

Civil Rehabilitation Act

(Act No. 225 of December 22, 1999)

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Chapter I General Provisions

(Purpose)

Article 1 The purpose of this Act is to appropriately coordinate the relationship of rights under civil law between debtors and creditors, with the aim of ensuring the rehabilitation of the business or economic life of debtors in financial difficulty by formulating rehabilitation plans as consented to by a number of their creditors and confirmed by the court.

(Definitions)

Article 2 In this Act, the meanings of the terms listed in the following items are as prescribed respectively in those items:

- (i) rehabilitation debtor: A debtor in financial difficulty against whom a petition to commence rehabilitation proceedings has been filed or an order to commence rehabilitation proceedings has been made or for whom a rehabilitation plan is being executed;
- (ii) rehabilitation debtor, etc.: The rehabilitation debtor if no trustee is appointed, or a trustee in cases where any trustee is appointed;

(iii) rehabilitation plan: A plan that specifies clauses for modifying some or all of the rights of rehabilitation creditors or any other provisions prescribed in Article 154;

(iv) rehabilitation proceedings: Proceedings for formulating a rehabilitation plan as provided for in the following Chapter and thereafter.

(Status of Foreign Nationals)

Article 3 A foreign national or a foreign corporation has the same status as a Japanese national or a Japanese corporation respectively, with regard to rehabilitation proceedings.

(Jurisdiction over Rehabilitation Cases)

Article 4 (1) A petition to commence rehabilitation proceedings under the provisions of this Act may be filed only if the debtor, who is an individual, has a business office, domicile, residence or assets in Japan, or if the debtor, who is a corporation or any other association or foundation, has a business office or other office or assets in Japan.

(2) A claim for which a demand by litigation may be made pursuant to the provisions of the Code of Civil Procedure (Act No. 109 of 1996) is deemed to exist in Japan.

Article 5 (1) A rehabilitation case is subject to the jurisdiction of the district court that has jurisdiction over: if the rehabilitation debtor engages in commercial business, the location of the rehabilitation debtor's principal business office; if the rehabilitation debtor engages in commercial business and has a principal business office in a foreign state, the location of the rehabilitation debtor's principal business office in Japan; if the rehabilitation debtor does not engage in commercial business or engages in commercial business but does not have any business office, the location of the rehabilitation debtor's general venue.

(2) If there is no court with jurisdiction under the provisions of the preceding paragraph, the rehabilitation case is subject to the jurisdiction of the district court that has jurisdiction over the location of the rehabilitation debtor's assets (in the case of a claim, the place where demand by litigation may be made).

(3) Notwithstanding the provisions of the preceding two paragraphs, where a corporation holds the majority of voting rights (excluding the voting rights of the shares of stock which may not be exercised for all matters that may be resolved at a shareholders meeting, and including the voting rights of the shares of stock for which the shareholder is deemed to have voting rights pursuant to the provisions of Article 879, paragraph (3) of the Companies Act (Act No. 86 of 2005); hereinafter the same applies in the following paragraph,

Article 59, paragraph (3), item(ii) and paragraph (4) and Article 127-2, paragraph (2), item (ii)(a) and (b)) of all shareholders of a stock company, if a rehabilitation case or reorganization case (hereinafter referred to as a "rehabilitation case, etc." in this Article) is pending against the relevant corporation (hereinafter referred to as a "parent corporation" in this Article and Article 127-2, paragraph (2), item (ii)(b)), a petition to commence rehabilitation proceedings against the relevant stock company (hereinafter referred to as a "subsidiary stock company" in this Article and Article 127-2, paragraph (2), item (ii)(b)) may also be filed with the district court before which the rehabilitation case, etc. against the parent corporation is pending, and if a rehabilitation case, etc. is pending against the subsidiary stock company, a petition to commence rehabilitation proceedings against the parent corporation may also be filed with the district court before which the rehabilitation case, etc. against the subsidiary stock company is pending.

- (4) Where the subsidiary stock company independently holds or the parent corporation and the subsidiary stock company jointly hold the majority of voting rights of all shareholders of another stock company, the provisions of the preceding paragraph are applied by deeming the relevant other stock company as a subsidiary stock company of the parent corporation.
- (5) Notwithstanding the provisions of paragraphs (1) and (2), where a stock company, as provided for by Article 444 of the Companies Act, has prepared consolidated financial statements (meaning consolidated financial statements prescribed in paragraph (1) of the same Article) for the most recent business year with regard to the stock company itself and another corporation, and reported the contents thereof at an annual shareholders meeting of the stock company, if a rehabilitation case, etc. is pending against the stock company, a petition to commence rehabilitation proceedings against the relevant other corporation may also be filed with the district court before which the rehabilitation case, etc. against the stock company is pending, and if a rehabilitation case, etc. is pending against the relevant other corporation, a petition to commence rehabilitation proceedings against the stock company may also be filed with the district court before which the rehabilitation case, etc. against the relevant other corporation is pending.
- (6) Notwithstanding the provisions of paragraphs (1) and (2), where a rehabilitation case, etc. is pending against a corporation, a petition to commence rehabilitation proceedings against the representative of the corporation may also be filed with the district court before which the rehabilitation case, etc. against the corporation is pending, and where a rehabilitation case is pending against the representative of a corporation, a petition to commence rehabilitation proceedings against the corporation may also be filed with the district court before which the rehabilitation case against

the representative of the corporation is pending.

- (7) Notwithstanding the provisions of paragraphs (1) and (2), if a rehabilitation case is pending against either one of the persons set forth in each of the following items, a petition to commence rehabilitation proceedings against the other person set forth in the respective items may also be filed with the district court before which the rehabilitation case is pending:
- (i) individuals who are joint and several debtors with each other;
 - (ii) individuals, one of whom is a principal debtor and the other is their guarantor;
 - (iii) husband and wife.
- (8) Notwithstanding the provisions of paragraphs (1) and (2), if there are 500 or more rehabilitation creditors, a petition to commence rehabilitation proceedings may also be filed with the district court that has jurisdiction over the location of the high court that has jurisdiction over the location of the court with jurisdiction under these provisions.
- (9) Notwithstanding the provisions of paragraphs (1) and (2), if there are 1,000 or more rehabilitation creditors, a petition to commence rehabilitation proceedings may also be filed with the Tokyo District Court or the Osaka District Court.
- (10) If two or more district courts have jurisdiction over a rehabilitation case pursuant to the provisions of the preceding paragraphs, the rehabilitation case is subject to the jurisdiction of the district court with which the first petition to commence rehabilitation proceedings is filed.

(Exclusive Jurisdiction)

Article 6 The court jurisdiction prescribed in this Act is exclusive.

(Transfer of Rehabilitation Cases)

- Article 7 When the court finds it necessary in order to avoid substantial detriment or delay, it may, by its own authority, transfer a rehabilitation case to any of the following district courts:
- (i) the district court that has jurisdiction over the location of the rehabilitation debtor's business office or other office other than the rehabilitation debtor's principal business office or other principal office;
 - (ii) the district court that has jurisdiction over the location of the rehabilitation debtor's domicile or residence;
 - (iii) the district court prescribed in Article 5, paragraph (2);
 - (iv) any of the district courts listed in (a) through (c) below:
 - (a) The district court prescribed in Article 5, paragraphs (3) through (7)
 - (b) If there are 500 or more rehabilitation creditors, the district court prescribed in Article 5, paragraph (8)

- (c) If there are 1,000 or more rehabilitation creditors, the district court prescribed in Article 5, paragraph (9)
- (v) if the rehabilitation case is pending pursuant to the provisions of Article 5, paragraphs (3) through (9) at the district court prescribed in the respective provisions, the district court prescribed in paragraph (1) or paragraph (2) of the relevant Article.

(Optional Oral Arguments)

- Article 8 (1) A judicial decision concerning rehabilitation proceedings may be made without oral argument.
- (2) The court, by its own authority, may conduct necessary investigation on a rehabilitation case.

(Appeals)

- Article 9 A person who has an interest in a judicial decision concerning rehabilitation proceedings, only as specially provided for in this Act, may file an immediate appeal against the judicial decision. The period for filing, where a public notice of the juridical decision is made, is two weeks from the day on which the public notice becomes effective.

(Public Notices)

- Article 10 (1) A public notice under the provisions of this Act is effected by publication in the official gazette.
- (2) A public notice becomes effective on the day following the day on which it is publicized.
- (3) Where a service is required to be made pursuant to the provisions of this Act, it may be substituted by a public notice; provided, however, that this does not apply where both public notice and service are required to be made pursuant to the provisions of this Act.
- (4) When a public notice of a judicial decision is made pursuant to the provisions of this Act, it is deemed that all interested parties are notified of the judicial decision.
- (5) The provisions of the preceding two paragraphs do not apply where special provisions exist in this Act.

(Commission of Registration on Rehabilitation Proceedings of Corporations)

- Article 11 (1) Where an order to commence rehabilitation proceedings is made against the rehabilitation debtor who is a corporation, a court clerk, by the court's own authority and without delay, must commission the registry office which has jurisdiction over the location of each business office or other office of the rehabilitation debtor (limited to offices for which a person who serves as a

representative of the corporation is designated as one of the particulars to be registered at the location of the business office or other office in question) to make a registration of the commencement of rehabilitation proceedings; provided, however, that if the rehabilitation debtor is a foreign company, the commission must be made to the registry office which has jurisdiction over the domicile of its representative for Japan (limited to one who has a domicile in Japan) (in the case of a foreign company that has business offices in Japan, the location of each relevant business office).

- (2) Where a disposition under the provisions of Article 54, paragraph (1), Article 64, paragraph (1) or Article 79, paragraph (1) (including cases where applied *mutatis mutandis* pursuant to paragraph (3) of the same Article; the same applies in the following paragraph) is made against the rehabilitation debtor set forth in the preceding paragraph, a court clerk, by the court's own authority must without delay commission the registry office prescribed in the preceding paragraph to make a registration of the relevant disposition.
- (3) When making the registration set forth in the preceding paragraph, the particulars specified in each of the following items are registered for the categories of registrations listed in the respective items:
 - (i) registration of a disposition under the provisions of Article 54, paragraph (1) prescribed in the preceding paragraph: The name and address of a supervisor, and the acts designated pursuant to the provisions of paragraph (2) of the relevant Article;
 - (ii) registration of a disposition under the provisions of Article 64, paragraph (1) or Article 79, paragraph (1) prescribed in the preceding paragraph: The name and address of a trustee or temporary administrator, if permission set forth in the proviso to Article 70, paragraph (1) (including cases where applied *mutatis mutandis* pursuant to Article 83, paragraph (1); hereinafter the same applies in this item) is granted for independent performance of duties by each trustee or temporary administrator, a statement to that effect, and if permission set forth in the proviso of Article 70, paragraph (1) is granted for division of duties among trustees or temporary administrators, a statement to that effect and the content of the duties assigned to each trustee or temporary administrator.
- (4) The provisions of paragraph (2) apply *mutatis mutandis* where a disposition prescribed in the same paragraph is changed or revoked or there is a change to any of the particulars prescribed in the preceding paragraph.
- (5) The provisions of paragraph (1) apply *mutatis mutandis* where any of the following events occurs with regard to the rehabilitation debtor set forth in the same paragraph:
 - (i) an order of revocation of the order to commence rehabilitation proceedings, an order of discontinuance of rehabilitation proceedings or an order of

- confirmation or disconfirmation of the rehabilitation plan becomes final and binding;
- (ii) an order of revocation of the rehabilitation plan becomes final and binding (limited to cases where rehabilitation proceedings have not yet been closed);
 - (iii) rehabilitation proceedings are completed as a result of an order of completion of rehabilitation proceedings.
- (6) A registrar, when making a registration of the commencement of rehabilitation proceedings pursuant to the provisions of paragraph (1), by the registrar's own authority, must cancel a registration of the commencement of special liquidation against the rehabilitation debtor, if there is any such registration.
- (7) A registrar, when making a registration of the revocation of an order to commence rehabilitation proceedings pursuant to the provisions of paragraph (5), item (i), by the registrar's own authority, must restore a registration cancelled under the provisions of the preceding paragraph, if there is any relevant registration.
- (8) The provisions of paragraph (6) apply mutatis mutandis to a registration of the commencement of bankruptcy proceedings in the case of making a registration of the confirmation of the rehabilitation plan pursuant to the provisions of paragraph (5), item (i).

(Commission of Registration on Registered Rights)

Article 12 (1) In the following cases, a court clerk by their own authority, must without delay commission a registration of the provisional remedy disposition concerned:

- (i) where a provisional remedy disposition under the provisions of Article 30, paragraph (1) (including cases where applied mutatis mutandis pursuant to Article 36, paragraph (2)) is issued with respect to any registered right that belongs to the rehabilitation debtor's assets (meaning any and all assets held by the rehabilitation debtor; the same applies hereinafter);
 - (ii) where a provisional remedy disposition under the provisions of Article 134-2, paragraph (1) (including cases where applied mutatis mutandis pursuant to paragraph (7) of the same Article) or Article 142, paragraph (1) or (2) is issued with respect to any registered right.
- (2) The provisions of the preceding paragraph apply mutatis mutandis where the provisional remedy disposition prescribed in the same paragraph is changed or revoked or the provisional remedy disposition ceases to be effective.
- (3) Where an order to commence rehabilitation proceedings is made, a court clerk, when they become aware that there is a registration under the provisions of Article 938, paragraph (3) of the Companies Act (including cases where applied mutatis mutandis pursuant to paragraph (4) of the same Article) with regard

to any registered right that belongs to the rehabilitation debtor's assets, must commission cancellation of the registration by their own authority without delay.

- (4) Where a registration is cancelled under the provisions of the preceding paragraph, when an order to revoke the order to commence rehabilitation proceedings has become final and binding, a court clerk, must commission restoration of the registration cancelled under the provisions of the same paragraph by the court's authority without delay.
- (5) The provisions of paragraph (3) apply mutatis mutandis where an order of confirmation of the rehabilitation plan has become final and binding, and a court clerk has become aware that there is a registration of the commencement of bankruptcy proceedings involving any registered right that belongs to the rehabilitation debtor's assets.

(Registration of Avoidance)

Article 13 (1) Where any act constituting the cause of registration is avoided, a supervisor or trustee must apply for a registration of avoidance. The same applies when a registration is avoided.

- (2) A registrar, when making a registration on a right regarding the registration of avoidance set forth in the preceding paragraph, by the registrar's own authority, must cancel the following registrations:
 - (i) the registration of avoidance in question;
 - (ii) the registration arising from the avoided act as the cause of registration, or the avoided registration;
 - (iii) any subsequent registration made after the registration set forth in the preceding item.
- (3) In the case prescribed in the preceding paragraph, if, after any act is avoided until a registration of avoidance is made, a registration is made with respect to a third party's right (limited to a right whose effect may be asserted in relation to rehabilitation proceedings) the subject matter of which is the right regarding the registration set forth in item (ii) of the same paragraph, notwithstanding the provisions of the same paragraph, a registrar, by their own authority, must cancel the relevant registration of avoidance and make a registration of the transfer of the right regarding the registration set forth in the same item to the rehabilitation debtor.
- (4) Where a registration of avoidance set forth in paragraph (1) is made, if, with regard to the rehabilitation debtor, an order of confirmation of the rehabilitation plan becomes final and binding, a court clerk must, by the court's own authority and without delay, commission cancellation of the relevant registration of avoidance.
- (5) In the case prescribed in the preceding paragraph, a registrar, when

commissioned by a court clerk to cancel the registration of avoidance, must cancel the registration listed in paragraph (2), items (ii) and (iii) by their own authority. In this case, if, after any act is avoided until a registration of avoidance is made, a registration is made with respect to a third party's right, the subject matter of which is the right regarding the registration set forth in item (ii) of the same paragraph, a registrar, by the registrar's own authority, must make a registration of the transfer of the right regarding the registration set forth in item (ii) of the same paragraph to the rehabilitation debtor, instead of canceling the registration listed in items (ii) and (iii) of the same paragraph.

(6) Where a registration of avoidance set forth in paragraph (1) is made, if, with regard to the rehabilitation debtor, an order of revocation of the order to commence rehabilitation proceedings or an order of disconfirmation of the rehabilitation plan becomes final and binding, or an order of discontinuance of rehabilitation proceedings becomes final and binding before an order of confirmation of the rehabilitation plan becomes final and binding, a court clerk must, by the court's own authority and without delay, commission cancellation of the relevant registration of avoidance.

(Exemption from Taxation)

Article 14 Registration and license tax is not imposed on the registrations under the provisions of the preceding three Articles.

(Application Mutatis Mutandis to Registered Rights)

Article 15 The provisions of the preceding three Articles apply mutatis mutandis to registered rights.

(Inspection of Case Documents)

Article 16 (1) An interested person, pursuant to the provisions of this Act (including other Acts as applied mutatis mutandis pursuant to this Act), may make a request to a court clerk for the inspection of documents and any other items (hereinafter referred to as "documents, etc." in this Article and paragraph (1) of the following Article) submitted to the court or prepared by the court.

(2) An interested person may make a request to a court clerk for the copying of documents, etc., issuance of an authenticated copy, transcript or extract of documents, etc. or issuance of a certificate of particulars concerning the case in question.

(3) The provisions of the preceding paragraph do not apply with respect to documents, etc. which are prepared in the form of audiotapes or videotapes (including material on which certain particulars are recorded by any means equivalent thereto). In this case, upon the request of an interested person with

regard to these items, a court clerk must permit reproduction thereof.

- (4) Notwithstanding the provisions of the preceding three paragraphs, a person set forth in each of the following items may not make a request under the provisions of the preceding three paragraphs until the order, provisional remedy disposition, disposition or judicial decision specified in the respective items is issued or made; provided, however, that this does not apply where the person in question is a petitioner to commence rehabilitation proceedings:
- (i) an interested person other than the rehabilitation debtor: A stay order under the provisions of Article 26, paragraph (1), prohibition order pursuant to the provisions of Article 27, paragraph (1), provisional remedy disposition under the provisions of Article 30, paragraph (1), stay order under the provisions of Article 31, paragraph (1), disposition under the provisions of Article 54, paragraph (1) or Article 79, paragraph (1), provisional remedy disposition under the provisions of Article 134-2, paragraph (1), stay order under the provisions of Article 197, paragraph (1) or judicial decision on a petition to commence rehabilitation proceedings;
 - (ii) the rehabilitation debtor: A judicial decision to designate the date for oral argument or date for interrogation on which the rehabilitation debtor is to be summoned to appear with respect to a petition to commence rehabilitation proceedings, or any order, provisional remedy disposition, disposition or judicial decision specified in the preceding item.

(Restriction on Inspection of Detrimental Parts of Documents)

- Article 17 (1) Where with regard to the following documents, etc., a prima facie showing is made to the effect that the documents, etc. in question contain a part that is likely to be significantly detrimental to maintaining or the rehabilitation of the rehabilitation debtor's business or serious damage to the rehabilitation debtor's assets if it is subject to the inspection or copying, issuance of an authenticated copy, transcript or extract, or reproduction (hereinafter referred to as "inspection, etc." in this Article) conducted by an interested person (the part of documents, etc. is hereinafter referred to as the "detrimental part" in this Article), the court, upon the petition of the rehabilitation debtor, etc. (or a temporary administrator if any temporary administrator is appointed; hereinafter the same applies in this paragraph and the following paragraph) who submitted the documents, etc. in question, a supervisor, examiner or individual rehabilitation commissioner, may limit persons who may make a request for inspection, etc. of the detrimental part to the persons who have filed the petition and the rehabilitation debtor, etc.:
- (i) documents, etc. submitted to the court for the purpose of obtaining permission under Article 41, paragraph (1) (including cases where applied mutatis mutandis pursuant to Article 81, paragraph (3)), Article 42,

- paragraph (1), Article 56, paragraph (5) or the proviso to Article 81, paragraph (1);
- (ii) documents, etc. pertaining to the report of the results of the investigation prescribed in Article 62, paragraph (2) or Article 223, paragraph (3) (including cases where applied mutatis mutandis pursuant to Article 244) or the report under the provisions of Article 125, paragraph (2) or (3).
- (2) When the petition set forth in the preceding paragraph is filed, no interested person (excluding the person who filed the petition set forth in the same paragraph and the rehabilitation debtor, etc.; the same applies in the following paragraph) may make a request for inspection, etc. of the detrimental part until a judicial decision on the petition becomes final and binding.
- (3) An interested person who intends to make a request for inspection, etc. of the detrimental part may file a petition to the rehabilitation court for revocation of the order made under the provisions of paragraph (1), on the grounds that the requirement prescribed in the same paragraph is not met or is no longer met.
- (4) An immediate appeal may be filed against an order to dismiss without prejudice the petition set forth in paragraph (1) and a judicial decision on the petition set forth in the preceding paragraph.
- (5) An order to revoke the order made under the provisions of paragraph (1) does not become effective unless it becomes final and binding.

(Application Mutatis Mutandis of the Code of Civil Procedure)

Article 18 The provisions of the Code of Civil Procedure apply mutatis mutandis to rehabilitation proceedings, etc., except as otherwise provided.

(Rules of the Supreme Court)

Article 19 Beyond what is provided for in this Act, the necessary particulars concerning rehabilitation proceedings are specified by the Rules of the Supreme Court.

Article 20 Deleted

Chapter II Commencement of Rehabilitation Proceedings

Section 1 Petition to Commence Rehabilitation Proceedings

(Petition to Commence Rehabilitation Proceedings)

Article 21 (1) When there is the risk that a fact constituting the grounds to commence bankruptcy proceedings would occur to a debtor, the debtor may file a petition to commence rehabilitation proceedings to the court. The same applies when a debtor is unable to pay debts that are due without causing significant hindrance to business continuation.

(2) In the case prescribed in the first sentence of the preceding paragraph, a creditor may also file a petition to commence rehabilitation proceedings.

(Obligation to File a Petition to Commence Bankruptcy Proceedings and Filing of Petition to Commence Rehabilitation Proceedings)

Article 22 Even where, pursuant to the provisions of other Acts, a corporation's director or any other person equivalent thereto files a petition to commence bankruptcy proceedings or special liquidation against the corporation, these provisions do not preclude these persons from filing a petition to commence rehabilitation proceedings.

(Prima Facie Showings)

Article 23 (1) When filing a petition to commence rehabilitation proceedings, a petitioner must make a prima facie showing of the fact constituting the grounds to commence rehabilitation proceedings.

(2) A creditor, when filing a petition set forth in the preceding paragraph, must also make a prima facie showing of the existence of the claim held thereby.

(Prepayment of Expenses)

Article 24 (1) When filing a petition to commence rehabilitation proceedings, a petitioner must prepay an amount designated by the court as expenses for rehabilitation proceedings.

(2) An immediate appeal may be filed against an order on prepayment of expenses.

(Hearing of Opinions)

Article 24-2 Where a petition to commence rehabilitation proceedings is filed, the court, before making an order on the relevant petition, must hear opinions of the labor union, etc. (meaning the labor union consisting of the majority of the rehabilitation debtor's employees and other workers, if there is any relevant labor union, or the person representative of the majority of the rehabilitation debtor's employees and other workers, if there is no labor union consisting of the majority of the rehabilitation debtor's employees and other workers; the same applies hereinafter, except in Article 246, paragraph (3)), except where it is obvious that the court should dismiss the relevant petition with prejudice on the merits or make an order to commence rehabilitation proceedings.

(Conditions to Commence Rehabilitation Proceedings)

Article 25 In any of the following cases, the court must dismiss with prejudice on the merits a petition to commence rehabilitation proceedings:

- (i) where expenses for rehabilitation proceedings are not prepaid;
- (ii) where bankruptcy proceedings or special liquidation proceedings are pending before the court, and enforcing either proceedings conforms to the common interests of creditors;
- (iii) where it is obvious that a proposed rehabilitation plan is unlikely to be prepared or approved or a rehabilitation plan is unlikely to be confirmed;
- (iv) where the petition to commence rehabilitation proceedings is filed for an unjustifiable purpose or it is not filed in good faith.

(Stay Orders for Other Procedures and Proceedings)

Article 26 (1) Where a petition to commence rehabilitation proceedings is filed, the court, when it finds it necessary, upon the petition of an interested person or by its own authority, may order a stay of the following procedures, proceedings or dispositions until an order is made on the petition to commence rehabilitation proceedings; provided, however, that this only applies, in the case of the procedure set forth in item (ii) or the disposition set forth in item (v), if the stay order is not likely to cause undue damage to the rehabilitation creditor who filed the petition for the procedure or the person who made the disposition:

- (i) bankruptcy proceedings or special liquidation proceedings against the rehabilitation debtor;
- (ii) procedure for compulsory execution, provisional seizure or provisional disposition which is based on a rehabilitation claim or auction by reason of a right of retention (excluding a right of retention under the provisions of the Commercial Code (Act No. 48 of 1899) or the Companies Act) which is intended to secure a rehabilitation claim, etc. (hereinafter referred to as "compulsory execution based on a rehabilitation claim, etc." in the following Article, and Articles 29 and 39), already initiated against the rehabilitation debtor's assets;
- (iii) court proceedings relating to the rehabilitation debtor's assets;
- (iv) procedure for a case relating to the rehabilitation debtor's assets that is pending before an administrative agency;
- (v) disposition to be made by the same procedure as that for making a disposition of national tax delinquency (the disposition is hereinafter referred to as a "disposition of foreign tax delinquency based on a rehabilitation claim"), based on a claim for a foreign tax subject to mutual assistance (hereinafter referring to the foreign tax subject to mutual assistance prescribed in Article 11, paragraph (1) of the Act on Special Provisions of the Income Tax Act, the Corporation Tax Act and the Local Tax Act Attendant upon the Enforcement of Tax Treaties (Act No. 46 of 1969; hereinafter referred to as the "Act on Special Provisions for the Enforcement

- of Tax Treaties "); the same applies hereinafter) that is a rehabilitation claim, which has already been initiated against the rehabilitation debtor's assets.
- (2) The court may change or revoke a stay order issued under the provisions of the preceding paragraph.
 - (3) When the court finds it particularly necessary for the continuation of the rehabilitation debtor's business, upon the petition of the rehabilitation debtor (or a temporary administrator if any temporary administrator is appointed), it may order the revocation of the procedure stayed pursuant to the provisions of paragraph (1), item (ii) or the disposition stayed pursuant to the provisions of item (v) of the same paragraph, while requiring security to be provided.
 - (4) An immediate appeal may be filed against a stay order issued under the provisions of paragraph (1), an order made under the provisions of paragraph (2) and a revocation order issued under the provisions of the preceding paragraph.
 - (5) The immediate appeal set forth in the preceding paragraph does not have the effect of a stay of execution.
 - (6) Where a judicial decision prescribed in paragraph (4) and a judicial decision on the immediate appeal set forth in the same paragraph are made, the written decisions must be served upon the parties concerned.

(Comprehensive Prohibitory Injunction on Compulsory Execution Based on Rehabilitation Claims)

- Article 27 (1) Where a petition to commence rehabilitation proceedings is filed, if there are special circumstances where the court finds the risk that it would be impossible to achieve the purpose of the rehabilitation proceedings satisfactorily by only issuing a stay order under the provisions of paragraph (1) of the preceding Article, the court, upon the petition of an interested person or by its own authority, may issue an order to prohibit all rehabilitation creditors from enforcing, against the rehabilitation debtor's assets, compulsory execution based on a rehabilitation claim, etc. and disposition of foreign tax delinquency based on a rehabilitation claim, until an order is made on the petition to commence rehabilitation proceedings; provided, however, that this applies only where the court, in advance or simultaneously, issues a provisional remedy disposition under the provisions of Article 30, paragraph (1) with respect to the rehabilitation debtor's principal assets or disposition under the provisions of Article 54, paragraph (1) or Article 79, paragraph (1).
- (2) Where a prohibition order under the provisions of the preceding paragraph (hereinafter referred to as a "comprehensive prohibitory injunction") is issued, the procedure for compulsory execution based on a rehabilitation claim, etc. and disposition of foreign tax delinquency based on a rehabilitation claim, which have already been initiated against the rehabilitation debtor's assets, is

stayed until an order is made on the petition to commence rehabilitation proceedings.

- (3) The court may change or revoke a comprehensive prohibitory injunction.
- (4) When the court finds it particularly necessary for the continuation of the rehabilitation debtor's business, upon the petition of the rehabilitation debtor (or a temporary administrator if any temporary administrator is appointed), it may order revocation of the procedure for compulsory execution based on a rehabilitation claim, etc. or disposition of foreign tax delinquency based on a rehabilitation claim which has been stayed pursuant to the provisions of paragraph (2), while requiring security to be provided.
- (5) An immediate appeal may be filed against a comprehensive prohibitory injunction an order made under the provisions of paragraph (3) and a revocation order issued under the provisions of the preceding paragraph.
- (6) The immediate appeal set forth in the preceding paragraph does not have the effect of stay of execution.
- (7) When a comprehensive prohibitory injunction is issued, the prescription will not be completed with regard to a rehabilitation claim until the day on which two months have elapsed since the day following the day on which the comprehensive prohibition order ceases to be effective.

(Public Notice and Service Concerning Comprehensive Prohibitory Injunction)

Article 28 (1) Where a comprehensive prohibitory injunction is issued and an order to change or revoke the relevant order is made, a public notice will be made to that effect, the written orders will be served upon the rehabilitation debtor (or a temporary administrator if any temporary administrator is appointed; the same applies in the following paragraph) and the petitioner, and a notice of the main text of the respective order must be given to known rehabilitation creditors and the rehabilitation debtor (limited to cases where a temporary administrator is appointed).

- (2) A comprehensive prohibitory injunction and an order to change or revoke the relevant order become effective as of the time when the written judgment are served upon the rehabilitation debtor.
- (3) Where a revocation order under the provisions of paragraph (4) of the preceding Article is issued and a judicial decision on an immediate appeal set forth in paragraph (5) of the same Article (excluding an order to change or revoke a comprehensive prohibitory injunction) is made, the written judgment must be served upon the parties concerned.

(Cancellation of a Comprehensive Prohibitory Injunction)

Article 29 (1) When the court finds after issuing a comprehensive prohibitory injunction that the order is likely to cause undue damage to a rehabilitation

creditor who filed a petition for compulsory execution based on a rehabilitation claim, etc. or a person who made a disposition of foreign tax delinquency based on a rehabilitation claim (hereinafter referred to as a "rehabilitation creditor, etc." in this paragraph), upon the petition of the relevant rehabilitation creditor, etc., the court may make an order that the comprehensive prohibitory injunction be cancelled only with regard to the relevant creditor, etc. In this case, the creditor, etc. may enforce compulsory execution based on a rehabilitation claim, etc. or disposition of foreign tax delinquency based on a rehabilitation claim against the debtor's assets, and any procedure for compulsory execution based on a rehabilitation claim, etc. or disposition of foreign tax delinquency based on a rehabilitation claim which has been initiated by the relevant creditor, etc. prior to the issuance of the comprehensive prohibitory injunction is continued.

- (2) For the purpose of application of the provisions of Article 27, paragraph (7) to a person who obtains a cancellation order under the provisions of the preceding paragraph, the phrase "the day on which the comprehensive prohibition order ceases to be effective" in Article 27, paragraph (7) is deemed to be replaced with "the day on which a cancellation order under the provisions of Article 29, paragraph (1) is made."
- (3) An immediate appeal may be filed against a judicial decision on the petition set forth in paragraph (1).
- (4) The immediate appeal set forth in the preceding paragraph does not have the effect of stay of execution.
- (5) Where a judicial decision on the petition set forth in paragraph (1) and a judicial decision on the immediate appeal set forth in paragraph (3) are made, the written judgment must be served upon the parties concerned. In this case, the provisions of the main clause of Article 10, paragraph (3) do not apply.

(Provisional Seizure, Provisional Disposition and Provisional Remedy Disposition)

- Article 30 (1) Where a petition to commence rehabilitation proceedings is filed, the court, upon the petition of an interested person or by its own authority, may order a provisional seizure or provisional disposition or issue any other necessary provisional remedy disposition concerning the rehabilitation debtor's business and assets until an order is made on the petition to commence rehabilitation proceedings.
- (2) The court may change or revoke a provisional remedy disposition issued under the provisions of the preceding paragraph.
 - (3) An immediate appeal may be filed against a provisional remedy disposition issued under the provisions of paragraph (1) and an order made under the provisions of the preceding paragraph.

- (4) The immediate appeal set forth in the preceding paragraph does not have the effect of stay of execution.
- (5) Where a judicial decision prescribed in paragraph (3) and a judicial decision on the immediate appeal set forth in the same paragraph are made, the written decisions must be served upon the parties concerned. In this case, the provisions of the main clause of Article 10, paragraph (3) do not apply.
- (6) Where the court, pursuant to the provisions of paragraph (1), has issued a provisional remedy disposition to prohibit the rehabilitation debtor from making payment to a rehabilitation creditor or conducting any other act with the rehabilitation creditor to cause the debt to be extinguished, the rehabilitation creditor may not assert, in relation to the rehabilitation proceedings, the effect of the payment or any other act to cause the debt to be extinguished, which is made or conducted in violation of the provisional remedy disposition ; provided, however, that this applies only if the rehabilitation creditor knows, at the time of commission of the act, the fact that the provisional remedy disposition was issued.

(Stay Order for Procedures for the Exercise of Interest Security)

- Article 31 (1) Where a petition to commence rehabilitation proceedings is filed, the court, upon the petition of an interested person or by its own authority, may specify a reasonable period and order a stay of the procedure for the exercise of any security interest that exists on the rehabilitation debtor's assets prescribed in Article 53, paragraph (1), when it finds that the stay conforms to the common interest of rehabilitation creditors and is not likely to cause undue damage to the auction applicant; provided, however, that this does not apply where the claim secured by that interest security is a common benefit claim or claim with general priority.
- (2) When issuing a stay order under the provisions of the preceding paragraph, the court must hear opinions of the auction applicant.
 - (3) The court may change or revoke a stay order issued under the provisions of paragraph (1).
 - (4) Against a stay order under the provisions of paragraph (1) and an order to change the order under the provisions of the preceding paragraph, only the auction applicant may file an immediate appeal.
 - (5) The immediate appeal set forth in the preceding paragraph does not have the effect of stay of execution.
 - (6) Where a judicial decision prescribed in paragraph (4) and a judicial decision on the immediate appeal set forth in the same paragraph are made, the written judgment must be served upon the parties concerned. In this case, the provisions of the main clause of Article 10, paragraph (3) do not apply.

(Restrictions on the Withdrawal of a Petition to Commence Rehabilitation Proceedings)

Article 32 A person who has filed a petition to commence rehabilitation proceedings may withdraw the petition only prior to an order to commence rehabilitation proceedings being made. In this case, after a stay order under the provisions of Article 26, paragraph (1), a comprehensive prohibitory injunction, provisional remedy disposition under the provisions of Article 30, paragraph (1), stay order under the provisions of paragraph (1) of the preceding Article, disposition under the provisions of Article 54, paragraph (1) or Article 79, paragraph (1), provisional remedy disposition under the provisions of Article 134-2, paragraph (1) or stay order under the provisions of Article 197, paragraph (1) is issued or made, permission of the court is required.

Section 2 Order to Commence Rehabilitation Proceedings

(Order to Commence Rehabilitation Proceedings)

Article 33 (1) Where a petition to commence rehabilitation proceedings that meets the requirement prescribed in Article 21 is filed, the court makes an order to commence rehabilitation proceedings, except where it dismisses the petition with prejudice on the merits pursuant to the provisions of Article 25.
(2) The order set forth in the preceding paragraph becomes effective as of the time when it is made.

(Particulars to Be Specified upon Making an Order to Commence Rehabilitation Proceedings)

Article 34 (1) The court, upon making an order to commence rehabilitation proceedings, must specify a period during which proofs of rehabilitation claims should be filed and the period for conducting an investigation of rehabilitation claims.
(2) In the case referred to in the preceding paragraph, the court, if there are 1,000 or more known rehabilitation creditors and it finds it appropriate, may make an order not to give a notice to rehabilitation creditors under the provisions of paragraph (3), item (i) of the following Article, as applied mutatis mutandis pursuant to the main clause of paragraph (5) of the same Article, and the provisions of the main clause of Article 37, and not to summon, on the date of a creditors meeting (excluding one aimed at adopting a resolution on a proposed rehabilitation plan), holders of filed rehabilitation claims prescribed in Article 102, paragraph (1).

(Public Notice of Commencement of Rehabilitation Proceedings)

Article 35 (1) When the court has made an order to commence rehabilitation proceedings, it must immediately make a public notice of the following particulars; provided, however, that when there is no bond administrator, etc. prescribed in Article 169-2, paragraph (1), a public notice of the particulars set forth in item (iii) is not required:

- (i) the main text of the order to commence rehabilitation proceedings;
- (ii) the periods specified pursuant to the provisions of paragraph (1) of the preceding Article;
- (iii) a statement to the effect that where there is any bond administrator, etc. prescribed in Article 169-2, paragraph (1) with regard to company bonds, etc. prescribed in Article 169-2, paragraph (1) issued by the rehabilitation debtor, rehabilitation creditors may not exercise their voting rights based on the company bonds, etc. except in any of the cases listed in the items of the same paragraph (excluding the case set forth in paragraph (3) of the same Article).

(2) When an order set forth in paragraph (2) of the preceding Article is made, the court, beyond the particulars listed in the items of the preceding paragraph, must make a public notice to the effect that it will not give a notice to rehabilitation creditors under the provisions of item (i) of the following paragraph, as applied mutatis mutandis pursuant to the main clause of paragraph (5), and the provisions of the main clause of Article 37, and also will not summon holders of filed rehabilitation claims prescribed in Article 102, paragraph (1) on the date of a creditors meeting (excluding one aimed for adopting a resolution on a proposed rehabilitation plan).

(3) The following persons must be given a notice of the particulars of which a public notice should be made pursuant to the provisions of the preceding two paragraphs:

- (i) the rehabilitation debtor, and known rehabilitation creditors;
- (ii) a supervisor, trustee or temporary administrator in cases where a disposition is made under the provisions of Article 54, paragraph (1), Article 64, paragraph (1) or the first sentence of Article 79, paragraph (1), respectively.

(4) Notwithstanding the provisions of the preceding paragraph, when it is obvious that the rehabilitation debtor is unable to pay off debts using assets with regard to claims that take preference over consensually-subordinated rehabilitation claims (meaning a claim for which the rehabilitation creditor and the rehabilitation debtor, prior to the commencement of rehabilitation proceedings, reach an agreement to the effect that if bankruptcy proceedings are commenced against the rehabilitation debtor, the claim will be subordinated to a subordinate bankruptcy claim prescribed in Article 99, paragraph (1) of the Bankruptcy Act (Act No. 75 of 2004) in the order of priority for receiving a liquidating distribution in the bankruptcy proceedings;

the same applies hereinafter), the notice under the provisions of the preceding paragraph is not required to be given to the holders of the consensually-subordinated rehabilitation claims if they are known.

- (5) The provisions of paragraph (1), item (ii), paragraph (3), item (i) and the preceding paragraph apply mutatis mutandis where there is a change to the period during which proofs of rehabilitation claims should be filed as specified pursuant to the provisions of paragraph (1) of the preceding Article; provided, however, that when an order set forth in paragraph (2) of the same Article is made, the notice is not required to be given to known rehabilitation creditors.

(Appeals against Rulings)

Article 36 (1) An immediate appeal may be filed against a judicial decision on a petition to commence rehabilitation proceedings.

- (2) The provisions of Articles 26 through 30 apply mutatis mutandis where an immediate appeal set forth in the preceding paragraph is filed against an order to dismiss with prejudice on the merits a petition to commence rehabilitation proceedings.

(Revocation of an Order of Commencement of Rehabilitation Proceedings)

Article 37 The court that has made an order to commence rehabilitation proceedings, if an immediate appeal set forth in paragraph (1) of the preceding Article is filed and an order to revoke the relevant order becomes final and binding, must immediately make a public notice of the main text of the revocation order and give a notice of the main text thereof to the persons listed in the items of Article 35, paragraph (3) (excluding a temporary administrator and the persons who are not given a notice under the provisions of paragraph (4) of the same Article); provided, however, that when an order set forth in Article 34, paragraph (2) is made, the notice is not required to be given to known rehabilitation creditors.

(Status of Rehabilitation Debtors)

Article 38 (1) A rehabilitation debtor, even after a rehabilitation proceeding is commenced against them, has the right to carry out their business or administer or dispose of their assets (irrespective of whether or not it exists in Japan; the same applies in Article 66 and Article 81, paragraph (1)).

- (2) Where a rehabilitation proceeding is commenced, the rehabilitation debtor has the obligation, vis-a-vis creditors, to exercise the right set forth in the preceding paragraph and conduct rehabilitation proceedings in a fair and sincere manner.

- (3) The provisions of the preceding two paragraphs do not apply where a disposition under the provisions of Article 64, paragraph (1) is made.

(Stay of Other Procedures and Proceedings)

Article 39 (1) Where an order to commence rehabilitation proceedings is made, filing a petition to commence bankruptcy proceedings, commence rehabilitation proceedings or commence special liquidation, enforcing compulsory execution based on a rehabilitation claim, etc. or disposition of foreign tax delinquency based on a rehabilitation claim against the rehabilitation debtor, or filing a petition for an asset disclosure procedure based on a rehabilitation claim is not allowed, and the bankruptcy proceedings, the procedure for compulsory execution based on a rehabilitation claim, etc. and disposition of foreign tax delinquency based on a rehabilitation claim and the asset disclosure procedure based on a rehabilitation claim, which have already been initiated against the rehabilitation debtor, are stayed, and the special liquidation proceedings cease to be effective.

(2) When the court finds it unlikely to cause hindrance to rehabilitation, upon the petition of the rehabilitation debtor, etc. or by its own authority, it may order the continuation of the procedure for compulsory execution based on a rehabilitation claim, etc. or disposition of foreign tax delinquency based on a rehabilitation claim, which has been stayed pursuant to the provisions of the preceding paragraph, and when it finds it necessary for rehabilitation, upon the petition of the rehabilitation debtor, etc. or by its own authority, may order the revocation of the stayed procedure for compulsory execution based on a rehabilitation claim, etc. or disposition of foreign tax delinquency based on a rehabilitation claim, while requiring or not requiring the provision of security.

