

# Regulations for Enforcement of the Act on Special Measures concerning the Handling of Legal Services by Foreign Lawyers (The amended order comes into effect as of August 29, 2020)

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

Based on the provisions of Article 2, item (ii), Article 9, paragraphs (1) and (2), Article 17, paragraph (2) and Article 62 of the Act on Special Measures concerning the Handling of Legal Services by Foreign Lawyers (Act No. 66 of 1986), the Regulations for Enforcement of the Act on Special Measures concerning the Handling of Legal Services by Foreign Lawyers are as follows.

(Federal States and Their Constituent Units)

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

(Persons Specified by Ministry of Justice Order as Defined in Article 2, Item (xi), (a) of the Act)

Article 1-2 (1) The persons specified by Ministry of Justice Order as defined in Article 2, item (xi), (a) of the Act are as follows:

- (i) a person, when either the person and their wholly-owned subsidiary (meaning a corporation in which that person holds all of the shares or equity; the same applies hereinafter) hold, or their wholly-owned subsidiary holds, more than fifty percent of the number of issued shares (limited to voting shares) in some or all of the parties, or more than fifty percent of the equity in some or all of the parties (excluding cases in which some or all of the parties concerned are corporations specified in the following item); or
- (ii) the relevant person, if some or all of the parties are corporations in which members (or if the relevant corporation has appointed specific members to execute its business affairs, those members; the same applies hereinafter) determine the course of business through majority decisions pursuant to the provisions of the Act or articles of incorporation, and that person and their wholly-owned subsidiary comprise the majority of members of that corporation.

(2) When applying the provisions of each item of the preceding paragraph, if either a person and their wholly-owned subsidiary, or their wholly-owned

subsidiary, provided for in those provisions, owns all of the shares or equity of another corporation, that other corporation is deemed to be a wholly-owned subsidiary.

(Persons Specified by Ministry of Justice Order as Defined in Article 2, Item (xi)-2, (a) of the Act)

Article 1-3 (1) The persons specified by Ministry of Justice Order as defined in Article 2, item (xi)-2, (a) of the Act are as follows:

- (i) a person, when either the person and their wholly-owned subsidiary hold, or their wholly-owned subsidiary holds, more than fifty percent of the number of issued shares (limited to voting shares) in some or all of the parties, or more than fifty percent of the equity in some or all of the parties (excluding cases in which some or all of the parties concerned are corporations specified in the following item); or
  - (ii) the relevant person, if some or all of the parties are corporations in which members determine the course of business through majority decisions pursuant to the provisions of the Act or articles of incorporation, and that person and their wholly-owned subsidiary comprise the majority of members of that corporation.
- (2) When applying the provisions of each item of the preceding paragraph, if either a person and their wholly-owned subsidiary, or their wholly-owned subsidiary, provided for in those provisions, owns all of the shares or equity of another corporation, that other corporation is deemed to be a wholly-owned subsidiary.

(Applications for Approval)

Article 2 In applications for approval prescribed in Article 7 of the Act (hereinafter referred to as "approval"), the person who wishes to obtain approval must appear in person.

(Particulars to be given in Written Applications for Approval)

Article 3 (1) The particulars specified by Ministry of Justice Order pursuant to Article 9, paragraph (1) of the Act are as follows:

- (i) the person's name, sex, date of birth, place of birth, nationality and address; and
  - (ii) the date on which the person obtained their qualification as a foreign lawyer, the name of the foreign jurisdiction in which they obtained their qualification (in the next Article referred to as "jurisdiction where the qualification was obtained") and the title as a foreign lawyer.
- (2) Written applications for approval prescribed in Article 9, paragraph (1) of the Act (hereinafter referred to as "written applications for approval") must be

written in the format of Appended Form 1.

