Act on Criminal Trials with the Participation of Saiban-in

(Act No. 63 of May 28, 2004)

Chapter I General Provisions

(Purpose)

Article 1 This Act sets forth special provisions to the Court Act (Act No. 59 of 1947) and the Code of Criminal Procedure (Act No. 131 of 1948) and other necessary items for criminal trials with the participation of saiban-in, with the view that the involvement of saiban-in appointed from among the citizens in

criminal procedures alongside judges helps to promote the citizens' understanding of and enhance trust in the judicial system.

(Cases Subject to Saiban-in Trials and the Organization of Panels)

Article 2 (1) District Courts, except for cases where a ruling under the following Article is made, handle the following cases through a panel with the participation of saiban-in after said panel with the participation of saiban-in is organized in accordance with the provisions of this Act, notwithstanding the provisions of Article 26 of the Court Act:

(i) cases involving offences punishable with the death penalty or life imprisonment or life imprisonment without work; and

(ii) cases listed in Article 26, paragraph (2), item (ii) of the Court Act that involve offences that have caused a victim to die by intentional criminal acts (excluding those falling under the preceding item excluding those falling under the preceding item).

(2) The panel under the preceding paragraph consists of three judges and six saiban-in, and one of the judges is the presiding judge; provided, however, that if a ruling under the next paragraph is rendered, the panel consists of one judge and four saiban-in, and said judge is the presiding judge.

(3) The court may render a ruling to the effect that the panel consisting of one judge and four saiban-in is organized to conduct proceedings and render judicial decisions for cases to be handled by the panel referred to and pursuant to the provisions of paragraph (1) (hereinafter referred to as the "Subject Cases") for which it is found in the arrangement of issues and evidence under the pretrial conference procedure that no dispute on the charged facts exists and which are found suitable, taking the content of said cases and other circumstances into consideration.

(4) The court must confirm in the pretrial conference procedure that the public prosecutor, the accused and their defense counsel have no objection in order to make the ruling set forth in the preceding paragraph.

(5) The ruling under paragraph (3) must be rendered no later than the date of the procedure of the appointment of saiban-in, etc. provided for in Article 27, paragraph (1).

(6) District Courts, where the ruling under paragraph (3) is rendered, handle the case by one judge from the time said ruling is made until the time when the panel provided for in paragraph (3) is organized notwithstanding the provisions of Article 26, paragraph (2) of the Court Act.

(7) When the court considers that it is not suitable for the panel provided for in paragraph (3) to handle a case, by taking the assertion of the accused, status of proceedings or other circumstances into consideration, the court may, by a ruling, revoke the ruling under the same paragraph.

(Exclusion from Subject Cases)

Article 3 (1) When a District Court determines, with respect to cases listed in each item of paragraph (1) of the preceding Article, that the life, body or property of saiban-in candidates, saiban-in or persons who have been saiban-in or their family members or similar persons could be harmed, or their peaceful existence could be seriously harmed through actions of the accused, by the claim of organizations of which the accused is a member or by the behavior of other members of the organization, or by actual harm or the threat of such harm to saiban-in candidates or saiban-in or other circumstances, thereby resulting in saiban-in candidates or saiban-in feeling afraid, and that it is difficult to secure the attendance of saiban-in candidates, or it is difficult for saiban-in to perform their duties, and to appoint alternative saiban-in, the District Court must render a ruling at the request of the public prosecutor, the accused or their defense counsel or ex officio to the effect that such cases are handled by a panel consisting of judges.

(2) The ruling under the preceding paragraph or the ruling dismissing the request under the preceding paragraph must be rendered by a panel; provided, however, that the judges who are involved in the trials of cases listed in each item of paragraph (1) of the preceding Article may not participate in the ruling.

(3) The court must, in advance, hear the opinion of the public prosecutor and the accused or their defense counsel as provided for in the Rules of the Supreme Court in order to render the ruling under paragraph (1), or the ruling that dismisses the request of paragraph (1).

(4) After the panel under paragraph (1) of the preceding Article is organized, the court must hear the opinion of the presiding judge of the panel in order to render the ruling under paragraph (1) ex officio.

(5) The provisions of Article 43, paragraphs (3) and (4) and Article 44, paragraph (1) of the Code of Criminal Procedure apply mutatis mutandis to the ruling under paragraph (1) or the ruling that dismisses the request of said paragraph.

(6) An immediate appeal may be filed against the ruling under paragraph (1) or the ruling that dismisses the request of said paragraph. In this case, the provisions of the Code of Criminal Procedure concerning the immediate appeal apply mutatis mutandis.

(Handling of Cases Consolidating Proceedings)

Article 4 (1) The court may handle, by a ruling, cases other than Subject Cases that are found suitable to consolidate the proceedings with Subject Cases, by the panel under Article 2, paragraph (1).

(2) Where the court has rendered a ruling under the preceding paragraph, pursuant to the provisions of the Code of Criminal Procedure, the court must

consolidate the proceeding of the cases pertaining to the ruling of said paragraph with the proceeding of the Subject Cases.

(Handling after Alteration of Applicable Penal Statute)

Article 5 Even if the whole or part of the cases being handled by a panel under Article 2, paragraph (1), no longer falls under the Subject Cases by reason that the applicable penal statute is withdrawn or altered pursuant to the provisions of Article 312 of the Code of Criminal Procedure, the court is to handle the case by the panel: provided, however, that where the court finds it suitable through taking the status of proceedings and other circumstances into consideration, the court may handle the case by using one judge or a panel consisting of judges in accordance with the provisions of Article 26 of the Court Act by a ruling.

(Authority of Judges and Saiban-in)

Article 6 (1) When a case is handled by a panel under Article 2, paragraph (1), a judgment for rendering punishment pursuant to the provisions of Article 333 of the Code of Criminal Procedure, a judgment for exculpation of the accused pursuant to the provisions of Article 334 of the Code or a judgment of acquittal pursuant to the provisions of Article 336 of the Code or the decision of a court concerning a ruling for transfer to a family court pursuant to the provisions of Article 55 of the Juvenile Act (Act No. 168 of 1948) (excluding the decisions listed in items (i) and (ii) of the next paragraph) that pertains to the following (hereinafter referred to as the "Decision with Participation of Saiban-in") is rendered by the consultation of judges (hereinafter referred to as the "Member Judges") and saiban-in who are the member of the panel under Article 2, paragraph (1):

(i) fact finding;

(ii) application of laws and regulations; and

(iii) sentencing.

(2) In the cases provided for in the preceding paragraph, the following decisions of a court are rendered by the consultation of the Member Judges:

(i) decisions on interpretation of laws and regulations;

(ii) decisions on court proceedings (excluding the ruling under Article 55 of the Juvenile Act); and

(iii) decisions other than Decisions with Participation of Saiban-in.

(3) Proceedings to make Decisions with Participation of Saiban-in are conducted by Member Judges and saiban-in, and other proceedings are conducted by Member Judges only.

Article 7 When the ruling under Article 2, paragraph (3) is rendered, decisions

to be made by the consultation of the Member Judges are made by a Member Judge.

Chapter II Saiban-in

Section 1 General Rules

(Independence of Exercise of Authority by Saiban-in)

Article 8 Saiban-in is independent in the exercise of their authority.

(Obligations of Saiban-in)

Article 9 (1) Saiban-in must carry out their duties in compliance with laws and regulations, impartially and in good faith.

(2) Saiban-in must not divulge confidential information from deliberations provided for in Article 70, paragraph (1) and any other confidential information that they came to know during the course of executing their duties.

(3) Saiban-in must not engage in any act that could impair trust in the impartiality of judicial decisions.

(4) Saiban-in must not engage in any act that could offend the integrity.

(Alternate Saiban-in)

Article 10 (1) When a court finds it necessary by taking the period of trials and other circumstances into consideration, the court may arrange alternate saiban-in: provided, however, that the number of alternate saiban-in must not exceed the number of saiban-in that constitute the panel.

(2) Alternate saiban-in attends the proceedings to make a Decision with Participation of Saiban-in and is appointed as saiban-in, when the number of saiban-in constituting the panel set forth in Article 2, paragraph (1) becomes insufficient, in its place in an order determined in advance.

(3) Alternate saiban-in may inspect documents and articles of evidence relating to the trial.

(4) The provisions of the preceding Article apply mutatis mutandis to alternate saiban-in.

(Travel Expenses, Daily Allowances and Accommodation Charges)

Article 11 Travel expenses, daily allowances and accommodation charges are paid to saiban-in and alternate saiban-in in accordance with the provisions of the Rules of the Supreme Court.

(Inquiry to Public Offices)

Article 12 (1) When a court finds it necessary for the decision on appointment or dismissal of saiban-in or alternate saiban-in, a court may make inquiries to

public offices or public or private organizations about saiban-in candidates who have been selected pursuant to the provisions of Article 26, paragraph (3) (including cases where applied mutatis mutandis pursuant to Article 28, paragraph (2) (including cases where applied mutatis mutandis pursuant to Article 38, paragraph (2) (including cases where applied mutatis mutandis pursuant to Article 46, paragraph (2)), Article 47, paragraph (2) and Article 92, paragraph (2)), Article 38, paragraph (2) (including cases where applied mutatis mutandis pursuant to Article 46, paragraph (2)), Article 47, paragraph (2) and Article 92, paragraph (2)) or saiban-in or alternate saiban-in to report on particulars necessary for said decision.

(2) When it finds it necessary to facilitate the decision by the court set forth in the preceding paragraph on the saiban-in candidates, a District Court may make inquiries to public offices to report on necessary particulars.

Section 2 Appointment

(Qualification for Appointment as Saiban-in)

Article 13 Saiban-in is appointed from among persons having the right to vote on the members of the House of Representatives in accordance with the provisions of this section.

(Causes of Disqualification)

Article 14 Beyond persons who fall under the provisions of Article 38 of the National Public Service Act (Act No. 120 of 1947), any person who falls under any of the following items may not be appointed as saiban-in:

(i) any person who has not completed the compulsory education provided for in the School Education Act (Act No. 26 of 1947); provided, however, that this does not apply to persons who have acquired the same or a higher level of education than those who have completed compulsory education;

(ii) any person who has been punished with imprisonment without work or a heavier penalty; or

(iii) any person who has serious difficulty in performing the duties of saiban-in due to a mental or physical disability.

(Causes of Prohibition on Service as a Saiban-in)

Article 15 (1) A person who falls under any of the following items may not serve as a saiban-in:

(i) a Member of the Diet;

(ii) a Minister of the State;

(iii) an official of administrative agencies of the State who falls under any of the following items:

(a) an official to whom the Designated Service Salary Schedule in Appended Table No. 11 of the Act on Remuneration for Officials of Regular Service (Act No. 95 of 1950) applies (excluding officials listed in (d));

(b) an official to whom the salary schedule provided for in Article 7, paragraph (1) of the Act on Special Measures of Employment and Remuneration of Officials with Fixed Term of Office in the Regular Service (Act No. 125 of 2000) applies and who receives a salary equivalent to or more than the monthly salary of the seventh pay step in the same salary schedule;

(c) an official to whom the salary schedule Appended Tables 1 and 2 of the Act on Salaries of Government Officials with Special Capacity (Act No. 252 of 1949) applies; or

(d) an official to whom Appended Table 11 Designated Service Salary Table of the Act on Remuneration for Officials of Regular Service applies pursuant to the provisions of Article 4, paragraph (1) of the Act on Remuneration, etc. of the Ministry of Defense Personnel (Act No. 266 of 1952; hereinafter referred to as the "Remuneration of Ministry of Defense Personnel Act"), an official who receives the salary specified in the salary schedule provided for in Article 7, paragraph (1) of the Act on Special Measures of Employment and Remuneration of Officials with Fixed Term of Office in the Regular Service (which is limited to the salary equivalent to or more than the monthly salary of the seventh pay step in the same salary schedule) pursuant to the provisions of Article 4, paragraph (2) of the Remuneration of Ministry of Defense Personnel Act and an official to whom the provisions of Article 4, paragraph (5) of the Remuneration of Ministry of Defense Personnel Act applies.

