

Act on Measures Incidental to Criminal Proceedings for Protecting the Rights and Interests of Crime Victims

(Act No. 75 of May 19, 2000)

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Chapter I General Provisions

(Purpose)

Article 1 Owing to the fact that persons who have been harmed by an offense (hereinafter referred to as "victim") or his/her surviving families have a deep interest in the status and contents of the proceedings of the criminal cases related to such harm, and that it can be difficult for such persons to recover from the damage to their persons or property or other damage, the purpose of this Act is to provide for measures that will allow the feelings of victims and their surviving families to be respected and which will contribute to their recovery from such damages, as well as to provide for special provisions for judicial proceedings in order to contribute to bringing a simplified and prompt resolution to disputes involving claims for damages, as measures incidental to criminal proceedings, and to thereby protect the rights and interests of such persons.

Chapter II Attendance at Trial Proceedings

Article 2 When victim, etc. (meaning a victim, or, if the victim has died or suffer from a serious mental or physical disorder, his/her spouse, lineal relative or sibling; the same applies hereinafter) in a criminal case under public prosecution or a statutory agent of said victim filed a request to attend trial proceedings in said case, the presiding judge of the court before which said case is pending must use his/her consideration so that the person making the request is able to attend, taking into account the number of seats for audience members, the number of persons wishing to attend the trial, and other circumstances.

Chapter III Inspection and Copying of Trial Records

(Inspection and Copying of Trial Records by the Victim, etc.)

Article 3 (1) When victim, etc. in a case under public prosecution, a statutory agent of the victim or an attorney who has been entrusted by one of such persons requests to inspect or copy the case records of said case between the time of the first trial date and the conclusion of the case, the court before which said case is pending shall hear the opinions of the public prosecutor and the accused or their counsel, and shall permit the person making the request to inspect or copy said case records , except if the court finds the grounds for the request to inspect or copy said case records to be unjustifiable or if the court finds it to be inappropriate to permit the person to inspect or copy said case records in consideration of the nature of the crime, the status of the proceedings and other circumstances.

(2) The court may restrict the purpose for which copied case records are used or set other conditions it finds appropriate when permitting to copy said case records pursuant to the provision of the preceding paragraph.

(3) A person who has inspected or copied case records pursuant to the provisions of paragraph (1) must take care not to unduly harm the reputation or peaceful existence of any related parties or to hinder the investigation or trial when making use of the particulars he/she has come to know through the inspection or copying of the case records.

(Inspection and Copying of Trial Records by the Victims, etc. of Other Crimes of the Same Sort)

Article 4 (1) When any of the following persons requests to inspect or copy the case records of a case under public prosecution between the time of the first trial date and the conclusion of the case, the court before which said case is pending shall hear the opinions of the accused or his/her counsel, and may permit the person making the request to inspect or copy said case records if the

court finds it to be necessary in order for a person set forth in item (i) or item (ii) to exercise his/her right to claim for damages, and finds it to be appropriate in consideration of the nature of the crime, the status of the proceedings and other circumstances:

- (i) the victim of a criminal act in the same crime or in a crime of the same sort, committed continuously or regularly by the accused or an accomplice, in the same manner as the criminal act in the case under public prosecution;
 - (ii) if the person set forth in the preceding item has died or suffers from a serious mental or physical disorder, his/her spouse, lineal relative or sibling;
 - (iii) the statutory agent of the person set forth in item (i);
 - (iv) an attorney who has been entrusted by one of the persons set forth in the preceding three items.
- (2) The request referred to in the preceding paragraph must be made through the public prosecutor. In this, the person making such request must submit materials that make a prima facie showing of the fact that he/she falls under any one of the items of the same paragraph.
- (3) When a request referred to in paragraph (1) has been made, the public prosecutor shall notify the court thereof, together with the prosecutor's opinion and, in the case he/she has received materials submitted pursuant to the provisions of the preceding paragraph, forward the materials to the court.
- (4) The provisions of paragraph (2) and paragraph (3) of the preceding Article apply mutatis mutandis to the inspection or copying of case records under the provisions of paragraph (1).

