東州船員保険令による被保険者であつた者について、同令

による被保険者であつた期間は、これをこの法律による被保険者であ

つたものとみなす。

第六條 昭和二十年法律第二十四号の一部を次のように改正する。

附則第六條を削る。



WEC-258FEC-RESTRICTEDFEC-25827 August 1947FAR EASTERN COMMISSION

FIRST SESSION OF THE JAPANESE NATIONAL DIET --  
DRAFT LAW IMPLEMENTING THE JAPANESE CONSTITUTION:  
LAW FOR ENFORCEMENT OF THE IMPERIAL HOUSE ECONOMY LAW, AND:  
DRAFT RESOLUTION IN ACCORDANCE WITH ARTICLE 8 OF  
THE CONSTITUTION OF JAPAN

(References: Article 8, FEC-087/14, FEC-101/3)

Note by the Secretary General

1. Enclosure "A", entitled "Law for Enforcement of the Imperial House Economy Law", implementing Article 8 of the Japanese Constitution and Enclosure "B", "Draft Resolution in Accordance with Article 8 of the Constitution of Japan", have been received from the Supreme Commander for the Allied Powers and are circulated herewith by the United States Representative for the consideration of the Far Eastern Commission. The attention of COMMITTEE NO. 3: CONSTITUTIONAL AND LEGAL REFORM is especially invited to these enclosures.

2. Enclosure "A", according to a SCAP report, was approved by the Japanese Cabinet on 6 August 1947 and was then considered "a high priority bill" ready for introduction into the Japanese Diet. Enclosures "A" and "B" were received by the Secretariat of the Far Eastern Commission on 26 August 1947.

3. The enclosures are verbatim copies of the original draft law translation received from the Supreme Commander. The Japanese texts of the enclosures will be circulated as soon as reproduction facilities permit.

SAMUEL S. STRATTON  
Acting Secretary General

FEC-258



FEC-RESTRICTEDENCLOSURE "A"FIRST SESSION OF THE JAPANESE NATIONAL DIET--  
DRAFT LAW IMPLEMENTING THE JAPANESE CONSTITUTION:  
LAW FOR ENFORCEMENT OF THE IMPERIAL HOUSE ECONOMY LAW

Article 1. The purpose of this Law is to specify the fixed sums concerning the Inner Court Appropriation and the Imperial Family Appropriation and to provide for other necessary matters for the enforcement of the Imperial House Economy Law (called the Law hereinafter).

Article 2. The amount mentioned in Article 2, paragraph 1, sub-paragraph 1, of the Law shall be fixed at 50,000 yen.

The amount mentioned in Article 2, paragraph 1, sub-paragraph 2, of the Law shall be fixed at 100,000 yen.

Article 3. The amount mentioned in Article 2, paragraph 3, of the Law shall be fixed at 150,000 yen.

Article 4. With regard to the Emperor as well as the Empress, the Grand Empress Dowager and the Empress Dowager, the amount mentioned in Article 2, paragraph 1, sub-paragraph 2, of the Law shall be fixed at three times the amount stipulated in Article 2, paragraph 2.

Article 5. With regard to the Emperor and those members of the Imperial Family specified in Article 4 of the Law, the amount mentioned in Article 2, paragraph 3, of the Law shall, in aggregate, be fixed at 1,200,000 yen.

Article 6. The year mentioned in Article 2, paragraphs 2 and 3, of the Law shall be the period from April 1 of each year to March 31 of the following year.

Article 7. The sum mentioned in Article 4, paragraph 1, of the Law shall be fixed at 8,000,000 yen.

Article 8. The sum mentioned in Article 6, paragraph 1, of the Law shall be fixed at 200,000 yen.

Article 9. The Inner Court Appropriation and the Imperial Family Appropriations on the bases of the fixed sums as specified in the two preceding articles shall be neither expended nor allocated unless and until provision has been made therefor in the expenditure budget passed by the Diet.

## Supplementary Provisions

The present Law shall apply as from August 1, 1947.

Law No. 70, 1947 (Law concerning the Enforcement of the Imperial House Economy Law) is hereby abolished.

In the 22nd fiscal year of Showa, the provisions of Article 2, paragraphs 2 and 3, of the Law shall apply with regard to the period from August 1 of the 22nd year of Showa to March 31 of the 23rd year of Showa, and the fixed amount mentioned in Article 2, paragraph 3 of the Law shall be eight-twelfths of the amount specified in Articles 3 and 5 of the present Law.



FEC-RESTRICTEDENCLOSURE "B"DRAFT RESOLUTION IN ACCORDANCE WITH ARTICLE 8 OF  
THE CONSTITUTION OF JAPAN

The Emperor and the members of the Imperial Family specified in Article 4 of the Imperial House Economy Law may, besides those mentioned in Article 5 of the Law for the Enforcement of the Imperial House Economy Law, make gifts for consolation or encouragement, the total amount of which shall not exceed 1,200,000 yen, during the period from the date of the adoption of this resolution to March 31, 1947.



