

Civil Provisional Remedies Act

(Act No. 91 of December 22, 1989)

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Chapter I General Provisions

(Purpose)

Article 1 A provisional seizure and a provisional disposition concerning the subject matter in dispute to preserve the fulfillment of a right claimed as the merits of a civil suit, and a provisional disposition to determine provisional status with regard to a relationship of rights claimed as the merits of a civil suit (hereinafter collectively referred to as "civil provisional remedies") shall be governed by the provisions of this Act in addition to the provisions of other laws and regulations.

(Agency for Civil Provisional Remedy and Court of Execution of Temporary Restraining Order)

Article 2 (1) The issuance of a temporary restraining order for civil provisional remedy (hereinafter referred to as a "temporary restraining order") shall be carried out by a court upon petition.

- (2) The execution of a temporary restraining order for civil provisional remedy (hereinafter referred to as the "execution of a temporary restraining order") shall be carried out by a court or a court execution officer upon petition.
- (3) For the execution of a temporary restraining order carried out by a court, the court of execution of a temporary restraining order shall be the court that is to make a disposition of execution pursuant to the provisions of this Act, and for the execution of a temporary restraining order carried out by a court execution officer, the court of execution of a temporary restraining order shall be the district court to which the court execution officer belongs.

(Optional Oral Argument)

Article 3 A judicial decision relating to procedures for civil provisional remedy may be made without going through oral argument.

(Provision of Security)

- Article 4 (1) Security shall be provided pursuant to the provisions of this Act by making a statutory deposit of money or of securities (including book-entry transfer bonds, etc. prescribed in Article 278, paragraph (1) of the Act on Book-Entry Transfer of Company Bonds, Shares, etc.(Act No. 75 of 2001)) that are found to be reasonable by the court that has ordered the provision of security, to an official depository within the jurisdictional district of the district court having jurisdiction over the location of the court that has ordered the provision of security or the court of execution of a temporary restraining order, or by any other method specified by the Rules of the Supreme Court; provided, however, that if the parties concerned have made a special contract, such contract shall prevail.
- (2) The provisions of Article 77, Article 79 and Article 80 of the Code of Civil Procedure (Act No. 109 of 1996) shall apply mutatis mutandis to the security set forth in the preceding paragraph.

(Inspection, etc. of the Record of a Case)

Article 5 With regard to a procedure concerning a temporary restraining order or procedure conducted by a court for the execution of a temporary restraining order, a person having an interest may make a request to a court clerk for the inspection or copying of the record of the case, issuance of an authenticated copy, transcript or extract of such record, or issuance of a certificate of matters concerning the case; provided, however, that no person other than the obligee may make such request until the date for oral argument or date for hearing for which the obligor is to be summoned is designated with respect to a petition for a temporary restraining order, or a temporary restraining order is served upon the obligor.

(Exclusive Jurisdiction)

Article 6 The court jurisdiction prescribed in this Act shall be exclusive jurisdiction.

(Application Mutatis Mutandis of the Code of Civil Procedure)

Article 7 Except as otherwise provided for, the provisions of the Code of Civil Procedure shall apply mutatis mutandis to procedures for civil provisional remedy.

(Rules of the Supreme Court)

Article 8 In addition to what is provided for in this Act, necessary matters concerning procedures for civil provisional remedy shall be specified by the Rules of the Supreme Court.

Chapter II Procedure Concerning Temporary Restraining Order

Section 1 General Provisions

(Special Provisions on Disposition of Explanation)

Article 9 When it is necessary in order to clarify the allegations of a party with regard to the facts pertaining to a dispute, the court may have a person, who administers affairs on behalf of the party or assists the party and whom the court considers to be appropriate, to make statements on the date for oral argument or date for hearing.

Article 10 Deleted

Article 11 Deleted

Section 2 Temporary Restraining Order

Subsection 1 General Rules

(Court with Jurisdiction)

Article 12 (1) A case of a temporary restraining order shall be under the jurisdiction of the court with jurisdiction over the case on the merits or the district court having jurisdiction over the location of the property to be provisionally seized or the subject matter in dispute.

(2) Notwithstanding the provision of the preceding paragraph, where an action on the merits is an action relating to a patent right, etc. prescribed in Article 6, paragraph (1) of the Code of Civil Procedure, a case of a temporary restraining order shall be under the jurisdiction of the court with jurisdiction over the case

on the merits; provided, however, that if the district court having jurisdiction over the location of the property to be provisionally seized or the subject matter in dispute is any of the courts specified in the items of paragraph (1) of said Article, such court shall also have jurisdiction over the case of a temporary restraining order.

- (3) The court with jurisdiction over the case on the merits shall be the court of first instance; provided, however, that it shall be the court of second instance if the case on the merits is pending in the second instance.
- (4) When the property to be provisionally seized or the subject matter in dispute is a claim (meaning a claim prescribed in Article 143 of the Civil Execution Act (Act No. 4 of 1979); hereinafter the same shall apply in this Article), the claim shall be deemed to exist at the location of the general venue of the obligor of the claim (hereinafter referred to as the "third party obligor"); provided, however, that a claim for delivery of a vessel (meaning a vessel prescribed in Article 112 of said Act; the same shall apply hereinafter) or movables (meaning movables prescribed in Article 122 of said Act; the same shall apply hereinafter) and a claim secured by a security interest in property shall be deemed to exist at the location of such property.
- (5) The provision of the main clause of the preceding paragraph shall apply mutatis mutandis to the case where the property to be provisionally seized or the subject matter in dispute is a property right prescribed in Article 167, paragraph (1) of the Civil Execution Act (hereinafter referred to as "any other property right") for which a third party obligor or person equivalent thereto exists (excluding the case prescribed in the following paragraph).
- (6) When the property to be provisionally seized or the subject matter in dispute is any other property right for which registration is required in the case of transfer of the right, such property right shall be deemed to exist at the place of such registration.

