

Court Enforcement Officer Act

(Act No. 111 of July 1, 1966)

(Duties)

Article 1 A court enforcement officer handles the following affairs.

- (i) affairs that are provided for in the Code of Civil Procedure (Act No. 109 of 1996), the Civil Execution Act (Act No. 4 of 1979), the Civil Provisional Remedies Act (Act No. 91 of 1989) or other laws and regulations as those to be handled by a court enforcement officer; and
- (ii) affairs that are assigned by a court to a court enforcement officer, pertaining to the storage, administration, or realization of an item or other acts constituting civil execution pursuant to the provisions of the Civil Execution Act, execution of a provisional remedy pursuant to the provisions of the Civil Provisional Remedies Act or other procedures for fulfilling or preserving rights under private law.

(Processing of Affairs)

Article 2 (1) A court enforcement officer handles affairs upon petition; provided, however, that this does not apply to the affairs that a court directly orders a court enforcement officer to handle as part of the procedures of a case pending before the court.

- (2) The allotment of affairs to a court enforcement officer is determined by the district court to which the court enforcement officer belongs; provided, however, that among the affairs set forth in item (ii) of the preceding Article, the affairs that are delegated to a specific court enforcement officer in a judicial court are to be handled by that court enforcement officer.

(Disqualification)

Article 3 A court enforcement officer is disqualified from performing their duties in the cases set forth in each of the following items:

- (i) where the court enforcement officer or their spouse is a party to the case before the court (including where the person is the victim in a criminal case or a juvenile protection case; the same applies hereinafter), or is related to a party to the case as a joint obligee, joint obligor, or obligor for redemption;
- (ii) where the court enforcement officer is a party's relative by blood within the fourth degree of kinship, relative through marriage within the third degree, or a cohabitating relative;
- (iii) where the court enforcement officer is, in relation to a party, a guardian, supervisor of a guardian, curator, supervisor of a curator, assistant or a

supervisor of an assistant; or
(iv) where the court enforcement officer is a party's agent with regard to the affairs they are to handle.

(Area for Performing Duties)

Article 4 A court enforcement officer performs their duties within the jurisdictional district of the district court to which they belong, unless otherwise provided for in other laws and regulations.

(Filing of Objection)

Article 5 With regard to an objection filed against a disposition made by a court enforcement officer concerning the affairs to be handled upon petition (including the calculation of fees and expenses) or a delay or negligence thereof, the same rule as in the objection to a disposition of execution set forth in the second sentence of Article 11, paragraph (1) of the Civil Execution Act apply, except as otherwise provided by the same Act (including the cases where the Act is applied mutatis mutandis).

(Custody of Money)

Article 6 Any money seized or received by a court enforcement officer in the course of performing their duties is to be kept under the custody of the court to which the court enforcement officer belongs as provided for in the Rules of the Supreme Court, except where the money is to be immediately delivered to the person who should receive the money or is to be deposited.

(Fees and Expenses)

Article 7 A court enforcement officer receives the fees for the performance of their duties and the payment or reimbursement of the expenses required for performing their duties.

(Cases Where Court Enforcement Officer Receives Fees)

Article 8 (1) A court enforcement officer is to receive the fees for each of the affairs set forth in the following items:

- (i) service of process;
- (i)-2 examination of the shape, possession or other aspects of the current status of an object, carried out under the disposition set forth in Article 132-4, paragraph (1), item (iv) of the Code of Civil Procedure;
- (ii) execution of a seizure or provisional seizure;
- (iii) affairs pertaining to procedures pursuant to the provisions of Article 125, paragraph (2) of the Civil Execution Act (including cases where the Act is applied mutatis mutandis or where the same rules as those prescribed