Chapter IV Appointment, etc., of Participating Victims' Attorneys

(Request for the Appointment of a Participating Victim's Attorney)

Article 5 (1) A participating victim (meaning a participating victim provided for in Article 316-33, paragraph (3) of Code of Criminal Procedure (Act No. 131 of 1948); the same applies hereinafter), who seeks to entrust an attorney with the acts provided for in Articles 316-34 through 316-38 of the same Act and whose financial resources (meaning the total amount of cash, savings and other assets equivalent thereto provided for in Cabinet Order which belong to such person; the same applies hereinafter) after deducting the expenses required for medical treatment of the injury or illness caused by a criminal act in a criminal case under public prosecution in whose proceedings the victim is permitted to participate, and other expenses caused by said criminal act and found to require payment within three months from the date of the request (hereinafter referred to as "medical expenses, etc.") are lower than the base amount (meaning the amount provided for in by Cabinet Order as generally being sufficient to cover the fee and expenses of a participating victim's attorney

(meaning an attorney entrusted by the participating victim to perform the acts provided for in Articles 316-34 through 316-38 of the same Code; the same applies hereinafter) after taking into account the necessary average three-month cost of living; the same applies hereinafter), may request the court before which said case is pending to appoint him/her a participating victim's attorney.

- (2) The request under the provisions of preceding paragraph must be made through the Japan Legal Support Center (meaning the Japan Legal Support Center provided for in Article 13 of the Comprehensive Legal Support Act (Act No. 74 of 2004; the same applies hereinafter). In this, the participating victim must submit the documents provided for in the following items in accordance with the category set forth in the relevant one of those items:
 - (i) a person whose financial resources are lower than the base amount: documents reporting the person's financial resources and a breakdown thereof;
 - (ii) a person other than one set forth in the preceding item: documents reporting the financial resources and amount of medical expenses, etc., and a breakdown thereof.
- (3) When a request under the provisions of paragraph (1) has been made, the Japan Legal Support Center must notify the court thereof and must forward the documents submitted pursuant to the provisions of the preceding paragraph to the court.

(Nomination and Notice of Candidates for Participating Victim's Attorney)

- Article 6 (1) When a request under the provisions of paragraph (1) of the preceding Article has been made, the Japan Legal Support Center must nominate a candidate to be appointed as a participating victim's attorney by a court and notify the court thereof.
- (2) Notwithstanding the provisions of the preceding paragraph, when the Japan Legal Support Center finds that the circumstances clearly fall under any of the items of paragraph (1) of the following Article, it may decide not to make the nomination and notification under the provisions of the preceding paragraph. In such a case, the Japan Legal Support Center must notify the court thereof.
 - (3) In making the nomination under the provisions of paragraph (1), the Japan Legal Support Center must hear the opinions of the person making the request under the provisions of paragraph (1) of the preceding Article.

(Appointment of a Participating Victim's Attorney)

- Article 7 (1) When a request under the provisions of Article 5, paragraph (1) has been made, the court shall appoint a participating victim's attorney for the participating victim, except in the circumstances fall under any of the following

items:

- (i) the request is unlawful;
 - (ii) the person making the request does not fall under the category of a person provided for in Article 5, paragraph (1);
 - (iii) the person making the request is a person for whom the appointment of a participating victim's attorney has been revoked owing to a cause attributable to himself/herself.
- (2) When the court appoints a participating victim's attorney pursuant to the provisions of the preceding paragraph, if it finds it to be necessary, the court may request the Japan Legal Support Center to nominate and notify the court of a candidate for participating victim's attorney. In such a case, the provisions of paragraph (1) and paragraph (3) of the preceding Article apply *mutatis mutandis*.

(Validity of the Appointment of a Participating Victim's Attorney)

Article 8 (1) The appointment of a participating victim's attorney by the court must be made at each instance.

- (2) The appointment of a participating victim's attorney is also valid in cases for which the proceedings have been consolidated; provided, however, that this does not apply if the participating victim is not permitted to participate in the proceedings for said cases.
- (3) The appointment of a participating victim's attorney ceases to be valid if a ruling referred to in Article 316-33, paragraph (3) of the Code of Criminal Procedure has been rendered.
- (4) A participating victim's attorney appointed by the court may request travel expenses, a daily allowance, accommodation expenses and remuneration.
- (5) The travel expenses, daily allowance, accommodation expenses and remuneration to be paid to a participating victim's attorney pursuant to the provisions of the preceding paragraph are governed by the provisions on travel expenses, daily allowance, accommodation expenses and remuneration to be paid to counsel pursuant to the provisions of Article 38, paragraph (2) of the Code of Criminal Procedure.