(Petition and Prima Facie Showing)

- Article 13 (1) A petition for a temporary restraining order shall be filed by clarifying the purpose thereof and the right or relationship of rights to be preserved and the necessity to preserve it.
- (2) The right or relationship of rights to be preserved and the necessity to preserve it shall be clarified by making a prima facie showing.

(Security for Temporary Restraining Order)

- Article 14 (1) A temporary restraining order may be issued, while requiring the provision of security immediately or requiring it as a condition for the implementation of execution of a temporary restraining order to provide security within a certain period of time that is found to be reasonable, or not

requiring the provision of security.

(2) When providing security as set forth in the preceding paragraph, if it is difficult for some reason to make a statutory deposit to an official depository set forth in Article 4, paragraph (1) without delay, a statutory deposit may be made, with the permission of a court, to an official depository within the jurisdictional district of the district court having jurisdiction over the obligee's domicile or the location of the obligee's office or any other place that the court finds to be appropriate.

(Authority of Presiding Judge)

Article 15 A temporary restraining order may be issued by the presiding judge only when there are pressing circumstances.

(Reasons for Order)

Article 16 An order on a petition for a temporary restraining order shall be accompanied by the reasons therefor; provided, however, that when making such order without going through oral argument, it shall be sufficient to show the gist of the reasons.

(Service)

Article 17 A temporary restraining order shall be served upon the party.

(Withdrawal of Petition for Temporary Restraining Order)

Article 18 In order to withdraw a petition for a temporary restraining order, it shall not be required to obtain consent from the obligor even after an objection to a temporary restraining order is filed or a petition for revocation of a temporary restraining order is filed.

(Immediate Appeal against Judicial Decision of Dismissal)

Article 19 (1) An obligee may file an immediate appeal against a judicial decision to dismiss without prejudice a petition for a temporary restraining order, within an unextendable period of two weeks from the day on which he/she has been notified of such decision.

(2) No appeal may further be filed against a judicial decision to dismiss an immediate appeal set forth in the preceding paragraph.

(3) The provision of the main clause of Article 16 shall apply mutatis mutandis to an order on an immediate appeal set forth in paragraph (1).

Subsection 2 Order of Provisional Seizure

(Necessity of Order of Provisional Seizure)

Article 20 (1) An order for provisional seizure may be issued when it is likely that a compulsory execution regarding a claim for payment of money will not be possible, or will result in the occurrence of significant difficulties.

(2) An order of provisional seizure may be issued even in cases where a claim set forth in the preceding paragraph is subject to a condition or with a due date.

(Object of Order of Provisional Seizure)

Article 21 An order of provisional seizure shall be issued regarding specified property; provided, however, that an order of provisional seizure of movables may be issued without specifying the object.

(Money for Release from Provisional Seizure)

Article 22 (1) An order of provisional seizure shall specify the amount of money to be deposited by the obligor in order to cause the execution of a provisional seizure to be stayed or cause the execution of a provisional seizure already carried out to be revoked.

(2) A deposit of money set forth in the preceding paragraph shall be made to an official depository within the jurisdictional district of the district court having jurisdiction over the location of the court that has issued an order of provisional seizure or the court of execution of a temporary restraining order.

Subsection 3 Order of Provisional Disposition

(Necessity, etc. of Order of Provisional Disposition)

Article 23 (1) An order of provisional disposition relating to the subject matter in dispute may be issued when there is a likelihood that it will be impossible or extremely difficult for the obligee to exercise his/her right due to any changes to the existing state of the subject matter.

(2) An order of provisional disposition to determine a provisional status may be issued when such status is necessary in order to avoid any substantial detriment or imminent danger that would occur to the obligee with regard to the relationship of rights in dispute.

(3) The provision of Article 20, paragraph (2) shall apply mutatis mutandis to an order of provisional disposition.

(4) An order of provisional disposition set forth in paragraph (2) may not be issued without holding oral argument or holding a hearing which the obligor can attend on the date fixed therefor; provided, however, that this shall not apply when there are circumstances where the objective of the petition for an order of provisional disposition cannot be achieved if such proceedings are held.

(Method of Provisional Disposition)

Article 24 A court, in order to achieve the objective of a petition for an order of provisional disposition, may make a disposition to order the obligor to conduct a certain act or prohibit him/her from conducting it, order the obligor to provide performance or have a custodian retain the object, or make any other necessary disposition.

(Money for Release from Provisional Disposition)

Article 25 (1) A court, only when the objective of the exercise of a right to be preserved can be achieved by receiving payment of money, may specify, in an order of provisional disposition, the amount of money to be deposited by the obligor in order to cause the execution of a provisional disposition to be stayed or cause the execution of a provisional disposition already carried out to be revoked, hearing opinions from the obligee.

(2) The provision of Article 22, paragraph (2) shall apply mutatis mutandis to a deposit of money set forth in the preceding paragraph.

(Order of Provisional Disposition Prohibiting Transfer of Possession Issued Without Specifying the Obligor)

Article 25-2 (1) In the case of an order of provisional disposition prohibiting transfer of possession (meaning an order of provisional disposition issued to preserve the right to claim the delivery or surrender of the subject matter in dispute, which is intended to implement the following measures; hereinafter the same shall apply in this Article, Article 54-2 and Article 62), wherein the subject matter in dispute is real property, a court may issue the order without specifying the obligor when there are special circumstances that make it difficult to specify the obligor prior to the execution of such order:

- (i) prohibit the obligor from transferring the possession of the subject matter in dispute, and order him/her to release the subject matter in dispute from his/her possession and deliver it to a court execution officer; and
- (ii) have a court execution officer retain the subject matter in dispute and have him/her give public notice to the effect that the obligor is prohibited from transferring the possession of the subject matter in dispute and that the court execution officer retains the subject matter in dispute.