- therein are applied);
- (iv) receipt of delivery of movables (meaning movables prescribed in Article 122, paragraph (1) of the Civil Execution Act; the same applies in items (ix) through (xi)) for the purpose of realization;
 - (v) affairs pertaining to a distribution demand;
 - (vi) affairs pertaining to sales or carrying out other realization methods;
 - (vii) confiscation of movables (including securities but excluding a vessel, etc. in which a person resides) from an obligor and delivering them to the obligee;
 - (viii) releasing real property or a vessel, etc. in which a person resides from the obligor's possession and having the obligee acquire the possession;
 - (ix) inspection of the status of movables for which a seizure or provisional seizure has been executed, or other items which have been in custody of the court enforcement officer, where those movables or items are retained by the obligor or another person;
 - (x) confiscation of movables under a decision pursuant to the provisions of Article 127, paragraph (1) of the Civil Execution Act (including the cases where the Act is applied mutatis mutandis or where the same rules as those prescribed therein are applied);
 - (xi) delivery of movables for which a seizure or provisional seizure has been executed or other items which have been in custody of the court enforcement officer to the obligor or other persons who have the right to receive them as a revocation of the disposition of execution
 - (xii) assistance pursuant to the provisions of Article 6, paragraph (2) or Article 96, paragraph (2) of the Civil Execution Act (including the cases where the Act is applied mutatis mutandis or where the same rules as those prescribed therein are applied);
 - (xiii) sealing of property or removal of the seal pursuant to the provisions of Article 155, paragraph (1) of the Bankruptcy Act (Act No. 75 of 2004);
 - (xiv) preparation of a certificate of protest;
 - (xv) certification to the effect that the obligor will not make a payment to the holder of a mortgage instrument;
 - (xvi) examination of the shape, possession or other current status of real property or a vessel;
 - (xvii) releasing real property from possession by a decision pursuant to the provisions of Article 55, paragraph (1) (limited to the part pertaining to item (ii) or (iii)), Article 68-2, paragraph (1), Article 77, paragraph (1) (limited to the part pertaining to item (ii) or (iii)) or Article 187, paragraph (1) (limited to cases where a provisional order or a provisional order to give public notice as set forth in Article 55, paragraph (1), item (ii) or (iii) is given) of the Civil Execution Act (including the cases where the Act is applied mutatis mutandis or where the same rules as those prescribed therein are applied),

- and retaining them or having the petitioner acquire the possession for retention purposes;
- (xvii)-2 carrying out of a preliminary inspection set forth in Article 64-2, paragraph (1) of the Civil Execution Act (including cases where the Act is applied mutatis mutandis or where the same rules as those prescribed therein are applied);
 - (xviii) confiscation of a document proving the nationality of a vessel and other documents necessary for the navigation of the vessel;
 - (xix) affairs set forth in Article 1, item (i) other than those set forth in each of the preceding items;
 - (xx) execution carried out based on the decision pursuant to the provisions of Article 171, paragraph (1) of the Civil Execution Act;
 - (xxi) execution of a provisional disposition or other provisional order which does not fall under any of the items (i) through (xviii); and
 - (xxii) affairs set forth in Article 1, item (ii) other than those set forth in the preceding two items, which do not fall under any of the items (i) through (xviii);
- (2) Even before carrying out the affairs set forth in each item of the preceding paragraph, a court enforcement officer may receive the fees pertaining to the affairs in the cases set forth in each of the following items;
- (i) if a court enforcement officer is unable to serve process or examine the current status of an object as set forth in item (i)-2 of the preceding paragraph due to grounds not attributable to the court enforcement officer, when they appear at the place where they are to serve the process or examine the current status of the object;
 - (ii) with regard to the affairs set forth in items (ii) through (iv), items (vi) through (xv), and items (xvii) through (xxi) of the preceding paragraph, if the implementation of the affairs is cancelled after the preparation necessary for implementing the affairs provided for in the Rules of the Supreme Court has been made, due to grounds specified in Article 39, paragraph (1) or Article 183, paragraph (1) of the Civil Execution Act (including the cases where the Act is applied mutatis mutandis or where the same rules as those prescribed therein are applied) or the withdrawal of petition or other grounds attributable to a party to the case.

(Amount of Fees)

Article 9 (1) The amount of the fees pertaining to the affairs set forth in paragraph (1), items (i) through (xxi) of the preceding Article is to be provided for in the Rules of the Supreme Court, taking into consideration the nature of the affairs, the benefit of the party to the case, the price situation, the matters surrounding wages in general, and all other circumstances.

- (2) The amount of the fees pertaining to the affairs set forth in paragraph (1), item (xxii) of the preceding Article is to be decided by the court which has held that the court enforcement officer should handle the affairs.

(Types of Expenses)

Article 10 (1) The expenses for which a court enforcement officer is paid or reimbursed are prescribed as follows:

- (i) expenses required for sending documents, and telegraph and telephone charges;
 - (ii) cost of public notices;
 - (iii) daily allowance and travel expenses for the observer prescribed in Article 7 of the Civil Execution Act (including the cases where the Act is applied *mutatis mutandis*)
 - (iv) allowance payable to engineers and laborers;
 - (v) expenses required for implementation of the affairs prescribed in Article 136 or Article 138 of the Civil Execution Act (including the cases where the Act is applied *mutatis mutandis* or where the same rules as those prescribed therein are applied)
 - (vi) expenses for transportation, storage, custody, and preservation of an item;
 - (vii) expenses for harvesting fruit;
 - (viii) expenses for receiving certification from a government agency or other public organizations;
 - (ix) expenses for photographs taken to record the current status of an item;
 - (x) expenses for preparing a deed prescribed in Article 161, paragraph (5) of the Civil Execution Act (including the cases where the Act is applied *mutatis mutandis* or where the same rules as those prescribed within are applied)
 - (xi) travel expenses and accommodation charges of the court enforcement officer; and
 - (xii) expenses required to perform the duties of a court enforcement officer other than those set forth in the preceding items as provided in the Rules of the Supreme Court.
- (2) The daily allowance and travel expenses set forth in item (iii) of the preceding paragraph are to be those a court enforcement officer is to supply under the Rules of the Supreme Court.
- (3) The travel expenses and accommodation charges of a court enforcement officer are to be those required where the court enforcement officer performs their duties at a place one kilometer or more away from the court at which they work or where accommodation is required for the court enforcement officer to perform their duties.

