

ภาคผนวก

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**The Adoption Act 1976 Section 15.**

**“Adoption by one person.**

(1) An adoption order may be made on the application of one person where he has attained the age of 21 years and

(a) is not married, or

(b) is married and the court is satisfied that

(i) his spouse cannot be found, or

(ii) the spouses have separated and are living apart, and the separation is likely to be permanent, or

(iii) his spouse is by reason of ill-health, whether physical or mental, incapable of making an application for an adoption order.

(2) An adoption order shall not be made on the application of one person unless

(a) he is domiciled in a part of the United Kingdom, or in the Channel Islands or the Isle of Man, or

(b) the application is for a Convention adoption order and section 17 is complied with.

(3) An adoption order shall not be made on the application of the mother or father of the child alone unless the court is satisfied that

(a) the other natural parent is dead or cannot be found or, by virtue of section 28 of the Human Fertilisation and Embryology Act 1990, there is no other parent, or;

(b) there is some other reason justifying the exclusion of the other natural parent, and where such an order is made the reason justifying the exclusion of the other natural parent shall be recorded by the court.”

**The Adoption Act 1976 Section 16.**

**“Parental agreement.**

(1) An adoption order shall not be made unless

(a) the child is free for adoption by virtue of an order made

(i) in England and Wales, under section 18;

(ii) in Scotland, under section 18 of the Adoption (Scotland) Act 1978;

or

(iii) in Northern Ireland, under Article 17(1) or 18(1) of the Adoption (Northern Ireland) ; or

(b) in the case of each parent or guardian of the child the court is satisfied that

(i) he freely, and with full understanding of what is involved, agrees unconditionally to the making of an adoption order (whether or not he knows the identity of the applicants), or

(ii) his agreement to the making of the adoption order should be dispensed with on a ground specified in subsection (2).

(2) The grounds mentioned in subsection (1)(b)(ii) are that the parent or guardian

(a) cannot be found or is incapable of giving agreement;

(b) is withholding his agreement unreasonably;

(c) has persistently failed without reasonable cause to discharge his parental responsibility for] the child;

(d) has abandoned or neglected the child;

(e) has persistently ill-treated the child;

(f) has seriously ill-treated the child (subject to subsection (5)).

(3) Subsection (1) does not apply in any case where the child is not a United Kingdom national and the application for the adoption order is for a Convention adoption order.

(4) Agreement is ineffective for the purposes of subsection (1)(b)(i) if given by the mother less than six weeks after the child's birth.

(5) Subsection (2)(f) does not apply unless (because of the ill-treatment or for other reasons) the rehabilitation of the child within the household of the parent or guardian is unlikely."

### **The British Nationality Act 1981 Section 1 (5)**

"Where (a) any court in the United Kingdom or, on or after the appointed day, any court in qualifying territory makes an order authorizing the adoption of a minor who is not a British citizen; or

(b) a minor who is not a British citizen is adopted under a Convention adoption, That a minor shall, if the requirements of subsection (5A) are met, be a British citizen as from the date on which the order is made or the Convention adoption is effected, as the case may be effected under the law of country or territory outside the United Kingdom.”

**The Children Act 1989, S.3(4), S.15**

Section 3 : Parental responsibility.

(4) The fact that a person has, or does not have, parental responsibility for a child shall not affect

(a) any obligation which he may have in relation to the child (such as a statutory duty to maintain the child); or

(b) any rights which, in the event of the child’s death, he (or any other person) may have in relation to the child’s property.

**Section 15 : Orders for financial relief with respect to children.**

(1)Schedule 1 (which consists primarily of the re-enactment, with consequential amendments and minor modifications, of provisions of the Guardianship of Minors Acts 1971 and 1973, the Children Act 1975 and of sections 15 and 16 of the Family Law Reform Act 1987) makes provision in relation to financial relief for children.”

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**Adoption Act 1955 Section 11** Restrictions on making of orders in respect of adoption

“Before making any interim order or adoption order in respect of any child, the court shall be satisfied

(a) that every person who is applying for the order is a fit and proper person to have the role of providing day-to-day care for the child and of sufficient ability to bring up, maintain, and educate the child; and

(b) that the welfare and interests of the child will be promoted by the adoption, due consideration being for this purpose given to the wishes of the child, having regard to the age and understanding of the child; and

(c) that any condition imposed by any parent or guardian of the child with respect to the religious denomination and practice of the applicants or any applicant or as to the religious denomination in which the applicants or applicant intend to bring up the child is being complied with.”

**Adoption Act 1955 Section 12** Revocation of interim order

“(1) On the application of any person, the court may in its discretion revoke an interim order in respect of any child on such terms as the court thinks fit, including an order for the refund by some person specified in the order of money spent by any proposed adopter for the child's benefit.”

**Adoption Act 1955 Section 16** Effect of adoption order

“(2) Upon an adoption order being made, the following paragraphs of this subsection shall have effect for all purposes, whether civil, criminal, or otherwise, but subject to the provisions of any enactment which distinguishes in any way between adopted children and children other than adopted children, namely:

(a) the adopted child shall be deemed to become the child of the adoptive parent, and the adoptive parent shall be deemed to become the parent of the child, as if the child had been born to that parent in lawful wedlock: provided that, where the adopted child is adopted by his mother either alone or jointly with her spouse, the making of the adoption order shall not prevent the making of an affiliation order or

maintenance order, or of an application for an affiliation order or maintenance order, in respect of the child.”

**Adoption Act 1955 Section 23** Inspection of adoption records

“(2) Adoption records are open to inspection by

(a) any Registrar (as defined in section 2 of the Births, Deaths, Marriages, and Relationships Registration Act 1995) or marriage celebrant under the Marriage Act 1955 for the purpose of investigating forbidden degrees of relationship under the Marriage Act 1955;



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**Adoption Act 1952 Laws of Malaysia Act 257 Power to make adoption orders**

“3. (1) Upon an application made in the prescribed manner by any person desirous of being authorized to adopt a child, the Court may, subject to this Act, make an adoption order, authorizing the applicant to adopt that child.

(2) Where an application for an adoption order is made by two spouses jointly, the Court may make the order authorizing the two spouses jointly to adopt, but except as provided, no adoption order shall be made authorizing more than one person to adopt a child.

(3) An adoption order may be made authorizing the adoption of a child by the mother or father of the child, either alone or jointly with her or his spouse.”

**Adoption Act 1952 Laws of Malaysia Act 257 Restrictions on making of adoption orders**

“4. (1) An adoption order shall not be made unless the applicant or, in the case of a joint application, one of the applicants

(a) has attained the age of twenty-five and is at least twenty one years older than the child in respect of whom the application is made unless the Court is satisfied that there are special circumstances for the making of an order;”

**Adoption Act 1952 Laws of Malaysia Act 257 making of adoption orders**

“4. (2) An adoption order shall not be made in any case where the sole applicant is a male and the child in respect of whom the application is made is a female unless the Court is satisfied that there are special circumstances which justify as an exceptional measure the making of an order.”

**Adoption Act 1952 Laws of Malaysia Act 257 Effect of adoption order**

“9. (1) Upon an adoption order being made, all rights, duties, obligations and liabilities of the parent, guardian of the adopted child, in relation to the future custody, maintenance and education of the adopted child, including all rights to appoint a guardian or to consent or give notice of dissent to marriage shall be extinguished, and all such rights, duties, obligations and liabilities shall vest in and be exercisable by and enforceable against the adopter as though the adopted child was a child born to the adopter in lawful wedlock:

Provided that, in any case where two spouses are the adopters, such spouses shall in respect of the matters provided in this subsection and for the purpose of the jurisdiction of any Court to make orders as to the custody and maintenance of and right of access to children stand to each other and to the adopted child in the same relation as they would have stood if they had been the lawful father and mother of the adopted child, and the adopted child shall stand to them respectively in the same relation as a child would have stood to a lawful father and mother, respectively.”

