

# Consumer Contract Act

(Act No. 61 of May 12, 2000)

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## Chapter I General Provisions

(Purpose)

Article 1 The purpose of this Act is to protect the interests of Consumers, and thereby contribute to the stabilization and improvement of the general welfare and lives of the citizens and to the sound development of the national economy, in consideration of the disparity in the quality and quantity of information and negotiating power between Consumers and Business Operators, by permitting a Consumer to rescind the manifestation of his/her intention to offer or accept a contract when the Consumer has misunderstood or was distressed by certain acts of Business Operators, and by nullifying any clauses, in whole or in part, that exempt Business Operators from liability for damages or that otherwise unfairly harm the interests of Consumers, in addition to providing a Qualified Consumer Organization with the Right to Demand an Injunction against a Business Operator, etc. for the purpose of preventing the occurrence of, or the

spreading of damage to, other Consumers.

(Definitions)

- Article 2 (1) The term "Consumer" as used in this Act means an individual (however, the same shall not apply in cases where said individual becomes a party to a contract as a business enterprise or for the purposes of a business enterprise).
- (2) The term "Business Operator" as used in this Act (excluding Article 43, paragraph (2), item (ii)) means a corporation or association, or an individual who becomes a party to a contract as a business enterprise or for the purposes of a business enterprise.
- (3) The term "Consumer Contract" as used in this Act means a contract concluded between a Consumer and a Business Operator.
- (4) The term "Qualified Consumer Organization" as used in this Act means any corporation certified by the Prime Minister, pursuant to the provisions of Article 13, as a consumer organization (a consumer organization pursuant to the provisions of Article 8 of the Consumer Basic Act (Act No. 78 of 1968); the same shall apply hereinafter) which has the qualifications necessary to exercise the Right to Demand an Injunction as governed by the provisions of this Act in the interests of many and unspecified Consumers.

(Efforts of Business Operators and Consumers)

- Article 3 (1) In drafting the provisions of a Consumer Contract, Business Operators shall endeavor to provide necessary information about, and make clear and plain, the rights and duties of Consumers and other matters set forth in Consumer Contracts in order to deepen Consumers' understanding when they are solicited to enter into Consumer Contracts.
- (2) Consumers entering into Consumer Contracts shall endeavor to actively use the information provided by Business Operators and to understand their rights and duties and other matters set forth in Consumer Contracts.

## **Chapter II Consumer Contract**

### **Section 1 Rescission of the Manifestation of an Intention to Offer or Accept a Consumer Contract**

(Rescission of the Manifestation of an Intention to Offer or Accept a Consumer Contract)

- Article 4 (1) A consumer may rescind the manifestation of his/her intention to offer or accept a Consumer Contract if either of the actions listed in the following items in which the Business Operator engaged when soliciting the Consumer to enter into such a Consumer Contract caused the Consumer to be

under the mistaken belief listed in the relevant item, based on which the Consumer manifested the intention to offer or accept the relevant Consumer Contract:

- (i) Misrepresentation as to an Important Matter: Mistaken belief that said misrepresentation is true; or
  - (ii) Providing conclusive evaluations of future prices, amounts of money that a Consumer should receive in the future and other uncertain items subject to future change with respect to goods, rights, services and other matters that are to be the subject of a Consumer Contract: Mistaken belief that the content of said conclusive evaluations is certain.
- (2) A Consumer may rescind the manifestation of his/her intention to offer or accept a Consumer Contract if a Business Operator, when soliciting said Consumer to enter into said contract, represents only the advantages of an Important Matter or a matter related thereto but intentionally omits disadvantageous facts (limited to facts that a Consumer would normally consider to be non-existent by such omission), about such Important Matter, causing said Consumer to mistakenly believe the non-existence of such facts. However, this shall not apply where said Business Operator has attempted to communicate such facts to said Consumer and said Consumer refused to hear such attempted communications.
- (3) A Consumer may rescind the manifestation of his/her intention to offer or accept a Consumer Contract if he/she is distressed as a result of either of the following acts engaged in by a Business Operator when soliciting said Consumer to enter into said Consumer Contract:
- (i) Failure to leave a Consumer's residence or place of business in defiance of the Consumer's request that the Business Operator leave such place; or
  - (ii) Preventing a Consumer from leaving a place where the Business Operator is soliciting the Consumer to enter into a Consumer Contract in defiance of the Consumer's request to leave.
- (4) The term "Important Matter" as used in item (i) under paragraphs (1) and paragraph (2) means the following matters that, if included in a Consumer Contract, would normally affect a Consumer's decision as to whether to conclude such Consumer Contract:
- (i) Quality, purpose of use and other details of the objects of a Consumer Contract, such as goods, rights and services; and
  - (ii) Price and other conditions of a transaction involving the objects of a Consumer Contract, such as goods, rights and services.
- (5) The rescission of the manifestation of an intention to offer or accept a Consumer Contract under paragraphs (1) to (3) may not be asserted against a third party without such knowledge.

(Third Parties and Agents Entrusted as Intermediaries)

- Article 5 (1) The preceding Article shall apply mutatis mutandis to cases in which a Business Operator entrusts a third party to act as an intermediary in a Consumer Contract between the Business Operator and a Consumer (which shall be referred to simply as "entrustment" for purposes of this paragraph), and the third party (which shall include a person entrusted by such third party (including further entrustment at the second or higher degree of separation from the original entrustment) who shall be referred to as the "Entrusted Party, etc." hereinafter) engages in any of the acts set forth under paragraphs (1) to (3) of the preceding Article with respect to the Consumer. In this case, "the Business Operator" referred to in the proviso to paragraph (2) of the preceding Article shall be deemed to be replaced with "the Business Operator or the Entrusted Party, etc. as provided in paragraph (1) of the following Article."
- (2) Any agent of a Consumer (which shall include a subagent (including any person appointed as a subagent at the second or higher degree of separation from the original agent); the same shall apply hereinafter), Business Operator or Entrusted Party, etc. involved in the execution of a Consumer Contract as described above shall be deemed to be such Consumer, Business Operator or Entrusted Party, etc. , respectively in relation to the application of paragraphs (1) to (3) of the preceding Article (including where applied mutatis mutandis pursuant to the preceding paragraph. The same shall apply in the following Article and in Article 7).

(Interpretation Provision)

- Article 6 The provisions of Article 4, paragraphs (1) to (3) shall not be interpreted to exclude the application of Article 96 of the Civil Code (Act No. 89 of 1896) to the manifestation of an intention to offer or accept a Consumer Contract falling under these paragraphs.

(Limitation of the Right to Rescind)

- Article 7 (1) The right to rescind provided for in Article 4, paragraphs (1) to (3) shall lapse by prescription, if it is not exercised within six months from the time that ratification became possible. The same shall apply if five years have elapsed since the conclusion of a Consumer Contract.
- (2) Where a Consumer enters into a Consumer Contract to subscribe for shares, offer a capital contribution, or contribute funds which is among the contracts which shall not be rescinded on the grounds of fraud or duress under the Companies Act (Act No. 86 of 2005) and other Acts, a Consumer cannot rescind the manifestation of his/her intention to subscribe, offer or contribute pursuant to the provisions of Article 4, paragraphs (1) to (3) (including where applied mutatis mutandis pursuant to Article 5, paragraph (1)).

## Section 2 Nullity of Consumer Contract Clauses

(Nullity of Clauses which Exempt a Business Operator from Liability for Damages)

Article 8 (1) The following Consumer Contract clauses are void:

- (i) Clauses which totally exempt a Business Operator from liability to compensate a Consumer for damages arising from default by the Business Operator;
  - (ii) Clauses which partially exempt a Business Operator from liability for damages arising from default by the Business Operator (limited to default which arises due to an intentional act or gross negligence on the part of the Business Operator, the Business Operator's representative or employee);
  - (iii) Clauses which totally exempt a Business Operator from liability for damages to a Consumer which arise from a tort pursuant to the provisions of the Civil Code committed during the Business Operator's performance of a Consumer Contract;
  - (iv) Clauses which partially exempt a Business Operator from liability for damages to a Consumer arising from a tort (limited to cases in which the same arises due to an intentional act or gross negligence on the part of the Business Operator, the Business Operator's representative or employee) pursuant to the provisions of the Civil Code committed during the Business Operator's performance of a Consumer Contract; and
  - (v) Where a Consumer Contract is a contract for value, and there exists a latent defect in the subject matter of the Consumer Contract (including where a Consumer Contract is a contract for work, and there exists a defect in the subject matter of a Consumer Contract for work; the same shall apply in the following paragraph): Clauses which totally exclude a Business Operator from liability to compensate a Consumer for damages caused by such defect.
- (2) The provisions of the preceding paragraph shall not apply to clauses as provided in item (v) of the preceding paragraph that fall under the cases enumerated in the following items:
- (i) Where a Consumer Contract provides that a Business Operator is responsible to deliver substitute goods without defects or repair the subject where a latent defect exists in the subject matter of the Consumer Contract; and
  - (ii) Where a Consumer contract is concluded between a Consumer and a Business Operator simultaneously with or after another contract is concluded between the Consumer and another Business Operator entrusted by the Business Operator, or between the Business Operator and another

Business Operator for the benefit of the Consumer, and said other contract provides that the other Business Operator is responsible to provide compensation for all or part of the damages caused by a defect, deliver substitute goods without defects or repair the defective subject where a latent defect exists in the subject matter of the Consumer Contract.