(Revocation of the Appointment of a Participating Victim's Attorney)

Article 9 (1) The court may, when it finds that circumstances fall under any of the following items, revoke the appointment of a participating victim's attorney:

- (i) it is no longer necessary to have a participating victim's attorney carry out his/her duties because the participating victim has himself/herself entrusted some other attorney to perform the acts provided for in the provisions of Articles 316-34 through 316-38 of the Code of Criminal Procedure, or for any

- other reason;
- (ii) it is inappropriate to have a participating victim's attorney continue to carry out his/her duties because there is a conflict of interests between a participating victim and the participating victim's attorney;
 - (iii) it has become impossible or difficult for a participating victim's attorney to carry out his/her duties due to a mental or physical disorder or for any other reason;
 - (iv) it is inappropriate to have a participating victim's attorney continue to carry out his/her duties because the participating victim's attorney substantially contravene his/her tasks;
 - (v) it is inappropriate to have a participating victim's attorney continue to carry out his/her duties due to assault or intimidation against the participating victim's attorney or any other cause attributable to the participating victim.
- (2) When the court has revoked the appointment of a participating victim's attorney owing to grounds set forth in items (ii) through (iv) of the preceding paragraph, it shall appoint another participating victim's attorney. In such a case, the provisions of Article 7, paragraph (2) apply *mutatis mutandis*.

(Sanctions against the Submission of Falsified Reports)

Article 10 When a participating victim has submitted a document provided for in any of the items of Article 5, paragraph (2) which contains false details about his/her amount of financial resources or medical expenses, etc., with the aim of leading the court to an erroneous judgment, he/she is sentenced to a non-criminal fine of up to 100,000 yen.

(Collection of Expenses)

- Article 11 (1) When a participating victim has led the court to an erroneous judgment by submitting a document provided for in any of the items of Article 5, paragraph (2) which contains false details about his/her amount of financial resources or medical expenses, etc., with the aim of leading the court to an erroneous judgment, the court may rule to collect all or part of the travel expenses, daily allowances, accommodation expenses and remuneration that were paid to the participating victim's attorney from the participating victim.
- (2) An immediate appeal may be filed against the ruling referred to in the preceding paragraph. In such a case, the provisions of the Code of Criminal Procedure on immediate appeals apply *mutatis mutandis*.
 - (3) The provisions of the Code of Criminal Procedure on the enforcement of judicial decisions on compensation for costs apply *mutatis mutandis* to the enforcement of the ruling referred to in paragraph (1).

(Mutatis Mutandis Application of the Code of Criminal Procedure)

Article 12 The provisions of Article 43, paragraph (3) and paragraph (4) of the Code of Criminal Procedure apply mutatis mutandis to the appointment of a participating victim's attorney and its revocation, and the provisions of paragraph (3) and paragraph (4) of the same Article and of Article 44, paragraph (1) of the same Act apply mutatis mutandis to the ruling referred to in paragraph (1) of the preceding Article.

Chapter V Settlement of Civil Disputes in Criminal Litigation Proceedings

(Settlement of a Civil Dispute in Criminal Litigation Proceedings)

Article 13 (1) If the accused and the victim, etc. in a criminal case under public prosecution reach an agreement with regard to a civil dispute between them (limited to one that contains their dispute about the harm in said case), they may jointly file a petition with the court of first instance or the court of second instance before which said case is pending for said agreement to be entered in the trial records.

(2) If the agreement referred to in the preceding paragraph involves the payment of monies by the accused to the victim, etc., if a person other than the accused has made a promise with the victim, etc. to guarantee such obligation or to jointly and severally bear liability, such a person may also jointly file a petition with the accused and the victim, etc., together with the petition referred to in the same paragraph, for such effect to be entered in the trial records.

(3) The petition under the provisions of the preceding two paragraphs must be filed during an appearance on a trial date by the time of conclusion of oral arguments, through the submission of a document detailing the agreement to which the petition pertains and sufficient facts to identify the rights that are the subject of the civil dispute in which the agreement has been reached.

(4) When an agreement to which a petition under the provisions of paragraph (1) or paragraph (2) pertains has been entered in the trial records, such entry has the same effect as a judicial settlement.

(Settlement Records)

Article 14 (1) A person who has reached the agreement entered in the trial records based on a petition under the provisions of paragraph (1) or paragraph (2) of the preceding Article or a third party who has made a prima facie showing of his/her interest, may, notwithstanding the provisions of Chapter 3 and Article 49 of the Code of Criminal Procedure, file a request with the court clerk to inspect or copy said trial records (limited to the part in which said agreement and the facts that are sufficient to identify the rights that are the subject of the civil dispute in which the agreement was reached are detailed),

the document referred to in paragraph (3) of the preceding Article in connection with such petition and other records related to such agreement (hereinafter referred to as "settlement records"), to be issued an authenticated copy, certified copy or extract of settlement records, or to be issued a certificate of the particulars of the settlement; provided, however, that a request to inspect or copy settlement records may not be filed if such inspection or copying would interfere with the preservation of the settlement records or the business of the court.

