

## QUESTIONS AND PROBLEMS

What is the difference between a *shadan* and a *zaidan*?

### SUB-SECTION 2.\*

#### Juridical Persons (*hōjin*).

Juridical persons (*hōjin*) are organizations which are, by a fiction of law, regarded (to a certain extent) in the same light as natural persons. Juridical persons are classified into (1) public and (2) private juridical persons. Public juridical persons (*kōhōjin*) are a subject to be dealt with under public law and with which the *Civil Code* has nothing to do. Private juridical persons (*shihōjin*) are subdivided into (1) associations (*shadan* or aggregates of natural persons for certain common objects or ends) and (2) foundations (*zaidan* or aggregates of property for certain purposes -- juridical persons created invariably for the promotion of the public good.)

Private juridical persons may also be classified into (1) juridical persons for the public good and (2) juridical persons for profit. The most important of juridical persons for profit are companies (*kwaisha*), the provisions relating to which are reserved entirely for the *Commercial Code*, so that the juridical persons with which the *Civil Code* is concerned are confined to juridical persons for the public good, for the Code further provides that associations for

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profit are to be governed by the provisions of the *Commercial Code* relating to companies.

Juridical persons are constituted in accordance with the provisions of the law and with the permission of the authorities. It is also necessary to determine their constitution by Articles of Association — *teikan* (in case of associations) or Acts of Endowment — *kifu-koi* (in case of foundations).

A juridical person thus created enjoys rights and is subject to duties in conformity with laws and ordinances within the scope of its object as determined by its Articles of Association or Act of Endowment. A juridical person must register certain particulars at the place of each office within two weeks from the date of creation (Arts 45 and 46).

A juridical person can act and operate only through natural persons. It must appoint one or more directors who represent the juridical person and attend to its affairs. Comprehensive as the authority of these directors is, and including as it does all matters coming within the scope of its object, it is usually necessary that they should be placed under the supervision of one or more inspectors, though it is within the discretion of each juridical person to decide whether an inspector should be appointed or not (Art. 59). An association has another organ in the general meeting (*sōkwai*), that is, the general meeting of all its members, which is the highest organ by which the intention of the juridical person is determined (Arts. 60-65).

The business of a juridical person is subject to the supervision of the competent authorities. A juridical person loses its existence by dissolution, of which the causes are

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specified in the law (Art. 68). When a juridical person is dissolved, its property goes to the persons designated by the Articles of Association or Act of Endowment. If no such designation has been made by the Articles of Association or Act of Endowment, the directors may, with the permission of the competent authorities and (in the case of an association) agreeably with the resolution of a general meeting, dispose of the property for an object similar to that of the juridical person. Property which is not disposed of in any of the ways above mentioned goes to the National Treasury (*Fiscus*).

In case a juridical person is dissolved, its pending business must be wound up, — that is, there must be a liquidation (*seisan*). For the purpose of liquidation, a dissolved juridical person is deemed to continue in existence until the conclusion of such liquidation.

With the exception of states, administrative divisions of states and commercial companies, and also of those specially recognized by law or treaty, foreign juridical persons are not recognized in Japan.

Foreign juridical persons recognized in Japan enjoy only the same rights as juridical persons of a similar nature formed in Japan; but they cannot enjoy rights such as cannot be enjoyed by foreigners generally, except otherwise specially provided in laws or treaties.

### *Kanji Glossary*

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| hojin 法人            | shadan 社団    |
| kifu kōi 寄附行為       | shihōjin 私法人 |
| kōhōjin 公法人         | sōkai 總會     |
| kwaisha (kaisha) 会社 | teikan 定款    |
| seisan 清算           | zaidan 財団    |