**Adoption Act 1952 Laws of Malaysia Act 257 Effect of adoption order**

“9. (2) Where, at any time after the making of an adoption order, the adopter or the adopted child or any other person dies intestate in respect of any movable or immovable property, that property shall devolve in all respects as if the adopted child were the child of the adopter born in lawful wedlock and were not the child of any other person.”

**Adoption Act 1952 Laws of Malaysia Act 257 Effect of adoption order**

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(3) In any disposition of movable or immovable property made, whether by instrument *inter vivos* or by will (including codicil), after the date of an adoption order—

(a) any reference (whether express or implied) to the child or children of the adopter shall, unless the contrary intention appears, be construed as, or as including, a reference to the adopted child;

(b) any reference (whether express or implied) to the child or children of the adopted child’s natural parents or either of them shall, unless the contrary intention appears, be construed as not being, or as not including, a reference to the adopted child; and

(c) any reference (whether express or implied) to a person related to the adopted child in any degree shall, unless the contrary intention appears, be construed as a

reference to the person who would be related to him in that degree if he were the child of the adopter born in lawful wedlock and were not the child of any other person.

(4) Where an adopted child or the spouse or issue of an adopted child takes any interest in any movable or immovable property under any disposition, whether by instrument *inter vivos* or by will (including codicil), or under any intestacy, or where an adopter takes any interest in any movable or immovable property under any disposition as provided in this section by an adopted child or by the spouse or issue of an adopted child, or under the intestacy of an adopted child or of the spouse or issue of an adopted child, any estate or other duty which becomes leviable in respect of it shall be payable at the same rate as if the adopted child had been a child of the adopter born in lawful wedlock.

(5) Notwithstanding anything in this section, trustees or personal representatives may convey or distribute any movable or immovable property to or among the persons entitled to it without having ascertained that no adoption order has been made under which any person is or may be entitled to any interest in it, and shall not be liable to any such person of whose claim they have not had notice at the time of the conveyance or distribution; but nothing in this subsection shall prejudice the right of any such person to follow the property, or any property representing it, into the hands of any person, other than a purchaser, who may have received it.”

#### **Adoption Act 1952 Laws of Malaysia Act 257 Meaning of “child” in any written law relating to the distribution of intestate estates**

29. “Notwithstanding the provisions of any written law relating to the distribution of intestate estates for the time being in force in any part of Malaysia to the contrary the expression “child” shall in any such written law include an adopted child.”

#### **Registration of adoption Act 1952 Section 6 Registration of *de facto* adoptions**

“6. (1) Where at the date when application for registration is made any child under the age of eighteen years who has never been married is in the custody of, and is being brought up, maintained and educated by any person, or by two spouses jointly, as his, her or their own child under any *de facto* adoption, and has for a period of not less than two years continuously and immediately before the date of such application been in such custody and has been so brought up,

maintained and educated, the Registrar may, upon the application, in the form in the First Schedule, of such person or spouses, register the adoption if...”

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**The Hindu Adoptions and Maintenance Act, 1956. Right of adoptive parents to dispose of their properties. Effect of adoptions 12.**

“An adopted child shall be deemed to be the child of his or her adoptive father or mother for all purposes with effect from the date of the adoption and from such date all the ties of the child in the family of his or her birth shall be deemed to be severed and replaced by those created by the adoption in the adoptive family.”

**The Hindu Adoptions and Maintenance Act, 1956. Right of adoptive parents to dispose of their properties. Effect of adoptions 12 (c).**

“An adopted child shall be deemed to be the child of his or her adoptive father or mother for all purposes with effect from the date of the adoption and from such date all the ties of the child in the family of his or her birth shall be deemed to be severed and replaced by those created by the adoption in the adoptive family.

(c) the adopted child shall not divest any person of any estate which vested in him or her before the adoption. ”

**The Hindu Adoptions and Maintenance Act, 1956. Right of adoptive parents to dispose of their properties. Effect of adoptions 13.**

“Right of adoptive parents to dispose of their properties- Subject to any agreement to the contrary, an adoption does not deprive the adoptive father or mother of the power to dispose of his or her property by transfer inter vivos or by will.”

**The Hindu Adoptions and Maintenance Act, 1956. Right of adoptive parents to dispose of their properties. Valid adoption not to be cancelled 15.**

“No adoption which had been validly made can be cancelled by the adoptive father or mother or any other person, nor can the adopted child renounce his or her status as such and return to the family of his or her birth.”

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## มลรัฐมินนิโซตา (Minnesota)

### **Adoption Law of Minnesota Statute. Chapter 259 Change of name. Adoption Section 259.22.Subdivision 1**

“Who may petition. Any person who has resided in the state for one year or more may petition to adopt a child or an adult, and the same petitioner may petition for the adoption of two or more persons in one petition. The provisions as to length of residence in the state may be reduced to 30 days by the court whenever it appears to be for the best interest of the child.”

### **Adoption Law of Minnesota Statute. Chapter 259 Change of Name Adoption. Section 259.24, Subdivision 2**

“Parents, guardian. If an unmarried parent who consents to the adoption of a child is under 18 years of age, the consent of the minor parent's parents or guardian, if any, also shall be required; if either or both the parents are disqualified for any of the reasons enumerated in subdivision 1, the consent of such parent shall be waived, and the consent of the guardian only shall be sufficient; and, if there be neither parent nor guardian qualified to give such consent, the consent may be given by the commissioner. The agency overseeing the adoption proceedings shall ensure that the minor parent is offered the opportunity to consult with an attorney, a member of the clergy or a physician before consenting to adoption of the child. The advice or opinion of the attorney, clergy member or physician shall not be binding on the minor parent. If the minor parent cannot afford the cost of consulting with an attorney, a member of the clergy or physician, the county shall bear that cost.”

### **Adoption Law of Minnesota Statute. Chapter 259 Change of Name Adoption. Section 259.24, Subdivision 3**

“Child. When the child to be adopted is over 14 years of age, the child's written consent to adoption by a particular person is also necessary.”

### **Adoption Law of Minnesota Statute. Chapter 259 Change of Name Adoption. Section 259.58,**

“COMMUNICATION OR CONTACT AGREEMENTS.

Adoptive parents and a birth relative or foster parents may enter an agreement regarding communication with or contact between an adopted minor, adoptive parents, and a birth relative or foster parents under this section. An agreement may be entered between:

(1) adoptive parents and a birth parent;

(2) adoptive parents and any other birth relative or foster parent with whom the child resided before being adopted; or

(3) adoptive parents and any other birth relative if the child is adopted by a birth relative upon the death of both birth parents.”

**Adoption Law of Minnesota Statute. Chapter 259 Change of Name Adoption. Section 259.59,**

**“EFFECT OF ADOPTION.**

Subdivision 1. Legal effect. Upon adoption, the adopted person shall become the legal child of the adopting persons and they shall become the legal parents of the child with all the rights and duties between them of birth parents and legitimate child. By virtue of the adoption the adopted person shall inherit from the adoptive parents or their relatives the same as though the adopted person were the natural child of the parents, and in case of the adopted person's death intestate the adoptive parents and their relatives shall inherit the adopted person's estate as if the adopted person had been the child's birth parents and relatives. After a decree of adoption is entered the birth parents of an adopted person shall be relieved of all parental responsibilities for the adopted person, and they shall not exercise or have any rights over the adopted person or the adopted person's property. The adopted person shall not owe the birth parents or their relatives any legal duty nor shall the adopted person inherit from the birth parents or kindred, except as provided in subdivision 1a and section 257C.08, subdivision 6.”

