

Act on Preventing Unjust Solicitation of Donations by a Corporation (Tentative translation)

(Act No. 105 of December 16, 2022)

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Chapter I General Provisions

(Purpose)

Article 1 The purpose of this Act, in conjunction with the Consumer Contract Act (Act No. 61 of 2000), is to protect those who receive solicitation for donations from a corporation, etc. (a corporation or non-incorporated association or foundation with a designated representative or administrator; the same applies hereinafter) by prohibiting unjust solicitation of donations by a corporation, etc., and providing for administrative measures, etc. against a corporation, etc. that make such solicitations.

(Definitions)

Article 2 The term "donation" as used in this Act means the following:

- (i) the following contracts concluded between an individual (excluding one who becomes a party to a contract or does a unilateral act for business purposes; the same applies hereinafter) and a corporation, etc.:
 - (a) a contract under which an individual transfers a right regarding property to a corporation, etc. without compensation (excluding those promising to return such property or the thing that is the same kind, quality and quantity; the same applies in (b));
 - (b) a contract under which an individual entrusts to a corporation, etc. the

- authority to transfer, without compensation, a right regarding the individual's property to a third party other than the corporation, etc.
- (ii) a unilateral act by an individual to provide a corporation, etc. with economic benefits without compensation.

Chapter II Preventing Unjust Solicitation of Donations

Section 1 Obligations of Consideration

Article 3 When soliciting a donation, a corporation, etc. must give sufficient consideration to the following matters:

- (i) ensuring that the solicitation of donations does not suppress the free will of individuals, and that individuals who are solicited do not find it difficult to make appropriate decisions as to whether or not to donate;
- (ii) ensuring that the donation does not make it difficult for the individual, the individual's spouse, or the individual's relatives (limited to a person to whom the individual has an obligation to support pursuant to the provisions of Articles 877 to 880 of the Civil Code (Act No. 89 of 1896); the same applies in Article 5) to maintain their standard of living;
- (iii) providing an individual who receives the solicitation for a donation with sufficient information to identify the corporation, etc. engaging in the solicitation, and ensure that there is no risk of misunderstanding about the usage of the donated property.

Section 2 (Prohibited Acts)

(Prohibited Acts Relating to the Solicitation of Donations)

Article 4 When soliciting donations, a corporation, etc. must not confuse the individual who is being solicited to donate by engaging in any of the following acts:

- (i) failing to leave the individual's residence or place of business, in spite of the individual's request that the corporation, etc. leave that place;
- (ii) preventing the individual from leaving the place where the corporation, etc. is soliciting the individual for donations, in spite of the individual's request to leave;
- (iii) accompanying an individual to a place where the corporation, etc. and knowing that it will be difficult for the individual to leave voluntarily, and soliciting the donation at that place, without informing the individual beforehand that the donation will be solicited;
- (iv) preventing an individual, at the place where the individual is being solicited to make a donation, from using means established by Cabinet Order, such as telephone communication, to contact parties other than the

corporation, etc., despite the individual's expressed intent to engage in discussions regarding whether to make the donation using intimidating language or behavior.

(v) while knowing that the individual who has little social life experience develops romantic feelings or other favorable feelings toward a person who solicits donation and knowing that the individual may mistakenly believe that the solicitor similarly has romantic or favorable feelings toward the individual, taking advantage of this situation, conveying to the individual that the relationship between them will break down unless the individual donates.

(vi) indicating to the individual that psychic sense or other special abilities that are difficult to be reasonably verified have shown that a serious disadvantage would occur to the life, health, property, or other significant matters of the individual or their relatives, unless the individual takes certain measures to fuel their fear, and then, informing the individual that the serious disorders can be completely avoided if the individual donates and the donation will be essential.