(2) When an order of provisional disposition prohibiting transfer of possession under the provision of the preceding paragraph has been executed, the person whose real property, which is the subject matter in dispute, has been released from his/her possession by such execution shall be the obligor.

(3) An order of provisional disposition prohibiting transfer of possession under the provisions of paragraph (1) shall not be required to be served upon the obligor if such order was not executed within the period set forth in Article 43, paragraph (2). In this case, an order of rescission of security under the

provisions of Article 79, paragraph (1) of the Code of Civil Procedure as applied mutatis mutandis pursuant to Article 4, paragraph (2), which pertains to the security that was caused to be provided under the provisions of Article 14, paragraph (1), shall become effective by notifying the petitioner by a method found to be reasonable by the court.

Section 3 Objection to Temporary Restraining Order

(Objection to Temporary Restraining Order)

Article 26 An obligor may file an objection to a temporary restraining order with the court that has issued the order.

(Judicial Decision of Stay of Execution of Temporary Restraining Order)

Article 27 (1) Where an objection to a temporary restraining order is filed, only when a prima facie showing is made with regard to the circumstances which will obviously be the grounds for revocation of the temporary restraining order and the likelihood that the execution of the temporary restraining order will cause damage for which compensation cannot be made, a court may, upon petition, order a stay of execution of a temporary restraining order or order revocation of a disposition of execution already made, while requiring the provision of security immediately or requiring the provision of security as a condition, until the court makes a judicial decision under the provision of paragraph (3) in its order on the objection to the temporary restraining order.

(2) Where a court in charge of an appeal has issued a temporary restraining order, if the record of the case exists at the court of prior instance, the latter court may also make a judicial decision under the provision of the preceding paragraph.

(3) A court shall, in an order on an objection to a temporary restraining order, revoke, change or approve the judicial decision already made under the provision of paragraph (1).

(4) No appeal may be entered against a judicial decision under the provisions of paragraph (1) and the preceding paragraph.

(5) The provision of Article 15 shall apply mutatis mutandis to a judicial decision under the provision of paragraph (1).

(Transfer of a Case)

Article 28 When it is necessary in order to avoid substantial delay in a case of an objection to a temporary restraining order or ensure equity between the parties, in consideration of the domicile of a party, a witness to be examined and a witness to be heard, and any other circumstances concerned, a court may, upon petition or by its own authority, transfer said case to another court having

jurisdiction over the case of the temporary restraining order.

(Proceedings for Objection to Temporary Restraining Order)

Article 29 A court may not make an order on an objection to a temporary restraining order without holding oral argument or holding a hearing which both parties can attend on the date fixed therefor.

Article 30 Deleted

(Conclusion of Proceedings)

Article 31 In order to conclude proceedings, a court shall decide the day on which proceedings are to be concluded, giving a reasonable grace period; provided, however, that on the date for oral argument or date for hearing which both parties can attend, a court may immediately declare the conclusion of proceedings.

(Order on Objection to Temporary Restraining Order)

- Article 32 (1) A court shall, in an order on an objection to a temporary restraining order, approve, change or revoke the temporary restraining order.
- (2) In an order set forth in the preceding paragraph, the court may provide that it requires the obligee to provide security within a certain period of time that it finds to be reasonable, or that it increases the amount of security required under the provision of Article 14, paragraph (1) and requires the obligee to provide security for the amount of such increase within a certain period of time that it finds to be reasonable, as a condition for the implementation or continuation of the execution of a temporary restraining order.
- (3) A court may require an obligor to provide security as a condition attached to an order to revoke a temporary restraining order under the provision of paragraph (1).
- (4) The provisions of the main clause of Article 16 and Article 17 shall apply mutatis mutandis to an order set forth in paragraph (1).

(Judicial Decision of Restoration)

Article 33 Where an obligee has, based on an order of provisional disposition, received the delivery or surrender of an object or received payment of money, or used or retained an object, a court may, upon the petition of the obligor, order the obligee to return the object delivered or surrendered by the obligor, return the money paid by the obligor or return the object used or retained by the obligee, in an order to revoke the order of provisional disposition under the provision of paragraph (1) of the preceding Article.

(Effect of Order to Revoke Temporary Restraining Order)

Article 34 When making an order to revoke a temporary restraining order under the provision of Article 32, paragraph (1), a court may declare that such revocation order will not become effective until the expiration of a certain period of time that it finds to be reasonable, not exceeding two weeks from the day on which the service of the order has been received; provided, however, that this shall not apply when no appeal may be filed against such revocation order.

(Withdrawal of Objection to Temporary Restraining Order)

Article 35 In order to withdraw an objection to a temporary restraining order, it shall not be required to obtain consent from the obligee.

(Special Provisions for Powers of Assistant Judge)

Article 36 A judicial decision on an objection to a temporary restraining order may not be made by an assistant judge independently.

Section 4 Revocation of Temporary Restraining Order

(Revocation of Temporary Restraining Order by reason of the Failure to File Action on Merits, etc.)

Article 37 (1) A court that has issued a temporary restraining order shall, upon the petition of the obligor, order the obligee to, within a certain period of time that it finds to be reasonable, file an action on the merits and submit a document certifying the filing of the action, and if the obligee has already filed an action on the merits, order him/her to submit a document certifying that the action is pending before court.

(2) The period set forth in the preceding paragraph shall be two weeks or more.

