

Bankruptcy Act (Not yet enforced Article 11 etc. (Tentative translation))

(Act No. 75 of June 2, 2004)

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Chapter I General Provisions

(Purpose)

Article 1 The purpose of this Act is, by specifying proceedings for liquidation of property held by debtors who are unable to pay debts or are insolvent, etc., to appropriately coordinate the interests of creditors and other interested persons and the relationships of rights between debtors and creditors, with the aim of ensuring proper and fair liquidation of debtors' property, etc. and securing the opportunity for revitalization of their economic life.

(Definitions)

- Article 2 (1) The term "bankruptcy proceedings" as used in this Act means the procedure for liquidating a debtor's property, inherited property or trust property as provided for in the following Chapter and thereafter (excluding Chapter XII).
- (2) The term "bankruptcy case" as used in this Act means a case related to bankruptcy proceedings.
- (3) The term "bankruptcy court" as used in this Act means a district court before which a bankruptcy case is pending.
- (4) The term "bankrupt" as used in this Act means a debtor against whom an order of commencement of bankruptcy proceedings has been made pursuant to the provision of Article 30, paragraph (1).
- (5) The term "bankruptcy claim" as used in this Act means a claim on property arising against the bankrupt from a cause that has occurred before the commencement of bankruptcy proceedings (including the claims set forth in the items of Article 97), which does not fall within the scope of claims on the estate.
- (6) The term "bankruptcy creditor" as used in this Act means a creditor who holds a bankruptcy claim.
- (7) The term "claim on the estate" as used in this Act means a claim which may be paid from the bankruptcy estate at any time without going through bankruptcy proceedings.
- (8) The term "holder of claim on the estate" as used in this Act means a creditor who holds a claim on the estate.
- (9) The term "right of separate satisfaction" as used in this Act means a right that a person who holds a special statutory lien, pledge or mortgage against property that belongs to the bankruptcy estate may exercise at the time of commencement of bankruptcy proceedings, pursuant to the provision of Article 65, paragraph (1), against the property that is the subject matter of these rights.
- (10) The term "holder of a right of separate satisfaction" as used in this Act means a person who holds a right of separate satisfaction.
- (11) The term "unable to pay debts" as used in this Act means the condition in which a debtor, due to the lack of ability to pay, is generally and continuously unable to pay debts as they become due (in the case of bankruptcy of the trust property, the condition in which the trustee, due to the lack of ability to pay with the trust property, is generally and continuously unable to pay obligation covered by the trust property (meaning obligations covered by the trust property as prescribed in Article 2, paragraph (9) of the Trust Act (Act No. 108 of 2006); the same applies hereinafter) as they become due).
- (12) The term "bankruptcy trustee" as used in this Act means a person who has a

right to administer and dispose of property that belongs to the bankruptcy estate in bankruptcy proceedings.

(13) The term "provisional administrator" as used in this Act means a person who is ordered to administer a debtor's property pursuant to the provisions of Article 91, paragraph (1).

(14) The term "bankruptcy estate" as used in this Act means a bankrupt's property, inherited property, or trust property for which a bankruptcy trustee has an exclusive right to administer and dispose of in bankruptcy proceedings.

(Status of Foreign Nationals)

Article 3 A foreign national or foreign corporation has the same status as a Japanese national or Japanese corporation, with respect to bankruptcy proceedings, discharge proceedings under the provisions of Chapter XII, Section 1 (hereinafter referred to as "discharge proceedings") and proceedings for restoration of rights under the provisions of Section 2 of that Chapter (hereinafter collectively referred to as "bankruptcy proceedings, etc." in this Chapter).

(Jurisdiction over Bankruptcy Cases)

Article 4 (1) A petition to commence bankruptcy proceedings under the provisions of this Act may be filed only if the debtor, who is an individual, has a business office, domicile, residence or property in Japan, or if the debtor, who is a corporation or any other association or foundation, has a business office or other office or property in Japan.

(2) A claim for which demand by litigation may be made pursuant to the provisions of the Code of Civil Procedure (Act No. 109 of 1996) is deemed to exist in Japan.

Article 5 (1) A bankruptcy case is subject to the jurisdiction of the district court that has jurisdiction over: if the debtor engages in commercial business, the locality of the debtor's principal business office; if the debtor engages in commercial business and has a principal business office in a foreign state, the locality of the debtor's principal business office in Japan; if the debtor does not engage in commercial business or engages in commercial business but does not have any business office, the locality of the debtor's general venue.

(2) If there is no court with jurisdiction under the provision of the preceding paragraph, a bankruptcy case is subject to the jurisdiction of the district court that has jurisdiction over the locality of the debtor's property (in the case of a claim, the place where demand by litigation may be made).

(3) Notwithstanding the provisions of the preceding two paragraphs, if a corporation holds the majority of voting rights (excluding the voting rights of

the shares of stock which may not be exercised for all matters that may be resolved at a shareholders meeting, and including the voting rights of the shares of stock for which the shareholder is deemed to have voting rights pursuant to the provision of Article 879, paragraph (3) of the Companies Act (Act No. 86 of 2005); hereinafter the same applies in the following paragraph, Article 83, paragraph (2), item (ii) and paragraph (3) and Article 161, paragraph (2), item (ii), sub-item (a) and sub-item (b)) of all shareholders of a stock company, if a bankruptcy case, rehabilitation case or reorganization case (hereinafter referred to as a "bankruptcy case, etc." in this Article) is pending against the corporation (hereinafter referred to as a "parent corporation" in this Article and Article 161, paragraph (2), item (ii), sub-item (b)), a petition to commence bankruptcy proceedings against the stock company (hereinafter referred to as a "subsidiary stock company" in this Article and Article 161, paragraph (2), item (ii), sub-item (b)) may also be filed with the district court before which the bankruptcy case, etc. against the parent corporation is pending, and if a bankruptcy case, etc. is pending against the subsidiary stock company, a petition to commence bankruptcy proceedings against the parent corporation may also be filed with the district court before which the bankruptcy case, etc. against the subsidiary stock company is pending.

- (4) If a subsidiary stock company independently holds, or a parent corporation and subsidiary stock company jointly hold the majority of voting rights of all shareholders of another stock company, the provision of the preceding paragraph is applied by deeming such other stock company as a subsidiary stock company of the parent corporation.
- (5) Notwithstanding the provisions of paragraph (1) and paragraph (2), where a stock company, as provided for by Article 444 of the Companies Act, has prepared consolidated financial statements (meaning consolidated financial statements prescribed in paragraph (1) of that Article) for the most recent business year with regard to the stock company itself and another corporation, and reported the contents thereof at an annual shareholders meeting of the stock company, if a bankruptcy case, etc. is pending against the stock company, a petition to commence bankruptcy proceedings against such other corporation may also be filed with the district court before which the bankruptcy case, etc. against the stock company is pending, and if a bankruptcy case, etc. is pending against such other corporation, a petition to commence bankruptcy proceedings against the stock company may also be filed with the district court before which the bankruptcy case, etc. against such other corporation is pending.
- (6) Notwithstanding the provisions of paragraph (1) and paragraph (2), where a bankruptcy case, etc. is pending against a corporation, a petition to commence bankruptcy proceedings against the representative person of the corporation may also be filed with the district court before which the bankruptcy case, etc.

against the corporation is pending, and where a bankruptcy case or rehabilitation case is pending against the representative person of a corporation, a petition to commence bankruptcy proceedings against the corporation may also be filed with the district court before which the bankruptcy case or rehabilitation case against the representative person of the corporation is pending.

(7) Notwithstanding the provisions of paragraph (1) and paragraph (2), if a bankruptcy case is pending against either one of the persons set forth in each of the following items, a petition to commence bankruptcy proceedings against the other person set forth in the respective items may also be filed with the district court before which the bankruptcy case is pending:

(i) individuals who are joint and several debtors with each other;

(ii) individuals one of whom is a principal debtor and the other is their guarantor; or

(iii) husband and wife.

(8) Notwithstanding the provisions of paragraphs (1) and (2), if there are 500 or more creditors who hold claims that are supposed to be bankruptcy claims should an order of commencement of bankruptcy proceedings be made, a petition to commence bankruptcy proceedings may also be filed with the district court that has jurisdiction over the locality of the high court that has jurisdiction over the locality of the court with jurisdiction under these provisions.

(9) Notwithstanding the provisions of paragraph (1) and paragraph (2), if there are 1,000 or more creditors prescribed in the preceding paragraph, a petition to commence bankruptcy proceedings may also be filed with the Tokyo District Court or the Osaka District Court.

(10) If two or more district courts have jurisdiction over a bankruptcy case pursuant to the provisions of the preceding paragraphs, the bankruptcy case is subject to the jurisdiction of the district court with which the first petition to commence bankruptcy proceedings is filed.

(Exclusive Jurisdiction)

Article 6 The court jurisdiction prescribed in this Act is exclusive.

(Transfer of Bankruptcy Cases)

Article 7 The court, when it finds it necessary in order to avoid substantial detriment or delay, may by its own authority transfer a bankruptcy case (if the debtor involved in a bankruptcy case or bankrupt files a petition for grant of discharge, the bankruptcy case and the case pertaining to the petition for grant of discharge) to any of the following district courts:

(i) the district court that has jurisdiction over the locality of the debtor's

- business office or other office other than the debtor's principal business office or other principal office;
- (ii) the district court that has jurisdiction over the locality of the debtor's domicile or residence;
 - (iii) the district court prescribed in Article 5, paragraph (2);
 - (iv) any of the district courts listed in sub-items (a) through (c) below:
 - (a) The district court prescribed in Article 5, paragraphs (3) through (7);
 - (b) If there are 500 or more creditors who hold claims that are supposed to be bankruptcy claims should an order of commencement of bankruptcy proceedings be made (after an order of commencement of bankruptcy proceedings is made, bankruptcy creditors; the same applies in sub-item (c)), the district court prescribed in Article 5, paragraph (8);
 - (c) If there are 1,000 or more creditors prescribed in sub-item (b), the district court prescribed in Article 5, paragraph (9); or
 - (v) if the bankruptcy case is pending pursuant to the provisions of Article 5, paragraphs (3) through (9) at the district court prescribed in the respective provisions, the district court prescribed in paragraph (1) or (2) of that Article.

(Optional Oral Argument)

- Article 8 (1) A judicial decision concerning bankruptcy proceedings, etc. may be made without oral argument.
- (2) The court, by its own authority, may conduct necessary investigation on a case pertaining to bankruptcy proceedings, etc.

(Appeals)

Article 9 A person who has an interest in a judicial decision concerning bankruptcy proceedings, etc., only as specially provided for in this Act, may file an immediate appeal against the judicial decision. The period for filing, where a public notice of the judicial decision is made, is two weeks from the day on which such public notice becomes effective.

(Public Notices)

- Article 10 (1) A public notice under the provisions of this Act is made by publication in the Official Gazette.
- (2) A public notice becomes effective on the day following the day on which it is published.
 - (3) Where a service is required to be made pursuant to the provisions of this Act, it may be substituted by a public notice; provided, however, that this does not apply where both public notice and service are required to be made pursuant to the provisions of this Act.
 - (4) When a public notice of a judicial decision is made pursuant to the provisions

of this Act, it is deemed that all interested parties are notified of the judicial decision.

- (5) The provisions of the preceding two paragraphs do not apply where special provisions exist in this Act.

(Inspection of Case Documents)

Article 11 (1) An interested person, pursuant to the provisions of this Act

(including other Acts as applied mutatis mutandis pursuant to this Act; the same applies in paragraph (1) of the following Article), may make a request to a court clerk for the inspection of documents and any other objects (hereinafter referred to as "documents and other objects" in this Article and Article 12, paragraph (1)) submitted to the court or prepared by the court.

- (2) An interested person may make a request to a court clerk to copy documents and other objects or to be issued with an authenticated copy, transcript or extract of documents, etc..
- (3) The provisions of the preceding paragraph do not apply with respect to documents and other objects which are prepared in the form of audiotapes or videotapes (including objects on which certain particulars are recorded by any means equivalent thereto). In this case, upon the request of an interested person with regard to these objects, a court clerk must permit reproduction thereof.

(Inspection of Information Recorded in a File)

Article 11-2 (1) An interested person may make a request to a court clerk,

pursuant to the provisions of the Rules of the Supreme Court, to inspect matters recorded in a file (excluding the following paragraph, paragraph (3), and the following Article; hereinafter simply referred to as a "file") (hereinafter referred to in this Article and Article 12, paragraph (6) as "information recorded in a file") stored on a computer (including input and output devices; the same applies hereinafter) used by the court pursuant to the provisions of this Act displayed in a manner prescribed by the Rules of the Supreme Court.

- (2) An interested person may make a request to a court clerk, pursuant to the provisions of the Rules of the Supreme Court, to copy the information recorded in a file by means of recording the matters in files stored on a computer used by the person by using an electronic data processing system (meaning an electronic data processing system connecting a computer used by the court to a computer used by the other party to the procedure via a telecommunications line; the same applies hereinafter) or any other method prescribed by the Rules of the Supreme Court.
- (3) An interested person may make a request to a court clerk, pursuant to the provisions of the Rules of the Supreme Court, to issue a paper document

stating all or part of the information recorded in a file as certified by the court clerk to contain information identical to the information recorded in a file according to the methods prescribed by the Rules of the Supreme Court, or to provide an electronic or magnetic record (meaning any record which is produced by electronic, magnetic or any other means unrecognizable by natural perceptive senses and is used for information processing by a computer; the same applies hereinafter) containing all or part of the information recorded in a file as certified by the court clerk to contain information identical to the information recorded in a file according to the methods prescribed by the Rules of the Supreme Court, by means of recording it in a file stored on a computer used by the person via an electronic information processing system prescribed by the Rules of the Supreme Court or any other method prescribed by the Rules of the Supreme Court.

(Certificate of a Matter Involved in the Case)

Article 11-3 An interested person, in connection with the civil enforcement that the enforcement court carries out, may make a request to a court clerk, as provided for by the Rules of the Supreme Court, to issue a paper document stating the matters involved in the case as certified by the court clerk with respect to the matters according to the methods prescribed by the Rules of the Supreme Court, or to provide an electronic or magnetic record containing the matters as certified by the court clerk with respect to the matters according to the methods prescribed by the Rules of the Supreme Court, by means of recording it in a file stored on a computer used by the person via an electronic information process system or any other method prescribed by the Rules of the Supreme Court.

(Special Provisions on Inspection)

Article 11-4 Notwithstanding the provisions of the preceding three Articles, a person set forth in the following items may not make a request under the provisions of the preceding three Articles until the order, provisional order, or judicial decision specified in the respective item is issued or made; provided, however, that this does not apply when the relevant person is a petitioner for commencement of bankruptcy proceedings;

(i) an interested person other than the debtor: A stay order under the provisions of Article 24, paragraph (1), comprehensive stay order prescribed in Article 25, paragraph (2), provisional order under the provisions of Article 28, paragraph (1), provisional administration order prescribed in Article 91, paragraph (2), provisional order under the provisions of Article 171, paragraph (1) or judicial decision on a petition to commence bankruptcy proceedings; or

- (ii) the debtor: A judicial decision to designate the date for oral argument concerning or date for interrogation on which the debtor is to be summoned to appear with respect to a petition to commence bankruptcy proceedings, or any order, provisional order or judicial decision as specified in the preceding item.

(Restrictions on Inspections of Detrimental Parts of Documents)

Article 12 (1) Where with regard to the following documents and other objects, a prima facie showing is made to the effect that the documents, etc. in question contain parts likely to be significantly detrimental to the administration or realization of the bankruptcy estate (prior to the commencement of bankruptcy proceedings, the debtor's property) if it is subject to the inspection or copying, issuance of an authenticated copy, transcription or extraction or reproduction (hereinafter referred to as "inspection, etc." in this paragraph through paragraph (3)) conducted by an interested person (such part of documents, etc. is hereinafter referred to as the "detrimental part" in this paragraph through paragraph (3)), the court, upon the petition of a bankruptcy trustee or provisional administrator who submitted the documents, etc. in question, may limit persons who may make a request for inspection, etc. of the detrimental part to the person who has filed the petition (when the petition has been filed by a provisional administrator, the provisional administrator or a bankruptcy trustee; the same applies in the following paragraph):

- (i) documents and other objects submitted to the court for the purpose of obtaining permission under Article 36, the proviso to Article 40, paragraph (1), or the proviso to paragraph (1) of that Article as applied mutatis mutandis pursuant to Article 40, paragraph (2) (including as applied mutatis mutandis pursuant to Article 96, paragraph (1)), Article 78, paragraph (2) (including as applied mutatis mutandis pursuant to Article 93, paragraph (3)), Article 84 (including as applied mutatis mutandis pursuant to Article 96, paragraph (1)) or the proviso to Article 93, paragraph (1); and
 - (ii) documents and other objects related to the report under the provisions of Article 157 (2).
- (2) When the petition set forth in the preceding paragraph is filed, no interested person (excluding one who filed the petition set forth in that paragraph; the same applies in the following paragraph) may make a request for inspection, etc. of the detrimental part until a judicial decision on the petition becomes final and binding.
- (3) An interested person who intends to make a request for inspection, etc. of the detrimental part may file a petition to the bankruptcy court for revocation of the order made under the provisions of paragraph (1), on the grounds that the requirement prescribed in that paragraph is not met or is no longer met.

- (4) An immediate appeal may be filed against an order dismissing without prejudice the petition set forth in paragraph (1) and a judicial decision on the petition set forth in the preceding paragraph.
- (5) An order to revoke the order under the provisions of paragraph (1) does not become effective unless it becomes final and binding.
- (6) The provisions of the preceding paragraphs apply mutatis mutandis to information recorded in a file. In this case, the phrase "copying, issuance of an authenticated copy, transcription or extraction or reproduction" in paragraph (1) is deemed to be replaced with "copying, issuance of certifying all or part of the content, or provision of electronic or magnetic record certifying all or part of the content."

(Application, Mutatis Mutandis of the Code of Civil Procedure)

Article 13 Except when there are special provisions, unless contrary to the nature thereof, the provisions of Part 1 to Part 4 of the Code of Civil Procedure apply mutatis mutandis to bankruptcy proceedings, etc. In this case, the phrase "excluding a person who became a representative with approval pursuant to the proviso to Article 54, paragraph (1))" in Article 132-11, paragraph (1), item (i) of the Code of Civil Procedure is deemed to be replaced with "limited to attorneys at law) or person appointed as a bankruptcy trustee, provisional administrator, bankruptcy trustee representative, or provisional administrator representative," "said delegation" in that item is deemed to be replaced with "said delegation or appointment," and "Article 2" in item (ii) of that paragraph is deemed to be replaced with "Article 2 of that Code applied mutatis mutandis pursuant to Article 9."

(Rules of the Supreme Court)

Article 14 Beyond what is provided for in this Act, the necessary particulars concerning bankruptcy proceedings, etc. are specified by the Rules of the Supreme Court.

Chapter II Commencement of Bankruptcy Proceedings

Section 1 Petition to Commence Bankruptcy Proceedings

(Grounds for Commencement of Bankruptcy Proceedings)

- Article 15 (1) When a debtor is unable to pay debts, the court, upon petition, commences bankruptcy proceedings by an order pursuant to the provisions of Article 30, paragraph (1).
- (2) When a debtor has suspended payments, the debtor is presumed to be unable to pay debts.

