

Act on Special Conciliation for Expediting Arrangement of Specified Debts

(Act No. 158 of December 17, 1999)

(Purpose)

Article 1 In order to contribute to the economic rehabilitation of debtors, etc. who are likely to become unable to pay debts, this Act provides proceedings for Special Conciliations as an exception to the Civil Conciliation Act (Act No. 222 of 1951) and thereby aims to expedite the arrangement of interests pertaining to monetary debts of the debtors, etc.

(Definitions)

- Article 2 (1) The term "Specified Debtor" as used in this Act means a person who has monetary debts and who is likely to become unable to pay debts or has difficulty in paying the debts by the due date without impairing the continuance of business, or who is a corporation likely to become insolvent.
- (2) The term "Arrangement of Specified Debts, etc." as used in this Act means changes to the content of monetary debts, changes to legal relationship created by a secured transaction, and other arrangements of interests pertaining to monetary debts between a Specified Debtor and a person who has a monetary claim arising against the Specified Debtor or other interested persons for the purpose of contributing to the economic rehabilitation of said Specified Debtor.
- (3) The term "Special Conciliation" as used in this Act means a conciliation pertaining to an Arrangement of Specified Debts, etc. for which the Specified Debtor files a petition pursuant to Article 2 of the Civil Conciliation Act and for which a statement is made to request a conciliation by Special Conciliation proceedings pursuant to the provision of paragraph (1) of the following Article when said petition for conciliation is filed.
- (4) The term "Entitled Persons Concerned" as used in this Act means a person who has the right to make a claim on property against the Specified Debtor and a person who has a security right on property of the Specified Debtor.

(Special Conciliation Proceedings)

- Article 3 (1) When a Specified Debtor files a petition for conciliation pertaining to an Arrangement of Specified Debts, etc., the Specified Debtor may request conciliation to be implemented in accordance with Special Conciliation proceedings.
- (2) The statement to request conciliation to be implemented in accordance with the Special Conciliation proceedings shall be made when the petition for

conciliation is filed.

- (3) A petitioner who makes the statement set forth in the preceding paragraph shall submit a detailed statement indicating financial conditions, or any other materials clarifying that the petitioner is a Specified Debtor, and a list of the Entitled Persons Concerned upon filing the petition (if there are compelling reasons, after filing the petition without delay).

(Transfer)

Article 4 Notwithstanding the provision of the proviso to Article 4, paragraph (1) of the Civil Conciliation Act, if a court receives a petition with respect to a case pertaining to a Special Conciliation which is not subject to the jurisdiction of the court and the court finds it appropriate for the processing of the case, the court may, by its own authority, transfer the case to another court with jurisdiction or process the case by itself, regardless of the provisions on territorial jurisdiction.

Article 5 Deleted

(Consolidation)

Article 6 If multiple cases of Special Conciliations pertaining to the same petitioners are pending in the same court separately, conciliation proceedings pertaining to these cases must be consolidated and processed to the extent possible.

(Stay of Civil Execution Proceedings)

- Article 7 (1) When the court with a pending case pertaining to the Special Conciliation finds it reasonable to resolve the case by Special Conciliation, if it is likely to make the establishment of Special Conciliation impossible or considerably difficult or if it is likely to impair the smooth implementation of the Special Conciliation, the court may order the stay of civil execution proceedings pertaining to the right that is the subject of the Special Conciliation upon petition for a period until the Special Conciliation ends, while requiring or not requiring the provision of security; provided, however, that this does not apply to civil execution proceedings based on claims pertaining to salaries, wages, bonuses, retirement allowances, and retirement pensions, and remunerations that have these characteristics.
- (2) When the court set forth in the preceding paragraph ordered the stay of civil execution proceedings pursuant to the provision of that paragraph, if the court finds it necessary, the court may order continuation of such civil execution proceedings upon petition, while requiring or not requiring the provision of security.

- (3) The petition set forth in the preceding two paragraphs shall be made by making a prima facie showing of the grounds.
- (4) An immediate appeal may be filed against an order under the provisions of paragraphs (1) and (2).
- (5) The provisions of Articles 76, 77, 79, and 80 of the Code of Civil Procedure (Act No. 109 of 1996) apply mutatis mutandis to the security set forth in paragraphs (1) and (2).

(Designation of Civil Conciliation Commissioners)

Article 8 The Court designates a person who has expert knowledge and experience pertaining to laws, taxation, finance, corporate finance, asset evaluation, etc. necessary according to the characteristics of a case as a civil conciliation commissioner who is a member of a conciliation committee that conducts a Special Conciliation.

(Participation of Entitled Persons Concerned)

Article 9 If an Entitled Persons Concerned who has an interest with respect to the results of a Special Conciliation participates in the proceedings of the Special Conciliation, it is not necessary to obtain the permission of the conciliation committee notwithstanding the provision of Article 11, paragraph (1) of the Civil Conciliation Act.

(Responsibilities of the Parties)

Article 10 In the Special Conciliation, the parties must clarify to the conciliation committee the facts pertaining to the cause and content of the claims or debts, changes to the content of the claims or debts due to payment, etc., and any changes, etc. to legal relationship created by a secured transaction.

(When Not to Carry Out the Special Conciliation)

Article 11 In the Special Conciliation, when the conciliation committee finds that a petitioner is not a Specified Debtor or finds that a case is unsuitable for Special Conciliation due to its nature, in addition to cases provided for in Article 13 of the Civil Conciliation Act, the conciliation committee may decide not to carry out the Special Conciliation and close the case.