(iv) any person who is or was a judge;

(v) any person who is or was a public prosecutor;

(vi) any person who is an attorney at law (including a registered foreign lawyer; hereinafter the same applies in this paragraph) or was an attorney at law;

(vii) a patent lawyer;

(viii) a judicial scrivener;

(ix) a notary;

(x) any person who carries out duties as a judicial police official;

(xi) a court official (excluding part-time officials);

(xii) an official of the Ministry of Justice (excluding part-time officials);

(xiii) a Commissioner of the National Public Safety Commission, a commissioner of prefectural public safety commissions and police officials (excluding part-time officials);

(xiv) any person who is qualified to be appointed to a judge, an assistant judge,

a public prosecutor or an attorney at law;
(xv) a professor or assistant professor of jurisprudence at a faculty, advanced course or graduate school of universities provided for in the School Education Act;
(xvi) a legal apprentice;
(xvii) a governor of a prefecture or a mayor of a municipality (including special wards: the same applies hereinafter); or
(xviii) a self-defense official.

(2) Any person who falls under any of the following is treated in the same manner as in the preceding paragraph:
(i) any person who is prosecuted for an offence punishable with imprisonment without work or a heavier penalty, whose case has not yet been concluded; or
(ii) any person who is under arrest or in detention.

(Causes of Refusal)

Article 16 Any person who falls under any of the following items may file a motion for refusal to be appointed as a saiban-in:
(i) any person who is seventy years of age or older;
(ii) a Member of the Diet of local public entities (limited to a person for whom the Diet is in session);
(iii) a student or pupil of a school set forth in Article 1, Article 124 or Article 134 of the School Education Act (limited to a person who is enrolled in a course that requires regular attendance);
(iv) any person who served as a saiban-in or alternate saiban-in within the past five years;
(v) any person who was a prospective saiban-in within the past three years;
(vi) any person who appeared on the date for appointing saiban-in, etc. set forth in Article 27, paragraph (1) as a saiban-in candidate within the past one year (excluding persons for whom a ruling of non-appointment was rendered pursuant to the provisions of Article 34, paragraph (7) (including cases where applied mutatis mutandis pursuant to Article 38, paragraph (2) (including cases where applied mutatis mutandis pursuant to Article 46, paragraph (2)), Article 47, paragraph (2) and Article 92, paragraph (2); hereinafter the same applies in Article 26, paragraph (3));
(vii) any person who served as a prosecution councilor or alternate councilor pursuant to the provisions of the Act on the Committee for Inquest of Prosecution (Act No. 147 of 1948) within the past five years;
(viii) any person who has any of reasons listed in the following or other unavoidable reasons provided for in the Cabinet Order and who has difficulty in serving as a saiban-in or in appearing on the date of the procedure of appointing saiban-in, etc. as a saiban-in candidate set forth in Article 27,

paragraph (1):

(a) it is difficult for them to appear at the court due to severe illness or injury;

(b) it is necessary for them to perform nursing care or child care for relatives living with them, who would have difficulty in living daily life without such nursing care or child care being performed;

(c) they have important business involved in their work, and said work could suffer substantial detriment if they do not deal with said business in person; or

(d) they have important business to handle such as attending a parent's funeral ceremony or any other important social business which cannot be dealt with on any other dates.

(Causes of Ineligibility Relating to Case)

Article 17 A person who falls under any of the following items may not be selected as saiban-in for the case:

(i) the accused or the victim;

(ii) any person who is or was a relative of the accused or the victim;

(iii) a statutory agent, supervisor of guardian, curator, supervisor of curator, assistant or supervisor of assistant of the accused or the victim;

(iv) any person living with or an employee of the accused or the victim;

(v) any person who has made an accusation or a claim in the case;

(vi) any person who has become a witness or an expert witness in the case;

(vii) any person who has become an agent, defense counsel or assistant of the accused in the case;

(viii) any person who has carried out their duties as a public prosecutor or judicial police official;

(ix) any person who has carried out their duties as a prosecution councilor or assistant councilor or who has observed the deliberations of the Prosecution Commission as an alternate councilor; or

(x) any person who has participated in the case in a ruling under Article 266, item (ii) of the Code for Criminal Procedure, a summary order, the original judgment of the case which was sent back or transferred pursuant to the provisions of Articles 398 to 400, Article 412 or Article 413 of the Code or the examination which formed the basis of such judicial decisions; provided, however, that this does not apply where they participated as a delegated judge.

(Other Causes of Ineligibility)

Article 18 Beyond what is provided for in the preceding Article, any person who is found by a court that there is a chance that the person may make an unjust

judicial decision may not be appointed as a saiban-in for the case.

(Mutatis Mutandis Application)

Article 19 Provisions of Article 13 to the preceding Article (Qualification for Appointment of Saiban-in, Causes of Disqualification, Causes of Prohibition on Services as a Saiban-in, Causes of Refusal, Causes of Ineligibility Relating to Case, and Other Causes of Ineligibility) apply mutatis mutandis to alternate saiban-in.

(Allocation of the Number of Saiban-in Candidates and Notification)

Article 20 (1) District Courts must, in accordance with the provisions of the Rules of the Supreme Court, allocate the number of saiban-in candidates that are necessary for the next year to municipalities within its jurisdiction by September 1 of each year and must notify electoral administrative commissions of municipalities of such number.

(2) The number of saiban-in candidates under the preceding paragraph is such number as is calculated by the District Court in accordance with the provisions of the Rules of the Supreme Court, taking the status of handling the Subject Cases and other particulars into consideration.

(Preparation of List of Expected Saiban-in Candidates)

Article 21 (1) The electoral administrative commissions of municipalities must, when they receive the notification set forth in paragraph (1) of the preceding Article, select by drawing lots the number persons stated in said notification as expected saiban-in candidates from among those registered in the list of voters (excluding those who are indicated in the list of voters, pursuant to the provisions of Article 27, paragraph (1) of the Public Office Election Act (Act No. 100 of 1950), to the effect that they no longer have voting rights pursuant to the provisions of Article 11, paragraph (1) or Article 252 of the Public Office Election Act or Article 28 of the Political Funds Control Act (Act No. 194 of 1948)).

(2) The electoral administrative commissions of municipalities must prepare, for the persons selected pursuant to the provisions of the preceding paragraph, the list of expected saiban-in candidates with the name, address and date of birth indicated (or recorded when the list of voters is prepared on magnetic disk pursuant to the provisions of Article 19, paragraph (3) of the Public Office Election Act) in the list of voters indicated (or recorded when the list of expected saiban-in candidates is prepared on magnetic disk pursuant to the provisions of the next paragraph).

(3) The list of expected saiban-in candidates may be prepared on magnetic disk (including mediums that can record certain particulars securely by equivalent

means; the same applies hereinafter).

(Sending of Lists of Expected Saiban-in Candidates)

Article 22 The electoral administrative commissions of municipalities must, by October 15 of the year in which they have received the notification under Article 20, paragraph (1), send the list of the expected saiban-in candidates to the District Court that has sent said notification.

(Preparation of Lists of Saiban-in Candidates)

Article 23 (1) Where a District Court receives a list of expected saiban-in candidates pursuant to the provisions of the preceding paragraph, the District Court must prepare, on the basis of such list and in accordance with the provisions of the Rules of the Supreme Court, the list of saiban-in candidates in which the name, address and date of birth are indicated (or recorded when the list of saiban-in candidates is prepared on magnetic disk pursuant to the provisions of the next paragraph; hereinafter the same applies in Articles 25 and 26, paragraph (3)).

(2) The list of saiban-in candidates may be prepared on magnetic disk.

(3) Where a District Court learns that a saiban-in candidate has died, or where it finds that the candidate does not fall under the persons set forth in Article 13 or is disqualified as a saiban-in pursuant to the provisions of Article 14 or falls under any item of Article 15, paragraph (1), the District Court must delete the candidate from the list of saiban-in candidates in accordance with the provisions of the Rules of the Supreme Court.

(4) Where the electoral administrative commissions of municipalities learns that an expected saiban-in candidate who has been selected pursuant to the provisions of Article 21, paragraph (1) has died or has lost the right to vote on the members of the House of Representatives, electoral administrative commissions must notify the District Court to which it has sent the list of expected saiban-in candidates pursuant to the provisions of the preceding Article of such circumstances; provided, however, that the foregoing provisions do not apply when one year following the year of sending the list of expected saiban-in candidates has elapsed.

(Measures for Supplementing Saiban-in Candidates)

Article 24 (1) Where a District Court finds it necessary, in the year following the year in which it has sent the notification pursuant to the provisions of Article 20, paragraph (1), to supplement saiban-in candidates required for the year, the District Court must, in accordance with the provisions of the Rules of the Supreme Court, promptly allocate the number of saiban-in candidates to be supplemented to municipalities within its jurisdiction and must notify the

electoral administrative commissions of municipalities of such number.

(2) The provisions of the preceding three Articles apply mutatis mutandis to the case of the preceding paragraph. In this case, the term "by October 15 of the year in which they have received notification under Article 20, paragraph (1)" in Article 22 is deemed to be replaced with "promptly", the term "the list of saiban-in candidates" in paragraph (1) of the preceding Article with "the list of additional saiban-in candidates" and the term "the year following the year of sending" in the proviso of paragraph (4) of the preceding Article with "the year of sending".

(Notification to Saiban-in Candidates)

Article 25 Where a District Court has prepared a list of saiban-in candidates pursuant to the provisions of Article 23, paragraph (1) (including cases where applied mutatis mutandis pursuant to paragraph (2) of the preceding Article following the deemed replacement of terms), the District Court must notify persons indicated in the list of saiban-in candidates of such circumstances.

(Selection of Saiban-in Candidates to Be Summoned)

Article 26 (1) Where the first trial date for the Subject Case has been determined, the court must render a ruling to arrange the necessary number of alternate saiban-in or to arrange no alternate saiban-in.

(2) Where a court renders the ruling under the preceding paragraph, the court must determine the number of saiban-in candidates to be summoned by taking the length of time required for the trials and other circumstances into consideration.

(3) District Courts must select by drawing lots the number of saiban-in candidates to be summoned pursuant to the provisions of the preceding paragraph from among saiban-in candidates indicated in the list of saiban-in candidates; provided, however, that saiban-in candidates who have complied with the summons of the court to appear on the date for the procedure of appointing saiban-in, etc. set forth in paragraph (1) of the following Article may not be selected again in the same year (excluding those for whom a ruling not to appoint them pursuant to the provisions of Article 34, paragraph (7) is rendered).

(4) District Courts must provide the public prosecutor and the defense counsel with an opportunity to attend the draw under the preceding paragraph.

(Summoning of Saiban-in Candidates)

Article 27 (1) A court must determine the date for the procedure of appointing saiban-in and alternate saiban-in (hereinafter referred to as "Saiban-in, etc. Appointing Procedure") and summon saiban-in candidates who are selected

pursuant to the provisions of paragraph (3) of the preceding Article; provided, however, that the foregoing provisions do not apply to saiban-in candidates for whom any circumstance listed in each of the following items is found to exist during the period from the date of the Saiban-in, etc. Appointing Procedure until the day on which the duties of saiban-in are expected to terminate (hereinafter referred to as the "Planned Period of Duty Engagement"):

(i) if a candidate does not fall under the person set forth in Article 13;

(ii) if a candidate is disqualified for saiban-in pursuant to the provisions of Article 14;

(iii) if a candidate falls under the persons set forth in each item of Article 15, paragraph (1) or paragraph (2) or each item of Article 17;

(iv) if a saiban-in candidate that has filed a motion for refusal for being appointed as a saiban-in pursuant to the provisions of Article 16 falls under the persons set forth in each item of the Article.

(2) The summons under the preceding paragraph are made by the service of a writ of summons.

(3) The writ of summons must contain the date, time, location of appearance, statement that they may be punished by a non-criminal fine in cases where they do not appear, and other particulars as set forth in the Rules of the Supreme Court.

(4) A grace period as set forth in the Rules of the Supreme Court must be set between the date of the Saiban-in, etc. Appointing Procedure and the serving of a writ of summons.

(5) Where a court considers that any reason listed in each item of paragraph (1) applies to a saiban-in candidate during the Planned Period of Duty Engagement after the summons under paragraph (1) until the day and time due to appear, the court must revoke the summons immediately.

(6) Where a court revokes the summons pursuant to the provisions of the preceding paragraph, the court must promptly notify the saiban-in candidate.

(Additional Summoning of Saiban-in Candidates)

Article 28 (1) A court may, when it finds it necessary to appoint the necessary number of saiban-in and alternate saiban-in in the Saiban-in, etc. Appointing Procedure, summon the necessary additional number of saiban-in candidates.