(Cause of Commencement of Bankruptcy Proceedings against a Corporation)

Article 16 (1) For the purpose of application of the provisions of paragraph (1) of the preceding Article when the debtor is a corporation, the term "unable to pay debts" in that paragraph is deemed to be replaced with "unable to pay debts or insolvent (meaning the condition in which a debtor is unable to pay its debts in full with its property)".

(2) The provisions of the preceding paragraph do not apply to any existing general partnership company or limited partnership company.

(Presumption of the Grounds for Commencement of Bankruptcy Proceedings)

Article 17 If proceedings equivalent to bankruptcy proceedings are commenced against a debtor in a foreign state, a fact constituting the grounds for the commencement of bankruptcy proceedings is presumed to exist with regard to the debtor.

(Petition to Commence Bankruptcy Proceedings)

Article 18 (1) A creditor or debtor may file a petition to commence bankruptcy proceedings.

(2) A creditor, when filing a petition to commence bankruptcy proceedings must make a prima facie showing of the existence of the claim held by the creditor and the fact constituting the grounds for the commencement of bankruptcy proceedings.

(Petition to Commence Bankruptcy Proceedings Against a Corporation)

Article 19 (1) A petition to commence bankruptcy proceedings for the corporations set forth in the following items may be filed by the person that the relevant item prescribes:

(i) a general incorporated association or general incorporation foundation:
Director;

(ii) a stock company or mutual company (meaning a mutual company prescribed in Article 2, paragraph (5) of the Insurance Business Act (Act No. 105 of 1995; the same applies in Article 150, paragraph (6), item (iii))): a director; and

(iii) a general partnership company, limited partnership company or limited liability company: a member that executes business.

(2) A liquidator may also file a petition to commence bankruptcy proceedings against a corporation set forth in any of the items of the preceding paragraph.

(3) When filing a petition to commence bankruptcy proceedings pursuant to the provisions of the preceding two paragraphs against a corporation set forth in any of the items of paragraph (1), a prima facie showing of the fact constituting the grounds for the commencement of bankruptcy proceedings must be made,

except when the petition to commence bankruptcy proceedings is filed by all of its company directors, members executing business, or liquidators.

- (4) The provisions of the preceding three paragraphs apply mutatis mutandis to a corporation other than those listed in the items of paragraph (1).
- (5) A petition to commence bankruptcy proceedings for a corporation, even after its dissolution, may be filed up until the delivery or distribution of its residual assets is completed.

(Method of Filing a Petition to Commence Bankruptcy Proceedings)

Article 20 (1) A petition to commence bankruptcy proceedings must be filed by means of a document stating the particulars specified by the Rules of the Supreme Court.

- (2) If a person other than a creditor files a petition to commence bankruptcy proceedings, the person must submit to the court a list of creditors stating the particulars specified by the Rules of the Supreme Court; provided, however, that if it is impossible to submit a list of creditors at the same time as filing the petition, it is sufficient for the person to submit the list without delay after filing the petition.

(Examination of a Written Petition to Commence Bankruptcy Proceedings)

Article 21 (1) When a document under paragraph (1) of the preceding Article (hereinafter referred to as a "written petition to commence bankruptcy proceedings") does not state the particulars prescribed in that paragraph, a court clerk must specify a reasonable period and make a disposition to order that such defect should be corrected within that period. The same applies where fees for a petition to commence bankruptcy proceedings required under the provisions of the Act on Costs of Civil Procedure (Act No. 40 of 1971) are not paid.

- (2) The disposition set forth in the preceding paragraph becomes effective when a notice is given by a means that is considered to be appropriate.
- (3) An objection may be made to a disposition set forth in paragraph (1) within an unextendable period of one week from the day on which a notice thereof is received.
- (4) The objection set forth in the preceding paragraph has the effect of a stay of execution.
- (5) Where an objection under paragraph (3) is made, the court, when it finds in a written petition to commence bankruptcy proceedings any defect other than the defect for which it ordered correction by a disposition set forth in paragraph (1), must specify a reasonable period and order that such additional defect should be corrected within that period.
- (6) In the case referred to in paragraph (1) or the preceding paragraph, if a

petitioner for commencement of bankruptcy proceedings fails to correct the defect, the presiding judge must dismiss the written petition to commence bankruptcy proceedings by an order.

(7) An immediate appeal may be filed against the direction set forth in the preceding paragraph.

(Prepayment of Expenses)

Article 22 (1) When filing a petition to commence bankruptcy proceedings, the petitioner must prepay an amount designated by the court as expenses for bankruptcy proceedings.

(2) An immediate appeal may be filed against an order on prepayment of expenses.

(Provisional Payment of Expenses)

Article 23 (1) When the court, while taking into consideration the petitioner's financial resources, the status of property that is to constitute the bankruptcy estate and any other circumstances concerned, finds it particularly necessary for the protection of the interests of the petitioner and any interested person, it may make provisional payment of expenses for bankruptcy proceedings from the national treasury. The same applies when the court makes an order of commencement of bankruptcy proceedings by its own authority.

(2) The provisions of paragraph (1) of the preceding Article do not apply where provisional payment of expenses for bankruptcy proceedings is made from the national treasury pursuant to the provisions of the first sentence of the preceding paragraph.

(Stay Orders for Other Proceedings)

Article 24 (1) Where a petition to commence bankruptcy proceedings is filed, the court, when it finds it necessary, upon the petition of an interested person or by its own authority, may order a stay of the following proceedings or dispositions until an order is made on the petition to commence bankruptcy proceedings; provided, however, that this only applies, in the case of the proceedings set forth in item (i) or the disposition set forth in item (vi), if the stay order is not likely to cause unreasonable damage to the creditor who filed the petition for the proceedings or the person who made the disposition, and in the case of the proceedings for limitation of liability set forth in item (v), if an order to commence proceedings for limitation of liability has not yet been made:

(i) proceedings already initiated against the debtor's property for compulsory execution, provisional seizure, provisional disposition, or exercise of a general statutory lien or auction by reason of a right of retention (excluding

a right of retention under the provisions of the Commercial Code (Act No. 48 of 1899) or the Companies Act) (hereinafter referred to as "compulsory execution, etc." in this Section), which is based on a claim that is supposed to be a bankruptcy claim or claim on the estate, should an order of commencement of bankruptcy proceedings be made against the debtor (hereinafter referred to as a "bankruptcy claim, etc." in this paragraph and paragraph (8) of the following Article), or is intended to secure a bankruptcy claim, etc.;

- (ii) proceedings already initiated against the debtor's property for the exercise of an enterprise mortgage, which is based on a bankruptcy claim, etc.;
 - (iii) court proceedings of an action relating to the debtor's property;
 - (iv) proceedings for a case relating to the debtor's property that is pending before an administrative agency;
 - (v) proceedings for limitation of liability of a debtor (meaning proceedings for limitation of liability under the provisions of Chapter III of the Act on Limitation of Shipowner Liability (Act No. 94 of 1975), Chapter V of the Act on Liability for Oil Pollution Damage (Act No. 95 of 1975), Article 31 and Article 32 of that Act applied mutatis mutandis pursuant to Article 43, paragraph (5) of that Act, Chapter III of the Act on Limitation of Shipowner Liability (excluding Article 9, Article 10, Article 16, and Article 54) applied mutatis mutandis pursuant to Article 43, paragraph (6) of the Act on Liability for Oil Pollution Damage or Article 31 and Article 32 of that Act applied mutatis mutandis pursuant to Article 51, paragraph (5) of the Act on Liability for Oil Pollution Damage, and Chapter III of that Act (excluding Article 9, Article 10, Article 16, Section 4, and Article 54) applied mutatis mutandis pursuant to Article 51, paragraph (6) of the Act on Liability for Oil Pollution Damage; the same applies in Article 263 and Article 264, paragraph (1)) for the debtor; and
 - (vi) a disposal to be made by the same procedure as that for the collection of national tax delinquency (the disposal is hereinafter referred to as a "disposal of foreign tax delinquency"), based on a claim from a foreign tax subject to mutual assistance (meaning the foreign tax subject to mutual assistance prescribed in Article 11, paragraph (1) of the Act on Special Provisions, etc. of the Income Tax Act, the Corporation Tax Act and the Local Tax Act Attendant upon the Enforcement of Tax Treaties, etc. (Act No. 46 of 1969; hereinafter referred to as the "Act on Special Provisions for the Enforcement of Tax Treaties, etc." in Article 103, paragraph (5) and Article 253, paragraph (4)); the same applies hereinafter), which has already been initiated against the debtor's property and which is based on the ground of a bankruptcy claim, etc.
- (2) The court may change or revoke a stay order issued under the provisions of

the preceding paragraph.

- (3) Where a provisional administration order prescribed in Article 91, paragraph (2) is issued, the court may, when it finds it particularly necessary for the administration and disposal of the debtor's property, upon the petition of a provisional administrator, order the revocation of the procedure for compulsory execution, etc. or disposal of foreign tax delinquency which has been stayed pursuant to the provisions of paragraph (1), while requiring security to be provided.
- (4) An immediate appeal may be filed against a stay order issued under the provisions of paragraph (1), an order made under the provisions of paragraph (2) and a revocation order issued under the provisions of the preceding paragraph.
- (5) The immediate appeal set forth in the preceding paragraph does not have the effect of a stay of execution.
- (6) Where a judicial decision prescribed in paragraph (4) and a judicial decision on the immediate appeal referred to in that paragraph are made, the electronic judgment (meaning an electronic or magnetic record prepared pursuant to the provisions of Article 252, paragraph (1) of the Code of Civil Procedure applied mutatis mutandis pursuant to Article 122 of that Code applied mutatis mutandis pursuant to Article 13 that has been recorded in a file pursuant to the provisions of Article 253, paragraph (2) of that Code applied mutatis mutandis pursuant to Article 122 of that Code applied mutatis mutandis pursuant to Article 13; the same applies hereinafter) must be served upon the parties concerned.

(Comprehensive Stay Orders)

Article 25 (1) Where a petition to commence bankruptcy proceedings is filed, if there are special circumstances where the court finds that there is a risk that it would be impossible to achieve the purpose of the bankruptcy proceedings satisfactorily only by issuing a stay order pursuant to the provisions of paragraph (1), item (i) or (vi) of the preceding Article, the court, upon the petition of an interested person or by its own authority, may issue an order prohibiting all creditors from enforcing compulsory execution, etc. against a debtor's property, and a collection of national tax delinquency (including a disposition to be made by a procedure for making a disposal of national tax delinquency, and excluding a request for distribution; the same applies hereinafter), until an order is made on the petition to commence bankruptcy proceedings; provided, however, that this applies only where the court issues a provisional order in advance or simultaneously under the provisions of Article 28, paragraph (1) or provisional administration order prescribed in Article 91, paragraph (2) with respect to the debtor's principal property.

- (2) Upon issuing a stay order under the provisions of the preceding paragraph (hereinafter referred to as a "comprehensive stay order"), the court, when it finds it appropriate, may exclude a certain range of compulsory execution, etc. or procedures for collection of national tax delinquency from the that which is subject to a comprehensive stay order.
- (3) Where a comprehensive stay order is issued, the procedure for compulsory execution, etc. and disposal of foreign tax delinquency which have already been initiated against the debtor's assets (limited to such procedures or disposals that are to be prohibited by the comprehensive stay order) is stayed until an order is made on the petition to commence bankruptcy proceedings.
- (4) The court may change or revoke a comprehensive stay order.
- (5) Where a provisional administration order prescribed in Article 91, paragraph (2) is issued, the court, when it finds it particularly necessary for the administration and disposal of the debtor's property, upon the petition of a provisional administrator, may order revocation of the procedure for compulsory execution, etc. or disposal of foreign tax delinquency which has been stayed pursuant to the provisions of paragraph (3), while requiring security to be provided.
- (6) An immediate appeal may be filed against a comprehensive stay order, an order made under the provisions of paragraph (4) and a revocation order issued under the provisions of the preceding paragraph.
- (7) The immediate appeal set forth in the preceding paragraph does not have the effect of stay of execution.
- (8) When a comprehensive stay order is issued, the prescription is not completed with regard to a bankruptcy claim, etc. (limited to a claim for which compulsory execution, etc. or procedure for collection of national tax delinquency is prohibited by the comprehensive stay order) until the day on which two months have elapsed since the day following the day on which the comprehensive stay order ceases to be effective.

(Public Notice and Service Concerning Comprehensive Stay Orders)

- Article 26 (1) Where a comprehensive stay order is issued and an order to change or revoke this order is made, public notice is made to that effect, the electronic judgment is served upon the debtor (or a provisional administrator if any provisional administrator is appointed; the same applies in the following paragraph) and the petitioner, and notification of the main text of the respective order must be given to known creditors and the debtor (limited to cases where a provisional administrator is appointed).
- (2) A comprehensive stay order and an order changing or revoking this order becomes effective as from the time when the electronic judgment is served upon the debtor.

- (3) Where a judicial decision on an immediate appeal set forth in paragraph (6) of the preceding Article (excluding an order changing or revoking a comprehensive stay order) is made, the electronic judgment must be served upon the parties concerned.

(Cancellation of Comprehensive Stay Orders)

Article 27 (1) The court may, when it finds after issuing a comprehensive stay order, that the order is likely to cause undue damage to a creditor who filed a petition for compulsory execution, etc., upon the petition of the creditor, make an order that the comprehensive stay order is cancelled only with regard to that creditor. In this case, the creditor may enforce compulsory execution, etc. against the debtor's property, and any procedure for compulsory execution, etc. initiated by the creditor prior to the issuance of the comprehensive stay order and then stayed pursuant to the provisions of Article 25, paragraph (3) is continued.

- (2) The provisions of the preceding paragraph apply mutatis mutandis where the court finds that a comprehensive stay order is likely to cause undue damage to a person who enforces a procedure for collection of national tax delinquency.
- (3) For the purpose of application of the provisions of Article 25, paragraph (8) to a person who obtains a cancellation order under the provisions of paragraph (1) (including cases where applied mutatis mutandis pursuant to the preceding paragraph; the same applies in the following paragraph and paragraph (6)), the phrase "the day on which the comprehensive stay order ceases to be effective" in Article 25, paragraph (8) is deemed to be replaced with "the day on which a cancellation order under the provisions of Article 27, paragraph (1) (including cases where applied mutatis mutandis pursuant to paragraph (2) of the same Article) is made."
- (4) An immediate appeal may be filed against a judicial decision on the petition set forth in paragraph (1).
- (5) The immediate appeal set forth in the preceding paragraph does not have the effect of a stay of execution.
- (6) Where a judicial decision on the petition set forth in paragraph (1) and a judicial decision on the immediate appeal set forth in paragraph (4) are made, the electronic judgments must be served upon the parties concerned. In such a case, the provisions of the main clause of Article 10, paragraph (3) do not apply.

(Provisional Order Concerning Debtor's Property)

Article 28 (1) Where a petition to commence bankruptcy proceedings is filed, the court, upon the petition of an interested person or by its own authority, may issue a provisional order that prohibits the disposal of the debtor's assets or any other necessary provisional order concerning such assets until a decision is

made on the petition to commence bankruptcy proceedings.

- (2) The court may change or revoke a provisional order issued under the provisions of the preceding paragraph.
- (3) An immediate appeal may be filed against a provisional order issued under the provisions of paragraph (1) and an order made under the provisions of the preceding paragraph.
- (4) The immediate appeal set forth in the preceding paragraph does not have the effect of a stay of execution.
- (5) Where a judicial decision prescribed in paragraph (3) and a judicial decision on the immediate appeal set forth in that paragraph are made, the electronic judgments must be served upon the parties concerned. In such a case, the provisions of the main clause of Article 10, paragraph (3) do not apply.
- (6) Where the court, pursuant to the provisions of paragraph (1), has issued a provisional order prohibiting the debtor from making payment to a creditor or conducting any other act with the creditor to extinguish the debtor's debt, the creditor may not assert, in relation to the bankruptcy proceedings, the effect of the payment or any other act to extinguish the debt, which is made or conducted in violation of the provisional order; provided, however, that this applies only if the creditor knows, at the time of commission of such act, the fact that the provisional order was issued.

(Restriction on Withdrawal of Petitions to Commence Bankruptcy Proceedings)

Article 29 A person who has filed a petition to commence bankruptcy proceedings may withdraw the petition only prior to an order of commencement of bankruptcy proceedings being made. In this case, after a stay order under the provisions of Article 24, paragraph (1), comprehensive stay order, provisional order under the provisions of paragraph (1) of the preceding Article, provisional administration order prescribed in Article 91, paragraph (2) or provisional order under the provisions of Article 171, paragraph (1) is issued, permission of the court is required.

Section 2 Order of Commencement of Bankruptcy Proceedings

(Order of Commencement of Bankruptcy Proceedings)

Article 30 (1) If a petition to commence bankruptcy proceedings is filed, the court, when it finds a fact constituting the grounds for the commencement of bankruptcy proceedings, makes an order of commencement of bankruptcy proceedings, except in any of the cases listed in the following items:

- (i) when expenses for bankruptcy proceedings are not prepaid (excluding cases where temporary payment of such expenses is made from the national treasury pursuant to the provisions of the first sentence of Article 23,

- paragraph (1));or
- (ii) where the petition to commence bankruptcy proceedings is filed for an unjustifiable purpose or it is not filed in good faith.
- (2) The order made under the preceding paragraph is effective as from the time when it is made.

(Particulars to Be Specified upon Making an Order of Commencement of Bankruptcy Proceedings)

Article 31 (1) The court must, upon making an order of commencement of bankruptcy proceedings, appoint one or more bankruptcy trustees and specify the following particulars:

- (i) the period during which a proof of claim in bankruptcy should be filed;
 - (ii) the date of a creditors meeting that is to be convoked to report the status of the debtor's property (referred to as a "meeting for reporting the status of property" in paragraph (4), Article 136, paragraph (2) and (3) and Article 158); and
 - (iii) the period for conducting an investigation of bankruptcy claims (or the date for conducting an investigation of bankruptcy claims in the case referred to in Article 116, paragraph (2)).
- (2) Notwithstanding the provisions of item (i) and item (iii) of the preceding paragraph, the court, when it finds that the bankruptcy estate is likely to be insufficient for paying expenses for bankruptcy proceedings, may choose not to specify the period set forth in item (i) of that paragraph and the period and date set forth in item (iii) of that paragraph.
- (3) In the case referred to in the preceding paragraph, the court must, if it finds that the bankruptcy estate is no longer likely to be insufficient for paying expenses for bankruptcy proceedings, promptly specify the period set forth in paragraph (1), item (i) and the period or date set forth in item (iii) of that paragraph.
- (4) Notwithstanding the provisions of paragraph (1), item (ii), the court may, if it finds it inappropriate to convoke a meeting for reporting the status of property while taking into consideration the number of known bankruptcy creditors and any other circumstances concerned, choose not to specify the date set forth in paragraph (1), item (ii).
- (5) In the case referred to in paragraph (1), if there are 1,000 or more known bankruptcy creditors and it is found appropriate, the court may make an order not to give a notice to bankruptcy creditors under the provisions of paragraph (3), item (i) of the following Article, as applied mutatis mutandis pursuant to the main clauses of paragraph (4) and paragraph (5) of that Article, and the provisions of the main clause of Article 33, paragraph (3) and the main clause of Article 139, paragraph (3) (in the case referred to in the main clause of

Article 139, paragraph (3), creditors with voting rights prescribed in the main clause of Article 139, paragraph (3); the same applies in paragraph (2) of the following Article), and not to summon, on the date of a creditors meeting, bankruptcy creditors who filed a proof of claim in bankruptcy pursuant to the provisions of Article 111, Article 112 or Article 114 (hereinafter referred to as "holders of filed bankruptcy claims").