(3) When an order to commence rehabilitation proceedings is made, the following claims are common benefit claims:

(i) a priority claim on the bankruptcy estate involved in the bankruptcy proceedings stayed pursuant to the provisions of paragraph (1) (excluding the claim set forth in Article 148, paragraph (1), item (iii) of the Bankruptcy Act, and including the claims prescribed in Article 55, paragraph (2) and Article 148, paragraph (4) of the same Act in cases where bankruptcy proceedings are not commenced);

(ii) a claim arising against the rehabilitation debtor from the proceedings that cease to be effective pursuant to the provisions of paragraph (1), and a claim for expenses against the rehabilitation debtor with respect to the proceedings;

(iii) a claim for expenses against the rehabilitation debtor with respect to the procedure continued pursuant to the provisions of the preceding paragraph.

(4) When an order to commence rehabilitation proceedings is made, the prescription for a fine, petty fine and collection of equivalent value does not run until the rehabilitation proceedings are closed (when an order of

confirmation of the rehabilitation plan is made, the prescription does not run until the payment period specified in the rehabilitation plan as prescribed in Article 181, paragraph (2) expires (or until payment based on the rehabilitation plan is completed or the rehabilitation plan is revoked, if these events occur prior to the expiration of the period)); provided, however, that this does not apply where the claim for the fine, petty fine or collection of equivalent value in question is a common benefit claim.

(Discontinuation of an Action)

Article 40 (1) When an order to commence rehabilitation proceedings is made, any action relating to the rehabilitation debtor's assets and also relating to a rehabilitation claim is discontinued.

(2) If the rehabilitation proceedings are closed before there is a substitution in the action prescribed in the preceding paragraph is subject to substitution under the provisions of Article 107, paragraph (1), Article 109, paragraph (2) (including cases where applied mutatis mutandis pursuant to the second sentence of Article 113, paragraph (2)) or Article 213, paragraph (5) (including cases where applied mutatis mutandis pursuant to Article 219, paragraph (2)), the rehabilitation debtor is automatically substituted in the action.

(3) The provisions of the preceding two paragraphs apply mutatis mutandis to a case relating to the rehabilitation debtor's assets and also relating to a rehabilitation claim, which is pending before an administrative agency at the time to commence rehabilitation proceedings.

(Handling of Actions By the Subrogee)

Article 40-2 (1) If an action filed by a rehabilitation creditor pursuant to the provisions of Article 423 or 424 of the Civil Code (Act No. 89 of 1896), action of avoidance or action of objection to an order upholding a request for avoidance filed under the provisions of the Bankruptcy Act is pending at the time to commence of rehabilitation proceedings, the respective action is discontinued.

(2) The rehabilitation debtor, etc. may substitute for a party in the action discontinued pursuant to the provisions of the preceding paragraph, which is filed by a rehabilitation debtor pursuant to the provisions of Article 423 of the Civil Code. In this case, a petition for the substitution in an action may also be filed by the opponent.

(3) In the case referred to in the preceding paragraph, the opponent's claim for court costs against the rehabilitation creditor is classed as a common benefit claim.

(4) If the rehabilitation proceedings are closed after the action prescribed in paragraph (2) was subject to substitution under the provisions of the same paragraph, the action will be discontinued except where it has been

discontinued pursuant to the provisions of Article 68, paragraph (2) as applied mutatis mutandis pursuant to paragraph (4) of the same Article.

- (5) In the case referred to in the preceding paragraph, the rehabilitation creditor must substitute for a party in the action. In this case, a petition for the substitution in an action may also be filed by the opponent.
- (6) If the rehabilitation proceedings are closed after the action prescribed in paragraph (2) was discontinued pursuant to the provisions of Article 68, paragraph (2) as applied mutatis mutandis pursuant to paragraph (4) of the same Article, notwithstanding the provisions of paragraph (3) of the same Article as applied mutatis mutandis pursuant to paragraph (4) of the same Article, the rehabilitation creditor must substitute for a party in the action. In this case, a petition for the substitution in the action may also be filed by the opponent.
- (7) If the rehabilitation proceedings are closed before there is a substitution under the provisions of paragraph (1) in the action discontinued, is subject to substitution under the provisions of paragraph (2) or Article 140, paragraph (1), the rehabilitation creditor or bankruptcy trustee is automatically substituted in the action.

(Restriction on Actions of the Rehabilitation Debtor)

- Article 41 (1) When the court finds it necessary after the commencement of rehabilitation proceedings, it may require the rehabilitation debtor, etc. to obtain permission of the court in order to conduct the following acts:
- (i) disposition of assets;
 - (ii) acceptance of the transfer of assets;
 - (iii) borrowing of money;
 - (iv) cancellation of a contract under the provisions of Article 49, paragraph (1);
 - (v) filing of an action;
 - (vi) settlement or arbitration agreement (meaning an arbitration agreement prescribed in Article 2, paragraph (1) of the Arbitration Act (Act No. 138 of 2003));
 - (vii) waiver of a right;
 - (viii) admittance of a common benefit claim, claim with general priority or right of segregation prescribed in Article 52;
 - (ix) redemption of the collateral for a right of separate satisfaction;
 - (x) any other act designated by the court.
- (2) Any act conducted without the permission set forth in the preceding paragraph is void; provided, however, that this may not be asserted against a third party which has acted in good faith.

(Transfer of Operations)

Article 42 (1) After the commencement of rehabilitation proceedings, the rehabilitation debtor, etc. must obtain permission of the court in order to transfer the entirety or a significant part of the rehabilitation debtor's operations or business. In this case, the court may grant permission only when it finds it necessary for the rehabilitation of the rehabilitation debtor's business.

(2) When granting the permission set forth in the preceding paragraph, the court must hear opinions of known rehabilitation creditors (in cases where the rehabilitation debtor, at the time of commencement of rehabilitation proceedings, is unable to pay their debts in full with their assets with regard to claims that take preference over consensually-subordinated rehabilitation claims, the holders of the consensually-subordinated rehabilitation claims are excluded). In this case, if there is a creditors committee prescribed in Article 117, paragraph (2), hearing the opinions of the committee will be sufficient.

(3) When granting the permission set forth in paragraph (1), the court must hear the opinions of the labor union, etc.

(4) The provisions of paragraph (2) of the preceding Article apply mutatis mutandis to any act conducted without the permission set forth in paragraph (1).

(Permission in lieu of Approval based on a Resolution at a Shareholders Meeting Regarding a Business Transfer)

Article 43 (1) If the rehabilitation debtor that is a stock company, after the commencement of rehabilitation proceedings, is unable to pay its debts in full with its assets, the court, upon the petition of the rehabilitation debtor, etc., may grant permission in lieu of approval based on a resolution at a shareholders meeting prescribed in Article 467, paragraph (1) of the Companies Act, with regard to the transfer of the all business of the rehabilitation debtor's business or the transfer of a significant part of the business prescribed in paragraph (1), item (ii) of the same Article; provided, however, that this applies only when the transfer of all business or transfer of a significant part of the business is necessary for the continuation of the relevant business.

(2) Where an order of permission set forth in the preceding paragraph (hereinafter referred to as a "substituted permission" in this Article) is made, the written judgment must be served upon the rehabilitation debtor, etc., and a document stating the outline of the order must be served upon shareholders.

(3) An order of substituted permission becomes effective as of the time when the service to the rehabilitation debtor, etc. under the provisions of the preceding paragraph is made.

(4) Service to shareholders under the provisions of paragraph (2) is made to a

- shareholder's address specified or recorded in the shareholder registry or any other place which a shareholder has notified the rehabilitation debtor of, by sending the necessary documents by ordinary mail or by mail services as prescribed in Article 2, paragraph (2) of the Act on Correspondence Delivery by Private Business Operators (Act No. 99 of 2002) that are provided by a regular letter delivery service prescribed in paragraph (6) of the same Article or specified letter delivery service prescribed in paragraph (9) of the same Article.
- (5) Where service has been made under the provisions of the preceding paragraph, the service is deemed to have been made at the time when the postal item or the letter item prescribed in Article 2, paragraph (3) of the Act on Correspondence Delivery by Private Business Operators (hereinafter referred to as a "postal item, etc.") sent thereby should have normally arrived.
- (6) A shareholder may file an immediate appeal against an order of substituted permission.
- (7) The immediate appeal set forth in the preceding paragraph does not have the effect of stay of execution.
- (8) The provisions of Articles 469 and 470 of the Companies Act do not apply where the transfer of the entire business or transfer of a significant part of the business prescribed in paragraph (1) is conducted with substituted permission.

(Acquisition of Rights after Commencement of Rehabilitation Proceedings)

- Article 44 (1) Where a rehabilitation creditor has acquired a right based on a rehabilitation claim after the commencement of rehabilitation proceedings with respect to the rehabilitation debtor's assets, if it is not by way of the act conducted by the rehabilitation debtor (or a trustee or the rehabilitation debtor if any trustee is appointed), the rehabilitation creditor may not assert the acquisition of the right as effective in relation to the rehabilitation proceedings.
- (2) A right acquired on the date to commence rehabilitation proceedings is presumed to be acquired after the commencement of rehabilitation proceedings.

(Registrations after Commencement of Rehabilitation Proceedings)

- Article 45 (1) A registration or a provisional registration under the provisions of Article 105, item (i) of the Real Assets Registration Act (Act No. 123 of 2004), which is made with respect to real assets or a vessel after the commencement of rehabilitation proceedings based on a cause of registration that occurred prior to the commencement of rehabilitation proceedings, may not be asserted as effective in relation to the rehabilitation proceedings; provided, however, that this does not apply to a registration or provisional registration made by a person entitled to demand registration, without knowledge of the commencement of rehabilitation proceedings.
- (2) The provisions of the preceding paragraph apply mutatis mutandis to a

registration or provisional registration with respect to the establishment, transfer or modification of a right, or registration with respect to the establishment, transfer or modification of an enterprise mortgage.

(Acceptance of Bills after Commencement of Rehabilitation Proceedings)

Article 46 (1) Where a rehabilitation proceeding is commenced against the rehabilitation debtor who is the drawer or endorser of a bill of exchange, if the drawee or the reserve drawee has accepted or paid the bill in good faith, the drawee or the reserve drawee may exercise their right over a claim arising from the acceptance or payment as a rehabilitation creditor.

(2) The provisions of the preceding paragraph apply mutatis mutandis to checks and to securities issued for the purpose of delivering money or any other things or securities.

(Presumption of the Existence or Absence of Knowledge)

Article 47 For the purpose of application of the provisions of the preceding two Articles, the absence of knowledge of the commencement of rehabilitation proceedings will be presumed prior to a public notice made under the provisions of Article 35, paragraph (1) (hereinafter referred to as a "public notice of the commencement of rehabilitation proceedings"), and the existence of knowledge of the commencement of rehabilitation proceedings will be presumed after a public notice of the commencement of rehabilitation proceedings.

(Co-ownership)

Article 48 (1) Where the rehabilitation debtor holds a assets right jointly with one or more other persons, if a rehabilitation proceeding is commenced, the rehabilitation debtor, etc. may make a claim for division of the assets in co-ownership even if there is an agreement between the co-owners to the effect that division is not made.

(2) In the case referred to in the preceding paragraph, other co-owners may acquire the rehabilitation debtor's co-ownership interest in the assets by paying reasonable compensation.

(Bilateral Contracts)

Article 49 (1) If both the rehabilitation debtor and their counter party under a bilateral contract have not yet completely performed their obligations by the time of commencement of rehabilitation proceedings, the rehabilitation debtor, etc. may cancel the contract or may perform the rehabilitation debtor's obligation and request the counter party to perform their obligation.

(2) In the case referred to in the preceding paragraph, the counter party may set

a reasonable period and make a demand on the rehabilitation debtor, etc. that they should give a definite answer within that period with regard to whether they will cancel the contract or request performance of the obligation. In this case, if the rehabilitation debtor, etc. fails to give a definite answer within that period, it is deemed that they waive the right to cancel under the provisions of the same paragraph.

- (3) The provisions of the preceding two paragraphs do not apply to a collective agreement.
- (4) Where the rehabilitation debtor's obligation is to be performed pursuant to the provisions of paragraph (1), the claim held by the counter party is a common benefit claim.
- (5) The provisions of Article 54 of the Bankruptcy Act apply mutatis mutandis where a contract is cancelled under the provisions of paragraph (1). In this case, in paragraph (1) of the same Article, the term "bankruptcy creditor" is deemed to be replaced with "rehabilitation creditor"; in paragraph (2) of the same Article, the term "bankrupt" is deemed to be replaced with "rehabilitation debtor," the term "bankruptcy estate" is deemed to be replaced with "rehabilitation debtor's assets," and the term "priority creditor on the bankruptcy estate" is deemed to be replaced with "holder of a common benefit claim."

(Bilateral Contract for Continuous Performance)

Article 50 (1) The counter party to a bilateral contract who has an obligation to provide continuous performance to the rehabilitation debtor, after the commencement of rehabilitation proceedings, may not refuse to perform the obligation on the grounds that no payment is made with regard to the rehabilitation claim arising from the performance provided prior to the filing of a petition to commence rehabilitation proceedings.

- (2) A claim arising from the performance that is provided by the counter party to a bilateral contract prescribed in the preceding paragraph after the filing of a petition to commence rehabilitation proceedings and prior to the commencement of rehabilitation proceedings (in the case of continuous performance for which the amount of claim should be calculated for each specific period of time, the claim arising from the performance provided within the period that includes the date of filing of the petition is included) is a common benefit claim.
- (3) The provisions of the preceding two paragraphs do not apply to a labor contract.

(Application Mutatis Mutandis of the Bankruptcy Act to Bilateral Contracts)

Article 51 The provisions of Article 56, Articles 58 and 59 of the Bankruptcy Act

apply mutatis mutandis where a rehabilitation proceeding commences. In this case, in Article 56, paragraph (1) of the same Act, the phrase "Article 53, paragraphs (1) and (2)" is deemed to be replaced with "Article 49, paragraphs (1) and (2) of the Civil Rehabilitation Act," and the term "bankrupt" is deemed to be replaced with "rehabilitation debtor"; in Article 56, paragraph (2) of the same Act, the term "priority claim on the bankruptcy estate" is deemed to be replaced with "common benefit claim"; in Article 58, paragraph (1) of the same Act, the phrase "commencement of bankruptcy proceedings" is deemed to be replaced with "commencement of rehabilitation proceedings"; in Article 54, paragraph (1) of the same Act as applied mutatis mutandis pursuant to Article 58, paragraph (3) of the same Act, the term "bankruptcy creditor" is deemed to be replaced with "rehabilitation creditor"; in Article 59, paragraph (1) of the same Act, the term "bankruptcy proceedings" is deemed to be replaced with "rehabilitation proceedings"; in Article 59, paragraph (2) of the same Act, the phrase "The claim under the provisions of the preceding paragraph belongs to the bankruptcy estate if it is held by the bankrupt or be a bankruptcy claim if it is held by the counter party." is deemed to be replaced with "The claim under the provisions of the preceding paragraph is a rehabilitation claim if it is held by the counter party. "

(Right of Segregation)

Article 52 (1) The commencement of rehabilitation proceedings does not affect a right to segregate, from the rehabilitation debtor, assets that do not belong to the rehabilitation debtor.

(2) The provisions of Article 63 and Article 64 of the Bankruptcy Act apply mutatis mutandis where a rehabilitation proceeding is commenced. In this case, in Article 63, paragraph (1) of the same Act, the phrase "order to commence bankruptcy proceedings" is deemed to be replaced with "order to commence rehabilitation proceedings"; in the proviso to Article 63, paragraph (1) and Article 64 of the same Act, the term "a bankruptcy trustee" is deemed to be replaced with "the rehabilitation debtor (or a trustee if any trustee is appointed)"; in Article 63, paragraph (2) of the same Act, the phrase "Article 53, paragraphs (1) and (2)" is deemed to be replaced with "Article 49, paragraphs (1) and (2) of the Civil Rehabilitation Act" ; in Article 63, paragraph (3) of the same Act, the term "paragraph (1)" is deemed to be replaced with "the preceding two paragraphs," and the term "the same paragraph" is deemed to be replaced with "paragraph (1)" ; in Article 64, paragraph (1) of the same Act, the term "bankrupt" is deemed to be replaced with "rehabilitation debtor," and the phrase "commencement of bankruptcy proceedings" is deemed to be replaced with "commencement of rehabilitation proceedings."

(Right of Separate Satisfaction)

Article 53 (1) A person who has any interest security (meaning a special statutory lien, pledge, mortgage, or a right of retention under the provisions of the Commercial Code or the Companies Act; the same applies in paragraph (3)) that exists, at the time of commencement of rehabilitation proceedings, on the rehabilitation debtor's assets, has a right of separate satisfaction over the assets that are the subject matter of the security interest.

(2) A right of separate satisfaction may be exercised without going through rehabilitation proceedings.

(3) Where assets that are the subject matter of a security interest no longer belongs to the rehabilitation debtor's assets due to sale by private contract by the rehabilitation debtor, etc. or for any other reason, the person who has the security interest, if it still exists, also has a right of separate satisfaction over the assets that are the subject matter of the security interest.

Chapter III Authorities for Rehabilitation Proceedings

Section 1 Supervisors

(Supervision Order)

Article 54 (1) Where a petition to commence rehabilitation proceedings is filed, the court, when it finds it necessary, upon the petition of an interested person or by its own authority, may make a disposition to order supervision by a supervisor.

(2) When making the disposition set forth in the preceding paragraph (hereinafter referred to as a "supervision order"), in the supervision order, the court must appoint one or more supervisors and designate acts that the rehabilitation debtor may not conduct without obtaining their consent.

(3) A corporation may serve as a supervisor.

(4) Any act conducted without the supervisor's consent prescribed in paragraph (2) is void; provided, however, that this may not be asserted against a third party which has acted in good faith.

(5) The court may change or revoke a supervision order.

(6) An immediate appeal may be filed against a supervision order and an order made under the provisions of the preceding paragraph.

(7) The immediate appeal set forth in the preceding paragraph does not have the effect of stay of execution.

(Public Notice and Service Concerning Supervision Order)

Article 55 (1) The court, when it has issued a supervision order, must make a public notice to that effect. The same applies where the court makes an order to change or revoke a supervision order.

- (2) Where a supervision order is issued, an order under the provisions of paragraph (5) of the preceding Article is made, and a judicial decision on the immediate appeal set forth in paragraph (6) of the same Article is made, the written judgment must be served upon the parties concerned.
- (3) The provisions of Article 10, paragraph (4) do not apply to the case referred to in paragraph (1).

(Empowerment for Avoidance)

- Article 56 (1) Where an order to commence rehabilitation proceedings is made, the court, upon the petition of an interested person or by its own authority, may empower a supervisor to exercise a right of avoidance of a specific act.
- (2) A supervisor, when empowered pursuant to the provisions of the preceding paragraph, may receive or pay money and perform the administration and disposition of assets in the interest of the rehabilitation debtor to the extent necessary for the exercise of the power.
 - (3) The provisions of Article 77, paragraphs (1) through (3) apply mutatis mutandis to a supervisor set forth in the preceding paragraph. In this case, the phrase "successor trustee" in paragraph (2) of the same Article is deemed to be replaced with "successor supervisor who is empowered under the provisions of Article 56, paragraph (1) to exercise a right of avoidance or trustee," and the phrase "supervisor trustee" in paragraph (3) of the same Article is deemed to be replaced with "successor supervisor who is empowered under the provisions of Article 56, paragraph (1) to exercise a right of avoidance, trustee."
 - (4) The court may change or revoke an order made under the provisions of paragraph (1)
 - (5) The court, when it finds it necessary, may require a supervisor empowered pursuant to the provisions of paragraph (1) to obtain permission of the court in order to file an action, make a settlement or conduct any other act designated by the court.
 - (6) The provisions of Article 41, paragraph (2) apply mutatis mutandis to any act conducted by a supervisor without the permission set forth in the preceding paragraph.

(Supervision of Supervisors)

- Article 57 (1) A supervisor is supervised by the court.
- (2) The court, upon the petition of an interested person or by its own authority, may dismiss a supervisor if the supervisor does not appropriately supervise the administration and disposition of the rehabilitation debtor's business and assets, or there are any other material reasons. In this case, the court must interrogate the supervisor.

(Performance of Duties by Two or More Supervisors)

Article 58 If there are two or more supervisors, they perform their duties jointly; provided, however, that they may perform their duties independently or divide the duties among themselves with the permission of the court.

(Investigation by Supervisors)

Article 59 (1) A supervisor may request the following persons to report on the status of the rehabilitation debtor's business and assets, or may inspect the rehabilitation debtor's books, documents and any other items:

- (i) the rehabilitation debtor;
- (ii) the rehabilitation debtor's agent;
- (iii) if the rehabilitation debtor is a corporation, its director, executive officer, inspector, auditor and liquidator;
- (iv) any other person equivalent to the persons listed in the preceding item;
- (v) the rehabilitation debtor's employee (excluding the person set forth in item (ii)).

(2) The provisions of the preceding paragraph apply mutatis mutandis to a person who was any of the persons listed in the items of the same paragraph (excluding item (i)).

(3) A supervisor, when necessary in order to perform their duties, may request a subsidiary company, etc. (meaning a corporation specified in each of the following items for the cases listed in the respective items; the same applies in the following paragraph) of the rehabilitation debtor to report on the status of its business and assets, or may inspect its books, documents and any other items:

- (i) where the rehabilitation debtor is a stock company: A subsidiary company (meaning a subsidiary company prescribed in Article 2, item (iii) of the Companies Act) of the rehabilitation debtor;
- (ii) where the rehabilitation debtor is a person other than a stock company: A stock company in which the rehabilitation debtor holds the majority of voting rights of all shareholders.

(4) Where a subsidiary company, etc. of the rehabilitation debtor (limited to one that is a person other than a stock company; hereinafter the same applies in this paragraph) independently holds, or the rehabilitation debtor and the rehabilitation debtor's subsidiary company, etc. jointly hold the majority of voting rights of all shareholders of another stock company, for the purpose of application of the provisions of the preceding paragraph, the relevant other stock company is deemed to be a subsidiary company of the rehabilitation debtor.

(Supervisor's Duty of Care)

Article 60 (1) A supervisor must perform their duties with the due care of a prudent manager.

(2) If a supervisor fails to take the due care set forth in the preceding paragraph, the supervisor is jointly and severally liable to compensate damage to any interested person.

(Remuneration for Supervisors)

Article 61 (1) A supervisor may receive advance payments of expenses as well as remuneration determined by the court.

(2) A supervisor must obtain permission of the court in order to accept any claims against the rehabilitation debtor or any shares of the rehabilitation debtor or any other contributions to the rehabilitation debtor, or assign these.

(3) A supervisor may not receive payment of expenses and remuneration if they have conducted any act prescribed in the preceding paragraph without obtaining the permission set forth in the same paragraph.

(4) An immediate appeal may be filed against an order made pursuant to the provisions of paragraph (1).

Section 2 Examiners

(Examination Orders)

Article 62 (1) Where a petition to commence rehabilitation proceedings is filed, the court, when it finds it necessary, upon the petition of an interested person or by its own authority, may make a disposition to order an examiner to conduct an examination.

(2) When making the disposition set forth in the preceding paragraph (hereinafter referred to as an "examination order"), the court must in the examination order appoint one or more examiners and specify the particulars that the examiners are to examine and the period during which they should report the results of the examination to the court.

(3) The court may change or revoke an examination order.

(4) An immediate appeal may be filed against an examination order and an order made under the provisions of the preceding paragraph.

(5) The immediate appeal set forth in the preceding paragraph does not have the effect of a stay of execution.

(6) Where a judicial decision prescribed in paragraph (4) and a judicial decision on the immediate appeal set forth in the same paragraph are made, the written judgments are served upon the parties concerned.

(Application Mutatis Mutandis of the Provisions on Supervisors)

Article 63 The provisions of Article 54, paragraph (3), Article 57, the main

clause of Article 58, and Articles 59 through 61 apply mutatis mutandis to an examiner.

Section 3 Trustees

(Administration Orders)

- Article 64 (1) When the rehabilitation debtor (limited to a corporation; hereinafter the same applies in this paragraph) administers and disposes of its assets in an inappropriate manner or the court otherwise finds it particularly necessary for the rehabilitation of the rehabilitation debtor's business, the court, upon the petition of an interested person or by its own authority, may make a disposition, upon making an order to commence rehabilitation proceedings or after making the order, to order that the rehabilitation debtor's business and assets be administered by a trustee.
- (2) When making a disposition set forth in the provisions of the preceding paragraph (hereinafter referred to as an "administration order"), the court must appoint one or more trustees in the administration order.
- (3) When issuing an administration order, the court must interrogate the rehabilitation debtor; provided, however, that this does not apply if there are pressing circumstances.
- (4) The court may change or revoke an administration order.
- (5) An immediate appeal may be filed against an administration order and an order made under the provisions of the preceding paragraph.
- (6) The immediate appeal set forth in the preceding paragraph does not have the effect of stay of execution.

(Public Notice and Service Concerning Administration Orders)

- Article 65 (1) The court, when it has issued an administration order, must make a public notice of the following particulars, except in the cases prescribed in the following paragraph:
- (i) the fact that an administration order is issued, and the name of a trustee;
- (ii) the order to the effect that a person who possesses assets that belongs to the rehabilitation debtor and person who owes a debt to the rehabilitation debtor (referred to as a "possessor of assets, etc." in paragraph (5)) must not deliver the assets or make payment to the rehabilitation debtor;
- (2) The court, if it has issued an administration order upon making an order to commence rehabilitation proceedings, must also include the particulars listed in the preceding paragraph in the public notice of the commencement of rehabilitation proceedings.
- (3) When the court has made an order to change or revoke an administration order, it must make a public notice to that effect.

- (4) Where an administration order is issued, an order set forth in the preceding paragraph is made, and a judicial decision on the immediate appeal set forth in paragraph (5) of the same Article is made, the written judgment must be served upon the parties concerned.
- (5) A notice must be given to known possessors of assets, etc. with regard to, if an administration order is issued, the particulars listed in paragraph (1), or if an order set forth in paragraph (3) is made or where an order to revoke the order to commence rehabilitation proceedings has become final and binding after an administration order was issued, that effect.
- (6) The provisions of Article 10, paragraph (4) do not apply in the case referred to in paragraph (1).

(Powers of Trustees)

Article 66 When an administration order is issued, the right to carry out the rehabilitation debtor's business and to administer and dispose of the rehabilitation debtor's assets are vested exclusively in a trustee.

(Handling of Actions Relating to the Rehabilitation Debtor's Assets Where an Administration Order Is Issued)

Article 67 (1) Where an administration order is issued, in an action relating to the rehabilitation debtor's assets, a trustee is to stand as a plaintiff or defendant.

- (2) Where an administration order is issued, any action relating to the rehabilitation debtor's assets in which the rehabilitation debtor stands as a party will be discontinued. The same applies to an action set forth in Article 145, paragraph (1) in which a rehabilitation creditor stands as a party.
- (3) A trustee may substitute in the action discontinued under the provisions of the preceding paragraph which does not relate to any rehabilitation claim (excluding those prescribed in Article 40-2, paragraph (2) which is subject to substitution pursuant to the provisions of Article 40-2, paragraph (2)). In this case, a petition for the substitution in an action may also be filed by the opponent.
- (4) An action discontinued pursuant to the provisions of paragraph (2), which relates to a rehabilitation claim and is initiated under the provisions of Article 106, paragraph (1), Article 109, paragraph (1) or the first sentence of Article 113, paragraph (2) or subject to substitution under the provisions of Article 107, paragraph (1) or Article 109, paragraph (2) (including cases where applied mutatis mutandis pursuant to the second sentence of Article 113, paragraph (2)), or which is prescribed in Article 40-2, paragraph (2) and subject to substitution pursuant to the provisions of Article 40-2, paragraph (2), must be subject to substitution by a trustee. In this case, a petition for the substitution

in an action may also be filed by the opponent.

- (5) In the cases referred to in the preceding two paragraphs, the opponent's claim for court costs against the rehabilitation debtor or the rehabilitation creditor set forth in the second sentence of paragraph (2) is a common benefit claim.

Article 68 (1) When the rehabilitation proceedings are closed before there is a substitution under the provisions of paragraph (2) of the preceding Article in the action discontinued is subject to substitution under the provisions of paragraph (3) or paragraph (4) of the same Article, the rehabilitation debtor is automatically substituted in the action (excluding one prescribed in Article 40-2, paragraph (2) which is discontinued pursuant to the provisions of paragraph (3) of the same Article; the same applies in the following paragraph).

- (2) When the rehabilitation proceedings are closed, any action relating to the rehabilitation debtor's assets in which a trustee stands as a party is discontinued.
- (3) The rehabilitation debtor must substitute for a party in the action discontinued under the provisions of the preceding paragraph (excluding one set forth in Article 137, paragraph (1) in cases where rehabilitation proceedings are closed as a result of an order of disconfirmation of the rehabilitation plan, order of discontinuance of rehabilitation proceedings or order of revocation of the rehabilitation plan becoming final and binding). In this case, a petition for the substitution in the action may also be filed by the opponent.
- (4) The provisions of paragraph (1) apply mutatis mutandis where an order to revoke an administration order becomes final and binding before there is a substitution under the provisions of paragraph (3) or (4) of the preceding Article, and the provisions of the preceding two paragraphs apply mutatis mutandis where an order to revoke an administration order becomes final and binding. In this case, in paragraph (1), the phrase "paragraph (2) of the preceding Article" is deemed to be replaced with "the second sentence of paragraph (2) of the preceding Article," and the phrase "action (excluding one prescribed in Article 40-2, paragraph (2) which is discontinued pursuant to the provisions of paragraph (3) of the same Article; the same applies in the following paragraph)" is deemed to be replaced with "action."
- (5) The provisions of paragraph (3) apply mutatis mutandis to the action discontinued under the provisions of the second sentence of paragraph (2) of the preceding Article in cases where an order to revoke an administration order becomes final and binding before there is a substitution under the provisions of paragraph (3) of the same Article. In this case, the term "rehabilitation debtor" in paragraph (3) is deemed to be replaced with "rehabilitation creditor set forth in the second sentence of paragraph (2) of the

preceding Article."

(Handling of Cases Pending Before an Administrative Agency)

Article 69 The provisions of Article 67, paragraphs (2) through (5) and the preceding Article apply mutatis mutandis to a case relating to the rehabilitation debtor's assets that is pending before an administrative agency at the time when an administration order is issued.

(Performance of Duties by Two or More Trustees)

Article 70 (1) If there are two or more trustees, they perform their duties jointly; provided, however, that with permission of the court, they may perform their duties independently or divide the duties among themselves.

(2) If there are two or more trustees, it is sufficient that a manifestation of intention by a third party be made to any one of them.

(Trustee Representatives)

Article 71 (1) A trustee, if necessary, may on their own responsibility, appoint one or more trustee representatives, in order to have them perform their duties.

(2) The appointment of a trustee representative set forth in the preceding paragraph must require permission of the court.

(Administration of the Rehabilitation Debtor's Business and Assets)

Article 72 A trustee must commence the administration of the rehabilitation debtor's business and assets immediately after assuming office.

(Management of Postal Items)

Article 73 (1) When the court finds it necessary in order for a trustee to perform their duties, may commission a person engaged in the delivery of correspondence to deliver, to a trustee, a postal item, etc. that is addressed to the rehabilitation debtor.

(2) The court, upon the petition of the rehabilitation debtor or by its own authority, may cancel or change the commission prescribed in the preceding paragraph, after hearing the opinions of a trustee.

(3) Upon the closing of rehabilitation proceedings, the court must cancel the commission prescribed in paragraph (1). The same applies when an administration order is revoked.

(4) The rehabilitation debtor or a trustee may file an immediate appeal against an order made under the provisions of paragraph (1) or (2) and a judicial decision to dismiss without prejudice the petition set forth in paragraph (2).

(5) The immediate appeal set forth in the preceding paragraph filed against an order made under the provisions of paragraph (1) does not have the effect of a

stay of execution.

Article 74 (1) A trustee, upon receiving a postal item, etc. addressed to the rehabilitation debtor, may open it and view its contents.

(2) The rehabilitation debtor may request a trustee who received the postal item, etc. set forth in the preceding paragraph to let them inspect the relevant postal item, etc., or deliver it to them if the postal item, etc. does not relate to the rehabilitation debtor's assets.

(Restrictions on Trustee's Actions)

Article 75 (1) A trustee may not accept the rehabilitation debtor's assets or assign their own assets to the rehabilitation debtor, or conduct any other transaction with the rehabilitation debtor on their own or on a third party's behalf without the permission of the court.

(2) Any act conducted without the permission set forth in the preceding paragraph is void; provided, however, that this may not be asserted against a third party which has acted in good faith.

(Rehabilitation Debtor's Actions after Issuance of an Administration Order)

Article 76 (1) A juridical act conducted by a rehabilitation debtor after the issuance of an administration order with respect to the rehabilitation debtor's assets may not be asserted as effective in relation to the rehabilitation proceedings; provided, however, that this does not apply where the other party did not know, at the time of that act, the fact that an administration order was issued.

(2) Payment made to the rehabilitation debtor after the issuance of an administration order without knowledge of the issuance may also be asserted as effective in relation to the rehabilitation proceedings.

(3) Payment made to the rehabilitation debtor after the issuance of an administration order with knowledge of the issuance may be asserted as effective in relation to the rehabilitation proceedings only to the extent that the rehabilitation debtor's assets have been enriched.

(4) The provisions of Article 47 apply mutatis mutandis for the purpose of the application of the provisions of the preceding three paragraphs. In this case, the phrase "public notice made under the provisions of Article 35, paragraph (1) (hereinafter referred to as a "public notice of the commencement of rehabilitation proceedings)")" is deemed to be replaced with "public notice made under the provisions of Article 65, paragraph (1) (or a public notice made under the provisions of Article 35, paragraph (1) in cases where an administration order is issued upon making an order to commence rehabilitation proceedings)."

(Remuneration for Directors)

Article 76-2 Where an administration order is issued and the rehabilitation debtor is a corporation, its director, executive officer, inspector, auditor liquidator or any other person equivalent thereto may not claim remuneration from the rehabilitation debtor.

(Trustee's Duty to Report upon Termination of Office)

Article 77 (1) A trustee, upon the termination of their office, must submit a report of account to the court without delay.

(2) In the case referred to in the preceding paragraph, if there is a vacancy in the office of trustee, the report of account set forth in the same paragraph, notwithstanding the provisions of the same paragraph, must be submitted by a successor trustee.

(3) Upon the termination of a trustee's office, if there are pressing circumstances, the trustee or their successor must take necessary dispositions until a successor trustee or the rehabilitation debtor is able to administer assets.

(4) Where an order to revoke the order to commence rehabilitation proceedings, an order of discontinuance of bankruptcy proceedings or an order of disconfirmation of the rehabilitation plan becomes final and binding or where an order of revocation of the rehabilitation plan becomes final and binding before the close of rehabilitation proceedings, a trustee, except in the case prescribed in Article 252, paragraph (6), must pay common benefit claims and claims with general priorities, and with regard to any disputed claim, must make a statutory deposit of the payment in the interest of the person who holds the claim.

(Application Mutatis Mutandis of the Provisions on Supervisors)

Article 78 The provisions of Article 54, paragraph (3), Article 57, and Articles 59 through 61 apply mutatis mutandis to a trustee, and the provisions of Article 61 apply mutatis mutandis to a trustee representative.

Section 4 Temporary Administrators

(Order for Temporary Administration)

Article 79 (1) Where a petition to commence rehabilitation proceedings is filed, when the rehabilitation debtor (limited to a corporation; hereinafter the same applies in this Section) administers and disposes of its assets in an inappropriate manner or the court otherwise finds it particularly necessary for the continuation of the rehabilitation debtor's business, the court, upon the petition of an interested person or by its own authority, may make a

disposition to order that the rehabilitation debtor's business and assets be administered by a temporary administrator until an order is made on a petition to commence rehabilitation proceedings. In this case, the provisions of Article 64, paragraph (3) apply mutatis mutandis.

- (2) When making a disposition under the provisions of the preceding paragraph (hereinafter referred to as an "order for temporary administration"), the court must appoint one or more temporary administrators in the order for temporary administration.
- (3) The provisions of the preceding two paragraphs apply mutatis mutandis where an immediate appeal set forth in Article 36, paragraph (1) is filed against an order to dismiss with prejudice on the merits a petition to commence rehabilitation proceedings.
- (4) The court may change or revoke an order for temporary administration.
- (5) An immediate appeal may be filed against an order for temporary administration and an order made under the provisions of the preceding paragraph.
- (6) The immediate appeal set forth in the preceding paragraph does not have the effect of a stay of execution.

(Public Notices and Service Concerning Orders for Temporary Administration)

- Article 80 (1) When it has issued an order for temporary administration, the court must make a public notice to that effect. The same applies where the court makes an order to change or revoke an order for temporary administration.
- (2) Where an order for temporary administration is issued, an order under the provisions of paragraph (4) of the preceding Article is made, and a judicial decision on the immediate appeal set forth in paragraph (5) of the same Article is made, the written judgment must be served upon the parties concerned.
 - (3) The provisions of Article 10, paragraph (4) not apply to the case referred to in paragraph (1).

(Powers of Temporary Administrators)

- Article 81 (1) When an order for temporary administration is issued, the right to carry out the rehabilitation debtor's business and to administer and dispose of the rehabilitation debtor's assets is vested exclusively in a temporary administrator; provided, however, that a temporary administrator must obtain permission of the court in order to conduct any act that does not fall within the scope of the rehabilitation debtor's ordinary business.
- (2) Any act conducted without the permission set forth in the proviso to the preceding paragraph is to be void; provided, however, that this may not be asserted against a third party which has acted in good faith.

(3) The provisions of Article 41 apply mutatis mutandis to a temporary administrator.

(Temporary Administrator Representative)

Article 82 (1) A temporary administrator, may on their own responsibility, appoint one or more temporary administrator representatives if necessary, in order to perform their duties.

(2) The appointment of a temporary administrator representative set forth in the provisions of the preceding paragraph requires permission of the court.

(Application Mutatis Mutandis of the Provisions on Supervisors to Temporary Administrators)

Article 83 (1) The provisions of Article 54, paragraph (3), Article 57, Articles 59 through 61, Article 67 (1), Article 70, Article 72, Articles 74 through 76, and Article 77, paragraphs (1) through (3) apply mutatis mutandis to a temporary administrator, and the provisions of Article 61 apply mutatis mutandis to a temporary administrator representative. In this case, the phrase "public notice made under the provisions of Article 65, paragraph (1) (or a public notice made under the provisions of Article 35, paragraph (1) in cases where an administration order is issued upon making an order to commence rehabilitation proceedings)" in the second sentence of Article 76, paragraph (4) is deemed to be replaced with "public notice made under the provisions of Article 80, paragraph (1)," the term "successor trustee" in Article 77, paragraph (2) is deemed to be replaced with "successor temporary administrator," and the term "successor trustee" in paragraph (3) of the same Article is deemed to be replaced with "successor temporary administrator, trustee. "

(2) The provisions of Article 67, paragraphs (2), (3) and (5) apply mutatis mutandis where a temporary administration order is issued, and the provisions of Article 68, paragraphs (1) through (3) apply mutatis mutandis where a temporary administration order ceases to be effective.

(3) The provisions of Article 67, paragraphs (2), (3) and (5) and Article 68, paragraphs (1) through (3) apply mutatis mutandis to a case relating to the rehabilitation debtor's assets that is pending before an administrative agency at the time when an order for temporary administration is issued. In this case, the phrase "when the rehabilitation proceedings are closed" in Article 68 paragraphs (1) and (2) is deemed to be replaced with "when an order for temporary administration ceases to be effective."

(4) The provisions of Article 76-2 apply, where an order for temporary administration is issued and the rehabilitation debtor is a corporation, to its director, executive officer, inspector, auditor, liquidator or any other person

equivalent thereto.

Chapter IV Rehabilitation Claims

Section 1 Rights of Rehabilitation Creditors

(Claims Classed as Rehabilitation Claims)

Article 84 (1) A claim on assets arising against a rehabilitation debtor from a cause that has occurred before the commencement of rehabilitation proceedings (excluding one that is a common benefit claim or claim with general priority; the same applies in the following paragraph) will be classed as a rehabilitation claim.

(2) The following claims are also classed as rehabilitation claims:

- (i) a claim for interest arising after the commencement of rehabilitation proceedings;
- (ii) a claim for damages or a penalty for a default arising after the commencement of rehabilitation proceedings;
- (iii) a claim for expenses for participation in rehabilitation proceedings.

(Prohibition of Payment of Rehabilitation Claims)

Article 85 (1) With regard to a rehabilitation claim, after the commencement of rehabilitation proceedings, making or receiving payments after the commencement of rehabilitation proceedings, or conducting any other act causing the claim to be extinguished (excluding a release) is prohibited, unless it is provided for in a rehabilitation plan, except as otherwise provided for in this Act.

(2) If a small or medium-sized enterprise operator whose major trading partner is the rehabilitation debtor, is likely to experience significant hindrance to the continuation of their business unless they receive payment of their rehabilitation claim, the court, even before an order of confirmation of the rehabilitation plan becomes final and binding, may permit payment of the claim in whole or part, upon the petition of the rehabilitation debtor, etc. or by its own authority.

(3) When granting permission under the provisions of the preceding paragraph, the court must take into consideration the status of transactions between the rehabilitation debtor and the small or medium-sized enterprise operator set forth in the same paragraph, the rehabilitation debtor's financial standing, the interest of any interested person, and all other related circumstances.

(4) The rehabilitation debtor, etc., when requested by a rehabilitation creditor to file the petition set forth in paragraph (2), must report to the court to that effect immediately. In this case, if the rehabilitation debtor, etc. has decided not to file a petition, they must report the reason for this to the court without

delay.