(Amount of Expenses)

Article 11 (1) The amount of the expenses set forth in paragraph (1), item (iii) and items (x) through (xii) of the preceding Article is to be as provided for in the Rules of the Supreme Court.

(2) Except for the expenses prescribed in the preceding paragraph, the amount of the expenses is to be the amount of the actual costs.

(Person Responsible for Payment)

Article 12 The fees payable to a court enforcement officer and the expenses required for performing their duties are to be paid or reimbursed by the petitioner if the affairs are handled by the court enforcement officer upon petition or, in the cases where the court directly has the court enforcement officer handle the affairs, by the court, unless otherwise provided for in other laws.

(Due Date for Payment of Fees)

Article 13 A court enforcement officer may receive the fees for each affair only after they complete the affair or it becomes no longer necessary to carry out the affair; provided, however, that this does not apply to the cases prescribed in Article 8, paragraph (2) or if otherwise provided for in other laws.

(Prescription)

Article 14 The right to receive the fees or to receive reimbursement of expenses paid is to be extinguished by prescription if the right is not exercised within five years, unless the payment or reimbursement is to be made by the court.

(Prepayment)

Article 15 (1) With regard to the affairs handled by a court enforcement officer upon petition, the court enforcement officer may have the petitioner prepay the fees and the estimated amount of the expenses required for performing the duties as provided for in the Rules of the Supreme Court; provided, however, that this does not apply if the petitioner is a person who has received legal aid.

(2) The prepayment of the estimated amount set forth in the preceding paragraph is to be made to the district court to which a court enforcement officer belongs.

(3) If the petitioner fails to prepay the estimated amount set forth in paragraph (1), the court enforcement officer may dismiss the petition.

(4) The petitioner is relieved of the obligation to pay or reimburse the fees and expenses to the extent of the amount of the prepayment. In this case, the court enforcement officer is to receive the payment or reimbursement of the fees and expenses from the court that has received the prepayment.

(Special Provision for Petition by Person Who Has Received Legal Aid)

Article 16 If a court enforcement officer is unable to collect a portion of the fees and expenses required to perform their duties with regard to a compulsory execution upon petition by a person who has received legal aid, the portion is to be paid by the national treasury upon the court enforcement officer's request.

(Retention of Enforcement Records)

Article 17 (1) The enforcement records and other documents prepared by a court enforcement officer in the course of their duties are retained by the court enforcement officer.

(2) A party to the case or other interested person may demand inspection of the documents set forth in the preceding paragraph or other documents retained by a court enforcement officer in the course of their duties.

(3) To demand the inspection of documents pursuant to the provisions of the preceding paragraph, the party or the interested person must pay fees to a court enforcement officer as provided for in the Rules of the Supreme Court; provided, however, that this does not apply if the party demands the inspection of unfinished execution records.

(Preparation of Transcripts)

Article 18 (1) A party to the case or other interested person may demand issuance of a transcript or extract of execution records or other documents prepared by a court enforcement officer in the course of their duties, or a certificate concerning the affairs which have been handled by a court enforcement officer.

(2) To demand the issuance of documents pursuant to the provisions of the preceding paragraph, the party or the interested person must pay a clerical fee to a court enforcement officer as provided in the Rules of the Supreme Court.

(Assistance)

Article 19 (1) A court enforcement officer may request assistance from another court enforcement officer after obtaining permission from the district court to which they belong, if it is especially necessary for performing their duties.

(2) In the case referred to in the preceding paragraph, each court enforcement officer is to receive their respective fees, and the payment or reimbursement of the expenses required to perform their respective duties.

(Substitution of Duties)

Article 20 (1) A district court may have a court clerk perform all or part of the duties of a court enforcement officer as provided for in the Rules of the Supreme Court, if substitution is necessary due to an accident of the court

enforcement officer or other reasons.

(2) In the case referred to in the preceding paragraph, the fees to be received by the court enforcement officer, and the reimbursement of the expenses set forth in Article 10, paragraph (1), item (x) and item (xi), the expenses in item (xii) of the same paragraph which are provided for under the Rules of the Supreme Court, the clerical fee set forth in Article 18, paragraph (2), and other expenses are to be treated as national revenue.

(Subsidies from the National Treasury)

Article 21 If the amount of the fees received as income by a court enforcement officer for one year fails to reach the amount specified by Cabinet Order, the court enforcement officer receives payment of the shortfall from the national treasury.