

# Act for Implementation of United Nations Convention on International Settlement Agreements Resulting from Mediation

(Act No. 16 of April 28, 2023)

(Purpose)

Article 1 This Act provides the particulars necessary for implementation of the United Nations Convention on International Settlement Agreements Resulting from Mediation (hereinafter referred to as the "Convention").

(Definitions)

Article 2 (1) The term "mediation" as used in this Act means a process, irrespective of its name or grounds for commencement, for parties who seek to resolve a civil or commercial dispute in respect of a certain legal relationship (irrespective of whether contractual or not), whereby a third person lacking the authority to impose a solution upon the parties mediates a settlement and attempts to resolve the dispute.

(2) The term "mediator" as used in this Act means a person who mediates settlement through mediation.

(3) The term "international settlement agreement" as used in this Act means an agreement resulting from mediation that has been reached between the parties and that falls under any of the following items at the time of the conclusion of the agreement:

(i) some or all of the parties have an address, a main office or a place of business outside Japan (including cases in which a person that 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, or a person specified by Order of the Ministry of Justice as equivalent to that person has an address, a main office or a place of business outside Japan);

(ii) some or all parties have their addresses, offices or places of business (if a party has two or more offices or place of businesses, the office or place of business which has the closest relationship to the dispute resolved by the agreement, in regard to the circumstances known to, or contemplated by, the parties at the time of the conclusion of the agreement; hereinafter the same applies in the following item) in different States; or

(iii) the State in which some or all of the parties have their addresses, offices or places of business is different from the State in which either the place where a substantial part of the obligations under the agreement is performed or the

place with the closest connection to the subject matter of the agreement belongs.

(Scope of Application)

Article 3 The provisions of this Act apply when parties to the international settlement agreement have agreed that it could be enforced through civil enforcement based on the Convention or laws and regulations regarding the implementation of the Convention.

(Exclusions from Application)

Article 4 This Act does not apply to the following international settlement agreements:

- (i) international settlement agreements on disputes relating to civil contracts or transactions for which some or all of the parties to the agreement are individuals (excluding those who have become parties to a contract or transaction as a business or for business purposes);
- (ii) international settlement agreements on individual labor-related disputes (meaning individual labor-related disputes as prescribed in article 1 of the Act on Promoting the Resolution of Individual Labor-Related Disputes (Act No. 112 of 2001));
- (iii) international settlement agreements on disputes regarding personal status and other disputes regarding family affairs;
- (iv) international settlement agreements that have been approved by courts of a foreign country or concluded in the course of proceedings before the Japanese courts or courts of a foreign country and that are enforceable in the State of that court; and
- (v) international settlement agreements that have the effect of an arbitral award and are enforceable.

(Enforceability Order of International Settlement Agreement)

Article 5 (1) A party that intends to process a civil enforcement based on an international settlement agreement must file a petition with the court for an enforceability order (meaning an order allowing the civil enforcement based on an international settlement agreement; the same applies hereinafter), indicating the obligor as the respondent.

(2) Any person who files a petition referred to in the preceding paragraph (hereinafter referred to as a "petitioner" in this Article) must submit the following documents:

- (i) a document prepared by the parties containing the content of the international settlement agreement; and
- (ii) a document prepared by the mediator or another person who prepares or