(2) The provisions of Article 26, paragraphs (3) and (4) and of the proviso of paragraph (1) of the preceding Article and of paragraphs (2) to (6) apply mutatis mutandis to the case of the preceding paragraph. In this case, the term "the number of saiban-in candidates to be summoned pursuant to the provisions of the preceding paragraph" is deemed to be replaced with "the number found necessary by the court".

(Obligation of Appearance, Travel Expenses of Saiban-in Candidates)

Article 29 (1) The saiban-in candidates who are summoned must appear on the date of the Saiban-in, etc. Appointing Procedure.

(2) Travel expenses, daily allowances and accommodation charges are, in accordance with the provisions of the Rules of the Supreme Court, paid to the saiban-in candidates who comply with the summons of a court and appear on the date of the Saiban-in, etc. Appointing Procedure.

(3) District Courts must, in accordance with the provisions of the Rules of the Supreme Court, delete the saiban-in candidates who comply with the summons of the court and appear on the date of the Saiban-in, etc. Appointing Procedure from the list of saiban-in candidates; provided, however, that the foregoing provisions do not apply to the saiban-in candidates for whom a ruling of non-appointment has been rendered pursuant to the provisions of Article 34, paragraph (7).

(Questionnaires)

Article 30 (1) Prior to the Saiban-in, etc. Appointing Procedure, a court may use a questionnaire to ask necessary questions to determine whether the saiban-in candidates who have been selected pursuant to the provisions of Article 26, paragraph (3) (including cases where applied mutatis mutandis pursuant to Article 28, paragraph (2)) fall under the persons set forth in Article 13, whether they are not disqualified to be a saiban-in pursuant to the provisions of Article 14, whether they do not fall under the persons listed in each item of Article 15, paragraph (1) or paragraph (2) or each item of Article 17 and whether they fall under the persons listed in each item of Article 16 during the Planned Period of Duty Engagement, and whether there is a chance they may make an unjust judicial decision.

(2) Where the saiban-in candidates receive the questionnaire prior to the date of the Saiban-in, etc. Appointing Procedure, the candidates must return or bring said questionnaire in accordance with the designation of the court.

(3) The saiban-in candidates must not give false indications in the questionnaire.

(4) Beyond the provisions of the preceding three paragraphs and in paragraph (2) of the following Article, items to be indicated in the questionnaire and other particulars necessary for the questionnaire are provided for in the Rules of the Supreme Court.

(Disclosure of Information on Saiban-in Candidates)

Article 31 (1) The presiding judge (when a ruling set forth in Article 2, paragraph (3) is rendered, a judge; hereinafter the same applies in this section excluding Article 39) must send a list, in which the names of the saiban-in candidates who have been summoned are indicated, to the public prosecutor

and the defense counsel no later than two days prior to the date of the Saiban-in, etc. Appointing Procedure.

(2) On the date of and prior to the Saiban-in, etc. Appointing Procedure, the presiding judge must have the copies of the questionnaire submitted by the saiban-in candidates inspected by the public prosecutor and the defense counsel.

(Attending Parties for Saiban-in Appointing Procedures)

Article 32 (1) The Saiban-in, etc. Appointing Procedure is to be conducted in the assembled presence of judges, court clerks, public prosecutors and defense counsel.

(2) A court may, when it finds it necessary, have the accused attend the Saiban-in, etc. Appointing Procedure.

(Method of Saiban-in Appointing Procedure)

Article 33 (1) The Saiban-in, etc. Appointing Procedure is not open to the public.

(2) A presiding judge directs the Saiban-in, etc. Appointing Procedure.

(3) The Saiban-in, etc. Appointing Procedure must be conducted so that a request for a ruling of non-appointment pursuant to the provisions of paragraph (4) of the following Article and Article 36, paragraph (1) will not be made in the presence of the saiban-in candidates, and otherwise by giving consideration to the feelings of the saiban-in candidates.

(4) A court may set another date to continue the Saiban-in, etc. Appointing Procedure. In this case, where saiban-in candidates who have appeared on the date of the Saiban-in, etc. Appointing Procedure are notified of such date, such notification has the same effect as the service of the writ of summons.

(Questions to Saiban-in Candidates)

Article 34 (1) In the Saiban-in, etc. Appointing Procedure, the presiding judge may ask necessary questions to determine whether the saiban-in candidates fall under the persons set forth in Article 13 during the Planned Period of Duty Engagement, whether they are disqualified to be a saiban-in pursuant to the provisions of Article 14, whether they do not fall under the persons listed in each item of Article 15, paragraph (1) or paragraph (2), or each item of Article 17, whether or not, when a motion for refusal for being appointed as a saiban-in is filed pursuant to the provisions of Article 16, they do not fall under the persons listed in each item of Article 16, and whether there is a chance they may make an unjust judicial decision.

(2) Associate judges, the public prosecutor, the accused or their defense counsel may request the presiding judge to ask questions, which they consider necessary to determine particulars under the preceding paragraph, to the

saiban-in candidates. In this case, the presiding judge is to, upon finding it appropriate, ask questions pertaining to said request to the saiban-in candidates.

(3) The saiban-in candidates must neither refuse to answer questions without justifiable reasons nor give false statements under the preceding two paragraphs.

(4) When a court determines that the saiban-in candidates, during the Planned Period of Duty Engagement, do not fall under the persons set forth in Article 13, that they are disqualified to be a saiban-in pursuant to the provisions of Article 14 or that they fall under the persons listed in each item of Article 15, paragraph (1) or paragraph (2), or each item of Article 17, the court must render a ruling of non-appointment for the saiban-in candidates as requested by the public prosecutor, the accused or their defense counsel or ex officio. The same applies when the court determines that there is a chance that the saiban-in candidates may make an unjust judicial decision.

(5) When, in case of the second sentence of the preceding paragraph, the defense counsel makes a request under the preceding paragraph, the defense counsel may not make a request that is contrary to the intent clearly indicated by the accused.

(6) A ruling to dismiss the request under paragraph (4) must state the grounds for such dismissal.

(7) When a court determines, with respect to a saiban-in candidate who has filed a motion for refusal for being appointed as a saiban-in pursuant to the provisions of Article 16, that such candidate falls under the persons listed in each item of said Article during the Planned Period of Duty Engagement, the court must render a ruling of non-appointment of the saiban-in candidate.

(Filing of an Objection)

Article 35 (1) An objection may be filed against the ruling that dismisses the request under paragraph (4) of the preceding paragraph with a District Court where the Subject Case is pending.

(2) A filing of the objection under the preceding paragraph must be made by submitting a written application to the original court or orally making clear the purpose and grounds for the filing during the Saiban-in, etc. Appointing Procedure before a ruling that appoints the saiban-in candidate as a saiban-in or alternate saiban-in is rendered pursuant to the provisions of Article 37, paragraph (1) or (2).

(3) A District Court with which the objection under paragraph (1) has been filed must render a ruling by a panel.

(4) The provisions of the Code of Criminal Procedure concerning immediate appeal apply mutatis mutandis to the filing of an objection under paragraph (1).

In this case, the term "three days after the day of receipt" under Article 423, paragraph (2) of the Act is deemed to be replaced with "twenty-four hours after the time of receipt or oral filing".

(Request for Non-appointment without Stating Grounds)

Article 36 (1) The public prosecutor and the accused may respectively request a ruling of non-appointment for up to four saiban-in candidates (when a ruling under Article 2, paragraph (3) is rendered, three) without stating the grounds for doing so (hereinafter referred to as the "Request for Non-appointment without Stating Grounds").

(2) Notwithstanding the provisions of the preceding paragraph, when alternate saiban-in are arranged, the number of persons for whom the public prosecutor and the accused may make the Request for Non-appointment without Stating Grounds is, respectively, the number obtained by adding one when the number of alternate saiban-in to be appointed is one or two, by adding two when the number of alternate saiban-in is three or four, or by adding three when the number of alternate saiban-in is five or six, to the number of persons set forth in said paragraph.

(3) Where the Request for Non-appointment without Stating Grounds is made, a court renders a ruling of non-appointment for the saiban-in candidates pertaining to the Request for Non-appointment without Stating Grounds.

(4) The provisions of Article 21, paragraph (2) of the Code of Criminal Procedure apply mutatis mutandis to a Request for Non-appointment without Stating Grounds.

(Ruling of Appointment)

Article 37 (1) In accordance with the procedures, including drawing lots or other such methods as provided for in the Rules of the Supreme Court which are not contrived, courts must render a ruling to appoint saiban-in the number of which is set forth in Article 2, paragraph (2) (when the number of saiban-in candidates does not satisfy the number required, such number of saiban-in candidates) from among the saiban-in candidates who appeared on the date of the saiban-in, etc. Appointing Procedure and for whom a ruling of non-appointment has not been rendered.

(2) When alternate saiban-in are to be arranged, courts must, after rendering a ruling to appoint saiban-in pursuant to the provisions of the preceding paragraph, render a ruling to appoint alternate saiban-in the number of which has been decided pursuant to the provisions of Article 26, paragraph (1) (when the number of saiban-in candidates does not satisfy the number required, such number) from among remaining saiban-in candidates for whom a ruling of non-appointment has not been rendered by specifying the order of appointment to

be appointed as saiban-in.
(3) Courts are to render a ruling of non-appointment for the saiban-in candidates, other than those having been appointed as saiban-in or alternate saiban-in pursuant to the provisions of the preceding two paragraphs, for whom a ruling of non-appointment has not been rendered.

(Measures in Cases of an Insufficient Number of Saiban-in)
Article 38 (1) When the number of saiban-in who have been appointed pursuant to the provisions of paragraph (1) of the preceding Article does not satisfy the number of saiban-in required to be appointed, a court must appoint saiban-in to satisfy such insufficiency. In this case, the court may also appoint alternate saiban-in the number of which the court finds necessary.
(2) The provisions of Article 26 (excluding paragraph (1)) to the preceding Article apply mutatis mutandis to the appointment of saiban-in and alternate saiban-in pursuant to the provisions of the preceding paragraph. In this case, the term "four saiban-in candidates (when a ruling under Article 2, paragraph (3) is rendered, three)" in Article 36, paragraph (1) is deemed to be replaced with "one person when the number of saiban-in to be appointed is one or two, two persons when the number of saiban-in to be appointed is three or four, and three persons when the number of prospective saiban-in is five or six", and the term "saiban-in the number of which is set forth in Article 2, paragraph (2)" in paragraph (1) of the preceding Article with "saiban-in to be appointed".

(Oaths)
Article 39 (1) The presiding judge is to explain to the saiban-in and alternate saiban-in the authority and obligation of saiban-in and alternate saiban-in, and other necessary particulars in accordance with the provisions of the Rules of the Supreme Court.
(2) Saiban-in and alternate saiban-in must swear an oath that they will carry out their duties in compliance with the laws and regulations, impartially and in good faith in accordance with the provisions of the Rules of the Supreme Court.

(Delegation to Rules of the Supreme Court)
Article 40 Beyond the provisions of Article 32 to the preceding Article, necessary particulars relating to the Saiban-in, etc. Appointing Procedure are provided for in the Rules of the Supreme Court.

