

# **Ordinance for Enforcement of the Act on Special Measures concerning the Handling of Legal Services by Foreign Lawyers**

(Ordinance of the Ministry of Justice No. 7 of March 6, 1987)

Pursuant to the provisions of Item ii of Article 2, Paragraphs (1) and (2) of Article 9, Paragraph 2 of Article 17 and Article 62 of the Act on Special Measures concerning the Handling of Legal Services by Foreign Lawyers (Act No. 66 of 1986), the Ordinance for Enforcement of the Act on Special Measures concerning the Handling of Legal Services by Foreign Lawyers is enacted as follows.

(Federal States and their Constituent Units)

Article 1 The federal states as stipulated by the Ordinance of the Ministry of Justice pursuant to item ii of Article 2 of the Act on Special Measures concerning the Handling of Legal Services by Foreign Lawyers (hereinafter referred to as the "Act") shall be as described in the left column of the Appended Table and their constituent units shall be as described in the right column of the Said Appended Table.

(Application for Approval)

Article 2 In applying for approval provided for in Article 7 of the Act (hereinafter referred to as "Approval"), a person who intends to obtain such an Approval shall appear himself/herself.

(Matters To Be Entered in a Written Application for Approval)

Article 3 (1) The matters stipulated by the Ordinance of the Ministry of Justice pursuant to Paragraph 1 of Article 9 of the Act shall be the following.

- (i) Name, sex, date of birth, place of birth, nationality and address
- (ii) The year/month/date of acquisition of qualification to become a foreign lawyer, the name of the foreign state in which he/she acquired such qualification (in the next Article referred to as the "State of Acquisition of Qualification") and his/her title as such foreign lawyer

(2) A written application for Approval as provided for in Paragraph 1 of Article 9 of the Act (hereinafter referred to as the "Written Application for Approval") shall be in the Appended Form No. 1

(Documents Accompanying a Written Application for Approval)

Article 4 (1) The documents as stipulated by the Ordinance of the Ministry of Justice pursuant to Paragraph 2 of Article 9 of the Act shall be the following.

- (i) Written statements on the following matters prepared by a person who intends to obtain the Approval in the forms given by the Minister of Justice
  - (a) Matters concerning the experience of having performed professional duties as a foreign lawyer in the State of Acquisition of Qualification (including the experience of a foreign lawyer in the State of Acquisition of Qualification, of having engaged in the practice of providing legal services in a foreign state other than the State of Acquisition of Qualification concerning the laws of the State of Acquisition of Qualification on the basis of the qualification to become a foreign lawyer. Hereinafter the same shall apply in this Article) and in the case where Paragraph 2 of Article 10 of the Act is applicable, matters concerning the practice of providing legal services in Japan to attorney at law, legal professional corporation or registered foreign lawyer on his/her knowledge concerning the laws of the State of Acquisition of Qualification after he/she acquired such qualification to become a foreign lawyer
  - (b) Matters concerning grounds for the disqualification of a registered foreign lawyer
  - (c) Matters concerning the standards listed in Item 2 of Paragraph 1 of Article 10 of the Act
  - (d) Matters concerning the will to perform professional duties faithfully, and a plan, residence and financial basis for performing professional duties properly and surely
  - (e) Matters concerning the ability to compensate for damages, which he/she may cause to clients
  - (f) Other matters for reference
- (ii) Curriculum vitae
- (iii) Copies of his/her passport, residence card, special permanent resident certificate or any other document verifying his/her status
- (iv) Any document verifying that he/she has acquired a qualification to become a foreign lawyer and that he/she actually still retains such qualification
- (v) Any document verifying that he/she has the experience of having performed professional duties as a foreign lawyer in the State of Acquisition of Qualification, and, in the case where Paragraph 2 of Article 10 of the Act is applicable, that he/she has provided legal services in Japan to attorney at law, legal professional corporation or registered foreign lawyer based on his/her knowledge concerning the laws of the State of Acquisition of Qualification after he/she acquired such qualification to become a foreign lawyer
- (vi) A document in which he/she pledges that he/she does not fall under any of the categories listed in each Item of Article 7 of the Attorney Act as applied mutatis mutandis pursuant to Article 8 of the Act