(2) The filing of an objection against the disposition of the court clerk with regard to a request to inspect or copy settlement records provided for in the preceding paragraph, to be issued an authenticated copy, certified copy or extract of settlement records, and to be issued a certificate of the particulars of the settlement are governed by Article 121 of the Code of Civil Procedure (Act No. 109 of 1996), and the procedures for restrictions on inspections, etc. for the protection of confidential information in the settlement records is governed by Article 92 of the same Code.

(3) Settlement records shall be preserved by the court of first instance for a criminal case after the conclusion of said case.

(Mutatis Mutandis Application of the Code of Civil Procedure)

Article 15 The provisions of Section 1 (excluding the provisions on an appointed party and a special agent) and Section 4 (excluding Article 60) in Part I, Chapter III of the Code of Civil Procedure apply mutatis mutandis to the procedure for settlement of a civil dispute in criminal litigation proceedings provided for in the preceding two Articles, except where contrary to the nature thereof.

(Special Provisions on Jurisdiction for Actions for the Granting of a Certificate of Execution)

Article 16 Notwithstanding the provisions of Article 33, paragraph (2) of the Civil Execution Act (Act No. 4 of 1979) (including when these provisions apply mutatis mutandis pursuant to the provisions of Article 34, paragraph (3) and Article 35, paragraph (3) of the same Act), an action for the granting of a certificate of execution, an action to oppose the granting of a certificate of execution and an action to oppose execution in connection with the settlement of a civil dispute in criminal litigation proceedings as provided for in the provisions of Article 13 is subject to the exclusive jurisdiction of the court of first instance for such case (if the court of first instance is a summary court, and the request involving such settlement does not belong to the jurisdiction of the summary court, the district court with jurisdiction for the locality of such summary court).

**Chapter VI Special Provisions on Court Proceedings Involving Claims for
Damages by Crime Victims Incidental to Criminal Litigation Proceedings
Section 1 Petition, etc., for a Restitution Order**

(Petition for a Restitution Order)

Article 17 (1) The victim of a criminal case under public prosecution involving the following crimes (excluding cases that are to be tried again pursuant to the provisions of Article 451, paragraph (1) of the Code of Criminal Procedure) or his/her general successor may, by the time of conclusion of oral arguments, file a petition with the court before which said case is pending (limited to the district court) for a restitution order (meaning to order the accused to compensate for the damages for which a claim for the compensation is made based on an illegal act with an origin in facts that have been specified as the counts in said case (including associated claims for damages); the same applies hereinafter):

- (i) the crimes that have caused a victim to die or injured by intentional criminal acts or attempts to commit them;
 - (ii) the following crimes or attempts to commit them:
 - (a) the crimes provided for in Articles 176 to 178 (forcible indecency, rape, quasi forcible indecency and quasi rape) of the Penal Code (Act No. 45 of 1907);
 - (b) the crimes provided for in Article 220 (unlawful capture and confinement) of the Penal Code;
 - (c) the crimes provided for in Articles 224 to 227 (kidnapping of minors, kidnapping for profit, kidnapping for ransom, kidnapping for transportation out of a country, buying or selling of human beings, transportation of kidnapped persons out of a country and delivery of kidnapped persons) of the Penal Code;
 - (d) beyond those set forth in (a) to (c), crimes where the criminal acts include criminal acts of these crimes (excluding the crimes set forth in the preceding item).
- (2) A petition for a restitution order must be filed through the submission of a document detailing the following particulars:
- (i) the parties and their statutory agents;
 - (ii) the object of the claim, the facts that have been specified as the counts in the criminal case under public prosecution and other facts sufficient to identify the claim.
- (3) The document referred to in the preceding paragraph may not detail particulars other than those set forth in the items of the same paragraph and those provided for in the Rules of the Supreme Court.

(Service of the Written Application)

Article 18 When the document referred to in paragraph (2) of the preceding Article has been submitted to the court, the court must serve said document on the accused, who is the other party to the petition for a restitution order without delay, except when it dismisses said petition pursuant to the provisions of item (i) of Article 21, paragraph (1).

