

Act on General Rules for Application of Laws

(Act No. 78 of June 21, 2006)

The Act on General Rules for Application of Laws (Act No. 10 of 1898) is fully revised.

Chapter I General Provisions (Article 1)

Chapter II General Rules for Laws (Article 2 and Article 3)

Chapter III General Rules for Governing Law

Section 1 Person (Article 4 to Article 6)

Section 2 Juridical Acts (Article 7 to Article 12)

Section 3 Real Rights (Rights in rem) (Article 13)

Section 4 Claims (Article 14 to Article 23)

Section 5 Relatives (Article 24 to Article 35)

Section 6 Inheritance (Article 36 and Article 37)

Section 7 Auxiliary Provisions (Article 38 to Article 43)

Supplementary Provisions

Chapter I General Provisions

(Purport)

Article 1 This Act is to provide for the general rules for the application of laws.

Chapter II General Rules for Laws

(Effective Date of Law)

Article 2 A law comes into effect after the expiration of twenty days following the date of its promulgation; provided, however, that if a different effective date is provided by law, the provisions prevail.

(Customs Having the Same Effect as Laws)

Article 3 Customs which are not against public policy have the same effect as laws, to the extent that they are authorized by the provisions of laws and regulations, or they relate to matters not provided for in laws and regulations.

Chapter III General Rules for Governing Law

Section 1 Person

(Person's Capacity to Act)

Article 4 (1) The legal capacity of a person to act is governed by their national law.

(2) Notwithstanding the provisions of the preceding paragraph, when a person who has performed a juridical act is subject to the limitation of their capacity to act under their national law but has full capacity to act under the law of the place where the act is done (lex loci actus), that person is deemed to have full capacity to act, only in cases where all the parties were present in a place governed by the same law at the time of the juridical act.

(3) The preceding paragraph does not apply to a juridical act to be governed by the provisions of family law or inheritance law, or a juridical act relating to real property situated in a place governed by a different law from the law of the place where the act was done.

(Ruling for Commencement of Guardianship)

Article 5 The court may make a ruling for commencement of guardianship, curatorship or assistance (hereinafter collectively referred to as a "Ruling for Commencement of Guardianship, etc.") under Japanese law where a person who is to become an adult ward, person under curatorship or person under assistance has domicile or residence in Japan or has Japanese nationality.

(Adjudication of Disappearance)

Article 6 (1) The court may make an adjudication of their disappearance under Japanese law where an absentee had domicile in Japan or had Japanese nationality, at the latest point of time when they were found to be alive.

(2) Even in the case where the preceding paragraph does not apply, if an absentee's property is situated in Japan, or if an absentee's legal relationship should be governed by Japanese law or is connected with Japan in light of the nature of the legal relationship, the domicile or nationality of the party and any other circumstances concerned, the court may, by applying Japanese law, make an adjudication of the absentee's disappearance only with regard to the property or the relevant legal relationship, respectively.

Section 2 Juridical Acts

(Choice of Governing Law by the Parties)

Article 7 The formation and effect of a juridical act are governed by the law of the place chosen by the parties at the time of the act.

(In the Absence of Choice of Governing Law by the Parties)

Article 8 (1) In the absence of a choice of law under the preceding Article, the formation and effect of a juridical act are governed by the law of the place with

which the act is most closely connected at the time of the act.

- (2) In the case referred to in the preceding paragraph, if only one of the parties is to provide a characteristic performance involved in a juridical act, the law of the habitual residence of the party providing the performance (in cases where the relevant party has a place of business connected with the juridical act, the law of the place of business; in cases where the relevant party has two or more the places of business which are connected with the juridical act and which are governed by different laws, the law of the principal place of business) is presumed to be the law of the place with which the act is most closely connected.
- (3) In the case referred to in paragraph (1), if the subject matter of the juridical act is real property, notwithstanding the provisions of the preceding paragraph, the law of the place where the real property is situated (*lex rei sitae*) is presumed to be the law of the place with which the act is most closely connected.

(Change of Governing Law by the Parties)

Article 9 The parties may change the law otherwise applicable to the formation and effect of a juridical act; provided, however, that if that change prejudices the rights of a third party, it may not be duly asserted against the third party.