Section 3 Dismissals

(Dismissal of Saiban-in by Request)
Article 41 (1) The public prosecutor, the accused or their defense counsel may

request a court to dismiss saiban-in or alternate saiban-in on the grounds that any one of the following items is applicable; provided, however, that a request made on the grounds that item (vii) is applicable is limited to those on the basis of grounds that become known or occur in relation to said saiban-in or alternate saiban-in after a ruling of their appointment is rendered:

(i) a saiban-in or alternate saiban-in fails to swear an oath under Article 39, paragraph (2);

(ii) a saiban-in violates the obligation of appearance set forth in Article 52 or Article 63, paragraph (1) or of attending the deliberations set forth in Article 66, paragraph (2) and it is not suitable for said saiban-in to continue carrying out their duties;

(iii) an alternate saiban-in violates the obligation to appear set forth in Article 52 and it is not suitable for said alternate saiban-in to continue carrying out their duties;

(iv) a saiban-in violates the obligation set forth in Article 9, Article 66, paragraph (4) or Article 70, paragraph (1) or the obligation of stating opinions set forth in Article 66, paragraph (2) and it is not suitable for said saiban-in to continue carrying out their duties;

(v) an alternate saiban-in violates the obligation set forth in Article 9 as applied mutatis mutandis pursuant to Article 10, paragraph (4) or the obligation set forth in Article 70, paragraph (1) and it is not suitable for said alternate saiban-in to continue carrying out their duties;

(vi) a saiban-in or alternate saiban-in does not fall under the person set forth in Article 13 (including cases where applied mutatis mutandis pursuant to Article 19), or is disqualified to be a saiban-in or alternate saiban-in pursuant to the provisions of Article 14 (including cases where applied mutatis mutandis pursuant to Article 19) or in the case of falling under the person listed in each item of Article 15, paragraph (1) or paragraph (2) or each item of Article 17 (including cases where these provisions apply mutatis mutandis pursuant to Article 19);

(vii) there is a chance that a saiban-in or alternate saiban-in may make an unjust judicial decision;

(viii) it has become apparent that, when a saiban-in or alternate saiban-in has been a saiban-in candidate, the saiban-in or alternate saiban-in has given false indications in the questionnaire, or has refused to answer questions without justifiable grounds or has given false statements during the Saiban-in, etc. Appointing Procedure and it is not suitable for them to continue carrying out their duties;

(ix) in a trial court, the saiban-in or alternate saiban-in obstruct the trial proceedings by failing to comply with particulars ordered by the presiding judge or by using offensive language or other inappropriate behavior.

(2) When a court receives a request under the preceding paragraph, the court must, according to the category of cases listed in each of the following items, render a ruling as set forth in the items and must, in other cases, transfer the case pertaining to the request to a District Court to which the Member Judges belong:
(i) when the request is obviously groundless, or the request is made in violation of the provisions of the proviso of the preceding paragraph: a ruling to dismiss the request;
(ii) when it is found that the request falls under items (i) to (iii), item (vi) or (ix) of the preceding paragraph: a ruling to dismiss the saiban-in or alternate saiban-in.
(3) A District Court that receives the transfer of case pursuant to the provisions of the preceding paragraph, when it finds that any of each item under paragraph (1) is applicable, renders a ruling to dismiss the saiban-in or alternate saiban-in.
(4) The ruling by the District Court under the preceding paragraph on the request under paragraph (1) must be rendered by a panel; provided, however, that the Member Judges of the court that receives the request under paragraph (1) may not participate in the ruling.
(5) Where a court intends to render a ruling on the request under paragraph (1), the court must hear the opinion of the public prosecutor and the accused or their defense counsel in advance in accordance with the provisions of the Rules of the Supreme Court.
(6) Where a court intends to render a ruling to dismiss the saiban-in or alternate saiban-in pursuant to the provisions of paragraph (2), item (ii) or paragraph (3), the court must provide the saiban-in or alternate saiban-in with the opportunity to state their opinion; provided, however, that the foregoing provisions do not apply when the court renders a ruling of dismissal on the grounds that it falls under items (i) to (iii) or item (ix) of the preceding paragraph.
(7) A ruling to dismiss the request under paragraph (1) must state the grounds for such dismissal.

(Filing of an Objection)
Article 42 (1) An objection may be filed against a ruling that dismisses the request under paragraph (1) of the preceding Article with the District Court, to which the judges who have participated in the ruling belong.
(2) The District Court with which an objection under the preceding paragraph has been filed must render a ruling by a panel; provided, however, that the Member Judges of the court with which the objection under paragraph (1) of the preceding Article has been filed may not participate in the ruling, even

though they have not participated in the ruling to which the objection has been filed.

(3) The provisions of the Code of Criminal Procedure concerning an immediate appeal apply mutatis mutandis to the filing of an objection under paragraph (1). In this case, the term "three days" under Articles 422 and 423, paragraph (2) is deemed to be replaced with "one day".

(Dismissal of Saiban-in Ex Officio)

Article 43 (1) A court may, when it finds that Article 41, paragraph (1), item (i) to (iii), (vi) or (ix) is applicable, render a ruling to dismiss the saiban-in or alternate saiban-in ex officio.

(2) Where a court considers that there exist reasonable grounds to suspect that Article 41, paragraph (1), item (iv), (v), (vii) or (viii) is applicable, the presiding judge is to notify the District Court, to which it belongs of such circumstances, stating said grounds.

(3) A District Court that has received the notification pursuant to the provisions of the preceding paragraph, where it finds that Article 41, paragraph (1), item (iv), (v), (vii) or (viii) is applicable, renders a ruling to dismiss the saiban-in or alternate saiban-in.

(4) The ruling under the preceding paragraph must be rendered by a panel; provided, however, that the Member Judges of the court under paragraph (2) may not participate in the ruling.

(5) The provisions of Article 41, paragraphs (5) and (6) apply mutatis mutandis to the ruling pursuant to the provisions of paragraphs (1) and (3).

(Dismissal by Saiban-in Petition)

Article 44 (1) A saiban-in or alternate saiban-in may file a petition for resignation with a court on the grounds that it is difficult to carry out the duties of saiban-in or alternate saiban-in due to the grounds set forth in Article 16, item (viii) which have occurred after the ruling of its appointment has been rendered.

(2) When a court receives a petition under the preceding paragraph and finds that the petition has grounds for it, the court must render a ruling to dismiss the saiban-in or alternate saiban-in.

(Dismissal of Alternate Saiban-in)

Article 45 When a court finds that it is no longer necessary for alternate saiban-in to continue carrying out their duties, the court may render a ruling to dismiss said alternate saiban-in.

(Additional Appointment of Saiban-in)

Article 46 (1) When the number of saiban-in constituting the panel under Article 2, paragraph (1) becomes insufficient and a court has alternate saiban-in, the court is to render a ruling to appoint alternate saiban-in as saiban-in according to the order determined in the ruling to appoint said alternate saiban-in.
(2) Where no alternate saiban-in to be appointed as saiban-in in the case of the preceding paragraph exist, a court must appoint saiban-in to supplement this insufficiency. In this case, the provisions of Article 38 apply mutatis mutandis.

(Additional Appointment of Alternate Saiban-in)
Article 47 (1) Where a court finds it necessary to newly place or add alternate saiban-in, the court may appoint the number of alternate saiban-in which it finds sufficient.
(2) The provisions of Article 26 (excluding paragraph (1)) to Article 35, Article 36 (excluding paragraph (2))and Article 37, paragraphs (2) and (3) concerning the appointment of saiban-in apply mutatis mutandis to the appointment of alternate saiban-in pursuant to the provisions of the preceding paragraph. In this case, the term "four saiban-in candidates (when a ruling under Article 2, paragraph (3) is rendered, three)" in Article 36, paragraph (1) is deemed to be replaced with "one person when the number of alternate saiban-in to be arranged is one or two, two persons when the number of alternate saiban-in to be arranged is three or four, and three persons when the number of alternate to be arranged saiban-in is five or six".

(Termination of Saiban-in Duties)
Article 48 Saiban-in and alternate saiban-in duties terminate when either of the following becomes applicable:
(i) when notification of a final judgment is given;
(ii) when all the cases handled by the panel under Article 2, paragraph (1) come to be handled by one judge or a panel of judges by a ruling under Article 3, paragraph (1) or the proviso of Article 5.

Chapter III Court Proceedings with the Participation of Saiban-in

Section 1 Trial Preparation and Trial Procedures

(Pretrial Conference Procedure)
Article 49 Courts must make the Subject Cases subject to pretrial conference procedure prior to the first trial date.

(Expert Examination Prior to First Trial Date)
Article 50 (1) Where, in cases that a court decides to seek an expert examination for a case to be handled by the panel under Article 2, paragraph (1) in pretrial

conference procedure, the court finds that a substantial amount of time will be required until the conclusion of the expert examination is reported, the court may render a ruling to conduct a process of expert examination (excluding a report of the process and conclusion of the expert examination) in pretrial conference procedure as requested by the public prosecutor, the accused or their defense counsel or ex officio (hereinafter referred to as the "Ruling to Conduct Expert Examination" in this Article).

(2) In order that a court renders a Ruling to Conduct Expert Examination or a ruling to dismiss the request under the preceding paragraph, the court must hear the opinion of the public prosecutor and the accused or their defense counsel in advance in accordance with the Rules of the Supreme Court.

(3) Where a Ruling to Conduct Expert Examination is rendered, the court may conduct the procedure other than the report of the process and conclusion of the expert examination in the pretrial conference procedure.

(Consideration of the Burden on Saiban-in)

Article 51 Judges, public prosecutors and defense counsels must endeavor to make proceedings prompt and comprehensible so that saiban-in may carry out their duties fully while avoiding imposing excessive burden on said saiban-in.

(Obligation of Appearance)

Article 52 Saiban-in and alternate saiban-in must appear in person on the trial date on which proceedings are held to make a Decision with Participation of Saiban-in, and on the day and time and at the place of questioning of witnesses and other persons and inspection conducted by a court in trial preparation.

(Notification of Trial Date)

Article 53 Saiban-in and alternate saiban-in must be notified in advance of trial date, and the day and time and the place of questioning of witnesses and other persons and inspection conducted by a court in trial preparation, that the saiban-in and alternate saiban-in are required to appear in person pursuant to the provisions of the preceding Article.

(Requirements for the Opening of Trials)

Article 54 (1) On the trial date on which proceedings are held to make a Decision with Participation of the Saiban-in, the trial court is opened with the assembled presence of judges, saiban-in, a court clerk and the presence of a public prosecutor.

(2) Except for the case under the preceding paragraph, the trial court is opened with the assembled presence of judges, a court clerk and a public prosecutor.

(Obligations at Opening Statements)

Article 55 When a public prosecutor intends to clarify facts to be proven with evidence pursuant to the provisions of Article 296 of the Code of Criminal Procedure, the public prosecutor must clearly indicate the relationship with evidence, based on the results of the arrangement of issues and evidence in the pretrial conference procedure. The same applies when the accused or their defense counsel intends to clarify facts to be proven with evidence pursuant to the provisions of Article 316-30 of the Code.

(Questioning of Witnesses)

Article 56 Where a court questions witnesses and other persons, saiban-in may, by notifying the presiding judge, question them on particulars necessary for reaching a Decision with Participation of Saiban-in.

(Questioning of Witnesses outside Court)

Article 57 (1) When a court intends, if witnesses and other persons are to be questioned outside the court on particulars necessary for reaching a Decision with Participation of Saiban-in, to have the Member Judges perform such questioning, the saiban-in and alternate saiban-in may attend the questioning. The saiban-in who attends the questioning may, through notifying the Member Judges, question witnesses and other persons.

(2) When a court intends, if inspection is to be held outside the court on particulars necessary for reaching a Decision with Participation of Saiban-in, to have the Member Judges perform such inspection, the first sentence of the preceding paragraph applies.

(Questions to Victims)

Article 58 Where a victim, etc. (which means a victim, or if the victim has died or suffers from a serious mental or physical disorder, their spouse, lineal relatives or siblings) or the statutory agent of the victim have stated their opinion pursuant to the provisions of Article 292-2, paragraph (1) of the Code of Criminal Procedure, the saiban-in may ask questions to these persons to clarify their purport after their statement.

(Questions to the Accused)

Article 59 Where the accused makes a statement voluntarily pursuant to the provisions of Article 311 of the Code of Criminal Procedure, the saiban-in may, through notifying the presiding judge, ask the accused at any time to make a statement on particulars necessary for a reaching a Decision with Participation of the Saiban-in.

(Attendance of Saiban-in at Proceedings)

Article 60 A court may also permit saiban-in and alternate saiban-in to attend proceedings other than proceedings to make a Decision with Participation of the Saiban-in.

(Renewal of Trial Procedures)

Article 61 (1) Where a new saiban-in is added to the panel under Article 2, paragraph (1) after the commencement of trial procedures, the court must renew the trial procedures.

(2) Courts must make procedures for renewal under the preceding paragraph such that the issues and evidence examined are comprehensible, and to make such procedures not excessively burdensome, for the newly-added saiban-in.

(Principle of Free Determination)

Article 62 The probative value of evidence for reaching Decisions with the Participation of Saiban-in is subject to free determination of the respective judges and saiban-in.

(Pronouncement of Judgment)

Article 63 (1) When a court pronounces a judgment to render punishment pursuant to the provisions of Article 333 of the Code of Criminal Procedure, a judgment for exculpation of a person pursuant to the provisions of Article 334 of the Code, a judgment of acquittal pursuant to the provisions of Article 336 of the Code and a ruling for transfer to a family court pursuant to the provisions of Article 55 of the Juvenile Act, the saiban-in must appear on the trial date; provided, however, that the nonappearance of saiban-in does not prevent the pronouncement of the judgment or ruling from being rendered.

