

EMBASSY OF JAPAN  
MANILA

No. 575-13

The Embassy of Japan presents its compliments to the Department of Foreign Affairs and has the honor to reply to the latter's Note No. 13-3848 dated 25 November 2013 regarding the Department's request for assistance in providing a verified and/or authenticated copy of the Divorce Law of Japan with reference to the Order issued by the Regional Trial Court, Branch 126 of Caloocan City in connection with Sp. Proc. Case No. C-4099 and C-4610.

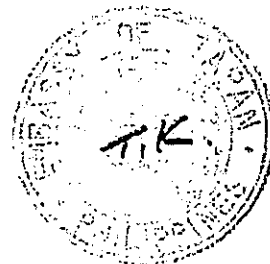
The Embassy respectfully informs the Department that the Law of Japan was created and enacted in Japanese Language (Nihongo), thus, there is no official English text of the Law of Japan.

Moreover, the Embassy, as a diplomatic mission of Japan overseas, do not issue certified copy of the law of Japan nor process translation certificate of the Law of Japan due to the potential problem in the legal interpretation of the Law of Japan.

Meanwhile, an English translation of the Law of Japan can be accessed in the "Law Search" website of the Ministry of Justice, Japan ( <http://www.japaneselawtranslation.go.jp> ). A print out of the Divorce stipulation under the Civil Code of Japan is herewith attached.

The Embassy of Japan avails itself of this opportunity to renew to the Department of Foreign Affairs the assurances of its highest consideration.

Manila, 03 December 2013



Encl.: print out of the Divorce stipulation in the Civil Code of Japan

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THE CIVIL CODE  
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EHS LAW BULLETIN SERIES

EHS Vol. II

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Under Authorization  
of  
THE MINISTRY OF JUSTICE  
&  
THE CODES OF TRANSLATION COMMITTEE  
Whose official translations  
are contained herein

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**BOOK IV RELATIVES**

**CHAPTER I GENERAL PROVISIONS**

(Scope of relatives)

Article 725. The persons mentioned below are relatives:

- (1) Relatives by blood up to the sixth degree of relationship;
- (2) Spouses;
- (3) Relatives by affinity up to the third degree of relationship.

(Degree of relationship)

Article 726. The degree of relationship is determined by computing the number of generations between relatives.

2. As between collateral relatives the degree of relationship is determined by the number of generations ascending from one of them, or his or her spouse, to the common ancestor, and then descending from such ancestor to the other.

(Relationship by adoption)

Article 727. As between an adopted child on the one hand and the parent by adoption and his or her relatives by blood on the other, there arises the same relationship as between relatives by blood as from the day of the adoption.

(Termination of matrimonial relationship)

Article 728. The matrimonial relationship is terminated by divorce.

2. The same shall apply also if after the death of either husband or wife, the surviving spouse declares his or her intention to terminate the matrimonial relationship.

(Termination of adoptive relationship)

Article 729. The relationship between an adopted child, its spouse, its lineal descendants and their spouses on one hand and the parent by adoption and his or her relatives by blood on the other, is terminated by dissolution of the adoptive relation.

(Mutual cooperation of relatives)

Article 730. Lineal relatives by blood and the relatives living together shall mutually cooperate.

**CHAPTER II MARRIAGE**

**Section 1 Formation of Marriage**

**Sub-Section 1 Requisites for Marriage**

(Puberty)

Article 731. A man may not marry until the completion of

(FAA 123)

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his full eighteen years of age, nor a woman until the completion of her full sixteen years of age.

(Prohibition of plural marriage)

Article 732. A person who has a spouse may not effect an additional marriage.

(Re-marriage)

Article 733. A woman may not re-marry unless six months have elapsed from the day of the dissolution or annulment of her previous marriage.

2. In cases a woman is pregnant from before the dissolution or annulment of her previous marriage, the preceding paragraph shall cease to apply as from the day of her delivery.