- (vii) A document in which he/she pledges that he/she does not fall under any of the categories of persons listed in (a) to (d) inclusive of Item ii of Paragraph 1 of Article 10 of the Act
  - (viii) A document in which he/she pledges that he/she shall perform professional duties faithfully
  - (ix) A document verifying that he/she has a plan, residence and financial basis for performing professional duties properly and surely
  - (x) A document certifying that he/she has the ability to compensate for damages, which he/she may cause to clients
  - (xi) Any other document for reference
- (2) The document set forth in Item vi of the preceding Paragraph shall be in the Appended Form No. 2, the document set forth in Item vii of the said Paragraph shall be in the Appended Form No. 3, and the document set forth in Item viii of the said Paragraph shall be in the Appended Form No. 4.

(Method of Payment of a Fee for Application for Approval)

Article 5 The fee provided for in Paragraph 3 of Article 9 of the Act shall be paid by affixing to a written application for Approval a revenue stamp in an amount equivalent to the amount of a fee.

(Verification of contents of pledge)

Article 6 In applying for Approval, a person who intends to obtain Approval shall read aloud in front of the officer designated by the Minister of Justice the documents provided for in Items vi to viii inclusive of Paragraph 1 of Article 4, and shall confirm the contents of his/her pledge.

(Notification of Decision not to Approve)

Article 7 In the case where the Minister of Justice has made a decision not to approve, he shall notify in writing the person concerned who has applied for Approval and the Japan Federation of Bar Associations of such decision and the reason thereof.

(Preliminary Examination Prior to Application for Approval)

Article 8 A person who intends to apply for Approval may submit, prior to such application, to the Minister of Justice, documents same in substance with a written application for Approval and its accompanying documents and may request a preliminary examination.

(Reporting Obligation of Persons Who Obtained Approval)

Article 9 (1) A person who has obtained Approval shall, if he/she falls under any of the following items, shall notify in writing and without delay the Minister of

Justice to that effect.

- (i) if there has been any change in his/her name, nationality or address.
  - (ii) if his /her office has been established or moved.
  - (iii) if the name of his/her office has been fixed or changed.
  - (iv) if there has taken place an important change in his/her ability to compensate for damages which he/she may cause to clients.
  - (v) if he/she has come to fall under any of the persons listed in (a) to (d) of Item 2 of Paragraph 1 of Article 10 of the Act.
  - (vi) if he/she has lost the qualification to become a foreign lawyer in the state of primary qualification.
  - (vii) if he/she has come to fall under any of the items of Article 7 of the Attorney Act (except Item ii) applied mutatis mutandis pursuant to Article 8 of the Act.
- (2) A person who has obtained Approval shall submit, except in cases where he/she falls under Item vi or Item vii of the preceding Paragraph, the following documents to the Minister of Justice within two months after the expiration of every two years from the date when he/she has obtained such Approval.
- (i) A document verifying that he/she actually retains his/her qualification to become a foreign lawyer in the state of primary qualification.
  - (ii) A written statement on the status of his/her practice and assets.
  - (iii) A document in which he/she pledges that he/she falls under none of the categories of persons listed in (a) to (d) inclusive of Item iii of Paragraph 1 of Article 10 of the Act.
  - (iv) A document in which he/she pledges that he/she falls under none of the categories of persons listed in each Item of Article 7 of the Attorney Act (except Item ii) applied mutatis mutandis pursuant to Article 8 of the Act.