(2) In the case set forth in the preceding paragraph, a court must notify the saiban-in of the trial date in advance.

Section 2 Special Provisions for the Application of the Code of Criminal Procedure

(Special Provisions for Application of the Code of Criminal Procedure)

Article 64 (1) With respect to the application of the provisions of the Code of Criminal Procedure when cases are handled by the panel under Article 2, paragraph (1), the terms listed in the middle column of provisions of the Code listed in the left-hand column of the following table are respectively replaced with the terms listed in the right-hand column of the table.

Article 43, paragraph (4), Article 69, Article 76, paragraph (2), Article 85, Article 108, paragraph (3), Article 125, paragraph (1), Article 163, paragraph (1), Article 169, Article 278-2, paragraph (2), Article 297, paragraph (2), Article 316-11	the member of a panel	the judge being a member of a panel
Article 81	reasonable grounds to suspect that the accused under detention may flee, or conceal or destroy evidence	reasonable grounds to suspect that the accused under detention may flee, or conceal or destroy evidence, or that the accused may contact saiban-in, alternate saiban-in or prospective saiban-in by interview, sending of documents or any other means
Article 89, item (v)	reasonable grounds to suspect that the accused may harm the body or property of a victim or any other person who is deemed to have essential knowledge for the trial of the case or the relatives of such persons or threaten them	reasonable grounds to suspect that the accused may harm or the body or property of a victim or any other person who is deemed to have essential knowledge for the trial of the case or the relatives of such persons or threaten them, or that the accused contact saiban-in, alternate saiban-in or prospective saiban-in by interview, sending of documents or any other means

Article 96, paragraph (1), item (iv)	the accused has harmed or tried to harm the body or property of a victim or any other person who is deemed to have essential knowledge for the trial of the case or the relatives of such persons or has threatened them	the accused has harmed or tried to harm the body or property of a victim or any other person who is deemed to have essential knowledge for the trial of the case or the relatives of such persons or has threatened them, or the accused has contacted the saiban-in, alternate saiban-in or prospective saiban-in by interview, sending of documents or any other means
Article 157-2, Article 157-4, paragraph (1), Article 316-39, paragraphs (1) to (3), Article 435, item (vii), proviso	the judge	the judge, the saiban-in
Article 256, paragraph (6)	the judge	the judge or the saiban-in
Article 304, paragraph (1)	the presiding judge or associate judges	the presiding judge, associate judges or saiban-in
Article 316-15, paragraph (1), item (ii)	the court or the judge	the court, the judge, or the judge and the saiban-in
Article 321, paragraph (2)	the court or the judge	the court, the judge or, the judge and the saiban-in

Article 377, item (i)	The court that rendered a judgment was not constituted in accordance with law;	The court that rendered a judgment was not constituted in accordance with law; provided, however, that the foregoing provisions do not apply when the illegality exists pertaining only to the constitution of saiban-in and no Decision with Participation of Saiban as provided for in Article 6, paragraph (1) of the Act on Criminal Trials with the Participation of Saiban-in (Act No. 63 of 2004) is included in the judgment, or the illegality arises from the fact that the saiban-in falls under each item of Article 15, paragraph (1) or paragraph (2) of the Act.
Article 435, item (vii), main text	the judge who participated in the original judgment	the judge or the saiban-in who participated in the original judgment

(2) Where cases are handled by the panel under Article 2, paragraph (1), with respect to the application of the provisions of Article 22, paragraph (4) of the Act on Punishment of Organized Crimes and Control of Crime Proceeds (Act No. 136 of 1999), the term "a member of the panel" in said paragraph is deemed to be replaced with "the judge being a member of the panel".

(Questioning of Persons Related to Cases and the Recording of Statements on Media)

Article 65 (1) Where a court finds it necessary to ensure the appropriate performance by saiban-in of their duties in proceedings or deliberations, the court may, after hearing the opinion of the public prosecutor and the accused or their defense counsel, record questioning by the judge, the saiban-in or persons related to the case, statements of witnesses, expert witnesses, interpreters or translators, statement of opinion pursuant to the provisions of Article 292-2, paragraph (1) of the Code of Criminal Procedure, acts by the judge, the saiban-in or persons related to the case to ask for statements of the

accused, the statements of the accused and these circumstances at the proceedings of Subject Cases (including cases that have been made pursuant to the provisions of the main text of Article 5 to be handled by the panel under Article 2, paragraph (1)) and cases pertaining to the ruling under Article 4, paragraph (1) (hereinafter referred to as "Questioning and Statements, etc. by Persons Related to the Case") on media (which is able to record images and sound simultaneously; the same applies hereinafter); provided, however, that the foregoing provisions do not apply when recording on media is found to be inappropriate by taking the content of the case, status of proceedings, psychological burden imposed on persons making statements and other circumstances into consideration.

(2) The recording of Questioning and Statements, etc. by Persons Related to the Case pursuant to the provisions of the preceding paragraph may not be made, when witnesses are questioned with the measures prescribed in Article 157-4, paragraph (1) of the Code of Criminal Procedure, without consent from the witnesses.

(3) In the case of the preceding paragraph, the media which has been used to record Questioning and Statements, etc. by Persons Related to the Case is to be attached to the case records as a part of the trial records; provided, however, that the foregoing provisions do not apply when it is clearly found that the witness will not be requested to testify again in subsequent criminal procedures on the same facts.

(4) The provisions of Article 40, paragraph (2), Article 180, paragraph (2) and Article 270, paragraph (2) of the Code of Criminal Procedure apply mutatis mutandis to copying of the media attached to case records as a part of the trial records pursuant to the provisions of the preceding paragraph, and the provisions of Article 305, paragraphs (4) and (5) of the Code apply mutatis mutandis to the examination of written statements of which the media has been made a part of, respectively.

Chapter IV Deliberations

(Deliberations)

Article 66 (1) Deliberations for a Decision with Participation of Saiban-in at the panel under Article 2, paragraph (1) are conducted by Member Judges and saiban-in.

(2) Saiban-in must attend and state their opinion at the deliberations under the preceding paragraph.

(3) Where the presiding judge finds it necessary, the presiding judge must present to the saiban-in, in the deliberations under paragraph (1), decisions pertaining to the interpretation of laws and regulations and to court

proceedings on the basis of consultation of the Member Judges.
(4) Where the decision under the preceding paragraph is presented, the saiban-in must carry out their duties in accordance with said decision.
(5) At the deliberations under paragraph (1), the presiding judge must give consideration to ensure that the saiban-in are capable of executing their duties fully by considerately explaining necessary laws and regulations to the saiban-in by organizing the deliberations comprehensibly for the saiban-in, by arranging sufficient opportunities for the saiban-in to speak, and by other means.

(Verdicts)
Article 67 (1) The Decision with Participation of Saiban-in at the deliberations under paragraph (1) of the preceding Article is made by the majority of opinions of the number of persons constituting the panel including the opinions of both the Member Judges and the saiban-in notwithstanding the provisions of Article 77 of the Court Act.
(2) When opinions are split on sentencing and no sentence obtains the majority of opinions from among persons constituting the panel, including the opinions of both the Member Judges and the saiban-in respectively, the decision of the panel is made as the sentence which is most favorable for the accused, with this number being obtained by adding the number of opinions which are most unfavorable for the accused to the number of opinions which are favorable for the accused opinions one by one reaching the majority of opinions from among persons constituting the panel, including the opinions of both the Member Judges and the saiban-in respectively.

(Deliberations by Member Judges)
Article 68 (1) Deliberations for a decision to be made by a panel of the Member Judges are conducted only by Member Judges.
(2) Deliberations under the preceding paragraph are subject to the provisions of Article 75, paragraph (1) and the first sentence of paragraph (2), Article 76 and Article 77 of the Court Act.
(3) Member Judges may, through consultation, permit saiban-in to observe the deliberations under paragraph (1) and hear their opinion on the decisions listed in each item of Article 6, paragraph (2).

(Observation by Alternate Saiban-in)
Article 69 (1) Alternate saiban-in may observe the deliberations conducted by Member Judges and saiban-in, and the deliberations conducted only by Member Judges that saiban-in are permitted to observe.
(2) The Member Judges may, through consultation, hear the opinions of alternate

saiban-in.

(Confidential Information in Deliberations)

Article 70 (1) The process of deliberations conducted by Member Judges and saiban-in and deliberations conducted only by Member Judges that saiban-in are permitted to observe, and the opinions of respective judges and saiban-in and the number of said opinions (hereinafter referred to as the "Confidential Information in Deliberations") must not be divulged.

(2) Except for the case of the preceding paragraph, deliberations conducted only by Member Judges are subject to the provisions of the second sentence of Article 75, paragraph (2) of the Court Act.

Chapter V Special Provisions for Proceedings and Judicial Decisions for Which a Ruling of Divisional Proceedings Is Rendered

Section 1 Special Provisions for Proceedings and Judicial Decisions

Subsection 1 Rulings of Divisional Proceedings

(Rulings of Divisional Proceedings)

Article 71 (1) Where a court finds it particularly necessary, in cases that a court has consolidated proceedings for more than one Subject Cases for which the accused is the same or proceedings for cases pertaining to the ruling under Article 4, paragraph (1) and for the Subject Case, by taking into consideration the period the trial proceedings are expected to require and other circumstances relating to the burden of the saiban-in as a result of trying consolidated cases (hereinafter referred to as "Consolidated Cases") together, in order to ensure the smooth appointment of or execution of the duties by saiban-in, the court may, at the request of the public prosecutor, the accused or their defense counsel or ex officio, render a ruling that divides a part of the Consolidated Cases into one or more cases under public prosecution and that tries the divided one or more cases under public prosecution in sequence (hereinafter referred to as a "Ruling of Divisional Proceedings"); provided, however, that the foregoing provisions do not apply where proof of offenses could be interfered with, where the defense of the accused could be harmed, or where it is otherwise found to be inappropriate.

(2) In order that a court renders a Ruling of Divisional Proceedings or a ruling that dismisses the request of the preceding paragraph, the court must hear the opinion of the public prosecutor and the accused or their defense counsel in advance as provided for in the Rules of the Supreme Court.

(3) An immediate appeal may be filed against a Ruling of Divisional Proceedings or a ruling that dismisses the request of paragraph (1).

(Revocation and Change of Rulings of Divisional Proceedings)

Article 72 (1) Where a court finds it not suitable, by taking into consideration the assertion of the accused, status of proceedings and other circumstances, to try divisional cases (meaning one or more cases under public prosecution which are made by a Ruling of Divisional Proceedings to be tried divisionally; the same applies hereinafter) individually, the court may, at the request of the public prosecutor, the accused or their defense counsel or ex officio, render a ruling to revoke the Ruling of Divisional Proceedings; provided, however, that the foregoing provisions do not apply after a partial judgment is rendered for the divisional cases.

(2) Where a court finds it suitable, by taking into consideration the assertion of the accused, status of proceedings and other circumstances, the court may, at the request of the public prosecutor, the accused or their defense counsel or ex officio, render a ruling to change a Ruling of Divisional Proceedings. In this case, the provisions of the proviso under paragraph (1) of the preceding Article apply mutatis mutandis.

(3) In order that a court renders a ruling under the preceding two paragraphs or a ruling to dismiss the request under these paragraphs, the court must hear the opinion of the public prosecutor and the accused or their defense counsel in advance as provided for in the Rules of the Supreme Court.

(4) The provisions of paragraph (3) of the preceding Article apply mutatis mutandis to the ruling set forth in the preceding paragraph.

(Ruling on the Order of Proceedings)

Article 73 (1) Where more than one divisional cases are pending, the court must determine the order to try the divisional cases by a ruling.

(2) Where a court finds it suitable, by taking into consideration the assertion of the accused, status of proceedings or other circumstances, the court may change the ruling under the preceding paragraph by a ruling.

(3) In order for a court to render a ruling under the preceding two paragraphs, the court must hear the opinion of the public prosecutor and the accused or their defense counsel in advance as provided for in the Rules of the Supreme Court.