(Prohibition of marriage between relative by blood)

Article 734. No marriage may be effected between lineal relatives by blood, nor between collateral relatives by blood up to the third degree of relationship; however, this shall not apply between an adopted child and any of the collateral relatives by blood on the side of the adoptive relatives.

2. The provision of the preceding paragraph shall also apply even after the relationship has terminated in accordance with the provision of Article 817-9.

(Prohibition of marriage between lineal relatives by affinity)

Article 735. No marriage may be effected between lineal relatives by affinity. The same shall apply after the relationship by affinity has ceased in accordance with the provision of Article 728 or Article 817-9.

(Prohibition of marriage between adopted child and adoptive parent)

Article 736. No marriage may be effected between an adopted child, his or her spouse, his or her lineal descendants or their spouses on the one hand, and the parent by adoption or his or her lineal ascendants on the other, even after the relationship has ceased in accordance with the provisions of Article 729.

(Minor's marriage)

Article 737. A minor child shall obtain the consent both of his or her father and mother in order to marry.

2. If either the father or mother does not give the consent, the consent of the other parent only shall be sufficient. The same shall also apply, if either the father or mother is unknown, or is dead or is unable to declare his or her intention.

(Major ward's marriage) (34)

Article 738. A major ward need not obtain the consent of a guardian for majority in order to marry.

(F.A.A. 124)

(Notification of marriage)

Article 739. A marriage becomes effective by notification thereof in accordance with the provisions of the Family Registration Law.

2. The notification mentioned in the preceding paragraph shall be made by both the parties and two or more witnesses of full age either orally, or by a document signed by them.

(Ibid.—acceptance)

Article 740. The notification of marriage may not be accepted unless the marriage does not contravene the provisions of Articles 731 to 737 inclusive and paragraph 2 of the preceding Article, and of other laws or ordinances.

(Ibid.—in foreign country)

Article 741. In cases Japanese subjects resident in a foreign country desire to effect a marriage between themselves, notification thereof may be made to the Japanese Ambassador, Minister, or a Japanese Consul acting in that country. In this case the provisions of the preceding two Articles shall apply mutatis mutandis.

Sub-Section 2 Nullity and Annulment of Marriage

(Nullity of marriages—causes)

Article 742. A marriage is void only in the following cases:  
(1) Where there is no intention to marry 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 marriage; however, if the notification only fails to fulfil the conditions prescribed in Article 739 paragraph 2, the validity of the marriage shall not be affected thereby.

(Annulment of marriage)

Article 743. A marriage cannot be annulled except in accordance with the provisions of Articles 744 to 747 inclusive.  
(Ibid.—unlawful marriage)

Article 744. In cases of a marriage effected in contravention of the provisions of Articles 731 to 736 inclusive, an application may be made to the Court for its annulment by either party thereto, any of each party's relatives or a public procurator; however, a public procurator may not make such an application after the death of either of the parties.

2. In cases of a marriage effected in contravention of the provisions of Article 732 or Article 733, the spouse or the former spouse of the party may also apply for its annulment.  
(Ibid.—marriage under puberty)

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Article 745. No application may be made for the annulment of a marriage effected in contravention of the provisions of Article 731, if the person who was not of marriageable age has attained the requisite age.

2. A person married under the marriageable age may still apply for the annulment of the marriage during a period of three months from his or her attainment of the requisite age; however, this shall not apply when he or she has ratified it after having attained the requisite age.

(Ibid—earlier re-marriage)

Article 746. No application may be made for the annulment of a marriage effected in contravention of the provisions of Article 733 after the lapse of six months from the day of the dissolution or annulment of the previous marriage nor in cases where the woman has become pregnant after her re-marriage.

(Ibid—marriage due to fraud or duress)

Article 747. A person who has been induced by fraud or duress to effect a marriage may apply to the Court for the annulment of such marriage.

2. The right of annulment mentioned in the preceding paragraph shall be extinguished if three months have elapsed since the party discovered the fraud, or became free from the duress, or if he or she has effected a ratification.