(Special Provisions of Method of Hearing)

- Article 10 (1) An officer presiding over hearing concerning the action of rescission of Approval shall hear the opinion of a witness(es), if he/she finds it necessary.
- (2) If a presiding officer has heard such opinion as provided for in the preceding Paragraph, he/she shall enter the name of a witness and the summary of his/her statement in the hearing record.
- (3) If a party to the hearing concerning the action of rescission of Approval makes a statement of opinion, asks a question and makes a statement in response to a question posed by an officer presiding over the hearing, in a foreign language, the party shall have an interpreter translate them at his/her expense. The same shall apply in the case where a witness to be heard at the request of a party is to make a statement in a foreign language.

(Notification of Rescission of Approval)

Article 11 The Minister of Justice shall notify in writing the person whose Approval has been rescinded and Japan Federation of Bar Associations, to that effect and the reason thereof.

(Application for Designation)

Article 12 A person who wants the Designation has to appear himself/herself and file an application for Designation pursuant to Paragraph 1 of Article 16 of the Act (hereinafter referred to as "Designation").

(Form of Written Application for Designation)

Article 13 The written application pursuant to Paragraph 1 of Article 17 of the Act (hereinafter referred to as "Written Application for Designation") shall be made in the Appended Form No. 5.

(Documents Accompanying a Written Application for Designation)

Article 14 The documents stipulated by the Ordinance of the Ministry of Justice pursuant to Paragraph 2 of Article 17 of the Act shall be the following;

- (i) In the case where application for Designation is made pursuant to the provision of Item 1 of Paragraph 1 of Article 16 of the Act, a document verifying that the applicant has the qualification to become a foreign lawyer of the specified foreign state.
- (ii) In the case where application for Designation is made pursuant to the provision of Item 2 of Paragraph 1 of Article 16 of the Act, a document verifying that the applicant has the same level of knowledge in regard to the laws of the specified foreign state as a person who has the qualification to become a foreign lawyer of that state and has five or more years of practicing experience of legal services concerning such laws.
- (iii) Any other documents for reference.

(Reporting Obligation of a Person with the Designation)

Article 15 (1) If a person who has obtained the Designation pursuant to Item i of Paragraph 1 of Article 16 of the Act has lost the qualification to become a foreign lawyer in respect to the Designation concerned, he/she shall notify without delay and in writing the Minister of Justice to that effect.

(2) A person who has obtained the Designation pursuant to Item i of Paragraph 1 of Article 16 of the Act shall, except in the case provided for in the preceding Paragraph, submit to the Minister of Justice a document verifying that he/she retains presently still the qualification to become a foreign lawyer in respect to the Designation within two months after the expiration of every two years from the date when he/she obtained such designation.

(Application Mutatis Mutandis of the Provisions Concerning Approval or its Rescission)

Article 16 The provisions of Article 5 shall apply mutatis mutandis to the method of payment of a fee pursuant to Paragraph 3 of Article 17 of the Act. The provisions of Article 7 shall apply mutatis mutandis to notification when no designation is made. The provisions of Article 8 shall apply mutatis mutandis to preliminary examination prior to the application for Designation. The provisions of Article 10 shall apply mutatis mutandis to hearing concerning the disposition of rescission of Designation. The provisions of Article 11 shall apply mutatis mutandis to notification of rescission of designation. In these cases "written application for Approval" in Article 8 shall read as "written application for Designation"

(Attachment of a Translation)

Article 17 When documents submitted to the Minister of Justice pursuant to the provisions of the Act or this Ordinance of Ministry or documents submitted to a presiding officer pursuant to the provisions of Administrative Procedure Act (Act No. 88 of 1993) or the Ordinance on Hearing of the Ministry of Justice (Ordinance of the Ministry of Justice No. 47 of 1994) are prepared in a foreign language, they shall be accompanied by their Japanese translation. Such translation shall be signed by the translator and contain the description by the translator of his/her name, the date of the translation and his/her pledge that he/she has done his /her translation in good faith.

Appended Table (In relation to Article 1)

|                           |  |
|---------------------------|--|
| Federal States            | Constituent Units  |
| United States of America  | States, District of Columbia, Territories                |
| Commonwealth of Australia | States, Australian Capital Territory, Northern Territory |
| Canada                    | Provinces, Territories                                   |

Appended Form