(Nullity of Clauses that Stipulate the Amount of Damages to be Paid by Consumers, etc.)

Article 9 The following Consumer Contract clauses are void to the extent provided in each respective item:

- (i) a clause that stipulates an amount of liquidated damages and/or establishes a fixed penalty in the event of cancellation, wherein the total amount of damages and/ or penalty exceed the normal amount of damages that would be caused to a Business Operator by the cancellation of a contract of the same type in accordance with the reason for the cancellation, the time of the cancellation, etc. : The amount by which the total exceeds the normal amount; and
- (ii) a clause in a Consumer Contract that stipulates an amount of liquidated damages and/or establishes a fixed penalty in the event of a total or partial default by the customer (if more than one payment is to be made, every delinquent payment is a default under this item), wherein the total amount of damages and/or penalty exceeds the amount calculated by deducting the amount actually paid from the amount which should have been paid on the due date and multiplying the result by 14. 6% a year in accordance with the number of days from the due date to the day on which the money is actually paid: The amount by which the total amount exceeds the calculated amount.

(Nullity of Clauses that Impair the Interests of Consumers Unilaterally)

Article 10 Any Consumer Contract clause that restricts the rights or expands the duties of the Consumer more than the application of provisions unrelated to public order in the Civil Code, the Commercial Code (Act No. 48 of 1899) and any other laws and regulations, and that unilaterally impairs the interests of the Consumer, in violation of the fundamental principle provided in the second paragraph of Article 1 of the Civil Code, is void.

### **Section 3 Auxiliary Provisions**

(Application of Other Acts)

Article 11 (1) As to the validity of the rescission of the manifestation of an intention to offer or accept a Consumer Contract and the validity of a clause in a Consumer Contract, the provisions of the Civil Code and the Commercial

Code shall apply in addition to this Act.

- (2) As to the validity of the rescission of the manifestation of an intention to offer or accept a Consumer Contract and the validity of a clause in a Consumer Contract, if laws or regulations other than the Civil Code and the Commercial Code provide otherwise, such laws and regulations shall supersede this Act.

### **Chapter III Injunction Demand**

#### **Section 1 Right to Demand an Injunction**

(Right to Demand an Injunction)

Article 12 (1) Where a Business Operator, an Entrusted Party etc. or an agent of a Business Operator or an Entrusted Party, etc. (hereinafter referred to as a "Business Operator, etc.") engages in or is likely to engage in acts such as those prescribed in the provisions of Article 4, paragraphs (1) to (3) (excluding cases which fall under the proviso to paragraph (2) of the same Article; the same shall apply to the following paragraph) in soliciting many and unspecified Consumers to execute Consumer Contracts, Qualified Consumer Organizations may demand that said Business Operator, etc. stop or prevent such acts, dispose of or remove materials used for such acts or take other necessary measures to stop or to prevent such acts; provided, however, that this shall not apply where the Consumer Contract may not be rescinded on the grounds of such acts pursuant to the provisions of any laws or regulations other than the Civil Code and the Commercial Code.

- (2) In cases where the persons listed in the following items engage in or are likely to engage in acts such as those prescribed in the provisions of Article 4, paragraphs (1) to (3) in soliciting many and unspecified Consumers to execute Consumer Contracts, Qualified Consumer Organizations may demand the persons provided in each item to take the necessary measures to stop or prevent such acts, such as instructing the person prescribed therein to rectify this or stopping it from inducing Customers into Consumer Contracts. In this case, the proviso of the preceding paragraph shall apply mutatis mutandis:
- (i) The Entrusted Party, etc. : The Business Operator or the other Entrusted Party, etc. that entrusted the relevant Entrusted Party, etc. (including entrustment at the second or higher degree of separation from the original entrustment); and
  - (ii) The agent of a Business Operator or of an Entrusted Party, etc. : The Business Operator or Entrusted Party, etc. that appointed the relevant agent as its own agent, or any other agent of such Business Operator or Entrusted Party, etc.
- (3) Where, on the occasion of entering into a Consumer Contract, a Business Operator or his/her agent manifests or is likely to manifest the intention to

offer to or accept from many and unspecified Consumers a Consumer Contract that includes any clause referred to in Articles 8 through 10 (excluding the Consumer Contract clause under Article 8, paragraph (1), item (v) that falls under one of the items of paragraph (2) of the same Article; the same shall apply to the following paragraph), Qualified Consumer Organizations may demand that such Business Operators or their agents cease or prevent such acts, dispose of or remove materials used for such acts or take other necessary measures to cease or prevent such acts; provided, however, that this shall not apply to cases where the provisions of such Consumer Contracts cannot be voided by any laws other than the Civil Code or the Commercial Code.

(4) Where, on the occasion of entering into Consumer Contracts, a Business Operator's agent manifests or is likely to manifest the intention to offer to or accept from many and unspecified Consumers a Consumer Contract that includes any clause referred to in Articles 8 through 10, a Qualified Consumer Organization may demand the Business Operator or the other agent whose agent it is, to take the necessary measures to stop or prevent such acts, such as instructing the relevant agent to rectify this or stopping it from inducing Consumers into Consumer Contracts. In this case, the proviso of the preceding paragraph shall apply *mutatis mutandis*.

#### (Restriction of Injunction Demands)

Article 12-2 (1) A demand under the preceding Article, Article 10 of the Act against Unjustifiable Premiums and Misleading Representations (Act No. 134 of 1962) or Articles 58-4 through 58-9 of the Act on Specified Commercial Transactions (Act No. 57 of 1976) (hereinafter referred to as an "Injunction Demand") may not be made in the following cases:

- (i) Where a demand is made with the intention of obtaining an unjustifiable profit for said Qualified Consumer Organization or third party, or to cause damage to the adverse party to the Injunction Demand; and
- (ii) Where the content of the demand and the adverse party are the same as those for which a final and binding judgment, etc. (hereinafter referred to as a "final judgment," and judgments with the same effect, excluding those listed in (a) through (c) below) already exists from a previous lawsuit, etc. (hereinafter referred to as "lawsuit proceedings and petitions for settlement, mediation and arbitration") in connection with an Injunction Demand to which another Qualified Consumer Organization was party; provided, however, this shall not apply where certification as a Qualified Consumer Organization as provided in paragraph (1) of the following Article has been rescinded with respect to said lawsuit, etc. relating to said final and binding judgment for the reasons provided in Article 34, paragraph (1), item (iv) or where it is found that any of the reasons provided in the same item existed

pursuant to paragraph (3) of the same Article:

- (a) A final and binding judgment that dismissed the lawsuit without prejudice;
  - (b) A final and binding judgment or an arbitration award that dismissed the Injunction Demand only on the grounds provided in the preceding item; or
  - (c) A final and binding judgment or another judgment with an equivalent effect that dismisses a claim for confirmation of the absence of a Right to Demand an Injunction (hereinafter referred to as a "Right to Demand an Injunction") or of the absence of an obligation related to the Right to Demand an Injunction (hereinafter referred to as a "Request for Confirmation of the Absence, etc. of the Right to Demand an Injunction" in Article 24).
- (2) The provisions of the main clause of item (ii) in the preceding paragraph shall not preclude an Injunction Demand as provided in the main clause of the same item for reasons arising after the conclusion of oral arguments in a lawsuit related to a final and binding judgment or the establishment of anything with an equivalent effect on the final and binding judgment.

## **Section 2 Qualified Consumer Organization**

### **Subsection 1 Certification of Qualified Consumer Organizations, etc.**

(Certification of Qualified Consumer Organizations)

Article 13 (1) A person that intends to provide Services Related to Injunction Demands (services involved in exercising the Right to Demand an Injunction to protect the interests of many and unspecified Consumers, collecting necessary information on a Consumer's damages to perform said services and providing information on the consequences of exercising the Right to Demand an Injunction which contributes to the prevention and remediation of the Consumer's damages; the same shall apply hereinafter) shall be certified by the Prime Minister.

- (2) A person that intends to obtain certification as provided in the preceding paragraph shall apply for such certification with the Prime Minister.
- (3) The Prime Minister may grant certification under paragraph (1) only if the person that has applied pursuant to the preceding paragraph complies with all of the following requirements:
  - (i) The person is a specified non-profit corporation as provided in Article 2, paragraph (2) of the Act to Promote Specified Non-profit Activities (Act No. 7 of 1998) or a general incorporated association or general incorporated foundation;
  - (ii) As its main objective, the person engages in activities such as collecting and providing information on Consumer affairs, preventing and remedying