- preserves records or performs any other administrative work that certifies that the international settlement agreement resulted from mediation.
- (3) Regarding the documents referred to in the preceding paragraph, the petitioner may instead submit a recording medium of an electronic or magnetic record (a record which is produced by electronic, magnetic, or any other means unrecognizable by the human senses, and is used for information processing by a computer; the same applies in the following paragraph) stating the content that is required for those documents. In this case, the petitioner that has submitted the recording medium is deemed to have submitted the document.
- (4) When submitting a document or recording medium pursuant to the provisions of the two preceding paragraphs, a petitioner must submit a Japanese translation of that document (excluding one drafted in Japanese) or that recording medium of the electronic or magnetic record (excluding one prepared in Japanese); provided, however, that if the court finds it appropriate, after hearing the opinions of the respondent, the court may decide not to require the submission of whole or part of the Japanese translation of that document or that electronic or magnetic record.
- (5) If the petition referred to in paragraph (1) is filed with the court, and another petition relating to the international settlement agreement is filed with another judicial body or an arbitral tribunal, the court may suspend the procedure pertaining to the petition referred to in paragraph (1), if necessary. In this case, the court may order the respondent to provide security, upon the petition of the petitioner.
- (6) The case related to the petition referred to in paragraph (1) is to be under the exclusive jurisdiction of the following courts:
- (i) the district court determined by an agreement between the parties;
  - (ii) the district court which has jurisdiction over the locality of the general venue of the respondent in the case;
  - (iii) the district court which has jurisdiction over the locality of the subject matter of the claim or the seizable property of the respondent; and
  - (iv) the Tokyo District Court and the Osaka District Court (limited to the case in which the location of the general venue of the respondent or the location of the subject matter of the claim or the seizable property of the respondent is in Japan)
- (7) If two or more courts have jurisdiction pursuant to the provision of the preceding paragraph, the case is to be under the jurisdiction of the court which first received a petition.
- (8) If it finds that whole or part of the case related to the petition referred to in paragraph (1) is not under its jurisdiction, the court must transfer it to the court with jurisdiction, upon petition or by its own authority.
- (9) Regarding a case that is subject to the jurisdiction of a court pursuant to the

provision of paragraph (7), if it finds it appropriate, the court may transfer whole or part of the case to a court that is not vested with jurisdiction over the case pursuant to the provisions of that paragraph, upon petition or by its own authority.

- (10) An immediate appeal may be filed against a decision under the two preceding paragraphs, within an unextendable period of two weeks from the day on which a notice of the decision was received.
- (11) The court must make an enforceability order, except when it dismisses the petition referred to in paragraph (1) pursuant to the provisions of the following paragraph.
- (12) When the petition referred to in paragraph (1) has been filed, the court may dismiss the petition only if it finds that one of the grounds stated in the following items exist (for the grounds stated in items (i) through (vi), limited to the case in which the respondent has proved the existence of the grounds):
  - (i) the international settlement agreement is not valid due to the limitation on the legal capacity of a party;
  - (ii) the international settlement agreement is not valid on grounds other than the limitation on the legal capacity of a party pursuant to the laws and regulations designated by the agreement of the parties as those which should be applied to the international settlement agreement (or if their designation has not been made, pursuant to the laws and regulations determined to be applicable to the international settlement agreement by the court);
  - (iii) the content of the obligations in the international settlement agreement cannot be specified;
  - (iv) the obligations in the international settlement agreement have been extinguished in their entirety due to performance or any other reasons;
  - (v) the mediator has breached laws, regulations or any other rules applicable to the mediator or to the mediation implemented by the mediator pursuant to an agreement between the parties (limited to those unrelated to public order), and the fact constituting the breach is serious and affects the conclusion of the international settlement agreement;
  - (vi) the mediator failed to disclose to the parties a fact that may raise doubts as to the mediator's impartiality or independence, and the fact is serious and affects the conclusion of the international settlement agreement;
  - (vii) the subject matter of the international settlement agreement concerns a dispute which may not be subject to a settlement agreement pursuant to the provisions of Japanese laws and regulations; or
  - (viii) a civil enforcement based on the international settlement agreement would be contrary to public policy in Japan.
- (13) The court may not make a decision on the petition referred to in paragraph (1) without holding an oral argument or a hearing that both parties can attend.

(14) An immediate appeal may be filed against the petition referred to in paragraph (1), within an unextendable period of two weeks from the day on which a notice of the decision was received.

(Optional Oral Arguments)

Article 6 A judicial decision on a proceeding relating to an enforceability order may be made without holding oral arguments.

(Inspection of the Record of the Case)

Article 7 Any person that has an interest concerning the proceedings on an enforceability order may file a request with the court clerk in regard to the following matters:

- (i) inspection or copy of the records of the case;
- (ii) reproduction of a record which is created in an electronic form, a magnetic form, or any other form that cannot be perceived by the human senses that is included in the records of the case;
- (iii) delivery of an authenticated copy, transcript, or extract of the record of the case; and
- (iv) delivery of a certificate for the matters related to the case.