(Formalities for Juridical Act)

- Article 10 (1) The formalities for a juridical act are governed by a law applicable to the formation of the act (the initially applicable law prior to the change is govern if the law was changed under the preceding Article after the juridical act).
- (2) Notwithstanding the provisions of the preceding paragraph, the formalities that comply with the law of the place where the relevant act was done are valid.
- (3) For the purpose of the application of the preceding paragraph, with regard to a manifestation of intention to a person in a place governed by a different law, the place from where the notice of the manifestation was dispatched is deemed to be the place where that act was done.
- (4) The preceding two paragraphs do not apply to the formalities for a contract concluded between persons in places governed by different laws. In this case, notwithstanding paragraph (1), the formalities for a contract that comply with either the law of the place from where the notice of offer was dispatched or the law of the place from where the notice of acceptance was dispatched are valid.
- (5) The preceding three paragraphs do not apply to the formalities for a juridical act to establish or dispose of a real right (a right in rem) with regard to movable or immovable, or any other right requiring registration.

(Special Provisions for Consumer Contracts)

- Article 11 (1) Even when the law applicable to the formation and effect of a contract (excluding a labor contract: hereinafter referred to as a "Consumer Contract" in this Article) between a consumer (meaning an individual, excluding an individual who becomes a party to a contract as a business or for a business; hereinafter the same applies in this Article) and a business operator (meaning a juridical person and any other association or foundation and an individual who becomes a party to a contract as a business or for a business; hereinafter the same applies in this Article) as a result of a choice or a change of law under Article 7 or Article 9 is a law other than the law of the consumer's habitual residence, if the consumer has manifested their intention to the business operator that a specific mandatory provisions from within the law of the consumer's habitual residence should be applied, the mandatory provisions also apply to the matters stipulated by the mandatory provisions with regard to the formation and effect of the Consumer Contract.
- (2) Notwithstanding Article 8, in the absence of a choice of law under Article 7 with regard to the formation and effect of a Consumer Contract, the formation and effect of the Consumer Contract are governed by the law of the consumer's habitual residence.
- (3) Even where a law other than the law of a consumer's habitual residence is chosen under Article 7 with regard to the formation of a Consumer Contract, if the consumer has manifested their intention to the business operator that a specific mandatory provisions from within the law of the consumer's habitual residence should be applied to the formalities for the Consumer Contract, the mandatory provisions exclusively apply to the matters stipulated by the mandatory provisions with regard to the formalities for the Consumer Contract, notwithstanding paragraphs (1), (2) and (4) of the preceding Article.
- (4) Where the law of a consumer's habitual residence is chosen under Article 7 with regard to the formation of a Consumer Contract, if the consumer has manifested their intention to the business operator that the formalities for the Consumer Contract should be governed exclusively by the law of the consumer's habitual residence, the formalities for the Consumer Contract are governed exclusively by the law of the consumer's habitual residence, notwithstanding paragraphs (2) and (4) of the preceding Article.
- (5) In the absence of a choice of law under Article 7 with regard to the formation of a Consumer Contract, notwithstanding paragraphs (1), (2) and (4) of the preceding Article, the formalities for the Consumer Contract are governed by the law of the consumer's habitual residence.
- (6) The preceding paragraphs of this Article do not apply in any of the following cases:
- (i) where a business operator's place of business that is connected with a

- Consumer Contract is located in a place governed by a different law from the law of a consumer's habitual residence, and the consumer proceeds to a place governed by the same law as the law of the place of business and concludes the Consumer Contract there; provided, however, that this does not apply where the consumer has been, in the place of their habitual residence, solicited by the business operator to conclude the Consumer Contract in a place governed by the same law as the law of the place of business;
- (ii) where a business operator's place of business that is connected with a Consumer Contract is located in a place governed by a different law from the law of a consumer's habitual residence, and the consumer has received or has been supposed to receive the entire performance of the obligation under the Consumer Contract in a place governed by the same law as the law of the place of business; provided, however, that this does not apply where the consumer is, in the place of their habitual residence, solicited by the business operator to receive the entire performance of the obligation in a place governed by the same law as the law of the place of business;
 - (iii) where at the time of conclusion of a Consumer Contract a business operator did not know a consumer's habitual residence, and had adequate grounds for not knowing that; or
 - (iv) where at the time of conclusion of a Consumer Contract a business operator misidentified the counterparty as not being a consumer, and had adequate grounds for making that misidentification.