- (5) Where it would be possible to have rehabilitation proceedings progress smoothly by paying a minor rehabilitation claim promptly, or significant hindrance would be caused to the continuation of the rehabilitation debtor's business unless a small rehabilitation claim is paid promptly, the court, even before an order of confirmation of the rehabilitation plan becomes final and binding, may permit payment of the claim upon the petition of the rehabilitation debtor, etc.
- (6) The provisions of paragraph (2) to the preceding paragraph do not apply to a rehabilitation claim that is a consensually-subordinated rehabilitation claim.

(Set-offs by the Rehabilitation Debtors)

Article 85-2 The rehabilitation debtor, etc., if a set-off of a claim that belongs to the rehabilitation debtor's assets against a rehabilitation claim conforms to the common interests of rehabilitation creditors, may effect the set-off with the permission of the court.

(Rehabilitation Creditor's Participation in Proceedings)

- Article 86 (1) A rehabilitation creditor may participate in rehabilitation proceedings by through a rehabilitation claim that they hold.
- (2) The provisions of Articles 104 through 107 of the Bankruptcy Act apply mutatis mutandis to the exercising of rights by a rehabilitation creditor in cases where a rehabilitation proceeding is commenced. In this case, in the provisions of Articles 104 through 107 of the same Act, the phrase "commencement of bankruptcy proceedings" is deemed to be replaced with "commencement of rehabilitation proceedings"; in Article 104, paragraphs (1), (3) and (4), Articles 105 and 106, and Article 107, paragraph (1) of the same Act, the term "bankruptcy proceedings" is deemed to be replaced with "rehabilitation proceedings"; the terms "bankrupt" in the provisions of Article 104, paragraphs (3) through (5) of the same Act is deemed to be replaced with "rehabilitation debtor"; and in paragraph (4) of the same Article, the term "bankruptcy creditor" is deemed to be replaced with "rehabilitation creditor".
- (3) Notwithstanding the provisions of paragraph (1), in order to participate in rehabilitation proceedings through a claim for a foreign tax subject to mutual assistance, a decision of implementation of mutual assistance (meaning a decision of implementation of mutual assistance prescribed in Article 11, paragraph (1) of the Act on Special Provisions for the Enforcement of Tax Treaties, etc.; the same applies in Article 113, paragraph (2)) is required.

(Rehabilitation Creditor's Voting Rights)

Article 87 (1) A rehabilitation creditor has a voting right according to the

amount specified in each of the following items for the categories of claims listed in the respective items:

- (i) a claim with a fixed due date that is to become due after the commencement of rehabilitation proceedings and bears no interest: The amount obtained by deducting, from the amount of the claim, the amount of statutory interest for the claim to be accrued according to the number of years during the period from the time of commencement of rehabilitation proceedings until the due date (any fraction of less than one year during that period is to be rounded off);
 - (ii) a claim for periodic payments, the amount and duration of which are fixed: The total of the amounts calculated with regard to the respective periodic payments in accordance with the provisions of the preceding item (in cases where the total exceeds the amount of principal which would accrue interest equivalent to the periodic payments when calculating at a statutory interest rate, the amount of principal)
 - (iii) the following claims: The amount of the claim estimated as of the time of commencement of rehabilitation proceedings:
 - (a) A claim with an uncertain due date that is to become due after the commencement of rehabilitation proceedings and bears no interest;
 - (b) A claim for periodic payments, the amount and duration of which are not fixed;
 - (c) A claim not intended for payment of money;
 - (d) A monetary claim, the amount of which is not fixed or the amount of which is fixed in a foreign currency;
 - (e) A claim with conditions;
 - (f) A claim which may arise in the future and be enforced against the rehabilitation debtor;
 - (iv) a claim other than those listed in the preceding three items: The amount of the claim.
- (2) Notwithstanding the provisions of the preceding paragraph, a rehabilitation creditor does not have any voting right with regard to any of the claims listed in Article 84, paragraph (2), a claim for a fine, etc. arising prior to the commencement of rehabilitation proceedings prescribed in Article 97, item (i), and a claim for a foreign tax subject to mutual assistance.
- (3) Notwithstanding the provisions of paragraph (1), where the rehabilitation debtor, at the time of commencement of rehabilitation proceedings, is unable to pay their debts in full with their assets with regard to claims that take preference over consensually-subordinated rehabilitation claims, the holders of the consensually-subordinated rehabilitation claims do not have any voting right.

(Participation in Proceedings by Holders of a Right of Separate Satisfaction)

Article 88 A holder of a right of separate satisfaction, with regard to a claim secured by a security interest prescribed in Article 53, paragraph (1) which pertains to the right of separate satisfaction, may exercise their right as a rehabilitation creditor only for the part of the claim for which payment cannot be received by exercising the right of separate satisfaction; provided, however, that where the claim secured by the security interest is no longer secured in whole or part after the commencement of rehabilitation proceedings, the holder of the right of separate satisfaction does not be precluded from exercising their right as a rehabilitation creditor for the whole or part of the claim.

(Payment Received by Rehabilitation Creditors in a Foreign State)

Article 89 (1) A rehabilitation creditor, even where they, by exercising their right against the rehabilitation debtor's assets that exists in a foreign state, has received payment of their rehabilitation claim after an order to commence rehabilitation proceedings is made, may participate in rehabilitation proceedings with regard to the amount of the claim as of the time before receiving the payment.

- (2) The rehabilitation creditor set forth in the preceding paragraph may not receive payment through rehabilitation proceedings until any other rehabilitation creditor (in cases where the rehabilitation creditor set forth in the same paragraph holds an consensually-subordinated rehabilitation claim, the person who holds another consensually-subordinated rehabilitation claim) receives payment at the same proportion as they have received payment.
- (3) The rehabilitation creditor set forth in paragraph (1) may not exercise their voting right with regard to the part of the claim for which they have received payment in the foreign state.

(Rehabilitation Creditors' Representatives)

Article 90 (1) Rehabilitation creditors, with permission of the court, may jointly or interpedently appoint one or more rehabilitation creditors' representatives.

- (2) When the court finds it necessary in order to ensure smooth progress in rehabilitation proceedings, it may specify a reasonable period and recommend that rehabilitation creditors appoint a rehabilitation creditors' representative.
- (3) A rehabilitation creditors' representative may perform any and all acts involved in rehabilitation proceedings in the interest of the rehabilitation creditors who appoint them.
- (4) If there are two or more rehabilitation creditors' representatives, they exercise their powers jointly; provided, however, that it is sufficient that a manifestation of intention by a third party be made to any one of them.
- (5) The court may revoke an order of permission set forth in paragraph (1) or an

order of appointment set forth in paragraph (1) of the following Article when it finds the exercise of powers by the rehabilitation creditors' representative to be extremely unfair.

- (6) Rehabilitation creditors may dismiss at any time the rehabilitation creditors' representative that they have appointed.

(Appointment of Rehabilitation Creditors' Representatives by Court)

Article 90-2 (1) Where there are an extremely large number of rehabilitation creditors who have common interest, if any of these rehabilitation creditors, despite the recommendation made under paragraph (2) of the preceding Article, does not appoint a rehabilitation creditors' representative within the period set forth in the same paragraph, and the court finds that the progress of rehabilitation proceedings would be hindered unless a rehabilitation creditors' representative is appointed, the court, on behalf of the relevant rehabilitation creditors, may appoint a rehabilitation creditors' representative whom it considers suitable.

- (2) When appointing a rehabilitation creditors' representative under the provisions of the preceding paragraph, the court must obtain consent of the rehabilitation creditors' representative in question.
- (3) Where a rehabilitation creditors' representative is appointed under the provisions of paragraph (1), the rehabilitation creditors' representative is deemed to be appointed by the principal (the person for whom the rehabilitation creditors' representative is appointed under the provisions of the same paragraph; the same applies in paragraph (6)) under the provisions of paragraph (1) of the preceding Article.
- (4) A rehabilitation creditors' representative appointed under the provisions of paragraph (1) may resign with permission of the court if there are justifiable grounds.
- (5) A rehabilitation creditors' representative appointed under the provisions of paragraph (1) may receive payment of the following from the rehabilitation debtor's assets:
- (i) prepayment of necessary expenses for conducting the acts prescribed in paragraph (3) of the preceding Article, or reimbursement of the amount of the expenses paid;
 - (ii) the amount of remuneration that the court finds reasonable.
- (6) With regard to the relationships between a rehabilitation creditors' representative appointed under the provisions of paragraph (1) and the principal, the provisions of Articles 644 through 647 and Article 654 of the Civil Code apply *mutatis mutandis*.

(Compensation)

- Article 91 (1) The court, if it is found that a rehabilitation creditor or rehabilitation creditors' representative or their agent has contributed to ensuring the rehabilitation of the rehabilitation debtor, upon the petition of the rehabilitation debtor, etc. or by its own authority, may grant permission to the effect that the expenses incurred by these persons for the administration of affairs concerned will be reimbursed, or compensation will be paid to them from the rehabilitation debtor's assets.
- (2) An immediate appeal may be filed against an order made under the provisions of the preceding paragraph.

(Rights to a Set-Off)

- Article 92 (1) Where a rehabilitation creditor owes a debt to the rehabilitation debtor at the time of commencement of rehabilitation proceedings, the rehabilitation creditor, when their claim and debt become suitable for a set-off prior to the expiration of the period for filing a proof of claims prescribed in Article 94, paragraph (1), may effect a set-off only within the period for filing a proof of claims, even if it is not provided for in a rehabilitation plan. The same applies when a rehabilitation creditor's debt is subject to a due date.
- (2) Where the debt owed by a rehabilitation creditor to the rehabilitation debtor at the time of commencement of rehabilitation proceedings is rent debt, the rehabilitation creditor may effect a set-off with regard to any rent debt that is to become due after the commencement of rehabilitation proceedings (including one that is to become due after the expiration of the period for filing a proof of claims set forth in the preceding paragraph; the same applies in the following paragraph) up to the amount equivalent to the six-month rent as of the time of commencement of rehabilitation proceedings only within the period for filing a proof of claims set forth in the preceding paragraph, even if it is not provided for in a rehabilitation plan.
- (3) In the case referred to in the preceding paragraph, when the rehabilitation creditor, with regard to the rent debt that is to become due after the commencement of rehabilitation proceedings, has made payment of the debt after the commencement of rehabilitation proceedings, the rehabilitation creditor's claim to refund the security deposit will be a common benefit claim up to the amount paid within the amount equivalent to six-months-worth of rent as of the time of commencement of rehabilitation proceedings (in cases where a set-off is effected under the provisions of the same paragraph, the amount of the rent debt from which the rehabilitation creditor is relieved will be deducted).
- (4) The provisions of the preceding two paragraphs apply mutatis mutandis to a debt for payment of a rent payable by a superficiary or rent payable by a farming right holder.

(Prohibition of a Set-Off)

Article 93 (1) A rehabilitation creditor may not effect a set-off in the following cases:

- (i) where the rehabilitation creditor has assumed a debt to the rehabilitation debtor after the commencement of rehabilitation proceedings;
 - (ii) where the rehabilitation creditor has assumed a debt to the rehabilitation debtor by, after the rehabilitation debtor became unable to pay debts (the condition in which the rehabilitation debtor, due to the lack of ability to pay, is generally and continuously unable to pay their debts as they become due; the same applies hereinafter), concluding a contract for disposing of the rehabilitation debtor's assets with the rehabilitation debtor with the intent to set-off any debt to be assumed by the rehabilitation creditor under the contract exclusively against rehabilitation claims, or concluding a contract for assuming any debt owed by another person to the rehabilitation debtor, and the rehabilitation creditor knew, at the time of conclusion of the contract, that the rehabilitation debtor was unable to pay debts.
 - (iii) where the rehabilitation creditor has assumed a debt to the rehabilitation debtor after the rehabilitation debtor suspended payments, and the rehabilitation creditor knew, at the time of assumption of the debt, the fact that the rehabilitation debtor had suspended payments; provided, however, that this does not apply if the rehabilitation debtor was not unable to pay debts at the time when the rehabilitation debtor suspended payments.
 - (iv) where the rehabilitation creditor has assumed a debt to the rehabilitation debtor after a petition to commence rehabilitation proceedings, to commence bankruptcy proceedings or to commence special liquidation (hereinafter referred to as a "petition to commence rehabilitation proceedings, etc." in this Article and the following Article) was filed, and the rehabilitation creditor knew, at the time of assumption, of the fact that a petition for commencement of rehabilitation proceedings, etc. had been filed.
- (2) The provisions of items (ii) through (iv) of the preceding paragraph do not apply where the assumption of a debt prescribed in these provisions arose from any of the causes listed in the following items:
- (i) a statutory cause;
 - (ii) a cause that had occurred before the rehabilitation creditor came to know the fact that the rehabilitation debtor had been unable to pay debts, that the rehabilitation debtor had suspended payments or that a petition for commencement of rehabilitation proceedings, etc. had been filed;
 - (iii) a cause that had occurred not less than one year before a petition for commencement of rehabilitation proceedings, etc. was filed.

Article 93-2 (1) A person who owes a debt to the rehabilitation debtor may not effect a set-off in the following cases:

- (i) where the person has acquired another person's rehabilitation claim after the commencement of rehabilitation proceedings;
 - (ii) where the person has acquired a rehabilitation claim after the rehabilitation debtor became unable to pay debts, and the person knew, at the time of acquisition of the claim, the fact that the rehabilitation debtor was unable to pay debts;
 - (iii) where the person has acquired a rehabilitation claim after the rehabilitation debtor suspended payments, and the person knew, at the time of acquisition of the claim, the fact that the rehabilitation debtor had suspended payments; provided, however, that this does not apply if the rehabilitation debtor was not unable to pay debts at the time when the rehabilitation debtor suspended payments;
 - (iv) where the person has acquired a rehabilitation claim after a petition for commencement of rehabilitation proceedings, etc. was filed, and the person knew, at the time of acquisition of the claim, the fact that a petition to commence of rehabilitation proceedings, etc. had been filed.
- (2) The provisions of items (ii) through (iv) of the preceding paragraph do not apply where the acquisition of a rehabilitation claim prescribed in these provisions arose from any of the causes listed in the following items:
- (i) a statutory cause;
 - (ii) a cause that had occurred before the person who owes a debt to the rehabilitation debtor came to know the fact that the rehabilitation debtor had been unable to pay debts, that the rehabilitation debtor had suspended payments or that a petition to commence rehabilitation proceedings, etc. had been filed;
 - (iii) a cause that had occurred not less than one year before a petition to commence rehabilitation proceedings, etc. was filed;
 - (iv) a contract concluded between the rehabilitation debtor and the person who owes a debt to the rehabilitation debtor.

Section 2 Filing of Proofs of Rehabilitation Claims

(Filing of Proofs)

Article 94 (1) A rehabilitation creditor who intends to participate in rehabilitation proceedings must file a proof to the court, within a period during which proofs of rehabilitation claims should be filed as specified pursuant to the provisions of Article 34, paragraph (1) (hereinafter referred to as a "period for filing proofs claims"), with regard to the amount and cause of each rehabilitation claim, if the claim in question is a consensually-subordinated

rehabilitation claim, a statement to that effect, the amount of the voting right, and any other particulars specified by the Rules of the Supreme Court.

- (2) A holder of a right of separate satisfaction, beyond the particulars listed in the items of the preceding paragraph, must also file a proof of the collateral for the right of separate satisfaction, and the amount of the claim for which payment is not expected to be received by exercising the right of separate satisfaction.

(Subsequent Completion of Filing of Proofs)

Article 95 (1) Where a rehabilitation creditor was unable to file a proof of their rehabilitation claim within the period for filing a proof of claims due to grounds not attributable thereto, they may subsequently complete the filing of a proof only within one month after the relevant grounds cease to exist.

- (2) The one-month period for subsequent completion of filing of a proof specified in the preceding paragraph may not be extended or shortened.
- (3) With regard to a rehabilitation claim arising after the expiration of the period for filing a proof of claims, a proof must be filed within an unextendable period of one month after the claim arose.
- (4) The filing of proof set forth in paragraphs (1) and (3) may not be made after an order to refer a proposed rehabilitation plan to a resolution is made.
- (5) The provisions of paragraph (1), paragraph (2) and the preceding paragraph apply mutatis mutandis where a rehabilitation creditor makes a change to any filed particular, which is prejudicial to the interest of other rehabilitation creditors, due to grounds not attributable thereto.

(Change of Name of a Holder of a Filed Claim)

Article 96 A person who has acquired a filed rehabilitation claim may have the name of the holder of the filed claim changed, even after the expiration of the period for filing a proof of claims. The same applies to a person who has acquired a rehabilitation claim stated in a statement of approval or disapproval under the provisions of Article 101, paragraph (3).

(Filing of Proofs of Claims for Fines and Petty Fines)

Article 97 A person who holds any of the following claims must without delay file with the court a proof of the amount and grounds for the claim in question, and if the claim in question is a claim for a foreign tax subject to mutual assistance, a statement to that effect:

- (i) a claim for a fine, petty fine, court costs for a criminal case, collection of monetary equivalents or civil fine which has arisen prior to the commencement of rehabilitation proceedings (excluding one that is a common benefit claim or claim with general priority; hereinafter referred to as a

- "claim for a fine, etc. arising prior to the commencement of rehabilitation proceedings");
- (ii) a claim for a foreign tax subject to mutual assistance (excluding one that is a common benefit claim or claim with general priority).

Article 98 Deleted

Section 3 Investigation and Determination of Rehabilitation Claims

(Preparation of the Schedule of Rehabilitation Creditors)

- Article 99 (1) A court clerk must prepare a schedule of rehabilitation creditors with regard to filed rehabilitation claims as well as rehabilitation claims stated by the rehabilitation debtor, etc. in a statement of approval or disapproval pursuant to the provisions of Article 101, paragraph (3).
- (2) In the schedule of rehabilitation creditors set forth in the preceding paragraph, for each claim, its content (including whether or not it is a consensually-subordinated rehabilitation claim; hereinafter the same applies in this Section) and cause, the amount of the voting right, the amount of the claim prescribed in Article 94, paragraph (2), and any other particulars specified by the Rules of the Supreme Court must be entered.
- (3) If there are any errors in the entries in the schedule of rehabilitation creditors, a court clerk, upon petition or by their own authority, may make a disposition to correct the statements at any time.

(Investigation of Rehabilitation Claims)

Article 100 An investigation of rehabilitation claims by the court is conducted, with regard to the particulars prescribed in paragraph (2) of the preceding Article, based on a statement of approval or disapproval prepared by the rehabilitation debtor, etc. as well as written objections made by rehabilitation creditors and by the rehabilitation debtor (limited to cases where a trustee is appointed).

(Preparation and Submission of a Statement of Approval or Disapproval)

- Article 101 (1) The rehabilitation debtor, etc. must prepare a statement of approval or disapproval to state, with regard to each rehabilitation claim filed during the period for filing a proof of claims, their approval or disapproval of the content of such claim and the voting right.
- (2) The rehabilitation debtor, etc., with regard to a rehabilitation claim which is filed or for which a change is made to any filed particulars under the provisions of Article 95, may also state their approval or disapproval of the content of the claim and the voting right (in cases where there is a change to

- any filed particular, the content of the claim and the voting right as changed) in the statement of approval or disapproval set forth in the same paragraph.
- (3) The rehabilitation debtor, etc., if they know that there is any rehabilitation claim that has not been filed, must state, in the statement of approval or disapproval set forth in paragraph (1), what they are aware of and any other particulars specified by the Rules of the Supreme Court with regard to the rehabilitation claim.
 - (4) Where no consensually-subordinated rehabilitation claim is filed within the period for filing a proof of claims, the provisions of the preceding paragraph do not apply to any consensually-subordinated rehabilitation claim that is known to the rehabilitation debtor, etc.
 - (5) The rehabilitation debtor, etc. must submit a statement of approval or disapproval prepared pursuant to the provisions of the preceding paragraphs by the time limit set by the court prior to the period for conducting an investigation of rehabilitation claims prescribed in Article 34, paragraph (1) (hereinafter referred to as the "ordinary period for investigation").
 - (6) If, in the statement of approval or disapproval submitted pursuant to the provisions of the preceding paragraph, neither approval nor disapproval is stated with regard to the content of a rehabilitation claim prescribed in paragraph (1) or the voting right, it is deemed that the rehabilitation debtor, etc. approves these particulars. The same applies where neither approval nor disapproval is stated in the relevant statement of approval or disapproval with regard to the content of a rehabilitation claim prescribed in paragraph (2) or the voting right.

(Investigation during the Ordinary Period for Investigation)

- Article 102 (1) A rehabilitation creditor who has filed a proof of their claim (hereinafter referred to as a "holder of filed rehabilitation claim") may make an objection in writing to the court, within the ordinary period for investigation, with regard to the content of a rehabilitation claim prescribed in paragraph (1) or (2) of the preceding Article or the voting right, or the content of a rehabilitation claim stated in a statement of approval or disapproval pursuant to the provisions of paragraph (3) of the same Article.
- (2) The rehabilitation debtor (limited to cases where a trustee is appointed) may make an objection in writing to the court, within the ordinary period for investigation, with regard to the content of the rehabilitation claim prescribed in the preceding paragraph.
 - (3) When an order to change the ordinary period for investigation is made, the written judgment must be served upon the rehabilitation debtor, trustees, and holders of filed rehabilitation claims (if prior to the expiration of the period for filing a proof of claims, known rehabilitation creditors).

- (4) The service under the provisions of the preceding paragraph may be made by the means prescribed in Article 43, paragraph (4).
- (5) Where a service has been made under the provisions of the preceding paragraph, the service is deemed to have been made at the time when the postal item, etc. sent thereby should have normally arrived.

(Investigation during the Special Period for Investigation)

Article 103 (1) The court, with regard to a rehabilitation claim which is filed or for which a change is made to any filed particular under the provisions of Article 95, must specify a period for conducting an investigation of the claim (hereinafter referred to as a "special period for investigation"); provided, however, that this does not apply where the rehabilitation debtor, etc. states, in a statement of approval or disapproval, their approval or disapproval of the content of the rehabilitation claim or the voting right.

- (2) In the case referred to in the main clause of the preceding paragraph, the expenses for the special period for investigation are borne by the person who holds the rehabilitation claim investigated.
- (3) The rehabilitation debtor, etc., with regard to a rehabilitation claim to be investigated during the special period for investigation, must prepare a statement stating their approval or disapproval of the content of the claim and the voting right, and submit it to the court by the time limit set by the court prior to the special period for investigation. In this case, the provisions of the first sentence of Article 101, paragraph (6) apply *mutatis mutandis*.
- (4) A holder of filed rehabilitation claim and the rehabilitation debtor (limited to cases where a trustee is appointed) may make an objection in writing to the court within the special period for investigation, with regard to the content of a rehabilitation claim set forth in the preceding paragraph or the voting right, or the amount of a rehabilitation claim set forth in the same paragraph, respectively.
- (5) The provisions of paragraphs (3) through (5) of the preceding Article apply *mutatis mutandis* to the service of a written judgment where an order to specify or change the special period for investigation is made.

(Prepayment of Expenses for Special Periods for Investigation)

- Article 103-2 (1) In the case referred to in the main clause of paragraph (1) of the preceding Article, a court clerk must specify a reasonable period and order the person who holds the rehabilitation claim set forth in paragraph (2) of the same Article to prepay the expenses set forth in the same paragraph.
- (2) The disposition made under the provisions of the preceding paragraph becomes effective when a notice thereof is given by means that are considered to be appropriate.

- (3) An objection may be filed against a disposition made under the provisions of paragraph (1) within an unextendable period of one week from the day on which a notice thereof is received.
- (4) The objection set forth in the preceding paragraph has the effect of stay of execution.
- (5) In the case referred to in paragraph (1), if the person who holds the rehabilitation claim set forth in the same paragraph does not prepay the expenses set forth in the same paragraph, the court must by an order dismiss without prejudice the person's filing of proof of the rehabilitation claim or filing of the change of any filed particular.
- (6) An immediate appeal may be filed against an order of dismissal made under the provisions of the preceding paragraph.

(Results of Investigations of Rehabilitation Claims)

Article 104 (1) The content of a rehabilitation claim and the amount of the voting right (in the case of a rehabilitation claim stated in a statement of approval or disapproval pursuant to the provisions of Article 101, paragraph (3), the content as stated therein) becomes determined if, in the investigation of rehabilitation claims, they are approved by the rehabilitation debtor, etc. and no objection is made by any holder of a filed rehabilitation claim during the period of investigation.

- (2) A court clerk must make an entry of the results of the investigation of rehabilitation claims in the schedule of rehabilitation creditors.
- (3) The entries in the schedule of rehabilitation creditors with regard to the rehabilitation claims that become determined pursuant to the provisions of paragraph (1) have the same effect as a final and binding judgment against all rehabilitation creditors.

(Assessment Decisions on Rehabilitation Claims)

Article 105 (1) Where, in an investigation of rehabilitation claims, the rehabilitation debtor, etc. has disapproved the content of a rehabilitation claim or an objection has been made by any holders of a filed rehabilitation claim with regard to this matter, the holder of a filed rehabilitation claim who holds the rehabilitation claim in question (hereinafter referred to as the "denied or disputed rehabilitation claim"), in order to determine the content of the claim, may file a petition for assessment to the court against the rehabilitation debtor as well as the relevant holders who made the objection (hereinafter referred to as the "denying or disputing party" in this Article through Article 107 and Article 109); provided, however, that this does not apply in the case referred to in Article 107, paragraph (1) and Article 109, paragraphs (1) and (2).

- (2) The petition for assessment set forth in the main clause of the preceding

paragraph must be filed within an unextendable period of one month from the last day of the period of investigation for the denied or disputed rehabilitation claim.

- (3) Where a petition for assessment set forth in the main clause of paragraph (1) is filed, the court must make an assessment decision, except where it dismisses the petition as unlawful without prejudice.
- (4) An assessment decision specifies the existence or nonexistence of a denied or disputed rehabilitation claim and the content thereof.
- (5) When making an assessment decision, the court must interrogate the denying or disputing parties.
- (6) Where a judicial decision on a petition for assessment set forth in the main clause of paragraph (1) is made, the written judgment must be served upon the parties concerned. In this case, the provisions of the main clause of Article 10, paragraph (3) do not apply.

(Actions Against Judicial Decisions on Petitions for Assessment)

Article 106 (1) A person who disagrees with a judicial decision on a petition for assessment set forth in the main clause of paragraph (1) of the preceding Article may file an action to oppose the relevant decision within an unextendable period of one month after the day on which the person was served the decision.

- (2) The action set forth in the preceding paragraph is subject to the jurisdiction of the rehabilitation court.
- (3) The court of the first instance with which an action set forth in paragraph (1) is filed, when it finds it necessary in order to avoid substantial detriment or delay if the rehabilitation court's jurisdiction over the rehabilitation case is based on no provisions of laws or regulations other than the provisions of Article 5, paragraph (8) or (9) (including cases where the rehabilitation court has accepted the rehabilitation case transferred thereto pursuant to the provisions of Article 7, item (iv) and the acceptance of the transferred case is based on no provisions other than the provisions of Article 7, item (iv), (b) or (c)), by its own authority, may transfer the relevant action to the district court prescribed in Article 5, paragraph (1) (or the district court prescribed in Article 5, paragraph (2) if there is no the court that corresponds to the court prescribed in Article, paragraph 5, item (1)), notwithstanding the provisions of the preceding paragraph.
- (4) In an action set forth in paragraph (1), all of the denying or disputing parties, etc. must stand as defendants if it is filed by the rehabilitation creditor who holds the denied or disputed rehabilitation claim, and the rehabilitation creditor must stand as a defendant if it is filed by a denying or disputing party.
- (5) Oral argument for an action set forth in paragraph (1) may not be commenced

until the period set forth in the paragraph has expired.

- (6) If two or more actions set forth in paragraph (1) are pending with respect to the same claim concurrently, oral arguments and judicial decisions of these actions must be made in a consolidated manner. In this case, the provisions of Article 40, paragraphs (1) through (3) of the Code of Civil Procedure apply *mutatis mutandis*.
- (7) A judgment rendered with regard to an action set forth in paragraph (1), except where the action is dismissed as unlawful without prejudice, approves or changes the judicial decision set forth in the same paragraph.

(Substitution in Actions Relating to Denied or Disputed Rehabilitation Claims)

Article 107 (1) Where an action relating to a denied or disputed rehabilitation claim is pending at the time of commencement of rehabilitation proceedings, when a rehabilitation creditor seeks to determine the content of the claim, they must file a petition for the substitution in the action, designating all of the denying or disputing parties as the opponents.

- (2) The provisions of Article 105, paragraph (2) apply *mutatis mutandis* to the petition set forth in the preceding paragraph.

(Limitation to Assertions)

Article 108 In the proceedings for assessment based on a petition for assessment set forth in the main clause of Article 105, paragraph (1) or court proceedings of an action set forth in Article 106, paragraph (1) or court proceedings of an action that is subject to substitution under the provisions of paragraph (1) of the preceding Article, a rehabilitation creditor may assert the content and grounds for the denied or disputed rehabilitation claim, only as entered in the schedule of rehabilitation creditors.

(Assertion of Objections to Claims with an Enforceable Title of Obligation)

Article 109 (1) With regard to a denied or disputed rehabilitation claim accompanied by an enforceable title of obligation or final judgment, the denying or disputing party may assert an objection only through the court proceedings that the rehabilitation debtor may carry out.

- (2) Where an action relating to the rehabilitation claim prescribed in the preceding paragraph is pending at the time to commence rehabilitation proceedings, when the denying or disputing party intends to assert an objection under the provisions of the same paragraph, the denying or disputing party must substitute for a party in the action in which the rehabilitation creditor who holds the rehabilitation claim in question stands as the opponent.
- (3) The provisions of Article 105, paragraph (2) apply *mutatis mutandis* to the assertion of an objection under the provisions of paragraph (1) or the

substitution in an action under the provisions of the preceding paragraph, and the provisions of Article 106, paragraphs (5) and (6) and the preceding Article apply to the cases referred to in the preceding two paragraphs. In this case, the phrase "the period set forth in the relevant paragraph" in Article 106, paragraph (5) is deemed to be replaced with "an unextendable period of one month from the last day of the period for investigation for the denied or disputed rehabilitation claim."

- (4) Where the assertion of an objection under the provisions of paragraph (1) or the substitution in the action under the provisions of paragraph (2) has not taken place within the period prescribed in Article 105, paragraph (2) as applied *mutatis mutandis* pursuant to the preceding paragraph, if the denying or disputing party is a rehabilitation creditor, is deemed that no objection under Article 102, paragraph (1) or Article 103, paragraph (4) has been made, and if the denying or disputing party is the rehabilitation debtor, etc., it is deemed that the rehabilitation debtor, etc. has approved the rehabilitation claim in question.

(Entry of the Outcome of an Action Concerning the Determination of a Rehabilitation Claim)

Article 110 A court clerk, upon the petition of the rehabilitation debtor, etc. or a rehabilitation creditor, must make an entry, in the schedule of rehabilitation creditors, of the outcome of an action concerning the determination of a rehabilitation claim (in cases where an action set forth in Article 106, paragraph (1) against a judicial decision on a petition for assessment set forth in the main clause of Article 105, paragraph (1) is not filed within the period prescribed in Article 106, paragraph (1) or is dismissed without prejudice, the content of the judicial decision).

(Effect of Judgments on Actions Concerning the Determination of a Rehabilitation Claim)

Article 111 (1) A judgment made upon an action concerning the determination of a rehabilitation claim is effective against all rehabilitation creditors.

- (2) If an action set forth in Article 106, paragraph (1) against a judicial decision on a petition for assessment set forth in the main clause of Article 105, paragraph (1) is not filed within the period prescribed in Article 106, paragraph (1) or is dismissed without prejudice, the relevant judicial decision have the same effect as a final and binding judgment against all rehabilitation creditors.

(Reimbursement of Court Costs)

Article 112 When a rehabilitation debtor's assets have been enriched from an

action concerning the determination of a rehabilitation claim (including a judicial decision on a petition for assessment set forth in the main clause of Article 105, paragraph (1)), the rehabilitation creditor who asserted an objection may claim reimbursement of court costs from the rehabilitation debtor's assets to the extent that the rehabilitation debtor's assets have been enriched.

(Handling of Proceedings for Determination of a Rehabilitation Claim upon the Closing of Rehabilitation Proceedings)

- Article 112-2 (1) The proceedings for assessment based on a petition for assessment set forth in the main clause of Article 105, paragraph (1) which are pending at the time of the closing of rehabilitation proceedings are to be closed if the close of rehabilitation proceedings occurs before an order of confirmation of the rehabilitation plan becomes final and binding, and are to continue to be pending if the closing of rehabilitation proceedings occurs after an order of confirmation of the rehabilitation plan becomes final and binding.
- (2) The provisions of Article 68, paragraphs (2) and (3) apply mutatis mutandis to proceedings for assessment based on a petition for assessment set forth in the main clause of Article 105, paragraph (1) in which a trustee stands as a party in cases where rehabilitation proceedings are closed after an order of confirmation of the rehabilitation plan becomes final and binding.
- (3) Where rehabilitation proceedings are closed after an order of confirmation of the rehabilitation plan becomes final and binding, if a judicial decision on a petition for assessment set forth in the main clause of Article 105, paragraph (1) is made after the close of rehabilitation proceedings, an action set forth in Article 106, paragraph (1) may be filed pursuant to the provisions of Article 106, paragraph (1).
- (4) An action set forth in Article 106, paragraph (1) which is pending at the time of close of rehabilitation proceedings and in which the rehabilitation debtor, etc. does not stand as a party is to be discontinued if the close of rehabilitation proceedings occurs before an order of confirmation of the rehabilitation plan becomes final and binding, and is to continue to be pending if the close of rehabilitation proceedings occurs after an order of confirmation of the rehabilitation plan becomes final and binding.
- (5) The action pending at the time of close of rehabilitation proceedings (excluding those in which the rehabilitation debtor, etc. stands as a party), which is subject to substitution under the provisions of Article 107, paragraph (1) or Article 109, paragraph (2), is discontinued if the closing of rehabilitation proceedings occurs before an order of confirmation of the rehabilitation plan becomes final and binding, and does not be discontinued if the closing of rehabilitation proceedings occurs after an order of confirmation of the

rehabilitation plan becomes final and binding.

- (6) Where an action is discontinued pursuant to the provisions of the preceding paragraph, the provisions of Article 68, paragraph (3) apply *mutatis mutandis*.

(Appeals against a Claim for a Fine. Arising Prior to the Commencement of Rehabilitation Proceedings)

Article 113 (1) With regard to a claim for a fine, etc. arising prior to the commencement of rehabilitation proceedings and a claim for a foreign tax subject to mutual assistance, the provisions of Article 100 to the preceding Article do not apply.

- (2) Where the cause of a claim (excluding a claim for a fine, petty fine and court costs for a criminal case) filed under the provisions of Article 97 (in the case of a claim for a foreign tax subject to mutual assistance, a decision of implementation of mutual assistance) is a disposition against which a request for review, action (excluding a criminal action; the same applies in the following paragraph) or any other appeal may be filed, the rehabilitation debtor, etc. may assert an objection with regard to the filed claim by a means for filing the appeal.
- (3) In the case referred to in the preceding paragraph, if an action relating to the filed claim is pending at the time of commencement of rehabilitation proceedings, the rehabilitation debtor, etc. who intends to assert an objection prescribed in the same paragraph must substitute for a party in the action in which the rehabilitation creditor who holds the filed claim stands as the opponent. The same applies where a case relating to the rehabilitation debtor's assets is pending before an administrative agency with regard to the filed claim at the time of commencement of rehabilitation proceedings.
- (4) The assertion of an objection under the provisions of paragraph (2) or the substitution in the action under the provisions of the preceding paragraph must be performed within an unextendable period of one month after the day on which the rehabilitation debtor, etc. came to know the filing of a claim prescribed in paragraph (2).
- (5) The provisions of Article 104, paragraph (2) apply *mutatis mutandis* to a claim which is filed pursuant to the provisions of Article 97, and the provisions of Articles 108 and 110, and Article 111, paragraph (1) apply *mutatis mutandis* to cases where the assertion of an objection under the provisions of paragraph (2) or the substitution in the action under the provisions of paragraph (3) has taken place.

Section 4 Creditors Meetings and Creditors Committees

(Convocation of Creditors Meetings)

Article 114 The court must convoke a creditors meeting upon the petition of the rehabilitation debtor, etc. or the creditors committee prescribed in Article 117, paragraph (2) or petition of a rehabilitation creditor who holds a rehabilitation claim that accounts for one-tenth or more of the value of total claims held by known rehabilitation creditors as determined by the court; provided, however, that the court may convoke a creditors meeting without these petitions when it finds it appropriate.

(Summons on the Date of a Creditors Meeting)

Article 115 (1) On the date of a creditors meeting, the rehabilitation debtor, a trustee, holders of filed rehabilitation claims, and any person who has assumed a debt or provided security for the purpose of rehabilitation must be summoned; provided, however, that when the order set forth in Article 34, paragraph (2) is made, holders of filed rehabilitation claims are not required to be summoned, except on the date of a creditors meeting aimed for adopting a resolution on a proposed rehabilitation plan.

(2) Notwithstanding the provisions of the preceding paragraph, not summoning holders of filed rehabilitation claims who may not exercise their voting rights is allowed.

(3) A notice of the date of a creditors meeting must be given to the labor union, etc.

(4) The court must make a public notice of the date of a creditors meeting and the particulars that are the subject of the meeting.

(5) If it is rendered, on the date of a creditors meeting, that the meeting is postponed or continued, the provisions of paragraph (1) and the preceding two paragraphs do not apply.

(Direction of Creditors Meetings)

Article 116 Creditors meetings are directed by the court.

(Creditors Committees)

Article 117 (1) Where there is a committee consisting of rehabilitation creditors, the court, upon the petition of an interested person, may give approval to the participation of the relevant committee in rehabilitation proceedings as provided for by this Act; provided, however, that this applies only where all of the following requirements are met:

(i) the number of committee members is not less than three and not more than the number specified by the Rules of the Supreme Court;

(ii) it is found that the majority of rehabilitation creditors consent to the committee's participation in rehabilitation proceedings;

(iii) it is found that the committee will properly represent the interest of

rehabilitation creditors as a whole.

- (2) When the court finds it necessary, it may request the committee approved pursuant to the provisions of the preceding paragraph (hereinafter referred to as the "creditors committee") to state its opinions in rehabilitation proceedings.
- (3) The creditors committee may state its opinions to the court, the rehabilitation debtor, etc. or a supervisor in rehabilitation proceedings.
- (4) When it is found that the creditors committee has carried out activities that contribute to ensuring the rehabilitation of the rehabilitation debtor, the court, upon the petition of a rehabilitation creditor who has incurred necessary expenses for the relevant activities, may permit reimbursement of the amount of expenses which it finds reasonable to the rehabilitation creditor from the rehabilitation debtor's assets.
- (5) The court, upon the petition of an interested person or by its own authority, may rescind the approval given pursuant to the provisions of paragraph (1) at any time.

(Hearing of Opinions of a Creditors Committee)

Article 118 (1) A court clerk, when approval is given pursuant to the provisions of paragraph (1) of the preceding Article, must without delay give a notice to the rehabilitation debtor, etc. to that effect.

- (2) The rehabilitation debtor, etc., upon receiving the notice under the provisions of the preceding paragraph, without delay, must hear opinions of the creditors committee with regard to the particulars concerning the administration of the rehabilitation debtor's business and assets.

(Duty of a Rehabilitation Debtor to Report to the Creditors Committee)

Article 118-2 (1) The rehabilitation debtor, etc., when they have submitted written reports, etc. (meaning written reports, an inventory of assets or balance sheets; hereinafter the same applies in this Article) to the court pursuant to the provisions of Article 124, paragraph (2) or Article 125, paragraph (1) or (2), must also without delay submit the relevant written reports, etc. to the creditors committee.

- (2) When the rehabilitation debtor, etc., in the case referred to in the preceding paragraph, has filed a petition set forth in Article 17, paragraph (1), alleging that the written reports, etc. in question contain a detrimental part prescribed in Article 17, paragraph (1), it is sufficient for that person to submit the written reports, etc. excluding that part to the creditors committee.

(Rehabilitation Debtor Report Orders)

Article 118-3 (1) The creditors committee, when it is necessary for the interest of rehabilitation creditors as a whole, may request the court to order that the

rehabilitation debtor, etc. make a report under the provisions of Article 125, paragraph (2) with regard to the status of the administration of the rehabilitation debtor's business and assets and other necessary particulars concerning the rehabilitation of the rehabilitation debtor's business.

(2) The court that has received a request made under the provisions of the preceding paragraph, when it finds the request appropriate, must order that the rehabilitation debtor, etc. makes a report under the provisions of Article 125, paragraph (2).

Chapter V Common Benefit Claims, Claims with General Priorities, and Post Commencement Claims

(Claims Classed as Common Benefit Claims)

Article 119 The following claims are classed as common benefit claims:

- (i) a claim for expenses for court proceedings performed for the common interest of rehabilitation creditors;
- (ii) a claim for expenses for the rehabilitation debtor's business, livelihood and the administration and disposal of assets after the commencement of rehabilitation proceedings;
- (iii) a claim for expenses for the execution of a rehabilitation plan (excluding one arising after the close of rehabilitation proceedings);
- (iv) a claim for expenses, remuneration and compensation payable under the provisions of Article 61, paragraph (1) (including cases where applied mutatis mutandis pursuant to Article 63, Article 78 and Article 83, paragraph (1)), Article 90-2, paragraph (5), Article 91, paragraph (1), Article 112, Article 117, paragraph (4) and Article 223, paragraph (9) (including cases where applied mutatis mutandis pursuant to Article 244);
- (v) a claim arising from the borrowing of funds or any other act conducted by the rehabilitation debtor, etc. with respect to the rehabilitation debtor's assets after the commencement of rehabilitation proceedings;
- (vi) a claim arising against a rehabilitation debtor after the commencement of rehabilitation proceedings by agency without specific authorization or for unjust enrichment;
- (vii) a claim for unavoidable expenses that should be paid for the interest of the rehabilitation debtor, which has arisen after the commencement of rehabilitation proceedings (excluding those listed in the preceding items).