(3) If the obligee has failed to submit the document set forth in paragraph (1) within the period set forth in said paragraph, the court shall, upon the petition of the obligor, revoke the temporary restraining order.

(4) Where the action on the merits set forth in paragraph (1) has been withdrawn or dismissed without prejudice after the document set forth in said paragraph was submitted, it shall be deemed that said document has never been submitted.

(5) With regard to the application of the provisions of paragraph (1) and paragraph (3), the filing of an action on the merits shall be deemed to be replaced with: the filing of a petition for conciliation with a family court if the case on the merits is a case prescribed in Article 18, paragraph (1) of the Act on Adjudication of Domestic Relations (Act No. 152 of 1947); the filing of a petition for labor tribunal proceedings with a district court if the case on the

merits is a case prescribed in Article 1 of the Labor Tribunal Act (Act No. 45 of 2004); the procedure to commence arbitration proceedings if an arbitration agreement is reached in the case on the merits; and the application for an award on the liability for damages (referred to as an "award on liability" in the following paragraph) prescribed in Article 42-12, paragraph (1) of the Act for the Settlement of Environmental Pollution Disputes (Act No. 108 of 1970) if the case on the merits is a case to seek damages for suffering from environmental pollution prescribed in Article 2 of said Act.

- (6) When a conciliation case set forth in the preceding paragraph, labor tribunal proceedings set forth in said paragraph, arbitration proceedings set forth in said paragraph or award on liability proceedings set forth in said paragraph is closed, with no conciliation or labor tribunal judgment being reached or made (including the case where conciliation is not reached under the provision of Article 16 of the Civil Conciliation Act (Act No. 222 of 1951) as applied mutatis mutandis pursuant to the provision of Article 29 of the Labor Tribunal Act, and the case where a labor tribunal case is closed under the provision of Article 24, paragraph (1) of the Labor Tribunal Act) or with no arbitration judgment or award on liability being made (including the case where an agreement between the parties is not reached set forth in Article 42-24, paragraph (2) of the Act for the Settlement of Environmental Pollution Disputes), the obligee shall file an action on the merits within the same period as the period specified under the provision of paragraph (1) from the date of the close of the case or proceedings.
- (7) The provision of paragraph (3) shall apply mutatis mutandis to the case where the obligee has failed to file an action on the merits under the provision of the preceding paragraph, and the provision of paragraph (4) shall apply mutatis mutandis to the case where an action on the merits set forth in the preceding paragraph has been filed or such action is deemed to have been filed under the provision of Article 22, paragraph (1) of the Labor Tribunal Act (including cases where applied mutatis mutandis pursuant to Article 23, paragraph (2) and Article 24, paragraph (2) of said Act), and then the action has been withdrawn or dismissed without prejudice.
- (8) The provisions of the main clause of article 16 and Article 17 shall apply mutatis mutandis to an order under the provision of paragraph (3) (including cases where applied mutatis mutandis pursuant to the preceding paragraph).

(Revocation of Temporary Restraining Order by reason of Change in Circumstances)

Article 38 (1) When the right or relationship of rights to be preserved or the necessity to preserve it no longer exists or there has been any other change in circumstances, the court that has issued a temporary restraining order or the court in charge of the case on the merits may, upon the petition of the obligor,

revoke the temporary restraining order.

(2) The change in circumstances set forth in the preceding paragraph shall be clarified by making a prima facie showing.

(3) The provisions of the main clause of Article 16, Article 17, and Article 32, paragraph (2) and paragraph (3) shall apply mutatis mutandis to an order on a petition set forth in paragraph (1).

(Revocation of Temporary Restraining Order by reason of Special Circumstances)

Article 39 (1) When there is a likelihood that an order of provisional disposition will cause damage for which compensation cannot be made or there are other special circumstances, the court that has issued the order of provisional disposition or the court in charge of the case on the merits may, upon the petition of the obligor, revoke the order of provision disposition, while requiring the provision of security as a condition.

(2) The special circumstances set forth in the preceding paragraph shall be clarified by making a prima facie showing.

(3) The provisions of the main clause of Article 16 and Article 17 shall apply mutatis mutandis to an order on a petition set forth in paragraph (1).

(Application Mutatis Mutandis of Provisions on Objection to Temporary Restraining Order)

Article 40 (1) The provisions of Article 27 to Article 29, Article 31, and Article 33 to Article 36 shall apply mutatis mutandis to a judicial decision concerning revocation of a temporary restraining order; provided, however, that the provisions of Article 27 to Article 29, Article 31, Article 33, Article 34 and Article 36 shall not apply to a judicial decision under the provision of Article 37, paragraph (1).

(2) Where a petition for revocation of a temporary restraining order is filed with the court in charge of the case on the merits that differs from the court that has issued the temporary restraining order, when the record of the case exists at the court that has issued the temporary restraining order, such court that issued the temporary restraining order may also make a judicial decision under the provision of Article 27, paragraph (1) as applied mutatis mutandis pursuant to the preceding paragraph.

Section 5 Appeal Pertaining to Temporary Restraining Order

(Appeal Pertaining to Temporary Restraining Order)

Article 41 (1) An appeal may be filed against a judicial decision on an objection to a temporary restraining order or on a petition for revocation of a temporary

restraining order (including a judicial decision under the provision of Article 33 (including cases where applied mutatis mutandis pursuant to paragraph (1) of the preceding Article)), within a unextendable period of two weeks from the day on which the service of the judicial decision is received; provided, however, that this shall not apply to a judicial decision on an objection to a temporary restraining order issued by a court in charge of an appeal.