(Special Provisions for Labor Contracts)

- Article 12 (1) Even where the applicable law to the formation and effect of a labor contract as a result of a choice or change under Article 7 or Article 9 is a law other than the law of the place with which the labor contract is most closely connected, if a worker has manifested their intention to an employer that a specific mandatory provisions from within the law of the place with which the labor contract is most closely connected should be applied, that mandatory provisions also apply to the matters stipulated in the mandatory provisions with regard to the formation and effect of the labor contract.
- (2) For the purpose of the application of the preceding paragraph, the law of the place where the work should be provided under the labor contract (in cases where that place cannot be identified, the law of the place of business at which the worker was employed; the same applies in paragraph (3)) is presumed to be the law of the place with which the labor contract is most closely connected.
 - (3) In the absence of a choice of law under Article 7 with regard to the formation and effect of a labor contract, notwithstanding Article 8, paragraph (2), the law of the place where the work should be provided under the labor contract is presumed to be the law of the place with which the labor contract is most

closely connected with regard to the formation and effect of the labor contract.

Section 3 Real Rights (Rights in rem)

(Real Right and Other Right Requiring Registration)

Article 13 (1) A real right to movables or immovables and any other right requiring registration are governed by the law of the place where the subject property of the right is situated.

(2) Notwithstanding the provisions of the preceding paragraph, acquisition or loss of a right prescribed in that paragraph is governed by the law of the place where the subject property of the right is situated at the time when the facts constituting the cause of the acquisition or loss were completed.

Section 4 Claims

(Management Without Mandate and Unjust Enrichment)

Article 14 The formation and effect of a claim arising from management without mandate (*negotiorum gestio*) or unjust enrichment are governed by the law of the place where the facts constituting the cause of it occurred.

(Exception for Cases Where Another Place Is Obviously More Closely Connected)

Article 15 Notwithstanding the provisions of the preceding Article, the formation and effect of a claim arising from management without mandate or unjust enrichment are governed by the law of the place that is obviously more closely connected with the management without mandate or unjust enrichment than the place indicated in the that Article, in light of that the parties had their habitual residence in the places governed by the same law at the time of the occurrence of the facts constituting the cause of the management without mandate or unjust enrichment, that management without mandate was performed or unjust enrichment arose in connection with a contract concluded between the parties, or any other circumstances concerned.

(Change of Governing Law by the Parties)

Article 16 The parties to the management without mandate or unjust enrichment may change a law applicable to the formation and effect of a claim arising from the management without mandate or unjust enrichment after the facts constituting the cause of it occurred; provided, however, that if the change prejudices the rights of a third party, it may not be duly asserted against the third party.

(Tort)

Article 17 The formation and effect of a claim arising from a tort is governed by the law of the place where the result of the wrongful act occurred; provided, however, that if the occurrence of the result at the relevant place was ordinarily unforeseeable, the law of the place where the wrongful act was committed is govern.

(Special Provisions for Product Liability)

Article 18 Notwithstanding the preceding Article, where a claim arises from a tort involving injury to life, body or property of others, caused by a defect in a product (meaning a thing produced or processed; hereinafter the same applies in this Article) that is delivered, against a producer (meaning a person who has produced, processed, imported, exported, distributed or sold a product in the course of trade; hereinafter the same applies in this Article) or a person who has provided a representation on the product in a manner which allows the others to recognize such person as its producer (hereinafter collectively referred to as a "Producer, etc." in this Article), the formation and effect of the claim is governed by the law of the place where the victim received the delivery of the product; provided, however, that if the delivery of the product at the relevant place was ordinarily unforeseeable, the law of the principal place of business of the Producer, etc. (in cases where the Producer, etc. has no place of business, the law of their habitual residence) is govern.

(Special Provisions for Defamation)

Article 19 Notwithstanding Article 17, the formation and effect of a claim arising from a tort of defamation of others is governed by the law of the victim's habitual residence (in cases where the victim is a juridical person or any other association or foundation, the law of its principal place of business).