(Proceedings and Judicial Decisions of Divisional Cases by Panels Constituted Only by Member Judges)

Article 74 When none of the cases under public prosecution included in divisional cases do not fall under the Subject Cases, or said cases are no longer Subject Cases because the applicable penal statute has been revoked or altered pursuant to the provisions of Article 312 of the Code of Criminal Procedure, a court may render a ruling that the proceedings and judicial decisions for the

divisional cases are tried by a panel constituting only of Member Judges.

(Rulings in Pretrial Conference Procedure)

Article 75 A Ruling of Divisional Proceedings and rulings under Article 72, paragraphs (1) and (2), Article 73, paragraphs (1) and (2) and the preceding Article may be rendered in the pretrial conference procedure and the inter-trial conference procedure. The same applies to a ruling to dismiss the request under Article 71, paragraph (1) and Article 72, paragraphs (1) and (2).

(Rulings on Alternate Saiban-in in Cases of Rulings of Divisional Proceedings)

Article 76 Where a court renders a ruling to arrange the necessary number of alternate saiban-in or to arrange no alternate saiban-in, as set forth in Article 26, paragraph (1), in cases that the court has rendered a Ruling of Divisional Proceedings, the court must render such ruling on proceedings and judicial decisions of divisional cases (hereinafter referred to as the "Trials on Divisional Cases") and on the Trials on Consolidated Cases set forth in Article 86, paragraph (1) respectively.

Subsection 2 Trials on Divisional Cases

(Statement of Opinion by Public Prosecutors at Proceedings for Divisional Cases)

Article 77 (1) In the proceedings for divisional cases, the public prosecutor must, after the examination of evidence, state its opinion on facts and application of laws pertaining to the items listed in paragraph (2), item (i) and items (iii) to (v) of the following Article and in each item of paragraph (3).

(2) In the proceedings for divisional cases, the accused and their defense counsel may state their opinions on the divisional cases after examination of the evidence.

(3) In the proceedings for divisional cases, a court is to, if a request has been made by participating victims pertaining to the case under public prosecution included in divisional cases (meaning participating victims set forth in Article 316-33, paragraph (3) of the Code of Criminal Procedure; the same applies in Article 89, paragraph (1)) or attorney at law appointed by them to state opinions on facts or application of laws pertaining to items set forth in paragraph (1), permit persons who have made such request within the scope of the facts identified as counts on the trial date after the statement of opinion by the public prosecutor pursuant to the provisions of paragraph (1) in case that the court finds it appropriate by taking into consideration the status of proceedings, number of persons having made requests and other circumstances.

(4) The provisions of Article 316-38, paragraphs (2) to (4) of the Code of Criminal

Procedure apply mutatis mutandis to the statement of opinions pursuant to the provisions of the preceding paragraph.

(5) The provisions of Article 316-37 of the Code of Criminal Procedure apply mutatis mutandis to questions asked to the accused in order to state opinions as set forth in paragraph (3).

(Partial Judgment)

Article 78 (1) Where a case under public prosecution included in the divisional cases has been proven to be an offence, the court must pronounce conviction by a partial judgment notwithstanding the provisions of Articles 333 and 334 of the Code of Criminal Procedure.

(2) In order that a court pronounces a conviction by a partial judgment, the court must signify items listed in the following notwithstanding the provisions of Article 335, paragraph (1) of the Code of Criminal Procedure:

(i) facts constituting the offence;

(ii) list of evidence;

(iii) application of penal statute, application of Article 54, paragraph (1) of the Penal Code (Act No. 45 of 1907) and decision on such application;

(iv) decision on facts constituting grounds to preclude establishment of the offence by law;

(v) decision on facts constituting grounds of exculpating or mitigating the punishment by law.

(3) Where a court pronounces conviction in a partial judgment, the court may state items listed in the following:

(i) motive, manner, consequences of the crime and any other facts on the circumstances relating to the facts constituting the offence;

(ii) facts constituting the grounds for confiscation, collection of a sum of equivalent value and return to the victim and decision on the application of the provisions relating thereto.

(4) Where the facts set forth in paragraph (2), item (iv) or (v) are asserted in the proceedings of divisional cases, a court must state the decision on the facts in the partial judgment notwithstanding the provisions of Article 335, paragraph (2) of the Code of Criminal Procedure.

(5) The provisions of Article 63 apply mutatis mutandis to the pronouncement of the partial judgment pursuant to the provisions of paragraph (1).

Article 79 Where a court has grounds requiring it to render, with respect to a case under public prosecution included in divisional cases, a judgment of lack of jurisdiction pursuant to the provisions of Article 329 of the Code of Criminal Procedure, a judgment of acquittal pursuant to the provisions of Article 336 of the Code, a dismissal for judicial bar pursuant to the provisions of Article 337

of the Code or a dismissal of public prosecution pursuant to the provisions of Article 338 of the Code, the court must render such judgment by partial judgment.

(Filing of Appeal to the Court of Second Instance against Partial Judgment)

Article 80 No appeal to the court of second instance may be filed against a partial judgment notwithstanding the provisions of Article 372 of the Code of Criminal Procedure.

(Separation of Proceedings after Partial Judgment for Lack of Jurisdiction)

Article 81 The partial judgment under Article 79 is to, when proceedings pertaining to the case for which the partial judgment has been rendered are divided by the ruling under Article 313, paragraph (1) of the Code of Criminal Procedure, become the final judgment at the time the ruling is announced.

(Trial Record for Trials on Divisional Cases)

Article 82 (1) The trial record for the Trials on Divisional Cases must be organized promptly after each trial date or no later than the partial judgment for the divisional case is pronounced notwithstanding the provisions of Article 48, paragraph (3) of the Code of Criminal Procedure; provided, however, that with respect to the record for the trial date on which the partial judgment is pronounced and for the trial date if the period from the trial date to the day on which the partial judgment is pronounced is shorter than ten days, it would be sufficient if the record is organized within ten days after the respective trial dates.

(2) The filing of an objection pursuant to the provisions of Article 51, paragraph (1) of the Code of Criminal Procedure against the trial record under the preceding paragraph must be made, notwithstanding the provisions of paragraph (2) of said Article, at the latest, within fourteen days after the last trial date for the Trial on Divisional Case (or, in case of the trial record which is organized, pursuant to the provisions of the proviso of the preceding paragraph, after the trial date on which the partial judgment has been pronounced, within fourteen days after the day on which the organization is completed).

(Restrictions on the Withdrawal of Prosecution)

Article 83 (1) The prosecution for the case under public prosecution included in divisional cases may not be withdrawn after the partial judgment is pronounced for the divisional case notwithstanding the provisions of Article 257 of the Code of Criminal Procedure.

(2) When a Ruling of Divisional Proceedings is rendered on a case under public

prosecution for which a request for a formal trial pursuant to the provisions of Article 465, paragraph (1) of the Code of Criminal Procedure is made, the request may not be withdrawn after the partial judgment is pronounced for the divisional cases that include the case under public prosecution notwithstanding the provisions of Article 466 of the Code.

(3) When the Ruling of Divisional Proceedings under the preceding paragraph is rendered, the summary order pertaining to the request under said paragraph loses its effect, notwithstanding the provisions of Article 469 of the Code of Criminal Procedure, at the time the final judgment on the case under public prosecution is pronounced.

(Termination of the Duties of Saiban-in in Trials on Divisional Cases)

Article 84 The duties of saiban-in and alternate saiban-in who carry out duties pertaining to a Trial on Divisional Cases terminate notwithstanding the provisions of Article 48 when either of the following items becomes applicable:

(i) when the partial judgment is pronounced for the divisional case;

(ii) when the ruling to dismiss the prosecution pursuant to the provisions of Article 339, paragraph (1) of the Code of Criminal Procedure is rendered for all the cases under public prosecution that are included in the divisional case;

(iii) when the ruling under Article 74 is rendered for the divisional case.

(Renewal of Trial Procedures for Proceedings on Divisional Cases)

Article 85 Where the duties of the saiban-in who carry out duties pertaining to a Trial on Divisional Cases have terminated pursuant to the provisions of the preceding Article and new saiban-in who carry out duties pertaining to other Trial on Divisional Cases have been added to the panel under Article 2, paragraph (1), the trial procedures are not to be renewed notwithstanding the provisions of Article 61, paragraph (1).

Subsection 3 Trials on Consolidated Cases

(Trials on Consolidated Cases)

Article 86 (1) After all of the Trials on Divisional Cases are concluded, a court must conduct proceedings for cases under public prosecution other than divisional cases and proceedings for divisional cases (excluding those pertaining to items signified by the partial judgment that relates to cases under public prosecution included in said divisional case (excluding cases in which a ruling under paragraph (3) has been rendered)) and must render judicial decisions for entire consolidated cases (hereinafter referred to as the "Trials on Consolidated Cases").

(2) Where a court renders a judicial decision on entire consolidated cases pursuant to the provisions of the preceding paragraph, the court is to be subject to items signified by the partial judgment that relates to cases under public prosecution for which said partial judgment has been rendered, except for cases where a ruling under the next paragraph has been rendered.
(3) Where a court finds, through consultation of Member Judges, that grounds which are listed in each item of Article 377, each item of Article 378 or each item of Article 383 of the Code of Criminal Procedure exist in the proceedings of divisional cases or the partial judgment, the court must render a ruling as such ex officio.

(Renewal of Trial Procedures for Trials on Consolidated Cases)
Article 87 Where the duties of saiban-in who carry out duties pertaining to a Trial on Divisional Cases have terminated pursuant to the provisions of Article 84 and new saiban-in who carry out duties pertaining to a Trial on Consolidated Cases have been added to the panel under Article 2, paragraph (1), the trial procedures of said divisional cases must be renewed to the extent necessary to conduct the Trial on Consolidated Cases notwithstanding the provisions of Article 61, paragraph (1).

(Statement of Opinion under Article 292-2 of the Code of Criminal Procedure)
Article 88 The statement of opinion pursuant to the provisions of Article 292-2, paragraph (1) of the Code of Criminal Procedure for cases under public prosecution included in divisional cases or the submission of documents in which an opinion is indicated pursuant to the provisions of paragraph (7) of said Article is to be made in the proceedings of the Trials on Consolidated Cases; provided, however, that, when it is difficult to state an opinion or submit documents in the proceedings of the Trials on Consolidated Cases or it is otherwise found appropriate to state an opinion or submit documents in the proceedings of the trial on divisional cases including a case under public prosecution, a statement or submission may be made in the proceedings of said divisional case.

(Statement of Opinion by Public Prosecutor in Proceedings of Consolidated Cases)
Article 89 (1) The statement of opinion by the public prosecutor pursuant to the provisions of Article 293, paragraph (1) of the Code of Criminal Procedure, the statement of opinion by the accused and their defense counsel pursuant to the provisions of paragraph (2) of said Article and the statement of opinion by participating victims or attorneys at law appointed by them pertaining to cases under public prosecution included in divisional cases pursuant to the

provisions of Article 316-38, paragraph (1) of the Code, which are made in the proceedings for the Trials on Consolidated Cases, may not be made on items signified by the partial judgment.

(2) Where the statement of opinion set forth in the preceding paragraph overlaps with the items signified by the partial judgment, the presiding judge may limit it.

Section 2 Prospective Saiban-in

Subsection 1 Selection of Prospective Saiban-in

(Prospective Saiban-in)

Article 90 (1) Where a court finds it necessary in cases that it has rendered a Ruling of Divisional Proceedings, the court may select the necessary number of prospective saiban-in who are to be appointed as saiban-in or alternate saiban-in to carry out duties pertaining to other Trials on Divisional Cases or Trials on Consolidated Cases after the duties of saiban-in or alternate saiban-in who have carried out duties pertaining to a Trial on Divisional Cases has terminated pursuant to the provisions of Article 84 in the Saiban-in, etc. Appointing Procedure for the respective Trials on Divisional Cases or Trials on Consolidated Cases in advance. In this case, the number of prospective saiban-in is to be determined by the court.