- harm to Consumers, and other activities to protect the interests of many and unspecified Consumers, and it is found to have been properly carrying out such activities for a reasonable period of time;
- (iii) The person has prepared proper systems for Injunction Demands, methods of providing Services Related to Injunction Demands, systems to manage and maintain the confidentiality of information obtained in the course of carrying out said services, and other organizational structures and rules of operation to properly carry out said services;
- (iv) Its directors comply with the following requirements:
- (a) There is a council, consisting of directors, to perform the decision-making functions related to the provision of Services Related to Injunction Demands, and the decision-making process is specified in the articles of incorporation in conformity with the following requirements:
1. Council resolutions are reached by a simple majority of the directors or by a majority vote exceeding this proportion; and
  2. Decisions related to Injunction Demands prescribed in the provisions of Article 41, paragraph (1), the filing of a lawsuit involving an Injunction Demand and other important matters related to the provision of Services Related to Injunction Demands are not delegated to specific directors or others.
- (b) The council of directors is not composed as specified under 1 or 2 below. In this case, a person that complies with the requirements provided in item (ii) shall be deemed not to be a Business Operator as prescribed in 1 or 2 below:
1. More than one third of all of its directors are the related parties of a specified Business Operator (specified Business Operators include persons related to the relevant Business Operator through the holding of at least half of the total number of its outstanding shares and other persons provided by Cabinet Office Ordinance that are specially related to the relevant Business Operator, and related parties mean the relevant Business Operator and its officers or employees, and other persons provided by Cabinet Office Ordinance; the same shall apply in 2); and
  2. More than half of all of the directors are the related parties of Business Operators that engage in the same type of business (according to classifications provided by Cabinet Office Ordinance).
- (v) The person is found to have the expertise and professional experience necessary to properly provide Services Related to Injunction Demands, in light of the fact that it has in place a system under which the persons listed in (a) and (b) as follows (hereinafter referred to as "Expert Advisers") are able to jointly give the necessary advice and opinions, based on their

expertise and professional experience, in the department that reviews the necessity of Injunction Demands and the contents thereof, or in light of any other human resources system that the person has for performing Services Related to Injunction Demands:

- (a) A person who, upon meeting requirements provided in a Cabinet Office Ordinance, is found to have expertise and professional experience in providing consultation regarding Consumer complaints made to Business Operators (referred to as "Consumer Affairs Consultation" in Article 40, paragraph (1)) and other Consumer affairs matters; and
  - (b) Attorneys, judicial scriveners and other persons who, upon meeting requirements provided by a Cabinet Office Ordinance, are found to have professional expertise and experience concerning the law.
- (vi) The person has a sufficient financial basis to properly provide Services Related to Injunction Demands; and
- (vii) Where the person also provides services other than Services Related to Injunction Demands, it is unlikely that such services will hamper the provision of Services Related to Injunction Demands.
- (4) The rules of operation mentioned in item (iii) of the preceding paragraph shall set forth methods of providing Services Related to Injunction Demands and of managing and maintaining the confidentiality of information obtained in the course of providing said services, and methods related to other matters provided by Cabinet Office Ordinance. In this, methods of providing Services Related to Injunction Demands as set forth in the rules of operation shall include measures for ensuring the fair provision of services, such as measures for obtaining advice from and hearing the opinions of an Expert Adviser in the department responsible for the review provided for in item (v) of the preceding paragraph and measures for if an officer, employee, or Expert Adviser has a special interest in the adverse party of an Injunction Demand.
- (5) A person that falls under any of the following items may not be certified pursuant to paragraph (1):
- (i) A corporation that has been punished by a fine due to a violation of the provisions of this Act or other Acts on consumer protection specified by Cabinet Order, the provisions of any Orders based on such Acts, or any dispositions based on such provisions, for which three years have not yet passed since the punishment finished being enforced or the person ceased to be subject to its enforcement;
  - (ii) A corporation whose certification under paragraph (1) has been rescinded for any of the reasons listed in the items under Article 34, paragraph (1) or which has become subject to a finding of the existence of the reason set forth in item (iv) of said paragraph pursuant to paragraph (3) of the same Article, for which three years have not yet passed since the rescission or the finding;

- (iii) A corporation whose business activities are controlled by a member of any crime syndicate as provided under Article 2, item (vi) of the Act on Prevention of Unjust Acts by Organized Crime Group Members (Act No. 77 of 1991) (hereinafter referred to as a "Crime Syndicate Member" in this item) or by a person for whom five years have not yet passed since he/she ceased to be a Crime Syndicate Member (hereinafter referred to as "Crime Syndicate Member, etc." in the following item and item (vi)(c));
- (iv) A corporation likely to engage Crime Syndicate Members, etc. in its business activities or to use them as assistants in its business activities;
- (v) A political organization (meaning a political organization as provided under Article 3, paragraph (1) of the Political Funds Control Act (Act No. 194 of 1948));
- (vi) A corporation whose officer(s) fall under any of the following items:
  - (a) A person punished by imprisonment without work, a more severe punishment, or a fine due to a violation of the provisions of this Act or other Acts on consumer protection specified by Cabinet Order, the provisions of orders based on this Act or such other Acts, or dispositions based on such provisions, for whom three years have not yet passed since the punishment finished being enforced or the person ceased to be subject to its enforcement.
  - (b) Where a Qualified Consumer Organization's certification under paragraph (1) has been rescinded for any of the reasons provided for in the items of Article 34, paragraph (1) or where it has become subject to a finding of the existence of the reason set forth in item (iv) of the same paragraph pursuant to paragraph (3) of the same Article, a person who, within the six months prior to the rescission or finding, was the officer thereof, and for whom three years have not yet passed since the rescission or the finding;
  - (c) Crime Syndicate Member, etc.

(Application for Certification)

Article 14 (1) The application provided in paragraph (2) of the preceding Article shall be filed with the Prime Minister by submitting an application form containing the matters set forth in the following items:

- (i) The person's name and address, and the name of its representative;
  - (ii) Location of the office where the Services Related to Injunction Demands will be provided; and
  - (iii) Matters set forth by a Cabinet Office Ordinance in addition to those listed in the preceding items (i) and (ii).
- (2) The following documents shall be attached to the application form described in the preceding paragraph:

- (i) The articles of incorporation;
- (ii) A document proving that the consumer organization has been properly engaging in activities related to protecting the interests of many and unspecified Consumers for a considerable period of time;
- (iii) Documented business plans concerning Services Related to Injunction Demands;
- (iv) A document proving that the consumer organization has an appropriate organizational structure for providing Services Related to Injunction Demands;
- (v) The rules of operation;
- (vi) The documents listed in the following items concerning officers, employees and Expert Advisers:
  - (a) A document that contains a list of names, positions and occupations; and
  - (b) A document that contains a list of addresses, brief biographical outlines and other matters set forth by Cabinet Office Ordinance.
- (vii) Regarding the members of a corporation as set forth in Article 13, paragraph (3), item (i), a document that contains a list of the number of members and whether they are individuals, corporations or other bodies (including the number of members if the members are corporations or other bodies);
- (viii) An inventory of property, balance sheets, income and expenditure statements for recent business years and other financial records proving the consumer organization's financial basis;
- (ix) A document pledging that the consumer organization will not fall under any of the items under Article 13, paragraph (5);
- (x) If the consumer organization provides any services other than Services Related to Injunction Demands, a document that contains a list and brief description of such services; and
- (xi) Other documents specified by Cabinet Office Ordinance.

(Public Notice and Public Inspections, etc. Concerning Applications for Certification)

Article 15 (1) When an application for certification as specified in Article 14 is submitted, the Prime Minister shall, without delay, provide public notice of the application and the matters listed in Article 14, paragraph (1), items (i) and (ii) pursuant to the provisions of a Cabinet Office Ordinance, and make the documents listed in the items under Article 14, paragraph (2) (excluding item (vi)(b), item (ix) and item (xi)) available for public inspection for two weeks after the public notice.

(2) If the Prime Minister intends to grant certification as provided in Article 13, paragraph (1), he/she shall seek the opinion of the Minister of Economy, Trade

and Industry regarding the presence or absence of the reasons provided in Article 13, paragraph (3), item (ii).

- (3) If the Prime Minister suspects that the person which has applied for certification as provided in the preceding Article may fall under Article 13, paragraph (5), item (iii) or (iv) or item (vi)(c), the Prime Minister shall seek the opinion of the Director-General of the National Police Agency.

(Public Notice of Certification)

Article 16 (1) When the Prime Minister certifies a Qualified Consumer Organization pursuant to Article 13, paragraph (1), he/she shall provide public notice of the name and address of the Qualified Consumer Organization, the office address where it provides Services Related to Injunction Demands and the date of the certification, pursuant to the provisions of a Cabinet Office Ordinance, and shall notify the Qualified Consumer Organization of the same in writing.

- (2) A Qualified Consumer Organization shall clearly and visibly display notice that it is a Qualified Consumer Organization, as set forth by a Cabinet Office Ordinance, somewhere in the office where the Services Related to Injunction Demands are provided.
- (3) A person that is not a Qualified Consumer Organization may not use any letters or characters in its name that would likely cause it to be mistaken for a Qualified Consumer Organization, nor may such person give any indication regarding its operations that would likely cause it to be mistaken for a Qualified Consumer Organization.

(Certification Validity Period)

Article 17 (1) The certification provided in Article 13, paragraph (1) shall be valid for three years from the date of said certification.

- (2) Any Qualified Consumer Organization which intends to continue to provide Services Related to Injunction Demands after the expiration of the validity period specified in the preceding paragraph shall apply for renewal of said period.
- (3) A Qualified Consumer Organization wishing to renew the validity period provided in paragraph (1) as provided in the preceding paragraph shall apply to the Prime Minister for renewal during the period 60 to 90 days prior to the expiration date of said validity period (hereinafter referred to as "Renewal Application Period"). However, this shall not apply where submission of the application during the Renewal Application Period is made impossible by a disaster or other compelling reason.
- (4) If an application is submitted as provided in the preceding paragraph, but the processing of the application has not been completed by the expiration date of

the validity period set forth in paragraph (1), the certification then in force shall remain in full force and effect after the expiration of the validity period until the process is completed.

- (5) In a case under the preceding paragraph, when the validity period provided under paragraph (2) is renewed, the validity period of the certification shall start from the day following the expiration date of the prior certification.
- (6) The provisions of Article 13 (excluding paragraph (1) and paragraph (5), item (ii)), Article 14, Article 15 and paragraph (1) of the preceding Article shall apply mutatis mutandis to the renewal of the validity period under paragraph (2); provided, however, that attachment of the documents listed in the items under Article 14, paragraph (2) may be omitted if no changes have been made to the documents that were submitted to the Prime Minister.