- (2) The court of prior instance, when receiving an appeal pertaining to a temporary restraining order, shall refer the case to a court in charge of an appeal, without making determination on whether or not there are any reasons for the appeal.
- (3) No appeal may further be filed against a judicial decision on an appeal pertaining to a temporary restraining order.
- (4) The provisions of the main clause of Article 16, Article 17, and Article 32, paragraph (2) and paragraph (3) shall apply mutatis mutandis to an order on appeal pertaining to a temporary restraining order; the provisions of Article 27, paragraph (1), paragraph (4) and paragraph (5), Article 29, Article 31, and Article 33 shall apply mutatis mutandis to a judicial decision on an appeal pertaining to a temporary restraining order; and the provision of Article 349 of the Code of Civil Procedure shall apply mutatis mutandis to the case where a judicial decision against which an appeal pertaining to a temporary restraining order may be filed becomes final and binding.
- (5) When the record of the case exists at the court of prior instance, such court may also make a judicial decision under the provision of Article 27, paragraph (1) as applied mutatis mutandis pursuant to the preceding paragraph.

(Judicial Decision to Stay the Effect of an Order to Revoke Temporary Restraining Order)

- Article 42 (1) Where an appeal is filed against an order to revoke a temporary restraining order, only when a prima facie showing is made with regard to the circumstances which will obviously be the grounds for revocation of the order of prior instance and the likelihood that the revocation of the order will cause damage for which compensation cannot be made, the court in charge of an appeal may, upon petition, order a stay of the effect of the order to revoke the temporary restraining order, while requiring the provision of security immediately or requiring the provision of security as a condition, until it the court makes a judicial decision on the appeal.
- (2) The provisions of Article 15, Article 27, paragraph (4), and paragraph (5) of the preceding Article shall apply mutatis mutandis to a judicial decision under the provision of the preceding paragraph.

Chapter III Procedure Concerning Execution of Temporary Restraining

Order

Section 1 General Provisions

(Requirements for Execution of Temporary Restraining Order)

- Article 43 (1) The execution of a temporary restraining order shall be implemented on the basis of an authenticated copy of the temporary restraining order; provided, however, that the execution of a temporary restraining order against or in the interest of a party other than the party indicated in the temporary restraining order shall be implemented on the basis of an authenticated copy of the temporary restraining order with a certificate of execution attached thereto.
- (2) The execution of a temporary restraining order shall not be carried out when two weeks have elapsed from the day on which the temporary restraining order is served upon the obligee.
- (3) The execution of a temporary restraining order may be carried out even before the temporary restraining order is served upon the obligor.

(Revocation of Execution of Temporary Restraining Order by reason of the Failure to Provide Additional Security)

- Article 44 (1) When a judicial decision is made to the effect that the provision of security shall be required as a condition for the continuation of the execution of a temporary restraining order pursuant to the provision of Article 32, paragraph (2) (including cases where applied mutatis mutandis pursuant to Article 38, paragraph (3) and Article 41, paragraph (4); hereinafter the same shall apply in this paragraph), the obligee shall submit a document certifying that he/she has provided security within the period specified under the provision of Article 32, paragraph (2), to the court of execution of the temporary restraining order or a court execution officer within one week from the last day of said period.
- (2) Where the obligee has failed to submit the document under the provision of the preceding paragraph, when the obligor has submitted an authenticated copy of the judicial decision set forth in said paragraph, the court of execution of the temporary restraining order or a court execution officer shall revoke the disposition of execution already made.
- (3) The provision of Article 40, paragraph (2) of the Civil Execution Act shall apply mutatis mutandis when revoking a disposition of execution pursuant to the provision of the preceding paragraph.

(Special Provisions for the Court with Jurisdiction over Third Party Action Against Execution)

- Article 45 A third party action against the execution of a temporary restraining

order carried out by a high court as the court of execution of a temporary restraining order shall be under the jurisdiction of the district court having jurisdiction over the location of the property to be provisionally seized or the subject matter in dispute.

(Application Mutatis Mutandis of the Civil Execution Act)

Article 46 Except as otherwise provided for in this Chapter, the provisions of Article 5 to Article 14, Article 16, Article 18, Article 23, paragraph (1), Article 26, Article 27, paragraph (2), Article 28, Article 30, paragraph (2), Article 32 to Article 34, Article 36 to Article 38, Article 39, paragraph (1), item (i) to item (iv), item (vi) and item (vii), Article 40, and Article 41 of the Civil Execution Act shall apply mutatis mutandis to the execution of a temporary restraining order.

Section 2 Execution of Provisional Seizure

(Execution of Provisional Seizure Against Real Property)

Article 47 (1) The execution of a provisional seizure against real property prescribed in Article 43, paragraph (1) of the Civil Execution Act (including property that shall be deemed to be real property pursuant to the provision of paragraph (2) of said Article) shall be carried out by the method of making a registration of a provisional seizure or the method of compulsory administration. These methods may be used jointly.

(2) The court that has issued an order of provisional seizure shall have jurisdiction over the execution of the provisional seizure by the method of making a registration of a provisional seizure as the court of execution of a temporary restraining order.

(3) A court clerk shall commission registration of a provisional seizure.

(4) When executing a provisional seizure by the method of compulsory administration, the administrator shall make a statutory deposit of the money to be allotted to the liquidating distribution, etc. as calculated under the provision of Article 107, paragraph (1) of the Civil Execution Act as applied mutatis mutandis pursuant to the following paragraph, and notify the court of execution of a temporary restraining order of such circumstances.

(5) The provisions of Article 46, paragraph (2), Article 47, paragraph (1), Article 48, paragraph (2), Article 53, and Article 54 of the Civil Execution Act shall apply mutatis mutandis to the execution of a provisional seizure by the method of making a registration of a provisional seizure, and the provisions of Article 44, Article 46, paragraph (1), Article 47, paragraph (2), the main clause of paragraph (6), and paragraph (7), Article 48, Article 53, Article 54, Article 93 to Article 93-3, Article 94 to Article 104, Article 106, and Article 107,

paragraph (1) of said Act shall apply mutatis mutandis to the execution of a provisional seizure by the method of compulsory administration.

