

Civil Mediation Act

(Act No. 222 of June 9, 1951)

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Chapter I General Provisions

Section 1 General Rules

(Purpose of This Act)

Article 1 The purpose of this Act is to achieve resolution of civil disputes based on mutual concession between the parties and in accordance with reason and the circumstances of the disputes.

(Mediation Case)

Article 2 When a civil dispute arises, a party may file a petition for mediation with a court.

(Jurisdiction)

Article 3 (1) Except as otherwise provided, a mediation case is under the jurisdiction of the summary court that has jurisdiction over the locality of the domicile, residence, business office, or any other office of the respondent, or of the district court or summary court agreed to by the parties.

(2) A mediation case is under the jurisdiction of the summary court that has jurisdiction over the last domicile of the respondent (excluding a corporation or any other association or foundation) if the respondent has no domicile or residence in Japan or the respondent's domicile or residence is unknown.

(3) A mediation case in which the respondent is a corporation or any other association or foundation (excluding a foreign association or foundation) is

under the jurisdiction of the summary court that has jurisdiction over the domicile of its representative or any other person principally in charge of its business if the respondent has no office or business office in Japan or the location of its office or business office is unknown.

- (4) A mediation case in which the respondent is a foreign association or foundation is under the jurisdiction of the summary court that has jurisdiction over the domicile of its representative or any other person principally in charge of its business in Japan if the respondent has no office or business office in Japan.

(Transfer)

Article 4 (1) If the court finds that the whole or part of a mediation case is not under its jurisdiction (excluding the case prescribed in the main clause of the following paragraph), the court must, upon petition or by its own authority, transfer the case to the district court or summary court that has jurisdiction; provided, however, that if the court finds it particularly necessary for handling the case, the court may, by its own authority, transfer the whole or part of the case to another court with jurisdiction or handle the case itself, notwithstanding the provisions on territorial jurisdiction.

- (2) If the court finds that the whole or part of a mediation case is not under its jurisdiction, and the case is a case which a family court may mediate pursuant to the provisions of Article 244 of the Domestic Relations Case Procedure Act (Act No. 52 of 2011), the court must, by its own authority, transfer the case to the family court that has jurisdiction; provided, however, that if the court finds it particularly necessary for handling the case, the court may transfer the whole or part of the case to another family court, notwithstanding the provisions on territorial jurisdiction.

- (3) Even if a mediation case brought to the court is under its jurisdiction, if the court finds it appropriate for handling the case, the court may, by its own authority, transfer the whole or part of the case to another court with jurisdiction, notwithstanding the provisions on territorial jurisdiction.

(Petition for Mediation)

Article 4-2 (1) A petition for mediation must be filed by submitting a written petition to the court.

- (2) The written petition referred to in the preceding paragraph must state the following matters:
- (i) the parties and their legal representatives; and
 - (ii) the object of the petition and the points of the dispute.

(Mediation Body)

Article 5 (1) The court carries out the mediation using a mediation committee; provided, however, that if the court finds it appropriate, mediation may be carried out by a judge alone.

(2) The court must, upon the petition of a party, carry out the mediation using a mediation committee, notwithstanding the provisions of the proviso to the preceding paragraph.

(Composition of the Mediation Committee)

Article 6 A mediation committee is to be composed of a chief mediator and two or more civil mediation commissioners.

(Designation of Chief Mediators)

Article 7 (1) The chief mediator is a judge designated by a district court from among judges.

(2) Civil mediation commissioners who compose the mediation committee are designated by the court for each case.

(Civil Mediation Commissioners)

Article 8 (1) Civil mediation commissioners in addition to participating in the mediation carried out by the mediation committee, with regard to other mediation cases, are to state their opinions based on their expert knowledge and experience, hear opinions from the persons concerned with the case in order to resolve the dispute as commissioned, as ordered by the court, and perform other necessary affairs specified by the Supreme Court for handling mediation cases.

