

Act on Special Provisions Concerning Civil Procedure Attendant upon Implementation of the "Convention on Civil Procedure" and Another Convention

(Act No. 115 of June 5, 1970)

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Chapter I General Provisions

(Purpose)

Article 1 The purpose of this Act is to provide special provisions, etc. on civil procedure attendant upon implementation of the Convention on Civil Procedure and the Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters.

Chapter II Implementation of the Convention on Civil Procedure

Section 1 General Rules

(Designation of Authority)

Article 2 The authority set forth in Article 1, paragraph (1), Article 9, paragraph (1) and Article 23, paragraph (1) of the Convention on Civil Procedure (hereinafter referred to as "Civil Procedure Convention") shall be the Minister of Foreign Affairs.

(Jurisdiction of Service and Judicial Assistance)

Article 3 (1) If an authority of a foreign state which is a contracting state of the

Civil Procedure Convention (hereinafter referred to as "foreign state" in this Chapter) commissions the service of documents, examination of evidence, and other judicial acts that are provided for in the Civil Procedure Convention, the court shall provide legal assistance for them.

- (2) The court that provides the legal assistance shall be the district court that has jurisdiction over the place where the required affairs are to be handled.

(Transfer to the Court with Jurisdiction)

Article 4 When the commissioned matters are subject to the jurisdiction of another court, the commissioned court shall transfer the commission to the court with jurisdiction.

(Execution of Commissioned Matters)

Article 5 The commissioned matters shall be executed pursuant to the Civil Procedure Convention if there are special provisions in the Convention, and to Japanese law in other circumstances.

Section 2 Service of Documents

(Service of Extrajudicial Documents)

Article 6 (1) Matters pertaining to service of extrajudicial documents in foreign state, which are set forth in Article 1, paragraph (1) of the Civil Procedure Convention, are subject to the jurisdiction of the district court that has jurisdiction over the place where the person requesting the service has a general venue.

- (2) The provisions of Part I, Chapter V, Section 4 of the Code of Civil Procedure (Act No. 109 of 1996) shall apply mutatis mutandis to the service set forth in the preceding paragraph and to the service of extrajudicial documents executed in Japan under commission from the authority of foreign state.

(Service Certification)

Article 7 (1) The district court that provided legal assistance for the service shall issue a certificate confirming the fact, method, and date of the service or a certificate stating the reasons why the service could not be executed, and send it to the Minister of Foreign Affairs.

- (2) A court clerk shall handle the affairs of issuing the certificate set forth in the preceding paragraph.

Section 3 Commission of Judicial Assistance

(Notification of Date)

Article 8 When the notification pursuant to Article 11, paragraph (2) of the Civil Procedure Convention has been made, it is not necessary to issue a summons to the parties to appear on the appearance date.

(Appeal Against the Disposition of the Commissioned Court)

Article 9 With respect to the judicial decision of a Japanese court when examination of evidence or executing other judicial acts under commission from the authority of foreign state, said court is deemed to be the court in charge of the case and the provisions of the Code of Civil Procedure on appeals shall apply.

Section 4 Exemption from Providing Security for Court Costs

(Exemption from Providing Security for Court Costs)

Article 10 A plaintiff who is a national of a contracting state of the Civil Procedure Convention and whose domicile, place of office, or business office is in a contracting state, is not required to provide security for court costs prescribed in Article 75, paragraph (1) of the Code of Civil Procedure even if the plaintiff's domicile, place of office, and business office are not in Japan; provided, however, that this does not apply if that contracting state reserves the right set forth in Article 32, paragraph (1) of the Civil Procedure Convention.

(Commission of Request for Approval of Execution)

Article 11 With respect to the judicial decision set forth in Article 18, paragraph (1) or paragraph (2) of the Civil Procedure Convention made by a court in Japan, the court in charge of the case of first instance shall commission the Minister of Foreign Affairs to request approval of execution based on a petition by the obligee of court costs.

(Execution of Foreign Judicial Decision Ordering to Bear Court Costs)

Article 12 (1) Compulsory execution of the judicial decision set forth in Article 18, paragraph (1) or paragraph (2) of the Civil Procedure Convention rendered by a court in foreign state may be conducted only when a court in Japan approves the execution.

(2) A case concerning approval of execution is subject to the jurisdiction of the district court that has jurisdiction over the place where the obligor of court costs has a general venue. If there is no such general venue, the case is subject to the jurisdiction of the district court that has jurisdiction over the action against the obligor of court costs pursuant to the provisions of Article 5, item (iv) of the Code of Civil Procedure.

(Forwarding a Request for Approval of Execution)

Article 13 If a request for approval of execution is made pursuant to the provisions of Article 18, paragraph (1) or paragraph (2) of the Civil Procedure Convention, the Minister of Foreign Affairs shall forward the request to the court.

(Decision on Approval of Execution)

Article 14 The court shall examine the matters set forth in Article 19, paragraph (2), items (i), (ii), and (iii) of the Civil Procedure Convention and make a decision on approval or non-approval of the execution by the court's own authority when the court receives the forwarded request pursuant to the provision of the preceding Article or by a petition when there is an agreement set forth in Article 18, paragraph (3) of the Convention.