(Change Notice)

Article 18 If any changes have been made to the matters listed in the items under Article 14, paragraph (1) or to the matters in the documents listed in the items under paragraph (2) of the same Article (excluding items (ii) and (xi)), a Qualified Consumer Organization shall, without delay and pursuant to a Cabinet Office Ordinance, submit a written notice to that effect to the Prime Minister. However, this shall not apply if such changes are deemed to be minor under the provisions of the Cabinet Office Ordinance.

(Notification and Approval, etc. of a Merger)

- Article 19 (1) If a corporation that is a Qualified Consumer Organization merges with another Qualified Consumer Organization, the post-merger surviving or newly established corporation shall succeed to the status of the corporation extinguished by the merger as a Qualified Consumer Organization under this Act.
- (2) A corporation which, pursuant to the provisions of the preceding paragraph, has succeeded to the status of the corporation extinguished by the merger as a Qualified Consumer Organization pursuant to the provisions of this Act, shall notify the Prime Minister of the same without delay.
  - (3) If a corporation that is a Qualified Consumer Organization merges with a corporation that is not a Qualified Consumer Organization, the post-merger surviving or newly established corporation shall succeed to the status of the corporation extinguished by the merger as a Qualified Consumer Organization as provided by this Act only if the Prime Minister has approved the merger.
  - (4) Any Qualified Consumer Organization which intends to obtain the approval provided in the preceding paragraph shall apply to the Prime Minister for said approval during the period 60 to 90 days prior to the date on which the merger is to take effect (hereinafter referred to in this paragraph as "Approval

Application Period"). However, this shall not apply where submission of the application during the Approval Application Period is made impossible by a disaster or other compelling reason.

- (5) If an application is submitted as prescribed in the preceding paragraph, but the processing of the application has not been completed by the date on which the merger takes effect, the post-merger surviving or newly established corporation shall be deemed to have succeeded to the status of the corporation extinguished by the merger until the processing is completed.
- (6) The provisions of Article 13 (excluding paragraph (1)), Article 14, Article 15 and Article 16, paragraph (1) shall apply mutatis mutandis to the approval provided under paragraph (3).
- (7) When a corporation that is a Qualified Consumer Organization merges with a corporation that is not a Qualified Consumer Organization and does not apply as provided by paragraph (4), it shall notify the Prime Minister of the same by the day on which the merger takes effect.
- (8) When the Prime Minister has been notified pursuant to paragraph (2) or the preceding paragraph, he/she shall provide public notice of such notification pursuant to a Cabinet Office Ordinance.

(Notification of Business Transfers and Approvals, etc.)

- Article 20 (1) When a corporation that is a Qualified Consumer Organization transfers the entirety of its business in Services Related to Injunction Demands to another corporation that is a Qualified Consumer Organization, the transferee shall succeed to the status of the transferor as a Qualified Consumer Organization as provided by this Act.
- (2) A corporation that, pursuant to the provisions of the preceding paragraph, has succeeded to the status of the transferor as a Qualified Consumer Organization as prescribed by the provisions of this Act, shall notify the Prime Minister of the same without delay.
  - (3) When a corporation that is a Qualified Consumer Organization transfers the entirety of its business in Services Related to Injunction Demands to another corporation that is not a Qualified Consumer Organization, the transferee shall succeed to the status of the transferor as a Qualified Consumer Organization as provided by this Act only after the Prime Minister has approved the transfer.
  - (4) Any Qualified Consumer Organization which intends to obtain approval as prescribed in the preceding paragraph shall apply to the Prime Minister for said approval during the period 60 to 90 days prior to the date of the transfer (hereinafter referred to in this paragraph as the "Approval Application Period"). However, this shall not apply to cases in which submission of an application during the Approval Application Period is made impossible due to a disaster or other compelling reason.

- (5) When an application is submitted as prescribed in the preceding paragraph, but the processing of the application has not been completed by the date of transfer, the transferee corporation shall be deemed to have succeeded to the status of the transferor corporation as a Qualified Consumer Organization as provided by this Act until the processing is completed.
- (6) The provisions of Article 13 (excluding paragraph (1)), Article 14, Article 15 and Article 16, paragraph (1) shall apply mutatis mutandis to approval under paragraph (3).
- (7) When a corporation that is a Qualified Consumer Organization transfers the entirety of its business in Services Related to Injunction Demands to another corporation that is not a Qualified Consumer Organization, and said non-Qualified Consumer Organization does not apply for approval under paragraph (4), the corporation shall notify the Prime Minister of the same by the date of the transfer.
- (8) When the Prime Minister has been notified pursuant to paragraph (2) or the preceding paragraph, he/she shall provide public notice of such notification pursuant to a Cabinet Office Ordinance.

(Notification of Dissolution etc.)

Article 21 (1) When a Qualified Consumer Organization falls under any of the following items, the person provided under each item shall notify the Prime Minister of the event provided in said item without delay.

- (i) In the case of dissolution due to a ruling of the commencement of bankruptcy proceedings: the bankruptcy trustee;
  - (ii) In the case of dissolution for any reason other than a merger or a bankruptcy commencement ruling: the liquidator; and
  - (iii) In the case of termination of Services Related to Injunction Demands: a representative of the corporation.
- (2) When the Prime Minister has been notified as prescribed in the preceding paragraph, he/she shall provide public notice of such notification pursuant to a Cabinet Office Ordinance.

(Termination of Certification)

Article 22 Where any of the following occur with regard to a Qualified Consumer Organization, the certification provided in Article 13, paragraph (1) shall cease to be effective:

- (i) Where the validity of the certification provided in Article 13, paragraph (1) has expired (in the case prescribed in Article 17, paragraph (4), when the renewal is refused);
- (ii) When a corporation that is a Qualified Consumer Organization merges with a corporation that is not a Qualified Consumer Organization, and when the

- merger takes effect without the approval provided in Article 19, paragraph (3) (in the case prescribed in paragraph (5) of the same Article, when the merger is not approved);
- (iii) When a corporation that is a Qualified Consumer Organization transfers the entirety of its business in Services Related to Injunction Demands to another corporation that is not a Qualified Consumer Organization, and the transfer is made without the approval provided in Article 20, paragraph (3) (in the case prescribed in paragraph (5) of the same Article, when the transfer is not approved); or
- (iv) When a Qualified Consumer Organization falls under any of the items under paragraph (1) of the preceding Article.

### **Subsection 2 Services, etc. Related to Injunction Demands**

(Exercise of Right to Demand an Injunction)

- Article 23 (1) A Qualified Consumer Organization shall properly exercise its Right to Demand an Injunction in the interest of many and unspecified Consumers.
- (2) A Qualified Consumer Organization shall not abuse its Right to Demand an Injunction.
- (3) Qualified Consumer Organizations shall exercise their Rights to Demand an Injunction jointly depending on the nature of the case, and shall endeavor to cooperate and coordinate with each other in providing Services Related to Injunction Demands.
- (4) A Qualified Consumer Organization shall notify other Qualified Consumer Organizations without delay and pursuant to a Cabinet Office Ordinance if any of the following occurs, and shall report the details of the same and other matters provided by a Cabinet Office Ordinance to the Prime Minister. In this case, the Qualified Consumer Organization shall be deemed to have notified and reported the same when, in lieu of the notification and the report, it takes measures provided by a Cabinet Office Ordinance that allow all Qualified Consumer Organizations and the Prime Minister to review the same information via electromagnetic means (meaning the use of electronic information processing systems and other information communication technologies; the same shall apply hereinafter):
- (i) When an Injunction Demand as prescribed in Article 41, paragraph (1) has been made (including where applied *mutatis mutandis* pursuant to paragraph (3) of the same Article);
- (ii) In addition to the cases prescribed in the preceding item, when a extra-judicial Injunction Demand has been made;
- (iii) When an action concerning an Injunction Demand has been filed (including

- a petition for settlement or mediation or an arbitration agreement), or a petition for a provisional disposition order has been filed;
- (iv) When a judgment pertaining to an Injunction Demand has been rendered (including settlement by mediation, notification of a decision in lieu of mediation or an arbitration award) or notification of a ruling with respect to a petition for a provisional disposition order pertaining to an Injunction Demand has been made;
  - (v) When an appeal against a judgment under the preceding item has been filed (including the filing of an objection to a decision in lieu of mediation or the filing of a request for rescission of an arbitration award) or when an appeal has been filed against a ruling under the preceding item;
  - (vi) When a judgment under item (iv) (including a decision in lieu of mediation or an arbitration award) or a ruling prescribed in the same item has become final and binding;
  - (vii) When a judicial settlement pertaining to an Injunction Demand has been reached;
  - (viii) In addition to the cases listed in the preceding items (vi) and (vii), when a lawsuit pertaining to an Injunction Demand (including proceedings pertaining to a petition for settlement, mediation proceedings or arbitration proceedings) or provisional disposition proceedings pertaining to an Injunction Demand have been completed;
  - (ix) When an extra-judicial settlement pertaining to an Injunction Demand has been reached, or any other agreement has been reached or failed to be reached with an adverse party pertaining to an Injunction Demand;
  - (x) When a Qualified Consumer Organization will engage in any act pertaining to the waiver of claims, settlement, withdrawal of appeals and other proceedings set forth by a Cabinet Office Ordinance with respect to an Injunction Demand that will result in a final and binding judgment or which will have the same effect; or
  - (xi) When a Qualified Consumer Organization has engaged in other acts pertaining to proceedings with respect to an Injunction Demand provided by a Cabinet Office Ordinance.
- (5) When the Prime Minister has received a report under the preceding paragraph, he/she shall communicate the date and time of the report, an outline thereof, and any other matters set forth by Cabinet Office Ordinance to the other Qualified Consumer Organizations and to the Ministry of Economy, Trade and Industry, by means of measures that put such information into a format that allows all Qualified Consumer Organizations as well as the Prime Minister and the Minister of Economy, Trade and Industry to inspect the same information using electromagnetic means, or by any other means provided for by Cabinet Office Ordinance.