(Summons for Appearance on a Court Date)

Article 8 (1) A summons for appearance on a court date in a proceeding relating to an enforceability order is issued by means of the service of a writ of summons, the notification of a court date to a person who has appeared in connection with the relevant case, or by any other means that is considered to be appropriate.

(2) If a summons to appear on a court date is issued by means other than the service of a writ of summons and the announcement of a court date to a person who has appeared for the relevant case, no legal sanction nor any other disadvantage associated with the failure to comply with the court date may be assigned to the person who does not appear on that court date; provided, however, that this does not apply if the person has submitted a paper document indicating receipt of the summons to appear on that court date.

(Means of Service by Publication)

Article 9 For a service by publication in a proceeding relating to an enforceability order, a notice indicating that the court clerk has retained the document to be served and can deliver it to the person that is to be served at any time is posted in the posting area of the court.

(Petition by Means of Electronic Data Processing System)

Article 10 (1) Among the petitions or other statements in proceedings relating to an enforceability order (hereinafter referred to as a "petition or statement"), those which are to be filed with the court specified by the Supreme Court (including those to be filed to that court's presiding judge, authorized judge, commissioned judge, or court clerk) by means of paper documents or other prescribed items (meaning a paper document, a transcript, extract, authenticated copy, or duplicate of a document, a duplicate of a bill or note, or any other paper or other tangible object into which information that can be perceived with the human senses, such as characters and shapes, has been entered; hereinafter the same applies in the following paragraph and the paragraph (4)) pursuant to the provisions of this Act or other laws and regulations concerning a petition or statement may be filed by means of electronic data processing systems (meaning electronic data processing systems that connect a computer (including its input and output devices; the same applies hereinafter in this paragraph and paragraph (3)) used by the court and the computer used by the person filing the petition or statement over telecommunication lines) as specified by the Rules of the Supreme Court, notwithstanding the provisions of the laws and regulations.

(2) The petition or statement filed pursuant to the provisions of the preceding paragraph is deemed to have been filed by means of a paper document or other prescribed item as prescribed in the provisions of the laws and regulations concerning a petition or statement that provide that the petition or statement in question is to be filed by means of a paper document or other prescribed item, and the provisions of the laws and regulations concerning a petition or statement apply to the petition or statement in question.

(3) The petition or statement filed pursuant to the provisions of paragraph (1) is deemed to have arrived at the court when it is recorded in a file stored on the computer used by a court as referred to in that paragraph.

(4) Notwithstanding the provisions of other laws and regulations concerning a petition or statement, in the case of paragraph (1), in order to file the petition or statement that is to bear a signature or other identifying information (meaning the relevant person's signature, name, seal, or other expressions of the relevant person's name or trade name in paper documents or other prescribed items; hereinafter the same applies in this paragraph) pursuant to the provisions of other laws and regulations concerning the petition or statement, the person filing the petition or statement must take measures to clarify their name or trade name, in lieu of affixing the signature or other identifying information, as provided for by the Rules of the Supreme Court.

(5) When a petition or statement filed pursuant to paragraph (1) has been recorded in the file prescribed in paragraph (3), the court referred to in paragraph (1) must output the contents of the data recorded in the file in the

form of paper documents.

- (6) In order to inspect or copy a case record or have an authenticated copy, transcript, or extract of a case record issued pursuant to provisions of this Act or other laws or regulations in relation to a petition or statement that is filed pursuant to paragraph (1), the paper documents referred to in the preceding paragraph are to be used. The same applies to service or delivery of a document in connection with the petition or statement.

(A Written Judgment)

Article 11 (1) When drafting a written judgment of a judicial decision on a proceeding relating to an enforceability order, the court must state the main text, the parties and legal representatives, and the court of the judicial decision in the written judgement.

- (2) If the written judgment referred to in the preceding paragraph is served, an authenticated copy of the written judgement is delivered.

