

# **Act on Preventing Unjust Solicitation of Donations by Corporations**

(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 are solicited for donations from a corporation, etc. (meaning 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 the 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 conducts an unilateral juridical 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 a contract promising to return the property or property of the same kind, quality and quantity; the same applies in (b));
  - (b) a contract under which an individual entrusts a corporation, etc. with the

- transfer of a right regarding the individual's property to a third party other than the corporation, etc. without compensation;
- (ii) an unilateral juridical 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 due consideration to the following particulars:

- (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 make a donation;
- (ii) ensuring that making a donation does not make it difficult for the individual, their spouse, or relatives (limited to a person to whom the individual is obligated to provided support pursuant to the provisions of Articles 877 through 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 is solicited for a donation with sufficient information to identify the corporation, etc. engaging in the solicitation, and ensuring 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 mislead 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 the premises;
- (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 the individual to a place where it is difficult for the individual to leave voluntarily, and soliciting the donation at the place, without informing the individual that the individual will be solicited for the donation, and knowing that the place is difficult for the individual to leave voluntarily;
- (iv) preventing the individual from contacting a person other than the corporation, etc. by using intimidating words or deeds, even though the

individual has indicated their intention to contact that person by telephone or other means provided for in Cabinet Office Order in order to discuss whether or not to make a donation, at the place where the individual is being solicited for the donation;

- (v) knowing and taking advantage of the fact that the individual has romantic or other favorable feelings toward the person soliciting the donation and the individual falsely believes that the person soliciting the donation has similar feelings toward them because of the individual's lack of life experience, and telling the individual that the relationship between them will end if the individual does not make a donation;
- (vi) telling the individual that it is necessary to make a donation, to avoid serious disadvantages that are currently occurring, or will occur in the future to the life, body, property of the individual or their relatives or to other important particulars, by inciting fear in the individual that they will not be able to avoid those disadvantage unless they make the donation, by means of alleged psychic abilities or other special purported powers that are difficult to rationally demonstrate, or by taking advantage of the aforementioned fear the individual currently holds.

(Prohibition of Requests for Financing by Borrowing)

Article 5 When soliciting donations, a corporation, etc. must not request the individual who is solicited for a donation to procure funds 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, 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 actually used for a business conducted by the individual (limited to the business that is indispensable for the individual, their spouse, or relatives to maintain their standard of living) and are indispensable for the continuation of the business (excluding those listed in the preceding item).

### **Section 3 Measures against Violations**

(Recommendations Relating to Compliance with the Obligations of Consideration)

Article 6 (1) If it is clearly recognized that a corporation, etc. is significantly hindering the protection of the rights of an individual being solicited to make donations by the corporation, etc. due to their failure to comply with the provisions of Article 3, and the Prime Minister finds that there is a significant

risk of a similar hindrance occurring in the future, the Prime Minister may recommend that the corporation, etc. comply with the particulars to be observed.

- (2) When the Prime Minister gives a recommendation under the preceding paragraph but the corporation, etc. that has received the recommendation fails to comply with it, the Prime Minister may make this fact public.
- (3) To the extent necessary for giving the recommendation under paragraph (1), the Prime Minister may request necessary reports from the corporation, etc. with regard to the status of consideration relating to the particulars listed in the items of Article 3.

#### (Reports and Recommendations Relating 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 request the corporation, etc. to submit necessary reports on the state of its business with regard to the solicitation of donations, within the extent necessary.

- (2) If a corporation, etc. is found to have committed acts 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 the corporation, etc. 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 relating to the recommendation without justifiable grounds, the Prime Minister may order the corporation, etc. to take measures relating to the recommendation.
- (4) When the Prime Minister has issued an order under the preceding paragraph, the Prime Minister must make this public.