**มลรัฐแอริโซนา (Arizona)**

**Arizona Revised Statutes Title 8 – Children. 8-117 Rights under adoption order.**

“On entry of the decree of adoption, the relationship of parent and child and all the legal right, privileges, duties, obligations and other legal consequences of the natural relationship of

child and parent thereafter exist between the adopted child and the adoptive parent as though the child were born to the adoptive parent in lawful wedlock. The adopted child is entitled to inherit real and personal property from and through the adoptive parent and the adoptive parent is entitled to inherit real and personal property from and through the adopted child the same as though the child were born to the adoptive parent in lawful wedlock.

On entry of the decree of adoption, the relationship of parent and child between the adopted child and the persons who were the child's parents before entry of the decree of adoption is completely severed and all the legal rights, privileges, duties, obligations and other legal consequences of the relationship cease to exist, including the right of inheritance. This subsection does not apply to communication rights established pursuant to section 8-116.01.

If the adoption is by the spouse of the child's parent, the relationship of the child to that parent remains unchanged by the decree of adoption”

#### **มลรัฐเนวาดา (Nevada)**

#### **Nevada Revised Statutes Chapter 127 – Adoption of Children and Adults. NRS 127.160**

“Upon the entry of an order of adoption, the child shall become the legal child of the persons adopting the child, and they shall become the child's legal parents with all the rights and duties between them of natural parents and legitimate child. By virtue of such adoption the child shall inherit from his or her adoptive parents or their relatives the same as though the child were the legitimate child of such parents, and in case of the death of the child intestate the adoptive parents and their relatives shall inherit the child's estate as if they had been the child's natural parents and relatives in fact. After a decree of adoption is entered, the natural parents of an adopted child shall be relieved of all parental responsibilities for such child, and they shall not exercise or have any rights over such adopted child or the property of such adopted child. The child shall not owe his or her natural parents or their relatives any legal duty nor shall the child inherit from his or her natural parents or kindred. Notwithstanding any other provisions to the contrary in this section, the adoption of a child by his or her stepparent shall not in any way change the status of the relationship between the child and his or her natural parent who is the spouse of the petitioning stepparent.”

### มลรัฐนิวเจอร์ซีย์ (New Jersey)

**New Jersey Revised Statutes Title 9 Section 9:3-50 – Entry of judgment of adoption, effect; inheritance rights.**

“a. (Deleted by amendment, P.L.1993, c.345).

b. The entry of a judgment of adoption shall establish the same relationships, rights, and responsibilities between the child and the adopting parent as if the child were born to the adopting parent in lawful wedlock. For good cause, the court may direct the entry of judgment nunc pro tunc as of the date the action was instituted. In applying the intestate laws of this State, an adopted child shall have the same rights of inheritance as if born to the adopting parent in lawful wedlock.

c. The entry of a judgment of adoption shall:

(1) terminate all parental rights and responsibilities of the parent towards the adoptive child except for a parent who is the spouse of the petitioner and except those rights that have vested prior to entry of the judgment of adoption;

(2) terminate all rights of inheritance under intestacy from or through the parent unless that parent is the spouse of the petitioner or that parent or other relative had died prior to the judgment of adoption; and

(3) terminate all rights of inheritance under intestacy from or through the child which existed prior to the adoption.

d. The court may order counseling for the adopting parents.”

### มลรัฐอิลลินอยส์ (Illinois)

**The Illinois Parentage Act of 1984 Sec 4**

“Sec. 4. How Parent and Child Relationship Established. The parent and child relationship between a child and

(3) an adoptive parent may be established by proof of adoption, or by records established pursuant to Section 16 of the "Vital Records Act", approved August 8, 1961, as amended. (Source: P.A. 83-1372.)”

### มลรัฐเท็กซัส (Texas)

**The Texas Family Code Chapter 160 Uniform Parentage Act Sec 160.201**

“ESTABLISHMENT OF PARENT-CHILD RELATIONSHIP.

(a) The mother-child relationship is established between a woman and a child by:

(3) the adoption of the child by the woman.

(b) The father-child relationship is established between a man and a child by:

(4) the adoption of the child by the man;”

### ตราสารระหว่างประเทศ

The Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief, Article 5 (4) “That in the case of a child who is not under the care either of his parents or of legal guardians, due account shall be taken of their expressed wishes or of any proof of their wishes in the matter of religion or belief, the best interests of the child being the guiding principle”

Article 20 of the United Nations Convention on the Rights of the Child dealing with protection of children without families states: “(3)...when considering solutions, due regard shall be paid to the desirability of continuity in a child’s upbringing and to the child’s ethnic, religious, cultural and linguistic background”

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**1741 BGB. Admissibility of the adoption**

“(1) Adoption is admissible if it serves the best interests of the child and it is to be expected that a parent-child relationship will arise between the adoptive parent and the child. A person who has taken part for the purpose of adoption in a procurement or transportation of a child that is unlawful or contrary to public policy or who has commissioned a third party with this or rewarded him for this should adopt a child only if this is necessary for the best interests of the child.

(2) A person who is not married may adopt a child only alone. A married couple may adopt a child only jointly. A spouse may adopt a child of his spouse alone. He may also adopt a child alone if the other spouse cannot adopt the child because he is incapable of contracting or has not yet reached the age of twenty-one.”

**1743 BGB. Minimum age**

“The adoptive parent must have reached the age of twenty-five, or in the cases of section 1741 (2) sentence 3 the age of twenty-one. In the cases of section 1741 (2) sentence 2, a spouse must have reached the age of twenty-five and the other spouse the age of twenty-one.”

**1744 BGB. Probationary period**

“The adoption, as a general rule, should not be pronounced until the adoptive parent has had the child in foster care for a reasonable period.”

**1745 BGB. Prohibition of adoption**

“The adoption may not be pronounced if overriding interests of the children of the adoptive parent or of the child to be adopted prevent it or if it is to be feared that interests of the child to be adopted are endangered by children of the adoptive parent. Property interests should not be decisive.”

**1746 (1) BGB. Consent of the child**

“(1) For the adoption, the consent of the child is necessary. For a child that is incapable of contracting or is not yet fourteen years old, only its legal representative may give the consent.

Apart from this, the child may give the consent only without a representative; the approval of its legal representative is necessary for this. The consent, where the adoptive parent and the child are of different nationalities, is subject to the approval of the family court; this does not apply if the adoption is subject to German law.”

**1747 BGB. Consent of the parents of the child**

“(1) For the adoption of a child, the consent of the parents is necessary. To the extent that no other man is to be regarded as father under section 1592, then in the meaning of sentences 1 and section 1748 (4), the person is deemed to be the father who credibly establishes the requirements of section 1600d (2) sentence 1.

(2) The consent may not be given until the child is eight weeks old. It is effective even if the person consenting does not know the adoptive parents, who have already been decided on.”

**1751 (1) BGB. Effect of parental consent, maintenance obligation**

“(1) On the consent of one parent to the adoption, the parental custody of this parent is suspended; the power to have personal contact with the child may not be exercised. The youth welfare office becomes the guardian; this does not apply if the other parent exercises parental custody alone or if a guardian has already been appointed. An existing curatorship is unaffected. The adoptive parent, during the time of personal care prior to adoption, is governed by section 1688 (1) and (3) with the necessary modifications.”

**1751 (2) BGB. Effect of parental consent, maintenance obligation**

“(2) Subsection (1) does not apply to a spouse whose child is adopted by the other spouse.”