(Prohibition of Requests for Financing by Borrowing)

Article 5 When soliciting donations, a corporation, etc. must not request the individual who is solicited for the donation to procure funds therefor by borrowing or by disposing of the following assets:

(i) a building or its premises that the individual, their spouse, or their relatives are presently using for residential purposes;

(ii) land or any rights existing on land actually used for a business conducted by the individual (limited to those which are indispensable for the maintenance of the life of the individual, their spouse, or relatives), or buildings or any other depreciable assets (meaning depreciable assets as provided for in Article 2, paragraph (1), item (xix) of the Income Tax Act (Act No. 33 of 1965)), which are indispensable for the continuation of the business (excluding those listed in the preceding item);

Section 3 Measures against Violations

(Recommendations Pertaining to Compliance with the Obligations of Consideration)

Article 6 (1) If it is clearly evident that a corporation, etc. is significantly impairing the protection of the rights of an individual who is solicited to make donations by a corporation, etc. due to the corporation or similar entity's failure to comply with the provisions of Article 3, and the Prime Minister finds that there is a significant risk of a similar impairment occurring in the future,

the Prime Minister may recommend that the corporation, etc. comply with the matters to be observed.

- (2) When the Prime Minister gives a recommendation under the provisions of the preceding paragraph but the corporation, etc. that has received the recommendation fails to comply therewith, the Prime Minister may publicize this fact.
- (3) To the extent necessary for making the recommendation under the provisions of paragraph (1), the Prime Minister may request necessary reports from the corporation, etc. with regard to the status of consideration pertaining to the matters listed in the items of Article 3.

(Reports and Recommendations Pertaining to Prohibited Acts)

Article 7 (1) If the Prime Minister finds it to be particularly necessary for the enforcement of the provisions of Articles 4 and 5, the Prime Minister may, within the scope of that necessity, request the corporation, etc. to submit necessary reports on the state of its business with regard to the solicitation of donations.

- (2) If a corporation, etc. is found to be committing an act in violation of the provisions of Article 4 or Article 5 against unspecified or numerous individuals, and the Prime Minister finds that there is a significant risk that it will continue to commit that act, the Prime Minister may recommend that the corporation, etc. discontinue that act or take other necessary measures.
- (3) When a corporation, etc. that has received a recommendation under the preceding paragraph fails to take measures pertaining to the recommendation without justifiable grounds, the Prime Minister may order the corporation, etc. to take measures pertaining to the recommendation.
- (4) When the Prime Minister has issued an order under the provisions of the preceding paragraph, the Prime Minister must issue a public announcement to that effect.

Chapter III Rescinding of the Manifestation of Intent to Donate

(Rescinding the Manifestation of Intent to Donate)

Article 8 (1) An individual may, when a corporation, etc. solicits donations from the individual, rescind the manifestation of intent to donate if the individual, as a result of the corporation engaging in any of the acts set forth in the items of Article 4 against the individual, the individual becomes bewildered and consequently manifests an intent to enter into or accept a contract relating to a donation or manifests an intent to engage in any unilateral act (hereinafter collectively referred to as "manifestation of an intention to be bound by the offer of a contract or by the acceptance of an offer to donate") (excluding the

manifestation of an intent to enter into or accept a consumer contract (meaning a consumer contract as provided for in Article 2, paragraph (3) of the Consumer Contract Act; the same applies in Article 10, paragraph (1), item (ii)) if the donation falls under the category of a consumer contract; the same applies in the following paragraph and the following Article).

- (2) The rescinding the manifestation of intent to donate under the provisions of the preceding paragraph may not be asserted against a third party who is acting in good faith and without negligence.
- (3) The provisions of the preceding two paragraphs apply mutatis mutandis to cases where a corporation, etc. entrusts a third party to act as an intermediary for a donation between the corporation, etc. and an individual (hereinafter simply referred to as "entrustment" in this paragraph) and the entrusted third party (including a person who has been entrusted by the third party (including multi-tier entrustment arrangements); referred to as an "entrusted party, etc." in the following paragraph) performs the act prescribed in paragraph (1) with respect to the individual.
- (4) With regard to the application of the provisions of paragraph (1) (including as applied mutatis mutandis pursuant to the preceding paragraph; the same applies hereinafter), representatives of an individual, representatives of a corporation, etc., and representatives of an entrusted party, etc. involved in a donation (including subrepresentatives (including those appointed under multi-tier entrustment arrangements); hereinafter the same applies in this paragraph) are deemed to be individuals, corporations, etc., and entrusted parties, etc., respectively.