(2) With respect to the application of the provisions of Article 26, paragraph (2), the proviso of Article 27, paragraph (1), Article 35, paragraph (2) and Article 36, paragraph (2) when the prospective saiban-in are selected pursuant to the provisions of the preceding paragraph, the term "renders the ruling under the preceding paragraph" under Article 26, paragraph (2) is deemed to be replaced with "determines to select the prospective saiban-in", the term "from the date" under the proviso of Article 27, paragraph (1) with "from the date and the day on which a ruling to appoint the prospective saiban-in as saiban-in pursuant to the provisions of Article 97, paragraph (1) is expected to be rendered", the term " appoints the saiban-in candidate as a saiban-in or alternate saiban-in is rendered pursuant to the provisions of Article 37, paragraph (1) or (2)" under Article 35, paragraph (2) with " selects as the prospective saiban-in pursuant to the provisions of Article 91, paragraph (1)", the term "alternate saiban-in are arranged" under Article 36, paragraph (2) with "the prospective saiban-in of the number exceeding the number of saiban-in are selected", the term "of alternate saiban-in to be appointed " under the paragraph with "exceeding the number of saiban-in of the number of prospective saiban-in that are to be selected" and the term "by adding two when the number of alternate saiban-in is three or four, or by adding three when the number of alternate saiban-in is five or six" with "when the number is an odd number more than three and, in

cases of subsequent even numbers, the number equal to one half of such even number".

(Selection of Prospective Saiban-in)

Article 91 (1) In accordance with the procedures, including drawing lots or other such methods as provided for in the Rules of the Supreme Court which are not contrived, a court must render a ruling to select the prospective saiban-in of the number determined by the court pursuant to the provisions of paragraph (1) of the preceding Article (when the number of saiban-in candidates does not satisfy the number determined, such determined number of saiban-in candidates) as the saiban-in (including the alternate saiban-in when the court arranges alternate saiban-in) by specifying the order to be appointed as the saiban-in from among the saiban-in candidates who have appeared on the date of the Saiban-in, etc. Appointing Procedure and for whom a ruling of non-appointment has not been rendered.

(2) A court is to render a ruling of non-appointment for saiban-in candidates, other than those having been selected as prospective saiban-in pursuant to the provisions of the preceding paragraph, for whom a ruling of non-appointment has not been rendered.

(Measures in Cases of Insufficient Numbers of Prospective Saiban-in)

Article 92 (1) Where the number of prospective saiban-in who have been selected pursuant to the provisions of paragraph (1) of the preceding Article does not satisfy the number of prospective saiban-in, a court may select the number of prospective saiban-in to accommodate this insufficiency.

(2) The provisions of Article 26 (excluding paragraph (1)) to Article 36 (excluding paragraph (2)) and of the preceding Article apply mutatis mutandis to the selection of the prospective saiban-in pursuant to the provisions of the preceding paragraph. In this case, the term "renders the ruling under the preceding paragraph" under Article 26, paragraph (2) is deemed to be replaced with "determines to select the insufficient number of prospective saiban-in", the term "from the date" under the proviso of Article 27, paragraph (1) with "from the date and the day on which a ruling to appoint the prospective saiban-in as the saiban-in pursuant to the provisions of Article 97, paragraph (1) is expected to be rendered", the term "appoints the saiban-in candidate as a saiban-in or alternate saiban-in is rendered pursuant to the provisions of Article 37, paragraph (1) or (2)" under Article 35, paragraph (2) with "selects as the prospective saiban-in pursuant to the provisions of Article 91, paragraph (1), as applied mutatis mutandis pursuant to Article 92, paragraph (2) following the deemed replacement of terms", the term "four saiban-in candidates (when a ruling under Article 2, paragraph (3) is rendered, three)"

in Article 36, paragraph (1) with "one person when the number of prospective saiban-in that are to be selected is one or two, and when the number is an odd number more than three and, in cases of a subsequent even numbers, the number equal to one half of such even number" and "determined by the court pursuant to the provisions of paragraph (1) of the preceding Article" in paragraph (1) of the preceding Article with "which is insufficient".

Subsection 2 Revocation of the Selection of Prospective Saiban-in

(Revocation of the Selection of Prospective Saiban-in by Request)

Article 93 (1) The public prosecutor, the accused or their defense counsel may request a court to revoke the selection of prospective saiban-in on the grounds that any one of the following items is applicable; provided, however, that a request made on the grounds that item (ii) is applicable is limited to those on the basis of grounds that become known or occur in relation to said prospective saiban-in after a ruling of their selection is rendered:

(i) if a prospective saiban-in does not fall under the persons set forth in Article 13, or is disqualified to be a saiban-in pursuant to the provisions of Article 14, or in the case of falling under the person listed in each item of Article 15, paragraph (1) or paragraph (2) or each item of Article 17;

(ii) if there is a chance that the prospective saiban-in may make an unjust judicial decision;

(iii) if it has become apparent, when a prospective saiban-in has been a saiban-in candidate, the prospective saiban-in has given false indications in the questionnaire, or has refused to answer questions without justifiable grounds or has given false statements during the Saiban-in, etc. Appointing Procedure and it is not suitable for the prospective saiban-in to carry out saiban-in or alternate saiban-in duties.

(2) A court that receives the request under the preceding paragraph, when it finds that any of each item under the paragraph is applicable, renders a ruling to revoke the selection of the prospective saiban-in.

(3) Where a court renders a ruling on the preceding paragraph or a ruling to dismiss the request under paragraph (1), the court must hear the opinion of the public prosecutor and the accused or their defense counsel in advance in accordance with the provisions of the Rules of the Supreme Court.

(4) Where a court intends to renders a ruling to revoke the selection of the prospective saiban-in pursuant to the provisions of paragraph (2), the court must provide the prospective saiban-in with the opportunity to state their opinion.

(5) A ruling to dismiss the request under paragraph (1) must state the grounds for such dismissal.

(Filing of an Objection)

Article 94 (1) An objection may be filed against a ruling that dismisses the request under paragraph (1) of the preceding Article with the District Court, to which the judges who have participated in the ruling belong.

(2) The District Court with which an objection under the preceding paragraph has been filed must render a ruling by a panel.

(3) The provisions of the Code of Criminal Procedure concerning an immediate appeal apply mutatis mutandis to the filing of an objection under paragraph (1).

(Revocation of the Selection of Prospective Saiban-in Ex Officio)

Article 95 (1) A court may, when it finds that each item of Article 93, paragraph (1) is applicable, renders a ruling to revoke the selection of the prospective saiban-in ex officio.

(2) The provisions of Article 93, paragraphs (3) and (4) apply mutatis mutandis to the ruling pursuant to the provisions of the preceding paragraph.

(3) Where the occurrence of any of the grounds listed in each of the following items makes it no longer necessary to appoint the prospective saiban-in as saiban-in or alternate saiban-in who carry out duties pertaining to a Trial on Divisional Cases or a Trial on Consolidated Cases relating to said selection, a court renders a ruling to revoke the selection of said prospective saiban-in ex officio:

(i) when a Ruling of Divisional Proceedings has been revoked pursuant to the provisions of Article 72, paragraph (1);

(ii) when a Ruling of Divisional Proceedings has been changed pursuant to the provisions of Article 72, paragraph (2) and the trial on all cases under public prosecution included in divisional cases is determined to be conducted as another Trial on Divisional Cases or Trial on Consolidated Cases;

(iii) when, beyond the cases listed in item (i), a ruling to dismiss the public prosecution pursuant to the provisions of Article 339, paragraph (1) of the Code of Criminal Procedure has been rendered for all cases under public prosecution included in divisional cases, or all cases under public prosecution other than divisional cases, for which said duties are to be carried out;

(iv) when the ruling under Article 74 has been rendered with regard to divisional cases.

(4) Beyond the cases set forth in the preceding paragraph, where a court finds that it is no longer necessary, to appoint the prospective saiban-in as saiban-in or alternate saiban-in who carry out the duties pertaining to a Trial on Divisional Cases or a Trial on Consolidated Cases relating to their selection, the court may render a ruling to revoke the selection of said prospective saiban-in.

(Revocation of the Selection of Prospective Saiban-in by Their Petition)

Article 96 (1) Prospective saiban-in may file a petition with a court to revoke their selection on the grounds that it is difficult to carry out the duties of saiban-in or alternate saiban-in due to the grounds set forth in Article 16, item (viii) (which are limited to those which have become known, or which have occurred, after said selection has been made).

(2) When a court receives a petition under the preceding paragraph and finds that the petition has grounds for it, the court must render a ruling to revoke the selection of the prospective saiban-in.

Subsection 3 Appointment of Prospective Saiban-in as Saiban-in

Article 97 (1) A court is to, where the duties of the saiban-in and alternate saiban-in who have carried out their duties pertaining to a Trial on Divisional Cases has terminated pursuant to the provisions of Article 84, render a ruling, notwithstanding the provisions of Article 37, to appoint a saiban-in (including an alternate saiban-in when the court arranges alternate saiban-in employed; the same applies in paragraph (5)) to carry out the duties from among the prospective saiban-in who have been selected to be appointed as saiban-in or alternate saiban-in who carry out duties pertaining to the subsequent Trial on Divisional Cases or the Trial on Consolidated Cases and have appeared on the designated date for the Saiban-in, etc. Appointing Procedure in accordance with the order determined during the process of selection.

(2) A court must summon the prospective saiban-in set forth in the preceding paragraph on the date set forth in the paragraph.

(3) The summons under the preceding paragraph are made by notifying the prospective saiban-in.

(4) A court must render a ruling to revoke the selection of the prospective saiban-in, who have been selected to be appointed as the saiban-in or alternate saiban-in who carry out the duties pertaining to a Trial on Divisional Cases or a Trial on Consolidated Cases as set forth in paragraph (1), other than those who have been appointed as the saiban-in or alternate saiban-in pursuant to the provisions of paragraph (1).

(5) With respect to the application of the provisions of Article 29, paragraphs (1) and (2) and Article 38, paragraph (1) when the prospective saiban-in are appointed as the saiban-in pursuant to the provisions of paragraph (1), the term "the saiban-in candidates" in Article 29, paragraphs (1) and (2) is deemed to be replaced with "the prospective saiban-in" and the term "paragraph (1) of the preceding Article" in Article 38, paragraph (1) with "Article 97, paragraph (1)".

Subsection 4 Miscellaneous Provisions

(Mutatis Mutandis Application of Provisions Relating to Inquiry to Public Offices)

Article 98 The provisions of Article 12, paragraph (1) apply mutatis mutandis to cases where it is necessary to determine that the selection of prospective saiban-in should be revoked or not.

(Delegation to Rules of the Supreme Court)

Article 99 Beyond the provisions of the preceding three subsections, particulars necessary for the procedure of selecting the prospective saiban-in and their appointment as saiban-in or alternate saiban-in are provided for in the Rules of the Supreme Court.

Chapter VI Measures for the Protection of Saiban-in

(Prohibition of Disadvantageous Treatment)

Article 100 No worker is subjected to termination of employment or other disadvantageous treatment on the grounds that they take leave to carry out saiban-in duties, or otherwise are or have been the saiban-in, alternate saiban-in, prospective saiban-in or saiban-in candidate.

(Treatment of Information That May Identify Saiban-in)

Article 101 (1) No person may publish the name, address and other information that may identify saiban-in, alternate saiban-in, prospective saiban-in, saiban-in candidates or expected saiban-in candidates. The same applies to the name, address and other information that may identify persons who were formerly in such position unless they agree to the publication of said information.

(2) For the purpose of application of the provisions of the preceding paragraph, persons who have served as saiban-in or alternate saiban-in who carry out duties pertaining to a Trial on Divisional Cases and whose duty has terminated pursuant to the provisions of Article 84 are still deemed to be saiban-in or alternate saiban-in until a judicial decision for the whole consolidated cases (hereinafter referred to as the "Consolidated Cases Decision") is rendered after all the Trials on Divisional Cases is rendered.

(Restriction on Contact with Saiban-in)

Article 102 (1) No person may contact, in connection with a case under public prosecution, saiban-in or alternate saiban-in or prospective saiban-in who are appointed or selected by the court that handles said case under public

prosecution.

(2) No person may contact persons who have served as saiban-in or alternate saiban-in, for the purpose of obtaining confidential information which saiban-in or alternate saiban-in came to know in connection with their duties.

(3) For the purpose of application of the provisions of the preceding two paragraphs, persons who have served as saiban-in or alternate saiban-in who carry out duties pertaining to a Trial on Divisional Cases and whose duty has terminated pursuant to the provisions of Article 84 are still deemed to be saiban-in or alternate saiban-in until a Consolidated Cases Decision is rendered.

Chapter VII Miscellaneous Provisions

(Publication of Operational Status)

Article 103 The Supreme Court is to publish each year the status of the handling of Subject Cases, the status of the appointment of saiban-in and alternate saiban-in and other materials relating to the implementation status of this Act.