(2) Civil mediation commissioners serve part-time, and necessary matters concerning their appointment and dismissal are specified by the Supreme Court.

(Disqualification of Civil Mediation Commissioners)

Article 9 (1) With regard to the disqualification of a civil mediation commissioner, the provisions of Article 11, Article 13, paragraphs (2), (8), and (9), and Article 14, paragraph (2) (excluding the parts concerning a challenge) of the Non-Contentious Case Procedures Act (Act No. 51 of 2011) apply *mutatis mutandis*.

(2) A judicial decision on the disqualification of a civil mediation commissioner is made by the court to which the civil mediation commissioner belongs.

(Allowances)

Article 10 Civil mediation commissioners are paid an allowance as separately provided by law, and are also paid travel expenses, a daily allowance, and

accommodation expenses as specified by the Supreme Court.

(Participation by Interested Persons)

Article 11 (1) A person with an interest in the outcome of mediation may participate in mediation proceedings, with the permission of the mediation committee.

(2) The mediation committee, if it finds it appropriate, may have any person with an interest in the outcome of mediation participate in mediation proceedings.

(Measures Prior to Mediation)

Article 12 (1) If the mediation committee finds it particularly necessary for mediation, as a mediation measure prior to mediation, the mediation committee may order to prohibit the respondent or any other person concerned with the case from changing the existing state of or disposing of any property, or order them to cease and desist from any act that would make it impossible or extremely difficult to achieve the subject matter of the mediation upon the petition of a party.

(2) The measure set forth in the preceding paragraph is not enforceable.

(Control over Mediation Proceedings)

Article 12-2 Mediation proceedings conducted by a mediation committee are subject to the control of the chief mediator.

(Summons for Appearance Date)

Article 12-3 A mediation committee must specify an appearance date for mediation proceedings and summon the persons concerned with the case.

(Place for Mediation)

Article 12-4 A mediation committee may mediate a case at an appropriate place outside a court, in consideration of the circumstances of the case.

(Preparation of Records)

Article 12-5 A court clerk must prepare a record regarding a date for mediation proceedings; provided, however, that this does not apply if the chief mediator finds it unnecessary to prepare a record.

(Inspection of Records)

Article 12-6 (1) A party or a third party who has made prima facie showing of their interest may make a request to a court clerk to inspect or copy a record of a mediation case or to request the issuance of an authenticated copy, transcript or extract of the record or the issuance of a certificate concerning a mediation

case.

(2) The provisions of Article 91, paragraphs (4) and (5) of the Code of Civil Procedure (Act No. 109 of 1996) apply mutatis mutandis to the record referred to in the preceding paragraph.

(Examination of Facts and Examination of Evidence)

Article 12-7 (1) A mediation committee may examine facts by its own authority and examine evidence as it finds necessary upon petition or by its own authority.

(2) A mediation committee may have the chief mediator examine facts or examine evidence.

(When Not to Conduct Mediation)

Article 13 When the mediation committee finds that a case is unsuitable for mediation due to its nature, or finds that a party has filed a petition for mediation for an unjust purpose and without due cause, the mediation committee may decide not to carry out the mediation and close the case.

(Unsuccessful Mediation)

Article 14 If there is no likelihood of the parties reaching an agreement or if the mediation committee finds that the agreement reached is inappropriate, and the court does not issue an order referred to in Article 17, the mediation committee may decide the mediation to be unsuccessful and close the case.

(Application Mutatis Mutandis to Mediation by Judge Alone)

Article 15 The provisions of Article 11 through the preceding Article apply mutatis mutandis to cases in which mediation is carried out by a judge alone.

(Successful Mediation and Its Effect)

Article 16 When an agreement is reached between the parties during mediation and this is entered in a record, the mediation is deemed successful, and the entry has the same effect as a judicial settlement.