(Public Notice of Commencement of Bankruptcy Proceedings)

Article 32 (1) The court must, when it has made an order of commencement of bankruptcy proceedings, immediately make a public notice of the following particulars:

- (i) the main text of the order of commencement of bankruptcy proceedings;
- (ii) the name of the bankruptcy trustee;
- (iii) the period or date set pursuant to the provisions of paragraph (1) of the preceding Article;
- (iv) an order to the effect that a person who possesses property that belongs to the bankruptcy estate and person who owes a debt to the bankrupt (referred to as a "possessor of property, etc." in paragraph (3), item (ii)) must not deliver the property or make payment to the bankrupt; and
- (v) when it is found to be appropriate to make a simplified distribution under the provisions of Article 204, paragraph (1), item (ii), the order to the effect that any bankruptcy creditor who has an objection to the making of a simplified distribution state such objection to the court by the time of expiration of the period set forth in item (iii) of paragraph (1) of the preceding Article or the end of the date set forth in that item.

(2) When an order under paragraph (5) of the preceding Article is made, the court must, in addition to the particulars set forth in the items of the preceding paragraph, make a public notice to the effect that it will not give a notice to bankruptcy creditors under the provisions of item (i) of the following paragraph, as applied mutatis mutandis pursuant to the main clauses of paragraph (4) and paragraph (5), and the provisions of the main clause of paragraph (3) of the following Article and the main clause of Article 139, paragraph (3), and that it will not summon holders of filed bankruptcy claims on the date of a creditors meeting.

(3) The following persons must be given a notice of the particulars of which a public notice should be made pursuant to the provisions of the preceding two paragraphs:

- (i) a bankruptcy trustee, the bankrupt, and known bankruptcy creditors;
- (ii) known possessors of property, etc.;
- (iii) a provisional administrator when a provisional administration order prescribed in Article 91, paragraph (2) is issued; and

- (iv) the labor union, etc. (meaning the labor union consisting of the majority of the bankrupt's employees and other workers, if there is any such labor union, or the person representative of the majority of the bankrupt's employees and other workers, if there is no labor union consisting of the majority of bankrupt's employees and other workers; the same applies in Article 78, paragraph (4) and Article 136, paragraph (3)).
- (4) The provisions of paragraph (1), item (iii) and item (i) of the preceding paragraph apply mutatis mutandis where the period set forth in paragraph (1), item (i) of the preceding Article and the period or date set forth in item (iii) of the same paragraph are specified pursuant to the provisions of paragraph (3) of the same Article; provided, however, that when an order under paragraph (5) of the same Article is made, the notice is not required to be given to known bankruptcy creditors.
- (5) The provisions of paragraph (1), item (ii) and paragraph (3), item (i) and item (ii) apply mutatis mutandis where there is a change in the particulars set forth in paragraph (1), item(ii), and the provisions of paragraph (1), item (iii) and paragraph (3), item (i) apply mutatis mutandis where there is a change in the particulars set forth in paragraph (1) ,item(iii) (limited to cases where there is a change to the period set forth in paragraph (1), item (i) of the preceding Article or the date set forth in item (ii) of that paragraph); provided, however, that when an order under paragraph (5) of that Article is made, the notice is not required to be given to known bankruptcy creditors.

(Appeals against a Ruling)

Article 33 (1) An immediate appeal may be filed against a judicial decision on a petition to commence bankruptcy proceedings.

- (2) The provisions of Articles 24 through 28 apply mutatis mutandis when an immediate appeal referred to in the preceding paragraph is filed against an order dismissing with prejudice a petition to commence bankruptcy proceedings.
- (3) The court that has made an order of commencement of bankruptcy proceedings must immediately make a public notice of the main text of the revocation order and give a notice of the main text thereof to the persons listed in the items of paragraph (3) of the preceding Article (excluding item (iii)), if an immediate appeal set forth in paragraph (1) is filed and an order to revoke this order becomes final and binding; provided, however, that when an order set forth in Article 31, paragraph (5) is made, the notice is not required to be given to known bankruptcy creditors.

Section 3 Effect of the Commencement of Bankruptcy Proceedings
Subsection 1 General Rules

(Scope of Bankruptcy Estate)

- Article 34 (1) Any and all property that the bankrupt holds at the time of commencement of bankruptcy proceedings (irrespective of whether or not it exists in Japan) are to constitute the bankruptcy estate.
- (2) Any claim which may arise in the future and be enforced by the bankrupt based on a cause that has occurred prior to the commencement of bankruptcy proceedings is to belong to the bankruptcy estate.
- (3) Notwithstanding the provisions of paragraph (1), the following property does not belong to the bankruptcy estate:
- (i) an amount of money obtained by multiplying the amount prescribed in Article 131, item (iii) of the Civil Execution Act (Act No. 4 of 1979) by two-thirds; and
 - (ii) property that may not be seized (excluding money prescribed in Article 131, item (iii) of the Civil Execution Act); provided, however, that this does not apply to property for which a seizure is allowed pursuant to the provisions of Article 132, paragraph (1) of that Act (including cases where applied *mutatis mutandis* pursuant to Article 192 of that Act) and property which becomes seizable after the commencement of bankruptcy proceedings.
- (4) During the period from the time when an order of commencement of bankruptcy proceedings is made until the day on which one month has elapsed since the day on which the order becomes final and binding, the court, by an order and upon the petition of the bankrupt or by its own authority, may expand the scope of property that do not belong to the bankruptcy estate, while taking into consideration the bankrupt's living conditions, the types of property set forth in the items of the preceding paragraph that the bankrupt held at the time of commencement of bankruptcy proceedings and its amounts, the likelihood for the bankrupt to earn income and any other circumstances concerned.
- (5) The court must, when making an order set forth in the preceding paragraph, hear opinions of a bankruptcy trustee.
- (6) The bankrupt may file an immediate appeal against an order dismissing the petition set forth in paragraph (4).
- (7) Where an order set forth in paragraph (4) or a judicial decision on the immediate appeal set forth in the preceding paragraph is made, the electronic judgment must be served upon the bankrupt and a bankruptcy trustee. In such a case, the provisions of the main clause of Article 10, paragraph (3) do not apply.

(Constructive Existence of a Corporation)

Article 35 A corporation that is dissolved through an order of commencement of

bankruptcy proceedings under the provisions of other Acts or a dissolved corporation that has received an order of commencement of bankruptcy proceedings is deemed to remain in existence to the extent of the purpose of liquidation through bankruptcy proceedings until the bankruptcy proceedings are closed.

(Continuation of the Bankrupt's Business)

Article 36 Even after an order of commencement of bankruptcy proceedings is made, a bankruptcy trustee may, with permission of the court, continue the bankrupt's business.

(Restriction on the Bankrupt's Residence)

Article 37 (1) The bankrupt may not leave their place of residence without filing a petition and obtaining the permission of the court.
(2) The bankrupt may file an immediate appeal against an order dismissing without prejudice the petition set forth in the preceding paragraph.

(Physically Escorting the Bankrupt to the Court)

Article 38 (1) The court may, when it finds it necessary, order the bankrupt to be physically escorted to the court or any other place.
(2) When a petition to commence bankruptcy proceedings is made, the court may, even prior to making an order of commencement of bankruptcy proceedings, order the debtor to be physically escorted to the court or any other place.
(3) A physical escort under the provisions of the preceding two paragraphs must be undertaken after the issuance of a writ of physical escort
(4) The bankrupt or debtor may file an immediate appeal against an order to order the physical escort to the court or other places made under the provisions of paragraph (1) or (2).
(5) The provisions of the Code of Criminal Procedure (Act No. 131 of 1948) concerning physical escorts apply mutatis mutandis to the physical escorts to the court and other places under the provisions of paragraph (1) and (2).

(Application, Mutatis Mutandis to Persons Equivalent to the Bankrupt)

Article 39 The provisions of the preceding two paragraphs apply mutatis mutandis to the bankrupt's statutory agent and manager, as well as to the bankrupt's director, company director, executive officer and any other person equivalent to them.

(Obligation of Explanation of the Bankrupt)

Article 40 (1) The following persons must, upon the request of a bankruptcy trustee or the creditors committee prescribed in Article 144, paragraph (2) or

the request based on a resolution at a creditors meeting, give necessary explanation concerning bankruptcy; provided, however, that with regard to the person set forth in item (v), this applies only when permitted by the court:

- (i) the bankrupt;
 - (ii) the bankrupt's agent;
 - (iii) when the bankrupt is a corporation, its director, company director, executive officer, inspector, company auditor, and liquidator;
 - (iv) any other person equivalent to the persons set forth in the preceding item; and
 - (v) the bankrupt's employee (excluding the person set forth in item (ii)).
- (2) The provisions of the preceding paragraph apply mutatis mutandis to a person who was any of the persons set forth in the items of that paragraph (excluding item (i)).

(Obligation to Disclose Important Property of the Bankrupt)

Article 41 After an order of commencement of bankruptcy proceedings is made, the bankrupt must submit to the court a document stating the contents of real property, cash, securities, deposits and savings and any other type of property designated by the court that the bankrupt owns.

(Termination of Other Procedures)

Article 42 (1) If an order of commencement of bankruptcy proceedings is made, compulsory execution against property that belong to the bankruptcy estate, provisional seizures, provisional dispositions against the property, general statutory liens, enterprise mortgages or disposal of foreign tax delinquency, which is based on a bankruptcy claim or claim on the estate, or is intended to secure a bankruptcy claim or claim on the estate, cannot be exercised.

(2) In the case prescribed in the preceding paragraph, the procedure for compulsory execution, provisional seizure, provisional disposition, exercise of a general statutory lien or exercise of an enterprise mortgage or disposal of foreign tax delinquency prescribed in that paragraph, which has already been initiated against property that belongs to the bankruptcy estate, ceases to be effective in relation to the bankruptcy estate; provided, however, that with regard to the procedure for compulsory execution or exercise of a general statutory lien prescribed in that paragraph (hereinafter referred to as "compulsory execution or exercise of a statutory lien" in this Article), this does not preclude a bankruptcy trustee from continuing the procedure in the interest of the bankruptcy estate.

(3) With regard to the procedure for compulsory execution or exercise of a statutory lien continued pursuant to the provisions of the proviso to the preceding paragraph, the provisions of Article 63 and Article 129 of the Civil

Execution Act (including cases where these provisions are applied mutatis mutandis pursuant to that Act or other laws and regulations concerning a procedure for compulsory execution) do not apply.

- (4) A claim for expenses against the bankrupt for the procedure for compulsory execution or exercise of a statutory lien continued pursuant to the provisions of the proviso to paragraph (2) is a claim on the estate.
- (5) With regard to a third party action against the compulsory execution or exercise of a statutory lien continued pursuant to the provisions of the proviso to paragraph (2), the bankruptcy trustee stands as a defendant.
- (6) If an order of commencement of bankruptcy proceedings is made, no petition may be filed for a property disclosure procedure (meaning an assets disclosure procedure prescribed in Article 196 of the Civil Execution Act; hereinafter the same applies in this paragraph and Article 249, paragraph (1) and paragraph (2)) or procedure for acquiring information from a third party (meaning the procedures for acquiring information from third parties prescribed in Article 204 of that Act; hereinafter the same applies in this paragraph and Article 249, paragraphs (1) and (2)) based on a bankruptcy claim or claim on the estate, and a property disclosure procedure and a procedure for acquiring information from a third party based on a bankruptcy claim or claim on the estate cease to be effective.

(Handling of Collection of National Tax Delinquency)

- Article 43 (1) If an order of commencement of bankruptcy proceedings is made, collection of national tax delinquency (excluding a disposal of foreign tax delinquency; the same applies in the following paragraph) may not be made against property that belongs to the bankruptcy estate.
- (2) Where a collection of national tax delinquency has already been initiated against property that belongs to the bankruptcy estate, an order of commencement of bankruptcy proceedings does not preclude the continuation of the collection of national tax delinquency.
 - (3) When an order of commencement of bankruptcy proceedings is made, the prescription for a fine, petty fine and collection of equivalent value not run until the bankruptcy proceedings are closed. The same applies during the period after a petition for a grant of discharge is filed until a judicial decision on the petition becomes final and binding (if a petition for a grant of discharge is filed prior to an order of commencement of bankruptcy proceedings being made, during the period after an order of commencement of bankruptcy proceedings is made until a judicial decision on the petition becomes final and binding).

(Actions Relating to Bankruptcy Estates)

Article 44 (1) When an order of commencement of bankruptcy proceedings is made, any action relating to the bankruptcy estate in which the bankrupt stands as a party is discontinued.

(2) A bankruptcy trustee may take over the action discontinued under the provisions of the preceding paragraph which does not relate to any bankruptcy claim. In such a case, a petition for taking over the action may also be filed by the opponent.

(3) In the case referred to in the preceding paragraph, the opponent's claim for court costs against the bankrupt is a claim on the estate.

(4) When the bankruptcy proceedings are closed, any action relating to the bankruptcy estate in which a bankruptcy trustee stands as a party is discontinued.

(5) The bankrupt must take over the action discontinued under the provisions of the preceding paragraph. In such a case, a petition for taking over the action may also be filed by the opponent.

(6) If bankruptcy proceedings are closed before the action discontinued pursuant to the provisions of paragraph (1) is taken over under the provisions of paragraph (2), the bankrupt automatically takes over the action.

(Action for Obligee's Subrogation Rights and Action for Avoidance of Fraudulent Acts)

Article 45 (1) If an action filed by a bankruptcy creditor or holder of a claim on the estate pursuant to the provisions of Article 423, paragraph (1), Article 423-7 or Article 424, paragraph (1) of the Civil Code (Act No. 89 of 1896) is pending at the time of commencement of bankruptcy proceedings, the action is discontinued.

(2) A bankruptcy trustee may take over the action discontinued pursuant to the provisions of the preceding paragraph. In such a case, a petition for taking over of action may also be filed by the opponent.

(3) In the case referred to in the preceding paragraph, the opponent's claim for court costs against the bankruptcy creditor or holder of a claim on the estate is a claim on the estate.

(4) If the bankruptcy proceedings are closed after the action discontinued under the provisions of paragraph (1) was taken over under the provisions of paragraph (2), the action is discontinued.

(5) In the case referred to in the preceding paragraph, the bankruptcy creditor or holder of claim on the estate must take over the action. In such a case, a petition for taking over of action may also be filed by the opponent.

(6) If the bankruptcy proceedings are closed before the action discontinued under the provisions of paragraph (1) is taken over under the provisions of paragraph (2), the bankruptcy creditor or holder of claim on the estate automatically

takes over the action.

(Handling of Cases Pending before Administrative Agencies)

Article 46 The provisions of Article 44 apply mutatis mutandis to cases relating to the bankruptcy estate that is pending before an administrative agency.

Subsection 2 Effect of the Commencement of Bankruptcy Proceedings

(Effect of Juridical Acts after Commencement of Bankruptcy Proceedings)

Article 47 (1) A juridical act conducted by the bankrupt after the commencement of bankruptcy proceedings with respect to property that belongs to the bankruptcy estate may not be asserted as effective in relation to the bankruptcy proceedings.

(2) A juridical act conducted by the bankrupt on the date of commencement of bankruptcy proceedings is presumed to be conducted after the commencement of bankruptcy proceedings.

(Effect of the Acquisition of Rights after Commencement of Bankruptcy Proceedings)

Article 48 (1) Where a right is acquired after the commencement of bankruptcy proceedings with respect to property that belongs to the bankruptcy estate, if it is not by way of the bankrupt's juridical act, such acquisition of the right may not be asserted as effective in relation to the bankruptcy proceedings.

(2) The provisions of paragraph (2) of the preceding Article apply mutatis mutandis to the acquisition of a right under the preceding paragraph that occurs on the date of commencement of bankruptcy proceedings.

(Effect of Registrations after Commencement of Bankruptcy Proceedings)

Article 49 (1) A registration or a provisional registration under the provision of Article 105 (i) of the Real Property Registration Act (Act No. 123 of 2004), which is made with respect to real property or a vessel after the commencement of bankruptcy proceedings based on the cause of registration that occurred prior to the commencement of bankruptcy proceedings, may not be asserted as effective in relation to the bankruptcy proceedings; provided, however, that this does not apply to a registration or provisional registration made by a person entitled to demand registration, without knowledge of the commencement of bankruptcy proceedings.

(2) The provisions of the preceding paragraph apply mutatis mutandis to a registration or provisional registration made with respect to the establishment, transfer or modification of a right, or registration made with respect to the establishment, transfer or modification of an enterprise mortgage.

(Effect of Payment to the Bankrupt after Commencement of Bankruptcy Proceedings)

- Article 50 (1) Payment made to the bankrupt after the commencement of bankruptcy proceedings without knowledge of the commencement may also be asserted as effective in relation to the bankruptcy proceedings.
- (2) Payment made to the bankrupt after the commencement of bankruptcy proceedings with knowledge of the commencement may be asserted as effective in relation to the bankruptcy proceedings only to the extent that the bankruptcy estate has been enriched.

(Presumption of the Existence or Absence of Knowledge)

- Article 51 For the purpose of application of the provisions of the preceding two Articles, the absence of knowledge of the commencement of bankruptcy proceedings is presumed prior to a public notice made under the provisions of Article 32, paragraph (1), and the existence of knowledge of the commencement of bankruptcy proceedings is presumed after the public notice is made.

(Co-ownership)

- Article 52 (1) If two or more persons jointly hold property rights, if any one of them has received an order of commencement of bankruptcy proceedings, a claim for division of the property in co-ownership may be made even if there is an agreement between the co-owners to the effect that division is not made.
- (2) In the case referred to in the preceding paragraph, other co-owners may acquire the bankrupt's co-owned interest in the property by paying a reasonable amount of compensation.

(Executory Contracts)

- Article 53 (1) If both the bankrupt and their counterparty under an executory contract have not yet completely performed their obligations by the time of commencement of bankruptcy proceedings, a bankruptcy trustee may cancel the contract or may perform the bankrupt's obligation and request the counterparty to perform their obligation.
- (2) In the case referred to in the preceding paragraph, the counterparty may specify a reasonable period and make a demand on the bankruptcy trustee that the trustee should give a definite answer within that period with regard to whether they will cancel the contract or request performance of the obligation. In such a case, if the bankruptcy trustee fails to give a definite answer within that period, it is deemed that the trustee has cancelled the contract.
- (3) The provisions of the preceding paragraph apply mutatis mutandis where the counter party or a bankruptcy trustee may give a notice of termination

pursuant to the provisions of the first sentence of Article 631 of the Civil Code or cancel the contract pursuant to the first sentence of Article 642, paragraph (1) of that Code.

Article 54 (1) If a contract is cancelled pursuant to the provisions of paragraph (1) or (2) of the preceding Article, the counterparty may exercise their right to claim damages as a bankruptcy creditor.