**1751 (3) BGB. Effect of parental consent, maintenance obligation**

“(3) Where the consent of one parent has ceased to apply, the family court must transfer the parental custody to the parents if and to the extent that this does not conflict with the best interests of the child. ”



**1751 (4) BGB.** Effect of parental consent, maintenance obligation

“(4) The adoptive parent has an obligation to pay maintenance before the relatives of the child as soon as the parents of the child have given the necessary consent and the child has been taken into the care of the adoptive parent with the purpose of adoption. If a spouse wishes to adopt a child of his spouse, the spouses have an obligation to the child before the other relatives of the child to pay maintenance as soon as the necessary consent of the parents of the child has been given and the child has been taken into the care of the adoptive parent with the purpose of adoption.”

**1754 BGB.** Effect of adoption

“(1) If a married couple adopt a child or if a spouse adopts a child of the other spouse, the child attains the legal position of a child of both the spouses.

(2) In the other cases the child attains the legal position of a child of the adoptive parent.

(3) The parental custody is held in the cases of subsection (1) by the spouses jointly, and in the cases of subsection (2) by the adoptive parent.”

**1757 (1) BGB.** Name of the child

“(1) The child receives as its birth name the family name of the adoptive parent. The name affixed to the family name of the spouses or the civil partnership name is not deemed to be the family name (section 1355 (4); section 3 (2) of the Civil Partnership Act.”

**1757 (3) BGB.** Name of the child

“(3) The change of the birth name extends to the family name of the child only if the spouse also agrees with the change of name, before the pronouncement of the adoption, by declaration to the family court; the declaration must be notarial certified.”

**1758 (1) BGB.** Prohibition on disclosure and exploratory questioning

“(1) Facts that are suited to reveal the adoption and its circumstances may not be revealed or discovered by exploratory questioning without the approval of the adoptive parent and of the child unless special reasons of the public interest make this necessary.”

**1758 (2) BGB. Prohibition on disclosure and exploratory questioning**

“(2) Subsection (1) applies with the necessary modifications if the consent under section 1747 has been given. The family court may order that the effects of subsection (1) occur if an application for substitution of the consent of a parent has been made.”

**1759 BGB. Cancellation of the adoption relationship**

“The adoption relationship may be cancelled only in the cases of section 1760 and 1763.”

**1760 BGB. Cancellation for lack of declarations**

“(1) The adoption relationship may, on application, be cancelled by the family court if it was created without an application of the adoptive parent, without the consent of the child or without the necessary consent of a parent.

(2) The application or consent is ineffective only if the person declaring

- a) at the time of the declaration was in a state of unconsciousness or temporary mental disturbance, if the applicant was incapable of contracting or the child, which was incapable of contracting or not yet fourteen years old, gave the consent itself,
- b) did not know that it was an adoption, or if he knew this but did not wish to make an application for adoption or did not want to give consent to adoption or if the adoptive parent was mistaken as to the person of the child to be adopted or if the child to be adopted was mistaken in the person of the adoptive parent,
- c) was induced to make the declaration by deceit as to material circumstances,
- d) was unlawfully induced to make the declaration by duress,
- e) gave the consent before the end of the period laid down in section 1747 (2) sentence 1.

(3) The cancellation is excluded if the person declaring, after the end of the incapacity to contract, the unconsciousness, the mental disturbance, the position of constraint resulting from duress, after the discovery of the mistake or after the end of the period laid down in section 1747 (2) sentence 1, made up for the missing application or consent or indicated in another way that the

adoption relationship was to be sustained. The provisions of section 1746 (1) sentences 2 and 3, and section 1750 (3) sentences 1 and 2 apply with the necessary modifications.

(4) Cancellation for deceit on material circumstances is also excluded if there has been deceit as to the financial circumstances of the adoptive parent or of the child or if the deceit, without the knowledge of a person entitled to apply or consent, was carried out by a person who is entitled neither to apply nor to consent nor to arrange the adoption.

(5) Where, when the adoption was pronounced, it was wrongly presumed that a parent was permanently incapable or making the declaration or his abode was permanently unknown, then the cancellation is excluded if the parent makes up for the missing consent or has indicated in another way that the adoption relationship is to be maintained. The provision of section 1750 (3) sentences 1 and 2 applies with the necessary modifications.”

#### **1763 BGB. Cancellation by the court of its own motion**

“(1) During the minority of the child, the family court may cancel the adoption relationship of its own motion if this is necessary for serious reasons for the best interests of the child.

(2) If the child has been adopted by a married couple, the adoption relationship existing between the child and one spouse may also be cancelled.

(3) The adoption relationship may only be cancelled

a) if, in the case of subsection (2), the other spouse or if a natural parent is prepared to take on the care and upbringing of the child, and if the exercise of parental custody by that spouse would not be inconsistent with the best interests of the child or

b) if the cancellation is intended to make it possible for the child to be adopted again. ”

#### **1767 (1) BGB. Admissibility of adoption, applicable provisions**

“(1) A person of full age may be adopted if the adoption is morally justified; this is to be assumed in particular if a parent-child relationship has already developed between the adoptive parent and the person to be adopted.

(2) The adoption of persons of full age is governed by the provisions on the adoption of minors with the necessary modifications, except as otherwise provided in the following provisions. Section 1757

(3) applies with the necessary modifications if the adopted person has entered into a civil partnership and his birth name has been determined as the civil partnership name. For the adoption of a person who is a partner in a civil partnership, the consent of the civil partner is necessary.”

#### **1769 BGB. Prohibition of adoption**

“The adoption of a person of full age may not be pronounced if overriding interests of the children of the adoptive parent or of the person to be adopted are inconsistent with it.”

#### **1770 (2) BGB. Effect of adoption**

“(2) The rights and duties arising from the relationship between the person adopted and his descendants and their relatives are not affected by the adoption except as otherwise provided by law.”

#### **1770 (3) BGB. Effect of adoption**

“(3) The adoptive parent is obliged to pay maintenance to the person adopted and the descendants of the person adopted before the blood relatives of the person adopted. ”

#### **1771 BGB. Cancellation of the adoption relationship**

“The family court may, on the application of the adoptive parent and of the person adopted, cancel an adoption relationship to a person of full age that has been pronounced, if there is a compelling reason. Apart from this, the adoption relationship may be cancelled only by applying the provisions of section 1760 (1) to (5) with the necessary modifications. The application of the person to be adopted takes the place of the consent of the child.”

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**Art 343 The French Civil Code.**

“Adoption may be petitioned by two spouses not judicially separated , married for more than two years or who are both older than twenty-eight years.”

**Art 343-1 The French Civil Code.**

“Adoption may be also petitioned by a person over "twenty-eight years of age”

Where the adopter is married and not judicially separated, his or her spouse's consent is required unless this spouse is unable to express his or her intention.”

**Art 343-2 The French Civil Code.**

“The requirement as to age provided for in the preceding Article is not imposed in the case of adoption of the spouse's child.”

**Art 344 The French Civil Code.**

“The adopters must be fifteen years older than the children whom they propose to adopt. Where the latter are their spouse's children the required difference of age is only ten years. The court may, however, if there are good reasons, make an adoption order where the difference in ages is smaller than that provided for by the preceding paragraph.”

**Art 345 The French Civil Code.**

“Adoption is allowed only in favour of children under fifteen, who have been received in the home of the adopter or adopters for at least six months.

Where however the child is older than fifteen and has been received before having reached that age by persons who did not fulfil the statutory requirements for adopting or where he was the subject of an ordinary adoption before reaching that age, plenary adoption may be applied for if the conditions for it are fulfilled, "during the minority of the child and within two years following his coming of age"

Where it is older than "thirteen", an adopted must personally consent to his plenary adoption.”