(Borrowings Prior to Commencement of Rehabilitation Proceedings)

Article 120 (1) Where the rehabilitation debtor (excluding cases where a temporary administrator is appointed; hereinafter the same applies in this paragraph and paragraph (3)), after a petition to commence rehabilitation

proceedings is filed and before rehabilitation proceedings are commenced, borrows funds, purchases raw materials or conducts any other act indispensable for the continuation of the rehabilitation debtor's business, the court may grant permission to the effect that the other party's claim arising from the act is a common benefit claim.

- (2) The court may empower a supervisor to give approval in lieu of the permission set forth in the preceding paragraph.
- (3) When the rehabilitation debtor has conducted any of the acts prescribed in paragraph (1) with permission set forth in paragraph (1) or approval set forth in the preceding paragraph, the other party's claim arising from that act is a common benefit claim.
- (4) A claim arising from the borrowing of funds or any other act conducted by a temporary administrator as empowered with respect to the rehabilitation debtor's business and assets is a common benefit claim.

(Expenses and Remuneration of Bond Administrators)

Article 120-2 (1) Where a bond administrator intends to administer the affairs concerning the administration of company bonds that are rehabilitation claims, and when the court finds it necessary in order to achieve the purpose of rehabilitation proceedings, it may grant permission to the effect that the bond administrator's claim for expenses to be incurred for the administration of the relevant affairs against the rehabilitation debtor is a common benefit claim.

- (2) Even where a bond administrator has administered the affairs concerning the administration of company bonds that are rehabilitation claims without the permission set forth in the preceding paragraph, the court, if it is found that the bond administrator has contributed to ensuring the rehabilitation of the rehabilitation debtor's business, may grant permission to the effect that a claim for rehabilitation of the expenses incurred for the administration of the relevant affairs is a common benefit claim for an amount that the court finds reasonable by taking into consideration the degree of their contribution.
- (3) The court may grant permission to the effect that a bond administrator's claim for remuneration arising from a cause that has occurred after the commencement of rehabilitation proceedings is a common benefit claim for an amount that the court finds reasonable.
- (4) A claim for which permission is obtained under the provisions of the preceding three paragraphs is a common benefit claim.
- (5) An immediate appeal may be filed against an order of permission under the provisions of paragraphs (1) through (3).
- (6) The provisions of the preceding paragraphs apply mutatis mutandis to a claim for expenses or remuneration that arises from the affairs concerning the administration of a claim set forth in each of the following items, which is a

rehabilitation claim, for the categories of the persons listed in the respective items:

- (i) a trustee company under a trust agreement prescribed in Article 2, paragraph (1) of the Secured Bonds Trust Act (Act No. 52 of 1905): Company bonds prescribed in Article 2, paragraph (1) of the same Act;
- (ii) a social medical care corporation bond administrator prescribed in Article 54-5 of the Medical Care Act (Act No. 205 of 1948): Social medical care corporation bonds prescribed in Article 54-2, paragraph (1) of the same Act;
- (iii) an investment corporation bond administrator prescribed in Article 139-8 of the Act on Investment Trust and Investment Corporation (Act No. 198 of 1951): Investment corporation bonds prescribed in Article 2, paragraph (24) of the same Act;
- (iv) a bond administrator prescribed in Article 61-6 of the Insurance Business Act (Act No. 105 of 1995): Company bonds issued by a mutual company (meaning a mutual company prescribed in Article 2, paragraph (5) of the same Act);
- (v) a specified bond administrator prescribed in Article 126 of the Act on Securitization of Assets (Act No. 105 of 1998): Specified company bonds prescribed in Article 2, paragraph (7) of the same Act.

(Handling of Common Benefit Claims)

Article 121 (1) Common benefit claims may be paid at any time without going through rehabilitation proceedings.

- (2) Common benefit claims are paid in preference to rehabilitation claims.
- (3) Where compulsory execution or provisional seizure is enforced against the rehabilitation debtor's assets based on a common benefit claim, if the compulsory execution or provisional seizure would cause significant hindrance to rehabilitation and the rehabilitation debtor additionally has adequate assets that are easy to realize, the court, after the commencement of rehabilitation proceedings, upon the petition of the rehabilitation debtor, etc. or by its own authority, may order the stay or revocation of the compulsory execution or provisional seizure, while requiring or not requiring the provision of security. The same applies to the stay or revocation of the disposition to be made by the same procedure as that for making a disposition of national tax delinquency, based on a claim for a foreign tax subject to mutual assistance that is a common benefit claim, against the rehabilitation debtor's assets.
- (4) The court may change or revoke a stay order issued under the provisions of the preceding paragraph.
- (5) An immediate appeal may be filed against a stay order or revocation order issued under the provisions of paragraph (3) and an order made under the provisions of the preceding paragraph.

(6) The immediate appeal set forth in the preceding paragraph does not have the effect of stay of execution.

(Claims with General Priority)

Article 122 (1) A claim for which a general statutory lien or any other general priority exists (excluding one that is a common benefit claim) is a claim with general priority.

(2) Claims with general priorities may be paid at any time without going through rehabilitation proceedings.

(3) Where a priority exists with regard to the amount of claim arising for a specific period of time, the period is calculated from the time of commencement of rehabilitation proceedings.

(4) The provisions of paragraphs (3) through (6) of the preceding Article apply mutatis mutandis to compulsory execution or provisional seizure based on a claim with general priority, or exercise of a general statutory lien intended to secure a claim with general priority.

(Post-Commencement Claims)

Article 123 (1) A claim on assets arising from a cause that has occurred after the commencement of rehabilitation proceedings (excluding one that is a common benefit claim, claim with general priority or rehabilitation claim) is classed as post-commencement claim.

(2) With regard to a post-commencement claim, during the period after a rehabilitation proceeding is commenced until the payment period specified in a rehabilitation plan expires (or until rehabilitation proceedings are closed if the closing of rehabilitation proceedings occurs before an order of confirmation of the rehabilitation plan becomes final and binding, or until payment based on the rehabilitation plan is completed or the rehabilitation plan is revoked if these events occur prior to the expiration of the relevant period), making or receiving payment or conducting any other act causing the claim to be extinguished is not allowed (excluding a release).

(3) During the period prescribed in the preceding paragraph, enforcing a compulsory execution, provisional seizure or provisional disposition against the rehabilitation debtor's assets or filing a petition for an assets disclosure procedure based on a post-commencement claim is not allowed. The same applies to a disposition to be made by the same procedure as that for making a disposition of national tax delinquency, based on a claim for a foreign tax subject to mutual assistance that is a post commencement claim, against the rehabilitation debtor's assets.

Chapter VI Investigation and Securing of Rehabilitation Debtor's Assets

Section 1 Investigation on the Status of a Rehabilitation Debtor's Assets

(Evaluation of Assets)

- Article 124 (1) A rehabilitation debtor, etc., without delay after the commencement of rehabilitation proceedings (in the case of a trustee, after assuming office), must evaluate the value of any and all assets that belongs to the rehabilitation debtor as of the time of commencement of rehabilitation proceedings.
- (2) The rehabilitation debtor, etc., when they have completed the evaluation under the provisions of the preceding paragraph, must immediately prepare an inventory of assets and balance sheets as of the time of commencement of rehabilitation proceedings, and submit these to the court.
- (3) When the court finds it necessary, upon the petition of an interested person or by its own authority, it may appoint a valuator and order them to value the rehabilitation debtor's assets.

(Reporting to the Court)

- Article 125 (1) The rehabilitation debtor, etc., must submit to the court a written report stating the following particulars without delay after the commencement of rehabilitation proceedings (in the case of a trustee, after assuming office):
- (i) the circumstances that have resulted in the commencement of rehabilitation proceedings;
 - (ii) the past and existing status of the rehabilitation debtor's business and assets;
 - (iii) whether or not there are circumstances that require a provisional remedy disposition under the provisions of Article 142, paragraph (1) or an assessment decision under the provisions of Article 143, paragraph (1);
 - (iv) other necessary particulars concerning rehabilitation proceedings.
- (2) Beyond what is prescribed in the preceding paragraph, the rehabilitation debtor, etc., as provided for by the court, must report to the court the status of the administration of the rehabilitation debtor's business and assets and any other particulars as ordered by the court.
- (3) A supervisor, as provided for by the court, must report to the court the status of the administration of the rehabilitation debtor's business and assets and any other particulars as ordered by the court.

(Reporting to Meetings for Reporting the Status of Assets)

- Article 126 (1) At a creditors meeting convoked to report the status of the rehabilitation debtor's assets, the rehabilitation debtor, etc. must report the outline of the particulars listed in the items of paragraph (1) of the preceding Article.

- (2) At the creditors meeting set forth in the preceding paragraph (referred to as a "meeting for reporting the status of assets"), the court must hear opinions of the rehabilitation debtor, a trustee or holders of filed rehabilitation claims with regard to the appointment of a trustee, as well as the particulars concerning the administration of the rehabilitation debtor's business and assets.
- (3) At a meeting for reporting the status of assets, the labor union, etc. may state its opinions with regard to the particulars prescribed in the preceding paragraph.

Section 2 Right of Avoidance

(Avoidance of Acts Prejudicial to Rehabilitation Creditors)

Article 127 (1) The following acts (excluding acts concerning the provision of security or extinguishment of debt) may be avoided in the interest of a rehabilitation debtor's assets after the commencement of rehabilitation proceedings:

- (i) an act conducted by the rehabilitation debtor while knowing that it would prejudice rehabilitation creditors; provided, however, that this does not apply where the person who has benefited from the relevant act did not know, at the time of the act, the fact that it would prejudice any rehabilitation creditor;
 - (ii) an act that would prejudice rehabilitation creditors conducted by the rehabilitation debtor after suspension of payments or filing of a petition to commence rehabilitation proceedings, to commence bankruptcy proceedings or to commence special liquidation (hereinafter referred to as "suspension of payments, etc." in this Section) took place; provided, however, that this does not apply where the person who has benefited from the relevant act did not know, at the time of the act, the fact that suspension of payments, etc. had taken place nor the fact that the act would prejudice any rehabilitation creditor.
- (2) With respect to an act concerning the extinguishment of debt conducted by the rehabilitation debtor, if the value of the performance received by the creditor exceeds the amount of the debt extinguished by the relevant act, and this act satisfies any of the requirements listed in the items of the preceding paragraph, the act may be avoided in the interest of the rehabilitation debtor's assets after the commencement of rehabilitation proceedings only with regard to the part other than the part equivalent to the amount of the debt extinguished.
 - (3) Any gratuitous act, or any onerous act that should be deemed to be equal to the act, conducted by the rehabilitation debtor after, or within six months prior

to suspension of payments, etc., may be avoided in the interest of the rehabilitation debtor's assets after the commencement of rehabilitation proceedings.

(Avoidance of Acts of Disposing of Assets for Reasonable Consideration)

Article 127-2 (1) When a rehabilitation debtor, after conducting the act of disposing of their assets, has received reasonable consideration from the other party to the relevant act, the act may be denied in the interest of the assets of the rehabilitation debtor after the commencement of the rehabilitation proceedings, if it satisfies all of the following requirements:

- (i) the act has the actual risk that the rehabilitation debtor would conceal, gratuitously convey or otherwise dispose of the assets in a manner prejudicial to rehabilitation creditors (hereinafter referred to as "concealment or other disposal" in this Article and Article 132-2, paragraphs (2) and (3)) by realizing real assets or otherwise changing the type of assets by way of the disposition;
 - (ii) the rehabilitation debtor, at the time of the act, had the intention of concealing or carrying out other disposal of the money or any other assets that they received as a value for the act;
 - (iii) the other party, at the time of the act, knew that the rehabilitation debtor had the intention of concealing or carrying out other disposal as referred to in the preceding item.
- (2) For the purpose of application of the provisions of the preceding paragraph, if the other party to the act in question is any of the following persons, the other party is presumed to have known, at the time of the act, that the rehabilitation debtor had the intention of concealing or carrying out other disposal as referred to item (ii) of the relevant paragraph:
- (i) if the rehabilitation debtor is a corporation, its director, executive officer, inspector, auditor, liquidator or any other person equivalent thereto;
 - (ii) when the rehabilitation debtor is a corporation, a person who falls under any of the categories of persons listed in (a) through (c) below in relation to the rehabilitation debtor:
 - (a) when the rehabilitation debtor is a stock company, a person who holds the majority of voting rights of all shareholders of the rehabilitation debtor;
 - (b) when the rehabilitation debtor is a stock company, and the majority of voting rights of all shareholders of the rehabilitation debtor are held independently by a subsidiary stock company of a parent corporation or jointly by a parent corporation and its subsidiary stock company, the parent corporation;
 - (c) when the rehabilitation debtor is a corporation other than a stock company, a person equivalent to those set forth in (a) or (b);

(iii) the rehabilitation debtor's relative or a person living together with the rehabilitation debtor.

(Avoidance of the Provision of Security to Specific Creditors)

Article 127-3 (1) The following acts (limited to acts concerning the provision of security or extinguishment of debt conducted with regard to an existing debt) may be avoided in the interest of the rehabilitation debtor's assets after the commencement of rehabilitation proceedings:

(i) an act conducted by the rehabilitation debtor after they became unable to pay debts or a petition to commence rehabilitation proceedings, commence bankruptcy proceedings or commence special liquidation was filed (hereinafter referred to as the "filing of a petition to commence rehabilitation proceedings, etc." in this Section); provided, however, that this applies only where the creditor, at the time of the act, knew either of the facts set forth in (a) or (b) below for the cases listed in (a) or (b), respectively:

(a) Where the act was conducted after the rehabilitation debtor became unable to pay debts: The fact that the rehabilitation debtor was unable to pay debts or suspended payments

(b) Where the act was conducted after a petition to commence rehabilitation proceedings, etc. was filed: The fact that a petition to commence rehabilitation proceedings, etc. was filed

(ii) an act that is not included in the scope of the rehabilitation debtor's obligation in terms of the act itself or the time of performance of the act, which was conducted within 30 days before the rehabilitation debtor became unable to pay debts; provided, however, that this does not apply if the creditor did not know, at the time of the act, the fact that it would prejudice other rehabilitation creditors.

(2) For the purpose of application of the provisions of item (i) of the preceding paragraph, in the following cases, the creditor is presumed to have known, at the time of the act set forth in the relevant item, either of the facts set forth in (a) or (b) below for the cases listed in (a) or (b), respectively (in the case set forth in (a) of the relevant item, both the facts that the rehabilitation debtor was unable to pay debts and that the rehabilitation debtor suspended payments):

(i) where the creditor is any of the persons listed in the items of paragraph (2) of the preceding Article;

(ii) where the act set forth in item (i) of the preceding paragraph is not included in the scope of the rehabilitation debtor's obligation in terms of the act itself or the means or time of performance of the act.

(3) For the purpose of application of the provisions of the items of paragraph (1), after suspension of payments took place (limited to a suspension that took

place within one year prior to the filing of a petition to commence rehabilitation proceedings, etc.), the rehabilitation debtor is presumed to have been unable to pay debts.

(Exceptions to Payment of Debts on Negotiable Instruments)

Article 128 (1) The provisions of paragraph (1), item (i) of the preceding Article do not apply where a person who has received payment of a negotiable instrument from the rehabilitation debtor would lose their right on the negotiable instrument against one or more debtors on the negotiable instrument unless they receive the payment.

(2) In the case referred to in the preceding paragraph, if the final obligor for redemption or the person who had entrusted the drawing of the negotiable instrument knew or was negligent in not knowing, at the time of drawing, the fact that suspension of payments, etc. had taken place, a supervisor empowered to exercise a right of avoidance under the provisions of Article 56, paragraph (1) (hereinafter referred to as a "supervisor empowered to avoid") or a trustee may have these persons redeem the money paid by the rehabilitation debtor to them.

(3) The provisions of paragraph (1) of the preceding Article do not apply to any act concerning the provision of security or extinguishment of debt, which is conducted by the rehabilitation debtor with regard to a claim for a fine, etc. arising prior to the commencement of rehabilitation proceedings for the person who has the power to collect the claim.

(Denying Requirement to Duly Assert Against Third Parties for Changes in Rights)

Article 129 (1) Where an act necessary for duly asserting the establishment, transfer or modification of a right against a third party (including a provisional registration) was conducted after suspension of payments, etc. took place, the act may be denied if it was conducted after 15 days had elapsed since the date of establishment, transfer or modification of the right, while knowing that suspension of payments, etc. had taken place; provided, however, that this not applies to a definitive registration based on prior unavoidable provisional registration.

(2) The provisions of the preceding paragraph apply mutatis mutandis to a registration based on which the acquisition of a right becomes effective.

(Denial of Acts of Execution)

Article 130 The exercising of a right of avoidance does not be precluded even when an act to be denied is accompanied by an enforceable title of obligation or based on an act of execution.

(Restriction on Denial Due to Suspension of Payments)

Article 131 Any act conducted not less than one year before the date of filing of a petition to commence rehabilitation proceedings, etc. (excluding the act prescribed in Article 127, paragraph (3)) may not be denied by reason that the act was conducted after suspension of payments had taken place or while knowing the fact of suspension of payments.

(Effect of the Exercise of a Right of Avoidance)

Article 132 (1) The exercise of a right of avoidance restores the rehabilitation debtor's assets to its original state.

(2) Where an act prescribed in Article 127, paragraph (3) is denied, if the other party did not know, at the time of the act, the fact that suspension of payments, etc. had taken place nor the fact that the act would prejudice any rehabilitation creditor, it is sufficient for the other party to return the actual enrichment that the relevant party enjoys.

(Rights Held by the Other Party over Counter-Performance Received by the Rehabilitation Debtor)

Article 132-2 (1) When an act prescribed in Article 127, paragraph (1) or (3) or Article 127-2, paragraph (1) is denied, the other party may exercise a right set forth in each of the following items for the categories listed in the respective items:

(i) where the counter-performance received by the rehabilitation debtor actually exists within the rehabilitation debtor's assets: A right to claim return of the relevant counter-performance;

(ii) where the counter-performance received by the rehabilitation debtor does not actually exist within the rehabilitation debtor's assets: A right to claim, as a holder of common benefit claim, reimbursement of the value of the counter-performance.

(2) Notwithstanding the provisions of item (ii) of the preceding paragraph, in the cases listed in the same item, if the rehabilitation debtor, at the time of the act in question, had the intention of conducting concealing or carrying out other disposition of the assets that they received as a value for the act and the other party knew that the rehabilitation debtor had the intention, the other party may exercise a right set forth in each of the following items for the cases listed in the respective items:

(i) where the enrichment arising from the counter-performance received by the rehabilitation debtor actually exists in whole within the rehabilitation debtor's assets: A right to claim, as a holder of common benefit claim, return of the actual enrichment;

- (ii) where the enrichment arising from the counter-performance received by the rehabilitation debtor does not actually exist within the rehabilitation debtor's assets: A right to claim, as a rehabilitation creditor, reimbursement of the value of the counter-performance;
 - (iii) where the enrichment arising from the counter-performance received by the rehabilitation debtor actually exists in part within the rehabilitation debtor's assets: A right to claim, as a holder of common benefit claim, return of the actual enrichment, and a right to claim, as a rehabilitation creditor, reimbursement of any difference between the counter-performance and the actual enrichment.
- (3) For the purpose of application of the provisions of the preceding paragraph, if the other party to the act in question is any of the persons listed in the items of Article 127-2, paragraph (2), the other party is presumed to have known, at the time of the act, that the rehabilitation debtor had the intention of concealing or carrying out other disposition set forth in the preceding paragraph.
- (4) A supervisor empowered to avoid or a trustee, when they intend to avoid an act prescribed in Article 127, paragraph (1) or (3) or Article 127-2, paragraph (1), in lieu of requesting return of the assets that should be returned to the rehabilitation debtor's assets pursuant to the provisions of paragraph (1) of the preceding Article, may request the other party to reimburse the amount obtained by deducting the amount that is included in the scope of common benefit claims pursuant to the provisions of the preceding three paragraphs (in the case set forth in paragraph (1), item (i), the value of the counter-performance received by the rehabilitation debtor) from the value of the relevant assets to be returned.

(Restoration of the Other Party's Claim)

Article 133 Where an act prescribed in Article 127-3, paragraph (1) is avoided, if the other party returns the performance that they have received or reimburses the value of the performance, this restores the other party's claim to its original state.

(Right of Avoidance against Subsequent Acquirers)

Article 134 (1) In the following cases, a right of avoidance may also be exercised against any subsequent acquirers:

- (i) where the subsequent acquirers knew, at the time of acquisition, that there were grounds for avoidance against their predecessors;
- (ii) where each of the subsequent acquirers is any of the persons listed in the items of Article 127-2, paragraph (2); provided, however, that this does not apply if the subsequent acquirers did not know, at the time of acquisition, that there were grounds for avoidance against their predecessors;

- (iii) where the subsequent acquirers acquired the subject matter by any gratuitous act or by any onerous act that should be deemed to be equal to the act, and there were grounds for denial against their predecessors.
- (2) The provisions of Article 132, paragraph (2) apply mutatis mutandis where a right of avoidance is exercised pursuant to the provisions of item (iii) of the preceding paragraph.

(Provisional Remedies Dispositions for Rights of Avoidance)

- Article 134-2 (1) When the court finds it necessary in order to secure a right of avoidance during the period after a petition to commence rehabilitation proceedings is filed until an order on the relevant petition is made, upon the petition of an interested person (or a temporary administrator if any temporary administrator is appointed) or by its own authority, the court may issue an order of provisional seizure or provisional disposition or any other necessary provisional remedy disposition.
- (2) The provisional remedy disposition under the provisions of the preceding paragraph may be issued while requiring or not requiring the provision of security.
- (3) The court, upon petition or by its own authority, may change or revoke a provisional remedy disposition issued under the provisions of paragraph (1).
- (4) An immediate appeal may be filed against a provisional remedy disposition issued under the provisions of paragraph (1) and a judicial decision on the petition set forth in the preceding paragraph.
- (5) The immediate appeal set forth in the preceding paragraph does not have the effect of a stay of execution.
- (6) Where a judicial decision prescribed in paragraph (4) and a judicial decision on the immediate appeal set forth in the same paragraph are made, the written judgements must be served upon the parties concerned. In this case, the provisions of the main clause of Article 10, paragraph (3) do not apply.
- (7) The provisions of the preceding paragraphs apply mutatis mutandis where an immediate appeal set forth in Article 36, paragraph (1) is filed against an order to dismiss with prejudice on the merits a petition to commence of rehabilitation proceedings.

(Continuation of Procedures for Provisional Remedy Dispositions and Handling of Security)

- Article 134-3 (1) Where a provisional remedy disposition under the provisions of paragraph (1) of the preceding Article (including cases where applied mutatis mutandis pursuant to paragraph (7) of the relevant Article) is issued, if an order to commence rehabilitation proceedings is made, a supervisor empowered to avoid or a trustee may continue the procedure for the provisional remedy

disposition.

- (2) If the procedure for a provisional remedy disposition set forth in the preceding paragraph is not continued pursuant to the provisions of the same paragraph, the provisional remedy disposition ceases to be effective.
- (3) Where a supervisor empowered to avoid, or a trustee, intends to continue the procedure for a provisional remedy disposition set forth in paragraph (1) pursuant to the provisions of the same paragraph, if the whole or part of the security prescribed in paragraph (2) of the preceding Article (including cases where applied *mutatis mutandis* pursuant to paragraph (7) of the same Article) does not belong to the rehabilitation debtor's assets, they must substitute, for the whole or part of the security, another security by way of assets that belongs to the rehabilitation debtor's assets.
- (4) The provisions of Article 18 of the Civil Preservation Act (Act No. 91 of 1989) and Chapter II, Section 4 (excluding Article 37, paragraphs (5) through (7)) and Section 5 of the same Act apply *mutatis mutandis* to a provisional remedy disposition for the procedure to be continued by a supervisor empowered to avoid or a trustee pursuant to the provisions of paragraph (1).

(Exercising a Right of Avoidance)

- Article 135 (1) A right of avoidance is exercised by a supervisor empowered to avoid, or a trustee, by filing an action or making a request for avoidance.
- (2) Cases of the action and request for avoidance set forth in the preceding paragraph are subject to the jurisdiction of the rehabilitation court.
 - (3) Beyond the means prescribed in paragraph (1), a trustee may also exercise a right of avoidance by raising a defense.

(Requests for Avoidance)

- Article 136 (1) When making a request for avoidance, the requester must make a *prima facie* showing of the fact constituting the grounds for avoidance.
- (2) A judicial decision to uphold a request for avoidance or dismiss it with prejudice on the merits must be made by an order with reasons attached thereto.
 - (3) When making an order set forth in the preceding paragraph, the court must interrogate the other party or any subsequent acquirers.
 - (4) Where an order upholding a request for avoidance is made, the written judgment must be served upon the parties concerned. In this case, the provisions of the main clause of Article 10, paragraph (3) do not apply.
 - (5) The proceedings for a request for avoidance are closed upon the close of rehabilitation proceedings.

(Action Against an Order Upholding Request for Avoidance)

- Article 137 (1) A person who disagrees with an order upholding a request for avoidance may file an action to oppose, within an unextendable period of one month after the day on which the person was served the order.
- (2) The action set forth in the preceding paragraph is subject to the jurisdiction of the rehabilitation court.
- (3) A judgment rendered with regard to the action set forth in paragraph (1), except where the action is dismissed without prejudice as unlawful, approves, changes or revokes the order set forth in the same paragraph.
- (4) When a judgment approving an order made under paragraph (1) becomes final and binding, the order has the same effect as a final and binding judgment. The same applies if the action set forth in the preceding paragraph is not filed within the period prescribed in the same paragraph or is dismissed without prejudice.
- (5) With regard to a judgment to approve or change the order set forth in paragraph (1), the court in charge of the case, as provided for by Article 259, paragraph (1) of the Code of Civil Procedure, may declare provisional execution.
- (6) The action set forth in paragraph (1) in which a supervisor empowered to avoid stands as a party is to be concluded if rehabilitation proceedings are closed as a result of an order of revocation of the order to commence rehabilitation proceedings becoming final and binding or an order of termination of rehabilitation proceedings being made, and is to be discontinued if rehabilitation proceedings are closed as a result of an order of disconfirmation of the rehabilitation plan, order of discontinuance of rehabilitation proceedings or order of revocation of the rehabilitation plan becoming final and binding.
- (7) The action set forth in paragraph (1) in which a trustee stands as a party, notwithstanding the provisions of Article 68, paragraph (2), is concluded if rehabilitation proceedings are closed as a result of an order of revocation of the order to commence rehabilitation proceedings becoming final and binding or an order of completion of rehabilitation proceedings being made.

(Intervention in Actions by a Supervisor Empowered to Avoid)

- Article 138 (1) Notwithstanding the provisions of Article 135, paragraph (1), a supervisor empowered to avoid, if an action is pending between the other party against whom they may exercise a right of avoidance (hereinafter referred to as the "other party" in this Article) and the rehabilitation debtor, may intervene in the action as a party thereto, designating the other party as a defendant, in order to exercise the right of avoidance; provided, however, that this applies only where they make a claim regarding the right or obligation that is the subject matter of the action.
- (2) Where an action of avoidance in which a supervisor empowered to avoid

stands as a party (including the action set forth in paragraph (1) of the preceding Article and action was subject to substitution under the provisions of Article 140, paragraph (1)) is pending, the rehabilitation debtor may intervene in the action as a party thereto, designating the other party as a defendant, in order to make a claim regarding the right or obligation that is the subject matter of the action.

- (3) In the case prescribed in the preceding paragraph, the other party may, until the conclusion of the oral argument of the action in question, file another action regarding the right or obligation that is the subject matter of the relevant action, designating the rehabilitation debtor as a defendant, by consolidating these actions.
- (4) The provisions of Article 40, paragraphs (1) through (3) of the Code of Civil Procedure apply *mutatis mutandis* to the cases referred to in the preceding three paragraphs, and the provisions of Article 43 and Article 47, paragraphs (2) and (3) of the same Code apply to an application for intervention.

(Period for Exercising a Right of Avoidance)

Article 139 A right of avoidance may not be exercised if two years have elapsed since the date of commencement of rehabilitation proceedings (in cases where bankruptcy proceedings have been commenced prior to the date of commencement of rehabilitation proceedings, this period starts from the date of commencement of bankruptcy proceedings). The same applies when 20 years have elapsed since the date of the act to be avoided.

(Handling of Action for Avoidance of Fraudulent Acts)

- Article 140 (1) A supervisor empowered to avoid, or a trustee, may substitute for a party in the action discontinued pursuant to the provisions of Article 40-2, paragraph (1), which is filed by a rehabilitation creditor pursuant to the provisions of Article 424 of the Civil Code or action of avoidance or action of objection to an order upholding a request for avoidance under the provisions of the Bankruptcy Act. In this case, a petition for the substitution in the action may also be filed by the opponent.
- (2) In the case referred to in the preceding paragraph, the opponent's claim for court costs against the rehabilitation creditor or a bankruptcy trustee is a common benefit claim.
 - (3) If the rehabilitation proceedings are closed after the action prescribed in paragraph (1) was subject to substitution under the provisions of the same paragraph, the action is discontinued except where it has been discontinued pursuant to the provisions of paragraph (1) of the following Article.
 - (4) In the case referred to in the preceding paragraph or cases where rehabilitation proceedings are closed after the action prescribed in paragraph

(1) was discontinued pursuant to the provisions of paragraph (1) of the following Article, the rehabilitation creditor or a bankruptcy trustee must substitute in the action. In this case, a petition for the substitution in the action may also be filed by the opponent.

(Discontinuation and Substitution in an Action of Avoidance)

Article 141 (1) Where any of the judicial decisions listed in the following items is revoked, the action specified in the respective items is discontinued:

- (i) a supervision order or a judicial decision under the provisions of Article 56, paragraph (1): Action of avoidance or an action set forth in Article 137, paragraph (1) in which a supervisor empowered to avoid stands as a party, court proceedings in which a supervisor empowered to avoid has intervened under the provisions of Article 138, paragraph (1), or action prescribed in paragraph (1) of the preceding Article which has been subject to substitute by a supervisor empowered to avoid;
- (ii) an administration order: Action set forth in Article 137, paragraph (1) in which a trustee stands as a party or action prescribed in paragraph (1) of the preceding Article is subject to substitution by a trustee.

(2) Where, after an action is discontinued pursuant to the provisions of the preceding paragraph, a supervisor is empowered to exercise a right of avoidance pursuant to the provisions of Article 56, paragraph (1) or a trustee is appointed, the supervisor or trustee must substitute for a party in the action. In this case, a petition for the substitution in the action may also be filed by the opponent.

Section 3 Pursuing the Liabilities of Officers of Corporations

(Provisional Remedy Dispositions upon Officer's Assets)

Article 142 (1) Where an order to commence rehabilitation proceedings is made against the rehabilitation debtor who is a corporation, the court, when it finds it necessary, upon the petition of the rehabilitation debtor, etc. or by its own authority, with regard to a claim for damages based on the liabilities of the rehabilitation debtor's director, executive officer, inspector, auditor, liquidator or any other person equivalent thereto (hereinafter referred to as "officer" in this Article to Article 145), may issue a provisional remedy disposition upon the assets of these officers.

(2) When the court finds urgent necessity even before making a petition to commence rehabilitation proceedings, upon the petition of the rehabilitation debtor, etc. (or a temporary administrator if any temporary administrator is appointed) or by its own authority, the court may issue a provisional remedy disposition under the provisions of the preceding paragraph.

- (3) If no trustee is appointed in the case prescribed in paragraph (1) or if no temporary administrator is appointed in the case prescribed in the preceding paragraph, a rehabilitation creditor may also file a petition set forth in paragraph (1) or the preceding paragraph.
- (4) The court may change or revoke a provisional remedy disposition issued under the provisions of paragraph (1) or (2).
- (5) An immediate appeal may be filed against a provisional remedy disposition issued under the provisions of paragraph (1) or (2) and an order made under the provisions of the preceding paragraph.
- (6) The immediate appeal set forth in the preceding paragraph does not have the effect of stay of execution.
- (7) Where a judicial decision prescribed in paragraph (5) and a judicial decision on the immediate appeal set forth in the same paragraph are made, the written judgment must be served upon the parties concerned. In this case, the provisions of the main clause of Article 10, paragraph (3) does not apply.

(Petition for Assessment of a Claim for Damages)

Article 143 (1) Where an order to commence rehabilitation proceedings is made against the rehabilitation debtor who is a corporation, the court, when it finds it necessary, upon the petition of the rehabilitation debtor, etc. or by its own authority, may make an assessment decision on a claim for damages based on its officer's liability.

- (2) In the case prescribed in the preceding paragraph, if no trustee is appointed, a rehabilitation creditor may also file a petition set forth in the same paragraph.
- (3) When filing the petition set forth in preceding paragraph (1), the petitioner must make a prima facie showing of the fact constituting the cause of liability.
- (4) Where the court commences proceedings for assessment by its own authority, it must make an order to that effect.
- (5) When a petition set forth in paragraph (1) is filed or an order to commence proceedings for assessment by the court's own authority is made, for the purpose of renewal of prescription, it is deemed that a demand by litigation is made.
- (6) The proceedings for assessment (excluding those initiated after an assessment decision set forth in paragraph (1) is made) are closed upon the close of rehabilitation proceedings.

(Judicial Decisions on Assessments Claims for Damages)

Article 144 (1) An assessment decision set forth in paragraph (1) of the preceding Article and a judicial decision to dismiss with prejudice on the merits the petition set forth in the same paragraph must be made by an order

stating the reasons therefor.

- (2) When making an order set forth in the preceding paragraph, the court must interrogate the officer in question.
- (3) Where an assessment decision set forth in paragraph (1) of the preceding Article is made, the written judgment must be served upon the parties concerned. In this case, the provisions of the main clause of Article 10, paragraph (3) do not apply.

(Actions Against an Assessment Decision)

- Article 145 (1) A person who disagrees with an assessment decision set forth in Article 143, paragraph (1) may file an action to oppose, within an unextendable period of one month after the day on which the person was served the decision.
- (2) The action set forth in the preceding paragraph is subject to the jurisdiction of the rehabilitation court.
 - (3) In an action set forth in paragraph (1) (excluding an action set forth in the following paragraph), the person who has filed a petition set forth in Article 143, paragraph (1) must stand as a defendant if the action is filed by the officer in question, and the officer in question must stand as a defendant if it is filed by the person who has filed a petition set forth in Article 143, paragraph (1).
 - (4) In an action set forth in paragraph (1) against an assessment decision made by the court's own authority, the rehabilitation debtor, etc. must stand as a defendant if the action is filed by the officer in question, and the officer in question must stand as a defendant if it is filed by the rehabilitation debtor, etc.

Article 146 (1) Oral arguments for an action set forth in paragraph (1) of the preceding Article may not be commenced until the period set forth in the same paragraph has expired.

- (2) If two or more actions set forth in paragraph (1) of the preceding Article are pending concurrently, oral arguments and judicial decisions of these actions are made in a consolidated manner. In this case, the provisions of Article 40, paragraphs (1) through (3) of the Code of Civil Procedure apply *mutatis mutandis*.
- (3) A judgment rendered with regard to an action set forth in paragraph (1) of the preceding Article, except where the action is dismissed as unlawful without prejudice, approves, changes or revokes the assessment decision.
- (4) A judgment that approves or changes an assessment decision, for the purpose of compulsory execution, has the same effect as a judgment to order performance.
- (5) With regard to a judgment that approves or changes an assessment decision, the court in charge of the case, as provided for by Article 259, paragraph (1) of

the Code of Civil Procedure, may declare provisional execution.

- (6) When rehabilitation proceedings are closed, the action set forth in paragraph (1) of the preceding Article in which the rehabilitation debtor, etc. does not stand as a party is discontinued. In this case, the provisions of Article 68, paragraph (3) apply *mutatis mutandis*.

(Effect of Assessment Decisions)

Article 147 If an action set forth in Article 145, paragraph (1) is not filed within the period set forth in the same paragraph or is dismissed without prejudice, the assessment decision has the same effect as a final and binding judgment to order performance.

Section 4 Extinguishment of Security Interests

(Permission for Extinguishment of Security Interests)

Article 148 (1) Where there exist any security interests prescribed in Article 53, paragraph (1) (hereinafter referred to as "security interest" in this Article, the following Article, and Article 152), at the time of commencement of rehabilitation proceedings, against the rehabilitation debtor's assets, if the relevant assets are indispensable for the continuation of the rehabilitation debtor's business, the rehabilitation debtor, etc. may file a petition to the court for permission for having security interests that exist on these assets be extinguished, by paying to the court the amount of money equivalent to the value of the assets.

- (2) The petition set forth in the preceding paragraph must be filed by means of a document stating the following particulars:

- (i) the indication of the assets that is the subject matter of the security interest;
- (ii) the value of the assets set forth in the preceding item;
- (iii) the indication of the security interests to be extinguished;
- (iv) the amount of claim secured by the security interests set forth in the preceding item.

- (3) Where an order of permission set forth in paragraph (1) is made, the written judgment must be served, with the document set forth in the preceding paragraph (hereinafter referred to as a "written petition" in this Article and the following Article), upon the persons who hold the security interests set forth in item (iii) of the same paragraph as stated in the relevant written petition (hereinafter referred to as the "security interest holders" in this Article through Article 153). In this case, the provisions of the main clause of Article 10, paragraph (3) do not apply.

- (4) A security interest holder may file an immediate appeal against an order of

permission made under the provisions of paragraph (1).

- (5) Where a judicial decision on the immediate appeal set forth in the preceding paragraph is made, the written judgment must be served upon security interest holders. In this case, the provisions of the main clause of Article 10, paragraph (3) do not apply.
- (6) Where the security interest set forth in paragraph (2), item (iii) is a revolving mortgage, if two weeks have elapsed since the day on which the revolving mortgagee received the service made under the provisions of paragraph (3), the principal to be secured by the revolving mortgage will be fixed.
- (7) The provisions of Article 398-20, paragraph (2) of the Civil Code apply mutatis mutandis where a petition for permission set forth in paragraph (1) is withdrawn or the permission set forth in the same paragraph is rescinded.

(Requests for Valuation)

- Article 149 (1) A security interest holder, if they have an objection to the value set forth in paragraph (2), item (ii) of the preceding Article as stated in the written petition (hereinafter referred to as the "offered price" in Articles 151 and 152), may make a request, within one month from the day on which they were served the relevant written petition, for the valuation of the assets that is the subject matter of the security interest concerned (hereinafter referred to as the "assets" in the following Article).
- (2) The court that has granted the permission set forth in paragraph (1) of the preceding Article, only where there is any unavoidable ground, upon the petition of the security interest holder, may extend the period set forth in the preceding paragraph.
 - (3) A case regarding a request under the provisions of paragraph (1) (hereinafter referred to as a "request for valuation" in this Article through Article 152) is subject to the jurisdiction of the rehabilitation court.
 - (4) A person who makes a request for valuation must prepay an amount designated by the court as expenses for the proceedings for the request.
 - (5) If prepayment of expenses prescribed in the preceding paragraph is not made, the rehabilitation court must dismiss without prejudice the request for valuation.

(Valuation of Assets)

- Article 150 (1) Where a request for valuation is made, the rehabilitation court, except where it dismisses the request without prejudice, must appoint a valuator and order them to value the assets.
- (2) In the case referred to in the preceding paragraph, the rehabilitation court must, by an order, value the assets based on the valuation made by a valuator.

- (3) Where there are two or more security interest holders, the order set forth in the preceding paragraph must be made after the period set forth in paragraph (1) of the preceding Article (in cases where the period has been extended pursuant to the provisions of paragraph (2) of the relevant Article, the period as extended; hereinafter referred to as the "period of request" in Article 152, paragraph (1)) has expired for all security interest holders. In this case, if two or more cases of requests for valuation are pending concurrently, the judicial decisions of these cases must be made in a consolidated manner.
- (4) The order set forth in paragraph (2) is also effective against a security interest holder who has not made a request for valuation.
- (5) The rehabilitation debtor, etc. and any security interest holder may file an immediate appeal against an order on the request for valuation.
- (6) Where an order on the request for valuation or a judicial decision on the immediate appeal set forth in preceding paragraph is made, the written judgment must be served upon the rehabilitation debtor, etc. and the security interest holders. In this case, the provisions of the main clause of Article 10, paragraph (3) do not apply.

(Burden of Expenses)

- Article 151 (1) The expenses incurred for the proceedings for a request for valuation are borne by the rehabilitation debtor if the value determined by an order set forth in paragraph (2) of the preceding Article exceeds the offered price, and borne by the persons who made a request for valuation if the relevant value does not exceed the offered price; provided, however, that if the amount in excess of the offered price is less than the amount of expenses, the part of the amount of expenses which is equivalent to the amount of excess is borne by the rehabilitation debtor, and the remaining part is borne by the persons who made a request for valuation.
- (2) The expenses incurred for the proceedings for an immediate appeal set forth in paragraph (5) of the preceding Article is borne by the person who filed the immediate appeal.
 - (3) A person who holds a claim for expenses against the rehabilitation debtor pursuant to the provisions of paragraph (1) has a right to receive payment of the expenses in preference to other security interest holders from the money paid under the provisions of paragraph (1) of the following Article.
 - (4) In the case referred to in paragraph (4) of the following Article, the expenses set forth in paragraphs (1) and (2), notwithstanding these provisions, are borne by the rehabilitation debtor. In this case, a claim for expenses against the rehabilitation debtor is a common benefit claim.

(Payment of Money Equivalent to Value of Assets)

Article 152 (1) The rehabilitation debtor, etc. must pay to the court, by the time limit set by the court, money equivalent to the offered price if no request for valuation is made within the period of request or all requests for valuation are withdrawn or dismissed without prejudice, or must pay to the court, by the relevant time limit, money equivalent to the value determined by an order set forth in Article 150, paragraph (2) if the relevant order becomes final and binding.

(2) The security interests held by security interest holders are extinguished at the time when money is paid under the provisions of the preceding paragraph.