(Ibid—non-retroactivity)

Article 748. The annulment of a marriage shall have no retroactive effect.

2. In cases any party, who was unaware at the time of the marriage that a ground for its annulment existed, has acquired property by reason of the marriage, such party shall return the property to the extent that he or she is still enriched thereby.

3. Any party who was aware at the time of the marriage that a ground for its annulment existed shall return the whole benefit which he or she has acquired by reason of the marriage, and further if the other party acted bona fide, he or she shall be liable in compensation for damages thereto.

(Ibid—application mutandis of the provisions on divorce)

Article 749. The provisions of Articles 766 to 769 inclusive shall apply mutandis to the annulment of a marriage

### Section 2 Effect of Marriage

(Surname)

Article 750. Husband and wife assume the surname of the

husband or wife in accordance with the agreement made at the time of the marriage.

(Ibid—resuming prior surname)

Article 751. If either husband or wife has died, the surviving spouse may resume the surname assumed by her or him before the marriage.

2. The provisions of Article 769 shall apply mutandis in the case mentioned in the preceding paragraph and Article 728 paragraph 2.

(Cohabitation and cooperation)

Article 752. Husband and wife shall cohabit, and shall cooperate and aid each other.

(Attaining majority by marriage)

Article 753. If a minor effects a marriage, he or she shall be deemed, by reason thereof, to have attained majority.

(Avoiding contract between husband and wife)

Article 754. In cases a contract is entered into between husband and wife, it may be avoided by either of them at any time during the subsistence of marriage; however, the rights of third persons may not be prejudiced thereby.

### Section 3 Matrimonial Property System

#### Sub-Section 1 General Provisions

(Statutory property system)

Article 755. If husband and wife have not, prior to the notification of marriage, entered into a contract which provides otherwise with respect to their property, their property relations shall be governed by the provisions of the next Sub-Section.

(Contractual property system—factor for setting up against)

Article 756. If husband and wife have entered into a contract which differs in its terms from the statutory property system, such contract cannot be set up against their successors in title or third persons unless it is registered prior to the notification of the marriage.

Article 757. Deleted. <sup>65</sup>

(Ibid—change)

Article 758. Property relations between husband and wife cannot be changed after the notification of marriage.

If, in cases where one spouse manages the property of the other, such property is imperilled by mismanagement, the

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(F.A.A. 127)

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other may apply to the Family Court to be allowed to undertake the management thereof for himself or herself.

3. As regards property in co-ownership an application may be made for a partition thereof in addition to the application mentioned in the preceding paragraph.

(Ibid—change of manager, partition)

Article 739. In cases the manager has been changed or a partition of property in co-ownership has been effected, in accordance with the provisions of the preceding Article or as the result of a contract, such change or partition cannot be set up against the successors in title of the husband or of the wife or against third persons, unless it has been registered.

#### Sub-Section 2 Statutory Property System

(Expenses of married life)

Article 760. Husband and wife shall share the expenses of the married life with each other, taking into account their property, income and all other circumstances.

(Liability of daily household matters)

Article 761. If, with respect to daily household matters, one spouse effects a juristic act with a third person, the other spouse shall be jointly and severally liable for the obligations arising therefrom. However, this shall not apply in cases where a previous notice to the effect that the other spouse will not assume the liability has been given to the third person.

(Separate property, co-owned property)

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.

2. 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 4 Divorce

##### Sub-Section 1 Divorce by Agreement

(Divorce by agreement)

Article 763. Husband and wife may effect divorce by agreement.

(Application mutatis mutandis of the provisions on marriage)

Article 764. The provisions of Articles 733, 739 and 747 shall

apply mutatis mutandis to a divorce by agreement.

(Notification of divorce)

Article 765. The notification of divorce may not be accepted

(FAA 128)

unless the divorce does not contravene the provisions of Article 739 paragraph 2 and Article 819 paragraph 1, and of other laws and ordinances.