(Order in Lieu of Mediation)

Article 17 If mediation carried out by a mediation committee is unlikely to be successful, and the court finds it appropriate, it may, by its own authority and to an extent that does not contradict the objectives of the parties' petitions, issue a necessary order to resolve the case after hearing the opinions of the civil mediation commissioners composing the mediation committee, giving consideration to equitable treatment of the interests of both parties, and taking into account all relevant circumstances. Through this order, the court may

order the payment of money, delivery of an object, or any other provision of economic benefit.

(Filing of an Objection)

Article 18 (1) A party or any interested person may file an objection to an order referred to in the preceding Article. The period for filing an objection is two weeks from the day on which the party receives notice of the order.

(2) When the court finds an objection under the provisions of the preceding paragraph to be unlawful, it must dismiss the objection.

(3) An immediate appeal against a judicial decision to dismiss an objection pursuant to the provisions of the preceding paragraph has the effect of stay of execution.

(4) If a lawful objection is filed, the order referred to in the preceding Article ceases to be effective.

(5) If no objection is filed within the period referred to in paragraph (1), the order referred to in the preceding Article has the same effect as a judicial settlement.

(Filing of Actions in Cases of Unsuccessful Mediation)

Article 19 If a case is closed pursuant to the provision of Article 14 (including as applied *mutatis mutandis* pursuant to Article 15) or if an order ceases to be effective pursuant to the provision of paragraph (4) of the preceding Article, and the petitioner then files an action with regard to the claim for which mediation was sought within two weeks from the day on which the petitioner receives notice to that effect, that action is deemed to have been filed at the time of the filing of the petition for mediation.

(Withdrawal of Petition for Mediation)

Article 19-2 A petition for mediation may be withdrawn in whole or in part while a mediation case is open; provided, however, that the withdrawal does not become effective without the consent of the respondent after an order referred to in Article 17 is made.

(Referral to Mediation)

Article 20 (1) When the court in charge of the case finds it appropriate, it may, by its own authority, refer the case to mediation and handle the case itself or have the case handled by a court with jurisdiction; provided, however, that this does not apply to cases in which there is no agreement by the parties after the arrangement of the issues and evidence of the case has been completed.

(2) If the case is referred to mediation pursuant to the provisions of the preceding paragraph, and the mediation is successful or an order referred to in Article 17 becomes final and binding, the action is deemed to be withdrawn.

- (3) If the court in charge of a case carries out the mediation process itself pursuant to the provisions of paragraph (1), notwithstanding the provisions of Article 7, paragraph (1), the chief mediator is designated by the court in charge of the case from among its judges.
- (4) The provisions of the preceding three paragraphs apply *mutatis mutandis* if a non-contentious case is referred to mediation.

(Bearing of Costs for Successful Mediation)

Article 20-2 (1) If mediation is successful, and the bearing of mediation costs is not specially specified, each person bears their own costs.

- (2) If mediation is successful in a suit or non-contentious case that has been referred to mediation pursuant to the provisions of paragraph (1) of the preceding Article (including as applied *mutatis mutandis* pursuant to paragraph (4) of that Article) and Article 24-2, paragraph (2), and the bearing of costs for proceedings of the suit or non-contentious case is not specially specified, each party bears their own costs.

(Suspension of Litigation Proceedings)

Article 20-3 (1) When a suit is pending with regard to a case for which a petition for mediation is filed, or a case is referred to mediation pursuant to the provisions of Article 20, paragraph (1) or Article 24-2, paragraph (2), the court in charge of the case may suspend litigation proceedings while a mediation case is open; provided, however, that this does not apply to cases in which there is no agreement by the parties after the arrangement of the issues and evidence of the case has been completed.

- (2) The provisions of the preceding paragraph apply *mutatis mutandis* when a non-contentious case is pending with regard to a case for which a petition for mediation is filed, or a non-contentious case is referred to mediation pursuant to the provisions of Article 20, paragraph (1) as applied *mutatis mutandis* pursuant to paragraph (4) of that Article.