(Application of This Act to the Wards of Designated Cities)

Article 104 In the designated cities set forth in Article 252-19, paragraph (1) of the Local Autonomy Act (Act No. 67 of 1947), provisions referring to cities under Article 20, paragraph (1), Article 21, paragraphs (1) and (2), Article 22, Article 23, paragraphs (4) (including cases where these provisions are applied mutatis mutandis in Article 24, paragraph (2)) and Article 24, paragraph (1) apply to wards.

(Classification of Processes)

Article 105 Processes that are deemed to be handled by municipalities pursuant to the provisions of Article 21, paragraphs (1) and (2), Article 22, Article 23, paragraph (4) (including cases where these provisions are applied mutatis mutandis in Article 24, paragraph (2)) are Type 1 statutory entrusted functions set forth in Article 2, paragraph (9), item (i) of the Local Autonomy Act.

Chapter VIII Penal Provisions

(Offence of Making Requests of Saiban-in)

Article 106 (1) Except for cases conducted by procedures provided for in laws and regulations, a person who has made any request of saiban-in or alternate saiban-in in connection with their duties is punished by imprisonment for up to two years or a fine of up to 200,000 yen.

(2) The preceding paragraph applies to a person who has stated an opinion or

provided information in connection with finding of facts, sentencing of punishment or other decisions made as a saiban-in to saiban-in or alternate saiban-in for the purpose of influencing the trial on the case under public prosecution, except for the cases conducted by procedures provided for in laws and regulations.

(3) Paragraph (1) applies to a person who has made any request of prospective saiban-in in connection with their duties to be carried out as saiban-in or alternate saiban-in.

(4) Paragraph (1) applies to a person who has stated an opinion or provided information in connection with finding of facts or other decisions to be made as saiban-in to prospective saiban-in for the purpose of influencing the trial on the case under public prosecution.

(Offence of Intimidation toward Saiban-in)

Article 107 (1) A person who intimidates, in connection with a case under public prosecution, saiban-in or alternate saiban-in who carry out duties pertaining to the trial on the case under public prosecution or persons who have served as said saiban-in or alternate saiban-in, or relatives of such persons by interview, sending documents, making telephone calls or any other means whatsoever is punished by imprisonment for up to two years or a fine of up to 200,000 yen.

(2) The preceding paragraph applies to a person who intimidates, in connection with cases under public prosecution, saiban-in candidates who have been selected for appointment as saiban-in or alternate saiban-in who carry out duties pertaining to the trial on the case under public prosecution or prospective saiban-in who are to carry out duties of the saiban-in or alternate saiban-in or relatives of such persons by interview, sending documents, making telephone calls or any other means whatsoever.

(Offence of Divulging Confidential Information by Saiban-in)

Article 108 (1) Where a saiban-in or alternate saiban-in has divulged Confidential Information in Deliberations or other confidential information which they came to know in connection with their duties, such person is punished by imprisonment for up to six months or a fine of up to 500,000 yen.

(2) The preceding paragraph applies to cases where a person who has served as a saiban-in or alternate saiban-in falls under any of the following items:

(i) if they have divulged confidential information which they came to know in connection with their duties (excluding Confidential Information in Deliberations);

(ii) if they have divulged the opinions of judges or saiban-in or their number, which are classified as Confidential Information in Deliberations, at deliberations conducted by the Member Judges and the saiban-in or

deliberations conducted only by the Member Judges that the saiban-in are permitted to observe;

(iii) if they have divulged Confidential Information in Deliberations (excluding those set forth in the preceding item) for the purpose of obtaining property profits or other profits.

(3) Expect for cases under item (iii) of the preceding paragraph, where a person who has served as a saiban-in or alternate saiban-in has divulged Confidential Information in Deliberations (excluding those set forth in item (ii) of the preceding paragraph), such person is punished by a fine of up to 500,000 yen.

(4) For the purpose of application of the provisions of the preceding three paragraphs, a person who has served as a saiban-in or alternate saiban-in who carries out duties pertaining to a Trial on Divisional Cases and whose duty has terminated pursuant to the provisions of Article 84 is still deemed to be a saiban-in or alternate saiban-in until the Consolidated Cases Trial is rendered.

(5) Paragraph (1) applies to cases where a saiban-in or alternate saiban-in has stated facts that they consider should be found, or punishment that they consider should be sentenced in cases under public prosecution, or facts that they consider to be found, or punishment that they consider to be sentenced by the court in said cases under prosecution, to persons other than the Member Judges or other saiban-in or alternate saiban-in who are presently carrying out duties pertaining to the trial on said cases under public prosecution.

(6) Paragraph (1) applies to cases where a person, who has served as a saiban-in or alternate saiban-in, has commented on the appropriateness of fact finding or the sentencing of punishment expressed in a judgment (including rulings under Article 55 of the Juvenile Act; hereinafter the same applies in this paragraph), to persons other than those who have served as the Member Judges or other saiban-in or alternate saiban-in who have participated in the judgment in the trial on a case under public prosecution pertaining to their duties.

(7) The paragraph (1) applies to cases where a person, who has served as a saiban-in or alternate saiban-in to carry out duties pertaining to a Trial on Divisional Cases and whose duty has terminated pursuant to the provisions of Article 84, has stated, during the time until the Consolidated Cases Decision is rendered, facts (excluding those pertaining to cases under public prosecution other than the divisional cases) that they consider should be found or punishment that they consider should be sentenced in a Trial on Consolidated Cases, or facts (excluding those pertaining to cases under public prosecution other than the divisional cases) that they consider to be found, or punishment that they consider to be sentenced by the court in a Trial on Consolidated Cases, to persons other than those who have served as Member Judges or other saiban-in or alternate saiban-in who have participated in partial judgment in the Trial on Divisional Cases.

(Offence of the Divulging of Names of Saiban-in)

Article 109 Where a public prosecutor or a defense counsel, a person who has served as a public prosecutor or a defense counsel, , the accused, or a person who has previously been the accused have divulged, without justifiable grounds, the names of saiban-in candidates for cases under public prosecution, particulars that the saiban-in candidates have indicated in the questionnaire set forth in Article 30 (including cases where applied mutatis mutandis pursuant to Article 38, paragraph (2) (including cases where applied mutatis mutandis pursuant to Article 46, paragraph (2)), Article 47, paragraph (2) and Article 92, paragraph (2); the same applies in the following Article) or particulars that the saiban-in candidates have stated in the Saiban-in, etc. Appointing Procedure, such person is punished by imprisonment for up to one year or a fine of up to 500,000 yen.

(Offence of False Indication by Saiban-in Candidates)

Article 110 Where a saiban-in candidate has given false indications in the questionnaire set forth in Article 30 and submitted it to a court or has given false statements to questions in the Saiban-in, etc. Appointing Procedure, such person is punished by a fine of up to 500,000 yen.

(Non-criminal Fine on False Indication by Saiban-in Candidates)

Article 111 Where a saiban-in candidate, in violation of the provisions of Article 30, paragraph (3) or Article 34, paragraph (3) (including cases where these provisions are applied mutatis mutandis pursuant to Article 38, paragraph (2) (including cases where applied mutatis mutandis pursuant to Article 46, paragraph (2)), Article 47, paragraph (2) and Article 92, paragraph (2)) has given false indications in a questionnaire or has refused to answer questions without justifiable grounds or has given false statements in the Saiban-in, etc. Appointing Procedure, a court may punish such person by a non-criminal fine of up to 300,000 yen by a ruling.

(Non-criminal Fine on Nonappearance by Saiban-in Candidates)

Article 112 Where any of the following items is applicable, a court may punish such person by a non-criminal fine of up to 100,000 yen by a ruling:

(i) if a saiban-in candidate who is summoned has not appeared in violation of the provisions of Article 29, paragraph (1) (including cases where applied mutatis mutandis pursuant to Article 38, paragraph (2) (including cases where applied mutatis mutandis pursuant to Article 46, paragraph (2)), Article 47, paragraph (2) and Article 92, paragraph (2)) without justifiable grounds;

(ii) if a prospective saiban-in who is summoned has not appeared in violation of the provisions of Article 29, paragraph (1), which is applied pursuant to the provisions of Article 97, paragraph (5) after deemed replacement, without justifiable grounds;
(iii) if a saiban-in or alternate saiban-in has refused to swear an oath as set forth in Article 39, paragraph (2) without justifiable grounds;
(iv) if a saiban-in or alternate saiban-in has not appeared, in violation of the provisions of Article 52, on a trial date and on the day and time and at the place of questioning of witnesses or other persons or an inspection conducted by a court in the trial preparation without justifiable grounds;
(v) if a saiban-in has not appeared, in violation of the provisions of Article 63, paragraph (1) (including cases where applied mutatis mutandis pursuant to Article 85, paragraph (5)), on a trial date without justifiable grounds.

(Immediate Appeal)
Article 113 An immediate appeal may be filed against the ruling set forth in the preceding two Articles.

Supplementary Provisions [Extract]

(Effective Date)
Article 1 This Act comes into effect as from the date prescribed by Cabinet Order within a period not exceeding five years from the date of promulgation; provided, however, that the provisions listed in the following items come into force as of the date prescribed in each item:
(i) the provisions of the following Article and Article 3 of the Supplementary Provisions: the date of promulgation;
(ii) the provisions of Articles 20 to 23, Article 25, Article 100, Article 101, Article 104 and Article 105 and Article 6 of the Supplementary Provisions: the date prescribed by Cabinet Order within a period not exceeding four years and six months from the date of promulgation;
(iii) the provisions of Article 17, item (ix) (which are limited to a part pertaining to an alternate councilor): the date prescribed in Article 1, item (ii) of the Supplementary Provisions for the Act on the Partial Amendment to the Code of Criminal Procedure, etc. (Act No. 62 of 2004) or the effective date of this Act, whichever is later;
(iv) the provisions of Article 77, paragraphs (3) to (5): the effective date of the Act on the Partial Amendment to the Code of Criminal Procedure, etc. for Purpose of Protection of Rights and Interests of Crime Victims (Act No. 95 of 2007) or the effective date of this Act, whichever is later.

(Measures Prior to Implementation)

Article 2 (1) The government and the Supreme Court must, in consideration of the fact that the system of criminal trials with the participation of saiban-in is capable of fully exercising its function as the basis of Japan's judicial system only with the awareness of the citizens' participating in the justice system and their cooperation based on such awareness, take measures, during the period prior to the enforcement of this Act, to deepen the understanding and interest of the citizens in the system of criminal trials with the participation of saiban-in by, for example, explaining specifically and plainly the importance of the participation of the citizens in trials as saiban-in, the procedure of appointing saiban-in, the proceedings of trials, the duty of saiban-in during deliberations, etc. and to enhance active participation in criminal trials based on the citizens' awareness.

(2) In establishing the Cabinet Order under the preceding Article, due consideration must be given to the situation regarding whether or not, based on the achievement of measures pursuant to the provisions of the preceding paragraph, criminal trials with the participation of saiban-in can be implemented smoothly and properly.

(Arrangement of Environment)

Article 3 The State must, in consideration of the fact that it is essential to enable the citizens to participate in trials as saiban-in more easily in order to operate the system of criminal trials with the participation of saiban-in smoothly, endeavor to arrange the environment required therefor.

(Transitional Measures)

Article 4 (1) The provisions of Article 2, paragraph (1) and Article 4 do not apply to cases which are presently pending before the court at the time of the enforcement of this Act. The same applies to those for which judgments become final prior to the enforcement of this Act and for which rulings for the commencement of retrial become final.

(2) Notwithstanding the provisions of the preceding paragraph, with respect to cases which are presently pending before the court at the time of the enforcement of this Act and for which their proceedings are found suitable to consolidate in proceedings of the Subject Cases, the court may handle these cases, by ruling, by the panel under Article 2, paragraph (1) by ruling.

(3) Where a court has rendered a ruling under the preceding paragraph, the court must, pursuant to the provisions of the Code of Criminal Procedure, consolidate proceedings of cases pertaining to said ruling and the Subject Cases.

(Review)

Article 9 The government is to, after three years have elapsed from the date of enforcement of this Act, review the status of implementation of this Act and take appropriate measures, if it finds it necessary to do so based on the results of said review, to ensure that the system of criminal trials with the participation of saiban-in is capable of fully exercising its function as the basis of Japan's judicial system.