(2) In the case referred to in the preceding paragraph, if the counter-performance received by the bankrupt still exists in the bankruptcy estate, the counterparty may request the its return, and if it does not exist in the bankruptcy estate, may exercise their right over its value as a holder of a claim on the estate.

(Executory Contracts for Continuous Performance)

Article 55 (1) The counter party to a bilateral contract who has an obligation to provide continuous performance to the bankrupt, after the commencement of bankruptcy proceedings, may not refuse to perform the obligation on the grounds that no payment is made with regard to the bankruptcy claim arising from the performance provided prior to the filing of a petition to commence bankruptcy proceedings.

(2) A claim arising from the performance that is provided by the counter party to an executory contract prescribed in the preceding paragraph after the filing of a petition to commence bankruptcy proceedings, and prior to the commencement of bankruptcy proceedings (in the case of continuous performance for which the amount of claim should be calculated for each specific period of time, such claim arising from the performance provided within the period that includes the date of filing of the petition is included) is a claim on the estate.

(3) The provisions of the preceding two paragraphs do not apply to a labor contract.

(Lease Contracts)

Article 56 (1) The provisions of Article 53, paragraph (1) and (2) do not apply when the counter party of the bankrupt under a contract for the establishment of a leasehold or any other right of use or extracting profit has a registration or meets any other requirement for duly asserting such right against any third party.

(2) In the case prescribed in the preceding paragraph, a claim held by the counterparty is a claim on the estate.

(Contract of Mandate)

Article 57 When bankruptcy proceedings are commenced against the mandator,

the mandatary, if they have administered the mandated business without receiving a notice of commencement of bankruptcy proceedings under the provisions of Article 655 of the Civil Code and also without knowing the fact of the commencement of bankruptcy proceedings, may exercise their right to a claim arising from such administration as a bankruptcy creditor.

(Contract for Transaction of Goods with Market Quotation)

Article 58 (1) With regard to a contract for a transaction of goods with a quotation on an exchange or any other market quotation the purpose of which, from the nature of the transaction, cannot be achieved unless the transaction is performed on a specific date or within a specific period of time, if the due date is to come after the commencement of bankruptcy proceedings, it is deemed that the contract has been cancelled.

(2) In the case referred to in the preceding paragraph, the amount of damages is determined by a difference between the quotation for the same kind of transaction to be performed at the same time at the place of performance or any other reference place for quotation, and the price of the goods under the contract.

(3) The provisions of Article 54, paragraph (1) apply mutatis mutandis to damages under the provisions of the preceding paragraph.

(4) If there are any special provisions in the exchange or market in question with regard to the particulars specified in paragraph (1) or paragraph (2), those provisions prevail.

(5) If, under a basic contract concluded for the purpose of performing transactions set forth in paragraph (1) continuously by the parties to the transactions, there is an agreement to the effect that claims and liabilities for damages prescribed in paragraph (2) arising from all contracts for transactions prescribed in paragraph (1) enforced under the basic contract is settled on a net basis, such an agreement prevails with regard to the calculation of the claimable amount of damages.

(Open Accounts)

Article 59 (1) Open accounts terminate when a bankruptcy proceeding is commenced against either party to the account. In such a case, either party may close the account and claim payment of the balance.

(2) The claim under the provisions of the preceding paragraph belongs to the bankruptcy estate if it is held by the bankrupt or is a bankruptcy claim if it is held by the other party.

(Acceptance or Payment of Bills of Exchange)

Article 60 (1) If bankruptcy proceedings are commenced against the drawer or

endorser of a bill of exchange, if the drawee or the drawee in case of need has accepted or paid the bill without knowledge of the fact of the commencement, the drawee or the drawee in case of need may exercise their right over a claim arising from the acceptance or payment as a bankruptcy creditor.

- (2) The provisions of the preceding paragraph apply mutatis mutandis to checks and to securities issued for the delivery of money or any other things or securities.
- (3) The provisions of Article 51 apply mutatis mutandis to the application of the provisions of the preceding two paragraphs.

(Change of the Administrator of Matrimonial Property)

Article 61 The provisions of Article 758, paragraphs (2) and (3), and Article 759 of the Civil Code apply mutatis mutandis when bankruptcy proceedings are commenced against a husband or wife who administers the property of their spouse, and the provisions of Article 835 of that Code apply mutatis mutandis when bankruptcy proceedings are commenced against a person who exercises parental authority.

Subsection 3 Right of Segregation

(Right of Segregation)

Article 62 The commencement of bankruptcy proceedings does not affect the right to segregate, from the bankruptcy estate, property that does not belong to the bankrupt (referred to as a "right of segregation" in Article 64 and Article 78, paragraph (2), item (xiii)).

(Right of Segregation of the Seller over the Goods in Transit)

Article 63 (1) When the seller has sent the goods that are the subject matter of sale to the buyer, if an order of commencement of bankruptcy proceedings is made against the buyer while the buyer has not yet paid the price in full and not yet received the goods at the destination, the seller may retrieve the goods; provided, however, that this does not preclude a bankruptcy trustee from requesting the delivery of the goods by paying the price in full.

- (2) The provisions of the preceding paragraph do not preclude the application of the provisions of Article 53, paragraphs (1) and (2).
- (3) The provisions of paragraph (1) apply mutatis mutandis when the commission agent who is commissioned to purchase goods has sent the goods to the consigner. In such a case, the term "price" in that paragraph is deemed to be replaced with "fees and expenses."

(Right of Substitutional Segregation)

- Article 64 (1) Where the bankrupt (or a provisional administrator if any provisional administrator is appointed) has transferred property that the subject matter of a right of segregation prior to the commencement of bankruptcy proceedings to a third party, the person who has a right of segregation over the property may request the transfer of a claim for counter-performance. The same applies when a bankruptcy trustee transfers property that are the subject matter of a right of segregation to a third party.
- (2) In the case referred to in the preceding paragraph, if a bankruptcy trustee has received counter-performance, the person who has a right of segregation set forth in that paragraph may request the delivery of the property received by the bankruptcy trustee as the counter-performance.

Subsection 4 Right of Separate Satisfaction

(Right of Separate Satisfaction)

- Article 65 (1) A right of separate satisfaction may be exercised without going through bankruptcy proceedings.
- (2) If property that is the subject matter of a security right (meaning a special statutory lien, pledge or mortgage; hereinafter the same applies in this paragraph) no longer belongs to the bankruptcy estate due to sale by private contract by a bankruptcy trustee or for any other reason, the person who has the security right, if it still exists, may also have a right of separate satisfaction over the property that is the subject matter of the security right.

(Handling of Rights of Retention)

- Article 66 (1) A right of retention under the provisions of the Commercial Code or the Companies Act that exists at the time of commencement of bankruptcy proceedings over property that belongs to the bankruptcy estate, is deemed to be a special statutory lien against the bankruptcy estate.
- (2) The special statutory lien set forth in the preceding paragraph is subordinated to any other special statutory lien under the provisions of the Civil Code or any other Acts.
- (3) Except for the one prescribed in paragraph (1), a right of retention that exists at the time of commencement of bankruptcy proceedings over property that belongs to the bankruptcy estate, ceases to be effective against the bankruptcy estate.

Subsection 5 Right to Set-Off

(Right to Set-Off)

- Article 67 (1) A bankruptcy creditor, if owing a debt to the bankrupt at the time

of commencement of bankruptcy proceedings, may offset that debt without going through bankruptcy proceedings.

- (2) Even when a claim held by a bankruptcy creditor is subject to a due date or condition subsequent at the time of commencement of bankruptcy proceedings or it falls within the category of claims set forth in Article 103, paragraph (2), item (i), this does not preclude the bankruptcy creditor from offsetting a debt pursuant to the provisions of the preceding paragraph. The same applies when a debt owed by a bankruptcy creditor is subject to a due date or condition or it relates to a claim which may arise in the future.

(Amount of Bankruptcy Claim Permissible for a Set-Off)

Article 68 (1) The amount of a bankruptcy claim for which a bankruptcy creditor offsets a debt pursuant to the provisions of the preceding Article is the amount specified in each item of Article 103, paragraph (2) for the categories of claims listed in the respective items.

- (2) Notwithstanding the provisions of the preceding paragraph, if a claim held by a bankruptcy creditor is a claim without interest or a claim for periodic payments, the bankruptcy creditor may offset a debt only up to the amount of the creditor's claim after deducting therefrom the amount of the portion set forth in Article 99, paragraph (1), items (ii) through (iv).

(Set-Off by the Holder of a Claim Subject to a Condition Subsequent)

Article 69 When a person who holds a claim subject to a condition subsequent offsets a debt, the person, in the interest of the bankruptcy estate, must provide security for or make a contractual deposit of the amount of their debt to be extinguished by the set-off.

(Requests for Contractual Deposits by the Holder of a Claim Subject to a Condition Precedent)

Article 70 If a person who holds a claim subject to a condition precedent or a claim which may arise in the future pays their debt to the bankrupt, the person, in order to offset a debt later, may request a contractual deposit of the amount of payment up to the amount of their claim. The same applies when a person who holds a claim to refund the security deposit pays their rent debt.

(Stay of Set-Offs)

Article 71 (1) A bankruptcy creditor may not effect a set-off in the following cases:

- (i) if the bankruptcy creditor has incurred a debt to the bankruptcy estate after the commencement of bankruptcy proceedings;
- (ii) if the bankruptcy creditor has incurred a debt to the bankrupt by, after the

- bankrupt became unable to pay debts, under a contract with the bankrupt for disposing of the bankrupt's property with the intent to offset any debt to be incurred by the bankruptcy creditor under the contract exclusively against bankruptcy claims, or under a contract for incurring any debt owed by another person to the bankrupt, and the bankruptcy creditor knew, at the time of conclusion of the contract, that the bankrupt was unable to pay debts;
- (iii) if the bankruptcy creditor has incurred a debt to the bankrupt after the bankrupt suspended payments, and the bankruptcy creditor knew, at the time of incurring of the debt, the fact that the bankrupt had suspended payments; provided, however, that this does not apply if the bankrupt was not unable to pay debts at the time when the bankrupt suspended payments; and
- (iv) if the bankruptcy creditor has incurred a debt to the bankrupt after a petition to commence bankruptcy proceedings was filed, and the bankruptcy creditor knew, at the time of incurring that debt, of the fact that a petition to commence bankruptcy proceedings had been filed.
- (2) The provisions of item (ii) to item (iv) of the preceding paragraph do not apply where the incurring of a debt prescribed in these provisions arose from any of the causes listed in the following items:
- (i) a statutory cause;
- (ii) a cause that had occurred before the bankruptcy creditor came to know the fact that the bankrupt had been unable to pay debts, that the bankrupt had suspended payments or that a petition to commence bankruptcy proceedings had been filed; or
- (iii) a cause that had occurred not less than one year before a petition to commence bankruptcy proceedings was filed.

Article 72 (1) A person who owes a debt to the bankrupt may not offset a debt in the following cases:

- (i) when the person has acquired another person's bankruptcy claim after the commencement of bankruptcy proceedings;
- (ii) when the person has acquired a bankruptcy claim after the bankrupt became unable to pay debts, and the person knew, at the time of acquisition of the claim, the fact that the bankrupt was unable to pay debts;
- (iii) when the person has acquired a bankruptcy claim after the bankrupt suspended payments, and the person knew, at the time of acquisition of the claim, the fact that the bankrupt had suspended payments; provided, however, that this does not apply if the bankrupt was not unable to pay debts at the time when the bankrupt suspended payments; or
- (iv) when the person has acquired a bankruptcy claim after a petition to commence bankruptcy proceedings was filed, and the person knew, at the

time of acquisition of the claim, the fact that a petition to commence bankruptcy proceedings had been filed.

- (2) The provisions of items (ii) through (iv) of the preceding paragraph do not apply where the acquisition of a bankruptcy claim prescribed in these provisions arose from any of the causes set forth in the following items:
- (i) a statutory cause;
 - (ii) a cause that had occurred before the person who owes a debt to the bankrupt came to know the fact that the bankrupt had been unable to pay debts, that the bankrupt had suspended payments or that a petition to commence bankruptcy proceedings had been filed;
 - (iii) a cause that had occurred not less than one year before a petition to commence bankruptcy proceedings was filed; or
 - (iv) a contract concluded between the bankrupt and the person who owes a debt to the bankrupt.

(Bankruptcy Trustee's Right of Demand)

Article 73 (1) A bankruptcy trustee, after the period set forth in Article 31, paragraph (1), item (iii) expires or the date set forth in Article 31, paragraph (1), item (iii) ends, may set a period of not less than one month and make a demand on a bankruptcy creditor who is able to offset a debt pursuant to the provisions of Article 67, that the bankruptcy creditor should give a definite answer within that period with regard to whether or not they will effect a set-off, with their bankruptcy claim; provided, however, that this does apply only if the debt owed by the bankruptcy creditor is due.

- (2) Where a demand under the provisions of the preceding paragraph is made, if the bankruptcy creditor fails to give a definite answer within the period specified under the provisions of that paragraph, the bankruptcy creditor may not assert the effect of offsetting debt in their bankruptcy claim in bankruptcy proceedings.

Chapter III Organs for Bankruptcy Proceedings

Section 1 Bankruptcy Trustees

Subsection 1 Appointment and Supervision of Bankruptcy Trustees

(Appointment of Bankruptcy Trustees)

Article 74 (1) A bankruptcy trustee is appointed by the court.

- (2) A corporation may serve as a bankruptcy trustee.

(Supervision of Bankruptcy Trustees)

Article 75 (1) The court supervises a bankruptcy trustee.

- (2) The court may, upon the petition of an interested person or by its own

authority, dismiss a bankruptcy trustee if the bankruptcy trustee does not appropriately administer and dispose of property that belongs to the bankruptcy estate, or if there are any other material reasons to do so. In such a case, the court must interrogate the bankruptcy trustee.

(Performance of Duties by Two or More Bankruptcy Trustees)

Article 76 (1) If there are two or more bankruptcy trustees, they perform their duties jointly; provided, however, that with permission of the court, they may perform their duties independently or divide the duties among them.

(2) If there are two or more bankruptcy trustees, it is sufficient that a manifestation of intention by a third party be made to any one of them.

(Bankruptcy Trustee Representatives)

Article 77 (1) A bankruptcy trustee, if necessary, may appoint one or more bankruptcy trustee representatives on their own responsibility, in order to have them perform their duties.

(2) The appointment of a bankruptcy trustee representative set forth in the preceding paragraph requires the permission of the court.

Subsection 2 Authority of Bankruptcy Trustees

(Authority of Bankruptcy Trustees)

Article 78 (1) If an order of commencement of bankruptcy proceedings is made, the right to administer and dispose of property that belongs to the bankruptcy estate is vested exclusively in a bankruptcy trustee appointed by the court.

(2) Bankruptcy trustees must obtain permission of the court in order to conduct the following acts:

(i) the sale by private contract of a real right on real property, Japanese vessels or foreign vessels that must be registered;

(ii) the sale by private contract of mining rights, fishing rights, rights to operate a public facility, etc., timber rights, rights to operate fishing port surface facilities, patent rights, utility model rights, design rights, trademark rights, rights of layout-designs of integrated circuits, breeder's rights, copyrights or neighboring rights;

(iii) the transfer of operations or business;

(iv) the package sale of goods;

(v) the borrowing of money;

(vi) the approval of renunciation of inheritance under the provisions of Article 238, paragraph (2), approval of renunciation of a universal legacy under the provisions of Article 243 as applied mutatis mutandis pursuant to Article 238, paragraph (2) or renunciation of a particular legacy pursuant to the

- provisions of Article 244 paragraph (1);
 - (vii) the sale by private contract of movables;
 - (viii) the transfer of a claim or securities;
 - (ix) the request for performance under the provisions of Article 53, paragraph (1);
 - (x) the filing of an action;
 - (xi) the settlement or arbitration agreement (meaning an arbitration agreement prescribed in Article 2, paragraph (1) of the Arbitration Act (Act No. 138 of 2003));
 - (xii) the waiver of a right;
 - (xiii) the approval of a claim on the estate, right of segregation or right of separate satisfaction;
 - (xiv) the redemption of the collateral for the right of separate satisfaction; and
 - (xv) any other act designated by the court.
- (3) Notwithstanding the provisions of the preceding paragraph, in the following cases, the acts listed in item (vii) to item (xiv) of that paragraph do not require the permission set forth in that paragraph:
- (i) if the value of the subject matter of the act in question is not more than the amount specified by the Rules of the Supreme Court; or
 - (ii) beyond the case set forth in the preceding item, if the court considers that the permission set forth in the preceding paragraph is not required for the act in question.
- (4) The court must, when granting the permission set forth in paragraph (2) for the transfer of an operation or business pursuant to the provisions of paragraph (2), item (iii), hear the opinions of the labor union, etc.
- (5) Any act conducted without the permission set forth in paragraph (2) is void; provided, however, that this may not be asserted against a third party in good faith.
- (6) A bankruptcy trustee, when seeking to conduct any of the acts set forth in the items of paragraph (2), hear the opinions of the bankrupt, except if such hearing is likely to cause a delay, or in any of the cases set forth in the items of paragraph (3).

(Administration of Bankruptcy Estates)

Article 79 A bankruptcy trustee must commence the administration of property that belongs to the bankruptcy estate immediately after assuming office.

(Eligibility of Interested Parties)

Article 80 In an action relating to a bankruptcy estate, a bankruptcy trustee is to stand as a plaintiff or defendant.

(Management of Postal Items)

Article 81 (1) The court may, when it finds it necessary in order for a bankruptcy trustee to perform their duties, commission a person engaged in correspondence delivery to deliver, to a bankruptcy trustee, a postal item or letter item prescribed in Article 2, paragraph (3) of the Act on Correspondence Delivery by Private Business Operators (Act No. 99 of 2002) (referred to as a "postal item, etc." in the following Article and Article 118, paragraph (5)) that is addressed to the bankrupt.

- (2) The court may, upon the petition of the bankrupt or by its own authority, cancel or change the commission prescribed in the preceding paragraph, after hearing opinions of a bankruptcy trustee.
- (3) Upon the closing of bankruptcy proceedings, the court must cancel the commission prescribed in paragraph (1).
- (4) The bankrupt or a bankruptcy trustee may file an immediate appeal against an order made under the provisions of paragraph (1) or paragraph (2) and a judicial decision to dismiss without prejudice the petition set forth in paragraph (2).
- (5) The immediate appeal set forth in the preceding paragraph filed against an order made under the provisions of paragraph (1) does not have the effect of stay of execution.

Article 82 (1) A bankruptcy trustee may, upon receiving a postal item, etc. addressed to the bankrupt, open the item and view its content.

- (2) The bankrupt may request a bankruptcy trustee to let the bankrupt inspect the postal item, etc. set forth in the preceding paragraph received by the bankruptcy trustee, or deliver it to the bankrupt, if the postal item, etc. does not relate to the bankruptcy estate.

(Investigation by Bankruptcy Trustees)

Article 83 (1) A bankruptcy trustee may request any of the persons set forth in the items of Article 40, paragraph (1) and any of the persons prescribed in paragraph (2) of that Article to give an explanation pursuant to the provisions of that Article, or may inspect books, documents and any other objects relating to the bankruptcy estate.