(Effect of a Ruling on Jurisdiction)

Article 19 In a criminal case under public prosecution, when there has been a ruling referred to in Article 7, Article 8, Article 11, paragraph (2) or Article 19, paragraph (1) of the Code of Criminal Procedure or a ruling on a request for a change of jurisdiction under the provisions of Article 17 or Article 18 of the same Code, the court that is to try said case pursuant to such ruling conduct proceedings and reach a judicial decision with regard to any petition for a restitution order.

(Handling Until Announcement of the Final Judicial Decision)

Article 20 (1) The proceedings (including the proceedings for the waiver or acknowledgement of a claim and settlement (excluding for settlement of a civil dispute in criminal litigation proceedings under the provisions of Article 13)) and judicial decisions (excluding for those under the provisions of paragraph (1), item (i) or item (ii) of the following Article) on a petition for a restitution order are not conducted or reached until an announcement has been made on the final judicial decision in the criminal case under public prosecution.

(2) The court must notify the petitioner of the trial dates in the relevant criminal case under public prosecution until the announcement of the final judicial decision provided for in the preceding paragraph has been made.

(Dismissal of a Petition)

Article 21 (1) The court must rule to dismiss a petition for a restitution order in the following cases:

- (i) when the court finds the petition for a restitution order to be unlawful (excluding when the crime no longer falls under any of the items set forth in Article 17, paragraph (1) because the penal statutes applicable to the criminal case under public prosecution have been withdrawn or altered);
- (ii) when the criminal case under public prosecution is pending before a court other than a district court based on a ruling referred to in Article 4, Article 5 or Article 10, paragraph (2) of the Code of Criminal Procedure;
- (iii) when a judgment referred to in Article 329 or Articles 336 through 338 of the Code of Criminal Procedure, a ruling referred to in Article 339 of the

same Code or a ruling referred to in Article 55 of the Juvenile Act (Act No. 168 of 1948) has been rendered in the criminal case under public prosecution; (iv) when a judgment of conviction provided for in Article 335, paragraph (1) of the Code of Criminal Procedure has been rendered in the criminal case under public prosecution, and the crime to which said judgment pertains does not fall under the category of any of the crimes set forth in the items of Article 17, paragraph (1).

- (2) An immediate appeal may be filed against the ruling referred to in the preceding paragraph on the grounds that the case falls under item (i) of the same paragraph.
- (3) Beyond the case under the provisions of the preceding paragraph, an appeal may not be filed against a ruling referred to in paragraph (1).

(Interruption of Prescription)

Article 22 When the notification of a ruling referred to in paragraph (1) of the preceding Article (excluding one for which the grounds are that the case falls under item (i) of the same paragraph) has been received, the petition for a restitution order does not have the effect of interrupting prescription unless a demand by litigation, a filing of a demand for payment, a filing for a settlement, a filing for conciliation under the Civil Conciliation Act (Act No. 222 of 1951) or the Act on the Procedures for Domestic-Relations Cases (Act No. 52 of 2011), participation in bankruptcy proceedings, participation in rehabilitation proceedings, participation in reorganization proceedings, a seizure, provisional seizure or a provisional disposition is commenced in connection with the claim to which such petition pertains within six months from the time of receiving said notification.

Section 2 Proceedings and Judicial Decisions

(Optional Oral Arguments)

- Article 23 (1) A judicial decision on a petition for a restitution order may be rendered without the petition passing through oral arguments.
- (2) If oral argument is not to be conducted pursuant to the provisions of the preceding paragraph, the court may interrogate the parties.

(Proceedings)

Article 24 (1) If a judgment of conviction provided for in Article 335, paragraph (1) of the Code of Criminal Procedure has been rendered in a criminal case under public prosecution (limited to cases in which the crime to which said judgment pertains falls under any of the categories of crime set forth in the items of Article 17, paragraph (1)), the court must immediately hold a court

date for proceedings on a petition for a restitution order (hereinafter referred to as "proceeding date") ; provided, however, that when it is found to be inappropriate to immediately hold a proceeding date, the presiding judge must promptly set the first proceeding date.

- (2) The parties must be summoned for a proceeding date.
- (3) The proceedings for a petition for a restitution order must be concluded within four proceeding dates, except where there are special circumstances.
- (4) On the first proceeding date, the court must examine the case records in the criminal case under public prosecution, except for those it finds to be unnecessary.

(Conclusion of Proceedings)

Article 25 When the court concludes the proceedings, it must make a declaration to that effect on the proceeding date.