(Execution of Provisional Seizure Against Vessel)

- Article 48 (1) The execution of a provisional seizure against a vessel shall be carried out by the method of making a registration of a provisional seizure or the method of ordering a court execution officer to confiscate the document proving the nationality of the vessel and any other documents necessary for the navigation of the vessel (hereinafter referred to as the "certificate of the vessel's nationality, etc." in this Article) and to submit them to the court of execution of a temporary restraining order. These methods may be used jointly.
- (2) As the court of execution of a temporary restraining order, the court that has issued an order of provisional seizure shall have jurisdiction over the execution of a provisional seizure by the method of making a registration of a provisional seizure, and the district court having jurisdiction over the location of a vessel shall have jurisdiction over the execution of a provisional seizure by the method of ordering the confiscation of the certificate of the vessel's nationality, etc.
- (3) The provisions of paragraph (3) of the preceding Article and the provisions of Article 46, paragraph (2), Article 47, paragraph (1), Article 48, paragraph (2), Article 53, and Article 54 of the Civil Execution Act shall apply mutatis mutandis to the execution of a provisional seizure by the method of making a registration of a provisional seizure, and the provisions of Article 45, paragraph (3), Article 47, paragraph (1), Article 53, Article 116 and Article 118 of said Act shall apply mutatis mutandis to the execution of a provisional seizure by the method of ordering the confiscation of the certificate of the vessel's nationality, etc.

(Execution of Provisional Seizure Against Movables)

- Article 49 (1) The execution of a provisional seizure against movables shall be carried out by the method in which a court execution officer possesses the movables.
- (2) A court execution officer shall make a statutory deposit of the money that is subject to the execution of a provisional seizure. The same shall apply to the money paid to a court execution officer with regard to a bill or note, check or any other securities for payment of money, which is subject to the execution of a provisional seizure and requires presentation for underwriting or payment or requires a demand for payment within a period specified in order to exercise the right.
- (3) When there is a likelihood of a considerable decline in the price of the movables subject to the execution of a provisional seizure or if an inappropriate

amount of costs are to be required for retention of such movables, a court execution officer shall sell the movables through the procedure of sale in execution against movables under the provisions of the Civil Execution Act and make a statutory deposit of the proceeds of such sale.

- (4) The provisions of Article 123 to Article 129, Article 131, Article 132 and Article 136 of the Civil Execution Act shall apply mutatis mutandis to the execution of a provisional seizure against movables.

(Execution of Provisional Seizure Against Claims and Other Property Rights)

Article 50 (1) The execution of a provisional seizure against a claim prescribed in Article 143 of the Civil Execution Act shall be carried out by the method in which a court of execution of a temporary restraining order issues an order to prohibit the third party obligor from providing performance to the obligor.

- (2) The court that has issued an order of provisional seizure set forth in the preceding paragraph shall have jurisdiction over the execution of a provisional seizure as the court of execution of a temporary restraining order.

- (3) When the third party obligor has made a statutory deposit of money equivalent to the amount of the claim for payment of money against which the provisional seizure was executed, it shall be deemed that the obligor has made a statutory deposit of money equivalent to the amount of money specified under the provision of Article 22, paragraph (1); provided, however, that this shall not apply to any part of the deposit which exceeds said amount of money.

- (4) The provisions of paragraph (1) and paragraph (2) shall apply mutatis mutandis to the execution of a provisional seizure against any other property right.

- (5) The provisions of Article 145, paragraph (2) to paragraph (5), Article 146 to Article 153, Article 156, Article 164, paragraph (5) and paragraph (6), and Article 167 of the Civil Execution Act shall apply mutatis mutandis to the execution of a provisional seizure against a claim and any other property right as set forth in paragraph (1).

(Revocation of Execution of Provisional Seizure by reason of Deposit of Money for Release from Provisional Seizure)

Article 51 (1) When the obligor has proved that he/she made a statutory deposit of money equivalent to the amount of money specified under the provision of Article 22, paragraph (1), the court of execution of a temporary restraining order shall revoke the execution of a provisional seizure.

- (2) Notwithstanding the provision of Article 12, paragraph (2) of the Civil Execution Act as applied mutatis mutandis pursuant to Article 46, an order made under the provision of the preceding paragraph shall become effective immediately.

Section 3 Execution of Provisional Disposition

(Execution of Provisional Disposition)

Article 52 (1) The execution of a provisional disposition shall be governed by the rules of execution of a provisional seizure or compulsory execution in addition to the provisions of this Section.

(2) For the purpose of execution of a provisional disposition to order the delivery of property or any other action or inaction, an order of provisional disposition shall be deemed to be a title of obligation.

(Execution of Provisional Disposition Prohibiting Disposition of Property for Preserving the Right to Claim Registration of Real Property)

Article 53 (1) The execution of a provisional disposition prohibiting the disposition of property for the purpose of preserving the right to claim a registration (excluding a provisional registration) of a right relating to real property (hereinafter referred to as the "right to claim registration") shall be carried out by the method of making a registration of prohibition of disposition of property.

(2) The execution of a provisional disposition prohibiting the disposition of property for the purpose of preserving the right to claim a registration of the preservation, establishment or change of a right other than ownership relating to real property shall be carried out by the method of making a provisional registration by means of a provisional disposition (hereinafter referred to as a "provisional registration for the purpose of preservation") together with a registration of prohibition of disposition of property set forth in the preceding paragraph.