- (2) A bankruptcy trustee may, if it is necessary in order to perform their duties, request a subsidiary company, etc. (meaning a corporation specified in each of the following items for the category set forth in the respective items; the same applies in the following paragraph) of the bankrupt to give an explanation on the status of their business and property, or may inspect their books, documents and any other objects:
 - (i) if the bankrupt is a stock company: a subsidiary company (meaning a

subsidiary company prescribed in Article 2 (iii) of the Companies Act) of the bankrupt;

(ii) if the bankrupt is a person other than a stock company: a stock company in which the bankrupt holds the majority of voting rights held by all shareholders; and

(3) If a subsidiary company, etc. of the bankrupt (limited to a person other than a stock company; hereinafter the same applies in this paragraph) independently holds or the bankrupt and the bankrupt's subsidiary company, etc. jointly hold the majority of voting rights held by all shareholders of another stock company, for the purpose of application of the provisions of the preceding paragraph, the other stock company is deemed to be a subsidiary company of the bankrupt.

(Ensuring the Performance of Duties by Bankruptcy Trustees)

Article 84 A bankruptcy trustee, when facing resistance in the process of performing their duties, may request for police assistance in order to eliminate such resistance, with permission of the court.

(Bankruptcy Trustee's Duty of Care)

Article 85 (1) Bankruptcy trustees must perform their duties with the due care of a prudent manager.

(2) If a bankruptcy trustee fails to take the due care set forth in the preceding paragraph, the bankruptcy trustee is jointly and severally liable to compensate damage to any interested person.

(Bankruptcy Trustee's Duty to Strive to Provide Information)

Article 86 Bankruptcy Trustees must strive to provide a person who has a claim for salary or claim for retirement allowance, both of which are bankruptcy claims, with information necessary for their participation in the bankruptcy proceedings.

(Remuneration for Bankruptcy Trustees)

Article 87 (1) A bankruptcy trustee may receive advance payments of expenses as well as remuneration determined by the court.

(2) An immediate appeal may be filed against an order made pursuant to the provisions of the preceding paragraph.

(3) The provisions of the preceding two paragraphs apply mutatis mutandis to a bankruptcy trustee representative.

(Bankruptcy Trustee's Duty to Report upon Termination of Duties)

Article 88 (1) A bankruptcy trustee, must submit a report of account to the court upon the termination of their duties without delay.

- (2) In the case referred to in the preceding paragraph, if there is a vacancy in the office of the bankruptcy trustee, the report of account set forth in that paragraph must be submitted by a successor bankruptcy trustee, notwithstanding the provisions of that paragraph.
- (3) In the case referred to in paragraph (1) or the preceding paragraph, the bankruptcy trustee set forth in paragraph (1) or the successor bankruptcy trustee set forth in the preceding paragraph must file a petition set forth in the main clause of Article 135, paragraph (1) for the purpose of making a report of account to a creditors meeting upon the termination of the bankruptcy trustee's office.
- (4) The bankrupt, a bankruptcy creditor or successor bankruptcy trustee (excluding the successor bankruptcy trustee set forth in paragraph (2)) may make an objection to the report of account set forth in paragraph (1) or paragraph (2) on the date of a creditors meeting convoked upon the petition set forth in the preceding paragraph.
- (5) There must be an interval of three days or more between the date of a creditors meeting set forth in the preceding paragraph and the date of submission of a report of account under the provisions of paragraph (1) or paragraph (2).
- (6) If an objection set forth in paragraph (4) is not made on the date of a creditors meeting set forth in that paragraph, it is deemed that the account set forth in paragraph (1) or paragraph (2) has been approved.

Article 89 (1) In the case referred to in paragraph (1) or paragraph (2) of the preceding Article, the bankruptcy trustee set forth in paragraph (1) of that Article or the successor bankruptcy trustee set forth in paragraph (2) of that Article may file a petition to the court for making a report of account in writing, in lieu of filing a petition set forth in paragraph (3) of that Article.

- (2) The court must make a public notice to the effect that the report is submitted and that any objection to the account should be made within a specific period of time, when a petition has been filed pursuant to the provisions of the preceding paragraph and a report of account has been submitted pursuant to the provisions of paragraph (1) or (2) of the preceding Article. In such a case, this period may not be shorter than one month.
- (3) The bankrupt, a bankruptcy creditor or successor bankruptcy trustee (excluding the successor bankruptcy trustee set forth in paragraph (1)) may make an objection to the account set forth in paragraph (1) or paragraph (2) of the preceding Article within the period set forth in the preceding paragraph.
- (4) If an objection set forth in the preceding paragraph is not made within the period set forth in paragraph (2), it is deemed that the account set forth in paragraph (1) or paragraph (2) of the preceding Article has been approved.

(Administration of Property upon Termination of Duties)

Article 90 (1) Upon the termination of a bankruptcy trustee's duties, if there are pressing circumstances, the bankruptcy trustee or their successor must make a necessary disposition until a successor bankruptcy trustee or the bankrupt is able to administer property.

(2) If an order of revocation of an order of commencement of bankruptcy proceedings or an order of discontinuance of bankruptcy proceedings becomes final and binding, a bankruptcy trustee must pay claims on the estate; provided, however, that with regard to a claim on the estate which is in dispute in terms of its existence or nonexistence or its amount, a bankruptcy trustee must make a statutory deposit of the payment in the interest of the person who holds the claim.

Section 2 Provisional Administrators

(Provisional Administration Order)

Article 91 (1) Where a petition to commence bankruptcy proceedings is filed, when a debtor (limited to a corporation; hereinafter the same applies in this Section, Article 148, paragraph (4) and Article 152, paragraph (2)) administers and disposes of its property in an inappropriate manner or the court otherwise finds it particularly necessary for securing the debtor's property, the court may, upon the petition of an interested person or by its own authority, make a disposition to order that the debtor's property be administered by a provisional administrator until an order is made on the petition to commence bankruptcy proceedings.

(2) The court must, when making a disposition under the provisions of the preceding paragraph (hereinafter referred to as a "provisional administration order"), appoint one or more provisional administrators in the provisional administration order.

(3) The provisions of the preceding two paragraphs apply mutatis mutandis where an immediate appeal set forth in Article 33, paragraph (1) is filed against an order dismissing a petition to commence bankruptcy proceedings.

(4) The court may change or revoke a provisional administration order.

(5) An immediate appeal may be filed against a provisional administration order and an order made under the provisions of the preceding paragraph.

(6) The immediate appeal set forth in the preceding paragraph does not have the effect of stay of execution.

(Public Notice and Service Concerning Provisional Administration Orders)

Article 92 (1) The court must, when it has issued a provisional administration

order, make a public notice to that effect. The same applies when the court makes an order to change or revoke a provisional administration order.

- (2) When a provisional administration order is issued, an order under the provisions of paragraph (4) of the preceding Article is made, and a judicial decision on the immediate appeal set forth in paragraph (5) of that Article is made, the electronic judgments must be served upon the parties concerned.
- (3) The provisions of Article 10, paragraph (4) do not apply to the case referred to in paragraph (1).

(Authority of Provisional Administrators)

Article 93 (1) When a provisional administration order is issued, the right to administer and dispose of the debtor's property (irrespective of whether or not it exists in Japan) is vested exclusively in a provisional administrator; provided, however, that a provisional administrator must obtain permission of the court in order to conduct any act that does not fall within the scope of the debtor's ordinary business.

- (2) Any act conducted without the permission set forth in the proviso to the preceding paragraph is void; provided, however, that this may not be asserted against a third party in good faith.
- (3) The provisions of Article 78, paragraphs (2) through (6) apply *mutatis mutandis* to a provisional administrator.

(Provisional Administrator's Duty to Report upon Termination of Duties)

Article 94 (1) A provisional administrator must, upon the termination of their duties, make a report of account to the court in writing without delay.

- (2) In the case referred to in the preceding paragraph, if there is a vacancy in the office of a provisional administrator, the report of account set forth in the same paragraph must, notwithstanding the provisions of that paragraph, be submitted by a successor provisional administrator or a bankruptcy trustee.

(Provisional Administrator Representatives)

Article 95 (1) A provisional administrator, if necessary, may appoint one or more provisional administrator representatives on their own responsibility, in order to have them perform their duties.

- (2) The appointment of a provisional administrator representative under the provisions of the preceding paragraph requires the permission of the court.

(Application, *Mutatis Mutandis*)

Article 96 (1) The provisions of Article 40 apply *mutatis mutandis* to a request made by a provisional administrator, the provisions of Article 47, Article 50, and Article 51 apply *mutatis mutandis* when a provisional administration

order is issued, the provisions of Article 74, paragraph (2), Article 75, Article 76, Article 79, Article 80, Articles 82 through 85, Article 87, paragraphs (1) through (2) and Article 90, paragraph (1) apply mutatis mutandis to a provisional administrator, and the provisions of Article 87, paragraphs (1) and (2) apply mutatis mutandis to a provisional administrator representative. In such cases, the phrase "public notice under the provisions of Article 32, paragraph (1)" in Article 51 is deemed to be replaced with "public notice under the provisions of Article 92, paragraph (1)," and the term "successor bankruptcy trustee" in Article 90, paragraph (1) is deemed to be replaced with "successor provisional administrator or a bankruptcy trustee."

- (2) With regard to an action relating to a debtor's property and a case relating to a debtor's property that is pending before an administrative agency, the provisions specified in the following items apply mutatis mutandis in the cases set forth in the respective items:
- (i) when a provisional administration order is issued: Article 44, paragraphs (1) through (3); and
 - (ii) when a provisional administration order ceases to be effective (excluding cases in which an order of commencement of bankruptcy proceedings is made): Article 44, paragraphs (4) through (6).

Chapter IV Bankruptcy Claims

Section 1 Rights of Bankruptcy Creditors

(Claims Included in the Scope of Bankruptcy Claims)

Article 97 The following claims (excluding those falling within the scope of claims on the estate) are to be included in the scope of bankruptcy claims:

- (i) claims for interest arising after the commencement of bankruptcy proceedings;
- (ii) claims for damages or penalty for a default arising after the commencement of bankruptcy proceedings;
- (iii) claims for delinquent tax, interest tax or delinquent charge arising after the commencement of bankruptcy proceedings, or claim for a foreign tax subject to mutual legal assistance similar to them;
- (iv) claims that may be collected as provided for by the National Tax Collection Act (Act No. 147 of 1959) or by the same procedure as that for collecting national tax (hereinafter referred to as "claim for tax, etc."), which arises against the bankruptcy estate from a cause that occurs after the commencement of bankruptcy proceedings;
- (v) claims for an additional tax (meaning an additional tax for under reporting , additional tax for failure to file, additional tax for non-payment and heavy additional tax prescribed in Article 2 ,item(iv) of the Act on General Rules for

National Taxes (Act No. 66 of 1962)) or additional charge (meaning additional payment for underreport, additional payment for failure to file, additional payment for non-payment, and heavy additional payment prescribed in Article 1, paragraph (1), item (xiv) of the Local Tax Act (Act No. 226 of 1950)), or claim for a foreign tax subject to mutual assistance similar to them;

- (vi) claims for a fine, petty fine, court costs for a criminal case, collection of delinquent payment or civil fine (hereinafter referred to as "claim for a fine, etc.");
- (vii) claims for expenses for participation in bankruptcy proceedings;
- (viii) claims for damages of the counterparty prescribed in Article 54, paragraph (1) (including as applied mutatis mutandis pursuant to Article 58, paragraph (3));
- (ix) claims prescribed in Article 57;
- (x) claims under the provisions of Article 59, paragraph (1), which is held by the other party;
- (xi) claims prescribed in Article 60, paragraph (1) (including as applied mutatis mutandis pursuant to paragraph (2) of that Article); and
- (xii) rights specified in Article 168, paragraph (2), item (ii) or (iii).

(Preferred Bankruptcy Claims)

Article 98 (1) A bankruptcy claim for which a general statutory lien or any other general priority exists over property that belongs to the bankruptcy estate (excluding a subordinate bankruptcy claim prescribed in paragraph (1) of the following Article and consensually-subordinated bankruptcy claim prescribed in paragraph (2) of that Article; hereinafter referred to as a "preferred bankruptcy claim") takes precedence over other bankruptcy claims.

(2) In the case referred to in the preceding paragraph, the order of priority among preferred bankruptcy claims is as provided for by the Civil Code, the Commercial Code, or any other laws.

(3) When a priority exists with regard to the amount of claim arising for a specific period of time, the period is calculated from the time of commencement of bankruptcy proceedings.

(Subordinate Bankruptcy Claims)

Article 99 (1) The following claims (hereinafter referred to as "subordinate bankruptcy claims") are subordinated to other bankruptcy claims (excluding the consensually-subordinated bankruptcy claim prescribed in the following paragraph):

- (i) claims set forth in Article 97, items (i) through (vii);
- (ii) with regard to a claim with a fixed due date that is to become due after the

commencement of bankruptcy proceedings and bears no interest, the amount equivalent to the interest calculated based on the statutory interest rate at the time of commencement of the bankruptcy proceedings accrued for the number of years from the commencement of bankruptcy proceedings until the due date (any period of less than one year is rounded off);

(iii) with regard to a claim with an uncertain due date that is to become due after the commencement of bankruptcy proceedings and bears no interest, the difference between the amount of the claim and the appraised value of the claim as of the time of commencement of bankruptcy proceedings; and

(iv) with regard to a claim for periodic payments the amount and duration of which are fixed, the sum of the amounts calculated with regard to the respective periodic payments in accordance with the provisions of item (ii) (when the amount calculated by deducting the total from the total amount of periodic payments exceeds the amount of principal which would accrue interest equivalent to the periodic payments when calculating at a statutory interest rate at the time of commencement of the bankruptcy proceedings, the amount in excess is added).

(2) A claim for which the bankruptcy creditor and the bankrupt, prior to the commencement of bankruptcy proceedings, have reached an agreement prior to the commencement of bankruptcy proceedings, to the effect that if bankruptcy proceedings are commenced against the bankrupt, the claim is subordinated to a subordinate bankruptcy claim in the order of priority for receiving a distribution in the bankruptcy proceedings (hereinafter referred to as an "consensually-subordinated bankruptcy claim") is subordinated to a subordinate bankruptcy claim.

(Enforcement of Bankruptcy Claims)

Article 100 (1) A bankruptcy claim, except as otherwise provided for in this Act, may not be enforced without going through bankruptcy proceedings.

(2) The provisions of the preceding paragraph do not apply when enforcing a claim for tax, etc. (excluding a foreign tax claim subject to mutual assistance), which is a bankruptcy claim, through the following acts:

(i) collection of national tax delinquency already made, at the time of commencement of bankruptcy proceedings, against property that belongs to the bankruptcy estate; and

(ii) appropriation of a refund or payment by mistake, which is enforced by a person with the authority to collect.

(Permission for Payment of Claims for Salary)

Article 101 (1) If a bankruptcy creditor who filed a notification of claim for salary or a claim for a retirement allowance, both of which are preferred

bankruptcy claims, is likely to have difficulty in maintaining their standard of living unless they receive payment of these bankruptcy claims, the court may permit payment of the claim in whole or in part, before permission is granted for the first time for the final distribution prescribed in Article 195, paragraph (1), simplified distribution prescribed in Article 204, paragraph (1), consensual distribution prescribed in Article 208, paragraph (1) or interim distribution prescribed in Article 209, paragraph (1), upon the petition of a bankruptcy trustee or by its own authority,; provided, however, that this applies only if the payment is not likely to harm the interest of a person who holds a claim on the estate or any other preferred bankruptcy claim with the same or higher level of priority.

- (2) When a bankruptcy trustee is requested by a bankruptcy creditor set forth in the preceding paragraph to file the petition set forth in that paragraph, the bankruptcy trustee must report that fact to the court immediately. In such a case, if the bankruptcy trustee has decided not to file a petition, the trustee must report the reason for this to the court without delay.

(Set-Off by Bankruptcy Trustees)

Article 102 If a set-off of a claim that belongs to the bankruptcy estate against a bankruptcy claim conforms to the common interests of bankruptcy creditors, a bankruptcy trustee may effect a set-off with permission of the court.

(Bankruptcy Creditor's Participation in Proceedings)

Article 103 (1) A bankruptcy creditor may participate in bankruptcy proceedings with regard to a bankruptcy claim that the creditor holds.

- (2) In the case referred to in the preceding paragraph, the amount of a bankruptcy claim is the amount specified in each of the following items in accordance with the category of claims set forth in the respective items:
- (i) the following claims: the amount of the claim appraised at the time of commencement of bankruptcy proceedings:
 - (a) claims not for payment of money
 - (b) monetary claim the amount of which is not fixed or the amount of which is fixed in a foreign currency
 - (c) claim for periodic payments the amount and duration of which are not fixed; or
 - (ii) claim other than those listed in the preceding item: the amount of the claim.
- (3) If a bankruptcy claim is a claim with a due date that is to become due after the commencement of bankruptcy proceedings, such bankruptcy claim is deemed to have become due at the time of commencement of bankruptcy proceedings.
- (4) Even if a bankruptcy claim, at the time of commencement of bankruptcy

proceedings, is a claim with conditions or is a claim which may arise in the future, the bankruptcy creditor may participate in the bankruptcy proceedings by reason of the bankruptcy claim.

- (5) Notwithstanding the provisions of paragraph (1), in order to participate in bankruptcy proceedings by reason of a claim for a foreign tax subject to mutual assistance, a decision of implementation of mutual assistance (meaning the decision of implementation of mutual assistance prescribed in Article 11, paragraph (1) of the Act on Special Provisions for the Enforcement of Tax Treaties; the same applies in Article 134, paragraph (2)) is required.

(Participation in Proceedings When Two or More Persons Have the Obligation of Entire Performance)

Article 104 (1) When two or more persons each have the obligation of entire performance, if an order of commencement of bankruptcy proceedings is made against all or some or one of them, their creditor may participate in the bankruptcy proceedings against each of the persons with regard to the whole amount of the claim that they hold at the time of commencement of bankruptcy proceedings.

- (2) In the case referred to in the preceding paragraph, even if other persons who have the obligation of entire performance has made payment to the creditor or conducted any other act with the creditor to cause their debt to be extinguished (hereinafter referred to as "payment, etc." in this Article) after the commencement of bankruptcy proceedings, the creditor, except where the whole amount of the claim is extinguished, may exercise their right for the whole amount of the claim that they hold at the time of the commencement of bankruptcy proceedings.

- (3) In the case prescribed in paragraph (1), a person who has a right to obtain reimbursement to be exercised against the bankrupt in the future may participate in the bankruptcy proceedings with regard to the whole amount of reimbursement; provided, however, that this does not apply when a creditor has participated in the bankruptcy proceedings with regard to the claim that they hold at the time of commencement of bankruptcy proceedings.

- (4) When a creditor participates in the bankruptcy proceedings pursuant to the provisions of paragraph (1), if a person who has a right to obtain reimbursement to be exercised against the bankrupt in the future has made payment, etc. to the creditor after the commencement of bankruptcy proceedings, the person who has a right to obtain reimbursement may exercise the creditor's right as a bankruptcy creditor to the extent of the right to obtain reimbursement only when the whole amount of the creditor's claim is extinguished.

- (5) The provisions of paragraph (2) apply mutatis mutandis when a third party

who provided their property as security in order to secure the bankrupt's debt (hereinafter referred to as a "third party collateral provider " in this paragraph) has made payment, etc. to the creditor after the commencement of bankruptcy proceedings, and the provisions of the preceding two paragraphs apply mutatis mutandis to a third party collateral provider who has the right to obtain against the bankrupt in the future.

