

(Article 2(1)(ii) and (2)(ii)). Also, the provision on revolving installment payments is regulated by a new enactment of two different types of factoring (Article 2(3)(iii)).

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3. Family Law

Special adoption system

1. On July 6, 1982, the Civil Law Section of the Advisory Committee on the Legal System, an advisory body of the Minister of Justice, decided to reconvene its Family Law Subcommittee. As a result, on Sept. 28, 1982, the Family Law Subcommittee held its first meeting, and decided to review the adoption system, taking into consideration the present adoption system in Japan and systems used in various foreign countries. As a result of its discussions, the Subcommittee proposed the introduction of its so-called "special adoption system", which would dissolve the relationship between natural parents and their child. Before conducting any further examination of the adoption system, the Subcommittee published the result of its discussions and also published "an interim tentative draft on the amendments to the adoption system" through the Office of the Minister's Councilors of the Civil Affairs Bureau of the Ministry of Justice with a view to seeking the opinions of the general public.

2. The interim tentative draft includes an introduction of the aforementioned special adoption system and some revisions to the present adoption system. An outline of the special adoption system will be given below.

The present adoption system in Japan recognizes adoptions of

both a minor and an adult. In either case, the proposed adoptee makes an adoption contract with the proposed adoptive parents, and they file the adoption arrangement. By these legal formalities, the adoption becomes effective. In the case of the adoption of a minor, however, there are some special requirements which must be fulfilled. First, if a proposed adoptee is under fifteen years old, his or her legal representative may consent to the adoption on behalf of the proposed adoptee (the Civil Code, Article 797). Secondly, if a proposed adoptee is a minor, the parties concerned must apply to the family court for permission to make the adoption (the Civil Code, Article 798). In spite of these special requirements, as stated above, adoption comes into effect not through an adoption decree or an order of the family court but through the filing of the adoption arrangement by the parties concerned.

An adoption creates a legal parent-child relationship between an adoptee and adoptive parents and a legal kinship between the adoptee and relatives of the adoptive parents, but the parent-child relationship between the natural parents and the adoptee is not dissolved. Dissolution of the adoption is permitted.

Certainly, the present adoption system is generally accepted as being suitable for Japanese society. But it is strongly felt in some quarters that if proposed adoptive parents adopt a proposed adoptee at birth, only the relationship which should be accepted as the legal parent-child relationship should be that of the adoptor-adoptee, and that the relationship between the natural parents and the adoptee should be dissolved. Thus, the aforesaid interim tentative draft proposed that, in addition to the present adoption system, a "special adoption system" should be introduced which dissolved the parent-child relationship between the natural parents and the adoptee, and that both parties should be able to choose the form of adoption.

3. The characteristics of the special adoption system proposed in the interim tentative draft are as follows (Though there are other suggestions, they are omitted here.):

(1) As a general rule, the age of the proposed adoptee shall

be under six years old.

(2) The proposed adoptive parents shall be a husband and wife.

(3) The adoption shall come into effect through a decree of family court.

(4) By the conclusion of the adoption contract, the adoptee shall acquire the status of a legitimate child of the adoptive parents. The natural parents shall lose all of their rights and duties in relation to the adoptee.

(5) Dissolution of adoption is not to be allowed. However, in special cases, family court is empowered to issue a decree abrogating the adoption.

4. The “special adoption system” is an adoption system which is recognized worldwide, and therefore is not a particularly new one. One of the reasons that the possible introduction of this new system came to be examined is that it was seen as a possible extension of the protection of minors’ welfare. In addition, some people want to introduce a special adoption system in order to avoid having the facts of adoption recorded in the family register. In Japan, there is a comprehensive registration system which requires registration of all facts relating to birth, marriage, divorce, adoption, etc. Consequently, the family register makes public the fact that an adoption has taken place. Thus, with a view to making the adoptee the true child of the adoptive parents’ marriage, introduction of “special adoption system” has been sought. Certainly, the “special adoption system” itself does not purport to make secret facts relating to adoption as contained in the family register (though, of course, it would make the natural parents’ names secret). However, it may safely be said that the recording of adoptions will become one of the main issues discussed with respect to the committee’s interim tentative draft.

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