(Application Mutatis Mutandis of the Code of Civil Procedure)

Article 12 Except as otherwise provided, the provisions of Part I through Part IV (excluding the provisions of Article 71, paragraph (2), Article 91-2, Article 92, paragraphs (9) and (10), Article 92-2, paragraph (2), Article 94, Article 100, paragraph (2), Part I, Chapter 5, Section 4, Subsection 3, Article 111, Part I, Chapter 7, Article 133-2, paragraphs (5) and (6), Article 133-3, paragraph (2), Article 151, paragraph (3), Article 160, paragraph (2), Article 185, paragraph (3), Article 205, paragraph (2), Article 215, paragraph (2), Article 227, paragraph (2) and Article 232-2) of the Code of Civil Procedure (Act No. 109 of 1996) apply mutatis mutandis to the proceeding relating to an enforceability order, unless contrary to its nature. In this case, each term or phrase listed in the middle column of the appended table that appears in the provisions listed in the left hand column of that table is deemed to be replaced with the corresponding term or phrase listed in the right hand column of that table.

(Rules of the Supreme Court)

Article 13 Beyond what is provided for in this Act, necessary particulars related to a proceeding for an enforceability order are to be specified by the Rules of the Supreme Court.

## **Supplementary Provisions**

(Effective Date)

Article 1 This Act comes into effect on the day on which the Convention becomes effective for Japan.

(Transitional Measures concerning International Settlement Agreements)

Article 2 (1) This Act applies to international settlement agreements that are reached on or after the date of enforcement of this Act.

Article 3 to 5 (Omitted)

Appended Table (Re: Article 12)

the main text of Article 112, paragraph (1)	the measure under the provisions of the preceding Article was commenced	in the posting area for the court, the posting was made of notice that the court clerk has retained the document to be served and can deliver it to the person that is to be served at any time
the proviso of Article 112, paragraph (1)	the measure under the provisions of the preceding Article was commenced	the posting was made
Article 113	a document or electronic or magnetic record	a document
	contains a statement or record	contains a statement
	the measure under the provision of Article 111 was commenced	in the posting area for the court, the posting was made of a notice that the court clerk has retained the document to be served and can deliver it to the person that is to be served at any time
Article 133-3, paragraph (1)	a paper document or electronic or magnetic record detailing or recording	a paper document detailing
	the paper document or electronic or magnetic record	the paper document
	or electronic or magnetic record, and any other case records, etc. a paper document or electronic or magnetic record similar there to	and any other paper document similar to them



Article 151, paragraph (2) and Article 231-2, paragraph (2)	by way of ... or using an electronic data processing system specified by the Rules of the Supreme Court	by way of
Article 160, paragraph (1)	an electronic statement (meaning an electronic or magnetic record prepared by a court clerk pursuant to the provisions of this Act and any other laws and regulations for the purpose of recording and public authentication of the formality, details, progress, etc. of proceedings conducted on the court date or any other date; the same applies hereinafter) as provided for by the Rules of the Supreme Court	a record
Article 160, paragraph (3)	to the particulars of the electronic statement recorded in a file pursuant to the provisions of the preceding paragraph	in the record
Article 160, paragraph (4)	the electronic statement recorded in a file pursuant to the provisions of paragraph (2)	the record
	the electronic statement	the record
Article 160-2, paragraph (1)	an electronic statement recorded in a file pursuant to the provisions of paragraph (2) of the preceding Article	the record
Article 160-2, paragraph (2)	be made by the entry of that effect in a file	be made by preparing a record

Article 205, paragraph (3)	the matters, or the particulars recorded in a file or the particulars recorded in a recording medium under the preceding paragraph, pursuant to the provisions of the preceding paragraph	the matters
Article 215, paragraph (4)	the matters, or the particulars recorded in a file pursuant to the provisions of paragraph (2) or the particulars recorded in a recording medium as referred to in that paragraph	the matters
Article 231-3, paragraph (2)	or sending a recording medium storing the electronic or magnetic record or using an electronic data processing system specified by the Rules of the Supreme Court	or sending
Article 261, paragraph (4)	an electronic statement	a record
	shall record	must state