(Restitution Order)

Article 26 (1) A judicial decision on a petition for a restitution order (excluding the ruling referred to in Article 21, paragraph (1); hereinafter the same applies in this Article through Article 28) must be rendered through the preparation of a written ruling in which the following particulars are entered:

- (i) the main text of the judgment;
 - (ii) the object of the claim and a summary of the parties' arguments;
 - (iii) a summary of the reasons;
 - (iv) the date of the conclusion of the proceedings;
 - (v) the parties and their statutory agents;
 - (vi) the court.
- (2) When the court finds it to be necessary, it may declare provisional execution to be enforceable with or without security for a restitution order, upon petition or ex officio.
 - (3) The written ruling referred to in paragraph (1) must be served on the parties. In this, the judicial decision on the petition for a restitution order becomes effective when it is served upon the parties.
 - (4) Notwithstanding the provisions of paragraph (1), when the court finds it to be appropriate, it may render a judicial decision on a petition for a restitution order by way of orally announcing the main text of the judgment and a summary of the reasons on a proceeding date at which the parties are present, in lieu of preparing a written ruling. In this case, said judicial decision becomes effective at the time of such announcement.
 - (5) If the court has rendered a judicial decision on a petition for a restitution order pursuant to the provisions of the preceding paragraph, it must have the court clerk enter the particulars set forth in the items of paragraph (1) in the

records.

Section 3 Objections, etc.

(Filing an Objection, etc.)

- Article 27 (1) A party may file an objection with the court against a judicial decision on a petition for a restitution order within an inalterable time frame of two weeks from the day on which service under the provisions of paragraph (3) of the preceding Article is received or the announcement under the provisions of paragraph (4) of the same Article is received.
- (2) When the court finds a filing of an objection to be unlawful, it must rule to dismiss the filing.
- (3) An immediate appeal may be filed against a ruling referred to in the preceding paragraph.
- (4) When a lawful objection is filed, the judicial decision on a petition for a restitution order ceases to be effective, unless the judicial decision includes a declaration of provisional execution.
- (5) If no lawful objection is filed, the judicial decision on a petition for a restitution order has the same effect as a final and binding judgment.
- (6) The provisions of Article 358 and Article 360 of the Code of Civil Procedure apply *mutatis mutandis* to the objection referred to in paragraph (1).

(Deemed Filing of an Action, etc.)

- Article 28 (1) If a lawful objection is filed against a judicial decision on a petition for a restitution order, an action is deemed to have been filed for the claim under the petition for a restitution order, at the time said petition is filed, with the district court or the summary court of jurisdiction in the locality specified by the person filing the objection (if there is no such specification, the locality that constitutes the general venue of the accused who is the other party to the petition), in accordance with the value of the subject matter of the claim. In this case, the document referred to in Article 17, paragraph (2) is deemed to be the complaint, and service under the provisions of Article 18 is deemed to be service of the complaint.
- (2) If an action is deemed to have been filed pursuant to the provisions of the preceding paragraph, the expenses for proceedings in the case under petition for a restitution order (hereinafter referred to as a "restitution order case") constitutes a part of the court costs.
- (3) If the district court or summary court referred to in paragraph (1) finds that the whole or part of litigation in such action is not subject to its jurisdiction, it must rule to transfer the action to the court of jurisdiction, upon petition or *ex officio*.

- (4) An immediate appeal may be filed against a ruling to transfer pursuant to the provisions of the preceding paragraph and against a ruling to dismiss said petition for a transfer.

(Sending of Records, etc.)

Article 29 (1) If an action is deemed to have been filed pursuant to the provisions of paragraph (1) of the preceding Article, the court must hear the opinions of the public prosecutor and the accused or his/her counsel (or, if it is after litigation in a criminal case under public prosecution has concluded, the opinion of the public prosecutor who retains the records of said case) and specify the part in which the court finds that there is a risk of seriously harming the reputation or peaceful existence of any related person or hindering the investigation or trial, or that it is otherwise inappropriate to send to the district court or summary court referred to in paragraph (1) of the preceding Article, in the case records for said case which the court has examined pursuant to the provisions of Article 24, paragraph (4) (hereinafter referred to as "criminal case records").

- (2) The court clerk must send the records of a restitution order (excluding for those specified by the court pursuant to the provisions of the preceding paragraph) to the court clerk of the district court or summary court referred to in paragraph (1) of the preceding Article.