(Participation in Proceedings in the case of Bankruptcy of Guarantor)

Article 105 If an order of commencement of bankruptcy proceedings is made against a guarantor, the creditor may participate in the bankruptcy proceedings with regard to the whole amount of the claim that they hold at the time of commencement of bankruptcy proceedings.

(Participation in Proceedings in the case of Bankruptcy of Persons with Unlimited Liability for a Corporation's Debts)

Article 106 When an order of commencement of bankruptcy proceedings is made against a person who has unlimited liability for a corporation's debts, a creditor of the corporation may participate in the bankruptcy proceedings with regard to the whole amount of the claim that they hold at the time of commencement of bankruptcy proceedings.

(Participation in Proceedings in the case of Bankruptcy of a Person with Limited Liability for a Corporation's Debts)

Article 107 (1) If an order of commencement of bankruptcy proceedings is made against a person who has limited liability for a corporation's debts, a creditor of the corporation may not participate in the bankruptcy proceedings. In such a case, the corporation is not precluded from participating in the bankruptcy proceedings to demand contributions.

(2) When there is a person who has limited liability for a corporation's debts, if an order of commencement of bankruptcy proceedings is made against the corporation, a creditor of the corporation may not exercise their right against the person who has limited liability for the corporation's debts.

(Participation in Proceedings by a Holder of Right of Separate Satisfaction)

Article 108 (1) A holder of a right of separate satisfaction may, with regard to a claim secured by a security right prescribed in Article 65, paragraph (2) which pertains to the right of separate satisfaction, exercise their right as a bankruptcy creditor only for the amount of the claim for which payment cannot be received by exercising the right of separate satisfaction; provided, however, that where the amount of the claim secured by the security right is no longer secured in whole or part after the commencement of bankruptcy proceedings,

the holder of the right of separate satisfaction is not precluded from exercising their right as a bankruptcy creditor for the whole or part of the amount of the claim.

- (2) The preceding paragraph also applies to a person who holds a special statutory lien, pledge or mortgage on the bankrupt's property that does not belong to the bankruptcy estate or a person who, when an additional order of commencement of bankruptcy proceedings is made against the bankrupt, holds a bankruptcy claim in the previous bankruptcy proceedings.

(Participation in Proceedings by a Bankruptcy Creditor Receiving Payment in a Foreign State)

Article 109 Even if a bankruptcy creditor by exercising their right against property that belongs to the bankruptcy estate and exists in a foreign state, has received payment of their bankruptcy claim after an order of commencement of bankruptcy proceedings is made, may participate in the bankruptcy proceedings with regard to the amount of the claim at the time before receiving the payment.

(Bankruptcy Creditor Representatives)

Article 110 (1) Bankruptcy creditors, with permission of the court, may jointly or severally appoint one or more bankruptcy creditor representatives.

(2) A bankruptcy creditor representative may perform any and all acts involved in bankruptcy proceedings in the interest of the bankruptcy creditors who appoint the representative.

(3) If there are two or more bankruptcy creditor representatives, they exercise their authority jointly; provided, however, that it is sufficient for a manifestation of intention by a third party to be made to one of them.

(4) The court may rescind the permission set forth in paragraph (1) when it finds the exercise of authority by the bankruptcy creditor representative to be particularly unfair.

Section 2 Filing of Proofs of Bankruptcy Claims

(Filing of Proofs of Bankruptcy Claims)

Article 111 (1) A bankruptcy creditor who seeks to participate in bankruptcy proceedings must file notification of the following particulars to the court within a period during which proofs of bankruptcy claims should be filed as specified pursuant to the provisions of Article 31, paragraph (1), item (i), or paragraph (3) (hereinafter referred to as a "period for filing proofs of claims"):

(i) the amount and cause of each bankruptcy claim;

(ii) if the claim in question is a preferred bankruptcy claim, a statement to that

- effect;
- (iii) if the claim in question is a subordinate bankruptcy claim or consensually-subordinated bankruptcy claim, a statement to that effect;
 - (iv) if the total amount of distribution given to the bankruptcy creditor is less than the amount specified by the Rules of the Supreme Court but the creditor has the intention of receiving distribution money, a statement to that effect; and
 - (v) beyond what is set forth in the preceding items, particulars specified by the Rules of the Supreme Court.
- (2) A holder of a right of separate satisfaction must, in addition to the particulars set forth in the items of the preceding paragraph, file a notification of the following particulars:
- (i) the collateral for the right of separate satisfaction; and
 - (ii) the amount of the claim for which payment is not expected to be received by exercising the right of separate satisfaction.
- (3) The provisions of the preceding paragraph apply mutatis mutandis to a holder of a special statutory lien, pledge or mortgage or holder of a bankruptcy claim prescribed in Article 108, paragraph (2) (hereinafter referred to as a "holder of a quasi-right of separate satisfaction").

(Filing of Notifications after the Expiration of the Ordinary Period for Investigation or after the End of the Ordinary Date of Investigation)

- Article 112 (1) When a bankruptcy creditor is unable to file proofs of bankruptcy claims by the expiration of the period set forth in Article 31, paragraph (1), item(iii) (hereinafter referred to as the "ordinary period for investigation") or the end of the date set forth in Article 31, paragraph (1), item (iii) (hereinafter referred to as the "ordinary date of investigation") due to grounds not attributable to them, they may file a notification only within one month after the grounds cease to exist.
- (2) The one-month period prescribed in the preceding paragraph may not be extended or shortened.
 - (3) With regard to a bankruptcy claim arising after the expiration of the ordinary period for investigation or the end of the ordinary date of investigation, a notification must be filed within an unextendable period of one month after the claim arose.
 - (4) The provisions of paragraphs (1) and (2) apply mutatis mutandis when a bankruptcy creditor, after the expiration of the ordinary period for investigation or the end of ordinary date of investigation, makes a change to any filed particular, which is prejudicial to the interest of other bankruptcy creditors, due to grounds not attributable to them.

(Change of the Title of a Holder of a Filed Claim)

Article 113 (1) A person who has acquired a filed bankruptcy claim may have the title of the holder of the filed claim changed even after the expiration of the ordinary period for investigation or the end of the ordinary date of investigation.

(2) The person to whom the title of the holder of a filed claim is to be changed pursuant to the provisions of the preceding paragraph, if the person has the intention of receiving distribution money even if the total amount of distribution to be given to them is less than the amount specified by the Rules of the Supreme Court prescribed in Article 111, paragraph (1), item (iv), must file a notification with the court to that effect.

(Filing of Notifications of Claims for Tax)

Article 114 A person who holds any of the following claims must file with the court a notification of the amount and cause of the claim, and if the claim in question is a claim for a foreign tax subject to mutual assistance, a statement to that effect, and any other particulars specified by the Rules of the Supreme Court, without delay. In such a case, if the person who holds the claim is a holder of a right of separate satisfaction or holder of a quasi-right of separate satisfaction, the provisions of Article 111, paragraph (2) apply mutatis mutandis:

- (i) a claim for tax, etc., which does not fall within the scope of claims on the estate; or
- (ii) a claim for a fine, etc., which does not fall within the scope of claims on the estate.

Section 3 Investigation and Finalization of Bankruptcy Claims
Subsection 1 General Rules

(Preparation of an Electronic Schedule of Bankruptcy Creditors)

Article 115 (1) A court clerk must prepare an electronic schedule of bankruptcy creditors (an electronic or magnetic record prepared by the court clerk to clarify the subject matter and results of investigation of bankruptcy claims and to clarify matters relating to finalized bankruptcy claims; the same applies hereinafter) with regard to filed bankruptcy claims, pursuant to the provisions of the Rules of the Supreme Court.

(2) In the electronic schedule of bankruptcy creditors, the particulars set forth in Article 111, paragraph (1), items (i) through (iv) and paragraph (2), item (ii) of that Article (including as applied mutatis mutandis pursuant to paragraph (3) of that Article) and any other particulars specified by the Rules of the Supreme Court must be recorded.

- (3) If a court clerk prepared an electronic schedule of bankruptcy creditors pursuant to the provisions of paragraph (1), the court clerk must record the electronic distribution list in a file, pursuant to the provisions of the Rules of the Supreme Court.
- (4) If there are any errors in the contents in the electronic schedule of bankruptcy creditors (limited to a schedule recorded in a file pursuant to the provisions of the preceding paragraph; the same applies hereinafter), a court clerk, upon petition or by their own authority, may make a disposition to correct them at any time.
- (5) A disposition for correction under the provisions of the preceding paragraph must be made by recording in a file to that effect pursuant to the provisions of the Rules of the Supreme Court.
- (6) The provisions of Article 71, paragraphs (4), (5), and (8) of the Code of Civil Procedure apply mutatis mutandis to dispositions for correction under the provisions of paragraph (4) or a disposition dismissing a petition specified in that paragraph and petitions objecting to the dispositions.

(Method of Investigation of Bankruptcy Claims)

- Article 116 (1) Investigations of bankruptcy claims by the court is conducted pursuant to the provisions of the following Subsection based on a statement of approval or disapproval prepared by a bankruptcy trustee as well as written objections made by bankruptcy creditors and by the bankrupt.
- (2) Notwithstanding the provisions of the preceding paragraph, the court may, when it finds it necessary, conduct an investigation of bankruptcy claims pursuant to the provisions of Subsection 3 based on an approval or disapproval given by a bankruptcy trustee as well as objections made by bankruptcy creditors and by the bankrupt on the date set for the investigation.
 - (3) The court may, even after conducting the investigation of bankruptcy claims on the ordinary date of investigation under the provisions of Article 121, conduct an investigation of bankruptcy claims in writing during the special period for investigation under the provisions of Article 119, and when it finds it necessary, even after conducting the investigation of bankruptcy claims in writing during the ordinary period for investigation under the provisions of Article 118, may conduct an investigation of bankruptcy claims on the special date of investigation under the provisions of Article 122.

Subsection 2 Investigation of Bankruptcy Claims in Writing

(Preparation and Submission of a Statement of Approval or Disapproval)

- Article 117 (1) A bankruptcy trustee, when an ordinary period for investigation is specified, must prepare a statement of approval or disapproval of the

following particulars with regard to each bankruptcy claim filed during the period for filing notifications of claims:

- (i) the amount of the bankruptcy claim;
 - (ii) a statement to the effect that the claim in question is a preferred bankruptcy claim;
 - (iii) a statement to the effect that the claim in question is a subordinate bankruptcy claim or consensually-subordinated bankruptcy claim; and
 - (iv) the amount of the claim for which payment is not expected to be received by exercising a right of separate satisfaction (including a special statutory lien, pledge or mortgage or bankruptcy claim prescribed in Article 108, paragraph (2)).
- (2) A bankruptcy trustee, with regard to a bankruptcy claim which is filed or for which a change is made to any filed particular (limited to a change which is prejudicial to the interest of other bankruptcy creditors; the same applies in this Section) after the expiration of the period for filing notifications of claims, may also state their approval or disapproval of the particulars listed in the items of the preceding paragraph (if there is a change to any filed particular, the particular set forth in each item of that paragraph after the change; the same applies in this Section) in the statement of approval or disapproval set forth in that paragraph.
- (3) A bankruptcy trustee must submit a statement of approval or disapproval prepared pursuant to the provisions of the preceding two paragraphs by the time limit set by the court prior to the ordinary period for investigation.
- (4) If, with regard to any particular of which approval or disapproval should be stated in a statement of approval or disapproval set forth in paragraph (1) pursuant to the provisions of that paragraph, neither approval nor disapproval is stated in the statement of approval or disapproval submitted pursuant to the provisions of the preceding paragraph, it is deemed that a bankruptcy trustee has approved the particular.
- (5) If, with regard to a bankruptcy claim for which approval or disapproval of the particulars set forth in the items of paragraph (1) may be stated in a statement of approval or disapproval pursuant to the provisions of paragraph (2), the statement of approval or disapproval submitted pursuant to the provisions of paragraph (3) states approval or disapproval of a part of the particulars, it is deemed that a bankruptcy trustee has approved the particulars of which neither approval nor disapproval is stated in the statement of approval or disapproval.

(Investigation During Ordinary Periods for Investigation)

Article 118 (1) A holder of filed bankruptcy claim may make an objection in writing to the court within the ordinary period for investigation, with regard to

- the particulars set forth in the items of paragraph (1) of the preceding Article concerning a bankruptcy claim prescribed in paragraph (1) or (2) of that Article.
- (2) The bankrupt may make an objection in writing to the court within the ordinary period for investigation, with regard to the amount of the bankruptcy claim referred to in the preceding paragraph.
- (3) The court must, when it has made an order to change the ordinary period for investigation, serve the electronic judgment upon the bankruptcy trustee, the bankrupt, and holders of filed bankruptcy claims (prior to the expiration of the period for filing notifications of claims, the known bankruptcy creditors).
- (4) The delivery under the provisions of the preceding paragraph may be made by sending the necessary documents by ordinary mail or by correspondence delivery services prescribed in Article 2 paragraph (2) of the Act on Correspondence Delivery by Private Business Operators that are provided by a general correspondence delivery operator prescribed in paragraph (6) of that Article or specified correspondence delivery service provider prescribed in paragraph (9) of that Article.
- (5) If a service has been made under the provisions of the preceding paragraph, the service is deemed to have been made at the time when the postal item, etc. sent should have normally reached the addressee.

(Investigation During the Special Period for Investigation)

- Article 119 (1) The court must, with regard to a bankruptcy claim which is filed or for which a change is made to any filed particular after the period for filing notifications of claims has expired but before the ordinary period for investigation expires or the ordinary date of investigation ends, specify a period for conducting an investigation of the claim (hereinafter referred to as a "special period for investigation"); provided, however, that this does not apply if, with regard to the bankruptcy claim, a bankruptcy trustee states, in the statement of approval or disapproval submitted pursuant to the provisions of Article 117, paragraph (3), their approval or disapproval of all or a part of the particulars set forth in the items of paragraph (1) of that Article, or no objection is made by a bankruptcy trustee or any bankruptcy creditors against conducting an investigation on the ordinary date of investigation.
- (2) The main clause of the preceding paragraph also applies to a bankruptcy claim which is filed under the provisions of Article 112, paragraph (1) or (3) or for which a change is made to any filed particular under the provisions of paragraph (1) of that Article as applied mutatis mutandis pursuant to paragraph (4) of that Article after the expiration of the ordinary period for investigation or the end of the ordinary date of investigation.
- (3) In the case referred to in the main clause of paragraph (1) or in the preceding paragraph, the expenses for the special period for investigation is borne by the

person who holds the bankruptcy claim investigated.

- (4) A bankruptcy trustee must, with regard to a bankruptcy claim to be investigated during the special period for investigation, prepare a statement of approval or disapproval to state their approval or disapproval of the particulars set forth in the items of Article 117, paragraph (1), and submit it to the court by the due date set by the court prior to the special period for investigation. In such a case, the provisions of paragraph (4) of that Article apply *mutatis mutandis*.
- (5) A holder of a filed bankruptcy claim may make an objection in writing to the court with regard to the particulars set forth in the items of Article 117, paragraph (1) concerning the bankruptcy claim set forth in the preceding paragraph and a bankrupt may make an objection in writing to the court with regard to the amount of the bankruptcy claim, within the special period for investigation,.
- (6) The provisions of paragraphs (3) through (5) of the preceding Article apply *mutatis mutandis* to the service of an electronic judgment when an order to specify or change the special period for investigation is made.

(Prepayment of Expenses for the Special Period for Investigation)

- Article 120 (1) In the case referred to in the main clause of paragraph (1), or in paragraph (2) of the preceding Article, a court clerk must specify a reasonable period and order the person who holds the bankruptcy claim set forth in paragraph (3) of that Article to prepay the expenses set forth in that paragraph.
- (2) The disposition made under the provisions of the preceding paragraph becomes effective when a notice is given by a means that is considered to be appropriate.
 - (3) An objection may be filed against a disposition made under the provisions of paragraph (1) within an unextendable period of one week from the day on which its notice is received.
 - (4) The objection set forth in the preceding paragraph has the effect of stay of execution.
 - (5) In the case referred to in paragraph (1), if the person who holds the bankruptcy claim set forth in that paragraph does not prepay the expenses set forth in that paragraph, the court must, by an order, dismiss without prejudice the person's filing of proofs of bankruptcy claims or filing of the change of any filed particular.
 - (6) An immediate appeal may be filed against an order of dismissal made under the provisions of the preceding paragraph.

Subsection 3 Investigation of Bankruptcy Claims on the Appointed Date

(Investigation on the Ordinary Date of Investigation)

- Article 121 (1) A bankruptcy trustee must, when an ordinary date of investigation is specified, appear on the ordinary date of investigation and state their approval or disapproval of the particulars set forth in the items of Article 117, paragraph (1) with regard to each bankruptcy claim filed during the period for filing notifications of claims.
- (2) A holder of a filed bankruptcy claim or their agent may appear on the ordinary date of investigation and make an objection with regard to the particulars prescribed in the preceding paragraph concerning the bankruptcy claim referred to in that paragraph.
 - (3) The bankrupt must appear on the ordinary date of investigation; provided, however, that they may have an agent appear on their behalf if there are legitimate grounds for doing so.
 - (4) The bankrupt who appears pursuant to the provisions of the main clause of the preceding paragraph may make an objection with regard to the amount of the bankruptcy claim set forth in paragraph (1).
 - (5) The bankrupt who appears pursuant to the provisions of the main clause of paragraph (3) must state their opinions on necessary matters.
 - (6) The provisions of the preceding two paragraphs apply mutatis mutandis to the agent set forth in the proviso to paragraph (3).
 - (7) The provisions of the preceding paragraphs apply mutatis mutandis where no objection is made by a bankruptcy trustee or bankruptcy creditors against conducting an investigation on the ordinary date of investigation with regard to a bankruptcy claim which is filed, or for which a change is made to any filed particular after the expiration of the period for filing notifications of claims.
 - (8) An investigation of bankruptcy claims on the ordinary date of investigation may not be conducted without the appearance of a bankruptcy trustee.
 - (9) The court must, when it has made an order to change the ordinary date of investigation, serve the electronic judgment upon a bankruptcy trustee, the bankrupt, and holders of filed bankruptcy claims (prior to the expiration of the period for filing notifications of claims, known bankruptcy creditors).
 - (10) The court must, when it has made an order to postpone or continue the investigation of bankruptcy claims on the ordinary date of investigation, serve the electronic judgment upon a bankruptcy trustee, the bankrupt and holders of filed bankruptcy claims, except where the order is rendered on that ordinary date of investigation.
 - (11) The provisions of Article 118, paragraphs (4) and (5) apply mutatis mutandis to the service under the provisions of the preceding two paragraphs.

(Ordinary Date of Investigation through Communication by Audio and Visual

Transmission)

Article 121-2 (1) If the court finds it to be reasonable, the court may, pursuant to the provisions of the Rules of the Supreme Court, perform procedures on an ordinary date of investigation by a method of communication that enables mutual communication with an awareness of one another's state of being through audio and visual transmissions between the court, the bankrupt, the bankruptcy trustee, and holders of filed bankruptcy claims.