(Exception for Cases Where Another Place Is Obviously More Closely Connected)

Article 20 Notwithstanding the provisions of the preceding three Articles, the formation and effect of a claim arising from a tort are governed by the law of the place with which the tort is obviously more closely connected than the place indicated in the preceding three Articles, in light of that the parties had their habitual residence in the places governed by the same law at the time of the occurrence of the tort, that the tort was committed in breach of the obligation under a contract between the parties, or any other circumstances concerned.

(Change of Governing Law by the Parties)

Article 21 The parties to a tort may, after the tort occurs, change a law

applicable to the formation and effect of a claim arising from the tort; provided, however, that if the change prejudices the rights of a third party, it may not be duly asserted against the third party.

(Restriction by Public Policy Regarding Tort)

Article 22 (1) In the case where a tort is governed by a foreign law, if facts to which the foreign law should be applied do not constitute a tort under Japanese law, no claim under the foreign law may be made for compensation or any other dispositions.

(2) In the case where a tort is governed by a foreign law, even if facts to which the foreign law should be applied constitute a tort both under the foreign law and Japanese law, the victim may make a claim only for compensation or any other dispositions that may be permitted under Japanese law.

(Assignment of Claim)

Article 23 The effect of an assignment of a claim, against the obligor and a third party, is governed by the law applicable to the claim assigned.

Section 5 Relatives

(Formation and Formalities of Marriage)

Article 24 (1) The formation of a marriage is governed by the national law of each party.

(2) The formalities for a marriage are governed by the law of the place where the marriage is celebrated (*lex loci celebrationis*).

(3) Notwithstanding the preceding paragraph, the formalities that comply with the national law of either party to a marriage are valid; provided, however, that this does not apply where a marriage is celebrated in Japan and either party to the marriage is a Japanese national.

(Effect of Marriage)

Article 25 The effect of a marriage is governed by the national law of the husband and wife if their national law is the same, or where that is not the case, by the law of the habitual residence of the husband and wife if their law of the habitual residence is the same, or where neither of these is the case, by the law of the place most closely connected with the husband and wife.

(Marital Property System)

Article 26 (1) The preceding Article applies *mutatis mutandis* to the marital property system.

(2) Notwithstanding the provisions of the preceding paragraph, if a husband and

wife have designated one of the laws listed in the following as the governing law by means of a document signed by them and dated, their marital property system is governed by the law thus designated. In this case, the designation is effective only for the future:

- (i) the law of the country where either husband or wife has nationality;
- (ii) the law of the habitual residence of either husband or wife; or
- (iii) with regard to marital property regime regarding real property, the law of the place where the real property is situated.

(3) The marital property system to which a foreign law should be applied pursuant to the preceding two paragraphs may not be duly asserted against a third party in good faith, to the extent that it is related to any juridical act done in Japan or any property situated in Japan. In this case, in relation to the third party, the marital property system is governed by Japanese law.

(4) Notwithstanding the provisions of the preceding paragraph, a marital agreement concluded under a foreign law pursuant to paragraph (1) or (2) of this Article may be duly asserted against a third party when it is registered in Japan.

(Divorce)

Article 27 Article 25 applies *mutatis mutandis* to divorce; provided, however, that if either husband or wife is a Japanese national who has habitual residence in Japan, their divorce is governed by Japanese law.

(Formation of Parent-Child Relationship with Child Born in Wedlock)

Article 28 (1) If a child is treated as a child born in wedlock under the national law of either the husband or wife at the time of the child's birth, the child is deemed to be a child born in wedlock.

(2) If a husband has died before his child's birth, the husband's national law at the time of his death is deemed to be the husband's national law set forth in the preceding paragraph.

(Formation of Parent-Child Relationship with Child Born Out of Wedlock)

Article 29 (1) In the case of a child born out of wedlock, the formation of a parent-child relationship with regard to the father and the child is governed by the father's national law at the time of the child's birth, and with regard to the mother and the child by the mother's national law at the time. In this case, when establishing a parent-child relationship by acknowledgment of parentage of a child, if obtaining the acceptance or consent from the child or a third party is required for acknowledgement under the child's national law at the time of the acknowledgement, the requirement is also be satisfied.