**Art 345-1 The French Civil Code.**

“Plenary adoption of the spouse's child is allowed:

1. Where the child has a lawfully established parentage only with regard to that spouse;
2. Where the parent other than the spouse has been totally deprived of parental authority;
3. Where the parent other than the spouse is dead and has left no ascendant of the first

degree or where the latter obviously took no further interest in the child.”

**Art 346 The French Civil Code.**

“No one may be adopted by several persons unless by two spouses.

However, a new adoption may be ordered either after the death of the adopter or the two adopters, or after the death of one of the two adopters if the request is made by the new spouse of the survivor.”

**Art 348-3 The French Civil Code.**

“Consent to the adoption shall be given "before the clerk in chief" of the *tribunal d'instance* of the domicile or residence of the person who consents, or before a French or foreign *notaire*, or before French diplomatic or consular agents. It may also be received by the Children's aid service where the child was entrusted to them.

Consent to adoption may be withdrawn within "two months". Withdrawal must be made by registered letter with request for advice of delivery addressed to the person or service that received the consent to adoption. The handing over of the child to his parents on even verbal request shall also be treated as proof of the withdrawal.

Where, on the expiry of the period of "two months", consent was not withdrawn, the parents may still request restitution of the child, provided that he has not been placed for purpose of adoption. Where the person who received him refuses to give him back, the parents may refer the matter to the court which, taking into account the welfare of the child, shall determine whether there is occasion to order his restitution. By effect of restitution, a consent to adoption lapses. ”

**Art 356 The French Civil Code.**

“Adoption confers on the child a parentage which substitutes for his original parentage: the adoptee ceases to belong to his blood family, subject to the prohibitions of marriage referred to in Articles 161 to 164.

However, an adoption of the spouse's child still leaves extant his original parentage with regard to that spouse and his or her family. It produces, furthermore, the effects of an adoption by two spouses.”

**Art 359 The French Civil Code.**

“Adoption is irrevocable.”

**Art 363 The French Civil Code.**

“Ordinary adoption confers the name of the adopter on the adoptee by adding it to the name of the latter.

“Where the adoptee and the adopter, or one of them, bear a double family name, the name conferred to the adoptee results from the addition of the adopter's name to his own name, within the limit of one name for each of them. The choice belongs to the adopter, who must obtain the consent of the adoptee where the latter is older than thirteen.

“In case of an adoption by two spouses, the name coupled with that of the adoptee shall be, on request of the adopters, either that of the husband, or that of the wife, within the limit of one name for each of them, and, failing an agreement, the first of the husband's names. Where the adoptee bears a double family name, the choice of the name which is preserved belongs to the adopters, who must obtain the consent of the adoptee where he is older than thirteen. In case of disagreement or failing a choice, the name of the adopters preserved is added to the first of the adoptee's names.

The court, however, may on request of the adopter, decide that the adoptee will bear only the name of the adopter. *“In case of an adoption by two spouses, the family name substituted to that of the adoptee may, at the choice of the adopters, be either that of the husband, or that of the wife, or the coupled names of the spouses in the order they choose and within the limit of one*



*name for each of them*". That request may also be filed after the adoption. Where the adoptee is older than thirteen, his personal consent to that substitution of a patronymic."

**Art 367 The French Civil Code.**

"An adoptee owes maintenance to the adopter where he is in need and, reciprocally, an adopter owes maintenance to the adoptee.

The obligation of maintenance continues to exist between the adoptee and his father and mother. However, the father and mother of the adoptee are bound to provide maintenance to him only where he cannot obtain it from the adopter. "

**Art 368 The French Civil Code.**

"An adoptee and his descendants have, in the family of the adopter, the rights to succession provided for in Book III, Title I, Chapter III.

The adoptee and his descendants do not have, however, the status of compulsory heirs with regard to the ascendants of the adopter."

**Art 368-1 The French Civil Code.**

"Where an adoptee dies without descendants, property given by the adopter or received through succession from him shall return to the adopter or his descendants, where it still exists in kind at the time of the death of the adoptee, on condition to contribute to debts and subject to the vested rights of third parties. Property received gratuitously by the adoptee from his father and mother shall return likewise to the latter or to their descendants.

The surplus of property of an adoptee shall be divided in halves between the family of origin and the adopter's family, without prejudice to the rights of the spouse on the whole of the succession."

**Art 370 The French Civil Code.**

"Where serious reasons so justify, adoption may be revoked , on request of the adopter or the adoptee, or, where the latter is a minor, of that of the Government procurator's office.

A request for revocation made by the adopter is admissible only where the adoptee is over fifteen.

Where the adoptee is a minor, the father and mother by blood or, failing them, a member of the family of origin up to the degree of cousin-german may also request revocation. ”

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**Art 252 (3) Swiss Civil Code.**

“(3) Moreover, the parent-child relationship is formed by adoption”

**Art 264a Swiss Civil Code.**

“1 Spouses may only adopt jointly; other persons are not permitted to adopt jointly.

2 The spouses must have been married for at least five years or have reached the age of 35.

3 Where spouses have been married for at least five years, one is allowed to adopt the other’s child.”

**Art 264b Swiss Civil Code.**

“1 An unmarried person is permitted to adopt singly if he or she is at least 35 years old.

2 A married person who is at least 35 years old is permitted to adopt singly where joint adoption proves impossible because the other spouse permanently lacks capacity of judgment or has been of unknown whereabouts for more than two years or if the spouses have been separated by court order for more than three years.”

**Art 265 Swiss Civil Code.**

“1. The child must be at least 16 years younger than the adoptive parents.

2 If the child is capable of judgment, its consent is required for the adoption.

3 Where the child has a legal guardian, the adoption requires the consent of the guardianship supervisory authority even if the child is capable of judgment.”

**Art 265a Swiss Civil Code.**

“1 Adoption requires the consent of the child’s father and mother.

2 Such consent must be given by oral or written declaration to the child protection authority of the parents’ or child’s domicile or temporary residence and must be recorded

3 Such consent is valid even if the future adoptive parents are not named or not yet determined.”

**Art 266 Swiss Civil Code.**

“1. Provided he or she has no issue, an adult may be adopted:

- 1) if he or she suffers from a physical or mental disability necessitating constant care and the adoptive parents have looked after him or her for at least five years,
- 2) if the adoptive parents raised and cared for the person for at least five years while he or she was still a minor,
- 3) if there is other good cause and the person to be adopted has shared a home with the adoptive parents for at least five years.

2 A married person may be adopted only with the consent of his or her spouse.

3 In all other respects, the provisions governing adoption of minors apply *mutatis mutandis*.”

**Art 267 Swiss Civil Code.**

“1 The adoptive child acquires the legal status of a child of the adoptive parents.

2 Previous parent-child relationships are extinguished; however, such relationship continues with the father or mother who is married to the adoptive parent.

3 On adoption the child may be given a new first name.”

**Art 267a Swiss Civil Code.**

“1. In lieu of his or her previous citizenship, a minor acquires the cantonal and communal citizenship of the adoptive parent whose name he or she bears.

2 Where a person adopts the minor child of his or her spouse, the child has the cantonal and communal citizenship of the parent whose name he or she bears.”

**Art 268 Swiss Civil Code.**

“1 The adoption is pronounced by the competent cantonal authority at the adoptive parents' domicile.

2 Once the application for adoption has been submitted, the death or loss of capacity of judgment of the adopting parent does not preclude the adoption providing the fulfilment of the other requirements is not thereby affected.

3 If the child attains the age of majority after the application for adoption has been submitted, the provisions governing the adoption of minors continue to apply provided the requirements for adoption were previously fulfilled.”

**Art 268a Swiss Civil Code.**

“1 An application for adoption may not be upheld until all material circumstances have been thoroughly investigated, where necessary in consultation with the relevant specialists.

