

**Editorial Note:**

Although passed near the end of December 2006, considering its importance, the Act is introduced here. This amendment is regarded as showing that the tolerance of the legislature for moneylenders, adopting a carrot-and-stick-policy, such as *minasibensaikitei*, has made a change of direction, toward stricter regulations on the money-lending business. However, since the amendment is to be effective part by part over a long time, there is a possibility of another change of direction of the legislature. And since certain important amendments, such as the repeal of *minashibensaikitei*, are to be effective in the final stages, the movement of the legislature on the regulation of the money-lending business should be watched carefully. In addition, please refer to “JUDICIAL DECISIONS 3. Law of Property and Obligations” of this annual report, in which one of the decisions of the Supreme Court considered strongly influential on this amendment is introduced.

## **4. Law of Civil Procedure and Bankruptcy**

### **Act Revising the Code of Criminal Procedure, etc. to protect the rights and interests of crime victims**

Law No. 95, June 27, 2007 (effective on April 1, 2008)

**Background:**

This Act which revises mainly criminal procedure to protect the rights and interests of the victims of crime contains an amendment of civil procedure at the same time.

On the basis of the Basic Act on Crime Victims (Law No. 161, December 8, 2004), a basic plan about measures and policies for crime victims, etc. was formulated in December 2005. The plan concerns not only issues about criminal procedure, but also about civil procedure. The concrete content of the amendment about civil procedure is to take measures in the Code of Civil Procedure to reduce a crime victim's mental anxiety or tension, etc. when they make statements as witnesses or par-

ties, as is already taken in the Code of Criminal Procedure.

### **Main Provisions:**

New Art. 203-2 “Attendance” and Art. 203-3 “Measures of shielding” are inserted, and a new Item 2 is added in Art. 204 “Examination using devices of communication by transmission of visual images, etc.”

### **Editorial Note:**

Art. 203-2 of the Code of Civil Procedure is a provision relating to “Attendance.” The presiding judge may, when there is a fear, taking into account the witness’s age, mental or physical condition or other circumstances, that the witness may feel extreme anxiety or tension during the examination of the witness, have the witness accompanied during the statement of the witness by those who are appropriate for easing the witness’s anxiety or tension, and are unlikely to disturb the examination by the presiding judge or the party of the case or the statement of the witness, and are unlikely to unduly influence the contents of the statement (Para. 1). The person accompanying the witness in accordance with the preceding paragraph shall not behave in any manner during the statement of the witness which may disturb the examination by the presiding judge or the parties of the case or the statement of the witness, or which may unduly influence the contents of the statement (Para. 2). This provision is similar to Art. 157-2 of the Code of Criminal Procedure.

Art. 203-3 of the Code of Civil Procedure is a provision relating to “Measures of shielding.” The presiding judge may, when there is a fear, taking into account the nature of the case, the witness’s age, mental or physical condition, the relationship between the witness and the parties themselves or the legal representatives of the parties or other circumstances, that the witness may feel pressure and his/her peace of mind may be seriously harmed while making a statement in the presence of the parties themselves or the legal representatives of the parties, and when the presiding judge believes it to be appropriate, take measures so that the parties themselves or the legal representatives of the parties and the witness cannot discern the state of the other either from one side or from both sides (Para. 1). The presiding judge may, when he believes it to be appropriate, taking into account the nature of the case, the fact that the

witness was harmed by a crime, the witness's age, the mental or physical condition or effects upon his/her honor or other circumstances, take measures so that the spectators and the witness cannot discern the state of the other (Para. 2). This provision is similar to Art. 157-3 of the Code of Criminal Procedure.

Art. 204 of the Code of Civil Procedure is a provision relating to "Examination using devices of communication by transmission of visual images, etc." According to Item 2 which is newly added, the court may, when the witness is, taking into account the nature of the case, the witness's age, mental or physical condition, the relationship between the witness and the parties themselves or the legal representatives of the parties or other circumstances, likely to feel pressure, and his/her peace of mind may be seriously harmed while making a statement at the place where the presiding judge and the party of the case are present for examination of the witness, and when the court believes it to be appropriate, in accordance with the provisions of the Rules of the Supreme Court, examine the witness in a way using devices that allow recognition of the state of the other and communication by transmission of visual images and sound. This provision is similar to Art. 157-4 Para. 1 Item 3 of the Code of Criminal Procedure.

By the way, these provisions shall be applied *mutatis mutandis* to examination of the parties themselves and the legal representatives of the parties under Art. 210 and Art. 211 of the Code of Civil Procedure.

## 5. Criminal Law and Procedure

### **Law for the Amendment of a Part of the Juvenile Law**

Law No. 35, May 25, 2007

#### **Background:**

In the 166th Diet of 25th May 2007, the Law for the Amendment of a Part of the Juvenile Law was approved and promulgated on 1st June 2007. There are four important points of this amendment; ① the preparation of authority for police to inquire into the cases of juveniles who violate the