(3) The provisions of Article 47, paragraph (2) and paragraph (3), and the provisions of Article 48, paragraph (2), Article 53, and Article 54 of the Civil Execution Act shall apply mutatis mutandis to the execution of a provisional disposition prohibiting the disposition of property set forth in the preceding two paragraphs.

(Execution of Provisional Disposition Prohibiting Disposition of Property for Preserving the Right to Claim Registration of a Right Other Than a Right Relating to Real Property)

Article 54 The provision of the preceding Article shall apply mutatis mutandis to the execution of a provisional disposition prohibiting the disposition of property for the purpose of preserving the right to claim a registration (excluding a provisional registration) of a right, other than a right relating to real property, for which the restriction of the disposition thereof may not be

duly asserted against a third party or nor shall it become effective unless it has been registered.

(Execution of Order of Provisional Disposition Prohibiting Transfer of Possession Issued Without Specifying the Obligor)

Article 54-2 An order of provisional disposition prohibiting transfer of possession issued under the provision of Article 25-2, paragraph (1) may not be executed in cases where it is unable to specify the possessor of real property, which is the subject matter in dispute, at the time of releasing such real property from possession.

(Execution of Provisional Disposition Prohibiting Disposition of a Building for Preserving the Right to Claim Removal of the Building and Surrender of Land)

Article 55 (1) When an order of provisional disposition is issued to prohibit the disposition of a building for the purpose of preserving the right to claim the removal of the building and the surrender of the land on which it stands, the execution of the provisional disposition shall be carried out by the method of making a registration of prohibition of disposition of property.

(2) The provisions of Article 47, paragraph (2) and paragraph (3), and the provisions of Article 48, paragraph (2), Article 53, and Article 54 of the Civil Execution Act shall apply mutatis mutandis to the execution of a provisional disposition prohibiting the disposition of property set forth in the preceding paragraph.

(Commission of Registration of a Provisional Disposition Suspending Execution of Duties by the Representative of a Juridical Person, etc.)

Article 56 When an order of provisional disposition is made to suspend the execution of duties by a person registered as a representative or any other officer of a juridical person or to appoint a person who will execute such duties on behalf of such registered person or when an order is made to change or revoke such order of provisional disposition, a court clerk shall commission the registry office having jurisdiction over the location of the head office or principal office of the juridical person (in the case of a foreign juridical person, the location of its office) to make a registration to that effect; provided, however, that this shall not apply in cases where these matters should not be registered.

(Revocation of Execution of Provisional Disposition by reason of Deposit of Money for Release from Provisional Disposition)

Article 57 (1) When the obligor has proved that he/she made a statutory deposit

of money equivalent to the amount of money specified under the provision of Article 25, paragraph (1), the court of execution of a temporary restraining order shall revoke the execution of a provisional disposition.

- (2) The provision of Article 51, paragraph (2) shall apply mutatis mutandis to an order made under the provision of the preceding paragraph.

Chapter IV Effect of Provisional Disposition

(Effect of Provisional Disposition Prohibiting Disposition of Property for Preserving the Right to Claim Registration of Real Property)

- Article 58 (1) The acquisition of a right or restriction of disposition, which is registered after a registration of prohibition of disposition is made as set forth in Article 53, paragraph (1), may not be duly asserted against the obligee regarding a provisional disposition set forth in said paragraph to the extent that it is in conflict with the acquisition or extinction of the right pertaining to said registration, when the obligee makes a registration pertaining to the right to claim registration to be preserved.
- (2) In the case referred to in the preceding paragraph, the obligee regarding a provisional disposition set forth in Article 53, paragraph (1) (excluding the obligee regarding a provisional disposition set forth in paragraph (2) of said Article) may cancel any registration that is made after a registration of prohibition of disposition of property set forth in paragraph (1) of said Article.
- (3) When the obligee regarding a provisional disposition set forth in Article 53, paragraph (2) makes a registration of the right to claim registration to be preserved, he/she shall do so by the method of making a principal registration based on a provisional registration for the purpose of preservation.
- (4) Where the obligee regarding a provisional disposition set forth in Article 53, paragraph (2) makes a registration pursuant to the provision of the preceding paragraph, if a right pertaining to the right to claim registration to be preserved by way of the provisional disposition is a right to use or profit from real property, he/she may cancel any registration of the acquisition of a right to use or profit from real property (excluding ownership) or a right established on such right, which is made after a registration of prohibition of disposition of property set forth in paragraph (1) of said Article.

(Notice of Cancellation of Registration)

- Article 59 (1) When the obligee regarding a provisional disposition cancels a registration pursuant to the provisions of paragraph (2) or paragraph (4) of the preceding Article, he/she shall give notice to the holder of the registration to that effect in advance.
- (2) The notice under the provision of the preceding paragraph may be dispatched

to the domicile or the office of the registration holder set forth in said paragraph as indicated in the registry as of the time of the dispatch. In this case, the notice shall be deemed to have reached the destination when one week has elapsed from the day on which it was dispatched, at the latest.

(Correction, etc. of Order of Provisional Disposition)

Article 60 (1) If the description of a right pertaining to a provisional registration for the purpose of preservation is inconsistent with the description of the right in a title of obligation on the merits which orders that a principal registration should be made based on the provisional registration for the purpose of preservation, the court that has issued an order of provisional disposition prohibiting the disposition of property set forth in Article 53, paragraph (2) shall correct the order upon the petition of the obligee.

(2) An immediate appeal may be filed against a correction order under the provision of the preceding paragraph.

(3) When a correction order under the provision of paragraph (1) has become final and binding, a court clerk shall commission correction of the provisional registration for the purpose of preservation.