(2) Acknowledgement of parentage of a child is governed by the law designated in

the first sentence of the preceding paragraph, or by the national law of the acknowledging person or of the child at the time of the acknowledgement. In this case, if the acknowledging person's national law is to govern, the second sentence of the preceding paragraph applies *mutatis mutandis*.

- (3) If a father has died before his child's birth, the father's national law at the time of his death is deemed to be the father's national law set forth in paragraph (1). If the person prescribed in the preceding paragraph has died before the acknowledgment, the person's national law at the time of this person's death is deemed to be the person's national law set forth in that paragraph.

(Legitimation)

Article 30 (1) A child acquires the status of a child born in wedlock if the child is legitimated under the national law of the father or the mother or of the child at the time when the facts constituting the requirements for legitimation are completed.

- (2) If a person prescribed in the preceding paragraph has died before the facts constituting the requirements for legitimation are completed, the person's national law at the time of this person's death is deemed to be the person's national law set forth in that paragraph.

(Adoption)

Article 31 (1) Adoption is governed by the national law of an adoptive parent at the time of the adoption. In this case, if obtaining the acceptance or consent from the person to be adopted or a third party, or obtaining permission or any other disposition from a public authority is required for adoption under the national law of the person to be adopted, that requirement is also satisfied.

- (2) The termination of a family relationship between an adopted child and their natural relatives by blood and dissolution of adoptive relation is governed by the law applicable under the first sentence of the preceding paragraph.

(Legal Relationship between Parents and Child)

Article 32 The legal relationship between parents and their child is governed by the child's national law if it is the same as the national law of either the father or mother (in cases where one parent has died or is unknown, the national law of the other parent), or in other cases by the law of the child's habitual residence.

(Other Family Relationships)

Article 33 Family relationships or rights and obligations arising therefrom other than those provided for in Article 24 through Article 32 are governed by the

national law of the party concerned.

(Formalities for Juridical Act Regarding Family Relationships)

Article 34 (1) The formalities for a juridical act regarding family relationships provided for in Article 25 through Article 33 are governed by the law applicable to the formation of the juridical act.

(2) Notwithstanding the provisions of the preceding paragraph, the formalities that comply with the law of the place where the act was done are valid.

(Guardianship)

Article 35 (1) Guardianship, curatorship or assistance (hereinafter collectively referred to as "Guardianship, etc.") is governed by the national law of a ward, person under curatorship or person under assistance (collectively referred to as a "Ward, etc." in paragraph (2)).

(2) Notwithstanding the provisions of the preceding paragraph, in the following cases where a foreign national is a Ward, etc., a ruling of appointment of a guardian, curator or assistant and other ruling concerning Guardianship, etc. is governed by Japanese law:

- (i) where the grounds for commencement of Guardianship, etc. of the foreign national exist under their national law, and there is no person to conduct the affairs of Guardianship, etc. in Japan; or
- (ii) where a Ruling for Commencement of Guardianship, etc. of the foreign national is made in Japan.

Section 6 Inheritance

(Inheritance)

Article 36 Inheritance is governed by the national law of the decedent.

(Will)

Article 37 (1) The formation and effect of a will are governed by the national law of a testator at the time of the formation.

(2) The rescission of a will is governed by the national law of a testator at the time of the rescission.

Section 7 Auxiliary Provisions

(National Law)

Article 38 (1) Where a party concerned has two or more nationalities, the party's national law is the law of the country of their nationality where they have habitual residence, or, the law of the country with which the party is most

closely connected if there is no such country of their nationality where the party has habitual residence; provided, however, that if one of those nationalities is Japanese, Japanese law is the party's national law.

(2) In cases where the national law of a party concerned is govern, if the party has no nationality, the law of their habitual residence is govern; provided, however, that this does not apply with regard to the application of Article 25 (including cases where it is applied mutatis mutandis pursuant to Article 26, paragraph (1) and Article 27) and Article 32.

(3) Where a party concerned has nationality in a country where different laws are applied in different regions, their national law is the law designated in accordance with the rules of the country (in the absence of the rules, the law of the region with which the party is most closely connected).