(Immediate Appeal Against Order Other Than Final Order)

Article 21 An immediate appeal may be filed against an order other than a final order made in mediation proceedings, as provided for by the Rules of the Supreme Court in addition to what is provided for in this Act.

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

Article 22 Except as otherwise provided, the provisions of Part II of the Non-Contentious Cases Procedures Act apply *mutatis mutandis* to mediation, unless contrary to its nature; provided, however, that this does not apply to the provisions of Articles 40 and 52 of that Act.

(Matters Not Provided for in This Act)

Article 23 Beyond what is provided for in this Act, necessary matters concerning mediation are specified by the Supreme Court.

Section 2 Civil Mediator

(Appointment of Civil Mediators)

- Article 23-2 (1) A civil mediator is appointed by the Supreme Court from among attorneys-at-law who have served in that capacity for not less than five years.
- (2) A civil mediator performs the duties necessary for processing mediation cases, as provided for by this Act.
- (3) A civil mediator is to hold office for two years, and may be reappointed.
- (4) A civil mediator serves part-time.
- (5) A civil mediator is not to be dismissed during their term of office, except for cases falling under any of the following items:
- (i) when the civil mediator comes to fall under any of the items of Article 7 of the Attorneys Act (Act No. 205 of 1949);
 - (ii) when the civil mediator is found unable to perform their duties due to mental or physical disability; or
 - (iii) when the civil mediator is found to have violated an obligation in the course of their duties or committed any other misconduct so as to render them unfit to serve as a civil mediator.
- (6) Beyond what is provided for in this Act, necessary matters concerning the appointment and dismissal of civil mediators are specified by the Rules of the Supreme Court.

(Authority of Civil Mediators)

- Article 23-3 (1) A civil mediator handles mediation cases as designated by the court.
- (2) A civil mediator may, in the course of processing mediation cases that the civil mediator handles, exercise the authority prescribed in the proviso to paragraph (3) of the following Article and the authorities in relation to civil mediation or special mediation (including the authority vested in the chief mediator) provided as those to be exercised by a judge under the provisions of this Act (including the provisions of the Non-Contentious Cases Procedures Act as applied mutatis mutandis pursuant to Article 22) and the provisions of the Act on Special Mediation for Expediting Arrangement of Specified Debts (Act No. 158 of 1999), and may also exercise the following authorities:
- (i) the authorities in relation to civil mediation provided as those to be exercised by the court under the provisions of Article 4, the proviso to Article

- 5, paragraph (1), Article 7, paragraph (2), Article 8, paragraph (1), Article 17, Article 28 as applied mutatis mutandis pursuant to Article 30 (including as applied mutatis mutandis pursuant to Article 33), Article 34, and Article 35;
- (ii) the authorities provided as those to be exercised by the court under the provisions of the Non-Contentious Cases Procedures Act as applied mutatis mutandis pursuant to Article 22 (excluding the provisions of Article 13 and the main clause of Article 14, paragraph (3) of that Act (including as applied mutatis mutandis pursuant to Article 15 of that Act)), which relate to civil mediation; and
 - (iii) the authorities in relation to special mediation prescribed as those to be exercised by the court in the provisions of the Act on Special Mediation for Expediting Arrangement of Specified Debts.
- (3) A civil mediator performs their duties independently.
- (4) A civil mediator may, when exercising their authority, give necessary orders concerning their duties to a court clerk. In this case, the provisions of Article 60, paragraph (5) of the Court Act (Act No. 59 of 1947) apply mutatis mutandis to a court clerk who has received orders from a civil mediator.