(Effect of Provisional Disposition Prohibiting Disposition of Property for Preserving the Right to Claim Registration of a Right Other Than a Right Relating to Real Property)

Article 61 The provisions of the preceding three Articles shall apply mutatis mutandis to the effect of a provisional disposition prohibiting the disposition of property prescribed in Article 54.

(Effect of Order of Provisional Disposition Prohibiting Transfer of Possession)

Article 62 (1) When an order of provisional disposition prohibiting transfer of possession has been executed, the obligee may effect the compulsory execution of the delivery or surrender of the subject matter in dispute against either of the following persons based on a title of obligation on the merits:

(i) a person who took possession of the subject matter in dispute, knowing that the order of provisional disposition prohibiting transfer of possession has been executed; or

(ii) a person who succeeded to the obligor's possession of the subject matter in dispute after the execution of the order of provisional disposition prohibiting transfer of possession, without knowing that said order has been executed.

(2) A person who took possession of the subject matter in dispute after the execution of an order of provisional disposition prohibiting transfer of possession shall be presumed to have taken possession of the subject matter in dispute, knowing that said order has been executed.

(Reasons for Objection to Grant of Certificate of Execution)

Article 63 When a certificate of execution against a person other than the obligor set forth in paragraph (1) of the preceding Article has been granted with regard to a title of obligation on the merits set forth in said paragraph, such person may make an objection to the grant of the certificate of execution on the basis that he/she possesses the subject matter based on a title that may be duly asserted against the obligee or that he/she had no knowledge of the provisional disposition having been executed and that he/she is not a successor to the obligor's possession.

(Effect of Provisional Disposition Prohibiting Disposition of a Building for Preserving the Right to Claim Removal of the Building and Surrender of Land)

Article 64 When a registration of prohibition of disposition of property set forth in Article 55, paragraph (1) has been made, the obligee may effect the compulsory execution of the removal of a building and surrender of the land on which it stands, against the person who has acquired the building after said registration was made, based on a title of obligation on the merits.

(Exercise of the Right to Money for Release Upon Provisional Disposition for Preserving the Right to Request Avoidance of Fraudulent Act)

Article 65 When a statutory deposit has been made of money equivalent to the amount of money set forth in Article 25, paragraph (1) as specified by an order of provisional disposition for the purpose of preserving a right to request avoidance of a fraudulent act under the provision of Article 424, paragraph (1) of the Civil Code (Act No. 89 of 1896), the obligor set forth in Article 424, paragraph (1) of said Code shall acquire the right to claim refund of the deposit money (hereinafter referred to as a "claim for refund"). In this case, such claim for refund may be exercised only when the obligee regarding the provisional disposition effects compulsory execution against the claim for refund based on the title of obligation against the obligor set forth in Article 424, paragraph (1) of said Code after the execution of the provisional disposition has been revoked pursuant to the provision of Article 57, paragraph (1) and a judgment on merits concerning the right to be preserved has become final and binding.

Chapter V Penal Provisions

(Crime of Damaging a Written Public Notice, etc.)

Article 66 A person who has damaged a written public notice or any other sign posted by a court execution officer pursuant to the provisions of Article 168-2,

paragraph (3) or paragraph (4) of the Civil Execution Act which are applicable pursuant to the provision of Article 52, paragraph (1) shall be punished by imprisonment with work for not more than one year or a fine of not more than one million yen.

(Crime of Refusing to Make a Statement, etc.)

Article 67 An obligor or a third party possessing the real property, etc. prescribed in Article 168, paragraph (2) of the Civil Execution Act which is applicable pursuant to the provision of Article 52, paragraph (1), who has failed to make a statement or refused to present a document or has made a false statement or presented a document containing a false statement, without justifiable grounds, in response to a question asked by or a request for submission of a document made by a court execution officer under the provision of Article 168, paragraph (2) of the Civil Execution Act shall be punished by imprisonment with work for not more than six months or a fine of not more than 500,000 yen.

Supplementary Provisions [Extract]

(Effective Date)

Article 1 This Act shall come into effect as from the day specified by Cabinet Order within a period not exceeding two years from the date of promulgation.

(Transitional Measures upon Partial Revision of the Code of Civil Procedure and the Civil Execution Act)

Article 4 With regard to a case of a provisional seizure or provisional disposition based on an application for an order of provisional seizure or provisional disposition filed prior to the enforcement of this Act, the provisions then in force shall remain applicable.

(Transitional Measures upon Partial Revision of the Personal Status Litigation Procedure Act)

Article 6 With regard to a case of provisional disposition based on an application for an order of provisional disposition prescribed in Article 16 of the Personal Status Litigation Procedure Act filed prior to the enforcement of this Act, the provisions then in force shall remain applicable.

(Transitional Measures upon Partial Revision of the Real Property Registration Act)

Article 8 The provision of Article 146-2, paragraph (3) of the Real Property Registration Act revised under the provision of the preceding Article shall

apply mutatis mutandis to the case of canceling any registration made after the registration of a provisional disposition prohibiting the disposition of property for the purpose of preserving the right to claim a registration of a right relating to real property, which was issued based on an application for an order of provisional disposition filed prior to the enforcement of this Act (in the case of a provisional disposition set forth in Article 15-3, paragraph (1) of the Act on Adjudication of Domestic Relations, limited to one that is a temporary restraining order prior to adjudication prescribed in Article 12 of the Supplementary Provisions), where such cancellation is based on an application filed by said obligee.

(Transitional Measures upon Partial Revision of the Act on Adjudication of Domestic Relations)

Article 12 With regard to a case of a temporary restraining order prior to adjudication concerning an adjudication prescribed in Article 15-3, paragraph (1) of the Act on Adjudication of Domestic Relations (including a judicial decision set forth in paragraph (5) of said Article), which was made prior to the enforcement of this Act, the provisions then in force shall remain applicable.