(Special Provisions on Requests for Examination of Documentary Evidence in Civil Litigation Proceedings Following an Objection)

Article 30 Notwithstanding the provisions of Article 219 of the Code of Civil Procedure, a request for examination of documentary evidence with regard to the records sent pursuant to the provisions of paragraph (2) of the preceding Article in cases when an action is deemed to have been filed pursuant to the provisions of Article 28, paragraph (1), may be made by specifying the documentary evidence to be examined.

(Judgment after Objection)

- Article 31 (1) In cases where an action is deemed to have been filed pursuant to the provisions of Article 28, paragraph (1) for a claim involving a restitution order with a declaration of provisional execution, if the judgment to be rendered in said action is consistent with the restitution order, such judgment must approve the restitution order; provided, however, that this does not apply if the procedures followed for the restitution order are in violation of any laws.
- (2) Except when the court approves a restitution order pursuant to the provisions of the preceding paragraph, the restitution order must be revoked in a judgment to be rendered in an action that is deemed to have been filed

pursuant to the provisions of Article 28, paragraph (1) for a claim involving a restitution order with a declaration of provisional execution.

- (3) The provisions of Article 363 of the Code of Civil Procedure apply mutatis mutandis to the court costs when the action is deemed to have been filed pursuant to the provisions of Article 28, paragraph (1) for a claim involving a restitution order with a declaration of provisional execution. In this case, the phrase "dismissing an objection without prejudice or approving a judicial decision on the burden of court costs in an action on bills and notes" in the text of Article 363, paragraph (1) of the same Code is deemed to be replaced with the phrase "approving a judicial decision on the burden of court costs in a restitution order."

Section 4 Transfer to Civil Litigation Proceedings

Article 32 (1) When the court finds, after holding the first proceeding dates, that it will be difficult to conclude proceedings pursuant to the provisions of Article 24, paragraph (3) since additional days or hours are required for the proceedings, the court may rule to terminate the restitution order case upon petition or ex officio.

- (2) The court must rule to terminate a restitution order case in the following cases:

(i) when, prior to the announcement of a final judicial decision in the criminal case, the petitioner has entered a statement requesting that proceedings for and judicial decisions on the claim under the petition for the restitution order be effected in civil litigation proceedings;

(ii) when, prior to the announcement of a judicial decision on the petition for the restitution order, a party has entered a statement requesting that the proceedings for and the judicial decision on the claim under said petition be effected in civil litigation proceedings, and the other party has agreed to such.

- (3) No appeal may be filed against a ruling under the preceding two paragraphs or against a ruling to dismiss the petition referred to in paragraph (1).

- (4) The provisions of Articles 28 through 30 apply mutatis mutandis to when a restitution order case has been terminated pursuant to the provisions of paragraph (1) or paragraph (2).

Section 5 Auxiliary Provisions

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

Article 33 (1) The parties to a case or a third party who has made a prima facie showing of their interest may file a request with the court clerk to inspect or copy the records of a restitution order case, to be issued an authenticated copy,

certified copy or extract of such records, or to be issued a certificate of the particulars of the restitution order case.

- (2) The provisions of the preceding paragraph do not apply to the records of a restitution order case which are prepared in the form of audiotapes or videotapes (including objects onto which certain particulars have been recorded by any means equivalent thereto). In this case, when a party to the case or a third party who has made a prima facie showing of his/her interest files a request with regard to these articles, the court clerk must permit the articles to be reproduced.
- (3) Notwithstanding the provisions of the preceding two paragraphs, a request to inspect or copy criminal case records, to be issued an authenticated copy, certified copy or extract of such records, or to have them reproduced (hereinafter referred to as a request to "inspect, etc." in this Article) may be granted only if the court has given permission.
- (4) When a party has filed a petition for permission to inspect, etc. a criminal case record, the court shall hear the opinions of the public prosecutor and the accused or his/her counsel (or, if it is after litigation in a criminal case under public prosecution has concluded, the opinion of the public prosecutor who retains the record of said case) and must give permission for the party to inspect, etc. said record unless the court finds that the party's purpose is unjustifiable, that there is a risk of seriously harming the reputation or peaceful existence of any related person or hindering the investigation or trial, or that it is otherwise inappropriate to do so.
- (5) When a third party who has made a prima facie showing of his/her interest has filed a petition for permission to inspect, etc. a criminal case record, the court shall hear the opinions of the public prosecutor and the accused or his/her counsel (or, if it is after litigation in a criminal case under public prosecution has concluded, the opinion of the public prosecutor who retains the record of said case) and may give permission for the third party to inspect, etc. said criminal case records, if there are justifiable grounds, and if the court finds it to be appropriate to do so after taking into account whether or not there is a risk of harming the reputation or peaceful existence of any related person, hindering the investigation or trial, and other circumstances.
- (6) A request to inspect, copy or reproduce the records of a restitution order case may not be filed if it would interfere with the preservation of said records or the business of the court.
- (7) An immediate appeal may be filed against a ruling to dismiss the petition referred to in paragraph (4).
- (8) No appeal may be entered against a ruling to dismiss the petition referred to in paragraph (5).