(Law of Habitual Residence)

Article 39 In cases where the law of a party's habitual residence is govern, if their habitual residence is unknown, the law of their residence is govern; provided, however, that this does not apply with regard to the application of Article 25 (including cases where it is applied mutatis mutandis pursuant to Article 26, paragraph (1) and Article 27).

(Law of Country or Place Where Different Laws Are Applied According to Person's Status)

Article 40 (1) Where a party concerned has nationality in a country where different laws are applied according to a person's status, their national law is the law designated in accordance with the rules of the country (in the absence of the rules, the law with which the party is most closely connected).

(2) The preceding paragraph applies mutatis mutandis to the law of a party's habitual residence that is applicable under Article 25 (including cases where they are applied mutatis mutandis pursuant to Article 26, paragraph (1) and Article 27), Article 26, paragraph (2), item (ii), Article 32 or Article 38, paragraph (2) in cases where different laws are applied according to a person's status in the place of the party's habitual residence, and to the law of the place with which a husband and wife are most closely connected in cases where different laws are applied according to a person's status in the place with which the husband and wife are most closely connected.

(Renvoi)

Article 41 In cases where the national law of a party concerned is govern, if Japanese law is govern in accordance with the law of the country of the national law, Japanese law is govern; provided, however, that this does not apply where the national law of a party is govern under Article 25 (including

cases where it is applied mutatis mutandis pursuant to Article 26, paragraph (1) and Article 27) or Article 32.

(Public Policy)

Article 42 In cases where a foreign law is govern, if the application of those provisions of the foreign law is against public policy, those provisions do not apply.

(Exclusions from Application)

Article 43 (1) The provisions of this Chapter do not apply to the obligations to support arising from the relationship between a husband and wife, parents and their child, and other family relationships; provided, however, that this does not apply to the main clause of Article 39.

(2) The provisions of this Chapter do not apply to the formalities for a will; provided, however, that this does not apply to the main clause of Article 38, paragraph (2), the main clause of Article 39, and Article 40.

Supplementary Provisions [Extract]

(Effective Date)

Article 1 This Act comes into effect as of the day specified by Cabinet Order within a period not exceeding one year from the date of promulgation.

(Transitional Measures)

Article 2 The provisions of the Act on General Rules for Application of Laws after revision (hereinafter referred to as the "New Act"), except under the next Article, also apply to matters that have arisen prior to the date of the effectuation of this Act (hereinafter referred to as the "Date of Effectuation").

Article 3 (1) With regard to the capacity of a person to perform a juridical act done prior to the Date of Effectuation, the provisions then in force remain applicable, notwithstanding Article 4 of the New Act.

(2) With regard to a Ruling for Commencement of Guardianship, etc. and adjudication of disappearance based on a petition filed prior to the Date of Effectuation, the provisions then in force remain applicable, notwithstanding Article 5 and Article 6 of the New Act.

(3) With regard to the formation and effect of a juridical act done prior to the Date of Effectuation and the formalities for the act, the provisions then in force remain applicable, notwithstanding Article 8 through Article 12 of the New Act.

(4) With regard to the formation and effect of a claim arising from management without mandate and unjust enrichment for which the facts constituting the

cause occurred prior to the Date of Effectuation, and a claim arising from a tort for which the result of the wrongful act occurred prior to the Date of Enforcement, notwithstanding Article 15 through Article 21 of the New Act, the provisions then in force remain applicable.

- (5) With regard to the effect of an assignment of a claim done prior to the Date of Effectuation against the debtor and third parties, the provisions then in force remain applicable, notwithstanding Article 23 of the New Act.
- (6) With regard to the formalities for a juridical act concerning a family relationship (excluding the family relationships prescribed in Article 14 through Article 21 of the Act on General Rules for Application of Law prior to revision) done prior to the date of Effectuation, the provisions then in force remain applicable, notwithstanding Article 34 of the New Act.
- (7) With regard to a ruling of appointment of a guardian, curator or assistant or any other ruling concerning Guardianship, etc. based on a petition filed prior to the Date of Effectuation, the provisions then in force remain applicable, notwithstanding Article 35, paragraph (2) of the New Act.