(2) A bankrupt, bankruptcy trustee, and holder of a filed bankruptcy claim who does not appear on an ordinary date of investigation and participates in the proceedings is deemed to have appeared on that ordinary date of investigation.

(Investigations on the Special Date of Investigation)

Article 122 (1) The court, with regard to a bankruptcy claim which is filed or for which a change is made to any filed particular after the period for filing notifications of claims has expired but before the ordinary period for investigation expires or the ordinary date of investigation ends, may specify a date for conducting an investigation of such claim (hereinafter referred to as a "special date of investigation"), when it finds it necessary; provided, however, that this does not apply where, with regard to the bankruptcy claim, a bankruptcy trustee states, in the statement of approval or disapproval submitted pursuant to the provisions of Article 117, paragraph (3), their approval or disapproval of all or a part of the particulars set forth in the items of paragraph (1) of that Article, or no objection is made by a bankruptcy trustee or bankruptcy creditors against conducting an investigation on the ordinary date of investigation.

(2) The provisions of Article 119, paragraphs (2) and (3), Article 118, paragraphs (3) through (5) as applied mutatis mutandis pursuant to Article 119, paragraph (6), Article 120, Article 121 (excluding paragraphs (7) and (9)), and the preceding Article apply mutatis mutandis to the special date of investigation in the case referred to in the main clause of the preceding paragraph.

(Objection Made by the Bankrupt after the End of the Date of Investigation)

Article 123 (1) If the bankrupt was unable to appear on the ordinary date of investigation or special date of investigation due to grounds not attributable to them, the bankrupt, within one week after the grounds cease to exist, may make an objection in writing to the court with regard to the amount of the bankruptcy claim investigated on that ordinary date of investigation or special date of investigation.

(2) The one-week period prescribed in the preceding paragraph may not be extended or shortened.

Subsection 4 Finalization of Bankruptcy Claims

(Finalization of a Bankruptcy Claim Without Objection)

- Article 124 (1) The particulars set forth in the items of Article 117, paragraph (1) (excluding item (iv)) are finalized if, in the investigation of bankruptcy claims, they are approved by a bankruptcy trustee and no objection is made by any holder of filed bankruptcy claim during the ordinary period for investigation or special period for investigation or on the ordinary date of investigation or special date of investigation.
- (2) A court clerk must, pursuant to the provisions of the Rules of the Supreme Court, record the results of the investigation of bankruptcy claims in the electronic schedule of bankruptcy creditors.
- (3) The records in the electronic schedule of bankruptcy creditors with regard to the particulars that are finalized pursuant to the provisions of paragraph (1) have the same effect as a final and binding judgment against all bankruptcy creditors.

(Orders for Bankruptcy Claim Assessment)

- Article 125 (1) If, in an investigation of bankruptcy claims, a bankruptcy trustee has disapproved the amount of a bankruptcy claim or whether the type of the claim is preferred bankruptcy claim, subordinate bankruptcy claim or consensually-subordinated bankruptcy claim (hereinafter referred to as the "amount, etc." in this Article and Article 127, paragraph (1)), or an objection has been made by any holder of filed bankruptcy claim with regard to these matters, the holder of filed bankruptcy claim who holds the bankruptcy claim in question (hereinafter referred to as the "denied or disputed bankruptcy claim"), in order to finalize the amount and type of the claim, may file a petition to the court, against the bankruptcy trustee as well as the holders of filed bankruptcy claim who made the objection (hereinafter referred to as the "denying or disputing party" in this Subsection), for assessment of the amount, etc. of the claim (hereinafter referred to as a "petition for bankruptcy claim assessment"); provided, however, that this does not apply in the case referred to in Article 127, paragraph(1) and Article 129 ,paragraphs (1) and (2).
- (2) A petition for bankruptcy claim assessment must be filed within an unextendable period of one month from the last day of the ordinary period for investigation or special period for investigation for the denied or disputed bankruptcy claim or from the ordinary date for investigation or special date of investigation for the claim.
- (3) When a petition for bankruptcy claim assessment is filed, the court must, by an order, make a judicial decision to assess the existence or nonexistence of the denied or disputed bankruptcy claim and its amount, etc. (hereinafter referred

to as a "bankruptcy claim assessment order" in the following paragraph), except when the court dismisses the petition as unlawful without prejudice.

- (4) The court must, when making a bankruptcy claim assessment order, interrogate the denying or disputing party.
- (5) If an order is made on a petition for bankruptcy claim assessment, the electronic judgment must be served upon the parties concerned. In such a case, the provisions of the main clause of Article 10, paragraph (3) do not apply.

(Action Against an Order on Petition for Bankruptcy Claim Assessment)

Article 126 (1) A person who is dissatisfied with an order on a petition for bankruptcy claim assessment may file an action to oppose (hereinafter referred to as an "action to oppose a bankruptcy claim assessment") within an unextendable period of one month after the day on which the person received service of the order.

- (2) An action to oppose a bankruptcy claim assessment is subject to the jurisdiction of the bankruptcy court.
- (3) The court of first instance with which an action to oppose a bankruptcy claim assessment is filed may, when it finds it necessary in order to avoid substantial detriment or delay in cases in which the bankruptcy court's jurisdiction over the bankruptcy case is based on only the provisions of Article 5, paragraph (8) or (9) (including cases in which the bankruptcy court has accepted the bankruptcy case transferred to it pursuant to the provisions of Article 7, item (iv) and the acceptance of the transferred case is based on only the provisions of Article 7, item (iv), sub-item (b) or (c)), by its own authority transfer the suit pertaining to the action to oppose the bankruptcy claim assessment to the district court prescribed in Article 5, paragraph (1) (or the district court prescribed in Article 5, paragraph (2) if there is no such court that corresponds to the court prescribed in Article 5, paragraph (1)), notwithstanding the provisions of the preceding paragraph.
- (4) In an action to oppose bankruptcy claim assessment, all of the denying or disputing parties must stand as defendants if the action is filed by the bankruptcy creditor who holds the denied or disputed bankruptcy claim, and the bankruptcy creditor must stand as a defendant if it is filed by a denying or disputing party.
- (5) Oral argument for an action to oppose bankruptcy claim assessment may not be commenced until the period set forth in paragraph (1) has expired.
- (6) If two or more actions to oppose bankruptcy claim assessment are pending with respect to the same bankruptcy claim concurrently, oral arguments and judicial decisions of these actions must be made in a consolidated manner. In such a case, the provisions of Article 40, paragraphs (1) through (3) of the Code of Civil Procedure apply *mutatis mutandis*.

(7) A judgment rendered with regard to an action to oppose a bankruptcy claim assessment, except when the action is dismissed as unlawful, approves or changes the order on the petition for bankruptcy claim assessment.

(Taking Over of Actions Relating to Denied or Disputed Bankruptcy Claims)

Article 127 (1) When an action relating to a denied or disputed bankruptcy claim is pending at the time of commencement of bankruptcy proceedings, when a bankruptcy creditor seeks the finalization of the amount, etc. of the claim, the creditor must file a petition for taking over of action, designating all of the denying or disputing parties as the opponents.

(2) The provisions of Article 125, paragraph (2) apply mutatis mutandis to the petition set forth in the preceding paragraph.

(Limitations to Assertion)

Article 128 In proceedings for assessment based on a petition for bankruptcy claim assessment or court proceedings of an action to oppose bankruptcy claim assessment or court proceedings of an action taken over under the provisions of paragraph (1) of the preceding Article, a bankruptcy creditor may assert the particulars set forth in Article 111, paragraph (1), items (i) through (iii) concerning the denied or disputed bankruptcy claim, only as recorded in the electronic schedule of bankruptcy creditors.

(Assertion of an Objection to a Claim with an Enforceable Title of Obligation)

Article 129 (1) With regard to a denied or disputed bankruptcy claim accompanied by an enforceable title of obligation or final judgment, the denying or disputing party may assert an objection only through the court proceedings that the bankrupt may carry out.

(2) When an action relating to the denied or disputed bankruptcy claim prescribed in the preceding paragraph is pending at the time of commencement of bankruptcy proceedings, when the denying or disputing party set forth in that paragraph seeks to assert an objection under the provisions of that paragraph, the denying or disputing party must take over the action in which the bankruptcy creditor who holds the bankruptcy claim in question stands as the opponent.

(3) The provisions of Article 125, paragraph (2) apply mutatis mutandis to the assertion of an objection under the provisions of paragraph (1) or the taking over of action under the provisions of the preceding paragraph, and the provisions of Article 126, paragraphs (5) and (6) and the preceding Article apply mutatis mutandis to the cases referred to in the preceding two paragraphs. In such cases, the phrase "the period set forth in paragraph (1)" in Article 126, paragraph (5) is deemed to be replaced with "an unextendable

period of one month from the last day of the ordinary period for investigation, or special period for investigation for the denied or disputed bankruptcy claim or from the ordinary date of investigation or special date of investigation for the claim."

- (4) When the assertion of an objection under the provisions of paragraph (1) or the taking over of action under the provisions of paragraph (2) has not taken place within the period prescribed in Article 125, paragraph (2) as applied mutatis mutandis pursuant to the preceding paragraph, if the denying or disputing party is a bankruptcy creditor, it is deemed that no objection under Article 118, paragraph (1), Article 119, paragraph (5), or Article 121, paragraph (2) has been made (including as applied mutatis mutandis pursuant to Article 121, paragraph (7) or Article 122, paragraph (2)), and if the denying or disputing party is a bankruptcy trustee, it is deemed that the bankruptcy trustee has approved the bankruptcy claim in question.

(Record of the Outcome of an Action Concerning the Finalization of a Bankruptcy Claim)

Article 130 If a petition is filed by a bankruptcy trustee or a bankruptcy creditor, a court clerk must, pursuant to the provisions of the Rules of the Supreme Court, record in the electronic schedule of bankruptcy creditors, of the outcome of an action concerning the finalization of a bankruptcy claim (if an action to oppose bankruptcy claim assessment against an order on a petition for bankruptcy claim assessment is not filed within the period prescribed in Article 126, paragraph (1) or is dismissed without prejudice, the content of that order).

(Effect of a Judgment on an Action Concerning the Finalization of a Bankruptcy Claim)

Article 131 (1) A judgment made upon an action concerning the finalization of a bankruptcy claim is effective against all bankruptcy creditors.
(2) If an action to oppose bankruptcy claim assessment against an order on a petition for bankruptcy claim assessment is not filed within the period prescribed in Article 126, paragraph (1) or is dismissed, the order has the same effect as a final and binding judgment against all bankruptcy creditors.

(Reimbursement of Court Costs)

Article 132 When the bankruptcy estate has been enriched from an action concerning the finalization of a bankruptcy claim (including an order on a petition for bankruptcy claim assessment), the bankruptcy creditor who asserted an objection, as a holder of claim on the estate, may claim reimbursement of court costs to the extent that the bankruptcy estate has been

enriched.

(Handling of the Proceedings for Finalization of a Bankruptcy Claim upon Closing of Bankruptcy Proceedings)

- Article 133 (1) Proceedings for petition for bankruptcy claim assessment which are pending at the time of the closing of bankruptcy proceedings is to be closed if the closing of bankruptcy proceedings results from an order of revocation of the order of commencement of bankruptcy proceedings or an order of discontinuance of bankruptcy proceedings, which has become final and binding, and is to continue to be pending if the closing of bankruptcy proceedings results from an order of termination of bankruptcy proceedings.
- (2) Where bankruptcy proceedings are closed as a result of an order of termination of bankruptcy proceedings, if an order on a petition for bankruptcy claim assessment is made after the closing of bankruptcy proceedings, an action to oppose bankruptcy claim assessment may be filed pursuant to the provisions of Article 126, paragraph (1).
- (3) An action to oppose bankruptcy claim assessment or action taken over pursuant to the provisions of Article 127, paragraph (1) or Article 129, paragraph (2), which is pending at the time of closing of bankruptcy proceedings and in which a bankruptcy trustee stands as a party, is not to be discontinued, notwithstanding the provisions of Article 44, paragraph (4), if the closing of bankruptcy proceedings results from an order of termination of bankruptcy proceedings.
- (4) An action to oppose bankruptcy claim assessment, which is pending at the time of closing of bankruptcy proceedings and in which a bankruptcy trustee does not stand as a party, is to be concluded if the closing of bankruptcy proceedings results from an order of revocation of the order of commencement of bankruptcy proceedings or an order of discontinuance of bankruptcy proceedings, which has become final and binding, and continue to be pend if the closing of bankruptcy proceedings results from an order of termination of bankruptcy proceedings.
- (5) An action taken over pursuant to the provisions of Article 127, paragraph (1) or Article 129, paragraph (2) which is pending at the time of closing of bankruptcy proceedings and in which a bankruptcy trustee does not stand as a party is discontinued if the closing of bankruptcy proceedings results from an order of revocation of the order of commencement of bankruptcy proceedings or an order of discontinuance of bankruptcy proceedings, which has become final and binding, and is to continue to be pend if the closing of bankruptcy proceedings results from an order of termination of bankruptcy proceedings.
- (6) Where an action is discontinued pursuant to the provisions of the preceding paragraph, the provisions of Article 44, paragraph (5) apply mutatis mutandis.

Subsection 5 Special Provisions for Tax Claims

Article 134 (1) With regard to a claim for tax, etc. and a claim for a fine, etc., the provisions from Subsection 1 (excluding Article 115) to the preceding Division do not apply.

(2) When the cause of a claim (excluding claims for a fine, petty fine, and court costs for a criminal case) filed under the provisions of Article 114 (in the case of a claim for a foreign tax subject to mutual assistance, a decision of implementation of mutual assistance) is a disposition against which a request for review, action (excluding a criminal action; the same applies in the following paragraph) or any other appeal may be filed, a bankruptcy trustee may assert an objection with regard to the filed claim by a means of filing such an appeal.

(3) In the case referred to in the preceding paragraph, if an action relating to the filed claim is pending at the time of commencement of bankruptcy proceedings, a bankruptcy trustee who seeks to assert an objection prescribed in that paragraph must take over the action in which the bankruptcy creditor who holds the filed claim stands as the opponent. The same applies when a case relating to the bankruptcy estate is pending before an administrative agency with regard to the filed claim at the time of commencement of bankruptcy proceedings.

(4) The assertion of an objection under the provisions of paragraph (2) or the taking over of action under the provisions of the preceding paragraph must be performed within an unextendable period of one month after the day on which a bankruptcy trustee came to know the fact of the filing prescribed in paragraph (2).

(5) The provisions of Article 124, paragraph (2) apply mutatis mutandis to a claim filed pursuant to the provisions of Article 114, and the provisions of Article 128, Article 130, Article 131, paragraph (1), and paragraph (3) of the preceding Article apply mutatis mutandis to cases where the assertion of an objection under the provisions of paragraph (2) or the taking over of action under the provisions of paragraph (3) has taken place.

Section 4 Creditor Meetings and Creditor Committees

Subsection 1 Creditor Meetings

(Convocation of Creditor Meetings)

Article 135 (1) The court must convoke a creditors meeting upon the petition of any of the persons set forth in the following items; provided, however, that this does not apply when the court finds it inappropriate to convoke a creditors

meeting taking into consideration the number of known bankruptcy creditors and other circumstances concerned:

- (i) a bankruptcy trustee;
 - (ii) the creditors committee prescribed in Article 144 (2); or
 - (iii) a bankruptcy creditor who holds a bankruptcy claim that accounts for one-tenth or more of the amount of total claims held by known bankruptcy creditors as estimated by the court.
- (2) The court may, even when the petition set forth in the main clause of the preceding paragraph is not filed, convoke a creditor meeting when the court finds it appropriate.

(Summon on the Date of Creditor Meetings)

Article 136 (1) On the date of a creditors meeting, a bankruptcy trustee, the bankrupt, and holders of filed bankruptcy claims must be summoned; provided, however, that when the order set forth in Article 31, paragraph (5) is made, holders of filed bankruptcy claims do not be required to be summoned.

- (2) Notwithstanding the provisions of the main clause of the preceding paragraph, it is allowed not to summon holders of filed bankruptcy claims who may not exercise their voting rights. In the case of a meeting for reporting the status of property, the same applies to persons who are given a notice pursuant to the provisions of Article 32, paragraph (3).
- (3) The court must make a public notice and give a notice of the date of a meeting for reporting the status of property pursuant to the provisions of Article 32, paragraph (1), item (iii) and paragraph (3), and must also make a public notice of the date of each creditor meeting (excluding a meeting for reporting the status of property; hereinafter the same applies in this paragraph) and the subject matter of the meeting, and give a notice of the date of each creditor meeting to the labor union, etc.
- (4) If it is rendered, on the date of a creditor meeting, that the meeting is to be postponed or continued, the provisions of the main clause of paragraph (1) and the preceding paragraph do not apply.

(Creditor Meeting through Communication by Audio and Visual Transmission)

Article 136-2 (1) If the court finds it to be reasonable, the court may, pursuant to the provisions of the Rules of the Supreme Court, perform procedures on a date of a creditor meeting with an awareness of one another's state of being through audio and visual transmissions between the court, the bankrupt, the bankruptcy trustee, holders of filed bankruptcy claims and foreign trustees (meaning foreign trustees prescribed in Article 245, paragraph (1); the same applies in the following paragraph).

- (2) A bankrupt, bankruptcy trustee, holder of a filed bankruptcy claim, and

foreign trustee who does not appear on a date referred to in the preceding paragraph and participates in the proceedings is deemed to have appeared on that date.

(Direction of Creditor Meetings)

Article 137 Creditor meetings are directed by the court.

(Resolution at Creditor Meetings)

Article 138 In order to adopt a matter that requires a resolution at a creditor meeting, consent is required from persons whose voting rights account for more than half of the total amount of voting rights held by bankruptcy creditors who may exercise voting rights (hereinafter referred to as "voting right holders" in this Subsection) and attended a creditor meeting on the date set or voted by document, etc. as prescribed in paragraph (2), item (ii) of the following Article.

(Order to Refer to a Resolution)

- Article 139 (1) The court, when a person set forth in each item of Article 135, paragraph (1) has filed a petition set forth in the main clause of Article 135, paragraph (1) for the purpose of referring a matter that requires a resolution at a creditor meeting to a resolution, makes an order that the matter is to be referred to a resolution at a creditors meeting.
- (2) The court must, in the order to refer a matter to a resolution set forth in the preceding paragraph, determine any of the following means as the means for voting right holders to exercise their voting rights:
- (i) means of exercising a voting right on the date of a creditor meeting;
 - (ii) means of exercising a voting right by voting by document, etc. within a period specified by the court (meaning voting by document or any other means specified by the Rules of the Supreme Court); or
 - (iii) means of exercising a voting right by either of the means set forth in the preceding two items voting right holders selects. In such a case, the last day of the period referred to in the preceding item must precede the date of a creditor meeting referred to in item (i).
- (3) The court must, when it has determined the means set forth in item (ii) or (iii) of the preceding paragraph as that for exercising a voting right, make a public notice to that effect, and give a notice to voting right holders that voting by document, etc. prescribed in item (ii) of that paragraph is allowed only within a period specified by the court; provided, however, that the notice is not required to be given if an order referred to in Article 31, paragraph (5) is made.

