

## **MAC to Promptly Amend Laws on the Adoption of Taiwanese' Spouses' Children in the Mainland in Conformance with the Intent of Interpretation No. 712 of the Justices of the Constitutional Court**

Date: 2013-10-04

MAC Press Release No. 75

1. The Justices of the Constitutional Court, Judicial Yuan today rendered Interpretation No. 712, which states that the adoption system involves marital happiness and family harmony and is conducive to physical and mental development and personality formation of the adoptees. Provisions in Article 65 of the Act Governing Relations between the People of the Taiwan Area and the Mainland Area (hereinafter the "Act") stipulating that a court shall not approve the adoption by people of the Taiwan Area of a spouse's children in the Mainland Area therefore contravene provisions in the Constitution of the Republic of China (ROC) on guarantees freedom of adoption (Article 22) and the proportionality principle (Article 23) shall therefore lose their force from the date of the interpretation's promulgation. The MAC stated that, in conformance with the intent of the Judicial Yuan interpretation, it would promptly review related provisions to correspond with the Constitution's intention of protecting human rights.

2. The MAC explained that the Act came into effect on September 18, 1992. If at that time people of the Taiwan Area had been allowed to adopt people from the Mainland Area without any restrictions other than those stipulated in the Civil Code, it would have led to a large influx of people from the Mainland Area to Taiwan, given the linguistic and cultural similarities between the people on both sides. This would have created population imbalances in the Taiwan Area and resulted in a serious impact on population development and social security in Taiwan. Therefore, provisions in Article 65 of the Act were stipulated to ensure regional security and social stability in Taiwan, protect significant public interests, and constitute a truly legitimate purpose. This position was upheld by Judicial Yuan Interpretation No. 712.

3. The MAC emphasized that it initiated a comprehensive review of the Act in March 2013. With the aim of protecting Mainland spouses' rights and interests, it has successively studied and proposed amendments adjusting the period of residency required before Mainland spouses may obtain identity cards to four to eight years (Article 17 of the Act) and allowing Mainland spouses overstaying in Taiwan for up to 30 days to continue residing in Taiwan after having paid the required fine (Article 18-1 of the Act). The proposed amendments have been submitted to the Legislative Yuan for review. Additionally, the MAC is now deliberating adjustments to the system for Taiwanese person's to adopt their spouse's children in the Mainland Area (Article 65 of the Act). These revisions are in line with the intention of Judicial Yuan Interpretation No. 712, and shall safeguard the marriage and family systems of people on both sides, while taking into account Taiwan's overall social development and public interests.