(Period for Exercising the Right of Rescission)

Article 9 (1) The right of rescission under the provisions of paragraph (1) of the preceding Article is extinguished by prescription if it is not exercised within one year (or within three years in the case of a right of rescission under the provisions of that paragraph on the grounds that the person was distressed as a result of the act set forth in Article 4, item (vi)) from the time that ratification becomes possible.

The same applies when five years have elapsed from the time when a person made the manifestation of intent to donate (or ten years in the case of a right of rescission under the provisions of that paragraph on the grounds that the person was distressed as a result of an act set forth in the item).

(Special Provisions Relating to Exercise of Obligee's Right of Subrogation to Preserve a Claim for Periodic Payments Pertaining to a Duty to Support)

Article 10 (1) Notwithstanding the provisions of the main clause of Article 423, paragraph (2) of the Civil Code, an obligee of a claim for periodic payments

pertaining to a duty to support, etc. of an individual who has made a donation to a corporation, etc. (limited to a donation involving the delivery of money; hereinafter the same applies in this paragraph) may exercise the following rights concerning donations associated with the individual obligor when it is necessary to preserve the portion of the claim for periodic payments for which the fixed due date has not yet arrived:

- (i) the right of rescission under the provisions of Article 8, paragraph (1);
 - (ii) the right of rescission under the provisions of Article 4, paragraph (3) of the Consumer Contract Act (limited to the part pertaining to items (i) through (iv), item (vi) or item (viii)) (including cases where applied *mutatis mutandis* pursuant to Article 5, paragraph (1) of the same Act) relating to the manifestation of an intent to enter into or accept a consumer contract pertaining to a donation by the obligor;
 - (iii) a claim for the return of benefits provided through a donation arising from the exercise of the right of rescission set forth in the preceding two items.
- (2) In the case referred to in the preceding paragraph (limited to the part pertaining to item (iii)), the provision set forth in the first sentence of Article 423-3 of the Civil Code does not apply to the portion of a claim for periodic payments pertaining to a duty to support, for which the due date has not yet arrived.

In this case, the obligee may have the corporation, etc. deposit for the obligor an amount equivalent to the portion for which the fixed due date has not yet arrived.

- (3) A corporation, etc. that has made a deposit pursuant to the provisions of the second sentence of the preceding paragraph must give notice of the deposit to the obligee who has exercised the right set forth in paragraph (1), item (iii) and the obligor thereof without delay.
- (4) The term "claim for periodic payments pertaining to a duty to support, etc." as used in this Article refers to claims for periodic payments with fixed due dates pertaining to the following obligations:
- (i) the duty of cooperation and mutual assistance between a husband and wife under the provisions of Article 752 of the Civil Code;
 - (ii) the duty of sharing expenses arising from marriage under the provisions of Article 760 of the Civil Code;
 - (iii) the duty concerning custody of a child under the provisions of Article 766 of the Civil Code (including cases where it is applied *mutatis mutandis* pursuant to Article 749, Article 771 and Article 788 of the Civil Code);
 - (iv) the duty of support under the provisions of Articles 877 through 880 of the Civil Code.

Chapter IV Support for Persons Who Have Made Donations as a Result of

Unjust Solicitation by Corporations

Article 11 In order to enable persons who have the rights set forth in the items of paragraph (1) of the preceding Article or persons who may exercise these rights pursuant to the provisions of the same paragraph or the main clause of Article 423, paragraph (1) of the Civil Code to effectively achieve recovery of damages, etc. through the appropriate exercise of their rights, the State must endeavor to strengthen coordination between the Japan Legal Support Center and relevant organizations and groups, etc., and to take measures for necessary support, such as developing a user-friendly consultation system.

Chapter V Miscellaneous Provisions

(Consideration in Implementation)

Article 12 In implementing this Act, sufficient consideration must be given to the academic freedom, freedom of religion, and freedom of political activities of individuals and corporations, etc., while bearing in mind the importance of the role that donations play in the activities of corporations, etc.

(Provision of Materials to the Prime Minister)

Article 13 When deemed necessary to achieve the purpose of this Act, the Prime Minister may request the heads of the relevant administrative organs to provide materials, explanations, and any other necessary cooperation.

(Delegation of Authority)

Article 14 The Prime Minister delegates the authority under the provisions of Chapter II, Section 3 and the preceding Article (the authority under the provisions of the same Article does not include that related to a Minister of State) to the Secretary-General of the Consumer Affairs Agency.