2. The validity of divorce shall not be affected even in cases where the notification of divorce has been accepted in contravention of the provisions of the preceding paragraph.

(Custody of children after divorce)

Article 766. In cases 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 Family Court.

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

3. 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.

(Resuming prior surname) <sup>3</sup>

Article 767. Husband or wife, who has changed his or her surname by reason of marriage, resumes, by reason of divorce by agreement, the surname assumed thereby before the marriage.

2. Husband or wife who has resumed the surname assumed thereby before the marriage in accordance with the provision of the preceding paragraph may assume the surname assumed at the time of divorce, by a notification as prescribed by the Family Registration Law within three months from the day of divorce.

(Distribution of property)

Article 768. Husband or wife who has effected divorce by agreement may demand the distribution of property from the other spouse.

2. If no agreement is reached or possible between the parties with respect to the distribution of property in accordance with the provisions of the preceding paragraph, any of the parties may apply to the Family Court for measures to take the place of such agreement; however, this shall not apply after the lapse of two years from the time of the divorce.

3. In the case mentioned in the preceding paragraph, the Family Court shall determine whether any such distribution is to be made, and, if it is to be made, the sum as well as the mode of the distribution, taking into account the sum of

(FAA 129)

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such property as is acquired by cooperation of the parties and all other circumstances.

(Genealogical records, etc.)

Article 769. If 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.

2. If no agreement mentioned 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 Family Court.

Sub-Section 2 Judicial Divorce

(Judicial divorce—causes)

Article 770. 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.

2. Even in cases where any or all of the grounds mentioned in items (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.

(Custody of children, resumption of surname, distribution of property, genealogical records, etc.)

Article 771. The provisions of Articles 766 to 769 inclusive shall apply mutatis mutandis to judicial divorce.

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provisions  
the day prescribed by a Cabinet Order within the limit of not  
exceeding one year computed from the day of its promulgation

SUPPLEMENTARY PROVISIONS (Law No. 110, Jun. 26, 1996): (32)  
This Law shall come into force as from the day of the enforcement of the  
New Code of Civil Procedure (enforced as from Jan. 1, 1998).

SUPPLEMENTARY PROVISIONS (Law No. 87, Jul. 16, 1999): (33)  
(Enforcement Date)  
This Law shall come into force as from April 1, 2000.

SUPPLEMENTARY PROVISIONS (Law No. 149, Dec. 8, 1999): (34)  
(Enforcement Date)  
This Law shall come into force as from April 1, 2000.

SUPPLEMENTARY PROVISIONS (Law No. 225, Dec. 22, 1999): (35)  
(Enforcement Date)  
This Law shall come into force as from the day prescribed by Cabinet  
Order within the scope of not exceeding six months counting from the day of  
its promulgation.

SUPPLEMENTARY PROVISIONS (Law No. 91, May 31, 2000): (36)  
(Enforcement Date)  
1. This Law shall come into force as from the enforcement day of the Law  
for Partial Amendments to the Commercial Code, etc. (Law No. 90 of  
2000).  
(Enforced as from April 1, 2001 by Cabinet Order No. 546 of 2001.)

If there is any ambiguous interpretation,  
the Japanese text shall prevail. Further  
amendments after the date of publication  
of this book are not included herein.

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Originally translated by	FUKIO NAKANE Ex-Professor of the Asia University
Published by	EIBUN-HOREI-SHA, INC. 4-7, 2-chome, Hirakawa-cho, Chiyoda-ku, Tokyo 102-0093 JAPAN. TEL. 03 (5276) 5955 FAX. 03 (5276) 5572 Post Transfer Account : No.3-63151 Tokyo URL : <a href="http://www4.ocn.ne.jp/~ehs/">http://www4.ocn.ne.jp/~ehs/</a>
Printed by	HEIBUNSHA PRINTING CO. 35-7, 2-chome, Minamitaka, Toshima-ku, Tokyo, 170-0005 JAPAN TEL. 03 (3944) 0301

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