### **Chapter III Recession of the Manifestation of an Intention to Donate**

#### (Recession of the Manifestation of an Intention to Donate)

Article 8 (1) If a corporation, etc. engages in any of the acts set forth in the items of Article 4 against an individual at the time of soliciting the individual to donate, and the individual becomes misled and consequently manifests an intention to enter into or accept a contract relating to a donation or manifests an intention to engage in any unilateral juridical act (hereinafter collectively referred to as "manifestation of an intention to donate"), the individual may rescind the manifestation of an intention to donate (excluding the manifestation of an intention 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 recession of the manifestation of an intention to donate under 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 in which a corporation, etc. entrusts a third party to act as an intermediary for a donation between the corporation, etc. and the 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 The right of rescission under 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 that paragraph on the grounds that the person was misled by 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 manifested an intention to donate (or ten years in the case of a right of rescission under that paragraph on the grounds that the person was misled by the act set forth in the item).

#### (Special Provisions Concerning Exercise of an Obligee's Right of Subrogation to Preserve a Claim for Periodic Payments Relating to Support Obligations)

Article 10 (1) Notwithstanding the provisions of the main clause of Article 423, paragraph (2) of the Civil Code, an obligee that has a claim for periodic payments relating to support obligations held by 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 to rescind pursuant to the provisions of Article 8, paragraph (1);
  - (ii) the right to rescind pursuant to the provisions of Article 4, paragraph (3) of the Consumer Contract Act (limited to the part relating to items (i) through (iv), item (vi), or item (viii)) (including as applied mutatis mutandis pursuant to Article 5, paragraph (1) of that Act) relating to the manifestation of an intention to enter into or accept a consumer contract relating to a donation by the obligor;
  - (iii) a right to 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 of the preceding paragraph (limited to the part referring to item (iii)), the provisions set forth in the first sentence of Article 423-3 of the Civil Code do not apply to the portion of a claim for periodic payments relating to support obligations 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 without delay.
- (4) The term "claim for periodic payments relating to support obligations" as used in this Article refers to claims for periodic payments with fixed due dates relating to the following obligations:
- (i) the obligation to cooperate and provide mutual assistance between husband and wife pursuant to the provisions of Article 752 of the Civil Code;
  - (ii) the obligation to share expenses arising from marriage pursuant to the provisions of Article 760 of the Civil Code;
  - (iii) the obligation concerning the custody of a child under Article 766 of the Civil Code (including as applied mutatis mutandis pursuant to Article 749, Article 771 and Article 788 of the Civil Code);
  - (iv) the obligation of support under 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 each item of paragraph (1) of the preceding Article or persons who may exercise these rights pursuant to the provisions of that paragraph or pursuant to the

provisions of the main clause of Article 423, paragraph (1) of the Civil Code to effectively recover damages or conduct the similar actions through the appropriate exercise of their rights, the State must endeavor to strengthen coordination between the Japan Legal Support Center and relevant organizations, 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 the Prime Minister finds it 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 seek other necessary cooperation.

### **(Delegating Authority)**

Article 14 The Prime Minister delegates the authority under the provisions of Chapter II, Section 3 and the preceding Article (excluding authority to the Minister of State pursuant to the provisions of that Article) to the Secretary General of the Consumer Affairs Agency.

### **(Delegation to Orders)**

Article 15 Beyond what is provided for in this Act, particulars necessary for the implementation of this Act are to be 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 under Article 7, paragraph (1) or makes a false report is subject to a fine not exceeding 500,000 yen.

Article 18 (1) If a representative or administrator of a corporation, etc. or an

agent, 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 unincorporated association or foundation 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 relating to items (iii) and (iv)) and Article 8 (limited to the part relating 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 a manifestation of an intention to make donations on or after the date on which this Act comes into effect (those provisions apply to a manifestation of an intention to make donations on or after the date on which the provisions listed in item (i) of the preceding Article comes into effect if the intention is manifested as a result of being misled by 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 phrase "through (iv), item (vi), or item (viii)" is deemed to be replaced with ", item (ii), item (iv), or item (vi)".



Article 4 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 that 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 that 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 (xxvii), items (xxiii) through (xxv) are changed to items (xxii) through (xxiv), and the following item is added after item (xxii).

(xxiii) particulars 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 Donations by Corporations (Act No. 105 of 2022).