(Documents Accompanying Written Applications for Approval)

Article 4 (1) The documents specified by Ministry of Justice Order pursuant to Article 9, paragraph (2) of the Act are as follows:

- (i) a written statement on the following particulars, prepared by a person who wishes to obtain approval in the form provided by the Minister of Justice;
  - (a) particulars of experience performing professional duties as a foreign lawyer in the jurisdiction where the qualification was obtained (including experience as a foreign lawyer in the jurisdiction where the qualification was obtained, of having engaged in the practice of providing legal services, in a foreign jurisdiction other than the jurisdiction where the qualification was obtained, concerning the laws of the jurisdiction where the qualification was obtained; the same applies hereinafter in this Article) and, when Article 10, paragraph (2) of the Act is applicable, particulars concerning the practice of providing legal services in Japan to an attorney at law, a legal professional corporation, a registered foreign lawyer or a registered foreign lawyer corporation based on their knowledge of the law of the jurisdiction where the qualification was obtained, after obtaining a qualification to become a foreign lawyer
  - (b) particulars concerning the disqualification of registered foreign lawyers
  - (c) particulars concerning the standards listed in Article 10, paragraph (1), item (ii) of the Act
  - (d) particulars concerning the applicant's willingness to perform professional duties faithfully, and the plan, residence and financial base that will facilitate proper and reliable performance of professional duties
  - (e) particulars concerning the ability to compensate for damage which they may cause to clients
  - (f) other particulars for reference
- (ii) a resume;
- (iii) a copy of a passport, residence card, special permanent resident certificate or other document certifying their identity;
- (iv) a document certifying that they have obtained a qualification as a foreign lawyer and that they actually have the qualification;
- (v) a document proving their experience in performing professional duties as a foreign lawyer in the jurisdiction where the qualification was obtained, and, when Article 10, paragraph (2) of the Act is applicable, a document proving their provision of legal services in Japan to an attorney at law, a legal professional corporation, a registered foreign lawyer or a registered foreign lawyer corporation based on their knowledge concerning the laws of the jurisdiction where the qualification was obtained after obtaining a

- qualification to become a foreign lawyer;
- (vi) a document in which they pledge that they do not fall under any of the items of Article 7 of the Attorney Act as applied mutatis mutandis pursuant to Article 8 of the Act;
  - (vii) a document in which they pledge that they do not fall under any of the provisions of Article 10, paragraph (1), item (ii), (a) through (d) of the Act;
  - (viii) a document in which they pledge that they will perform professional duties faithfully;
  - (ix) a document proving that they have the plan, residence and financial base that will facilitate proper and reliable performance of professional duties;
  - (x) a document proving that they have the ability to compensate for damage which they may cause to clients; and
  - (xi) other documents for reference.
- (2) The document in item (vi) of the preceding paragraph must be written in the format of Appended Form 2, the document set forth in item (vii) of the paragraph must be written in the format of Appended Form 3, and the document set forth in item (viii) of the paragraph must be written in the format of Appended Form 4.

(Means of Payment of Application Fees for Approval)

Article 5 The fee prescribed in Article 9, paragraph (3) of the Act must be paid by affixing a revenue stamp equivalent to the amount of the fee to a written application for approval.

(Verification of the Content of Pledges)

Article 6 In applying for approval, a person who wishes to obtain approval must read aloud the content of the documents provided for in Article 4, paragraph (1), items (vi) through (viii), and must confirm the content of their pledge, in front of an officer designated by the Minister of Justice.

(Notification of Decisions of Non-Approval)

Article 7 If the Minister of Justice has made a decision not to grant approval, the Minister must notify the applicant and the Japan Federation of Bar Associations in writing of that decision and the reasons for the decision.

(Preliminary Examinations Prior to Applications for Approval)

Article 8 Prior to application, a person who wishes to apply for approval may submit documents equivalent to a written application for approval and accompanying documents to the Minister of Justice and may request a preliminary examination.

(Obligation of Approved Persons to Report)

- Article 9 (1) A person who has obtained approval must notify the Minister of Justice in writing without delay, if they fall under any of the following items:
- (i) if there has been any change in the person's name, nationality or address;
  - (ii) if their office has been established or moved;
  - (iii) if the name of their office has been fixed or changed;
  - (iv) if there has been an important change in their ability to compensate for damage which they may cause to clients;
  - (v) if they fall under any of the provisions of Article 10, paragraph (1), item(ii), (a) through (d) of the Act;
  - (vi) if they have lost the qualification to become a foreign lawyer in the jurisdiction of primary qualification; or
  - (vii) if they fall under any of the items of Article 7 of the Attorney Act (except item (ii)) as applied mutatis mutandis pursuant to Article 8 of the Act.
- (2) A person who has obtained approval must submit the following documents to the Minister of Justice within two months after the end of every two year period from the approval date, except if they fall under item (vi) or (vii) of the preceding paragraph:
- (i) a document certifying that they actually have a qualification as a foreign lawyer in the jurisdiction of primary qualification;
  - (ii) a written statement on the status of their practice and assets;
  - (iii) a document in which they pledge that they do not fall under any of the provisions of Article 10, paragraph (1), item (iii), (a) through (d) of the Act; and
  - (iv) a document in which they pledge that they do not fall under any of the items of Article 7 of the Attorney Act (except item (ii)) as applied mutatis mutandis pursuant to Article 8 of the Act.