FEC-258/1FEC-RESTRICTEDFEC-258/129 August 1947FAR EASTERN COMMISSION

FIRST SESSION OF THE JAPANESE NATIONAL DIET--  
DRAFT LAW IMPIEMENTING THE JAPANESE CONSTITUTION:  
LAW FOR ENFORCEMENT OF THE IMPERIAL HOUSE ECONOMY LAW, AND:  
DRAFT RESOLUTION IN ACCORDANCE WITH ARTICLE 8 OF  
THE CONSTITUTION OF JAPAN

(References: Article 8, FEC-087/14, FEC-101/3, FEC-258)

Note by the Secretary General

1. Enclosure "A", the Japanese text of a bill entitled "Law for Enforcement of the Imperial House Economy Law", implementing Article 8 of the Japanese Constitution and Enclosure "B", entitled "Draft Resolution in Accordance with Article 8 of the Constitution of Japan", have been received from the Supreme Commander for the Allied Powers and are circulated herewith by the United States Representative for the consideration of the Far Eastern Commission and referred to COMMITTEE NO. 3: CONSTITUTIONAL AND LEGAL REFORM.

2. The English translation of the enclosures were circulated as FEC-258 of 27 August 1947.

3. Due to the limited number of copies available, only one copy of the enclosure can be furnished each delegation.

SAMUEL S. STRATTON  
Acting Secretary General

FEC-258/1



The Law for the Enforcement of the  
Imperial House Economy Law 4/5/47

皇室経済法施行法

第一條 この法律は、内廷費及び皇族費に関する定額その他皇室経済法（以下法という。）の施行に必要な事項を定めることを目的とする。

第二條 法第二條第一項第一号の一定額は、五万円とする。

法第二條第二項第二号の一定額は、十万円とする。

第三條 法第二條第三項の一定額は、十五万円とする。

第四條 天皇並びに皇后、太皇太后及び皇太后については、法第二條第一項第二号の一定額は、第二條第二項に規定する金額の三倍に相当する金額とする。

第五條 天皇及び法第四條に規定する皇族については、法第二條第三項の一定額は、これらの者を通じて、百二十万円とする。

第六條 法第二條第二項及び第三項の一年は、毎年四月一日から翌年三月三十一日までの期間とする。

第七條 法第四條第一項の定額は、八百万円とする。

April 3

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第八條 法第六條第一項の定額は、二十万円とする。

第九條 前二條の定額である内廷費及び皇族費は、國會の議決による歳出予算の定めによらないで、又は定めのない間に、これを支出し、又は支出の手続をすることとすべきでない。

附 則

この法律は、昭和二十二年八月一日から、これを適用する。

昭和二十二年法律第七十二号（皇室經濟法施行に関する法律）は、これを廃止する。

昭和二十二年度においては、法第二條第二項及び第三項の規定は、昭和二十二年八月一日から昭和二十三年三月三十一日までの期間についてこれを適用し、法第二條第三項の一定價額は、この法律の第三條及び第五條に規定する金額の十二分の八の額とする。



*Domestic Relations Court Bill*

## 家事審判法

## 第一章 総則

第一條 この法律は、個人の尊厳と両性の本質的平等を基本として、家庭の平和と健全な親族共同生活の維持を図ることを目的とする。

第二條 家庭に関する事件につき審判又は調停を行うために裁判所法の規定により設けられた地方裁判所の支部は、これを家事審判所とし、その支部に勤務する裁判官は、これを家事審判官とする。

第三條 審判は、一人の家事審判官が、參與員を立ち合わせ、又はその意見を聴いて、これを行う。

調停は、家事審判官及び調停委員を以て組織する調停委員会がこれを行う。

家事審判所は、相当と認めるときは、前二項の規定にかかわらず、一人の家事審判官だけで審判又は調停を行うことができる。

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## 第四條

裁判所職員の除斥、忌避及び回避に関する民事訴訟法の規定で、裁判官に関するものは、家事審判官及び參與員に、裁判所書記に関するものは、家事審判所の書記にこれを準用する。

## 第五條

參與員及び調停委員には、最高裁判所の定める旅費、日当及び止宿料を支給する。

## 第六條

審判又は調停の申立をするには、最高裁判所の定める手数料を納めなければならない。

## 第七條

特別の定がある場合を除いて、審判及び調停に関しては、その性質に反しない限り、非訟事件手続法第一編の規定を準用する。但し、同法第十五條の規定は、この限りでない。

## 第八條

この法律に定めるものの外、審判又は調停に関し必要な事項は、最高裁判所がこれを定める。

## 第二章 審判

## 第九條

家事審判所は、左の事項について審判を行う。

## 甲類



- 一 民法第七條及び第十條の規定による禁治産の宣告及びその取消
- 二 民法第十二條第二項及び第十三條の規定による準禁治産の宣告、その取消その他の準禁治産に関する処分
- 三 民法第二十五條乃至第二十九條の規定による不在者の財産の管理に関する処分
- 四 民法第三十條及び第三十二條第一項の規定による失踪の宣告及びその取消
- 五 民法第七百七十五條の規定による特別代理人の選任
- 六 民法第七百九十一條第一項又は第二項の規定による子の氏の変更についての許可
- 七 民法第七百九十四條又は第七百九十八條の規定による養子をするについての許可