(3) Where money is paid under the provisions of paragraph (1), a court clerk must commission cancellation of registrations of the security interests extinguished.

(4) If the rehabilitation debtor, etc. fails to pay money under the provisions of paragraph (1), the court must rescind the permission set forth in Article 148, paragraph (1).

(Implementation of Liquidating Distribution)

Article 153 (1) Where payment of money prescribed in paragraph (4) of the preceding Article is made, the court, according to a distribution list, must implement liquidating distribution to security interest holders, except in the case prescribed in the following paragraph.

(2) Where there is only one security interest holder or where there are two or more security interest holders and the money paid pursuant to the provisions of paragraph (1) of the preceding Article is sufficient for paying the claims secured by the security interests held by the respective holders and the expenses borne by the rehabilitation debtor pursuant to the provisions of Article 151, paragraph (1), the court prepare a statement of delivery of the relevant money, and deliver payment money to the security interest holders and deliver any surplus to the rehabilitation debtor, etc.

(3) The provisions of Article 85 and Articles 88 through 92 of the Civil Execution Act (Act No. 4 of 1979) apply mutatis mutandis to the procedure for a liquidating distribution set forth in paragraph (1), and the provisions of Articles 88, 91 and 92 of the same Act apply mutatis mutandis to the procedure for delivery of payment money under the provisions of the preceding paragraph.

Chapter VII Rehabilitation Plans

Section 1 Clauses of Rehabilitation Plans

(Clauses of Rehabilitation Plans)

Article 154 (1) A rehabilitation plan must specify clauses concerning the following particulars:

- (i) modification of some or all of the rights of rehabilitation creditors;
 - (ii) payment of common benefit claims and claims with general priorities;
 - (iii) the content of known post commencement claims, if there is any.
- (2) Where the creditors committee conducts supervision or any other participation in order to secure performance of payment within the payment period specified in a rehabilitation plan, if the rehabilitation debtor bears all or part of the expenses for the committee's supervision or participation, the rehabilitation plan must specify clauses on the burden of expenses.
- (3) Where permission of the court is granted under the provisions of Article 166, paragraph (1), a rehabilitation plan may specify clauses on the rehabilitation debtor's acquisition of its shares, clauses on consolidation of its shares, clauses on reduction in the amount of its stated capital or clauses on amendment of its articles of incorporation with regard to the total number of shares that may be issued by the rehabilitation debtor, all of which will be conducted as provided for in a rehabilitation plan.
- (4) Where permission of the court is granted under the provisions of Article 166-2, paragraph (2), a rehabilitation plan may specify clauses on the solicitation (excluding solicitation for which the particulars listed in the items of Article 202, paragraph (1) of the same Act is specified; hereinafter the same applies in this Chapter) of subscribers for shares for subscription (meaning shares for subscription prescribed in Article 199, paragraph (1) of the Companies Act, limited to shares with restriction on transfer; hereinafter the same applies in this Chapter).

(Modification of Rights Based on Rehabilitation Plans)

- Article 155 (1) The content of any modification of rights based on a rehabilitation plan is equal between rehabilitation creditors; provided, however, that this does not apply where any rehabilitation creditor who will suffer detriment has given consent or where equity will not be undermined even if the plan otherwise provides for a small rehabilitation claim or any of the claims listed in Article 84, paragraph (2) or any other difference in treatment of rehabilitation creditors.
- (2) Notwithstanding the provisions of the preceding paragraph, in cases where proof of any consensually-subordinated rehabilitation claim is filed, a fair and equitable difference must be provided in the contents of a rehabilitation plan between persons who hold rehabilitation claims (excluding consensually-subordinated rehabilitation claims) and persons who hold consensually-subordinated rehabilitation claims, while taking into consideration the content of an agreement on the order of priority for receiving a liquidating distribution prescribed in Article 35, paragraph (4).
- (3) If a debt is to be assumed or the term for a debt is to be extended based on a

rehabilitation plan, except where there are special circumstances, the rehabilitation plan is to set a term for such debt not exceeding ten years from the time when an order of confirmation of the rehabilitation plan becomes final and binding.

- (4) With regard to claims for fines, etc. arising prior to the commencement of rehabilitation proceedings, a rehabilitation plan may not provide for the reduction or release of debts or any other measures that would affect the rights concerned.
- (5) Where a rehabilitation plan provides for reduction or release of debts or any other measures that would affect rights with regard to a claim for a foreign tax subject to mutual assistance arising prior to the commencement of rehabilitation proceedings, the opinions of the person who has the power to collect the claim must be heard.

(General Standards for the Modification of Rights)

Article 156 Clauses for modifying rights of rehabilitation creditors must provide for general standards for the reduction or release of debts, extension of the term for debts or any other modification of rights (in cases where proof of any consensually-subordinated rehabilitation claim is filed, general standards for consensually-subordinated rehabilitation claims are included).

(Provisions on Rights of Holders of Filed Rehabilitation Claims)

- Article 157 (1) Clauses for modifying rights of rehabilitation creditors must clearly indicate rights held by holders of filed rehabilitation claims and rehabilitation creditors stated in a written approval or disapproval under the provisions of Article 101, paragraph (3), which are to be modified, and also provide for the content of rights as modified according to the general standards set forth in the preceding Article; provided, however, that this not applies to rehabilitation claims prescribed in Article 159 and Article 160, paragraph (1).
- (2) If there is a right held by a holder of filed rehabilitation claim or rehabilitation creditor, both prescribed in the preceding paragraph, which will not be affected by a rehabilitation plan, the right must be clearly indicated.

(Provisions on Owing of Debts and Provision of Security)

- Article 158 (1) If a person other than the rehabilitation debtor owes a debt for the purpose of rehabilitation by assuming a debt or becoming a guarantor, a rehabilitation plan must clearly indicate the person and provide for the content of the debt.
- (2) If the rehabilitation debtor or a person other than the rehabilitation debtor provides security for the purpose of rehabilitation, a rehabilitation plan must clearly indicate the person who provides security and provide for the content of

the security interest.

(Provisions on Rehabilitation Claims Not Yet Determined)

Article 159 If there is a denied or disputed rehabilitation claim for which determination proceedings have not yet been closed, a rehabilitation plan must provide for appropriate measures for the claim, while taking into consideration the possible outcome of the determination of the rights concerned.

(Provisions on Rights of Holder of Right of Separate Satisfaction)

Article 160 (1) If there is a person who holds a rehabilitation claim and the part of the claim for which payment cannot be received by exercising a right of separate satisfaction has not yet been determined, a rehabilitation plan must provide for appropriate measures for enabling the person to exercise rights as a rehabilitation creditor in cases where the part of the claim is determined.

(2) Where the principal of a revolving mortgage for securing the rehabilitation claim prescribed in the preceding paragraph is fixed, a rehabilitation plan may provide for provisional payment figured by estimate according to the general standards set forth in Article 156 with regard to the part of the claim secured by the revolving mortgage which exceeds the maximum amount. In this case, the rehabilitation plan must also provide for measures for settlement to be implemented when the part of the claim for which payment cannot be received by exercising the revolving mortgage has been determined.

(Provisions on the Rehabilitation Debtor's Acquisition of Its Shares)

Article 161 (1) If the rehabilitation debtor is a stock company and acquires shares of the rehabilitation debtor itself based on a rehabilitation plan, the following particulars must be provided for in the rehabilitation plan:

(i) the number of shares to be acquired by the rehabilitation debtor (in the case of a company with class shares, the classes of shares and the number of shares of each class);

(ii) the date on which the rehabilitation debtor is to acquire the shares set forth in the preceding item.

(2) If the rehabilitation debtor is a stock company and consolidates its shares based on a rehabilitation plan, the particulars listed in the items of Article 180, paragraph (2) of the Companies Act must be provided for in the rehabilitation plan.

(3) If the rehabilitation debtor is a stock company and reduces the amount of its stated capital based on a rehabilitation plan, the particulars listed in the items of Article 447, paragraph (1) of the Companies Act must be provided for in the rehabilitation plan.

(4) If the rehabilitation debtor is a stock company and amends its articles of

incorporation based on a rehabilitation plan with regard to the total number of shares that may be issued by the rehabilitation debtor, the content of the amendment must be provided for in the rehabilitation plan.

(Provisions on Solicitation of Subscribers for Shares for Subscription)

Article 162 When the rehabilitation debtor, who is a stock company, intends to solicit subscribers for shares for subscription with permission of the court under the provisions of Article 166-2, paragraph (2), a rehabilitation plan must provide for the particulars listed in the items of Article 199, paragraph (1) of the Companies Act.

Section 2 Submission of Proposed Rehabilitation Plans

(Period for Submission of Proposed Rehabilitation Plans)

Article 163 (1) The rehabilitation debtor, etc., within the period specified by the court after the expiration of the period for filing proofs of claims, must prepare a proposed rehabilitation plan and submit it to the court.

(2) The rehabilitation debtor (limited to cases where a trustee is appointed) or a holder of a filed rehabilitation claim, may prepare a proposed rehabilitation plan and submit to the court within the period specified by the court.

(3) The court, upon petition or by its own authority, may extend the period specified thereby pursuant to the provisions of the preceding two paragraphs.

(Submission of Proposed Rehabilitation Plans in Advance)

Article 164 (1) The rehabilitation debtor, etc., notwithstanding the provisions of paragraph (1) of the preceding Article, may submit a proposed rehabilitation plan after a petition to commence rehabilitation proceedings is filed and before the period for filing proofs of claims expires.

(2) In the case referred to in the preceding paragraph, a proposed rehabilitation plan may be submitted without providing therein for the particulars prescribed in Articles 157 and 159. In this case, the proposed rehabilitation plan must be supplemented with clauses on these particulars within the period specified by the court after the expiration of the period for filing proofs of claims.

(Consent of Persons Who Owe Debt)

Article 165 (1) A person who intends to submit a proposed rehabilitation plan which provides for the owing of a debt or provision of security prescribed in Article 158 must obtain consent, in advance, from the person who will owe the debt or provide the security.

(2) A person who intends to submit a proposed rehabilitation plan which provides for provisional payment figured by estimate set forth in Article 160, paragraph

(2) must obtain consent, in advance, from the person who holds the revolving mortgage regarding the provisions.

(Permission Concerning Clauses on the Rehabilitation Debtor's Acquisition of Its Shares)

Article 166 (1) A person who intends to submit a proposed rehabilitation plan which specifies the clauses prescribed in Article 154, paragraph (3) must obtain permission of the court in advance.

(2) The court may grant the permission set forth in the preceding paragraph only where the rehabilitation debtor who is a stock company is unable to pay its debts in full with its assets.

(3) Where an order of permission set forth in paragraph (1) is made, the written judgment must be served upon the person who filed the petition for the permission, and a document stating the outline of the order must be served upon shareholders, respectively. With regard to the service to shareholders made in this case, the provisions of Article 43, paragraphs (4) and (5) apply *mutatis mutandis*.

(4) A shareholder may file an immediate appeal against an order of permission under the provisions of paragraph (1).

(Permission Concerning Clauses on Solicitation of Subscribers for Shares for Subscription)

Article 166-2 (1) A proposed rehabilitation plan which specifies the clauses prescribed in Article 154, paragraph (4) may be filed only by the rehabilitation debtor.

(2) The rehabilitation debtor, when they intend to submit the proposed rehabilitation plan set forth in the preceding paragraph, must obtain permission of the court in advance.

(3) The court may grant the permission set forth in the preceding paragraph only when it finds that the rehabilitation debtor who is a stock company is unable to pay its debts in full with its assets and that the solicitation of subscribers for shares for subscription is indispensable for the continuation of the rehabilitation debtor's business.

(4) The provisions of paragraphs (3) and (4) of the preceding Article apply *mutatis mutandis* where an order of permission set forth in paragraph (2) is made.

(Revision of Proposed Rehabilitation Plans)

Article 167 A person who has submitted a proposed rehabilitation plan may revise the proposed rehabilitation plan with the permission of the court; provided, however, that this does not apply after an order to refer a proposed

rehabilitation plan to a resolution is made.

(Opinions of the Rehabilitation Debtor's Labor Union)

Article 168 The court must hear opinions of the labor union, etc. with regard to a proposed rehabilitation plan. The same applies to a proposed rehabilitation plan as revised under the provisions of the preceding Article.

Section 3 Resolutions on Proposed Rehabilitation Plans

(Order to Refer to a Resolution)

Article 169 (1) Where a proposed rehabilitation plan is submitted, the court makes an order to refer the proposed rehabilitation plan to a resolution, except in any of the cases listed in the following items:

- (i) where the general period for investigation has not yet expired;
- (ii) where no report is made by the rehabilitation debtor, etc. at a meeting for reporting the status of assets or no written report set forth in Article 125, paragraph (1) is submitted;
- (iii) where the court finds that the proposed rehabilitation plan satisfies any of the requirements listed in the items of Article 174, paragraph (2) (excluding item (iii));
- (iv) where the court discontinues rehabilitation proceedings pursuant to the provisions of Article 191, item (ii).

(2) When making an order to refer to a resolution set forth in the preceding paragraph, the court must specify a means available to rehabilitation creditors who may exercise voting rights (hereinafter referred to as "voting right holders") for exercising their voting rights, and set a time limit for giving a notice to the court in the case of diverse exercise of a voting right under the provisions of Article 172, paragraph (2) (including cases where applied *mutatis mutandis* pursuant to paragraph (3) of the relevant Article). In this case, any of the following means must be designated as that for exercising a voting right:

- (i) exercising a voting right on the date of a creditors meeting;
- (ii) exercising a paper-based, etc. (meaning paper-based voting or any other means specified by the Rules of the Supreme Court) within a period specified by the court;
- (iii) exercising a voting right by either of the means listed in the preceding two items as chosen by voting right holders. In this case, the last day of the period set forth in the preceding item precede the date of a creditors meeting set forth in item (i).

(3) When the court has made an order to refer to a resolution set forth in paragraph (1), it must make a public notice of the time limit prescribed in the first sentence of the preceding paragraph and give a notice of the relevant time

limit and the contents of the proposed rehabilitation plan or the outline thereof to the persons prescribed in the main clause of Article 115, paragraph (1) (excluding those prescribed in paragraph (2) of the same Article).

- (4) When the court has designated either of the means set forth in paragraph (2), item (ii) or (iii) as that for exercising a voting right, it must make a public notice to that effect, and must give a notice to voting right holders that paper-based, etc. voting as prescribed in item (ii) of the relevant paragraph are allowed only within a period specified by the court.
- (5) Where the court has designated the means set forth in paragraph (2), item (ii) as that for exercising a voting right, if a person who may file a petition set forth in the first sentence of Article 114 has filed, within the period set forth in the preceding paragraph, a petition for convocation of a creditors meeting aimed for adopting a resolution on a proposed rehabilitation plan, the court must rescind the designation of the means for exercising a voting right, and designate the means set forth in paragraph (2), item (i) or (iii) instead.

(Restriction on Exercise of Voting Rights by Bondholders)

Article 169-2 (1) A person who holds a company bond or a claim specified in each item of Article 120-2, paragraph (6) (hereinafter referred to as "company bond, etc." in this Article), which is a rehabilitation claim, if there is any bond administrator or person set forth in the respective items of the same paragraph (hereinafter referred to as a "bond administrator, etc." in this Article) for the company bond, etc., may exercise their voting right based on the company bond, etc., only in any of the cases listed in the following items:

- (i) where the person has filed a proof of rehabilitation claim or received a change of the name of the holder of filed claim with regard to the company bond, etc. in question;
- (ii) where the bond administrator, etc. has filed a proof of rehabilitation claim with regard to the company bond, etc. in question, and before an order to refer a proposed rehabilitation plan to a resolution is made, has made an offer to the court to the effect that they have the intention of exercising their voting right based on the company bond, etc. (including cases where the bond administrator, etc., with regard to a company bond, etc. which is a rehabilitation claim and for which the offer is made, has received a change of the name of the offerer under the provisions of the following paragraph).
- (2) A person who has acquired a company bond, etc. which is a rehabilitation claim and for which an offer prescribed in item (ii) of the preceding paragraph is made may receive a change of the name of the offerer.
- (3) In the following cases, a person who holds a company bond, etc. set forth in paragraph (1) (limited to one who falls under any of the items of the same paragraph), notwithstanding the provisions of the relevant paragraph, may not

exercise their voting right for a resolution of the proposed rehabilitation plan in question:

- (i) where, with regard to the exercise of a voting right for a resolution on a proposed rehabilitation plan based on a company bond, etc. which is a rehabilitation claim, a resolution at a bondholders meeting set forth in Article 706, paragraph (1) of the Companies Act (including cases where applied mutatis mutandis pursuant to Article 54-7 of the Medical Care Act) or resolution at a social medical care corporation bond holders meeting, resolution at an investment corporation bond holders meeting set forth in Article 139-9, paragraph (4) of the Act on Investment Trust and Investment Corporation, resolution at a bondholders meeting set forth in Article 61-7, paragraph (4) of the Insurance Business Act, or resolution at a specified company bond holders meeting set forth in Article 127, paragraph (4) of the Act on Securitization of Assets is adopted;
- (ii) where there exists provisions set forth in the proviso to Article 706, paragraph (1) of the Companies Act (including cases where applied mutatis mutandis pursuant to Article 54-7 of the Medical Care Act), provisions set forth in the proviso to Article 139-9, paragraph (4) of the Act on Investment Trust and Investment Corporation, provisions set forth in the proviso to Article 61-7, paragraph (4) of the Insurance Business Act, or where a notice set forth in the proviso to Article 127, paragraph (4) of the Act on Securitization of Assets is given.

(Means of Determination of the Amount of Voting Rights Where a Creditors Meeting Is to Be Held)

Article 170 (1) Where the court designates either of the methods set forth in Article 169, paragraph (2), item (i) or (iii) as the means for exercising a voting right, the rehabilitation debtor, etc. or a holder of filed rehabilitation claim may make an objection on the date of a creditors meeting; provided, however, that this does not apply to a voting right held by a holder of filed rehabilitation claim the amount of which is determined pursuant to the provisions of Article 104, paragraph (1).

(2) In the case prescribed in the main clause of the preceding paragraph, voting right holders may exercise their voting rights in accordance with the amount specified in each of the following items for the categories listed in the respective items:

- (i) a holder of filed rehabilitation claim who holds a voting right the amount of which is determined pursuant to the provisions of Article 104, paragraph (1): The amount thus determined;
- (ii) a holder of filed rehabilitation claim who holds a voting right without objection set forth in the main clause of the preceding paragraph: The

amount filed;

- (iii) a holder of filed rehabilitation claim who holds a voting right subject to objection set forth in the main clause of the preceding paragraph: The amount specified by the court; provided, however, that the holder of filed rehabilitation claim may not exercise their voting right if the court has decided not to allow them to exercise the voting right.
- (3) The court, upon the petition of an interested person or by its own authority, may change the order made under the provisions of item (iii) of the preceding paragraph at any time.

(Means of Determining the Amount of Voting Rights Where a Creditors Meeting Will Not Be Held)

Article 171 (1) Where the court designates the means set forth in Article 169, paragraph (2), item (ii) as the means for exercising a voting right, voting right holders may exercise their voting rights in accordance with the amount specified in each of the following items for the categories listed in the respective items:

- (i) a holder of filed rehabilitation claim who holds a voting right the amount of which is determined pursuant to the provisions of Article 104, paragraph (1): The amount thus determined;
 - (ii) a holder of filed rehabilitation claim (excluding one set forth in the preceding item): The amount specified by the court; provided, however, that the holder of filed rehabilitation claim may not exercise their voting right if the court has decided not to allow them to exercise the voting right.
- (2) The court, upon the petition of an interested person or by its own authority, may change the order made under item (ii) of the preceding paragraph at any time.

(Means of Exercising Voting Rights)

- Article 172 (1) Voting right holders may exercise their voting rights by proxy.
- (2) Each voting right holder may exercise their voting right diversely. In this case, they must give a notice to the court in writing to that effect by the time limit prescribed in the first sentence of Article 169, paragraph (2).
- (3) The provisions of the preceding paragraph apply mutatis mutandis where the proxy prescribed in paragraph (1) diversely exercises a voting right vested therein (if the proxy has their own voting right, the voting right must be included).

(Determination of Voting Right Holders as of Record Date)

Article 172-2 (1) When the court finds it appropriate, upon making an order to refer a proposed rehabilitation plan to a resolution, it may designate a certain

day (hereinafter referred to as the "record date" in this Article) and determine the rehabilitation creditors recorded in the schedule of rehabilitation creditors as of the record date as voting right holders.

- (2) The court must make a public notice of the record date. In this case, the record date must be on or after the day on which two weeks elapsed since the date of public notice.

(Requirements for Approval of Proposed Rehabilitation Plans)

Article 172-3 (1) In order to approve a proposed rehabilitation plan, both of the following consents are required:

- (i) consent of the majority of voting right holders (limited to those who attended a creditors meeting or voted by paper-based, etc. voting as prescribed in Article 169, paragraph (2), item (ii));
- (ii) consent of persons who hold voting rights that account for not less than half of the total amount of voting rights held by voting right holders.

- (2) Where proof of any consensually-subordinated rehabilitation claims is filed, a resolution on a proposed rehabilitation plan is adopted separately by holders of rehabilitation claims (excluding consensually-subordinated rehabilitation claims; hereinafter the same applies in this Article, Article 172-5, paragraph (4) and Article 174-2, paragraphs (1) and (2)) and by holders of consensually-subordinated rehabilitation claims; provided, however, that this does not apply where there is no holder of consensually-subordinated rehabilitation claim who holds a voting right.
- (3) Even in the case prescribed in the main clause of the preceding paragraph, the court, when it finds it appropriate, may decide that a resolution will be adopted collectively by holders of rehabilitation claims and holders of consensually-subordinated rehabilitation claims.
- (4) The court may revoke the order set forth in the preceding paragraph until it makes an order to refer a proposed rehabilitation plan to a resolution.
- (5) Where an order is made under the provisions of the preceding two paragraphs, the written judgment must be served upon voting right holders; provided, however, that this does not apply where the order is rendered on the date of a creditors meeting.
- (6) Notwithstanding the provisions of paragraph (1), in order to approve a proposed rehabilitation plan in cases where a resolution on the proposed rehabilitation plan is to be adopted separately by holders of rehabilitation claims and holders of consensually-subordinated rehabilitation claims, pursuant to the provisions of the main clause of paragraph (2), both of the consents listed in the items of paragraph (1) are required among both holders of rehabilitation claims and holders of consensually-subordinated rehabilitation claims.
- (7) For the purpose of application of the provisions of paragraph (1), item (i) or

the preceding paragraph in cases where any voting right holder has exercised only part of their voting right pursuant to the provisions of Article 172, paragraph (2) (including cases where applied mutatis mutandis pursuant to paragraph (3) of the same Article) in order to consent to a proposed rehabilitation plan (excluding one who has not exercised the remaining part of the voting right), for each relevant voting right holder, the number of voting right holders prescribed in paragraph (1), item (i) is increased by one and the number of voting right holders who have exercised voting rights to consent to the proposed rehabilitation plan is increased by one-half, respectively.

(Modification of Proposed Rehabilitation Plans)

Article 172-4 Where either of the means set forth in Article 169, paragraph (2), item (i) or (iii) is designated as that for exercising a voting right, the person who has submitted a proposed rehabilitation plan, with permission of the court, may modify the proposed rehabilitation plan at a creditors meeting as long as it does not adversely affect rehabilitation creditors.

(Continuance of the Date of a Creditors Meeting)

Article 172-5 (1) Where either of the means set forth in Article 169, paragraph (2), item (i) or (iii) has been designated as the means for exercising a voting right on a proposed rehabilitation plan, and the proposed rehabilitation plan has not been approved, if any of the consent listed in the following items is obtained, the court, upon the petition of the person who has submitted the proposed rehabilitation plan or by its own authority, must designate and render the further date; provided, however, that this does not apply where it is obvious that the proposed rehabilitation plan is unlikely to be approved on the further date:

- (i) any of the consents set forth in the items of Article 172-3, paragraph (1);
 - (ii) consent to the continuance of the majority of voting right holders present at the creditors meeting on the date set therefor, whose voting rights collectively account for more than half of the total amount of voting rights held by the voting right holders present.
- (2) In the case referred to in the main clause of the preceding paragraph, approval of a proposed rehabilitation plan set forth in the main clause of the same paragraph must be made within two months from the date of the first creditors meeting to which the proposed rehabilitation plan has been referred for a resolution.
- (3) The court, when it finds it necessary, upon the petition of the person who has submitted a proposed rehabilitation plan or by its own authority, may extend the period set forth in the preceding paragraph; provided, however, that an extension must not exceed one month.

- (4) Where a resolution on a proposed rehabilitation plan is adopted separately by holders of rehabilitation claims and holders of consensually-subordinated rehabilitation claims pursuant to the provisions of the main clause of Article 172-3, paragraph (2), the provisions of the preceding three paragraphs apply only if the consent listed in either item of paragraph (1) is obtained among both holders of rehabilitation claims and holders of consensually-subordinated rehabilitation claims.

(Continuation in Existence of a Corporation Where a Proposed Rehabilitation Plan Is Approved)

Article 173 (1) Where a rehabilitation proceeding is commenced against the rehabilitation debtor that is a corporation in liquidation or special liquidation or a corporation against which bankruptcy proceedings have been commenced, if a proposed rehabilitation plan is approved, the corporation may continue to exist, if it is an incorporated association, by complying with the provisions concerning the amendment of articles of incorporation, or if it is an incorporated foundation, by obtaining approval of the competent government agency.

- (2) The authority of the competent government agency prescribed in the preceding paragraph, as provided for by Cabinet Order, may be delegated in whole or part to any administrative agency of the State.
- (3) The affairs under the authority of the competent government agency prescribed in paragraph (1), as provided for by Cabinet Order, may be administered in whole or part by the governor of the prefecture or any other executive agency of a prefecture.

Section 4 Confirmation of Rehabilitation Plans

(Order of Confirmation or Disconfirmation of Rehabilitation Plans)

Article 174 (1) Where a proposed rehabilitation plan is approved, the court issues an order of confirmation of the rehabilitation plan, except in any of the cases set forth in the following paragraph.

- (2) In any of the cases set forth in the following items, the court issues an order of disconfirmation of the rehabilitation plan:
- (i) where the rehabilitation proceedings or rehabilitation plan contravene provisions of any Act and the defect cannot be corrected; provided, however, that this does not apply where rehabilitation proceedings contravene provisions of any Act but the contravention is a minor one.
 - (ii) where the rehabilitation plan is unlikely to be executed;
 - (iii) where the resolution on the rehabilitation plan has been adopted by unlawful means;

- (iv) where the resolution on the rehabilitation plan is contrary to the common interests of rehabilitation creditors.
- (3) The persons prescribed in the main clause of Article 115, paragraph (1) and the labor union, etc. may state their opinions with regard to whether or not the proposed rehabilitation plan should be approved.
- (4) Where an order of confirmation or disconfirmation of the rehabilitation plan is made, a document stating the main text of the order and the outline of the reasons attached thereto must be served upon the persons prescribed in the main clause of Article 115, paragraph (1).
- (5) In the case prescribed in the preceding paragraphs, the labor union, etc. must be given a notice to the effect that the order set forth in the relevant paragraph is made.

(Special Provisions on Approval Where Consensually-Subordinated Rehabilitation Claims Are Filed)

- Article 174-2 (1) Where a resolution on a proposed rehabilitation plan is adopted separately by holders of rehabilitation claims and holders of consensually-subordinated rehabilitation claims pursuant to the provisions of the main clause of Article 172-3, paragraph (2), even if the proposed rehabilitation plan is not approved due to the fact that either of the consents listed in the items of paragraph (1) of the relevant Article has not been obtained among either of the holders of rehabilitation claims or holders of consensually-subordinated rehabilitation claims, the court may issue an order of confirmation of the rehabilitation plan by modifying the proposed rehabilitation plan, and in the interest of the holders of either category of claims among whom consent has not been obtained, by specifying a clause that the holders of the claims be paid the amount of distribution that they are expected to receive if bankruptcy proceedings are commenced, or any other equivalent clauses to protect the holders of these claims in a fair and equitable manner.
- (2) Where a resolution on a proposed rehabilitation plan is adopted separately by holders of rehabilitation claims and holders of consensually-subordinated rehabilitation claims pursuant to the provisions of the main clause of Article 172-3, paragraph (2), if it is obvious that for a proposed rehabilitation plan, the consent listed in either item of paragraph (1) of the relevant Article will not be obtained among either of the holders of rehabilitation claims or holders of consensually-subordinated rehabilitation claims, the court, upon the petition of the person who is to prepare a proposed rehabilitation plan, may permit that a proposed rehabilitation plan will be prepared by specifying, in advance, the clauses prescribed in the preceding paragraph in the interest of the holders of the category of claims among whom consent obviously will not be obtained. In this case, the holders of the category of claims among whom consent obviously

will not be obtained may not exercise their voting rights to adopt a resolution on the proposed rehabilitation plan.

- (3) When the petition set forth in the preceding paragraph is filed, the court must hear opinions of the petitioner and at least one of the holders of the category of claims among whom consent obviously will not be obtained.

(Immediate Appeals Against Orders of Confirmation of Rehabilitation Plans)

Article 175 (1) An immediate appeal may be filed against an order of confirmation or disconfirmation of the rehabilitation plan.

- (2) Notwithstanding the provisions of the preceding paragraph, where the rehabilitation debtor, at the time of commencement of rehabilitation proceedings, is unable to pay their debts in full with their assets with regard to claims that take preference over consensually-subordinated rehabilitation claims, the holder of a consensually-subordinated rehabilitation claim may not file an immediate appeal except on the grounds that the contents of a rehabilitation plan are in violation of Article 155, paragraph (1) with regard to the relationships between the holders of consensually-subordinated rehabilitation claims.

- (3) A rehabilitation creditor who held no voting right, when filing an immediate appeal set forth in paragraph (1), must make a prima facie showing to the effect that they are a rehabilitation creditor.

- (4) The provisions of the preceding paragraph apply mutatis mutandis to an appeal against an order under the provisions of Article 336 of the Code of Civil Procedure and to a petition for permission for appeal against an order under the provisions of Article 337 of the relevant Code, both provisions applied mutatis mutandis pursuant to Article 18, which are filed against a judicial decision on the immediate appeal set forth in paragraph (1).

(Time When a Rehabilitation Plan Becomes Effective)

Article 176 A rehabilitation plan becomes effective when an order of confirmation becomes final and binding.

(Scope of the Effect of a Rehabilitation Plan)

Article 177 (1) A rehabilitation plan is effective in the interest of and against the rehabilitation debtor, all rehabilitation creditors, and any person who assumes a debt or provides security for the purpose of rehabilitation.

- (2) A rehabilitation plan does not affect any security interests prescribed in Article 53, paragraph (1) held by holders of rights of separate satisfaction, any rights held by rehabilitation creditors against the rehabilitation debtor's guarantor or any other person who owes debts jointly with the rehabilitation debtor, and any security provided by persons other than the rehabilitation

debtor in the interest of rehabilitation creditors.

(Discharge from Rehabilitation Claims)

Article 178 (1) When an order of confirmation of the rehabilitation plan becomes final and binding, the rehabilitation debtor is discharged from their liabilities for all rehabilitation claims, except for those for the rights approved pursuant to the provisions of the rehabilitation plan or provisions of this Act; provided, however, that this does not apply to any claim for a fine, etc. arising prior to the commencement of rehabilitation proceedings.

(2) Notwithstanding the provisions of the preceding paragraph, the effect of a discharge under the provisions of the relevant paragraph with regard to a claim for a foreign tax subject to mutual assistance may be asserted only in relation to the mutual assistance under the provisions of Article 11, paragraph (1) of the Act on Special Provisions for the Enforcement of Tax Treaties

(Modification of Rights of Holders of Filed Rehabilitation Claims)

Article 179 (1) When an order of confirmation of the rehabilitation plan becomes final and binding, the rights of holders of filed rehabilitation claims and those of rehabilitation creditors who hold rehabilitation claims stated in a statement of approval or disapproval pursuant to the provisions of Article 101, paragraph (3) will be modified as provided for in the rehabilitation plan.

(2) Holders of filed rehabilitation claims and rehabilitation creditors prescribed in the preceding paragraph, only where their claims have been determined, may exercise their rights approved pursuant to the provisions of the rehabilitation plan.

(3) Notwithstanding the provisions of paragraph (1), the effect of modification of rights under the provisions of the paragraph with regard to a claim for a foreign tax subject to mutual assistance may be asserted only in relation to the mutual assistance under the provisions of Article 11, paragraph (1) of the Act on Special Provisions for the Enforcement of Tax Treaties.

(Entry of Clauses of Rehabilitation Plans in a Schedule of Rehabilitation Creditors)

Article 180 (1) When an order of confirmation of a rehabilitation plan becomes final and binding, a court clerk must make an entry of the clauses of the rehabilitation plan in the schedule of rehabilitation creditors.

(2) In the case referred to in the preceding paragraph, with regard to the rights approved pursuant to the provisions of the rehabilitation plan based on rehabilitation claims, the relevant entries in the schedule of rehabilitation creditors have the same effect as a final and binding judgment against the rehabilitation debtor and any person who assumes a debt or provides security

for the purpose of rehabilitation.

- (3) In the case referred to in paragraph (1), a person who holds a right set forth in the preceding paragraph that is intended to seek payment of money or any other performance may enforce compulsory execution based on the relevant entries in the schedule of rehabilitation creditors against the rehabilitation debtor and any person who has assumed a debt for the purpose of rehabilitation; provided, however, that this does not preclude the application of the provisions of Articles 452 and 453 of the Civil Code.

(Handling of Rehabilitation Claims Not Filed)

Article 181 (1) When an order of confirmation of the rehabilitation plan becomes final and binding, the following rehabilitation claims (excluding consensually-subordinated rehabilitation claims in cases where no proof of a consensually-subordinated rehabilitation claim is filed) are modified according to the general standards set forth in Article 156:

- (i) a rehabilitation claim for which the rehabilitation creditor was unable to file a proof within the period for filing proofs of claims due to grounds not attributable thereto, where the grounds have not been extinguished before the order prescribed in Article 95, paragraph (4) is made;
 - (ii) a rehabilitation claim that has arisen after the order set forth in the preceding item is made;
 - (iii) in the case prescribed in Article 101, paragraph (3), a rehabilitation claim that the rehabilitation debtor has not stated under the provisions of Article 101, paragraph (3).
- (2) With regard to a right as modified under the provisions of item (iii) of the preceding paragraph, until the payment period specified in the rehabilitation plan expires (or until payment based on the rehabilitation plan is completed or the rehabilitation plan is revoked, if these events occur prior to the expiration of the relevant period), it is not allowed to make or receive payment or conduct any other act to cause the right to be extinguished (excluding a release).
- (3) When an order of confirmation of the rehabilitation plan becomes final and binding, the provisions of the preceding paragraph also apply to a claim for a fine, etc. arising prior to the commencement of rehabilitation proceedings.

(Exercise of Rights by a Holder of a Right of Separate Satisfaction Based on a Rehabilitation Plan)

Article 182 Where a rehabilitation creditor holds a security interest prescribed in Article 53, paragraph (1), only if the part of the claim for which payment cannot be received by exercising the right of separate satisfaction is determined, they may exercise, with regard to the part of the claim, rights approved pursuant to the provisions of the confirmed rehabilitation plan or

rights as modified pursuant to the provisions of paragraph (1) of the preceding Article; provided, however, that if the security interest in question is a revolving mortgage and the rehabilitation plan provides for provisional payment figured by estimate and measures for settlement under the provisions of Article 160, paragraph (2), these provisions prevail.

(A Rehabilitation Debtor's Acquisition of Its Shares Based on a Rehabilitation Plan)

- Article 183 (1) If a rehabilitation plan specifies, pursuant to the provisions of Article 154, paragraph (3), clauses on the rehabilitation debtor's acquisition of its shares, the rehabilitation debtor acquires the shares set forth in Article 161, paragraph (1), item (i) on the date set forth in Article 161, paragraph (1), item (ii) as provided for in the confirmed rehabilitation plan.
- (2) If a rehabilitation plan specifies, pursuant to the provisions of Article 154, paragraph (3), clauses on the consolidation of shares, the rehabilitation debtor may consolidate its shares as provided for in the confirmed rehabilitation plan. In this case, the provisions of Articles 116 and 117 of the Companies Act do not apply.
- (3) In the case referred to in the preceding paragraph, a case regarding a petition for permission set forth in Article 234, paragraph (2) of the Companies Act as applied *mutatis mutandis* pursuant to Article 235, paragraph (2) of the Act is subject to the jurisdiction of the rehabilitation court.
- (4) If a rehabilitation plan specifies, pursuant to the provisions of Article 154, paragraph (3), clauses on the reduction of the amount of stated capital, the rehabilitation debtor may reduce the amount of its stated capital as provided for in the confirmed rehabilitation plan. In this case, the provisions of Articles 449 and 740 of the Companies Act do not apply.
- (5) In the case referred to in the preceding paragraph, notwithstanding the provisions of Article 828, paragraph (1), item (v) and paragraph (2), item (v) of the Companies Act, no action may be filed to seek invalidation of the reduction of the amount of stated capital.
- (6) If a rehabilitation plan specifies, pursuant to the provisions of Article 154, paragraph (3), clauses on the amendment of the articles of incorporation with regard to the total number of shares that may be issued by the rehabilitation debtor, the articles of incorporation will be amended as provided for in the rehabilitation plan when an order of confirmation of the rehabilitation plan becomes final and binding.
- (7) Where the consolidation of shares, reduction in the amount of stated capital or amendment of the articles of incorporation, as provided for in the confirmed rehabilitation plan, is conducted pursuant to the provisions of paragraph (2), paragraph (4) or the preceding paragraph, the written application for

registration of these particulars must be accompanied by a transcript or extract of a written judgment of confirmation of the rehabilitation plan.

(Where a Rehabilitation Plan Specifies Clauses on Solicitation of Subscribers for Shares for Subscription)

Article 183-2 (1) If a rehabilitation plan specifies, pursuant to the provisions of Article 154, paragraph (4), clauses on the solicitation of subscribers for shares for subscription, notwithstanding the provisions of Article 199, paragraph (2) of the Companies Act, the subscription requirements prescribed in Article 199, paragraph (2) of the Act may be specified by a decision of directors (or by a resolution of the board of directors if the rehabilitation debtor is a company with board of directors). In this case, the provisions of Article 199, paragraph (4) and Article 204, paragraph (2) of the relevant Act do not apply.

(2) The provisions of Article 201, paragraphs (3) through (5) of the Companies Act apply mutatis mutandis in the case referred to in the preceding paragraph.

(3) The written application for registration of modification by due to the solicitation of subscribers for shares for subscription set forth in paragraph (1) must be accompanied by a transcript or extract of a written judgment of confirmation of the rehabilitation plan.

(Expiration of Stayed Procedures or Proceedings)

Article 184 When an order of confirmation of the rehabilitation plan becomes final and binding, the procedures, proceedings or disposition stayed pursuant to the provisions of Article 39, paragraph (1) cease to be effective; provided, however, that this does not apply to the procedures, proceedings or disposition continued pursuant to the provisions of Article 39, paragraph (2).

(Effect of Entries in Schedules of Rehabilitation Creditors Upon an Order of Disconfirmation Becoming Final and Binding)

Article 185 (1) When an order of disconfirmation of a rehabilitation plan becomes final and binding, the entries in the schedule of rehabilitation creditors with regard to rehabilitation claims determined have the same effect as a final and binding judgment against the rehabilitation debtor; provided, however, that this does not apply where the rehabilitation debtor makes an objection pursuant to the provisions of Article 102, paragraph (2) or Article 103, paragraph (4).

(2) In the case referred to in the preceding paragraph, a rehabilitation creditor may enforce compulsory execution against the rehabilitation debtor based on the entries in the schedule of rehabilitation creditors.

Chapter VIII Procedures after Confirmation of Rehabilitation Plans

(Execution of Rehabilitation Plans)

Article 186 (1) When an order of confirmation of a rehabilitation plan becomes final and binding, the rehabilitation debtor, etc. must promptly execute the rehabilitation plan.

(2) In the case prescribed in the preceding paragraph, if a supervisor is appointed, the relevant supervisor supervises the execution of the rehabilitation debtor's rehabilitation plan.

(3) When the court finds it necessary in order to ensure the execution of the rehabilitation plan, it may order the rehabilitation debtor or any person who assumes a debt or provides security for the purpose of rehabilitation to provide reasonable security in the interest of the following persons:

(i) a person who has rights approved pursuant to the provisions of the rehabilitation plan or provisions of this Act;

(ii) a person who holds a denied or disputed rehabilitation claim for which determination proceedings have not yet been closed;

(iii) a person who holds a rehabilitation claim where the part of the claim for which payment cannot be received by exercising a right of separate satisfaction has not yet been determined.

(4) The provisions of Article 76, Article 77, Article 79 and Article 80 of the Code of Civil Procedure apply *mutatis mutandis* to the security set forth in the preceding paragraph.

(Modification of a Rehabilitation Plan)

Article 187 (1) If, after an order of confirmation of a rehabilitation plan is made, the need to modify any particulars specified in the rehabilitation plan arises due to unavoidable circumstances, the court, upon the petition of the rehabilitation debtor, a trustee, supervisor or holder of filed rehabilitation claim, and only when prior to the closing of rehabilitation proceedings, may modify the rehabilitation plan.

(2) Where a petition is filed pursuant to the provisions of the preceding paragraph for any modification of a rehabilitation plan that is found to adversely affect rehabilitation creditors, the provisions concerning the procedure to be performed upon the submission of a proposed rehabilitation plan apply *mutatis mutandis*; provided, however, that having rehabilitation creditors who will not be adversely affected by the modification of the rehabilitation plan participate in the modification procedure is not required, and those who do not exercise their voting rights on the proposed modification (excluding those who attended the creditors meeting aimed for adopting a resolution on the proposed modification) and have consented to the initial rehabilitation plan are deemed to consent to the proposed modification.