(Special Provisions on Hearing Procedures)

- Article 10 (1) If an officer presiding over a hearing concerning the rescission of approval finds it necessary, they must hear the opinion of witnesses.
- (2) If a presiding officer has heard opinions provided for in the preceding paragraph, they must enter the name of witness and a summary of their statement in the record of the hearing.
- (3) If a party to a hearing concerning the rescission of approval makes a statement of opinion, asks a question, or makes a statement in response to a question posed by an officer presiding over the hearing in a foreign language, the party must have an interpreter interpret for them at their own expense. The same applies if a witness to be heard at the request of a party is to make a statement in a foreign language.

(Notifications of Rescissions of Approval)

Article 11 If the Minister of Justice has rescinded approval, the Minister must notify the person whose approval has been rescinded and the Japan Federation of Bar Associations in writing of that effect and the reasons for the decision.

(Application for Designation)

Article 12 In applications for a designation prescribed in Article 16, paragraph (1) of the Act (hereinafter referred to as a "designation"), the person who wishes to receive a designation must appear in person.

(Form of Written Applications for Designation)

Article 13 A written application prescribed in Article 17, paragraph (1) of the Act (hereinafter referred to as a "written application for designation") must be written in the format of Appended Form 5.

(Documents Accompanying Written Applications for Designation)

Article 14 The documents specified by Ministry of Justice Order pursuant to Article 17, paragraph (2) of the Act are as follows:

- (i) in applying for a designation prescribed in Article 16, paragraph (1), item (i) of the Act, a document certifying that they are qualified as a foreign lawyer of the specified foreign jurisdiction;
- (ii) in applying for a designation prescribed in Article 16, paragraph (1), item (ii) of the Act, a document proving that they have the same level of legal knowledge concerning the specified foreign jurisdiction and have the relevant amount of practical experience in providing legal services concerning relevant laws as a person who is qualified as a foreign lawyer of that jurisdiction; or
- (iii) other documents for reference.

(Obligation of Designated Persons to Report)

Article 15 (1) If a person who has received a designation pursuant to Article 16, paragraph (1), item (i) of the Act, has lost the qualification as a foreign lawyer, they must notify the Minister of Justice in writing without delay.

(2) A person who has received a designation pursuant to Article 16, paragraph (1), item (i) of the Act must submit a document certifying that they are actually qualified as a foreign lawyer concerning the designation to the Minister of Justice within two months after the end of every two year period from the date of designation, except in the case provided for in the preceding paragraph.

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

Article 16 The provisions of Article 5 apply mutatis mutandis to the means of paying the fee pursuant to Article 17, paragraph (3) of the Act. The provisions of Article 7 apply mutatis mutandis to notifications when the Ministry of Justice has made a decision not to designate. The provisions of Article 8 apply mutatis mutandis to preliminary examinations prior to applying for the designation. The provisions of Article 10 apply mutatis mutandis to a hearing concerning the disposition of rescission of the designation. The provisions of Article 11 apply mutatis mutandis to notification of rescission of the designation. In these cases "written application for approval" in Article 8 are to be read as "written application for designation".

(Attachment of Translations)

Article 17 If documents submitted to the Minister of Justice pursuant to the provisions of the Act or this Order, or documents submitted to a presiding officer pursuant to the provisions of Administrative Procedure Act (Act No. 88 of 1993) or the Regulations on Ministry of Justice Hearings (Ministry of Justice Order No. 47 of 1994) are written in a foreign language, a Japanese translation must be attached. The translation must be signed by the translator and include the translator's name, the date of translation and a pledge that they have completed the translation in good faith.

Appended Table (relating to Article 1)

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

Appended Forms (omitted)