(Mutatis Mutandis Application of the Code of Civil Procedure)

Article 34 Except as otherwise provided, the provisions of Article 2; Article 14; Chapter II, Section 3; Chapter III (excluding Articles 47 through 51); Chapter IV; Chapter V (excluding Article 87, Article 91, Section 2, Subsection 2, Article 116 and Article 118); Chapter VI; and Chapter VII in Part I; Chapter I (excluding Article 133, Article 134, Article 137 paragraphs (2) and (3), Article 138, paragraph (1), Article 139, Article 140, Article 145 and Article 146); Chapter III (excluding Article 156-2, Article 157-2, Article 158, Article 159, paragraph (3), Article 161, paragraph (3) and Section 3); Chapter IV (excluding the proviso to Article 235, paragraph (1) and Article 236); Chapter V (excluding Articles 249 through 255 and Article 259, paragraphs (1) and (2)); and Chapter VI (excluding Article 262, paragraph (2), Article 263 and Article 266, paragraph (2)) in Part II; Chapter III in Part III; and Part IV and Part VIII (excluding Article 403, paragraph (1), items (i), (ii), and (iv) through (vi)) of the Code of Civil Procedure apply mutatis mutandis to procedure in a restitution order case, unless contrary to the nature thereof.

Chapter VII Miscellaneous Provisions

(Fee to Inspect and Copy, etc. Trial Records)

Article 35 (1) The provisions of Articles 7 through 10 and rows (1) through (3) of Appended Table 2 of the Act on Costs of Civil Procedure (Act No. 40 of 1971) (excluding the part "excluding those requested by the party, etc. while the case is pending" under the left-hand column in row (1) of the same table) apply mutatis mutandis to the fee to inspect or copy trial records under the provisions of Article 3, paragraph (1) or Article 4, paragraph (1), unless contrary to the nature thereof.

(2) The provisions of Article 3, paragraph (1) and Articles 7 through 10 of the Act on Costs of Civil Procedure, row (9), row (17) and row (18) of Appended Table 1 (limited to the part concerning (4) in the left-hand column) and row (1) through (3) of Appended Table 2 (excluding the part "excluding those requested by the party, etc. while the case is pending" under the left-hand column in row (1) of the same table) of the same Act apply mutatis mutandis to the fee for proceedings related to the settlement of a civil dispute in criminal litigation proceedings provided for in Chapter V, unless contrary to the nature thereof.

(Fees, etc. for Procedures in a Restitution Order Case)

Article 36 (1) In order to file a petition for a restitution order, payment must be made in the amount of a 2,000 yen fee.

(2) The provisions of Article 3, paragraph (1) of the Act on Costs of Civil Procedure and row (17) of Appended Table 1 of the same Act apply mutatis

mutandis to the fee for filing an objection under the provisions of Article 27, paragraph (1).

- (3) The person filing a petition for a restitution order must promptly pay fees in the amount calculated by deducting the amount of fees already paid for the petition for a restitution order from the amount of fees that must be paid pursuant to the provisions of Article 3, paragraph (1) of the Act on Costs of Civil Procedure and row (1) of Appended Table 1 of the same Act if the action is deemed to have been filed pursuant to the provisions of Article 28, paragraph (1) (including as this applies mutatis mutandis pursuant to the provisions of Article 32, paragraph (4)).
- (4) Beyond what is provided for in the preceding three paragraphs, the provisions of the Act on Costs of Civil Procedure apply mutatis mutandis to procedural costs in restitution order cases, unless contrary to the nature thereof.

(Rules of the Supreme Court)

Article 37 Beyond what is set forth in this Act, the necessary particulars involved in the inspection or copying of the trial records as provided for in Chapter III, the appointment, etc. of a participating victim's attorney as provided for in Chapter IV, the settlement of a civil dispute in criminal litigation proceedings and procedure in a restitution order case as provided for in Chapter V are provided for in the Rules of the Supreme Court.