- (3) The provisions of Articles 175 and 176 apply mutatis mutandis when an order of modification of the rehabilitation plan is made.

(Completion of Rehabilitation Proceedings)

Article 188 (1) When an order of confirmation of the rehabilitation plan becomes final and binding, the court must issue an order of completion of rehabilitation proceedings, except where a supervisor or trustee is appointed.

- (2) Where a supervisor is appointed, and when the rehabilitation plan has been executed or three years have elapsed since an order of confirmation of the rehabilitation plan became final and binding, the court must issue an order of completion of rehabilitation proceedings upon the petition of the rehabilitation debtor or the supervisor or by its own authority.
- (3) Where a trustee is appointed, and when the rehabilitation plan has been executed or it has found that the rehabilitation plan will definitely be executed the court must issue an order of completion of rehabilitation proceedings, upon the petition of the rehabilitation debtor or the trustee or by its own authority.
- (4) A supervision order and administration order ceases to be effective when an order of completion of rehabilitation proceedings is made.
- (5) When the court has made an order of completion of rehabilitation proceedings, the court must make a public notice of the main text of the order and the outline of the reasons attached thereto.

(Revocation of Rehabilitation Plans)

Article 189 (1) Where an order of confirmation of the rehabilitation plan becomes final and binding, if any of the grounds set forth in the following items exist, the court may issue an order of revocation of the rehabilitation plan, upon the petition of a rehabilitation creditor:

- (i) the rehabilitation plan has been established by unlawful means.
- (ii) the rehabilitation debtor, etc. has neglected in implementing the rehabilitation plan.
- (iii) the rehabilitation debtor has violated the provisions of Article 41, paragraph (1) or Article 42, paragraph (1) or conducted any act set forth in Article 54, paragraph (2) without obtaining a supervisor's consent prescribed in Article 54, paragraph (2).
- (2) A petition set forth in the preceding paragraph on any of the grounds listed in item (i) of the relevant paragraph may not be filed if a rehabilitation debtor creditor has alleged the respective grounds set forth in the same item in an immediate appeal against an order of confirmation of the rehabilitation plan, or has failed to allege the grounds while having knowledge of them, if one month has elapsed since a rehabilitation creditor became aware of the existence of the respective grounds set forth in the relevant item, or if two

years have elapsed since an order of confirmation of the rehabilitation plan became final and binding.

- (3) A petition set forth in paragraph (1) on the grounds set forth in item (ii) of the relevant paragraph may be filed only by a rehabilitation creditor who holds a right that accounts for one-tenth or more of the value, as determined by the court, of all rights approved pursuant to the provisions of the rehabilitation plan (excluding the parts of rights already performed), and has not received performance in whole or part of the relevant right that is due.
- (4) When the court has made an order of revocation of the rehabilitation plan, it must immediately serve the written judgment upon the person who filed the petition and the rehabilitation debtor, etc., and make a public notice of the main text of the order and the outline of the reasons attached thereto.
- (5) An immediate appeal may be filed against a judicial decision on the petition set forth in paragraph (1).
- (6) An order set forth in paragraph (4) does not become effective unless it becomes final and binding.
- (7) Where an order set forth in paragraph (4) becomes final and binding, any rehabilitation claim modified by the rehabilitation plan is restored to its original state; provided, however, that this does not affect any rights acquired by rehabilitation creditors based on the rehabilitation plan.
- (8) The provisions of Article 185 apply *mutatis mutandis* where an order set forth in paragraph (4) becomes final and binding, and the provisions of paragraph (4) of the preceding Article apply *mutatis mutandis* where an order set forth in paragraph (4) becomes final and binding prior to the closing of rehabilitation proceedings.

(Where an Order to Commence Bankruptcy Proceedings or an Order to Commence Additional Rehabilitation Proceedings Is Made)

- Article 190 (1) Where, prior to the complete implementation of the rehabilitation plan, an order to commence bankruptcy proceedings or an order to commence additional rehabilitation proceedings is made against the rehabilitation debtor, any rehabilitation claim modified by the rehabilitation plan is restored to its original state; provided, however, that this does not affect any rights acquired by rehabilitation creditors based on the rehabilitation plan.
- (2) The provisions of Article 185 apply *mutatis mutandis* in the case referred to in the preceding paragraph.
 - (3) In the bankruptcy proceedings based on an order to commence bankruptcy proceedings set forth in paragraph (1), the amount of a bankruptcy claim that has been a rehabilitation claim is to be the amount obtained by deducting any amount paid based on the rehabilitation plan from the initial amount of the rehabilitation claim.

- (4) In the bankruptcy proceedings set forth in the preceding paragraph, even if any amount is paid for a bankruptcy claim set forth in paragraph (1) based on the rehabilitation plan set forth in the same paragraph, the initial amount of the rehabilitation claim is deemed to be the amount of the claim that may enter into the procedure for a liquidating distribution, and the basis for calculating the percentage of distribution is determined by adding the amount paid to the bankruptcy estate; provided, however, that the bankruptcy creditor who holds the bankruptcy claim may not receive a liquidating distribution until any other bankruptcy creditor with the same priority as theirs receives a liquidating distribution at the same proportion as they have received payment.
- (5) When an order to commence bankruptcy proceedings set forth in paragraph (1) is made, the provision of security conducted by the rehabilitation debtor for a rehabilitation creditor after the close of rehabilitation proceedings ceases to be effective if it is not based on the rehabilitation plan.
- (6) In additional rehabilitation proceedings, a rehabilitation creditor, even after receiving any payment of their rehabilitation claim based on the rehabilitation plan set forth in paragraph (1), may participate in the rehabilitation proceedings with regard to the whole amount of the claim as of the time before receiving the payment.
- (7) In additional rehabilitation proceedings, a rehabilitation creditor who participates in the rehabilitation proceedings pursuant to the provisions of the preceding paragraph may not receive payment until any other rehabilitation creditor with the same priority as theirs receives payment at the same proportion as they received payment.
- (8) In additional rehabilitation proceedings, a rehabilitation creditor who participates in the rehabilitation proceedings pursuant to the provisions of paragraph (6) may not exercise their voting right with regard to the part of the claim that they received payment based on the rehabilitation plan set forth in paragraph (1).
- (9) In additional rehabilitation proceedings, common benefit claims in the previous rehabilitation proceedings are deemed to be common benefit claims.

Chapter IX Discontinuance of Rehabilitation Proceedings

(Discontinuance of Proceedings before Confirmation of a Rehabilitation Plan)

Article 191 In any of the cases listed in the following items, the court, by its own authority, must issue an order of discontinuance of rehabilitation proceedings:

- (i) where it has become evident that a there is no prospect of a proposed rehabilitation plan worth putting to a resolution is unlikely to be prepared;
- (ii) where no proposed rehabilitation plan is submitted within the period specified by the court or any extension thereof, or all proposed rehabilitation

plans submitted within the period or extension are not worth putting to a resolution;

- (iii) where a proposed rehabilitation plan is rejected, or where a further date for a creditors meeting is designated pursuant to the provisions of the main clause of Article 172-5, paragraphs (1) and (4) of the relevant Article, and the proposed rehabilitation plan is not approved within the period that conforms to the provisions of paragraphs (2) and (3) of the relevant Article.

Article 192 (1) If, after the period for filing a proof of claims has expired and before an order of confirmation of the rehabilitation plan becomes final and binding, it has become obvious that none of the grounds for petition to commence rehabilitation proceedings prescribed in Article 21, paragraph (1) exist, the court, upon the petition of the rehabilitation debtor, a trustee or holder of filed rehabilitation claim, must issue an order of discontinuance of rehabilitation proceedings.

- (2) When filing a petition set forth in the preceding paragraph, the petitioner must make a prima facie showing of the fact constituting the grounds for discontinuance of rehabilitation proceedings.

(Discontinuance of Proceedings Due to a Rehabilitation Debtor's Breach of Duties)

Article 193 (1) In any of the cases listed in the following items, the court, upon the petition of a supervisor or trustee or by its own authority, may issue an order of discontinuance of rehabilitation proceedings:

- (i) where the rehabilitation debtor has violated an order issued by the court under the provisions of Article 30, paragraph (1);
 - (ii) where the rehabilitation debtor has violated the provisions of Article 41, paragraph (1) or Article 42, paragraph (1) or conducted any act set forth in Article 54, paragraph (2) without obtaining a supervisor's consent prescribed in Article 54, paragraph (2);
 - (iii) where the rehabilitation debtor has not submitted a statement of approval or disapproval by the time limit set by the court pursuant to the provisions of Article 101, paragraph (5) or Article 103, paragraph (3).
- (2) When making an order set forth in the preceding paragraph, the court must interrogate the rehabilitation debtor.

(Discontinuance of Proceedings after Confirmation of a Rehabilitation Plan)

Article 194 If, after an order of confirmation of the rehabilitation plan has become final and binding, it has become obvious that the rehabilitation plan is unlikely to be executed, the court, upon the petition of the rehabilitation debtor, etc. or a supervisor or by its own authority, must issue an order of

discontinuance of rehabilitation proceedings.

(Public Notices of the Discontinuance of Rehabilitation Proceedings)

- Article 195 (1) When the court has made an order of discontinuance of rehabilitation proceedings, it must immediately make a public notice of the main text of the order and the outline of the reasons attached thereto.
- (2) An immediate appeal may be filed against an order set forth in the preceding paragraph.
- (3) The provisions of Article 175, paragraph (3) apply mutatis mutandis to an immediate appeal set forth in the preceding paragraph, and to an appeal against an order under the provisions of Article 336 of the Code of Civil Procedure and a petition for permission for appeal against an order under the provisions of Article 337 of the Code, both provisions applied mutatis mutandis pursuant to Article 18, which are filed against a judicial decision on the immediate appeal.
- (4) When an order to revoke the order of discontinuance of rehabilitation proceedings becomes final and binding, the court that made the order of discontinuance of rehabilitation proceedings must immediately make a public notice to that effect.
- (5) An order set forth in paragraph (1) does not become effective unless it becomes final and binding.
- (6) The discontinuance of rehabilitation proceedings ordered after an order of confirmation of the rehabilitation plan became final and binding does not affect any effects arising from the execution of the rehabilitation plan or the provisions of this Act.
- (7) The provisions of Article 185 apply mutatis mutandis where an order of discontinuance of rehabilitation proceedings made under the provisions of Article 191, Article 192, paragraph (1) or Article 193, paragraph (1) becomes final and binding (excluding cases where an order of discontinuance of rehabilitation proceedings becomes final and binding after an order of confirmation of the rehabilitation plan became final and binding), and the provisions of Article 188, paragraph (4) apply mutatis mutandis where an order set forth in paragraph (1) becomes final and binding.

Chapter X Special Provisions on Home Loan Claims

(Definitions)

Article 196 In this Chapter, Chapter XII and Chapter XIII, the meanings of the terms listed in the following items are as prescribed respectively in those items:

- (i) residence: A building that a rehabilitation debtor who is an individual owns

- and uses as their own residence, with not less than half of its floor area being used exclusively for this purpose; provided, however, that if the rehabilitation debtor owns two or more such buildings, only the building that the rehabilitation debtor uses mainly as their own residence is treated such;
- (ii) site of residence: Land used for the residence or a superficies right established on the land;
 - (iii) home loan claim: A rehabilitation claim with a provision authorizing payments in installments, with regard to a loan of funds necessary for the construction or purchase of a residence (including funds necessary for the acquisition of land, or land lease rights to be used for the residence) or funds necessary for the remodeling of the residence, with a mortgage being established on the residence for the purpose of securing the claim itself or a right to demand compensation held by the guarantor for any debt arising from the claim (limited to a person engaging in the guarantee business; hereinafter referred to as a "guarantee company") against the principal debtor;
 - (iv) special clause on home loan: A clause in a rehabilitation plan that modifies, pursuant to the provisions of Article 199, paragraphs (1) through (4), the whole or part of a home loan claim held by a rehabilitation creditor;
 - (v) home loan contract: A contract for a loan of funds with regard to a home loan claim.

(Stay Orders on Procedures for Enforcing a Mortgage)

Article 197 (1) Where a petition to commence rehabilitation proceedings is filed, the court, if it finds that a rehabilitation plan that specifies special clauses on a home loan is likely to be confirmed, upon the petition of the rehabilitation debtor, may specify a reasonable period and order the stay of a procedure for the exercise of a mortgage prescribed in item (iii) of the preceding Article which is established on the residence or the site for the residence owned by the rehabilitation debtor.

- (2) The provisions of Article 31, paragraphs (2) through (6) apply mutatis mutandis to a stay order issued under the provisions of the preceding paragraph.
- (3) Where the rehabilitation debtor, if they do not pay part of a home loan claim after the commencement of rehabilitating proceedings, will forfeit the benefit of time with regard to all or part of the home loan claim in accordance with the provisions of the home loan contract, and when the court finds that a rehabilitation plan that specifies special clauses on a home loan is likely to be confirmed, the court may permit payment of the claim upon the petition of the rehabilitation debtor even before an order of confirmation of the rehabilitation plan becomes final and binding.

(Cases Where Special Clauses on a Home Loan May Be Specified)

- Article 198 (1) With regard to a home loan claim (excluding one held by a rehabilitation creditor who has been subrogated to the holder of a home loan claim under the provisions of Article 500 of the Civil Code, by way of the subrogation), a rehabilitation plan may specify special clauses on home loan; provided, however, that this does not apply where any security interest prescribed in Article 53, paragraph (1) (excluding a mortgage prescribed in Article 196, item (iii)) exists on the residence or where a mortgage set forth in Article 196, item (iii) is also established on real assets other than the residence and any security interest prescribed in Article 53, paragraph (1) that is subordinated to the mortgage exists on the real assets.
- (2) Where a guarantee company has performed its guarantee obligation for a home loan claim, if a petition to commence rehabilitation proceedings is filed before six months have elapsed since the day on which the guarantee obligation has been performed in whole, a rehabilitation plan may specify special clauses on a home loan with regard to the rights of a person who is supposed to acquire a home loan claim pursuant to the provisions of the main clause of Article 204, paragraph (1). In this case, the provisions of the proviso to the preceding paragraph apply *mutatis mutandis*.
- (3) If there are two or more rehabilitation creditors who hold home loan claims prescribed in paragraph (1) or persons who hold home loan claims pursuant to the provisions of the main clause of Article 204, paragraph (1), special clauses on home loans targeting all these persons must be specified.

(Content of Special Clauses on Home Loans)

- Article 199 (1) Special clauses on home loans, except in the cases prescribed in the following paragraph or paragraph (3), specify the content specified in each of the following items for the categories of claims listed in the relevant respective items:
- (i) the principal of a home loan claim that will become due by the time when an order of confirmation of the rehabilitation plan becomes final and binding (excluding one that will not become due by that time if the rehabilitation debtor does not forfeit the benefit of time) and agreed interest on a home loan (meaning interest at an agreed interest rate under the home loan contract; hereinafter the same applies in this Article) to be accrued from the principal after an order of confirmation of the rehabilitation plan becomes final and binding, as well as interest on a home loan claim to be accrued and any damages for default to be incurred by the time when an order of confirmation of the rehabilitation plan becomes final and binding: These claims are paid in full within the payment period specified in a rehabilitation

- plan (excluding special clauses on home loan) (or within five years after an order of confirmation of the rehabilitation plan becomes final and binding if the relevant period exceeds five years; referred to as the "general period for payment" in paragraph (3));
- (ii) the principal of a home loan claim that will not become due by the time when an order of confirmation of the rehabilitation plan becomes final and binding (including one that will not become due by that time if the rehabilitation debtor does not forfeit the benefit of time) and agreed interest on home loan to be accrued from such principal after an order of confirmation of the rehabilitation plan becomes final and binding: These claims are paid in accordance with an agreement on the time and amount of payment in the case of the absence of a default under the home loan contract.
- (2) Where a rehabilitation plan that specifies special clauses on home loans under the provisions of the preceding paragraph is unlikely to be confirmed, the special clauses on home loan may set the due date for the home loan claim as coming after the final due date set under the home loan contract (hereinafter referred to as the "agreed final due date" in this paragraph and paragraph (4)). The content of a modification of rights in this case must meet all of the following requirements:
- (i) each of the following claims are paid in full:
 - (a) The principal of the home loan claim and agreed interest on home loan to be accrued from the principal after an order of confirmation of the rehabilitation plan becomes final and binding;
 - (b) The interest on the home loan claim to be accrued and any damages for default to be incurred by the time when an order of confirmation of the rehabilitation plan becomes final and binding;
 - (ii) the final due date as modified by the special clauses on a home loan does not come more than ten years later than the agreed final due date, and the age of the rehabilitation debtor as of the final due date as modified by the special clauses on home loan does not exceed seventy years;
 - (iii) with regard to the claim set forth in item (i) (a), if the interval between due dates and the amount of payment on each due date under the home loan contract are specified by certain standards, the modification generally conforms to the standards.
- (3) Where a rehabilitation plan that specifies special clauses on home loans under the provisions of the preceding paragraph is unlikely to be confirmed, it may be provided for that during a certain period within the general period for payment (hereinafter referred to as the "grace period to pay the principal" in this paragraph), payment is required only for part of principal of a home loan claim and agreed interest on home loan to be accrued from the principal of the home loan claim during the grace period to pay the principal. The content of a

modification of rights in this case must meet all of the following requirements:

- (i) the requirements listed in items (i) and (ii) of the preceding paragraph are specified;
 - (ii) with regard to the provisions on the due date and the amount of payment of a claim set forth in item (i), (a) of the preceding paragraph after the expiration of the grace period to pay principal, if the interval between due dates and the amount of payment on each due date under the home loan contract are specified by certain standards, the modification generally conforms to the standards.
- (4) If consent is obtained from any person who is subject to a modification of rights by the special clauses on a home loan, notwithstanding the provisions of the preceding three paragraphs, special clauses on home loans may be specified to the effect that the term for debt for the home loan claim is extended by more than ten years from the agreed final due date and any modification other than the modifications prescribed in the preceding three paragraphs is made.
- (5) The provisions of Article 155, paragraph (1) do not apply between a person who is subject to a modification of rights by special clauses on home loan and other rehabilitation creditors, the provisions of Article 155, paragraph (3) do not apply to special clauses on home loan, and the provisions of Article 160 and Article 165, paragraph (2) do not apply to a person who is subject to a modification of rights by special clauses on home loan.

(Submission of Proposed Rehabilitation Plans Specifying Special Clauses on Home Loans)

Article 200 (1) A proposed rehabilitation plan that specifies special clauses on home loans may be submitted only by the rehabilitation debtor.

(2) When the rehabilitation debtor has submitted a proposed rehabilitation plan that specifies special clauses on a home loan and it has resulted in any of the cases set forth in the following items, any objection made in an investigation of rehabilitation claims, by the time specified in the respective items, by a holder of filed rehabilitation creditor with regard to the content of the home loan claim prescribed in Article 198, paragraph (1) ceases to be effective as of that respective time; provided, however, that this applies only where the proceedings for determination of the rehabilitation claim subject to the relevant objection has not yet been closed by that time:

- (i) none of the holders of filed rehabilitation claims has submitted a proposed rehabilitation plan that specifies no special clause on a home loan within the period specified by the court or any extension thereof: The time when the period or extension has expired;
- (ii) a proposed rehabilitation plan submitted by a holder of filed rehabilitation claim that specifies no special clause on home loan has not been referred to a

resolution, and only a proposed rehabilitation plan that specifies special clauses on home loan has been referred to a resolution: The time when an order prescribed in the proviso to Article 167 is made;

- (iii) both a proposed rehabilitation plan that specifies special clauses on a home loan and a proposed rehabilitation plan submitted by a holder of a filed rehabilitation claim that specifies no special clause on a home loan has been referred to a resolution, and the proposed rehabilitation plan that specifies special clauses on a home loan has been approved: The time when the plan is approved.
- (3) Where an objection set forth in the main clause of the preceding paragraph has ceased to be effective pursuant to the provisions of the same paragraph, the provisions of Article 104, paragraphs (1) and (3) do not apply to the home loan claim in question.
- (4) When a rehabilitation debtor has submitted a proposed rehabilitation plan that specifies special clauses on a home loan and it has resulted in any of the cases set forth in the items of paragraph (2), the provisions of paragraph (2) also apply to an objection made in an investigation of rehabilitation claims, by the time specified in the respective items, by a rehabilitation creditor who holds a home loan claim prescribed in Article 198, paragraph (1) and does not hold any rehabilitation claim except for the relevant home loan claim or by a guarantee company that does not hold any rehabilitation claim except for a right to compensation based on the guarantee for the debt for a home loan claim. In this case, the person who has made the objection is not subject to the effect of the relevant statements in the schedule of rehabilitation creditors that is the same as a final and binding judgment under the provisions of Article 104, paragraph (3) and Article 180, paragraph (2).
- (5) When the rehabilitation debtor has submitted a proposed rehabilitation plan that specifies special clauses on a home loan and it has resulted in any of the cases set forth in paragraph (2), item (i) or (ii), the rehabilitation creditor or guarantee company prescribed in the first sentence of the preceding paragraph may not make an objection set forth in the main clause of Article 170, paragraph (1).

(Resolution on Proposed Rehabilitation Plans Specifying Special Clauses on Home Loans)

Article 201 (1) When adopting a resolution on a proposed rehabilitation plan that specifies special clauses on a home loan, a person who is supposed to be subject to a modification of rights by the special clauses on home loans and guarantee company do not have any voting rights with regard to a home loan claim or a right to compensation based on a guarantee for the debt for a home loan claim, respectively.

- (2) When a proposed rehabilitation plan that specifies special clauses on a home loan is submitted, the court must hear opinions of any person who is supposed to be subject to a modification of rights by special clauses on home loans. The same applies to a proposed rehabilitation plan that specifies special clauses on home loans as revised under the provisions of Article 167 (excluding cases where it is obvious that the revision will not adversely affect the person who is supposed to be subject to a modification of rights by the special clauses on a home loan).
- (3) For the purpose of application of the provisions of Article 169, paragraph (1) to a proposed rehabilitation plan that specifies special clauses on a home loan, the phrase "items of Article 174, paragraph (2) (excluding item (iii))" in paragraph (3) of the same Article is deemed to be replaced with "items of Article 202, paragraph (2) (excluding item (iv))."

(Order of Confirmation or Disconfirmation of a Rehabilitation Plan Specifying Special Clauses on a Home Loan)

- Article 202 (1) When a proposed rehabilitation plan that specifies special clauses on a home loan is approved, the court issues an order of confirmation of the rehabilitation plan, except in the cases set forth in the following paragraph.
- (2) When a proposed rehabilitation plan that specifies special clauses on a home loan is approved, the court, in any of the cases set forth in the following items, issues an order of confirmation of the rehabilitation plan:
 - (i) when the rehabilitation plan falls under any of the grounds prescribed in Article 174, paragraph (2), item (i) or (iv);
 - (ii) when it is found that the rehabilitation plan cannot be feasibly executed;
 - (iii) when the rehabilitation debtor is likely to lose ownership of the residence or the right to use the land, which is currently used for the residence, for the purpose of owning the residence;
 - (iv) when the resolution on the rehabilitation plan has been adopted by unlawful means.
 - (3) A person who is supposed to be subject to a modification of rights by special clauses on home loans, even if they have not filed a proof of rehabilitation claim, may state their opinions with regard to whether or not the proposed rehabilitation plan that specifies the special clauses on home loan should be confirmed.
 - (4) Where an order of confirmation or disconfirmation of the rehabilitation plan that specifies special clauses on home loan is made, a document stating the main text of the order and the outline of the reasons attached thereto must also be served upon any person who is supposed to be subject to a modification of rights by the special clauses on home loan but has not filed a proof of rehabilitation claim.

- (5) When a proposed rehabilitation plan that specifies special clauses on home loan is approved, the provisions of Article 174, paragraphs (1) and (2) do not apply.

(Effect of Rehabilitation Plans Specifying Special Clauses on Home Loans)

Article 203 (1) When an order of confirmation of the rehabilitation plan that specifies special clauses on a home loan becomes final and binding, the provisions of Article 177, paragraph (2) do not apply to any mortgage prescribed in Article 196, item (iii) that is established on the residence and the site of the residence and any right held by a person who is subject to a modification of rights by the special clauses on home loan against the rehabilitation debtor's guarantee or any other person who owes debts jointly with the rehabilitation debtor. In this case, if the rehabilitation debtor is one of the joint and several obligors, the extension of the term under the special clauses on home loan is also effective against other joint and several obligors.

(2) When an order of confirmation of the rehabilitation plan that specifies special clauses on home loan becomes final and binding, with regard to rights as modified by the special clauses on a home loan, it is deemed that the special clauses on home loan contain the same provisions as the provisions on the forfeiture of the benefit of time and other provisions of the home loan contract; provided, however, that this does not preclude the special clauses from providing otherwise with consent set forth in Article 199, paragraph (4).

(3) For the purpose of application of the provisions of Article 123, paragraph (2) and Article 181, paragraph (2) in cases where an order of confirmation of the rehabilitation plan that specifies special clauses on home loan becomes final and binding, in these provisions, the phrase "payment period specified in the rehabilitation plan" is deemed to be replaced with "the payment period specified in the rehabilitation plan (excluding special clauses on home loan)," and the phrase "payment based on the rehabilitation plan" is deemed to be replaced with "payment based on the rehabilitation plan (excluding special clauses on home loan)."

(4) The provisions of Article 181, paragraph (2) as applied mutatis mutandis by replacing the relevant terms and phrases pursuant to the preceding paragraph do not apply to rights as modified by special clauses on home loan, and the provisions of Article 182 do not apply to a person who is subject to a modification of rights by special clauses on home loan.

(When a Guarantee Company Has Performed a Guarantee Obligation)

Article 204 (1) Where an order of confirmation of the rehabilitation plan that specifies special clauses on a home loan becomes final and binding, if a guarantee company has already performed its guarantee obligation for a home

loan claim, the performance of the guarantee obligation is deemed to have never occurred; provided, however, that this does not affect any act conducted by the guarantee company, as a rehabilitation creditor, based on a right acquired thereby as a result of the performance of the guarantee obligation.

- (2) In the case referred to in the main text of the preceding paragraph, if the rehabilitation debtor, before the order of confirmation becomes final and binding, has already made payment to the guarantee company for the right to compensation regarding the guarantee obligation set forth in the paragraph, the rehabilitation debtor is not required to make a payment based on a home loan claim to the person who has acquired the home loan claim pursuant to the provisions of the main clause of the same paragraph, for the amount already paid. In this case, the guarantee company must deliver the amount already paid to the person who has acquired the home loan claim pursuant to the provisions of the main clause of the paragraph.

(Where No Petition for Assessment Is Filed)

Article 205 (1) Where no petition for assessment prescribed in Article 105, paragraph (1) is filed with regard to a home loan claim prescribed in Article 198, paragraph (1) within an unextendable period set forth in Article 105, paragraph (2) (excluding the cases referred to in Article 107 and Article 109), where an objection set forth in the main clause of Article 200, paragraph (2) has ceased to be effective pursuant to the provisions of Article 200, paragraph (2), and where a guarantee company has performed its guarantee obligation for a home loan claim, the provisions of Article 157, Article 159, the second sentence of Article 164, paragraph (2) and Article 179 do not apply to the special clauses on home loans.

- (2) When an order of confirmation of the rehabilitation plan that specifies special clauses on home loan becomes final and binding, in the case prescribed in the preceding paragraph (excluding cases where a guarantee company has performed its guarantee obligation for a home loan claim), rights of a rehabilitation creditor who holds a home loan claim and rights of a person who is supposed to acquire a home loan claim pursuant to the provisions of the main clause of paragraph (1) of the preceding Article is modified according to the general standards set forth in Article 156 under the special clauses on home loans.

(Revocation of Rehabilitation Plans Specifying Special Clauses on Home Loans)

Article 206 (1) With regard to a rehabilitation plan that specifies special clauses on a home loan, a petition for revocation of the rehabilitation plan on the grounds set forth in Article 189, paragraph (1), item (ii), notwithstanding the provisions of paragraph (3) of the same Article, may be filed only by a

rehabilitation creditor who holds a right that accounts for one-tenth or more of the value, as determined by the court, of all rights approved pursuant to the provisions of the rehabilitation plan (excluding those as modified by the special clauses on home loans; excluding the part of rights already performed), and has not received performance in whole or part of the right that is due.

- (2) For the purpose of application of the provisions of the proviso to Article 189, paragraph (7) and the proviso to Article 190, paragraph (1) if an order of revocation of the rehabilitation plan that specifies special clauses on home loan becomes final and binding, in these provisions, the phrase "any rights acquired by a rehabilitation creditor based on the rehabilitation plan" is deemed to be replaced with "any rights acquired by a rehabilitation creditor based on the rehabilitation plan and the effect generated pursuant to the provisions of the main clause of Article 204, paragraph (1)."

Chapter XI Special Provisions Where Foreign Insolvency Proceedings Exist

(Cooperation with Foreign Trustees)

Article 207 (1) The rehabilitation debtor, etc., where there are foreign insolvency proceedings (meaning proceedings commenced in a foreign state, which are equivalent to bankruptcy proceedings or rehabilitation proceedings; the same applies hereinafter) enforced against them, may request a foreign trustee (meaning a person who has a right to administer and dispose of the rehabilitation debtor's assets in the relevant foreign insolvency proceedings; the same applies hereinafter) to provide cooperation and information necessary for the rehabilitation of the rehabilitation debtor.

- (2) In the case prescribed in the preceding paragraph, the rehabilitation debtor, etc. is to endeavor to cooperate with and provide a foreign trustee with information necessary for the rehabilitation of the rehabilitation debtor.

(Presumption of Grounds to Commence Rehabilitation Proceedings)

Article 208 Where foreign insolvency proceedings are enforced against a rehabilitation debtor, a fact constituting grounds for the commencement of rehabilitation proceedings is presumed to exist with regard to the rehabilitation debtor.

(Powers of Foreign Trustees)

Article 209 (1) In the case prescribed in the first sentence of Article 21, paragraph (1), a foreign trustee may file a petition to commence rehabilitation proceedings against a rehabilitation debtor. In this case, for the purpose of application of the provisions of Article 33, paragraph (1), the term "Article 21" in Article 33, paragraph (1) is deemed to be replaced with "the first sentence of

Article 209, paragraph (1)."

- (2) A foreign trustee may attend a creditors meeting and state their opinions in rehabilitation proceedings against a rehabilitation debtor.
- (3) In rehabilitation proceedings against a rehabilitation debtor, a foreign trustee may prepare a proposed rehabilitation plan and submit it to the court within the period prescribed in Article 163, paragraph (1) (if it is extended pursuant to the provisions of paragraph (3) of the relevant Article, within the extension thereof).
- (4) Where a foreign trustee has filed a petition to commence rehabilitation proceedings pursuant to the provisions of paragraph (1), a notice must be given to the foreign trustee with regard to: when a comprehensive prohibitory injunction is issued or an order to change or revoke the order is made, the main text of the respective order; when an order to commence rehabilitation proceedings is made, the particulars for which a public notice should be made pursuant to the provisions of Article 35, paragraph (1); when there is a change to the period specified pursuant to the provisions of Article 34, paragraph (1), the statement to that effect; when an order to revoke the order to commence of rehabilitation proceedings becomes final and binding, the main text of the order.

(Mutual Participation in Proceedings)

- Article 210 (1) A foreign trustee, while representing a rehabilitation creditor who has not filed a proof of claim but has participated in foreign insolvency proceedings against the rehabilitation debtor, may participate in rehabilitation proceedings against the rehabilitation debtor; provided, however, that this only applies where the foreign trustee has the power to do so pursuant to laws and regulations of the foreign state concerned.
- (2) The rehabilitation debtor, etc., while representing a holder of filed rehabilitation claim (including one who holds a rehabilitation claim stated in a statement of approval or disapproval pursuant to the provisions of Article 101, paragraph (3); the same applies in the following paragraph) who has not participated in foreign insolvency proceedings, may participate in the relevant foreign insolvency proceedings.
 - (3) The rehabilitation debtor, etc., when they have participated in foreign insolvency proceedings under the provisions of the preceding paragraph, may perform any and all acts involved in the foreign insolvency proceedings in the interest of the holder of filed rehabilitation claim whom they represent; provided, however, that delegation of powers from the relevant holder of filed rehabilitation claim is required in order to withdraw a proof of claim filed, seek a settlement or perform any other act that is likely to prejudice the rights of other holders of filed rehabilitation claims.

**Chapter XII Special Provisions Concerning Simplified Rehabilitation and
Consensual Rehabilitation
Section 1 Simplified Rehabilitation**

(Order to Simplify Rehabilitation)

Article 211 (1) If, after the period for filing a proof of claims has expired and before the ordinary period for investigation has started, a petition is filed by the rehabilitation debtor, etc., the court makes an order to simplify rehabilitation (meaning an order to the effect that proceedings for investigation and determination of rehabilitation claims not be performed; the same applies hereinafter). In this case, the rehabilitation debtor, etc. may file a petition only where a holder of a filed rehabilitation claim who holds a claim that accounts for three-fifths or more of the value, as determined by the court, of total claims held by holders of filed rehabilitation claims has, in writing, consented to a proposed rehabilitation plan submitted by the rehabilitation debtor, etc. and also consented to not performing the proceedings for investigation and determination of rehabilitation claims provided for in Chapter IV, Section 3.

(2) When filing a petition set forth in the preceding paragraph, the rehabilitation debtor, etc. must notify the labor union, etc. to that effect.

(3) Where a petition set forth in paragraph (1) is filed, and when the court finds that a proposed rehabilitation plan set forth in the second paragraph of the relevant paragraph falls under any of the grounds set forth in the items of Article 174, paragraph (2) (excluding item (iii)), the court must dismiss the petition without prejudice.

(4) For the purpose of application of the provisions of the second sentence of paragraph (1) and the preceding paragraph in cases where a rehabilitation plan set forth in the second sentence of paragraph (1) specifies special clauses on a home loan, in the second sentence of paragraph (1), the phrase "total claims held by holders of filed rehabilitation claims" is deemed to be replaced with "all of the claims held by holders of filed rehabilitation claims (excluding a home loan claim prescribed in Article 198, paragraph (1) or a right to compensation based on the guarantee for the debt for a home loan claim, which has been filed)," the phrase "holder of filed rehabilitation claim who holds a claim" is deemed to be replaced with "holder of filed rehabilitation claim who holds the relevant claim," and the phrase "items of Article 174, paragraph (2) (excluding item (iii))" is deemed to be replaced with "items of Article 202, paragraph (2) (excluding item (iv))."

(Effect of an Order to Simplify Rehabilitation)

- Article 212 (1) Where an order to simplify rehabilitation is made, an order on the ordinary period for investigation ceases to be effective.
- (2) The court, upon making an order to simplify rehabilitation, must make an order to refer a proposed rehabilitation plan to a resolution set forth in the second sentence of paragraph (1) of the preceding Article, while designating the means set forth in Article 169, paragraph (2), item (i) as that for exercising voting rights and setting a time limit for giving a notice to the court in the case of diverse exercise of a voting right under the provisions of Article 172, paragraph (2) (including cases where applied mutatis mutandis pursuant to paragraph (3) of the relevant Article).
- (3) Where an order to simplify rehabilitation is made, a public notice must be made with regard to the date of a creditors meeting aimed for adopting a resolution on a proposed rehabilitation plan set forth in the second sentence of paragraph (1) of the preceding Article, the time limit prescribed in the preceding paragraph, and the proposed rehabilitation plan in question, and a notice of these particulars must also be given to the persons prescribed in the main text of Article 115, paragraph (1). In this case, a notice of the date of the creditors meeting must be given to the labor union, etc.
- (4) The provisions of Article 115, paragraphs (1) through (4) do not apply to the creditors meeting set forth in the preceding paragraph.
- (5) For the purpose of application of the provisions of Article 172, paragraph (2) (including cases where applied mutatis mutandis pursuant to paragraph (3) of the same Article) in cases where an order to simplify rehabilitation is made, the phrase "the first sentence of Article 169, paragraph (2)" in paragraph (2) of the relevant Article is deemed to be replaced with "Article 212, paragraph (2)."

(Immediate Appeals)

- Article 213 (1) An immediate appeal may be filed against a judicial decision on the petition set forth in Article 211, paragraph (1).
- (2) The immediate appeal set forth in the preceding paragraph does not have the effect of stay of execution.
- (3) Where an order to revoke an order to simplify rehabilitation becomes final and binding, the court that has made the order to simplify rehabilitation must specify the ordinary period for investigation without delay.
- (4) The provisions of Article 102, paragraphs (3) through (5) apply mutatis mutandis to the service of an order to specify the ordinary period for investigation set forth in the preceding paragraph.
- (5) Where an order to simplify rehabilitation becomes final and binding, the rehabilitation debtor, etc. must substitute in any action discontinued pursuant to the provisions of Article 40, paragraph (1) (including cases where applied mutatis mutandis pursuant to paragraph (3) of the relevant Article). In this

case, a petition for the substitution in the action may also be filed by the opponent.

(Special Provisions on Creditors Meetings)

- Article 214 (1) At a creditors meeting prescribed in Article 212, paragraph (3), only a proposed rehabilitation plan set forth in the second sentence of Article 211, paragraph (1) may be referred to a resolution.
- (2) The court may not refer the proposed rehabilitation plan set forth in the preceding paragraph to a resolution unless a report is made by the rehabilitation debtor, etc. at a meeting for reporting the status of assets or a written report set forth in Article 125, paragraph (1) is submitted.
- (3) Where a holder of filed rehabilitation claim who has not attended a creditors meeting set forth in paragraph (1) has given the consent set forth in the second sentence of Article 211, paragraph (1), for the purpose of application of the provisions of Article 172-3, paragraphs (1) and (6), the holder of filed rehabilitation claim is deemed to have attended the creditors meeting and consented to the proposed rehabilitation plan in question; provided, however, that this does not apply if the holder of filed rehabilitation claim, prior to the commencement of the creditors meeting set forth in paragraph (1), has submitted to the court a document stating that they revoke the consent prescribed in the second sentence of Article 211, paragraph (1).

(Special Provisions on the Effect of Rehabilitation Plans)

- Article 215 (1) Where an order to simplify rehabilitation is made, when an order of confirmation of the rehabilitation plan becomes final and binding, all rights of rehabilitation creditors (excluding consensually-subordinated rehabilitation claims if no proof of consensually-subordinated rehabilitation claim is filed, and claims for fine, etc. arising prior to the commencement of rehabilitation proceedings) are modified according to the general standards set forth in Article 156, paragraph (1).
- (2) For the purpose of application of the provisions of Article 182, Article 189, paragraph (3) and Article 206, paragraph (1) in the case prescribed in the preceding paragraph, the phrase "rights approved pursuant to the provisions of the confirmed rehabilitation plan or rights as modified pursuant to the provisions of paragraph (1) of the preceding Article" in Article 182 and the phrase "rights approved pursuant to the provisions of the rehabilitation plan" in Article 189, paragraph (3) and Article 206, paragraph (1) are deemed to be replaced with "rights as modified pursuant to the provisions of Article 215, paragraph (1)."
- (3) In the case prescribed in paragraph (1), if no proof of consensually-subordinated rehabilitation claim is filed, the rehabilitation debtor are

discharged from their liabilities for any consensually-subordinated rehabilitation claim.

- (4) Notwithstanding the provisions of paragraph (1), the effect of modification of rights under the provisions of the same paragraph with regard to a claim for a foreign tax subject to mutual assistance may be asserted only in relation to the mutual assistance under the provisions of Article 11, paragraph (1) of the Act on Special Provisions for the Enforcement of Tax Treaties.

(Exclusion from the Application of Provisions on Investigation and Determination of Rehabilitation Claims)

Article 216 (1) Where an order to simplify rehabilitation is made, the following provisions do not apply: Article 67, paragraph (4), Chapter IV, Section 3, Article 157, Article 159, the second sentence of Article 164, paragraph (2), Article 169, Article 171, Articles 178 through 180, Article 181, paragraphs (1) and (2), Article 185 (including cases where applied mutatis mutandis pursuant to Article 189, paragraph (8), Article 190, paragraph (2) and Article 195, paragraph(7)), Article 186, paragraphs (3) and (4), Article 187, Article 200, paragraphs (2) and (4) and Article 205, paragraph (2).

- (2) For the purpose of application of the provisions of Article 67, paragraph (3) if an order to simplify rehabilitation is made, the phrase "action [discontinued under the provisions of the preceding paragraph] which does not relate to any rehabilitation claim" in Article 67, paragraph (3) is deemed to be replaced with "action [discontinued under the provisions of the preceding paragraph]."

Section 2 Consensual Rehabilitation

(Order of Consensual Rehabilitation)

Article 217 (1) If, after the period for filing a proof of claims has expired but before the ordinary period for investigation has started, a petition is filed by the rehabilitation debtor, etc. the court issues an order of consensual rehabilitation (meaning an order to the effect that proceedings for investigation and determination of rehabilitation claims and a procedure for adopting a resolution on a proposed rehabilitation plan submitted by the rehabilitation debtor, etc. does not be performed; the same applies hereinafter). In this case, the rehabilitation debtor, etc. may file a petition only where all holders of filed rehabilitation claims have, in writing, consented to a proposed rehabilitation plan submitted by the rehabilitation debtor, etc. and also consented to not performing the proceedings for investigation and determination of rehabilitation claims provided for in Chapter IV, Section 3.