(6) When a Qualified Consumer Organization may compulsorily execute a final and binding judgment, etc. provided in the main clause of item (ii) of paragraph (1) of Article 12-2, it may not waive an Injunction Demand pertaining to said final and binding judgment, etc.

(Handling of Information Related to Consumer Damage)

Article 24 When a Qualified Consumer Organization uses information collected from a Consumer on damages suffered by said Consumer in such a way that the counterparty or third parties can identify such Consumer in connection with such damages, the Qualified Consumer Organization shall obtain prior consent from said Consumer when exercising its Right to Demand an Injunction (including a lawsuit involving a Request for Confirmation of the Absence, etc. of the Right to Demand an Injunction; the same shall apply to Article 28).

(Obligation of Confidentiality)

Article 25 Past or present officers, employees or Expert Advisors of a Qualified Consumer Organization may not disclose confidential information learned while providing Services Related to Injunction Demands without justifiable grounds.

(Clear Indication of Names, etc.)

Article 26 Any person engaged in providing Services Related to Injunction Demands at a Qualified Consumer Organization shall, when providing such services, disclose the name of the organization, his/her name and title or position therein and other matters set forth by a Cabinet Office Ordinance to the counterparty upon request.

(Provision of Information Related to Judgments, etc.)

Article 27 A Qualified Consumer Organization shall endeavor to inform Consumers of the contents of judgments pertaining to Injunction Demands (including anything with the same effect as a final and binding judgment, and also decisions on filed provisional disposition orders) or of extra-judicial settlements and other necessary information.

(Prohibition on Receiving Economic Benefits)

Article 28 (1) A Qualified Consumer Organization may not receive any economic benefit for exercising its Right to Demand an Injunction under any name, whether as a donation or as a grant, from the counterparty involved in the Injunction Demand, except in the following cases:

(i) When a Qualified Consumer Organization receives economic benefits as

- reimbursement in an amount equivalent to its court costs from a counterparty who has been ordered to bear the court costs (including the costs of settlement, mediation and arbitration proceedings) under a judgment connected with an Injunction Demand (including anything with the same effect as a final and binding judgment, and rulings on provisional disposition orders; hereinafter the same shall apply in this paragraph) or rulings under Article 73, paragraph (1) of the Code of Civil Procedure (Act No. 109 of 1996);
- (ii) When a Qualified Consumer Organization receives economic benefits in the form of a monetary payment ordered under Article 172, paragraph (1) of the Civil Execution Act (Act No. 4 of 1979) under a judgment pertaining to an Injunction Demand;
  - (iii) When a Qualified Consumer Organization receives economic benefits in the form of a reimbursement of the costs for compulsory execution of a judgment pertaining to an Injunction Demand; and
  - (iv) When a Qualified Consumer Organization receives economic benefits as the payment of a penalty agreed upon to ensure the performance of the obligations of the counterparty involved in an Injunction Demand.
- (2) Officers, employees and Expert Advisors of a Qualified Consumer Organization may not receive cash or any other economic benefit in relation to exercising the Right to Demand an Injunction, whether as a donation, grant or other remuneration, from the counterparty involved in said Injunction Demand by said Qualified Consumer Organization.
- (3) A Qualified Consumer Organization, and its officers, employees and Expert Advisors may not allow any third parties to receive any cash or other economic benefit in relation to exercising the Right to Demand an Injunction, whether as a donation, grant or other remuneration, from the counterparty involved in said Injunction Demand by said Qualified Consumer Organization.
- (4) Economic benefits that Qualified Consumer Organization is neither to receive nor to allow a third party to receive from a counterparty involved in an Injunction Demand in relation to exercising a Right to Demand an Injunction as provided in the preceding three paragraphs shall not include economic benefits received or allowed to third parties as compensation for damages caused by a tort committed by the counterparty with respect to exercising a Right to Demand an Injunction.
- (5) When a Qualified Consumer Organization has received economic benefits as provided in each item under paragraph (1), it shall reserve a fund equivalent to the amount received to cover the costs required for the Services Related to Injunction Demands .
- (6) A Qualified Consumer Organization shall specify in its articles of incorporation that if a Qualified Consumer Organization terminates Services Related to Injunction Demands or stops said services due to the expiration

(except for expiration due to termination of services related to Injunction Demands) or rescission of the certification provided in Article 13, paragraph (1), and if a surplus (meaning the amount in the fund set forth in the preceding paragraph) remains, such surplus shall belong to another Qualified Consumer Organization (if a Qualified Consumer Organization has succeeded to the Right to Demand an Injunction provided in the provisions of Article 35, such Qualified Consumer Organization) if such an organization exists. If another Qualified Consumer Organization does not exist, such surplus shall belong to a consumer organization that conforms to the requirements set forth in Article 13, paragraph (3), item (ii) and specified by the Prime Minister or to the National Treasury.

(Scope of Business and Division of Accounting)

Article 29 (1) A Qualified Consumer Organization may provide services other than Services Related to Injunction Demands in accordance with the articles of incorporation to the extent that it does not adversely affect Services Related to Injunction Demands.

(2) A Qualified Consumer Organization shall separately prepare the accounting for the services listed below:

(i) Services Related to Injunction Demands;

(ii) Services pertaining to activities related to protecting the interests of many and unspecified Consumers (excluding the services set forth in the preceding item); and

(iii) Any services other than those listed in the preceding items (i) and (ii).

### **Subsection 3 Supervision**

(Preparation and Preservation of Books and Documents)

Article 30 A Qualified Consumer Organization shall prepare and preserve books and documents related to its services and accounting as provided by a Cabinet Office Ordinance.

(Preparation, Provision, Inspection and Submission of Financial Statements, etc.)

Article 31 (1) A Qualified Consumer Organization shall prepare an inventory of its property, a balance sheet, an income and expenditure statement and a business report for the business year (this includes electromagnetic records (meaning records used in computer data processing, which are prepared in electronic format, magnetic format, or any other format that renders them incognizable through human perception alone; hereinafter the same shall apply to this Article), if electromagnetic records are prepared in lieu of such written

documents (hereinafter referred to as "Financial Statements, etc.")), within three months from the last day of every business year.

- (2) A Qualified Consumer Organization shall submit to an inspection by persons with the knowledge and experience necessary to audit its operations every business year, pursuant to a Cabinet Office Ordinance, to determine whether the Services Related to Injunction Demands and other services are being properly performed pursuant to the provisions of this Act.
- (3) The following documents shall be kept in the office of a Qualified Consumer Organization pursuant to a Cabinet Office Ordinance:
  - (i) The articles of incorporation;
  - (ii) The rules of operation;
  - (iii) A list of officers and employees (including the names, titles and professions of officers, employees and Expert Advisors and other matters provided by a Cabinet Office Ordinance);
  - (iv) Documents that list the number of members of a Qualified Consumer Organization, whether they are individuals, corporations or other organizations (including the number of constituent members where members are corporations or other organizations);
  - (v) Financial Statements, etc. ;
  - (vi) Documents that record the details of revenue, other matters related to funds and contributions and other accounting matters provided by a Cabinet Office Ordinance;
  - (vii) When a Qualified Consumer Organization provides any services other than Services Related to Injunction Demands, documents that record the type of such services and a brief description of them; and
  - (viii) An inspection report that states the methods and results of the audit provided for in the preceding paragraph.
- (4) Any person may make any of the following requests at any time during the business hours of a Qualified Consumer Organization; provided, however, that when a Consumer makes a request provided in item (ii) or (iv), he/she shall pay the fees set forth by the Qualified Consumer Organization:
  - (i) A request to inspect or copy the documents listed in the items under the preceding paragraph, if these have been prepared in writing;
  - (ii) A request to issue a copy or extract of the documents referenced in the preceding item;
  - (iii) When the documents listed in the items under the preceding paragraph have been prepared as electromagnetic records, a request to inspect or copy the matters that have been recorded in the electromagnetic records as displayed by means provided by a Cabinet Office Ordinance; and
  - (iv) A request to be provided with the matters that have been recorded in the electromagnetic records under the preceding item by the electromagnetic

means prescribed by Cabinet Office Ordinance, or a request to be delivered a written document in which said matters have been included.

- (5) A Qualified Consumer Organization may not refuse any request provided for in the items under the preceding paragraph except on justifiable grounds.
- (6) A Qualified Consumer Organization shall submit the documents provided for in paragraph (3), items (iii) through (vi) and (viii) to the Prime Minister within three months from the last day of every business year.

(Reporting and On-site Inspections)

Article 32 (1) The Prime Minister may have a Qualified Consumer Organization report on its operational and accounting conditions, cause officials to enter the office of an organization to inspect its operational conditions or books and records, etc. , or to question relevant persons, to the extent necessary to enforce this Act.