(Delegation to Orders)

Article 15 Matters necessary for the implementation of this Act other than those set forth in this Act are prescribed by orders.

Chapter VI Penal Provisions

Article 16 A person who violates an order under Article 7, paragraph (3) is subject to imprisonment for not more than one year or a fine not exceeding 1,000,000 yen, or both.

Article 17 A person who fails to make a report or makes a false report under the

provisions of Article 7, paragraph (1) is to be punished by a fine not exceeding 500,000 yen.

Article 18 (1) If a representative of a corporation, etc. or an representative, employee, or other worker of a corporation, etc. has committed a violation set forth in the preceding two Articles in connection with the business of the corporation, etc., in addition to the offender being subject to punishment, the corporation, etc. is subject to the fine referred to in the respective Articles.

(2) If the provisions of the preceding paragraph apply to an unincorporated association or foundation, its representative or administrator represents the association or foundation that is not a corporation in any procedural acts and the provisions of the Code of Criminal Procedure that are applicable when a corporation is the accused or the suspect, apply mutatis mutandis.

Supplementary Provisions

(Effective Date)

Article 1 This Act comes into effect as of the day on which twenty days have elapsed from the date of promulgation; provided, however, that the provisions of the following items come into effect as of the day set forth in each item.

(i) The provisions of Article 4 (limited to the part pertaining to items (iii) and (iv)) and Article 8 (limited to the part pertaining to Article 4, items (iii) and (iv)): The date on which the Act partially amending the Consumer Contract Act and the Act on Special Measures Concerning Civil Court Proceedings for the Collective Redress for Property Damage Incurred by Consumers (Act No. 59 of 2022) comes into effect;

(ii) The provisions of Article 5, Chapter II, Section 3 and Chapter VI, and the provisions of Article 4 of the Supplementary Provisions: The date provided for by a Cabinet Order not exceeding one year from the date of promulgation.

(Transitional Measures)

Article 2 The provisions of Article 8, paragraph (1) apply to manifestations of intent to donate made on or after the date on which this Act comes into effect (the same provisions will apply to manifestations of intent to donate made on or after the date on which the provisions listed in item (i) of the preceding Article comes into effect if the manifestation arises from confusion experienced by the individual as a result of an act set forth in Article 4, items (iii) and (iv)).

Article 3 With regard to the application of the provisions of Article 10, paragraph (1) during the period until the day preceding the date on which the Act partially amending the Consumer Contract Act and the Act on Special

Measures Concerning Civil Court Proceedings for the Collective Redress for Property Damage Incurred by Consumers comes into effect, the term "through (iv), item (vi) or item (viii)" is deemed to be replaced with ", item (ii), item (iv) or item (vi)".

Article 4 (1) With regard to the application of the provisions of Article 16 during the period until the day preceding the date on which the Act Partially Amending the Penal Code (Act No. 67 of 2022) comes into effect (hereinafter referred to as the "Penal Code enforcement date" in this Article), the term "imprisonment under the new Penal Code" in the same Article is deemed to be replaced with "imprisonment under the former Penal Code".

The same applies with regard to the application of the provisions of the same Article on or after the Penal Code enforcement date to acts committed before the Penal Code enforcement date.

(Review)

Article 5 Approximately two years after the enforcement of this Act, the government is to review the provisions of this Act, taking into consideration the status of enforcement of the provisions of this Act and changes in the economy and social circumstances, and take any necessary measures based on its results.

(Partial Amendment to the Act for Establishment of the Consumer Affairs Agency and the Consumer Commission)

Article 6 The Act for the Establishment of the Consumer Affairs Agency and Consumer Commission (Act No. 48 of 2009) is to be partially amended as follows.

In Article 4, paragraph (1), item (xxvi) is changed to item (xxii), item (xxiii) through item (xxv) are changed to item (xxii) through item (xxiv), and the following item is added after item (xxii).

(xxiii) Matters concerning the protection of persons who are solicited to donate by corporations, etc. pursuant to the provisions of the Act on Preventing Unjust Solicitation of Donation by Corporations (Act No. 105 of 2022).