

Civil Code and Trust Act (as Amended in 2006) in Japan

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This report discusses the relationship between Civil Code and Trust Act (as Amended in 2006) in Japan, focusing mainly on the field of Succession.

First, the report summarizes the function of Civil Code (in particular, Succession Law, which is the Fifth Book of Civil Code) as the “Constitution” of civil society.

Secondly, the report surveys the history and characteristics of Japanese Succession Law, which was imported and inherited from French Civil Code. The report then analyzes the function and importance, in Japanese Succession Law, of the reserved shares for the spouse and lineal descendants: the system of reserved shares should be considered to be a part of “ordre public” (public order) in Japan.

Thirdly, and finally, the report points out the conflicts between Civil Code (especially, Succession Law) and Trust Act (as Amended in 2006) . In the process of the 2006 amendment of Trust Act, the relationship between the Civil Code (especially, Succession Law) and the Trust Act was not sufficiently discussed. The report discusses, by referring to several problems that may be caused by the application of Trust Act in the field of succession, that the current Trust Act would be seriously incompatible with principles and rules set forth by Civil Code, in particular in the field of Succession Law.