- (2) When the officials enter the premises pursuant to the preceding paragraph, they shall have their identification cards with them and shall show them to the relevant person.
- (3) The authority to enter the premises provided in paragraph (1) shall not be construed as permitting a criminal investigation.

(Compliance Order and Improvement Order)

Article 33 (1) When the Prime Minister finds that a Qualified Consumer Organization does not conform to the requirements set forth in Article 13, paragraph (3), items (ii) through (vii), the Prime Minister may order said Qualified Consumer Organization to take the necessary measures to conform to the requirements.

- (2) In addition to what is prescribed in the preceding paragraph, if the Prime Minister finds that a Qualified Consumer Organization falls under any of items (iii) through (vi) of Article 13, paragraph (5), that a Qualified Consumer Organization, its officers, employees or Expert Advisors violated the provisions of this Act in performing Services Related to Injunction Demands, or that it is necessary in order to ensure services are provided properly by a Qualified Consumer Organization, the Prime Minister may order the Qualified Consumer Organization to improve its personnel system, cease violations, modify the rules of operation or take other measures necessary for the improvement of its operations.

(Rescission, etc. of a Certification)

Article 34 (1) The Prime Minister may rescind the certification of a Qualified Consumer Organization under Article 13, paragraph (1) for any of the following reasons:

- (i) When a Qualified Consumer Organization has been certified pursuant to Article 13, paragraph (1), has renewed the validity period under Article 17, paragraph (2) or has been approved pursuant to Article 19, paragraph (3) or Article 20, paragraph (3) through deception or other wrongful means;
  - (ii) When a Qualified Consumer Organization ceases to conform to the requirements set forth in the items under Article 13, paragraph (3);
  - (iii) When a Qualified Consumer Organization falls under any of the items under Article 13, paragraph (5) (excluding item (ii));
  - (iv) With respect to court proceedings, etc. in connection with the final and binding judgment, etc. under the main clause of Article 12-2, paragraph (1), item (ii), when a Qualified Consumer Organization is a party to said court proceedings, etc. and has conspired with adverse parties to an Injunction Demand to waive claims and/or establish settlements detrimental to the interests of many and unspecified Consumers or when it is otherwise found that the organization has thereafter sought court proceedings, etc. that significantly violated the interests of many and unspecified Consumers;
  - (v) With respect to proceedings necessary for compulsory execution in relation to a final and binding judgment, etc. under the main clause of Article 12-2, paragraph (1), item (ii), when it is found that the failure to pursue such proceedings by the Qualified Consumer Organization that is a party thereto is materially detrimental to the interests of many and unspecified Consumers;
  - (vi) When a Qualified Consumer Organization violates this Act, the provisions of orders pursuant to this Act or dispositions pursuant to these provisions, other than as prescribed in each of the preceding item; or
  - (vii) When officers, employees or Expert Advisors of a Qualified Consumer Organization violate the provisions of Article 28, paragraphs (2) or (3).
- (2) When a Qualified Consumer Organization, with respect to an Injunction Demand, has committed an act provided in Article 23, paragraph (4), item (x) in violation of the provisions of Article 23, paragraph (4) without providing notice of it or reporting it as prescribed in the same paragraph, the Prime Minister may deem the reason provided in paragraph (1), item (iv) above to be present for the Qualified Consumer Organization.
- (3) In the case provided in the main clause of Article 12-2, paragraph (1), item (ii) and where the certification pursuant to Article 13, paragraph (1) of the relevant other Qualified Consumer Organization has already expired for the reasons prescribed in the items under Article 22, or has already been rescinded for the reasons provided in the items under paragraph (1) of this Article (excluding the reasons in item (iv) of the same paragraph in connection with court proceedings, etc. pertaining to final and binding judgments, etc.), and if the Prime Minister finds that the reasons provided in paragraph (1), item (iv)

of this Article apply to said other Qualified Consumer Organization with respect to court proceedings, etc. in connection with a final and binding judgment, etc. (including where such reasons may be deemed to exist pursuant to the provisions of paragraph (2)), the Prime Minister may certify the same with regard to the corporation that used to be said other Qualified Consumer Organization.

- (4) The corporation that used to be the other Qualified Consumer Organization provided for in the preceding paragraph shall be deemed to continue to exist after the conclusion of its liquidation for the purpose of the application of the provisions of said paragraph.
- (5) When the Prime Minister has rescinded the certification provided under Article 13, paragraph (1) for the reasons provided in the items under paragraph (1), or has certified, pursuant to the provisions of paragraph (3), that the reasons provided in paragraph (1), item (iv) exist, the Prime Minister shall provide public notice to that effect and of the date of such rescission or certification pursuant to Cabinet Office Ordinance, and shall notify the relevant Qualified Consumer Organization or the corporation that used to be the relevant other Qualified Consumer Organization of the same in writing.

(Designation, etc. Pertaining to Succession to the Right to Demand an Injunction)

- Article 35 (1) Where the certification of a Qualified Consumer Organization under Article 13, paragraph (1) is terminated for any of the reasons provided in the items under Article 22 or is rescinded for a reason provided in any of the items under paragraph (1) of the preceding Article, or where the same has already been so terminated or rescinded, while a Qualified Consumer Organization is in a position to commence compulsory execution via a final and binding judgment, etc. as provided in the main clause of Article 12-2, paragraph (1), item (ii), the Prime Minister shall designate another Qualified Consumer Organization to succeed to the Right to Demand an Injunction.
- (2) When the designation pursuant to the preceding paragraph has been made, the Right to Demand an Injunction provided for in the same paragraph shall be succeeded to by the designated Qualified Consumer Organization at the time of the designation (if the designation is made after the termination or rescission of certification, retroactively from the time of the termination or rescission).
  - (3) In the case provided for in the preceding paragraph, if the successor Qualified Consumer Organization files an Injunction Demand, the provisions of the main clause of Article 12-2, paragraph (1), item (ii) shall not apply to such right.
  - (4) The Prime Minister shall rescind the designation a Qualified Consumer Organization that has received its designation pursuant to paragraph (1), paragraph (6) or paragraph (7) (hereinafter referred to as "Designated

Qualified Consumer Organization" from this paragraph to paragraph (7)) for any of the following reasons:

- (i) When the certification under Article 13, paragraph (1) is terminated for the reasons provided in the items under Article 22 or has already been so terminated, or when said certification is rescinded for the reasons provided in the items under Article 34, of paragraph (1) with respect to the Designated Qualified Consumer Organization; or
  - (ii) When a disposition rescinding certification under paragraph (1) of Article 13, a disposition denying the renewal of the validity of a certification provided for in the same paragraph, or a disposition disapproving a merger or the transfer of the whole of a business (hereinafter referred to as "Disposition Rescinding a Certification, etc." in this Article) is rescinded, or when a judgment effecting a rescission, invalidating, or adjudicating the non-existence of a Disposition Rescinding a Certification, etc. . (hereinafter referred to as a "Judgment, etc. to Rescind" in item (ii) of the following paragraph) becomes final and binding with respect to the person who was party to the relevant final and binding judgment, etc. and who had the Right to Demand an Injunction before the designation of the Designated Qualified Consumer Organization that succeeded to that right (hereinafter referred to as the "Former Qualified Consumer Organization" in this Article).
- (5) The Prime Minister may rescind the designation of a Designated Qualified Consumer Organization where any of the following events occur:
- (i) With respect to proceedings necessary for compulsory execution in connection with the Right to Demand an Injunction succeeded to by a Designated Qualified Consumer Organization, if it is found that the failure to pursue proceedings on the part of said Designated Qualified Consumer Organization is materially detrimental to the interests of many and unspecified Consumers; or
  - (ii) With respect to a Former Qualified Consumer Organization that was a Designated Qualified Consumer Organization (excluding any person that was a party to the relevant final and binding judgment, etc.), if the Disposition Rescinding the Certification etc. that was the reason for the rescission of the designation pursuant to the provisions of item (i) of the preceding paragraph is itself rescinded; if a Judgment, etc. to Rescind said Disposition Rescinding the Certification, etc. becomes final and binding; if a disposition to rescind the designation pursuant to the provisions of the preceding item is rescinded; or if a Judgment, etc. to Rescind the disposition rescinding said designation becomes final and binding.
- (6) When the Prime Minister rescinds the designation of a Designated Qualified Consumer Organization for any of the reasons provided in paragraph (4), item (i) or item (i) of the preceding paragraph or when the designation has already

been so rescinded, the Prime Minister shall designate another Qualified Consumer Organization to succeed to the Right to Demand an Injunction succeeded to by the Designated Qualified Consumer Organization subject to rescission.

- (7) When the Prime Minister rescinds the designation of a Designated Qualified Consumer Organization for any of the reasons provided in paragraph (4), item (ii) or paragraph (5), item (ii), the Prime Minister shall designate the Former Qualified Consumer Organization to succeed to the Right to Demand an Injunction succeeded to by the Designated Qualified Consumer Organization subject to rescission.
- (8) When a new designation is made pursuant to the preceding two paragraphs, the Right to Demand an Injunction under the preceding two paragraphs shall be succeeded to by the newly Designated Qualified Consumer Organization at the time of the new designation (if a new designation was made after the former designation was rescinded, such succession shall be retroactive to the time that the former designation was rescinded (if a former designation was rescinded and a new designation was made after the termination of a certification under Article 13, paragraph (1) for a Former Qualified Consumer Organization, such succession shall be retroactive to the time that the certification was terminated)).
- (9) The provisions of paragraph (3) shall apply mutatis mutandis where, under the preceding paragraph, a Qualified Consumer Organization which has succeeded to the Right to Demand an Injunction pursuant to the provisions of the preceding paragraph files an Injunction Demand pursuant to said right.
- (10) Where the Prime Minister makes a designation pursuant to the provisions of paragraph (1), (6) or (7), he/she shall, pursuant to a Cabinet Office Ordinance, provide public notice to that effect and the date of such designation, and shall notify the Designated Qualified Consumer Organization of the same in writing. The same shall apply to the rescission of said designation pursuant to the provisions of paragraph (4) or (5).