(Disqualification of and Challenge to Civil Mediators)

- Article 23-4 (1) With regard to disqualification of and a challenge to a civil mediator, the provisions of Article 11, Article 12, and Article 13, paragraphs (2) through (4), paragraph (8), and paragraph (9) of the Non-Contentious Cases Procedures Act apply mutatis mutandis.
- (2) If a judicial decision to dismiss a petition for a challenge is made on any of the grounds set forth in the items of Article 13, paragraph (5) of the Non-Contentious Cases Procedures Act, the mediation proceedings are not stayed, notwithstanding the provisions of the main clause of paragraph (4) of that Article as applied mutatis mutandis pursuant to the preceding paragraph.
 - (3) A judicial decision on disqualification of or a challenge to a civil mediator is made by the court to which the civil mediator belongs, and a judicial decision on disqualification of or a challenge to a civil mediator who belongs to a summary court is made by the district court that has jurisdiction over the locality of the summary court; provided, however, that the judicial decision referred to in the preceding paragraph may be made by a civil mediator who has been challenged.

(Allowances for Civil Mediators)

- Article 23-5 A civil mediator is paid an allowance as separately provided for by law and is also paid travel expenses, a daily allowance and accommodation expenses as specified by the Supreme Court.

Chapter II Special Provisions
Section 1 Real Estate Mediation

(Real Estate Mediation Cases and Relevant Jurisdiction)

Article 24 A mediation case involving a dispute over a lease or other relationship concerning the use of a building lot or a building is to be under the jurisdiction of the summary court that has jurisdiction over the locality of the building lot or the building in dispute, or the district court that has jurisdiction over the locality as determined by agreement of the parties.

(Mediation Prior to Litigation in Cases in which an Increase or Decrease in Rent is Claimed)

Article 24-2 (1) A person who seeks to file an action to claim an increase or decrease in the amount of rent for land referred to in Article 11 of the Act on Land and Building Leases (Act No. 90 of 1991) or to claim an increase or decrease in the amount of rent for a building referred to in Article 32 of that Act must first file a petition for mediation.

(2) If a person files an action in the case referred to in the preceding paragraph without first filing a petition for mediation, the court in charge of the case must refer the case to mediation; provided, however, that this does not apply when the court in charge of the case finds it unsuitable to refer the case to mediation.

(Terms of Mediation Determined by the Mediation Committee in Cases in which an Increase or Decrease in Rent is Claimed)

Article 24-3 (1) In a mediation case involving a claim referred to in paragraph (1) of the preceding Article, if there is no likelihood of an agreement being reached between the parties or if the mediation committee finds that the agreement reached is inappropriate, and there is a written agreement between the parties to the effect that they would obey the terms of mediation determined by a mediation committee (limited to the agreement reached after the petition for mediation was filed concerning the mediation case), the mediation committee may, upon petition, determine the terms of mediation that are appropriate for the resolution of the case.

(2) When the terms of mediation referred to in the preceding paragraph are entered in a record, the mediation is deemed to have been achieved, and the entry is to have the same effect as a judicial settlement.

Section 2 Agricultural Mediation

(Agricultural Mediation Cases)

Article 25 A mediation case involving a dispute over a lease or other relationship related to the use of farmland, or land, buildings or other agricultural assets incidental to farm management (hereinafter referred to as "farmland") are to be governed by the provisions of this Section, in addition to the provisions of the preceding Chapter.

(Jurisdiction)

Article 26 A mediation case set forth in the preceding Article is to be under the jurisdiction of the district court that has jurisdiction over the locality of the farmland which is in dispute, or the summary court that has jurisdiction over the locality as determined by agreement of the parties.

(Statement of Opinions by Ministerial Farmland Officials)

Article 27 A ministerial or prefectural farmland official may state their opinions to the mediation committee on the appearance date for mediation proceedings or on an occasion other than the appearance date for mediation proceedings.

(Hearing of Opinions from Ministerial Farmland Officials)

Article 28 When a mediation committee seeks to carry out mediation, it must hear the opinions of a ministerial or prefectural farmland official.