(Submission of Documents)

Article 12 When the conciliation committee finds it particularly necessary for a Special Conciliation, the conciliation committee may request that the parties or participants submit documents or items pertaining to the case.

Article 13 Deleted

(Hearing the Opinions of Government Agencies)

- Article 14 (1) When the conciliation committee finds it necessary for a Special Conciliation, the conciliation committee may request the opinions of government agencies, public offices, or a person who is found to be appropriate.
- (2) When the conciliation committee intends to carry out a Special Conciliation with respect to the case pertaining to a petition by a corporation, the conciliation committee is to request the opinion of a labor union if there is a labor union organized by the majority of employees or other workers of said petitioner, or the opinion of a person representing the majority of employees or other workers of said petitioner if there is no labor union organized by the majority of employees or other workers of said petitioner.

(Proposed Terms of Conciliation Presented by the Conciliation Committee)

- Article 15 If the conciliation committee presents the proposed terms of conciliation to parties of the case pertaining to the Special Conciliation, the proposed terms of conciliation shall be fair, appropriate, and economically reasonable from the perspective of contributing to the economic rehabilitation of the Specified Debtor.

(Acceptance of Proposed Terms of Conciliation in Writing)

- Article 16 When it is found to be difficult for one party of the case pertaining to the Special Conciliation to appear due to living in a remote place or any other grounds, if the party makes submissions in writing to accept the proposed terms of conciliation proposed by the conciliation committee in advance and the other party appears on an appearance date and accepts the proposed terms of conciliation, it is deemed that an agreement between the parties is established in the Special Conciliation.

(Terms of Conciliation Provided by the Conciliation Committee)

- Article 17 (1) When there is a joint petition of the parties, the conciliation committee may determine the appropriate terms of conciliation in the Special Conciliation in order to resolve the case.
- (2) The terms of conciliation set forth in the preceding paragraph shall be fair, appropriate, and economically reasonable from the perspective of contributing to the economic rehabilitation of the Specified Debtor.
- (3) The petition set forth in paragraph (1) shall be filed by means of a document. In this case, the parties must state in the document that the parties will obey the terms of conciliation set forth in paragraph (1).
- (4) The terms of conciliation pursuant to the provision of paragraph (1) are to be determined by way of notification on the appearance date or any other

notifications given by a method that is considered to be appropriate.

(5) A party may withdraw a petition set forth in paragraph (1) only before the notification set forth in the preceding paragraph has been given. In this case, such party is not required to obtain consent from the opponent.

(6) When the notification set forth in paragraph (4) has been given to both parties, it is deemed that an agreement is established between the parties in the Special Conciliation.

(Unsuccessful Special Conciliation)

Article 18 (1) In the Special Conciliation, if there is no likelihood of any agreement that is fair, appropriate, and economically reasonable being reached between parties or if the conciliation committee finds that the agreement established is not fair, appropriate, and economically reasonable from the perspective of contributing to the economic rehabilitation of the Specified Debtor and the court does not issue an order set forth in Article 17 of the Civil Conciliation Act, the conciliation committee may decide that the conciliation is unsuccessful and close the case, notwithstanding the provision of Article 14 of the Civil Conciliation Act.

(2) The provision of Article 19 of the Civil Conciliation Act applies mutatis mutandis when the case is closed pursuant to the provision of the preceding paragraph.

(Application Mutatis Mutandis to the Special Conciliation by a Judge)

Article 19 The provisions of Article 9 to the preceding Article apply mutatis mutandis when the Special Conciliation is conducted only by a judge(s).

(Application Mutatis Mutandis to the Order in Lieu of Special Conciliation)

Article 20 The provision of Article 17, paragraph (2) applies mutatis mutandis to the order set forth in Article 17 of the Civil Conciliation Act that is given by the court on cases pertaining to the Special Conciliation.

Article 21 Deleted

(Relationship with the Civil Conciliation Act)

Article 22 The Special Conciliation is governed by the provisions of the Civil Conciliation Act in addition to the provisions of this Act.

(Rules of the Supreme Court)

Article 23 In addition to what is provided for in this Act, necessary particulars pertaining to Special Conciliation are specified by Rules of the Supreme Court.

(Sanction for Non-Submission of Documents)

Article 24 (1) If parties or participants fail to respond to a request to submit documents or items pursuant to the provision of Article 12 (including the cases applied mutatis mutandis pursuant to Article 19) without reasonable grounds, the court punishes those parties or participants with a civil fine of not more than 100,000 yen.

(2) The provisions of Article 36 of the Civil Conciliation Act apply mutatis mutandis to the order of the civil fine set forth in the preceding paragraph.

Supplementary Provisions [Extract]

(Effective Date)

(1) This Act comes into effect as from the day on which two months have elapsed from the date of promulgation.

Supplementary Provisions [Act No. 128 of July 25, 2003] [Extract]

(Effective Date)

Article 1 This Act comes into effect as from April 1, 2004; provided, however, that the provisions listed in the following items come into effect as from the day specified in said items.

(i) Provisions of Article 3 (excluding provisions revising Article 4, paragraph (2) and paragraph (7) of the Act on Costs of Civil Procedure), Chapter II, and Articles 3 to 5 of the Supplementary Provisions: January 1, 2004

Supplementary Provisions [Act No. 53 of May 25, 2011]

This Act comes into effect as from the date of enforcement of the new Non-Contentious Cases Procedures Act.