2 In particular, the investigation must look into the character and health of the adoptive parents, their mutual relationship, their suitability as parents, their financial situation, motives and family circumstances and the history of the child care relationship.

3 Where the adoptive parents have issue of their own, the latter’s attitude to the adoption must be taken into account.”

**Art 268b Swiss Civil Code.**

“Without their consent, the identity of the adoptive parents must not be disclosed to the child’s biological parents. ”

**Art 268c Swiss Civil Code.**

“1 Once the child reaches the age of 18, it is entitled at any time to request information regarding the identity of its biological parents; before then it may request such information if it has a legitimate interest in so doing.

2 Before such information is released to the child, the authority or government body holding it must, if possible, notify the biological parents. If they refuse to enter into personal contact, the child must be informed accordingly and made aware of the personal privacy rights of the biological parents.

3 The cantons shall designate a suitable body to provide the child with counselling and support on request.”

**Art 269a Swiss Civil Code.**

“1 If the adoption displays other grave defects, it may be challenged by any interested party and in particular by the commune of origin or domicile.

2 However, a challenge is excluded if the defect has been rectified in the interim or if it relates solely to procedural provisions. ”

**Art 269b Swiss Civil Code.**

“An action to challenge the adoption must be brought within six of discovering the grounds for the challenge and in any event within two years of the adoption.”

**Art 272 Swiss Civil Code.**

“Parents and children owe each other such support, consideration and respect as the good of the family community requires.”

**Art 274 Swiss Civil Code.**

“1 The father and the mother must refrain from any conduct that impairs the child’s relationship with the other parent or makes the task of the person with custody more difficult.<sup>244</sup>

2 Where access to the child is not in its best interests, or the parents breach their duties in the course of such access or have not cared for the child to any meaningful degree, or other good cause exists, the parents’ right of access to the child may be refused or withdrawn.

3 Where the parents have consented to the adoption of their child or their consent may be dispensed with, their right of access to the child is extinguished as soon as the child is placed in foster care with a view to future adoption. ”

**Art 276 Swiss Civil Code.**

“1 The parents must provide for the child’s maintenance, including the costs of raising the child, its education and measures taken for his or her protection.

2 Maintenance is provided by caring for and raising the child or, where he or she is not in the parents’ custody, in the form of monetary payments.

3 The parents are released from their duty of maintenance to the extent that the child may reasonably be expected to meet the costs thereof from his or her own earnings or other resources.”



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**Article 727 Japanese Civil Code. (Relationship through Adoption)**

“From the time of adoption, the relationship between an adopted child and an adoptive parent and (his/her relative by blood) shall be deemed to be the same as that between relatives by blood.”

**Article 729 Japanese Civil Code. (End of Adoptive Relation by Dissolution )**

“The relationship of an adopted child, his/her spouse, any of his/her lineal descendants and their spouses with an adoptive parent and his/her spouse shall come to an end by dissolution of adoptive relation.”

**Article 736 Japanese Civil Code. (Prohibition of Marriage between Adoptive Parent and Child etc.)**

“Even after the termination of a family relationship pursuant to the provision of Article 729, an adopted child or spouse of adopted child, or a lineal descendant or spouse of a lineal descendant, may not marry an adoptive parent or his/her lineal ascendant.”

**Article 792 Japanese Civil Code. (Age of Adoptive Parent )**

“A person who has attained the age of majority may adopt another as his/her child.”

**Article 793 Japanese Civil Code. (Prohibition of Adopting Ascendant or Person of Greater Age)**

“Neither an ascendant nor a person of greater age may be adopted.”

**Article 795 Japanese Civil Code.**

“A married person shall adopt a minor only jointly with the spouse; provided, however, that this shall not apply in cases where he/she adopts a child in wedlock of his/her spouse or his/her spouse is incapable of indicating her/his intention.”

**Article 796 Japanese Civil Code.**

“A married person shall only adopt or be adopted by another with the consent of his/her spouse; provided, however, that this shall not apply in the case he/she adopts or is adopted with his/her spouse jointly, or his/her spouse is incapable of indicating her/his intention.”

**Article 797 Japanese Civil Code.**

“(1) If a person to be adopted has not attained 15 years of age, his/her legal representative may give his/her consent to the adoption of that person on behalf of that person.

(2) Where a person to be adopted is cared for by one of his/her parents and that parent does not have parental authority in relation to the person but cares for the- 13 -person in accordance with Article 766, a legal representative shall obtain the consent of that parent before giving the consent referred to in the preceding paragraph.”

**Article 798 Japanese Civil Code.**

“Where a person to be adopted is a minor, the permission of the family court shall be obtained; provided that this shall not apply in the cases where the person to be adopted is a lineal descendant of either the adoptive parent or the adoptive parent's spouse”

**Article 807 Japanese Civil Code.**

“An adopted child, any natural relative of the child, or a person who gave his/her consent to the adoption on the adopted child's behalf may apply to the family court for rescission of an adoption that violates the provisions of Article 798; provided, however, that this shall not apply if, after the adopted child attains majority, six months have passed or he/she has ratified the adoption.”

**Article 809 Japanese Civil Code.**

“An adopted child acquires the status of a child in wedlock of his/her adoptive parent's from the time of adoption.”

**Article 810 Japanese Civil Code.**

“An adopted child shall take the surname of his/her adoptive parent (s) ; provided that this shall not apply to an adopted child who has changed his/her surname by marriage and continues to use the surname determined at the time of marriage.”

**Article 811 Japanese Civil Code.**

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

(2) If an adopted child is under 15 years of age, an adoptive parent and a person to- 16 - be a legal representative of the child after the dissolution of adoptive relation may agree to dissolve the adoptive relation.

(3) If, in the case referred to in the preceding paragraph, the parents of the adopted child divorce, they may agree that one of them should have parental authority with respect to the child after the dissolution of adoptive relation.

(4) If the parents of the adopted child do not, or cannot, make the agreement referred to in the preceding paragraph, the family court may, on the application of a father, a mother, or an adoptive parent referred to in that paragraph, make a ruling in lieu of the agreement.

(5) If there is no person to be a legal representative of the adopted child for the purposes of paragraph 2 , the family court may, on the application of any relative ( ) of the adopted child or any other interested party, appoint a person to be a guardian of a minor for the adopted child after the dissolution of adoptive relation.

(6) If one of the parties to an adoption has died and the surviving party intends to dissolve the adoptive relation, he/she may do so with the permission of the family court.”

**Article 814 Japanese Civil Code.**

“(1) Either of the parties to an adoption may, in the following cases only, bring an action for dissolution of adoptive relation:

(i) if he/she has been abandoned in bad faith by the other party;- 17 -

(ii) if it is not clear whether the other party is dead or alive for not less than three years; or

(iii) if there is any other material ground making it difficult to continue the adoptive relation.

(2) The provision of paragraph (2) of Article 770 shall apply mutatis mutandis to the cases listed in item (i) and item (ii) of the preceding paragraph.”

**Article 817-2 (1) Japanese Civil Code.**

“(1) The family court may, on the application of a person to be an adoptive parent, make a ruling establishing an adoption which extinguishes the legal relationship between a child and his/her natural relatives (referred to in this subsection as 'special adoption')

(2) The permission referred to in Article 794 and Article 798 is not required for the application referred to in the provision of the preceding paragraph.”

**Article 817-3 Japanese Civil Code.**

“(1) A person to be an adoptive parent shall be a married person.

(2) If one spouse does not become an adoptive parent, the other spouse may not be an adoptive parent; provided, however, that this shall not apply if that spouse intends to adopt a child in wedlock of the other spouse (excluding an adopted child who is not the subject of a special adoption ruling)”

**Article 817-4 Japanese Civil Code.**

“A person who has not attained 25 years of age may not be an adoptive parent; provided that this shall not apply if one spouse of a married couple to be adoptive parents has attained 20 years of age but has not attained 25 years of age.”