(Application Mutatis Mutandis to Mediation by Judge Alone)

Article 29 The provisions of the preceding two Articles apply mutatis mutandis to cases in which mediation is carried out by a judge alone.

(Application Mutatis Mutandis to Transfer)

Article 30 The provisions of Article 28 apply mutatis mutandis to cases in which the court seeks to transfer the case to another court or to process the case by itself pursuant to the provisions of the proviso to Article 4, paragraph (1) or paragraph (3) of that Article, or if the court seeks to issue an order referred to in Article 17.

Section 3 Commercial Mediation

(Terms of Mediation Determined by the Mediation Committee in Commercial Mediation Cases)

Article 31 The provisions of Article 24-3 apply mutatis mutandis to commercial mediation cases.

Section 4 Mining Pollution Mediation

(Mining Pollution Mediation Cases and Relevant Jurisdiction)

Article 32 A mediation case involving a dispute over compensation for mining pollution as prescribed in the Mining Act (Act No. 289 of 1950) is to be under the jurisdiction of the district court that has jurisdiction over the place where the damage occurred.

(Application Mutatis Mutandis of the Provisions on Agricultural Mediation)

Article 33 The provisions of Article 24-3 and Articles 27 through 30 apply mutatis mutandis to mediation cases referred to in the preceding Article. In such a case, the phrase "ministerial or prefectural farmland official" in Articles 27 and 28 is deemed to be replaced with "Director-General of a Bureau of Economy, Trade and Industry."

Section 5 Traffic Accident Mediation

(Traffic Accident Mediation Cases and Relevant Jurisdiction)

Article 33-2 A mediation case involving a dispute over compensation for damages for the death or physical injury of a person caused by driving of an automobile is to be under the jurisdiction of the summary court that has jurisdiction over the locality of the domicile or residence of the person claiming damages, in addition to the court provided for in Article 3.

Section 6 Pollution Mediation

(Pollution Mediation Cases and Relevant Jurisdiction)

Article 33-3 A mediation case involving a dispute over damages arising from pollution or infringement of right to sunlight, ventilation or other benefits of life is to be under the jurisdiction of the summary court that has jurisdiction over the place where the damage occurred or is likely to occur, in addition to the court provided for in Article 3.

Chapter III Penal Provisions

(Sanction for Nonappearance)

Article 34 If a person concerned with the case who is summoned to appear by the court or the mediation committee fails to appear without legitimate grounds, the person will be punished by a civil fine of not more than 50,000 yen.

(Sanction for Noncompliance with Measures)

Article 35 If a party or participant does not comply with the measure ordered under the provisions of Article 12 (including as applied mutatis mutandis

pursuant to Article 15) without legitimate grounds, the party or participant will be punished by a civil fine of not more than 100,000 yen.

(Civil Fine Order)

Article 36 (1) An order of a civil fine referred to in the preceding two Articles is to be executed based on a direction issued by a judge. This direction has the same effect as an enforceable title of obligation.

(2) Beyond what is provided for in the preceding two paragraphs, the provisions of Part V of the Non-Contentious Case Procedures Act (excluding the provisions of Articles 119 and 121 of that Act and the provisions of Articles 120 and 122 of that Act concerning a prosecutor) apply *mutatis mutandis* to an order of a civil fine.

(Crime of Divulging Confidential Information on Proceedings of Deliberations)

Article 37 If a civil mediation commissioner or a person who has held the post divulges any information on the proceedings of deliberations of the committee, the opinions of the chief mediator or civil mediation commissioner, or the number of opinions constituting the majority and the minority, they will be punished by a fine of up to 300,000 yen.

(Crime of Divulging Personal Confidential Information)

Article 38 If a civil mediation commissioner or a person who has held the post divulges any personal confidential information that have come to their knowledge in relation to the matters they have handled in the course of their duties without legitimate grounds, they will be punished by imprisonment with work for up to one year or a fine of up to 500,000 yen.