#### **Subsection 4 Auxiliary Provisions**

(Discipline)

Article 36 A Qualified Consumer Organization may not be utilized for the benefit of a political party or for a political purpose.

(Requests for the Cooperation of Public Offices)

Article 37 The Prime Minister may contact government agencies, other public entities and other persons and request their cooperation where he/she finds it necessary for the purpose of enforcing this Act.

(Statement of Opinions to the Prime Minister)

Article 38 Where a person listed in the following items finds that there are sufficient reasonable grounds to suspect the existence of the circumstances listed in the same items with regard to a Qualified Consumer Organization and finds it necessary for the Prime Minister to take proper measures against the Qualified Consumer Organization, such person may state his/her opinion to that effect to the Prime Minister:

- (i) The Minister of Economy, Trade and Industry: Non-compliance with the requirements of Article 13, paragraph (3), item (ii) or with those of Article 34, paragraph (1), item (iv); and
- (ii) The Director-General of the National Police Agency: The circumstances described in Article 13, paragraph (5), item (iii), item (iv) or item (vi)(c).

(Disclosure of Information Related to Judgments, etc.)

Article 39 (1) If the Prime Minister has been notified of the matters prescribed in Article 23, paragraph (4), items (iv) through (ix) and item (xi) by a Qualified Consumer Organization, the Prime Minister shall immediately make public any judgment pertaining to the Injunction Demand (including any ruling or decision having the same effect as a final and binding judgment and any decision on the application of a provisional disposition order) or a summary of any extra-judicial settlement, the name of said Qualified Consumer Organization, the name of the adverse party to the Injunction Demand and other matters prescribed by a Cabinet Office Ordinance, via the Internet or other appropriate means, in order to contribute to the prevention of, and the remedying of harm to, Consumers.

(2) In addition to the matters prescribed in the preceding paragraph, the Prime Minister may make public the name and the address of a Qualified Consumer Organization, the location of the office where Services Related to Injunction Demands are provided or any other necessary information provided by Cabinet Office Ordinance via the Internet or other appropriate means, in order to widely disseminate information about Services Related to Injunction Demands to citizens.

(3) The Prime Minister may have the National Consumer Affairs Center of Japan (an Incorporated Administrative Agency) provide services related to publication of the information prescribed in the preceding paragraphs (1) and (2).

(Cooperation, etc. with a Qualified Consumer Organization)

Article 40 (1) In response to the request of a Qualified Consumer Organization and pursuant to the provisions of a Cabinet Office Ordinance, the National

Consumer Affairs Center of Japan (an Incorporated Administrative Agency) and local public entities shall provide the Qualified Consumer Organization with information related to Consumer Affairs Consultation as provided by a Cabinet Office Ordinance, to the extent necessary to enable the Qualified Consumer Organization to properly exercise its Right to Demand an Injunction.

(2) A Qualified Consumer Organization that receives information prescribed in the preceding paragraph may not use or offer such information for any purpose other than to properly exercise its Right to Demand an Injunction.

### **Section 3 Special Provisions on Court Proceedings, etc.**

(Prior Written Demand)

Article 41 (1) If a Qualified Consumer Organization wishes to file a lawsuit seeking an Injunction Demand, it shall, in advance, issue the person who would be the defendant in that lawsuit a written Injunction Demand that includes the gist of the claim, the points of the dispute, and any other matters prescribed by Cabinet Office Ordinance, and may not bring such lawsuit until after one week has elapsed from the time that such written demand was received; provided, however, that this shall not apply when the would-be defendant refuses to accept the Injunction Demand.

(2) The demand under the preceding paragraph shall be deemed to have arrived at the time that it ordinarily should have arrived.

(3) The provisions of the preceding two paragraphs shall apply mutatis mutandis to the application of a provisional disposition order in connection with an Injunction Demand.

(Value of the Object of a Lawsuit)

Article 42 For the purpose of calculating the value of the object of a lawsuit, a lawsuit involving an Injunction Demand shall be deemed to be a lawsuit involving a claim that is not a property rights claim.

(Jurisdiction)

Article 43 (1) The provisions of Article 5 of the Code of Civil Procedure (excluding those pertaining to item (v)) shall not apply to a lawsuit involving an Injunction Demand.

(2) A lawsuit seeking an injunction as provided in the following items may also be filed with the courts with jurisdiction over the place at which the acts prescribed in such items are committed:

- (i) Lawsuits as provided under Article 12: Acts of a Business Operator, etc. , prescribed in such Article;
- (ii) Lawsuits as provided under Article 10 of the Act against Unjustifiable

Premiums and Misleading Representations: Acts of a Business Operator, etc. , prescribed in such Article; and

- (iii) Lawsuits as provided under Articles 58-4 through 58-9 of the Act on Specified Commercial Transactions: Acts of a seller, service provider, supervisor, solicitor, general multilevel marketing distributor, seller of related goods or person engaging in business opportunity-related sales (in the case of lawsuits involving Injunction Demands as provided in Article 58-7, paragraph (2) of the Act on Specified Commercial Transactions: solicitors) who is the adverse party to the Injunction Demand prescribed in the relevant Article.

(Transfer)

Article 44 When a lawsuit involving an Injunction Demand has been filed in one court and an identical or similar lawsuit involving an Injunction Demand is pending in another court, the court may, when it finds it reasonable, transfer the lawsuit in whole or in part to such other court or another competent court having jurisdiction, in consideration of the addresses or locations of the relevant parties, the addresses of witnesses who are to be examined, the similarity of issues or evidence or other circumstances in response to an application or ex officio.

(Consolidation of Oral Arguments, etc.)

Article 45 (1) Where multiple lawsuits involving Injunction Demands are pending concurrently in the same court of the first or second instance with the same claims and against the same adverse party, the oral arguments and judicial decisions shall be consolidated. However, this shall not apply where such consolidation of oral arguments and judicial decisions is found to be extremely unreasonable in light of the progress of the proceedings or other circumstances.

(2) In the case prescribed in the preceding paragraph, the parties shall notify the court of the same.

(Suspension of Court Proceedings)

Article 46 (1) Where, in connection with a pending lawsuit involving an Injunction Demand, there has already been a final and binding judgment, etc. as under the main clause of Article 12-2, paragraph (1), item (ii) to which another Qualified Consumer Organization was a party, and where there is sufficient probable cause to suspect the existence of any of the reasons provided for in Article 34, paragraph (1), item (iv) with respect to court proceedings, etc. for the relevant final and binding judgment, etc. on the part of said other Qualified Consumer Organization (including where it may be

deemed that the reasons provided for in Article 34, paragraph (1), item (iv) exist pursuant to the provisions of Article 34, paragraph (2)), and it is found that a considerable period of time is required in order to judge whether the certification under Article 13, paragraph (1) will be rescinded pursuant to the provisions of Article 34, paragraph (1) or whether certification pursuant to the provisions of Article 34, paragraph (3) will be effected (hereinafter referred to as "Rescission of the Certification, etc." in the following paragraph), the Prime Minister shall notify the court in which the lawsuit involving the Injunction Demand is pending (hereinafter referred to as "Court in Charge of the Case" in this Article) of the same and of the period of time expected to be required to determine the rescission pursuant to a Cabinet Office Ordinance.

- (2) When the Prime Minister notifies the court as provided in the preceding paragraph, he/she shall determine whether to effect the Rescission, etc. of the Certification within the period relating to the notice, and shall notify the Court in Charge of the Case of his/her decision.
- (3) Where the Court in Charge of the Case has received the notice prescribed in the provisions of paragraph (1), it may, where it finds necessary, suspend the court proceedings until the period relating to the notice has elapsed (when the notice prescribed in the preceding paragraph is received before the period relating to the notice under paragraph (1) has elapsed, until the notice under the preceding paragraph is received).

(Calculation of Amount of Money for Indirect Compulsory Execution)

Article 47 In the case of compulsory execution with respect to the Right to Demand an Injunction by the means provided in Article 172, paragraph (1) of the Civil Execution Act, the court of execution shall, in determining the amount of money that an obligor should pay an obligee pursuant to Article 172, paragraph (1) or (2) of the same Article, specifically consider the disadvantages that many and unspecified Consumers may suffer by failure to perform the obligation.

#### **Chapter IV Miscellaneous Provisions**

(Exclusion from Application)

Article 48 This Act shall not apply to labor contracts.

(Delegation of Authority)

Article 48-2 The Prime Minister shall delegate his/her authority under the preceding Chapter (excluding those prescribed by Cabinet Order) to the Secretary General of the Consumer Affairs Agency.