**Article 817-5 Japanese Civil Code.**

“No person who has attained 6 years of age at the time of the application referred to in the provisions of Article 817-2 shall be adopted; provided that this shall not apply if he/she has not attained 8 years of age and has been continually cared for by a person to be an adoptive parent since before the child attained 6 years of age.”

**Article 817-6 Japanese Civil Code.**

“A ruling of special adoption shall only be made if both parents of a person to be adopted gives his/her consent to the special adoption; provided that this shall not apply in cases where the parents are incapable of indicating their intention or the parents have abused the child, abandoned the child without reasonable cause, or there is any other cause of grave harm to the interests of the person to become the adopted child.”

**Article 817-7 Japanese Civil Code.**

“A ruling of special adoption shall only be made if both parents of a person to be adopted are incapable or unfit to care for the child or there are any other special circumstances, and it is found that the special adoption is especially necessary for the interests of the child.”

**Article 817-8 Japanese Civil Code.**

“(1) In making a ruling of special adoption, the circumstances of not less than six months of the care given by the person (s) to become adoptive parent (s) over the person to become the adopted child shall be considered.

(2) The period in the preceding paragraph shall be calculated from the time of the application referred to in the provisions of Article 817-2; provided that this shall not apply if the circumstances of care are evident prior to the application.”

**Article 817-9 Japanese Civil Code.**

“The legal relationship between an adopted child and his/her natural parents and relative by bloods shall be extinguished by a ruling of special adoption; provided that this shall not apply to the legal relationship with the other party referred to in the provision of the proviso to paragraph (2) of Article 817-3 and his/her relative by bloods.”

**Article 817-10 Japanese Civil Code.**

“(1) The family court may, on the application of the adopted child, his/her natural parents or a public prosecutor, make a ruling dissolving the adoptive relation, if both of the following items are satisfied and the family court finds it especially

necessary for the interests of the adopted child:

(i) the adoptive parents have abused, or abandoned in bad faith, the adopted child there is any other ground of extreme harm to the interests of the adopted child;

(ii) the natural parent(s) are capable of providing reasonable care for the child.

(2) Dissolution of special adoption shall only be made pursuant to the provision of the preceding paragraph.”

**Article 818 Japanese Civil Code.**

“(1) A child who has not attained the age of majority shall be subject to the parental authority of his/her parents.

(2) If a child is an adopted child, he/she shall be subject to the parental authority of his/her adoptive parents.

(3) Parental authority shall be exercised jointly by married parents; provided that if either parent is incapable of exercising parental authority, the other parent shall do so.”

**Article 820 Japanese Civil Code.**

“A person who exercises parental authority holds the right, and bears the duty, to care for and educate the child.”

**Article 821 Japanese Civil Code.**

“Residence of a child shall be determined by a person who exercises parental authority.”

**Article 822 Japanese Civil Code.**

“(1) A person who exercises parental authority may discipline the child to the extent necessary, or enter the child into a disciplinary institution with the permission of the family court.

(2) The family court may determine that the child shall stay in a disciplinary institution for a period of no more than six months; provided that this period may be shortened at any time on the application of a person who exercises parental authority.”

**Article 823 Japanese Civil Code.**

“(1) A child may not have an occupation without the permission of a person who exercises parental authority.

(2) A person who exercises parental authority may revoke or limit the permission- 21 - referred to in the preceding paragraph in the case referred to in paragraph (2) of Article 6.”

**Article 826 (1) Japanese Civil Code.**

“(1) If an act involves a conflict of interest between a father or mother who exercises parental authority and a child, a person who exercises parental authority shall apply to the family court to have a special representative for the child appointed.”

**Article 827 Japanese Civil Code.**

“A person who exercises parental authority shall exercise the right of administration of property with the same care he/she would exercise for him/herself.”

**Article 828 Japanese Civil Code.**

“When a child attains the age of majority, a person who exercised parental authority shall account for the administration of property without delay; provided, however, that the expenses incurred in the care of the child and the administration of property shall be deemed to have been set-off against the profits from the child's property.”

**Article 830 Japanese Civil Code.**

“(1) If a third party who grants property to a child gratuitously indicates an intention not to allow a father or mother who exercises parental authority to administer that property, that property shall not be subject to the administration of the father or mother.

(2) If neither parent has the right to administer the property referred to in the preceding paragraph and the third party does not appoint an administrator for that property, the family court may, on the application of a child, any relative of the child or a public prosecutor, appoint an administrator.



(3) Even if a third party has appointed an administrator for the property, the preceding paragraph shall apply if the right of that administrator is extinguished or the replacement of that administrator is required, and the third party does not appoint another administrator.

(4) The provisions of Articles 27 to 29 inclusive shall apply *mutatis mutandis* to the cases referred to in the preceding two paragraphs.”

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**Adoption Law of the People's Republic of China. Article 2**

“Adoption shall be in the interest of the upbringing and growth of adopted minors, with the lawful rights and interests of both adoptees and adopters safeguarded, in adherence to the principles of equality and voluntariness, and not in contravention of social morality.”

**Adoption Law of the People's Republic of China. Article 3**

“Adoption shall not contravene laws and regulations on family planning.”

**Adoption Law of the People's Republic of China. Article 4**

“Minors under the age of 14, as enumerated below, may be adopted:

- (1) orphans bereaved of parents;
- (2) abandoned infants or children whose parents cannot be ascertained or found; and
- (3) children whose parents are unable to rear them due to unusual difficulties.”

**Adoption Law of the People's Republic of China. Article 6**

“Adopters shall meet simultaneously the following requirements:

- (4) having reached the age of 30”

**Adoption Law of the People's Republic of China. Article 9**

“Where a male person without spouse adopts a female child, the age difference between the adopter and the adoptee shall be no less than 40 years.”

**Adoption Law of the People's Republic of China. Article 10**

“Where the parents intend to place out their child for adoption, they shall act in concert. If one parent cannot be ascertained or found, the other parent may place out the child for adoption alone.

Where a person with spouse adopts a child, the husband and wife shall adopt the child in concert.”

**Adoption Law of the People's Republic of China. Article 11**

“Adoption of a child and the placing out of the child for the adoption shall both take place on a voluntary basis. Where the adoption involves a minor aged 10 or more, the consent of the adoptee shall be obtained.”

**Adoption Law of the People's Republic of China. Article 17**

“Orphans or children whose parents are unable to rear them may be supported by relatives or friends of their parents.”

**Adoption Law of the People's Republic of China. Article 18**

“Where a spouse places out a minor child for adoption after the death of the other spouse, the parents of the deceased shall have the priority in rearing the child.”

**Adoption Law of the People's Republic of China. Article 20**

“It is strictly forbidden to buy or sell a child or to do so under the cloak of adoption.”

**Adoption Law of the People's Republic of China. Article 21**

“A foreigner may, in accordance with this Law, adopt a child (male or female) in the People's Republic of China.

Where a foreigner wishes to adopt a child in the People's Republic of China, the matter shall be subject to examination and approval of the competent authorities of the country, to which he or she belongs, in accordance with the law of that country. The adopter shall provide papers certifying such particulars of the adopter as age, marital status, profession, property, health and whether ever subjected to criminal punishment, which are issued by the competent agencies of the country to which the adopter belongs. Such certifying papers shall be authenticated by a foreign affairs institution of the country to which the adopter belongs or by an agency authorized by the said institution, and by the embassy or consulate of the People's Republic of China stationed in that country, too. The adopter shall conclude a written agreement with the person who places out the child for adoption and register in person the adoption with a civil affairs department of the people's government at the provincial level.