- (2) The court may not issue an order of consensual rehabilitation unless a report is made by the rehabilitation debtor, etc. at a meeting for reporting the status

- of assets or a written report set forth in Article 125, paragraph (1) is submitted.
- (3) Where a petition set forth in paragraph (1) is filed, and when the court finds that a proposed rehabilitation plan set forth in the second paragraph of the same paragraph falls under any of the grounds set forth in the items of Article 174, paragraph (2) (excluding item (iii)), the court must dismiss the petition without prejudice.
- (4) Where an order of consensual rehabilitation is made, a public notice must be made with regard to the main text of the order, the outline of the reasons attached thereto and the proposed rehabilitation plan set forth in the second sentence of paragraph (1), and a notice of these particulars must also be given to the persons prescribed in the main text of Article 115, paragraph (1).
- (5) For the purpose of application of the provisions of the second sentence of paragraph (1), paragraph (3) and the preceding paragraph in cases where a proposed rehabilitation plan set forth in the second sentence of paragraph (1) specifies special clauses on home loan, the phrase "holders of filed rehabilitation claims" in the second sentence of paragraph (1) is deemed to be replaced with "holders of filed rehabilitation claims (excluding a rehabilitation creditor who holds a home loan claim prescribed in Article 198, paragraph (1) and does not hold any rehabilitation claim except for the relevant home loan claim or a guarantee company that does not hold any rehabilitation claim except for a right to compensation based on the guarantee for the debt for a home loan claim," the phrase "items of Article 174, paragraph (2) (excluding item (iii))" in paragraph (3) is deemed to be replaced with "items of Article 202, paragraph (2) (excluding item (iv))," and the phrase "persons prescribed in the main text of Article 115, paragraph (1)" in the preceding paragraph is deemed to be replaced with "the persons prescribed in the main text of Article 115, paragraph (1) and any person who is supposed to be subject to a modification of rights by the special clauses on home loan but has not filed a proof of rehabilitation claim."
- (6) The provisions of Article 174, paragraph (3) and Article 211, paragraph (2) apply *mutatis mutandis* to a petition set forth in paragraph (1), the provisions of Article 174, paragraph (5) and Article 212, paragraph (1) apply *mutatis mutandis* to cases where an order of consensual rehabilitation is made, and the provisions of Article 202, paragraph (3) apply *mutatis mutandis* to opinions on an order of consensual rehabilitation if a proposed rehabilitation plan set forth in the second sentence of paragraph (1) specifies special clauses on home loan.

(Immediate Appeals)

- Article 218 (1) An immediate appeal may be filed against a judicial decision on the petition set forth in paragraph (1) of the preceding Article.
- (2) The immediate appeal set forth in the preceding paragraph does not have the

effect of a stay of execution.

- (3) The provisions of Article 175, paragraphs (2) and (3) apply mutatis mutandis to an immediate appeal set forth in paragraph (1) as well as to an appeal against an order under the provisions of Article 336 of the Code of Civil Procedure and a petition for permission for appeal against an order under the provisions of Article 337 of the Code, both provisions applied mutatis mutandis pursuant to Article 18, which are filed against a judicial decision on the relevant immediate appeal, the provisions of Article 213, paragraph (3) apply mutatis mutandis to cases where an order to revoke an order of consensual rehabilitation becomes final and binding, and the provisions of Article 102, paragraphs (3) through (5) apply mutatis mutandis to the service of an order to specify the ordinary period for investigation set forth in Article 213, paragraph (3) as applied mutatis mutandis pursuant to this paragraph.

(Effect of Order of Consensual Rehabilitation Becoming Final and Binding)

- Article 219 (1) When an order of consensual rehabilitation becomes final and binding, it is deemed that an order of confirmation of the rehabilitation plan becomes final and binding with regard to a proposed rehabilitation plan set forth in the second sentence of Article 217, paragraph (1).
- (2) The provisions of Article 173, Article 213, paragraph (5) and Article 215 apply mutatis mutandis where an order of consensual rehabilitation becomes final and binding.

(Exclusion from Application of Provisions on Investigations and Determination of Rehabilitation Claims)

- Article 220 (1) Where an order of consensual rehabilitation is made, the following provisions do not apply: Article 67, paragraph (4), Chapter IV, Section 3, Article 157, Article 159, the second sentence of Article 164, paragraph (2), Chapter VII, Section 3, Article 174, Article 175, Articles 178 through 180, Article 181, paragraphs (1) and (2), Article 185 (including cases where applied mutatis mutandis pursuant to Article 189, paragraph (8), Article 190, paragraph (2) and Article 195, paragraph (7)), Article 186, paragraphs (3) and (4), Article 187, Article 200, paragraphs (2) and (4), and Article 205, paragraph (2).
- (2) For the purpose of application of the provisions of Article 67, paragraph (3) if an order of consensual rehabilitation is made, the phrase "action [discontinued under the provisions of the preceding paragraph] which does not relate to any rehabilitation claim" in Article 67 (3) is deemed to be replaced with "action [discontinued under the provisions of the preceding paragraph]."

Chapter XIII Special Provisions on Rehabilitation for Individuals with

Small-Scale Debts and Rehabilitation for Salaried Workers
Section 1 Rehabilitation for Individuals with Small-Scale Debts

(Requirements for Commencement of Proceedings)

- Article 221 (1) A debtor who is an individual, if they are likely to earn income continuously or regularly in the future and the total amount of rehabilitation claims which they owe (excluding the amount of home loan claims, the amount of rehabilitation claims for which payment is expected to be received by exercising a right of separate satisfaction, and the amount of claims for a fine, etc. arising prior to the commencement of rehabilitation proceedings) is not more than 50 million yen, may request the implementation of rehabilitation proceedings subject to the special provisions prescribed in this Section (hereinafter referred to as "rehabilitation for individuals with small-scale debts").
- (2) A request for rehabilitation for individuals with small-scale debts must be made upon filing a petition to commence rehabilitation proceedings (if a creditor has filed a petition to commence rehabilitation proceedings, the request is made by the time when an order to commence rehabilitation proceedings is made).
- (3) When making a request set forth in the preceding paragraph, a document stating the following particulars (hereinafter referred to as the "list of creditors") must be submitted:
- (i) the name of rehabilitation creditor and the amount and cause of each rehabilitation claim held thereby;
 - (ii) with regard to a holder of a right of separate satisfaction, the collateral for the right of separate satisfaction and the amount of a rehabilitation claim for which payment is not expected to be received by exercising the right of separate satisfaction (hereinafter referred to as the "estimated amount of deficiency");
 - (iii) if the claim in question is a home loan claim, a statement to that effect;
 - (iv) if the debtor has the intention of submitting a proposed rehabilitation plan that specifies special clauses on home loan, a statement to that effect;
 - (v) other particulars specified by the Rules of the Supreme Court.
- (4) The rehabilitation debtor, when stating in the list of creditors the amount of each rehabilitation claim and the estimated amount of deficiency, may also state that they object to the whole or part of the relevant amount.
- (5) With respect to the calculation of the total amount of rehabilitation claims prescribed in paragraph (1) and the statement of the amount of rehabilitation claim in the list of creditors, the rehabilitation claims listed in Article 87, paragraph (1), items (i) through (iii) are to be treated as the claims of the amount specified in the respective items for the categories of claims listed in the

respective items.

- (6) The rehabilitation debtor, when making a request set forth in paragraph (2), must clarify whether or not they have the intention of seeking the commencement of rehabilitation proceedings even where it becomes obvious that the relevant request does not satisfy the requirements prescribed in paragraph (1) or (3); provided, however, that this does not apply where a creditor has filed a petition to commence rehabilitation proceedings.
- (7) When the court finds that the request set forth in paragraph (2) obviously does not satisfy the requirements prescribed in the main clause of the preceding paragraph, the court makes an order, only before making an order to commence rehabilitation proceedings, to the effect that the rehabilitation case will be handled through ordinary rehabilitation proceedings; provided, however, that if the rehabilitation debtor has clarified, pursuant to the provisions of the main clause of the preceding paragraph, that they have no intention of seeking the commencement of rehabilitation proceedings, the court must dismiss with prejudice on the merits the petition to commence rehabilitation proceedings.

(Measures Taken Upon the Commencement of Rehabilitation Proceedings)

- Article 222 (1) In cases of rehabilitation for individuals with small-scale debts, the court, upon making an order to commence rehabilitation proceedings, must specify, beyond the period for filing a proof of claims, a period during which an objection may be made to any filed rehabilitation claim. In this case, the court is not required to specify the ordinary period for investigation.
- (2) The court, when it has made an order to commence rehabilitation proceedings, must immediately make a public notice of the main text of the order to commence rehabilitation proceedings, the period for filing a proof of claims, and the period during which an objection may be made to any filed rehabilitation claim as prescribed in the preceding paragraph (hereinafter referred to as the "ordinary period for making objections").
 - (3) The rehabilitation debtor and known rehabilitation creditors must be given a notice of the particulars prescribed in the preceding paragraph.
 - (4) Known rehabilitation creditors must be given a notice of the particulars stated in the list of creditors pursuant to the provisions of the items of paragraph (3) of the preceding Article and the provisions of paragraph (4) of the relevant Article.
 - (5) The provisions of paragraphs (2) and (3) apply mutatis mutandis where there is a change to the period for filing a proof of claims.

(Individual Rehabilitation Commissioners)

- Article 223 (1) Where a request set forth in Article 221, paragraph (2) is made, the court, when it finds it necessary, upon the petition of an interested person

or by its own authority, may appoint one or more individual rehabilitation commissioners; provided, however, that if a petition for valuation of rehabilitation claim prescribed in the main text of Article 227, paragraph (1) is filed, the court must appoint an individual rehabilitation commissioner except where it dismisses the petition as unlawful without prejudice.

- (2) When making an order under the provisions of the preceding paragraph, the court designates one or more of the particulars listed below as duties of an individual rehabilitation commissioner:
 - (i) investigating the status of the rehabilitation debtor's assets and income;
 - (ii) assisting the court in the valuation of rehabilitation claim prescribed in the main clause of Article 227, paragraph (1);
 - (iii) making recommendations necessary for the rehabilitation debtor to prepare a proper proposed rehabilitation plan.
- (3) The court, when designating, in an order under the provisions of paragraph (1), the matter set forth in item (i) of the preceding paragraph as a duty of an individual rehabilitation commissioner, must also specify a period during which they should report the results of the investigation to the court.
- (4) The court may change or revoke an order made under the provisions of paragraph (1).
- (5) An immediate appeal may be filed against orders made pursuant to the provisions of paragraph (1) and the preceding paragraph.
- (6) The immediate appeal set forth in the preceding paragraph does not have the effect of stay of execution.
- (7) Where a judicial decision prescribed in paragraph (5) and a judicial decision on the immediate appeal set forth in the same paragraph are made, the written judgment must be served upon the parties concerned.
- (8) An individual rehabilitation commissioner for whom the matter set forth in paragraph (2), item (i) is designated as their duty may request the rehabilitation debtor or their statutory agent to report on the status of the rehabilitation debtor's assets and income or may inspect the rehabilitation debtor's books, documents and any other items.
- (9) An individual rehabilitation commissioner may receive advance payments of expenses as well as remuneration determined by the court.
- (10) The provisions of Article 54, paragraph (3), Article 57, Article 58, Article 60, and Article 61, paragraphs (2) through (4) apply mutatis mutandis to an individual rehabilitation commissioner.

(Content of Proof of Rehabilitation Claims)

Article 224 (1) In cases of rehabilitation for individuals with small-scale debts, rehabilitation creditors who intend to participate in rehabilitation proceedings is not required to file a proof of the amount of the voting right.

(2) With regard to the filing of proofs of rehabilitation claims in the case of rehabilitation for individuals with small-scale debts, the provisions of Article 221, paragraph (5) apply *mutatis mutandis*.

(Cases Where Proof of a Rehabilitation Claim Is Deemed Filed)

Article 225 A rehabilitation creditor stated in the list of creditors is deemed, with regard to their rehabilitation claim stated in the list of creditors, to have filed a proof of rehabilitation claim on the first day of the period for filing a proof of claims, with the same content as that of the statements in the list of creditors, except where they have filed with the court, within the period for filing a proof of claims, a proof of the relevant rehabilitation claim in question or proof to the effect that they do not have the relevant rehabilitation claim.

(Objections to Filed Rehabilitation Claims)

Article 226 (1) The rehabilitation debtor and a holder of filed rehabilitation claim may make an objection in writing to the court within the ordinary period for making objections with regard to the amount of a filed rehabilitation claim or estimated amount of deficiency; provided, however, that the rehabilitation debtor may make no objection to the amount of a rehabilitation claim and estimated amount of deficiency stated in the list of creditors, to which they have not stated that they have an objection in the list of creditors, pursuant to the provisions of Article 221, paragraph (4).

(2) Where a rehabilitation claim is filed or a change is made to any filed particular pursuant to the provisions of Article 95, the court must specify a period during which an objection to the rehabilitation claim in question may be made (hereinafter referred to as the "special period for making objections").

(3) The rehabilitation debtor and a holder of filed rehabilitation claim may make an objection in writing to the court within the special period for making objections with regard to the amount of a filed rehabilitation claim or estimated amount of deficiency, within the special period for making objections.

(4) The provisions of Article 102, paragraph (3) through (5) apply *mutatis mutandis* to the service of a written judgment if an order to specify the special period for making objections or an order to change the ordinary period for making objections or special period for making objections is made, and the provisions of Article 103, paragraph (2) apply *mutatis mutandis* in the case referred to in paragraph (2).

(5) The provisions of the preceding paragraphs do not apply to a claim for a fine, etc. arising prior to the commencement of rehabilitation proceedings, and to a home loan claim prescribed in Article 198, paragraph (1) if the rehabilitation debtor has stated in the list of creditors that they have the intention of submitting a proposed rehabilitation plan that specifies special clauses on

home loans.

- (6) Where the rehabilitation debtor has stated in the list of creditors that they have the intention of submitting a proposed rehabilitation plan that specifies special clauses on home loan, a rehabilitation creditor who holds a home loan claim prescribed in Article 198, paragraph(1) and does not hold any rehabilitation claim except for the home loan claim, and a guarantee company that does not hold any rehabilitation claim except for the right to compensation based on the guarantee for the debt for a home loan claim may not make an objection set forth in the main clause of paragraphs (1) and (3).

(Valuation of Rehabilitation Claims)

- Article 227 (1) Where the rehabilitation debtor or a holder of a filed rehabilitation claim has made an objection pursuant to the provisions of the main clause of paragraph (1) of the preceding Article or paragraph (3) of the relevant Article, the rehabilitation creditor who holds the rehabilitation claim subject to objection may file a petition with the court, within an unextendable period of three weeks from the last day of the period for making objections, for valuation of rehabilitation claim; provided, however, that where the rehabilitation claim in question is accompanied by an enforceable title of obligation or final judgment, the petition must be filed by the person who made the objection.
- (2) In the case referred to in the proviso to the preceding paragraph, if a petition for valuation of rehabilitation claim is not filed within an unextendable period set forth in the main clause of the preceding paragraph or the petition is dismissed without prejudice, any objection set forth in the main clause of paragraph (1) of the preceding Article or paragraph (3) of the relevant Article is deemed to have never been made.
- (3) When filing a petition for valuation of rehabilitation claim, a petitioner must prepay an amount designated by the court as expenses for proceedings for the petition.
- (4) If prepayment of expenses prescribed in the preceding paragraph is not made, the court must dismiss without prejudice the petition for valuation of rehabilitation claim.
- (5) The court, when designating, in an order under the provisions of Article 223, paragraph (1), the matter set forth in paragraph (2),item (ii) of the relevant Article as a duty of an individual rehabilitation commissioner, must also specify a period during which they should report the results of the investigation to the court.
- (6) An individual rehabilitation commissioner for whom the matter set forth in Article 223, paragraph (2), item (ii) is designated as their duty may request the rehabilitation debtor or their statutory agent or a rehabilitation creditor

(limited to a rehabilitation creditor if the matter set forth in Article 223, paragraph(2), item(i) is also designated as the individual rehabilitation commissioner's duty) to produce materials concerning the existence or nonexistence of the rehabilitation claim in question and the estimated amount of deficiency.

- (7) In the valuation of rehabilitation claims, the court will establish whether or not a claim exists, the value of the relevant claim, or the estimated amount of deficiency with regard to rehabilitation claims subject to a petitioned evaluation.
- (8) The court, when conducting the valuation of rehabilitation claim, must hear the opinion of an individual rehabilitation commissioner whose duty it is that set forth in Article 223, paragraph (2), item (ii).
- (9) With regard to the valuation of a rehabilitation claim under the provisions of paragraph (7), the provisions of Article 221, paragraph (5) apply mutatis mutandis.
- (10) The provisions of the preceding paragraphs do not apply to a claim for a fine, etc. arising prior to the commencement of rehabilitation proceedings, and to a home loan claim prescribed in Article 198, paragraph (1) if the rehabilitation debtor has stated in the list of creditors that they intend to submit a proposed rehabilitation plan that specifies special clauses on the home loan.

(Exemption from the Duty of Preparing Balance Sheets)

Article 228 In the case of rehabilitation for individuals with small-scale debts, the rehabilitation debtor is not required to prepare and submit balance sheets under the provisions of Article 124, paragraph (2).

(Content of the Modification of Rights by Rehabilitation Plans)

Article 229 (1) In the case of rehabilitation for individuals with small-scale debts, the content of any modification of rights based on a rehabilitation plan is equal between rehabilitation creditors, except where any rehabilitation creditor who will suffer detriment has given consent or where the plan otherwise provides for the due date of the small rehabilitation claim or for any of the claims listed in Article 84, paragraph (2).

- (2) An extension of the term for debt under the clauses that modify rights of rehabilitation creditors, unless otherwise provided for pursuant to the provisions of the preceding paragraph, is prescribed as follows:
 - (i) payment will be made based on an installment payment plan wherein the due date comes more than once in three months;
 - (ii) the final due date is set as a specific day in the month that includes the day on which three years elapse since the date of the order of confirmation of the rehabilitation plan becoming final and binding (if there are special

- circumstances, a specific day which comes within five years since the date of the order of confirmation of the rehabilitation plan becoming final and binding, and comes after the first day of the month following the month that includes the day on which three years elapse since the date).
- (3) Notwithstanding the provisions of paragraph (1), with regard to any of the following rehabilitation claims, a rehabilitation plan may not provide for a reduction or release of debts or any other measures that would affect the rights concerned, except with the consent of the rehabilitation creditor concerned:
- (i) a claim for damages for a tort that the rehabilitation debtor has committed in bad faith;
 - (ii) a claim for damages for a tort harming the life or body of another that the rehabilitation debtor has committed intentionally or by gross negligence (excluding the claim set forth in the preceding item);
 - (iii) a claim arising from any of the following duties:
 - (a) The duty to cooperate and provide mutual assistance between husband and wife under the provisions of Article 752 of the Civil Code;
 - (b) The duty to share expenses arising from marriage under the provisions of Article 760 of the Civil Code;
 - (c) The duty concerning the custody of a child under the provisions of Article 766 of the Civil Code (including cases where applied *mutatis mutandis* pursuant to Article 749, Article 771 and Article 788 of the Code);
 - (d) The duty to support under the provisions of Articles 877 through 880 of the Civil Code;
 - (e) Any duties similar to the duties listed in (a) through (d) above, which are under a contract;
- (4) The provisions of paragraph (1) do not apply between a person who is subject to a modification of rights by special clauses on home loan and other rehabilitation creditors, and the provisions of paragraph (2) do not apply to special clauses on home loans.

(Resolutions on Proposed Rehabilitation Plans)

Article 230 (1) The court may not refer a proposed rehabilitation plan to a resolution unless the ordinary period for making objections (in cases where a special period for making objections is specified, the period is included) has expired and a written report set forth in Article 125, paragraph (1) has been submitted. Where an objection under the provisions of the main clause of Article 226, paragraph (1) is made within the relevant ordinary period for making objections (including cases where an objection under the provisions of paragraph (3) of the same Article is made within a special period for making objection, if any the period is specified), the court may not refer the a plan to a resolution until an unextendable period set forth in the main clause of Article

227, paragraph (1) has expired (if a petition for valuation of rehabilitation claim is filed within the unextendable period, until the valuation of rehabilitation claim is conducted).

- (2) The court may not refer a proposed rehabilitation plan to a resolution where it finds that the proposed rehabilitation plan falls under any of the grounds set forth in the items of Article 174, paragraph (2) (excluding item (iii); or Article 202, paragraph (2), items (i) through (iii) if the proposed rehabilitation plan specifies special clauses on home loan) or the cases set forth in the items of paragraph (2) of the following Article.
- (3) When a proposed rehabilitation plan is submitted, the court, except in the cases referred to in the preceding two paragraphs, makes an order to refer the proposed rehabilitation plan to a resolution, while designating the means set forth in Article 169, paragraph (2), item (ii) as that for exercising voting rights and setting a time limit for giving a notice to the court in the case of diverse exercise of a voting right under the provisions of Article 172, paragraph (2) (including cases where applied mutatis mutandis pursuant to paragraph (3) of the same Article).
- (4) When the court has made an order set forth in the preceding paragraph, the court must make a public notice to that effect, and notify voting right holders with regard to the time limit prescribed in the same paragraph, the content of the proposed rehabilitation plan or the outline thereof, and to the effect that any person who does not consent to the proposed rehabilitation plan should respond to that effect within the period specified by the court by the means designated pursuant to the provisions of the same paragraph.
- (5) For the purpose of application of the provisions of Article 172, paragraph (2) (including cases where applied mutatis mutandis pursuant to paragraph (3) of the same Article) in cases where an order set forth in paragraph (3) is made, the phrase "the first sentence of Article 169, paragraph (2)" in paragraph (2) of the same Article is deemed to be replaced with "Article 230, paragraph (3)."
- (6) If the number of voting right holders who have responded, within the period set forth in paragraph (4) by the means set forth in the same paragraph, that they do not consent to a proposed rehabilitation plan, is less than half of the total number of voting right holders, and the amount of voting rights held by voting right holders who have thus responded does not exceed half of the total amount of voting rights held by all voting holders, it is deemed that the proposed rehabilitation plan is approved.
- (7) For the purpose of application of the provisions of the preceding paragraph in cases where any of the voting right holders who have responded that they do not consent to a proposed rehabilitation plan by the means set forth in paragraph (4), have exercised only part of their voting right pursuant to the provisions of Article 172, paragraph (2) (including cases where applied mutatis

mutandis pursuant to paragraph (3) of the same Article), the total number of voting right holders is to be increased by one for each of the relevant voting right holders, and the number of voting right holders who have responded that they do not consent to the proposed rehabilitation plan, by the means set forth in paragraph (4), is to be increased by one-half for each of the relevant voting right holders..

- (8) A holder of filed rehabilitation claim may exercise their voting right, in the case of a filed rehabilitation claim to which no objection is made before the expiration of the ordinary period for making objections or the special period for making objections (excluding one prescribed in Article 226, paragraph (5); hereinafter referred to as a "claim without objection"), according to the amount of filed rehabilitation claim or estimated amount of deficiency, and in the case of a rehabilitation claim for which the court has determined the amount of claim or estimated amount of deficiency pursuant to the provisions of Article 227, paragraph (7) (hereinafter referred to as an "valued claim"), according to these amounts, respectively.

(Order of Confirmation or Disconfirmation of Rehabilitation Plans)

Article 231 (1) In the case of rehabilitation for individuals with small-scale debts, where a proposed rehabilitation plan is approved, the court will issue an order of confirmation of the rehabilitation plan, except in the case referred to in Article 174, paragraph (2) (or Article 202, paragraph (2) if the proposed rehabilitation plan specifies special clauses on home loan) or the cases set forth in the following paragraph.

- (2) In the case of rehabilitation for individuals with small-scale debts, the court may also issue an order of disconfirmation in any of the cases set forth in the following items:
- (i) where the rehabilitation debtor is unlikely to earn income continuously or regularly in the future;
 - (ii) where the total of the amount of claims without objection and the amount of valued claims (excluding the amount of home loan claims, the amount of rehabilitation claims for which payment is expected to be received by exercising a right of separate satisfaction, and the amount of claims listed in Article 84, paragraph(2)) exceeds 50 million yen;
 - (iii) where the total of the amount of claims without objection and the amount of valued claims prescribed in the preceding item is more than 30 million yen but not more than 50 million yen, and the total amount of payment based on the rehabilitation plan (the payment hereinafter be referred to as the "total amount of payment based on the plan") for the claims without objection and valued claims (excluding any rehabilitation claim for which payment is expected to be received by exercising a right of separate satisfaction and the

- claims listed in the items of Article 84, paragraph (2); hereinafter referred to as "standard claims") is less than one-tenth of the total of the amount of the claims without objection and the amount of the valued claims;
- (iv) where the total of the amount of claims without objection and the amount of valued claims prescribed in item (ii) is not more than 30 million yen, and the total amount of payment based on the plan is less than one-fifth of the total amount of standard claims or one million yen, whichever is larger (if the total amount of standard claims is less than one million yen, the baseline is the total amount of standard claims, and if one-fifth of the total amount of standard claims is more than three million yen, the baseline is three million yen);
 - (v) where the rehabilitation debtor has stated in the list of creditors that they have the intention of submitting a proposed rehabilitation plan that specifies special clauses on home loan, but the rehabilitation plan does not specify any special clauses on home loans.

(Effect of Rehabilitation Plans)

- Article 232 (1) In the case of rehabilitation for individuals with small-scale debts, when an order of confirmation of the rehabilitation plan becomes final and binding, the claims listed in Article 87, paragraph (1), items (i) through (iii) are modified into rehabilitation claims of the amount specified in the respective items.
- (2) In the case of rehabilitation for individuals with small-scale debts, when an order of confirmation of the rehabilitation plan becomes final and binding, all rights of rehabilitation creditors (in the case of the claims listed in Article 87, paragraph (1), items (i) through (iii), the rights as modified pursuant to the provisions of the preceding paragraph; excluding the claims listed in the items of Article 229, paragraph (3) and claims for fines, etc. arising prior to the commencement of rehabilitation proceedings) are modified according to the general standards set forth in Article 156.
 - (3) In the case prescribed in the preceding paragraph, with regard to a rehabilitation claim modified pursuant to the provisions of relevant paragraph that is not a claim without objection or valued claim, until the payment period specified in the rehabilitation plan expires (or until payment based on the rehabilitation plan is completed or the rehabilitation plan is revoked, if these events occur prior to the expiration of the relevant period; the same applies in the following paragraph and paragraph (5)), making or receiving payment or conducting any other act causing the claim to be extinguished is not allowed (excluding a release); provided, however, that this does not apply if the rehabilitation creditor was unable to file a proof of claim regarding the modified rehabilitation claim within the period for filing a proof of claims due

to grounds not attributable thereto, and the grounds have not ceased to exist before the order prescribed in Article 230, paragraph (3) is made, or the modified rehabilitation claim was subject to the valuation of the rehabilitation claim.

- (4) In the case prescribed in paragraph (2), with regard to any of the claims listed in the items of Article 229, paragraph (3) that is a claim without objection or, valued claim, payment must be made according to the general standards set forth in Article 156, and payment must be made, upon the expiration of the payment period specified in the rehabilitation plan, for any amount that remains after deducting the amount paid within the relevant payment period from the amount of the claim in question.
- (5) In the case prescribed in paragraph (2), with regard to any of the claims listed in the items of Article 229, paragraph (3) that is not a claim without objection or valued claim, payment must be made, upon the expiration of the payment period specified in the rehabilitation plan, for the whole amount of the claim in question; provided, however, that the provisions of the preceding paragraph apply in the case prescribed in the proviso to paragraph (3).
- (6) In the case prescribed in paragraph (2), for the purpose of application of the provisions of Article 182, Article 189, paragraph (3) and Article 206, paragraph (1), the phrase "rights approved pursuant to the provisions of the confirmed rehabilitation plan or rights as modified pursuant to the provisions of paragraph (1) of the preceding Article" in Article 182 is deemed to be replaced with "rights as modified pursuant to the provisions of Article 232, paragraph (2) and claims listed in the items of Article 229, paragraph (3)," the phrase "all rights approved pursuant to the provisions of the rehabilitation plan (excluding the parts of rights already performed)" in Article 189, paragraph (3) is deemed to be replaced with "all rights as modified pursuant to the provisions of Article 232, paragraph (2) and claims listed in the items of Article 229, paragraph (3) (limited to the part to be paid according to the general standards set forth in Article 156 pursuant to the provisions of Article 232, paragraph (4) (including cases where applied mutatis mutandis pursuant to the proviso to paragraph (5) of the same Article))," and the phrase "all rights approved pursuant to the provisions of the rehabilitation plan (excluding those as modified by the special clauses on home loan; excluding the part of rights already performed)" in Article 206, paragraph (1) is deemed to be replaced with "all rights as modified pursuant to the provisions of Article 232, paragraph (2) (excluding those as modified by the special clauses on home loan) and claims listed in the items of Article 229, paragraph (3) (limited to the part to be paid according to the general standards set forth in Article 156 pursuant to the provisions of Article 232 (4) (including cases where applied mutatis mutandis pursuant to the proviso to paragraph (5) of the same Article))."

- (7) For the purpose of application of the provisions of paragraphs (3) through (5) in cases where an order of confirmation of the rehabilitation plan that specifies special clauses on home loans becomes final and binding, the phrase "payment period specified in the rehabilitation plan" in these paragraphs is deemed to be replaced with "payment period specified in the rehabilitation plan (excluding the special clauses on home loan)," the phrase "payment based on the rehabilitation plan" in the main clause of paragraph (3) is deemed to be replaced with "payment based on the rehabilitation plan (excluding the special clauses on home loan)," and the phrase "the modified rehabilitation claim was subject to the valuation of rehabilitation claim" in the proviso to paragraph (3) is deemed to be replaced with "the modified rehabilitation claim was subject to the valuation of rehabilitation claim or the right as modified is a home loan claim as modified by the special clauses on home loan."
- (8) Notwithstanding the provisions of paragraphs (1) and (2), the effect of modification of rights under these provisions with regard to a claim for a foreign tax subject to mutual assistance may be asserted only in relation to the mutual assistance under the provisions of Article 11, paragraph (1) of the Act on Special Provisions for the Enforcement of Tax Treaties.

(Completion of Rehabilitation Proceedings)

Article 233 In the case of rehabilitation for individuals with small-scale debts, rehabilitation proceedings automatically complete as a result of an order of confirmation of the rehabilitation plan becoming final and binding.

(Modification of Rehabilitation Plans)

Article 234 (1) In the case of rehabilitation for individuals with small-scale debts, if, after an order of confirmation of the rehabilitation plan is made, it becomes particularly difficult to execute the rehabilitation plan, the term for debt specified in the rehabilitation plan may be extended upon the petition of the rehabilitation debtor. In this case, the final due date for debt as modified must be within two years from the final due date for debt initially specified in the rehabilitation plan.

- (2) Where a petition for modification of the rehabilitation plan is filed pursuant to the provisions of the preceding paragraph, the provisions concerning the procedure to be performed upon submission of a proposed rehabilitation plan apply *mutatis mutandis*.
- (3) The provisions of Article 175 (excluding paragraph (2)) and Article 176 apply *mutatis mutandis* where an order of modification of a rehabilitation plan is made.

(Granting Discharge Due to Extreme Difficulty in Execution a Plan)

- Article 235 (1) Where it becomes extremely difficult for the rehabilitation debtor to execute the rehabilitation plan due to grounds not attributable thereto and all of the requirements listed in the following items are satisfied, the court, upon the petition of the rehabilitation debtor, may issue an order of discharge:
- (i) with regard to each standard claim as modified pursuant to the provisions of Article 232, paragraph (2) and each rehabilitation claim prescribed in the proviso to paragraph (3) of the same Article, payment is completed for not less than three-fourths of the amount of the claim in question;
 - (ii) with regard to any of the claims listed in the items of Article 229, paragraph (3) (limited to the part to be paid according to the general standards set forth in Article 156 pursuant to the provisions of Article 232, paragraph (4) (including cases where applied *mutatis mutandis* pursuant to the proviso to paragraph (5) of the same Article)), payment is completed for not less than three-fourths of the amount of the claim in question;
 - (iii) it is not contrary to the common interests of rehabilitation creditors to issue an order of discharge;
 - (iv) it is extremely difficult to modify the rehabilitation plan under the provisions of the preceding Article.
- (2) When a petition set forth in the preceding paragraph is filed, the court must hear opinions of holders of filed rehabilitation claims.
- (3) When an order of discharge is made, a document stating the main text of the order and the outline of the reasons attached thereto must be served upon the rehabilitation debtor and holders of filed rehabilitation claims.
- (4) An immediate appeal may be filed against a judicial decision on the petition set forth in paragraph (1).
- (5) An order of discharge does not become effective unless it becomes final and binding.
- (6) Where an order of discharge becomes final and binding, the rehabilitation debtor is discharged from their liabilities for all debts owed to rehabilitation creditors (excluding claims listed in the items of Article 229, paragraph (3) and a claim for a fine, etc. arising prior to the commencement of rehabilitation proceedings), except for the parts already performed.
- (7) The fact that an order of discharge has become final and binding does not affect any security interests prescribed in Article 53, paragraph (1) held by holders of rights of separate satisfaction, any rights held by rehabilitation creditors against the rehabilitation debtor's guarantor or any other person who owes debts jointly with the rehabilitation debtor, or any security provided by persons other than the rehabilitation debtor in the interest of rehabilitation creditors.
- (8) For the purpose of application of the provisions of paragraph (2) and paragraph (3) in cases where a rehabilitation plan specifies special clauses on

home loan, the term "holders of filed rehabilitation claims" in paragraph (2) is deemed to be replaced with "holders of filed rehabilitation claims and a person who is subject to a modification of rights by special clauses on home loan," and the phrase "and holders of filed rehabilitation claims" in paragraph (3) is deemed to be replaced with ", holders of filed rehabilitation claims and a person who is subject to a modification of rights by special clauses on home loan."

- (9) Notwithstanding the provisions of paragraph (6), the effect of discharge under the provisions of the relevant paragraph with regard to a claim for a foreign tax subject to mutual assistance may be asserted only in relation to the mutual assistance under the provisions of Article 11, paragraph (1) of the Act on Special Provisions for the Enforcement of Tax Treaties.

(Revocation of Rehabilitation Plans)

Article 236 In the case of rehabilitation for individuals with small-scale debts, where an order of confirmation of the rehabilitation plan becomes final and binding, the court, upon the petition of a rehabilitation creditor, may also issue an order of revocation of the rehabilitation plan even when it has become obvious that the total amount of payment based on the plan falls below the total amount of distribution for standard claims as calculated on the assumption that bankruptcy proceedings are enforced against the rehabilitation debtor at the time when the order of confirmation of the rehabilitation plan is made. In this case, the provisions of Article 189, paragraph (2) apply *mutatis mutandis*.

(Discontinuance of Rehabilitation Proceedings)

- Article 237 (1) In the case of rehabilitation for individuals with small-scale debts, where the number of voting right holders who have responded, within the period set forth in Article 230, paragraph (4) by the means set forth in Article 230, paragraph (4), that they do not consent to a proposed rehabilitation plan, is not less than half of the total number of voting right holders, or the amount of voting rights held by voting right holders who have thus responded exceeds half of the total amount of voting rights held by all voting holders, the court, by its own authority, must also issue an order of discontinuance of rehabilitation proceedings. In this case, the provisions of paragraph (7) of the same Article apply *mutatis mutandis*.
- (2) In the case of rehabilitation for individuals with small-scale debts, where the rehabilitation debtor has failed to state assets that should be stated in the inventory of assets or made a false statement, the court, upon the petition of a holder of filed rehabilitation claim or individual rehabilitation commissioner or by its own authority, may issue an order of discontinuance of rehabilitation

proceedings. In this case, the provisions of Article 193, paragraph (2) apply mutatis mutandis.

(Exclusion from the Application of Provisions on Ordinary Rehabilitation Proceedings)

Article 238 In the case of rehabilitation for individuals with small-scale debts, the following provisions do not apply: Article 34, paragraph (2), Article 35, the main clause of Article 37 (limited to the part concerning a consensually-subordinated rehabilitation claim) and the proviso to the same Article, Article 40, Article 40-2 (excluding the part concerning an action filed by a rehabilitation creditor pursuant to the provisions of Article 423 of the Civil Code), Article 42, paragraph (2) (limited to the part concerning a consensually-subordinated rehabilitation claim), Chapter III, Sections 1 and 2, Article 85, paragraph (6), Article 87, paragraph (3), Article 89, paragraph (2) and Article 94, paragraph (1) (limited to the parts of the provisions concerning a consensually-subordinated rehabilitation claim), Chapter IV, Section 3 (excluding Article 113, paragraphs (2) through (4)) and Section 4, Article 126, Chapter VI, Section 2, Article 155, paragraphs (1) through (3), Article 156 (limited to the part concerning a consensually-subordinated rehabilitation claim), Articles 157 through 159, Article 163, paragraph (2), the second sentence of Article 164, paragraph (2), Article 165, paragraph (1), Chapter VII, Section 3 (excluding Article 172), Article 174, paragraph (1), Article 174-2, Article 175, paragraph (2), Articles 178 through 180, Article 181, paragraphs (1) and (2), Article 185 (including cases where applied mutatis mutandis pursuant to Article 189, paragraph (8), Article 190, paragraph (2), and Article 195, paragraph (7)), Article 186, paragraphs (3) and (4), Article 187, Article 188, Article 200, paragraphs (2) and (4), Article 202, paragraph (1), Article 205, paragraph (2), and Chapter XII.

Section 2 Rehabilitation for Salaried Workers

(Requirements for Commencement of Proceedings)

Article 239 (1) A debtor prescribed in Article 221, paragraph (1), if they are likely to receive a salary or earn similar regular income and the amount of the salary or income is expected to fluctuate within a small range, may request the implementation of rehabilitation proceedings subject to the special provisions prescribed in this Section (hereinafter referred to as "rehabilitation for salaried workers, etc.").

(2) A request for rehabilitation for salaried workers, etc. must be made upon filing a petition to commence rehabilitation proceedings (in cases where a creditor has filed a petition to commence rehabilitation proceedings, the request must be

made by the time when an order to commence rehabilitation proceedings is made).

- (3) When making a request set forth in the preceding paragraph, the rehabilitation debtor must clarify whether or not they have the intention of seeking the commencement of ordinary rehabilitation proceedings where it becomes obvious that the relevant request does not satisfy the requirements prescribed in Article 221, paragraph (1) or in Article 221, paragraph (3) as applied *mutatis mutandis* pursuant to Article 244, and also clarify whether or not they have the intention of seeking the commencement of proceedings for rehabilitation for individuals with small-scale debts where it becomes obvious that any of the grounds set forth in the items of paragraph (5) exist; provided, however, that this does not apply where a creditor has filed a petition to commence rehabilitation proceedings.
- (4) When the court finds that the request set forth in paragraph (2) obviously does not satisfy the requirements prescribed in the main clause of the preceding paragraph, it makes an order, only before making an order to commence rehabilitation proceedings, to the effect that the rehabilitation case is handled through ordinary rehabilitation proceedings; provided, however, that if the rehabilitation debtor has clarified, pursuant to the provisions of the main clause of the preceding paragraph, that they have no intention of seeking the commencement of ordinary rehabilitation proceedings, the court must dismiss with prejudice on the merits the petition to commence rehabilitation proceedings.
- (5) Beyond the case prescribed in the preceding paragraph, where a request set forth in paragraph (2) is made, and when the court finds that any of the grounds set forth in the following items obviously exist, it makes an order, only before making an order to commence rehabilitation proceedings, to the effect that the rehabilitation case will be handled through proceedings for rehabilitation for individuals with small-scale debts; provided, however, that if the rehabilitation debtor has clarified, pursuant to the provisions of the main clause of paragraph (3), that they have no intention of seeking the commencement of proceedings for rehabilitation for individuals with small-scale debts, the court must dismiss with prejudice on the merits the petition to commence rehabilitation proceedings:
 - (i) the rehabilitation debtor is not likely to receive a salary or earn a similar regular income, or the amount of the salary or income is expected to fluctuate within a small range;
 - (ii) the rehabilitation debtor falls under any of the grounds listed in (a) through (c) below, and they have made the request within seven years from the day specified in (a) through (c), respectively:
 - (a) A rehabilitation plan has been executed through proceedings for

rehabilitation for salaried workers, etc.: The day on which the order to commence the rehabilitation plan became final and binding

- (b) An order of discharge prescribed in Article 235, paragraph (1) (including cases where applied mutatis mutandis pursuant to Article 244) has become final and binding: The day on which the order of confirmation of the rehabilitation plan regarding the order of discharge became final and binding
- (c) An order of grant of a discharge prescribed in Article 252, paragraph (1) of the Bankruptcy Act has become final and binding: The day on which the order has become final and binding

(Hearing of Opinions on Proposed Rehabilitation Plans)

Article 240 (1) In the case of rehabilitation for salaried workers, etc., where a proposed rehabilitation plan is submitted, the court must make a decision to hear the opinions from holders of filed rehabilitation claims with regard to whether or not the proposed rehabilitation plan should be approved, except in the following cases:

- (i) where the court finds that the proposed rehabilitation plan falls under any of the grounds set forth in the items of paragraph (2) of the following Article;
 - (ii) where the ordinary period for making objections has not yet expired, or where an objection is made within the ordinary period for making objections under the provisions of the main clause of Article 226, paragraph (1) as applied mutatis mutandis pursuant to Article 244 and the unextendable period set forth in the main clause of Article 227, paragraph (1) as applied mutatis mutandis pursuant to Article 244 has not yet expired (or where a petition for valuation of rehabilitation claim is filed within the unextendable period but valuation of rehabilitation claim has not yet been conducted);
 - (iii) where the special period for making an objection is specified, and the relevant special period for making an objection has not yet expired, or an objection is made within the relevant special period for making objections under the provisions of Article 226, paragraph (3) as applied mutatis mutandis pursuant to Article 244 and the unextendable period prescribed in the main clause of Article 227, paragraph (1) as applied mutatis mutandis pursuant to Article 244 has not yet expired (or where a petition for valuation of rehabilitation claim is filed within the unextendable period but valuation of rehabilitation claim has not yet been conducted);
 - (iv) where the written report set forth in Article 125 (1) is not submitted.
- (2) The court, when it has made an order set forth in the preceding paragraph, must make a public notice to that effect, and give a notice to holders of filed rehabilitation claims with regard to the content of the proposed rehabilitation plan or the outline thereof, as well as a notice to the effect that any person who

has an opinion that the proposed rehabilitation plan falls under any of the grounds set forth in the items of paragraph (2) of the following Article should submit, within the period specified by the court, the opinion and a document specifically describing the respective grounds.