(Announcement of Judicial Decision)

Article 15 The decision on a case that the court started by the court's own authority pursuant to the provision of the preceding Article shall become effective by announcement to the public prosecutor(s) and the obligor(s) of court costs.

(Immediate Appeal)

Article 16 Only the petitioner and obligor of court costs may file an immediate appeal against the decision of approval or non-approval of execution. The same applies to the public prosecutor(s) who receives announcement of the decision of non-approval of execution pursuant to the provision of the preceding Article.

(Effect of Decision of Approval of Execution)

Article 17 The binding decision of approval of execution shall have the same effect as an enforceable title of obligation.

(Forwarding Original Decision)

Article 18 When the decision on the case that was started by the court's own authority becomes final and binding, the court shall forward the original of the decision to the Minister of Foreign Affairs.

(Bearing of Court Costs by the National Treasury)

Article 19 The court costs necessary for proceedings of approval of execution (including proceedings in the instance of appeal) that were started by the court's own authority shall be borne by the national treasury.

(Determination of Expenses for Attestation, Translation, and Legalisation)

Article 20 When there is a request to determine the amount of expenses pursuant to the provision of Article 19, paragraph (4) of the Civil Procedure Convention, the court shall determine the amount in the decision on approval of execution.

(Application Mutatis Mutandis of the Non-Contentious Cases Procedures Act)

Article 21 The provisions of Part II of the Non-Contentious Cases Procedures Act (Act No. 51 of 2011) shall apply mutatis mutandis to the petition and proceedings of approval of execution set forth in Article 11, except as otherwise provided by the Civil Procedure Convention or by this Act.

(Certification of Competence of Authorities)

Article 22 The competence of the authority set forth in Article 19, paragraph (3) of the Civil Procedure Convention is certified by the Supreme Court of Japan.

Section 5 Judicial Aid

(Judicial Aid in Foreign State)

Article 23 (1) A person who requests judicial aid in foreign state pursuant to the provisions of Article 23 of the Civil Procedure Convention must submit the request to a district court that has jurisdiction over the place where the person has a general venue.

(2) A court clerk shall handle affairs pertaining to the request set forth in the preceding paragraph.

Chapter III Implementation of the Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters

(Designation of Authority)

Article 24 The central authority set forth in Article 2, paragraph (1) of the Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters (hereinafter referred to as "Service Convention") and the authority set forth in Article 9, paragraph (1) of the Convention shall be the Minister of Foreign Affairs.

(Jurisdiction of Service)

Article 25 (1) If the service of documents provided for in the Service Convention is commissioned by the authority or a judicial officer of a foreign state which is a contracting state of the Convention (hereinafter referred to as "foreign state" in this Chapter), the court shall provide legal assistance for them.

(2) The provisions of Article 3, paragraph (2) and Article 4 shall apply mutatis mutandis to the case set forth in the preceding paragraph.

(Execution of Service)

Article 26 The service of documents pertaining to the commission set forth in paragraph (1) of the preceding Article shall be executed pursuant to the Service Convention if there are special provisions in the Convention, and to Japanese law in other circumstances.

(Service Certification)

Article 27 (1) The district court that provided legal assistance for the service shall issue the certificate set forth in Article 6 of the Service Convention.

(2) The provision of Article 7, paragraph (2) shall apply mutatis mutandis to the issuing of the certificate set forth in the preceding paragraph.

(Service by Publication)

Article 28 The service of documents set forth in Article 15, paragraph (1) of the Service Convention to be made in foreign state may be made by publication pursuant to the provisions of Article 110 of the Code of Civil Procedure only when the requirements listed in (a), (b), and (c) of Article 15, paragraph (2) of the Convention are fulfilled.

(Service of Extrajudicial Documents)

Article 29 The provisions of Article 6 shall apply mutatis mutandis to the service of extrajudicial documents set forth in Article 17 of the Service Convention.

Chapter IV Miscellaneous Provisions

(Prepayment of Costs)

Article 30 When costs for implementing the matters provided for in the Civil Procedure Convention, the Service Convention, and this Act arise, the court may have the parties prepay the costs.

(Rules of the Supreme Court)

Article 31 In addition to what is provided for in this Act, necessary particulars pertaining to proceedings of the court provided for in the Civil Procedure Convention, the Service Convention, and this Act are specified by the Supreme Court of Japan.

Supplementary Provisions [Extract]

(Effective Date)

- (1) This Act shall come into effect as from the day on which the Civil Procedure Convention and the Service Convention become effective with regard to Japan.

(Transitional Measures)

- (2) This Act shall apply to matters arising before enforcement of this Act; provided, however, that this does not preclude the effects that have arisen before enforcement of this Act.

Supplementary Provisions [Act No. 110 of June 26, 1996] [Extract]

This Act shall come into effect as from the date of enforcement of the new Code of Civil Procedure.

Supplementary Provisions [Act No. 108 of July 16, 2003] [Extract]

(Effective Date)

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

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

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