If the parties or one party involved in the adoptive relationship wishes that the adoption be notarized, it shall be done with a notary agency that is qualified to handle foreign-related notarization and is designated by the administrative department of justice under the State Council.”

**Adoption Law of the People’s Republic of China. Article 23**

“As of the date of establishment of the adoptive relationship, the legal provisions governing the relationship between parents and children shall apply to the rights and duties in the relationship between adoptive parents and adopted children; the legal provisions governing the relationship between children and close relatives of their parents shall apply to the rights and duties in the relationship between adopted children and close relatives of the adoptive parents. The rights and duties in the relationship between an adopted child and his or her parents and other close relatives shall terminate with the establishment of the adoptive relationship.”

**Adoption Law of the People’s Republic of China. Article 24**

“An adopted child may adopt his or her adoptive father's or adoptive mother's surname, and may also retain his or her original surname, if so agreed through consultation between the parties concerned.”

**Adoption Law of the People’s Republic of China. Article 26**

“No adopter may terminate the adoptive relationship before the adoptee comes of age, except when the adopter and the person having placed out the child for the adoption agree to terminate such relationship. If the adopted child involved reaches the age of 10 or more, his or her consent shall be obtained.

Where an adopter fails to perform the duty of rearing the adoptee or commits maltreatment, abandonment, or other acts of encroachment upon the lawful rights of the minor adopted child, the person having placed out the child for adoption shall have the right to demand termination of the adoptive relationship. Where the adopter and the person having placed out the child for adoption fail to reach an agreement thereon, a suit may be brought in a People's Court.”

**Adoption Law of the People's Republic of China. Article 31**

“Whoever abducts and traffics in a child under the cloak of adoption shall be investigated for criminal responsibility in accordance with law.

Whoever abandons an infant shall be fined by a public security organ; if the act constitutes a crime, the offender shall be investigated for criminal responsibility in accordance with law.

Whoever sells his or her own child, his or her illegal gains shall be confiscated by a public security organ and he or she shall also be fined; if the act constitutes a crime, the offender shall be investigated for criminal responsibility in accordance with law.”

**Law of Succession of the People's Republic of China. Article 13**

“Successors same in order shall, in general, inherit in equal shares. At the time of distributing the estate, due consideration shall be given to successors who are unable to work and have special financial difficulties.

At the time of distributing the estate, successors who have made the predominant contributions in maintaining the decedent or have lived with the decedent may be given a larger share.

At the time of distributing the estate, successors who had the ability and were in a position to maintain the decedent but failed to fulfil their duties shall be given no share or a smaller share of the estate.

Successors may take unequal shares if an agreement to that effect is reached among them.”

ภาคผนวก ฉ.

กฎหมายสาธารณรัฐฟิลิปปินส์

**An Act to Ordain and Institute the Civil Code of the Philippines Chapter 5. Article 339 (1).**

“The following cannot be adopted:

- (1) A married person, without the written consent of the other spouse;”

**An Act to Ordain and Institute the Civil Code of the Philippines Chapter 5. Article 340 (1).**

“The written consent of the following to the adoption shall be necessary:

- (1) The person to be adopted, if fourteen years of age or over;”

**An Act to Ordain and Institute the Civil Code of the Philippines Chapter 5. Article 341 (1).**

“The adoption shall:

- (1) Give to the adopted person the same rights and duties as if he were a legitimate child of the adopter;”

**An Act to Ordain and Institute the Civil Code of the Philippines Chapter 5. Article 341 (2).**

“The adoption shall:

- (2) Dissolve the authority vested in the parents by nature;”

**An Act to Ordain and Institute the Civil Code of the Philippines Chapter 5. Article 341 (4).**

“The adoption shall:

- (4) Entitle the adopted person to use the adopter's surname. (n) ”

**An Act to Ordain and Institute the Civil Code of the Philippines Chapter 5. Article 342.**

“The adopter shall not be a legal heir of the adopted person, whose parents by nature shall inherit from him”

**An Act to Ordain and Institute the Civil Code of the Philippines Chapter 5. Article 343**

“If the adopter is survived by legitimate parents or ascendants and by an adopted person, the latter shall not have more successional rights than an acknowledged natural child.”



**An Act to Ordain and Institute the Civil Code of the Philippines Chapter 5. Article 346**

“The adoption shall be recorded in the local civil register”

**An Act to Ordain and Institute the Civil Code of the Philippines Chapter 5. Article 347**

“A minor or other incapacitated person may, through a guardian ad litem, ask for the rescission of the adoption on the same grounds that cause the loss of parental authority.”

**An Act to Ordain and Institute the Civil Code of the Philippines Chapter 5. Article 348**

“The adopter may petition the court for revocation of the adoption in any of these cases:

(1) If the adopted person has attempted against the life of the adopter;

(2) When the adopted minor has abandoned the home of the adopter for more than three years;

(3) When by other acts the adopted person has definitely repudiated the adoption.”

**An Act to Ordain and Institute the Civil Code of the Philippines Chapter 5. Article 365**

“An adopted child shall bear the surname of the adopter.”

**The Child and Youth Welfare Code. Philippines. Art. 27.**

“Who May Adopt. - Any person of age and in full possession of his civil rights may adopt: Provided, That he is in a position to support and care for his legitimate, legitimated, acknowledged natural children, or natural children by legal fiction, or other illegitimate children, in keeping with the means, both material and otherwise, of the family.

In all cases of adoption the adopter must be at least fifteen years older than the person to be adopted.”

**The Child and Youth Welfare Code. Philippines. Art. 28 (1).**

“Who May Not Adopt. - The following persons may not adopt:

(1) A married person without the written consent of the spouse;

- (2) The guardian with respect to the ward prior to final approval of his accounts;
- (3) Any person who has been convicted of a crime involving moral turpitude;
- (4) An alien who is disqualified to adopt according to the laws of his own country or one with whose government the Republic of the Philippines has broken diplomatic relations.”

**The Child and Youth Welfare Code. Philippines. Art. 31.**

“Whose Consent is Necessary. - The written consent of the following to the adoption shall be necessary:

- (1) The person to be adopted, if fourteen years of age or over;
- (2) The natural parents of the child or his legal guardian of the Department of Social Welfare or any duly licensed child placement agency under whose care the child may be;
- (3) The natural children, fourteen years and above, of the adopting parents.”

**The Child and Youth Welfare Code. Philippines. Art. 39 (1)**

“Effects of Adoption. - The adoption shall:

(1) Give to the adopted person the same rights and duties as if he were a legitimate child of the adopter: Provided, That an adopted child cannot acquire Philippine citizenship by virtue of such adoption:

(2) Dissolve the authority vested in the natural parent or parents, except where the adopter is the spouse of the surviving natural parent;

(3) Entitle the adopted person to use the adopter's surname; and

(4) Make the adopted person a legal heir of the adopter: Provided, That if the adopter is survived by legitimate parents or ascendants and by an adopted person, the latter shall not have more successional rights than an acknowledged natural child: Provided, further, That any property received gratuitously by the adopted from the adopter shall revert to the adopter should the former predecease the latter without legitimate issue unless the adopted has, during his lifetime, alienated such property: Provided, finally, That in the last case, should the adopted leave no property other than that received from the adopter, and he is survived by illegitimate issue or a spouse, such illegitimate issue collectively or the spouse shall receive one-fourth of such property; if the adopted is survived by illegitimate issue and a spouse, then the former collectively shall receive

one-fourth and the latter also one-fourth, the rest in any case reverting to the adopter, observing in the case of the illegitimate issue the proportion provided for in Article 895 of the Civil Code.”