- (3) For the purpose of application of the provisions of Article 95, paragraph (4) and the proviso to Article 167 in the case of rehabilitation for salaried workers, etc., the phrase "order to refer the proposed rehabilitation plan to a resolution" in these provisions is deemed to be replaced with "decision to hear the opinions from holders of filed rehabilitation claims with regard to whether or not the proposed rehabilitation plan should be approved."

(Order of Confirmation or Disconfirmation of Rehabilitation Plans)

Article 241 (1) When the period specified pursuant to the provisions of paragraph (2) of the preceding Article has expired, the court issues an order of confirmation of the rehabilitation plan, except in the cases set forth in the following paragraph.

- (2) In any of the cases set forth in the following items, the court will issue an order of disconfirmation of the rehabilitation plan:
- (i) where any of the grounds prescribed in Article 174, paragraph (2), item (i) or (ii) (or the grounds prescribed in Article 174, paragraph (2), item (i) or Article 202, paragraph (2), item (ii) in cases where the rehabilitation plan specifies special clauses on home loan) exist;
 - (ii) where the rehabilitation plan is contrary to the common interests of rehabilitation creditors;
 - (iii) where the rehabilitation plan specifies special clauses on home loan, and it falls under the grounds prescribed in Article 202, paragraph (2), item (iii);
 - (iv) where the rehabilitation debtor does not receive salary or earn similar regular income, or the range of fluctuation in the amount of the salary or income is not expected to be small;
 - (v) where any of the grounds prescribed in Article 231, paragraph (2), items (ii) through (v) exist;
 - (vi) where the grounds prescribed in Article 239, paragraph (5), item (ii) exist;
 - (vii) where the total amount of payment based on the rehabilitation plan cannot be found to be not less than the amount obtained by multiplying by two the amount that remains after deducting, from the amount specified in (a) through (c) below for the cases listed in (a) through (c), respectively, the amount of expenses for one year necessary for maintaining the minimum standards of living for the rehabilitation debtor and persons eligible to receive their support.
 - (a) Where, with regard to the amount of the rehabilitation debtor's salary or similar regular income, reemployment or any other event that should cause

a fluctuation amounting to not less than one-fifth of their annual income has occurred at a certain time within two years prior to the submission of the proposed rehabilitation plan: The amount obtained by deducting, from the total income earned during the period from when the event occurred until the proposed rehabilitation plan was submitted, the amount of income tax, prefectural inhabitants tax or Tokyo inhabitants tax on individuals, and municipal inhabitants tax or special ward inhabitants tax on individuals as well as social insurance premiums prescribed in Article 74, paragraph (2) of the Income Tax Act (Act No. 33 of 1965) (referred to as "income tax, etc." in (b) and (c)) imposed on the total amount, as converted into the amount per year;

(b) Where the rehabilitation debtor, at a certain time within two years prior to the submission of the proposed rehabilitation plan, has started to receive salary or earn a similar regular income which is expected to fluctuate within a small range (excluding one who falls under the case set forth in (a)): The amount obtained by deducting, from the total income earned during the period from when they started to receive a salary or earn similar regular income which is expected to fluctuate within a small range, until the proposed rehabilitation plan was submitted, the amount of income tax, etc. imposed on the total amount, as converted into the amount per year;

(c) Any case other those set forth in (a) and (b): The amount obtained by dividing by two the amount that remains after deducting, from the total amount of income earned by the rehabilitation debtor for the two years prior to the submission of the proposed rehabilitation plan, the amount of income tax, etc. imposed on the total amount;

(3) The amount of expenses for one year prescribed in item (vii) of the preceding paragraph is specified by Cabinet Order while taking into consideration the age and residential area of the rehabilitation debtor and persons eligible to receive their support, the number of such persons eligible to receive support, the price situation and any other circumstances concerned.

(Revocation of Rehabilitation Plans)

Article 242 In the case of rehabilitation for salaried workers, etc., where an order of confirmation of the rehabilitation plan becomes final and binding, the court, upon the petition of a rehabilitation creditor, may also issue an order of revocation of the rehabilitation plan when it has become obvious that the total amount of payment based on the plan falls below the total amount of distribution for standard claims as calculated on the assumption that bankruptcy proceedings are enforced against the rehabilitation debtor at the time when the order of confirmation of the rehabilitation plan is made, or that

the rehabilitation plan falls under the case set forth in paragraph (2), item (vii) of the preceding Article. In this case, the provisions of Article 189, paragraph (2) apply mutatis mutandis.

(Discontinuance of Rehabilitation Proceedings)

Article 243 In the case of rehabilitation for salaried workers, etc., the court, by its own authority, must issue an order of discontinuance of rehabilitation proceedings in any of the cases set forth in the following items:

- (i) it has become obvious that there is no likelihood that a proposed rehabilitation plan that falls under none of the items of Article 241, paragraph (2) will be prepared;
- (ii) where no proposed rehabilitation plan is submitted within the period specified by the court or any extension thereof, or a proposed rehabilitation plan submitted within the period or extension falls under any of the items of Article 241, paragraph (2).

(Application Mutatis Mutandis of Provisions on Rehabilitation for Individuals with Small-Scale Debts)

Article 244 The provisions of Article 221, paragraphs (3) through (5), Articles 222 through Article 229, Articles 232 through 235, and Article 237, paragraph (2) apply mutatis mutandis to rehabilitation for salaried workers, etc.

(Exclusion from Application of Provisions on Ordinary Rehabilitation Proceedings)

Article 245 In the case of rehabilitation for salaried workers, etc., the provisions prescribed in Article 238 and the provisions of Article 87, paragraphs (1) and (2), Article 172, Article 174, paragraphs (2) and (3), Article 191, and Article 202, paragraph (2) do not apply.

Chapter XIV Transfer Between Rehabilitation Proceedings and Bankruptcy Proceedings

Section 1 Transfer from Bankruptcy Proceedings to Rehabilitation Proceedings

(Petition to Commence Rehabilitation Proceedings Filed by Bankruptcy Trustees)

Article 246 (1) A bankruptcy trustee, when a fact constituting grounds to commence rehabilitation proceedings exists with regard to the bankrupt, may file a petition to commence rehabilitation proceedings against the bankrupt, with permission of the court (meaning a judge or panel of judges in charge of the bankruptcy case; hereinafter the same applies in this Article).

- (2) The court may grant the permission set forth in the preceding paragraph only where it finds that enforcing rehabilitation proceedings conforms to the common interests of creditors.
- (3) Where a petition for the permission set forth in paragraph (1) is filed, the court, except where it is obvious that the petition should be dismissed without prejudice or the permission should be granted, must hear opinions of the labor union, etc. (meaning the labor union consisting of the majority of the bankrupt's employees and other workers, if there is any relevant labor union, or the person representative of the majority of the bankrupt's employees and other workers, if there is no labor union consisting of the majority of bankrupt's employees and other workers), before making an order on the petition.
- (4) The provisions of Article 23, paragraph (1) do not apply to a petition to commence rehabilitation proceedings filed under the provisions of paragraph (1).

(Order to Not Require Filing of Proofs of Rehabilitation Claims)

Article 247 (1) Where the court makes an order to commence rehabilitation proceedings, when it finds it appropriate while taking into consideration the content and cause of each bankruptcy claim filed in the bankruptcy proceedings to be stayed pursuant to the provisions of Article 39, paragraph (1), the number of denied or disputed bankruptcy claims prescribed in the main clause of Article 125, paragraph (1) of the Bankruptcy Act, whether or not any liquidating distribution will be made through the bankruptcy proceedings, and any other circumstances concerned, it may make an order, upon making the order to commence rehabilitation proceedings, to the effect that rehabilitation creditors who hold rehabilitation claims that have been filed as bankruptcy claims in the bankruptcy proceedings (excluding claims that have been filed as preferred bankruptcy claims prescribed in Article 98, paragraph (1) of the same Act, claims for foreign taxes subject to mutual assistance and claims for fine, etc. prescribed in Article 97, item (vi) of the same Article; hereinafter the same applies in this Article) are not required to file proofs of the rehabilitation claims.

- (2) The court, when it has made an order pursuant to the provisions of the preceding paragraph, must indicate, in the public notice to be made under the provisions of Article 35, paragraph (1), that rehabilitation creditors who hold rehabilitation claims that have been filed as bankruptcy claims in the bankruptcy proceedings set forth in the preceding paragraph are not required to file proofs of the rehabilitation claims, and give a notice to known rehabilitation creditors to that effect.
- (3) Where an order under the provisions of paragraph (1) is made, with regard to

- claims that have been filed as bankruptcy claims in the bankruptcy proceedings set forth in the same paragraph, it is deemed that the persons who have filed proofs of the bankruptcy claims (or persons who have received a change of the name of the holder of a filed claim with regard to the claims filed in the relevant bankruptcy proceedings, if there is any relevant person; the same applies in paragraph (5)) have filed proofs of rehabilitation claims on the first day of the period for filing a proof prescribed in Article 94, paragraph (1).
- (4) In the case referred to in the preceding paragraph, for each of the categories of filed particulars listed in the following items regarding the claim that has been filed as a bankruptcy claim, it is deemed that the matter specified in the respective items has been filed when filing a proof of rehabilitation claim:
- (i) with regard to a claim that has been filed with a statement that the claim is a subordinate bankruptcy claim prescribed in Article 99, paragraph (1) of the Bankruptcy Act, the amount and grounds for the bankruptcy claim set forth in Article 111, paragraph (1), item (i) of the same Act: The amount of the rehabilitation claim, as an element of the content of the rehabilitation claim prescribed in Article 94, paragraph (1), and the grounds for the rehabilitation claim prescribed in Article 94, paragraph (1);
 - (ii) with regard to the claim that has been filed as a bankruptcy claim, except for the claim set forth in the preceding item, the amount and grounds for the bankruptcy claim set forth in Article 111, paragraph (1), item (i) of the Bankruptcy Act: The amount of the rehabilitation claim, as an element of the content of the rehabilitation claim prescribed in Article 94, paragraph (1), the amount of the voting right for the rehabilitation claim prescribed in Article 94, paragraph (1), and the grounds for the rehabilitation claim prescribed in Article 94, paragraph (1);
 - (iii) with regard to a claim filed with a statement that the claim is a consensually-subordinated bankruptcy claim prescribed in Article 99, paragraph (2) of the Bankruptcy Act, the statement set forth in Article 111, paragraph (1), item (iii) of the same Act: The statement that the claim is a consensually-subordinated rehabilitation claim prescribed in Article 94, paragraph (1);
 - (iv) the amount of the claim for which payment is not expected to be received by exercising a right of separate satisfaction set forth in Article 111, paragraph (2), item (ii) of the Bankruptcy Act: The amount of the claim for which payment is not expected to be received by exercising a right of separate satisfaction set forth in Article 94, paragraph (2).
- (5) Where the person who filed a proof of a claim as a bankruptcy claim has filed a proof of a rehabilitation claim within the period for filing a proof of claims prescribed in Article 94, paragraph (1), the provisions of the preceding two paragraphs do not apply to any claim filed as a bankruptcy claim set forth in

paragraph (3), which is held by the person who has filed a proof of a claim as a bankruptcy claim.

- (6) The provisions of the preceding paragraphs do not apply where rehabilitation proceedings regarding the order to commence rehabilitation proceedings set forth in paragraph (1) are for rehabilitation for individuals with small-scale debts or rehabilitation for salaried workers, etc.

Section 2 Transfer from Rehabilitation Proceedings to Bankruptcy Proceedings

(Transfer of Bankruptcy Cases Where an Order to Commence Rehabilitation Proceedings Is Made)

Article 248 Where, before or after the commencement of bankruptcy proceedings, an order to commence rehabilitation proceedings is made against the same debtor, the court (meaning a judge or panel of judges in charge of the bankruptcy case), when it finds it appropriate in order to handle the bankruptcy case, by its own authority, may transfer the bankruptcy case to the rehabilitation court.

(Petition to Commence Bankruptcy Proceedings Prior to the Closing of Rehabilitation Proceedings)

Article 249 (1) Where, with regard to the rehabilitation debtor against whom bankruptcy proceedings have not yet been commenced, an order of revocation of the order to commence rehabilitation proceedings, an order of discontinuance of rehabilitation proceedings, an order of disconfirmation of the rehabilitation plan or an order of revocation of the rehabilitation plan (limited to one based on a petition filed prior to the close of rehabilitation proceedings; hereinafter the same applies in this Article) is made, notwithstanding the provisions of Article 39, paragraph (1), a petition to commence bankruptcy proceedings may be filed with the rehabilitation court against the relevant rehabilitation debtor even before the respective order becomes final and binding. The same applies where, after the bankruptcy proceedings commenced against the rehabilitation debtor have ceased to be effective as a result of an order of confirmation of the rehabilitation plan becoming final and binding, an order of discontinuance of rehabilitation proceedings under the provisions of Article 193 or 194 or an order of revocation of the rehabilitation plan is made.

- (2) An order to commence bankruptcy proceedings based on the petition to commence bankruptcy proceedings filed under the provisions of the preceding paragraph may not be made unless an order prescribed in the first sentence of the same paragraph or an order of discontinuance of rehabilitation proceedings or order of revocation of the rehabilitation plan set forth in the second sentence

of the same paragraph becomes final and binding.

(Order to Commence Bankruptcy Proceedings by the Court's Authority Upon the Closing of Rehabilitation Proceedings)

Article 250 (1) Where, with regard to the rehabilitation debtor against whom bankruptcy proceedings have not yet been commenced, an order of dismissal with prejudice on the merits of a petition to commence rehabilitation proceedings, an order of discontinuance of rehabilitation proceedings, an order of disconfirmation of the rehabilitation plan or an order of revocation of the rehabilitation plan becomes final and binding, when the court finds that a fact constituting the grounds to commence bankruptcy proceedings exists with regard to the rehabilitation debtor, by its own authority, the court may make an order to commence bankruptcy proceedings in accordance with the Bankruptcy Act.

(2) Where, after the bankruptcy proceedings commenced against the rehabilitation debtor have ceased to be effective as a result of an order of confirmation of the rehabilitation plan becoming final and binding, an order of discontinuance of rehabilitation proceedings under the provisions of Article 193 or 194 or an order of revocation of the rehabilitation plan becomes final and binding, the court, by its own authority, may make an order to commence bankruptcy proceedings in accordance with the Bankruptcy Act; provided, however, that this does not apply where the court makes an order to commence bankruptcy proceedings based on a petition to commence bankruptcy proceedings under the provisions of the second sentence of paragraph (1) of the preceding Article.

(Provisional Remedy Disposition Prior to the Commencement of Bankruptcy Proceedings Upon the Closing of Rehabilitation Proceedings)

Article 251 (1) In the following cases, the court, when it finds it necessary, may by its own authority issue a stay order under the provisions of Article 24, paragraph (1) of the Bankruptcy Act, comprehensive prohibitory injunction prescribed in Article 25, paragraph (2) of the same Act, provisional remedy disposition under the provisions of Article 28, paragraph (1) of the same Act, order for temporary administration prescribed in Article 91, paragraph (2) of the same Act or provisional remedy disposition under the provisions of Article 171, paragraph (1) of the same Act (hereinafter referred to as "provisional remedy disposition, etc." in this Article and Article 254, paragraph (4)):

(i) where, with regard to the rehabilitation debtor against whom bankruptcy proceedings have not yet been commenced, an order of dismissal with prejudice on the merits of a petition to commence rehabilitation proceedings, an order of revocation of the order to commence rehabilitation proceedings,

an order of discontinuance of rehabilitation proceedings, an order of disconfirmation of the rehabilitation plan or an order of revocation of the rehabilitation plan is made;

- (ii) where, after the bankruptcy proceedings commenced against the rehabilitation debtor have ceased to be effective as a result of an order of confirmation of the rehabilitation plan becoming final and binding, an order of discontinuance of rehabilitation proceedings under the provisions of Article 193 or 194 or an order of revocation of the rehabilitation plan is made.
- (2) If the court, after issuing a provisional remedy disposition, etc. under the provisions of item (i) of the preceding paragraph, has decided not to make an order to commence bankruptcy proceedings under the provisions of paragraph (1) of the preceding Article, it must revoke the relevant provisional remedy disposition, etc. without delay.
- (3) The provisional remedy disposition, etc. issued under the provisions of paragraph (1), item (i) ceases to be effective when an order to revoke the relevant order prescribed in the same item is made. The same applies to a provisional remedy disposition, etc. issued under the provisions of paragraph (1), item (ii) if an order to revoke the order of discontinuance of rehabilitation proceedings or order of revocation of the rehabilitation plan set forth in paragraph (1), item (ii) is made.
- (4) Notwithstanding the provisions of Article 24, paragraph (4), Article 25, paragraph (6), Article 28, paragraph (3), Article 91, paragraph (5) and Article 171, paragraph (4) of the Bankruptcy Act, no immediate appeal may be filed against an order made under the provisions of paragraph (2).

(Application of the Bankruptcy Act in Bankruptcy Proceedings Upon the Closing of Rehabilitation Proceedings)

Article 252 (1) In the following cases concerning the rehabilitation debtor against whom bankruptcy proceedings have not yet been commenced, for the purpose of application of the relevant provisions of the Bankruptcy Act (meaning the provisions of the Bankruptcy Act, Article 71, paragraph (1), item (iv) and, paragraph (2), items (ii) and (iii), Article 72, paragraph (1), item (iv) and paragraph (2), items (ii) and (iii), Article 160 (excluding paragraph (1), item (i)), Article 162 (excluding paragraph (1), item (ii)), Article 163, paragraph (2), Article 164, paragraph (1) (including cases where applied mutatis mutandis pursuant to paragraph (2) of the same Article), Article 166, and Article 167, paragraph (2) (including cases where applied mutatis mutandis pursuant to Article 170, paragraph (2) of the same Act); the same applies in paragraph (3)), a petition to commence rehabilitation proceedings, etc. (in cases where an order of dismissal with prejudice on the merits of a petition to commence rehabilitation proceedings, an order of discontinuance of

rehabilitation proceedings, an order of disconfirmation of the rehabilitation plan or an order of revocation of the rehabilitation plan (limited to one based on a petition filed prior to the close of rehabilitation proceedings) becomes final and binding, this phrase refers to a petition to commence rehabilitation proceedings, petition to commence special liquidation in the proceedings for special liquidation that have ceased to be effective as a result of the commencement of rehabilitation proceedings, or any act conducted by the rehabilitation debtor or their statutory agent or the rehabilitation debtor's director, executive officer or any other person equivalent thereto, which constitutes the crime set forth in Article 265 of the Bankruptcy Act, and in cases where an order of revocation of the rehabilitation plan, which is not based on a petition filed prior to the close of rehabilitation proceedings, becomes final and binding, the phrase refers to a petition for revocation of the rehabilitation plan; hereinafter the same applies in this paragraph) is deemed to be a petition to commence bankruptcy proceedings only where no petition to commence bankruptcy proceedings has been filed prior to the petition to commence rehabilitation proceedings, etc:

- (i) Where an order to commence bankruptcy proceedings is made under the provisions of Article 250, paragraph (1);
 - (ii) Where, based on a petition to commence bankruptcy proceedings filed before an order of dismissal with prejudice on the merits of a petition to commence rehabilitation proceedings becomes final and binding, an order to commence bankruptcy proceedings is made after the order of dismissal becomes final and binding;
 - (iii) Where, based on a petition to commence bankruptcy proceedings filed before an order to commence rehabilitation proceedings is made, an order to commence bankruptcy proceedings is made after an order of revocation of the order to commence rehabilitation proceedings becomes final and binding, after an order of discontinuance of rehabilitation proceedings under the provisions of Articles 191 through 193, Articles 237 and 243 becomes final and binding before an order of confirmation of the rehabilitation plan becomes final and binding, or after an order of disconfirmation of the rehabilitation plan becomes final and binding;
 - (iv) where, based on a petition to commence bankruptcy proceedings filed under the provisions of the first sentence of Article 249, paragraph (1), an order to commence bankruptcy proceedings is made.
- (2) For the purpose of application of the provisions of the first sentence of Article 176 of the Bankruptcy Act in cases where an order to commence bankruptcy proceedings prescribed in the items of the preceding paragraph is made upon the closing of rehabilitation proceedings as a result of an order of disconfirmation of the rehabilitation plan, order of discontinuance of

rehabilitation proceedings or order of revocation of the rehabilitation plan becoming final and binding, the date of the order to commence rehabilitation proceedings is deemed to be the date of commencement of bankruptcy proceedings set forth in the first sentence of the same Article.

- (3) For the purpose of application of the relevant provisions of the Bankruptcy Act in cases where, with regard to the rehabilitation debtor against whom bankruptcy proceedings have already been commenced, an order to commence bankruptcy proceedings is made based on a petition to commence bankruptcy proceedings filed under the provisions of the second sentence of Article 249, paragraph (1) or an order to commence bankruptcy proceedings is made under the provisions of Article 250, paragraph (2), it is deemed that a petition to commence bankruptcy proceedings is filed at the time when the petition specified in each of the following items is filed for the cases listed in the respective items:
- (i) where an order to commence bankruptcy proceedings is made upon an order of discontinuance of rehabilitation proceedings under the provisions of Article 193 or 194, or order of revocation of the rehabilitation plan (limited to one based on a petition filed prior to the close of rehabilitation proceedings) becoming final and binding: A petition to commence bankruptcy proceedings in the bankruptcy proceedings that have ceased to be effective as a result of an order of confirmation of the rehabilitation plan becoming final and binding;
 - (ii) where an order to commence bankruptcy proceedings is made upon an order of revocation of the rehabilitation plan, except for one set forth in the preceding item, becoming final and binding: A petition for revocation of the rehabilitation plan.
- (4) For the purpose of application of the provisions of the first sentence of Article 176 of the Bankruptcy Proceedings in cases where an order to commence bankruptcy proceedings prescribed in the preceding paragraph is made (limited to the case set forth in item (i) of the same paragraph), the date of commencement of bankruptcy proceedings in the bankruptcy proceedings that have ceased to be effective as a result of an order of confirmation of the rehabilitation plan becoming final and binding is deemed to be the date of commencement of bankruptcy proceedings set forth in the first sentence of the same Article.
- (5) For the purpose of application of the provisions of Article 149, paragraph (1) of the Bankruptcy Act if an order to commence bankruptcy proceedings prescribed in the items of paragraph (1) or in paragraph (3) is made (excluding the case set forth in paragraph (3), item (ii)), the phrase "the three months preceding the commencement of bankruptcy proceedings" in Article 149, paragraph (1) of the same Act is deemed to be replaced with "the three months

preceding the commencement of bankruptcy proceedings (or the three months preceding the commencement of rehabilitation proceedings if an order to commence rehabilitation proceedings is made prior to the date of commencement of bankruptcy proceedings)."

- (6) Where an order to commence bankruptcy proceedings prescribed in the preceding paragraph is made, common benefit claims (including the claims prescribed in Article 50, paragraph (2) and Article 120, paragraphs (1) and (4) if rehabilitation proceedings are not commenced) are claims on the estate. The same applies where bankruptcy proceedings commenced against the rehabilitation debtor are continued as a result of an order of dismissal with prejudice on the merits of a petition to commence rehabilitation proceedings becoming final and binding, an order of discontinuance of rehabilitation proceedings under the provisions of Articles 191 through 193, Article 237 and Article 243 becoming final and binding before an order of confirmation of the rehabilitation plan becoming final and binding, or an order of disconfirmation of the rehabilitation plan becoming final and binding.

(Order to Not Require Filing of Proofs of Bankruptcy Claims)

Article 253 (1) Where the court (meaning a judge or panel of judges in charge of the bankruptcy case; hereinafter the same applies in the following Article) makes an order to commence bankruptcy proceedings prescribed in the items of paragraph (1) of the preceding Article or in paragraph (3) of the same Article, when it finds it appropriate while taking into consideration the content and cause of each rehabilitation claim as well as the amount of the voting right as filed in the rehabilitation proceedings that are closed, the number of denied or disputed rehabilitation claims prescribed in the main clause of Article 105, paragraph (1), whether or not any right will be modified by a rehabilitation plan and the content of the modification, and any other circumstances concerned, it may make an order, upon making the relevant order to commence bankruptcy proceedings, to the effect that bankruptcy creditors who hold bankruptcy claims that have been filed as rehabilitation claims in the rehabilitation proceedings (excluding claims for fine, etc. arising prior to the commencement of rehabilitation proceedings and claims for foreign taxes subject to mutual assistance; hereinafter the same applies in this Article) are not required to file proofs of the relevant bankruptcy claims.

- (2) When the court has made an order pursuant to the provisions of the preceding paragraph, it must indicate, in the public notice to be made under the provisions of Article 32, paragraph (1) of the Bankruptcy Act, that bankruptcy creditors who hold bankruptcy claims that have been filed as rehabilitation claims in the rehabilitation proceedings set forth in the preceding paragraph are not required to file proofs of the bankruptcy claims, and give a notice to

known bankruptcy creditors to that effect.

- (3) Where an order under the provisions of paragraph (1) is made, with regard to claims that have been filed as rehabilitation claims in the rehabilitation proceedings set forth in the same paragraph, it is deemed that the persons who have filed proofs of the rehabilitation claims (or persons who have received a change in the name of the holder of a filed claim with regard to the claims filed in the rehabilitation proceedings, if there is any relevant person; the same applies in paragraph (6)) have filed proofs of bankruptcy claims (including a proof of the particulars set forth in Article 111, paragraph (1), item (iv) of the Bankruptcy Act) on the first day of the period for filing a proof prescribed in Article 111, paragraph (1) of the same Act.
- (4) In the case referred to in the preceding paragraph, for each of the categories of filed particulars listed in the following items regarding a claim that has been filed as a rehabilitation claim, it is deemed that the particulars specified in the respective items have been filed when filing a proof of a bankruptcy claim:
- (i) with regard to any of the claims listed in Article 87, paragraph (1), item (iii), (b) through (d), the amount of the voting right for the rehabilitation claim and the grounds for the rehabilitation claim, both prescribed in Article 94, paragraph (1): The amount and grounds for the bankruptcy claim set forth in Article 111, paragraph (1), item (i) of the same Act;
 - (ii) with regard to a claim that has been filed as a rehabilitation claim, except for the claim set forth in the preceding item, the amount of the rehabilitation claim, as an element of the content of the rehabilitation claim, and the grounds for the rehabilitation claim, both prescribed in Article 94, paragraph (1): The amount and grounds for the bankruptcy claim set forth in Article 111, paragraph (1), item (i);
 - (iii) with regard to any of the claims listed in the items of Article 84, paragraph (2), the content of the rehabilitation claim prescribed in Article 94, paragraph (1): The statement that the claim in question is a consensually-subordinated bankruptcy claim prescribed in Article 111, paragraph (1), item (iii) of the Bankruptcy Act;
 - (iv) with regard to any of the claims listed in Article 87, paragraph (1), item (i), (ii) or (iii), (a), the amount of the rehabilitation claim, as an element of the content of the rehabilitation claim, and the amount of the voting right for the rehabilitation claim, both prescribed in Article 94, paragraph (1): The statement that the claim in question is a subordinate bankruptcy claim set forth in Article 111, paragraph (1), item (iii) of the Bankruptcy Act for its part corresponding to the amount obtained by deducting the amount of the voting right for the rehabilitation claim from the amount of the filed rehabilitation claim, which is an element of the content thereof;
 - (v) with regard to a claim filed with a statement that the claim is a

- consensually-subordinated rehabilitation claim, the statement to that effect prescribed in Article 94, paragraph (1): The statement that the claim is a consensually-subordinated bankruptcy claim prescribed in Article 111, paragraph (1), item (iii) of the Bankruptcy Act;
- (vi) the amount of the claim for which payment is not expected to be received by exercising a right of separate satisfaction set forth in Article 94, paragraph (2): The amount of the claim for which payment is not expected to be received by exercising a right of separate satisfaction set forth in Article 111, paragraph (2), item (ii) of the Bankruptcy Act.
- (5) Notwithstanding the provisions of the items of the preceding paragraph (excluding item (iv)), if the rehabilitation proceedings set forth in paragraph (1) are for rehabilitation for individuals with small-scale debts or rehabilitation for salaried workers, etc., the amount and grounds for the filed rehabilitation claim as well as the estimated amount of deficiency (including the amount and grounds for the rehabilitation claim as well as the estimated amount of deficiency that is deemed to be filed pursuant to the provisions of Article 225) is deemed to be the amount and grounds for the bankruptcy claim as well as the amount of the claim for which payment is not expected to be received by exercising a right of separate satisfaction set forth in Article 111, paragraph (2), item (ii) of the Bankruptcy Act, respectively, in the filing of a proof of claim.
- (6) Where the person who filed a proof of a claim as a rehabilitation claim has filed a proof of bankruptcy claim within the period for filing a proof of claims prescribed in Article 111, paragraph (1) of the Bankruptcy Act, the provisions of the preceding three paragraphs do not apply to any claim filed as a rehabilitation claim set forth in paragraph (3), which is held by the person who filed a proof of a claim as a rehabilitation claim.
- (7) The provisions of the preceding paragraphs apply mutatis mutandis to bankruptcy proceedings regarding an order to commence bankruptcy proceedings that are enforced against the rehabilitation debtor prior to the complete implementation of the rehabilitation plan.

(Handling of Actions Against an Order to Uphold a Request for Avoidance)

Article 254 (1) Where rehabilitation proceedings are closed as a result of an order of disconfirmation of the rehabilitation plan, an order of discontinuance of rehabilitation proceedings or an order of revocation of the rehabilitation plan becoming final and binding, if an order to commence bankruptcy proceedings prescribed in the items of Article 252, paragraph (1) or in paragraph (3) of the same Article is made, a bankruptcy trustee may substitute for a party in an action set forth in Article 137, paragraph (1) that is discontinued pursuant to the provisions of Article 68, paragraph (2) or Article

137, paragraph (6) (including one set forth in Article 137, paragraph (1) that is pending at the time of closing of rehabilitation proceedings and is discontinued pursuant to the provisions of Article 141, paragraph (1); the same applies in paragraphs (3) and (4)). In this case, a petition for the substitution in the action may also be filed by the opponent.

- (2) In the case referred to in the preceding paragraph, the opponent's claim for court costs against a supervisor empowered to avoid or a trustee is a claim on the estate.
- (3) In the case referred to in paragraph (1), if the bankruptcy proceedings are closed before there is a substitution under the provisions of paragraph (1) in the action set forth in Article 137, paragraph (1) discontinued pursuant to the provisions of Article 68, paragraph (2) or Article 137, paragraph (6) , the action will be closed.
- (4) An action set forth in Article 137, paragraph (1), which is discontinued pursuant to the provisions of Article 68, paragraph (2) or Article 137, paragraph (6) and pertains to a rehabilitation case involving the rehabilitation debtor against whom bankruptcy proceedings have not yet been commenced, will be closed if an order to commence bankruptcy proceedings prescribed in the items of Article 252, paragraph (1) is not made within one month from the date of discontinuance of the action (if, for a certain part of the one-month period, a provisional remedy disposition, etc. is issued under the provisions of Article 251, paragraph (1), item (i) or a provisional remedy disposition, etc. is issued in bankruptcy proceedings based on a petition to commence bankruptcy proceedings set forth in the items of Article 252, paragraph (2), the part of the period will be excluded).
- (5) The proceedings for assessment based on a petition for assessment set forth in the main clause of Article 105, paragraph (1), which will continue to be pending pursuant to the provisions of Article 112-2 (1), will be closed when an order to commence bankruptcy proceedings prescribed in the items of Article 252, paragraph (1) or in paragraph (3) of the relevant Article is made. In this case, the provisions of Article 112-2, paragraph (3) do not apply.
- (6) The provisions of paragraph (4) apply mutatis mutandis to an action set forth in Article 106, paragraph (1), which is discontinued pursuant to the provisions of Article 112-2, paragraph (4) and pertains to a rehabilitation case involving the rehabilitation debtor against whom bankruptcy proceedings have not yet been commenced.

Chapter XV Penal Provisions

(Crime of Fraudulent Rehabilitation)

Article 255 (1) A person who, before or after the commencement of rehabilitation

proceedings, has conducted any of the acts listed in the following items for the purpose of harming creditors, is punished by imprisonment for not more than ten years or a fine of not more than ten million yen, or both, when an order to commence rehabilitation proceedings against the debtor becomes final and binding. The same applies to a person who has served as the other party to the act set forth in item (iv) while knowing of the purpose, when an order to commence rehabilitation proceedings becomes final and binding:

- (i) an act of concealing or damaging the debtor's assets;
- (ii) an act of faking the transfer of the debtor's assets or assumption of debts;
- (iii) an act of altering the existing status of the debtor's assets, thereby reducing its value;
- (iv) an act of disposing of the debtor's assets in a manner disadvantageous to creditors, or an act, committed by the debtor, of assuming debts disadvantageous to creditors.

(2) Beyond what is prescribed in the preceding paragraph, the same paragraph also apply to a person who, knowing that an administration order or order for temporary administration is issued against a debtor, has for the purpose of harming creditors acquired the debtor's assets or has had a third party acquire it, without consent of a trustee or any other justifiable grounds.

(Crime of Providing Security to Specific Creditors)

Article 256 Where a debtor, before or after the commencement of rehabilitation proceedings, with regard to their debt to a specific creditor for the purpose of harming other creditors, has conducted an act concerning the provision of security or extinguishment of debt that is not included in the scope of the debtor's obligation in terms of the act itself or the means or time of performance of the act, and an order to commence rehabilitation proceedings has become final and binding, the debtor is punished by imprisonment for not more than five years or a fine of not more than five million yen, or both.

(Crime of a Special Breach of Trust by Supervisors)

Article 257 (1) Where a supervisor, examiner, trustee, temporary administrator, individual rehabilitation commissioner, trustee representative or temporary administrator representative, for the purpose of promoting their own interest or the interest of a third party, or inflicting damage on creditors, has committed an act in breach of their duties and caused financial loss to creditors, that person is punished by imprisonment for not more than ten years or a fine of not more than ten million yen, or both.

(2) Where a supervisor, examiner, trustee, temporary administrator or individual rehabilitation commissioner (hereinafter referred to as a "supervisor, etc." in this paragraph) is a corporation, the provisions of the preceding paragraph

apply to its officer or official who performs the duties of a supervisor, etc.

(Crime of Refusing Reports and Inspections)

- Article 258 (1) Where a person listed in the items of Article 59, paragraph (1) or person who was the person listed in Article 59, paragraph (1), items (ii) through (v) has refused to give a report under the provisions of Article 59, paragraph (1) (including cases where applied mutatis mutandis pursuant to paragraph (2) of the same Article; including cases where these provisions are applied mutatis mutandis pursuant to Article 63, Article 78 or 83, paragraph (1)) or given a false report, or where the rehabilitation debtor or their statutory agent has refused to give an report under the provisions of Article 223, paragraph (8) (including cases where applied mutatis mutandis pursuant to Article 244) or given a false report, the offender will be punished by imprisonment for not more than three years or a fine of not more than three million yen, or both.
- (2) The provisions of the preceding paragraph also apply where a representative, agent, employee or other worker (hereinafter referred to as a "representative, etc." in paragraph (4)) of a person set forth in Article 59, paragraph (1) items (ii) through (v) or person who was the person set forth in these items (these persons hereinafter are referred to as a "person under duty to report" in this paragraph), in connection with the business of the person under the duty to report, has refused to give a report under the provisions of paragraph (1) of the same Article (including cases where applied mutatis mutandis pursuant to paragraph (2) of the relevant Article; including cases where these provisions are applied mutatis mutandis pursuant to Article 63, Article 78 or Article 83, paragraph (1)) or given a false report, or where a representative, agent, employee or other worker of the rehabilitation debtor's statutory agent, in connection with the business of the statutory agent, has refused to give a report under the provisions of Article 223, paragraph (8) (including cases where applied mutatis mutandis pursuant to Article 244) or given a false report.
- (3) The provisions of paragraph (1) also apply where the rehabilitation debtor has refused an inspection under the provisions of Article 59, paragraph (1) (including cases where applied mutatis mutandis pursuant to Article 63, Article 78 or Article 83, paragraph (1)) or where the rehabilitation debtor or the statutory agent has refused an inspection under the provisions of Article 223, paragraph (8) (including cases where applied mutatis mutandis pursuant to Article 244).
- (4) The provisions of paragraph (1) also apply where a representative, etc. of the rehabilitation debtor's subsidiary company, etc. prescribed in Article 59, paragraph (3) (including one that is deemed to be the rehabilitation debtor's

subsidiary company, etc. under paragraph (4) of the same Article; hereinafter the same applies in this paragraph), in connection with the business of the rehabilitation debtor's subsidiary company, etc., has refused to give an explanation or refused an inspection under the provisions of paragraph (3) of the same Article (including cases where applied mutatis mutandis pursuant to Article 63, Article 78 or Article 83, paragraph (1)) or given a false report.

(Crime of Spoliation of Items Concerning the Status of Business and Assets)

Article 259 A person who, before or after the commencement of rehabilitation proceedings, for the purpose of harming creditors, has spoiled, forged or altered books, documents or any other items concerning the status of a debtor's business and assets is punished by imprisonment for not more than three years or a fine of not more than three million yen, or both, when an order to commence rehabilitation proceedings against the debtor becomes final and binding.

(Crime of Obstruction of Duties Against Supervisors)

Article 260 A person who, by the use of fraudulent means or force, has obstructed the performance of duties of a supervisor, examiner, trustee, temporary administrator, individual rehabilitation commissioner, trustee representative or temporary administrator representative is punished by imprisonment for not more than three years or a fine of not more than three million yen, or both.

(Crime of Accepting a Bribe)

Article 261 (1) Where a supervisor, examiner, trustee, temporary administrator, individual rehabilitation commissioner, trustee representative or temporary administrator representative, in connection with their duties, has accepted, solicited or promised to accept a bribe, that person is punished by imprisonment for not more than three years or a fine of not more than three million yen, or both.

(2) In the case referred to in the preceding paragraph, where the supervisor, examiner, trustee, temporary administrator, individual rehabilitation commissioner, trustee representative or temporary administrator representative has agreed to perform an act in response to an unlawful request, that person is punished by imprisonment for not more than five years or a fine of not more than five million yen, or both.

(3) Where a supervisor, examiner, trustee, temporary administrator, individual rehabilitation commissioner (hereinafter referred to as a "supervisor, etc." in this Article) is a corporation, if its officer or official who performs the duties of a supervisor, etc., in connection with the duties of a supervisor, etc., has

accepted, solicited or promised to accept a bribe, that person is punished by imprisonment for not more than three years or a fine of not more than three million yen, or both. The same applies where a supervisor, etc. is a corporation, and its officer or official, in connection with the duties of a supervisor, etc., has caused the relevant supervisor, etc. to accept or solicit or promise to accept a bribe.

- (4) In the case referred to in the preceding paragraph, where the officer or official has agreed to perform an act in response to an unlawful request, that person is punished by imprisonment for not more than five years or a fine of not more than five million yen, or both.
- (5) Where a rehabilitation creditor or rehabilitation creditors' representative or their agent, officer or official, in connection with the exercise of a voting right on the date of a creditors meeting or exercise of a voting right by paper-based, etc. voting as prescribed in Article 169, paragraph (2), item (ii), has accepted, solicited or promised to accept a bribe while agreeing to perform an act in response to an unlawful request, that person is punished by imprisonment for not more than five years or a fine of not more than five million yen, or both.
- (6) In the cases referred to in the preceding paragraphs, a bribe accepted by the offender or by the supervisor, etc. who is a corporation is confiscated. If the whole or part of the bribe cannot be confiscated, an equivalent value thereof is collected.

(Crime of Offering a Bribe)

- Article 262 (1) A person who has given, offered or promised to offer a bribe prescribed in paragraph (1) or (3) of the preceding Article is punished by imprisonment for not more than three years or a fine of not more than three million yen, or both.
- (2) A person who has given, offered or promised to offer a bribe prescribed in paragraph (2), paragraph (4) or (5) of the preceding Article is punished by imprisonment for not more than five years or a fine of not more than five million yen, or both.

(Crime of Forcibly Demanding a Meeting with the a Rehabilitation Debtor)

Article 263 A person who, for the purpose of having the rehabilitation debtor (limited to a rehabilitation debtor who is an individual; hereinafter the same applies in this Article) or the relative or any other person to pay a rehabilitation claim (if rehabilitation proceedings are closed after an order of confirmation of the rehabilitation plan becomes final and binding, limited to those discharged; hereinafter the same applies in this Article), or having the rehabilitation debtor's relative or any other person to guarantee a rehabilitation claim, has forcibly demanded a meeting with the rehabilitation

debtor or their relative or any other person or intimidated any of these persons is punished by imprisonment for not more than three years or a fine of not more than three million yen, or both.

(Crimes Committed Outside Japan)

Article 264 (1) The crimes set forth in Article 255, Article 256, Article 259, Article 260 and Article 262 are governed by the provisions of Article 2 of the Penal Code (Act No. 45 of 1907).

(2) The crimes set forth in Article 257 and Article 261 (excluding paragraph (5)) are governed by the provisions of Article 4 of the Penal Code.

(3) The crime set forth in Article 261, paragraph (5) also apply to a person who has committed the crime set forth in Article 261, paragraph (5) outside Japan.

(Dual Liability)

Article 265 When the representative of a corporation, or an agent, employee or any other worker of a corporation or individual, in connection with the business or assets of the corporation or individual, has committed violation of Article 255, Article 256, Article 258 (excluding paragraph (1)), Article 259, Article 260, Article 262 or Article 263, not only will the offender be punished but also the corporation or individual will be punished by a fine prescribed in the respective Articles.

(Civil Fines)

Article 266 (1) The rehabilitation debtor or a person who owes a debt or provides security for the purpose of rehabilitation, if they have violated an order issued by the court under the provisions of Article 186, paragraph (3), that person is punished by a civil fine of not more than one million yen.

(2) Where the rehabilitation debtor or their statutory agent or a rehabilitation creditor has not complied with the request for submission of materials under the provisions of Article 227, paragraph (6) (including cases where applied mutatis mutandis pursuant to Article 244) without justifiable grounds, that person is punished by a civil fine of not more than 100,000 yen.