## Chapter V Penal Provisions

- Article 49 (1) When an officer, employee or Expert Advisor of a Qualified Consumer Organization receives or has a third party (including said Qualified Consumer Organization) receive cash or any other economic benefit, whether as a donation, grant or other remuneration, from a person against whom an Injunction Demand has been filed by the Qualified Consumer Organization as consideration for not exercising or not having exercised the Right to Demand an Injunction, waiving or having waived the Right to Demand an Injunction, entering or having entered into a settlement related to an Injunction Demand with an adverse party or terminating or having terminated court proceedings or other proceedings pertaining to an Injunction Demand for other reasons, such officer, employee or Expert Advisor shall be punished by imprisonment with work for not more than 3 years or by a fine of not more than three million yen (3,000,000 yen).
- (2) The same shall apply to the person who provides money or other benefits as prescribed in the preceding paragraph.
- (3) In case of paragraph (1), the economic benefits received by the criminal or third parties with knowledge of the circumstances shall be confiscated. When the economic benefits cannot be confiscated in whole or in part, a sum of money equivalent to the value of the benefits shall be collected.
- (4) The provision regarding the crime prescribed in paragraph (1) shall also apply to a person who has committed the crime outside Japan.
- (5) The crime prescribed in paragraph (2) shall be dealt with as provided in Article 2 of the Penal Code (Act No. 45 of 1907).

- Article 50 Any person who falls under either of the following items shall be punished by a fine of not more than one million yen (1,000,000 yen):
- (i) Any person who has been certified pursuant to Article 13, paragraph (1), has renewed the validity period as provided in Article 17, paragraph (2) or has been approved pursuant to Article 19, paragraph (3) or Article 20, paragraph (3) as a result of deception or other wrongful means; and
- (ii) Any person who has disclosed confidential information obtained during the course of providing Services Related to Injunction Demands, in violation of the provisions of Article 25.

- Article 51 Any person who falls under any of the following items shall be punished by a fine of not more than 500,000 yen:
- (i) Any person who has submitted a written application as provided in Article 14, paragraph (1) (including where applied mutatis mutandis to Article 17, paragraph (6), Article 19, paragraph (6) and Article 20, paragraph (6)), or a

- document provided in the items under Article 14, paragraph (2) (including where applied mutatis mutandis to Article 17, paragraph (6), Article 19, paragraph (6), and Article 20, paragraph (6)) which includes a false entry;
- (ii) Any person who uses letters and characters likely to cause said person to be mistaken for a Qualified Consumer Organization, and/or exhibits signs likely to be mistaken for those of a Qualified Consumer Organization with respect to its operations in violation of the provisions of Article 16, paragraph (3);
  - (iii) Any person who has neither prepared nor preserved books and documents or who has prepared false books and documents, in violation of the provisions of Article 30; and
  - (iv) Any person who has not reported as prescribed in Article 32, paragraph (1), has made a false report, has refused, hindered, or evaded the inspection provided in the same paragraph, has not answered the questions set forth in the same paragraph or has given a false answer.

Article 52 (1) When a representative or an administrator of a corporation (including an organization that is not a corporation which has a representative or an administrator; hereinafter the same shall apply in this paragraph), or an agent, employee or other person engaged by a corporation or an individual violates the provisions of any of the preceding three Articles, in relation to the operation of said corporation or individual, the offender and said corporation or individual shall be punished with the fine prescribed in the respective Article.

(2) Where the provisions of the preceding paragraph are applied to an organization that is not a corporation, its representative or administrator shall represent it with respect to procedural acts and the provisions of Acts concerning criminal proceedings shall apply mutatis mutandis if a corporation is accused or suspected of committing a crime.

Article 53 Any person who falls under any of the following items shall be subject to a non-criminal fine of not more than 300,000 yen:

- (i) Any person who has not displayed a notice as prescribed in Article 16, paragraph (2) or who has made a false display;
- (ii) Any person who has not provided notice as prescribed in Article 18, Article 19, paragraph (2) or (7), Article 20, paragraph (2) or (7), Article 21, paragraph (1) or who has provided a false notification;
- (iii) Any person who has not provided notice or a report as prescribed in Article 23, paragraph (4) or who has provided a false notification or report;
- (iv) Any person who has utilized information concerning the damages suffered by a Consumer in violation of the provisions of Article 24;
- (v) Any person who has refused the demand prescribed in Article 26 in violation of the provisions of that Article;

- (vi) Any person who, in violation of the provisions of Article 31, paragraph (1), has not prepared Financial Statements, etc. , has not entered or recorded the appropriate information in said Financial Statements, etc. , or has made a false entry or record;
- (vii) Any person who has refused, hindered, or evaded the inspection pursuant to Article 31, paragraph (2), or who has not explained or has made a false explanation during an inspection pursuant to the same paragraph;
- (viii) Any person who has not maintained documents in violation of the provisions of Article 31, paragraph (3);
- (ix) Any person who has refused a demand provided in any of the items under Article 31, paragraph (4) in violation of the provisions of paragraph (5) of the same Article except for justifiable grounds;
- (x) Any person who has failed to submit a document, or who has submitted documents containing false entries or records in violation of the provisions of Article 31, paragraph (6); and
- (xi) Any person who has utilized or offered information for any purpose other than those prescribed under Article 40, paragraph (2) in violation of the provisions of that paragraph.

### **Supplementary Provisions**

This Act shall come into effect on April 1, 2001 and shall apply to Consumer Contracts concluded thereafter.

### **Supplementary Provisions [Act No. 50 of June 2, 2006] [Extract]**

(Effective Date)

- (1) This Act shall come into effect as of the date of enforcement of the Act on General Incorporated Associations and General Incorporated Foundations.

(Adjustment Provisions)

- (2) Where the date of the enforcement of the Act for Partial Revision of the Penal Code, etc. to Respond to the Increase in International and Organized Crime and Advancement of Information Processing (Act No. XXX of 2006) comes after the date of enforcement of this Act, with regard to the application of the provisions of item (lxii) of the Appended Table of the Act on Punishment for Organized Crimes, Control of Crime Proceeds and Other Matters (Act No. 136 of 1999; referred to as the "Organized Crime Punishment Act" in the next paragraph) for the period from the date of enforcement of this Act until the day preceding the date of enforcement of the Act for Partial Revision of the Penal Code, etc. to Respond to the Increase in International and Organized Crimes

and Advancement of Information Processing, the term "crime under Article 157 of the Intermediate Corporation Act (Act No. 49 of 2001) (Special Breach of Trust by Directors, etc.)" in item (lxii) shall be deemed to be replaced with "crime under Article 334 of the General Incorporated Associations/Foundations Act (Act No. 48 of 2006) (Special Breach of Trust by Directors, etc.)."

- (3) In addition to the matters prescribed in the preceding paragraph, in the case set forth in the same paragraph, with regard to the application of the provisions of the Organized Crime Punishment Act until the day preceding the date of enforcement of the Act for Partial Revision of the Penal Code, etc. to Respond to the Increase in International and Organized Crime and Advancement of Information Processing, where the provisions then in force shall remain applicable pursuant to the provisions of Article 457, the crime under Article 157 of the Former Intermediate Corporation Act (Special Breach of Trust by Directors, etc.) shall be deemed to be the crime listed in item (lxii) of the Appended Table of the Organized Crime Punishment Act.

#### **Supplementary Provisions [Act No. 56 of June 7, 2006]**

(Effective Date)

- (1) This Act shall come into effect one year from the date of its promulgation.

(Review)

- (2) The Government shall review the enforcement status of the revised Consumer Contract Act taking into consideration actual damages to Consumers, the implementation status of the various measures taken to protect the interests of Consumers and other social and economic changes, and if it is found necessary, the Government shall take appropriate measures based on the results of its review.

#### **Supplementary Provisions [Act No. 29 of May 2, 2008]**

(Effective Date)

- (1) This Act shall come into effect on April 1, 2009. However, the provisions of Articles 2 and 4 shall come into effect on the date on which the Act for Partial Revision of the Act on Specified Commercial Transactions and the Installment Sales Act (Act No. 74 of 2008) comes into effect.

(Transitional Measures)

- (2) Procedures pertaining to applications for certification as provided in Article 13, paragraph (1) of the Consumer Contract Act made prior to the enforcement of the provisions of Article 1 or 2, procedures pertaining to certification, and

permits related to applications for approval as provided in Article 19, paragraph (3) and Article 20, paragraph (3) of the Act shall be governed by the provisions then in force, notwithstanding the provisions of Article 1 or 2 of the revised Consumer Contract Act.

(3) With regard to the application of penal provisions to acts committed prior to the enforcement of Article 1 or 2, the provisions then in force shall remain applicable notwithstanding the provisions of Article 1 or 2 of the revised Consumer Contract Act.

### **Supplementary Provisions [Act No. 49 of June 5, 2009] [Extract]**

(Effective Date)

Article 1 This Act shall come into effect as of the date of the enforcement of the Act for Establishment of the Consumer Affairs Agency and the Consumer Commission (Act No. 48 of 2009). However, the provisions listed in the following item shall come into effect on the date provided in such item.

(i) The provisions of Article 9 of the Supplementary Provisions: The date of the promulgation of this Act.

(Transitional Measures concerning Penal Provisions)

Article 8 With regard to the application of penal provisions to acts committed prior to and after the enforcement of this Act where the provisions then in force shall remain applicable pursuant to the provisions of the Supplementary Provisions of this Act, the provisions then in force shall remain applicable.

(Delegation to Cabinet Order)

Article 9 In addition to what is prescribed in Articles 2 through 8 of the Supplementary Provisions, other transitional measures necessary for the enforcement of this Act (including transitional measures concerning penal provisions) shall be specified by Cabinet Order.