(Means of Determining the Amount of a Voting Right in Which a Creditor Meeting Is to Be Held on the Date Set)

Article 140 (1) When the court designates the means set forth in paragraph (2), item (ii) or (iii) of the preceding Article as that for exercising a voting right, voting right holders may exercise their voting rights in accordance with the amount specified in each of the following items in accordance with the category set forth in the respective items:

- (i) a holder of filed bankruptcy claim who holds a bankruptcy claim, the amount of which is finalized pursuant to the provisions of Subsection 4 of the preceding Section (excluding a holder of a right of separate satisfaction, holder of a quasi-right of separate satisfaction or person who holds a bankruptcy claim that is a claim subject to a condition precedent, or a claim which may arise in the future (referred to as a "holder of a right of separate satisfaction, etc." in the following paragraph and paragraph (1), item(i) of the following Article)): the amount of the bankruptcy claim finalized;
 - (ii) a holder of a filed bankruptcy claim who holds a voting right without objection referred to in the main clause of the following paragraph: the amount filed (in the case of a holder of a right of separate satisfaction or holder of a quasi-right of separate satisfaction, the amount set forth in Article 111, paragraph (2), item (ii) (including as applied mutatis mutandis pursuant to Article 111, paragraph (3) or Article 114)); or
 - (iii) a holder of filed bankruptcy claim who holds a voting right subject to objection referred to in the main clause of the following paragraph: the amount determined by the court; provided, however, that a holder of filed bankruptcy claim may not exercise their voting right if the court has decided not to allow them to exercise the voting right.
- (2) A bankruptcy trustee or holder of a filed bankruptcy claim may make an objection on the date of a creditor meeting against a voting right of a holder of a filed bankruptcy claim under the provisions of the preceding paragraph; provided, however, that this does not apply to a voting right held by a holder of a filed bankruptcy claim (excluding a holder of a right of separate satisfaction, etc.) who holds a bankruptcy claim the amount of which is finalized pursuant to the provisions of Subsection 4 of the preceding Section.
- (3) The court may, upon the petition of an interested person or by its own authority, change the determination made under the provisions of paragraph (1), item (iii) at any time.

(Means of Determining the Amount of a Voting Right in Which a Creditor Meeting Is Not to Be Held on the Date Set)

Article 141 (1) When the court determines the means set forth in Article 139, paragraph (2), item (ii) as the means for exercising a voting right, voting right holders may exercise their voting rights in accordance with the amount specified in each of the following items in accordance with the category set

forth in the respective items:

- (i) a holder of a filed bankruptcy claim who holds a bankruptcy claim the amount of which is finalized pursuant to the provisions of Subsection 4 of the preceding Section (excluding a holder of a right of separate satisfaction, etc.): the amount of the bankruptcy claim finalized; or
 - (ii) a holder of a filed bankruptcy claim (excluding one set forth in the preceding item): the amount specified by the court; provided, however, that a holder of a filed bankruptcy claim may not exercise their voting right if the court has determined not to allow them to exercise the voting right.
- (2) The court may, upon the petition of an interested person or by its own authority, change the order under item (ii) of the preceding paragraph at any time.

(Voting Rights of Bankruptcy Creditors)

Article 142 (1) A bankruptcy creditor does not have any voting right with regard to a subordinate bankruptcy claim or consensually-subordinated bankruptcy claim.

- (2) A bankruptcy creditor who has received payment pursuant to the provisions of Article 101, paragraph (1) and a bankruptcy creditor who has received payment prescribed in Article 109 may not exercise their voting rights with regard to the amount of the claim paid.

(Exercise of Voting Rights by Proxy)

Article 143 Voting right holders may exercise their voting rights by proxy.

Subsection 2 Creditor Committees

(Creditor Committees)

Article 144 (1) When there is a committee consisting of bankruptcy creditors, the court may, upon the petition of an interested person, approve the participation of the committee in bankruptcy proceedings as provided for by this Act; provided, however, that this applies only when all of the conditions referred to in the following items are met:

- (i) the number of committee members is not less than three and not more than the number specified by the Rules of the Supreme Court;
 - (ii) it is found that the majority of bankruptcy creditors consent to the committee's participation in bankruptcy proceedings; and
 - (iii) it is found that the committee properly represents the interest of bankruptcy creditors as a whole.
- (2) The court may, when it finds it necessary, request the committee approved pursuant to the provisions of the preceding paragraph (hereinafter referred to

- as the "creditor committee") to state its opinions in bankruptcy proceedings.
- (3) The creditor committee may state its opinions to the court or a bankruptcy trustee in bankruptcy proceedings.
 - (4) When it is found that the creditor committee has carried out activities that contribute to ensuring smooth progress of bankruptcy proceedings, the court may, upon the petition of a bankruptcy creditor who has incurred necessary expenses for the activities, permit reimbursement of the amount of expenses which it finds reasonable to the bankruptcy creditor from the bankruptcy estate. In such a case, a claim for the expenses is to be a claim on the estate.
 - (5) The court may, upon the petition of an interested person or by its own authority, rescind the approval given pursuant to the provisions of paragraph (1) at any time.

(Hearing of Opinions of the Creditor Committee)

- Article 145 (1) A court clerk must, when approval is given pursuant to the provisions of paragraph (1) of the preceding Article, notify a bankruptcy trustee to that effect without delay.
- (2) A bankruptcy trustee must, upon receiving the notice under the provisions of the preceding paragraph, hear opinions of the creditors committee with regard to the particulars concerning the administration and disposal of property that belongs to the bankruptcy estate without delay.

(Bankruptcy Trustee's Duty to Report to the Creditors Committee)

- Article 146 (1) When a bankruptcy trustee has submitted written reports, etc. (meaning written reports, inventories of assets, or balance sheets; hereinafter the same applies in this Article) to the court pursuant to the provisions of Article 153, paragraph (2) or Article 157, the bankruptcy trustee must also submit the written reports, etc. to the creditor committee without delay.
- (2) When a bankruptcy trustee, in the case referred to in the preceding paragraph, has filed a petition referred to in Article 12, paragraph (1) (including as applied mutatis mutandis following a deemed replacement of terms pursuant to paragraph (6) of that Article; the same applies hereinafter in this paragraph) alleging that the written reports, etc. contain a detrimental part prescribed in paragraph (1) of that Article, it is sufficient for the bankruptcy trustee to submit the written reports, etc. excluding that part to the creditor committee.
 - (3) A bankruptcy trustee may, pursuant to the provisions of the Rules of the Supreme Court, in lieu of submitting a written report, etc. under the provisions of the preceding two paragraphs, submit the matters to be stated in that written report, etc. by electronic or magnetic means (meaning a method using an electronic data processing system or other information and communication

technology as prescribed by the Rules of the Supreme Court) with the consent of the creditor committee. In this case, the bankruptcy trustee is deemed to have submitted the written report, etc. under the provisions of the preceding two paragraphs.

(Report Order to Bankruptcy Trustees)

Article 147 (1) The creditor committee may, when it is necessary for the interest of bankruptcy creditors as a whole, request the court to order that a bankruptcy trustee make a report pursuant to the provisions of Article 157, paragraph (2) with regard to the necessary particulars concerning the administration and disposal of property that belongs to the bankruptcy estate.

(2) The court that has received a request pursuant to the provisions of the preceding paragraph, when it finds the request appropriate, must order that a bankruptcy trustee make a report under the provisions of Article 157, paragraph (2).

Chapter V Claims on the Estate

(Claims Classified as Claims on the Estate)

Article 148 (1) The following claims are claims on the estate:

- (i) a claim for expenses for court proceedings performed for the common interest of bankruptcy creditors;
- (ii) a claim for expenses for the administration, realization, and distribution of the bankruptcy estate;
- (iii) a claim for tax, etc. arising from a reason that has occurred before the commencement of bankruptcy proceedings (excluding a claim for a foreign tax subject to mutual assistance and the claim set forth in Article 97, item (v)), for which, by the time of commencement of bankruptcy proceedings, the due date of payment has not arrived or one year has not elapsed after the due date of payment (if a collection of national tax delinquency may not be made for a certain part of the one-year period due to the issuance of a comprehensive stay order during that period, such part of the period is excluded);
- (iv) a claim arising from an act conducted by a bankruptcy trustee with respect to the bankruptcy estate;
- (v) a claim arising against the bankruptcy estate after the commencement of bankruptcy proceedings from management of affairs or unjust enrichment;
- (vi) a claim arising against the bankruptcy estate after the commencement of bankruptcy proceedings from an act conducted due to pressing circumstances after the termination of the mandate or extinguishment of the authority of representation;

- (vii) a claim held by the counterparty when a bankruptcy trustee performs the obligation pursuant to the provisions of Article 53, paragraph (1); and
 - (viii) a claim arising, when a notice of termination of an executory contract (including termination of a lease contract pursuant to the provisions of Article 53, paragraph (1) or (2)) is given by reason of the commencement of bankruptcy proceedings, during the period after the commencement of bankruptcy proceedings until the end of the contract.
- (2) If a bankruptcy trustee has received performance of a conditioned legacy, the claim held by the party to whom the bankruptcy trustee bears duties to seek the benefit of the burden is to be a claim on the estate.
 - (3) The provisions of Article 103, paragraphs (2) and (3) apply mutatis mutandis to the claims on the estate prescribed in paragraph (1), item (vii) and the preceding paragraph. In such a case, if the claim on the estate is a claim without interest or claim for periodic payments, the amount of the claim is the amount obtained by deducting an amount equivalent to the part of the claim that is a subordinate bankruptcy claim set forth in Article 99, paragraph (1), items (ii) through (iv), should the claim be treated as a bankruptcy claim.
 - (4) A claim arising from an act conducted by a provisional administrator based on their authority with respect to a debtor's property is to be a claim on the estate.

(Salaries for Employees)

- Article 149 (1) A claim for the salary of employees of the bankrupt for the three months preceding the commencement of bankruptcy proceedings is to be a claim on the estate.
- (2) A claim for a retirement allowance of an employee of the bankrupt who has retired prior to the closing of bankruptcy proceedings (excluding the part of the claim that is to be a subordinate bankruptcy claim when the whole amount of the claim is treated as a bankruptcy claim) is a claim on the estate for an amount equivalent to the total amount of the employee's salary for the three months preceding retirement (if that amount is less than the total amount of the employee's salary for the three months preceding the commencement of bankruptcy proceedings, the total amount for the three months preceding the commencement of bankruptcy proceedings).

(Expenses and Remuneration for Bond Administrators)

- Article 150 (1) When a bond administrator or assistant bond administrator seeks to administer the affairs concerning the administration of corporate bonds that are bankruptcy claims, the court may, when it finds it necessary in order to ensure smooth progress of bankruptcy proceedings, grant permission to the effect that the bond administrator's or assistant bond administrator's claim for expenses to be incurred for the administration of the affairs is to be a claim on

the estate.

- (2) Even when a bond administrator or assistant bond administrator has administered the affairs concerning the administration of corporate bonds that are bankruptcy claims without obtaining the permission referred to in the preceding paragraph, the court may, if it is found that the bond administrator or assistant bond administrator has contributed to ensuring smooth progress of bankruptcy proceedings, grant permission to the effect that a claim for reimbursement of the expenses incurred for the administration of the affairs is to be a claim on the estate for an amount that the court finds reasonable by taking into consideration the degree of contribution.
- (3) The court may grant permission to the effect that a bond administrator's or assistant bond administrator's claim for remuneration arising from a cause that has occurred after the commencement of bankruptcy proceedings is to be a claim on the estate for an amount that the court finds reasonable.
- (4) A claim for which permission pursuant to the provisions of the preceding three paragraphs has been obtained is to be a claim on the estate.
- (5) An immediate appeal may be filed against an order of permission pursuant to the provisions of paragraphs (1) through (3).
- (6) The provisions of the preceding paragraphs apply *mutatis mutandis* to a claim for expenses or remuneration that arises from the affairs concerning the administration of a claim set forth in each of the following items, which is a bankruptcy claim, in accordance with the category of the persons set forth in the respective items:
 - (i) a trustee company under a trust agreement prescribed in Article 2, paragraph (1) of the Secured Bond Trust Act (Act No. 52 of 1905): corporate bonds prescribed in that paragraph;
 - (ii) a social medical corporation bond administrator prescribed in Article 54-5 of the Medical Care Act (Act No. 205 of 1948) or an assistant social medical corporation bond administrator prescribed in Article 54-5-2 of that Act: social medical corporation bonds prescribed in Article 54-2, paragraph (1) of that Act;
 - (iii) an investment corporation bond administrator prescribed in Article 139-8 of the Act on Investment Trusts and Investment Corporations (Act No. 198 of 1951) or an assistant investment corporation bond administrator prescribed in Article 139-9-2, paragraph (1) of that Act: investment corporation bonds prescribed in Article 2, paragraph (19) of that Act;
 - (iv) a bond administrator prescribed in Article 61-6 of the Insurance Business Act or an assistant bond administrator prescribed in Article 61-7-2 of that Act: corporate bonds issued by a mutual company; or
 - (v) a specified corporate bond administrator prescribed in Article 126 of the Act on Securitization of Assets (Act No. 105 of 1998) or an assistant specified

corporate bond administrator prescribed in Article 127-2, paragraph (1) of that Act: specified corporate bonds prescribed in Article 2, paragraph (7) of that Act.

(Handling of Claims on the Estate)

Article 151 Claims on the estate is paid in preference to bankruptcy claims.

(Means of Payment from an Insufficient Bankruptcy Estate)

Article 152 (1) When it has become obvious that a bankruptcy estate is insufficient for paying the total amount of claims on the estate, the bankruptcy estate makes the payment in proportion to the amount of each claim, notwithstanding any priorities specified in laws and regulations; provided, however, that this does not preclude the effect of any right of retention, special statutory lien, pledge, or mortgage that is intended to secure a claim on the estate.

(2) Notwithstanding the provisions of the preceding paragraph, claims on the estate set forth in Article 148, paragraph (1), items (i) and (ii) (including a claim for expenses for the administration and realization of a debtor's property, which is prescribed in paragraph (4) of that Article), is paid prior to other claims on the estate in the case prescribed in the main clause of that paragraph,.

Chapter VI Administration of Bankruptcy Estates

Section 1 Investigation of the Status of the Bankrupt's Property

(Evaluation of Value of Properties)

Article 153 (1) A bankruptcy trustee must, without delay after the commencement of bankruptcy proceedings, evaluate the value of any and all of the property that belongs to the bankruptcy estate at the time of commencement of bankruptcy proceedings. In such a case, the bankruptcy trustee may have the bankrupt attend the evaluation.

(2) A bankruptcy trustee must, when they have completed the evaluation under the provisions of the preceding paragraph, immediately prepare an inventory of assets and a balance sheet at the time of commencement of bankruptcy proceedings and submit them to the court.

(3) If the total amount of property that belongs to a bankruptcy estate is less than the amount specified by the Rules of the Supreme Court, a bankruptcy trustee may, with the permission of the court, choose not to prepare and submit the balance sheet referred to in that paragraph, notwithstanding the provisions of the preceding paragraph.

(Presentation of the Collateral for the Right of Separate Satisfaction)

- Article 154 (1) A bankruptcy trustee may request a holder of a right of separate satisfaction to present the collateral for the right of separate satisfaction.
- (2) When a bankruptcy trustee seeks to evaluate the collateral referred to in the preceding paragraph, the holder of a right of separate satisfaction may not refuse it.

(Sealing and Closing of Books)

- Article 155 (1) A bankruptcy trustee may, when they find it necessary, have a court clerk, court execution officer, or notary put a seal on property that belongs to a bankruptcy estate or remove the seal.
- (2) A court clerk may, when they find it necessary, close books relating to the bankruptcy estate upon the petition of a bankruptcy trustee.

(Delivery of Property Belonging to a Bankruptcy Estate)

- Article 156 (1) The court may issue a ruling ordering that the bankrupt deliver property that belongs to the bankruptcy estate to the bankruptcy trustee upon the petition of a bankruptcy trustee.
- (2) The court must, when issuing a ruling referred to in the preceding paragraph, interrogate the bankrupt.
- (3) An immediate appeal may be filed against an order on the petition referred to in paragraph (1).
- (4) When a judicial decision on the ruling on the petition referred to in paragraph (1) and on the immediate appeal referred to in the preceding paragraph are made, the electronic judgments must be served upon the parties concerned. In such a case, the provisions of the main clause of Article 10, paragraph (3) do not apply.
- (5) The ruling referred to in paragraph (1) does not become effective unless it becomes final and binding.

(Reports to the Court)

- Article 157 (1) A bankruptcy trustee must, without delay after the commencement of bankruptcy proceedings, submit a written report stating the following particulars to the court:
- (i) the circumstances that have resulted in the commencement of bankruptcy proceedings;
 - (ii) the past and existing status of the bankrupt and the bankruptcy estate;
 - (iii) whether or not there are circumstances that require a provisional order pursuant to the provisions of Article 177, paragraph (1) or officer's liability assessment order prescribed in Article 178, paragraph (1); and
 - (iv) other necessary particulars concerning bankruptcy proceedings.

(2) Beyond what is prescribed in the preceding paragraph, a bankruptcy trustee must, as determined by the court, report to the court the status of the administration and disposal of property that belong to the bankruptcy estate and any other particulars ordered by the court.

(Reports to Meetings for Reporting the Status of Property)

Article 158 At a meeting for reporting the status of property, a bankruptcy trustee must report the outline of the particulars set forth in the items of paragraph (1) of the preceding Article.

(Reports to Creditor Meetings)

Article 159 A bankruptcy trustee must, as determined by a resolution at a creditor meeting, report the status of the bankruptcy estate to the creditors meeting.

Section 2 Right of Avoidance

(Avoidance of Acts Prejudicial to Bankruptcy Creditors)

Article 160 (1) The following acts (excluding acts concerning the provisions of security or extinguishment of debt) may be avoided in the interest of the bankruptcy estate after the commencement of bankruptcy proceedings:

(i) an act conducted by the bankrupt with the knowledge that it would prejudice bankruptcy creditors; provided, however, that this does not apply when the person who has benefited from the act did not know at the time of the act, that it would prejudice a bankruptcy creditor; or

(ii) an act that would prejudice bankruptcy creditors conducted by the bankrupt after the suspension of payments or filing of a petition to commence bankruptcy proceedings (hereinafter referred to as "suspension of payments, etc." in this Section) has taken place; provided, however, that this does not apply when the person who has benefited from the act did not know at the time of the act, that suspension of payments, etc. had taken place nor that the act would prejudice a bankruptcy creditor.

(2) With respect to an act concerning the extinguishment of debt conducted by the bankrupt, if the value of the performance received by the creditor exceeds the amount of the debt extinguished by the act, and the act satisfies any of the requirements set forth in the items of the preceding paragraph, the act may be avoided in the interest of the bankruptcy estate after the commencement of bankruptcy proceedings only with regard to the part other than the part equivalent to the amount of the debt extinguished.

(3) A gratuitous act or an onerous act that should be deemed to be equivalent to a gratuitous act, conducted by the bankrupt after or within six months prior to

suspension of payments, etc. may be avoided in the interest of the bankruptcy estate after the commencement of bankruptcy proceedings.

(Avoidance of Acts of Disposing of Property While Receiving Reasonable Consideration)

Article 161 (1) When the bankrupt has, after conducting an act of disposing of property, received reasonable consideration from the other party to the act, the act may be avoided in the interest of the bankruptcy estate after the commencement of bankruptcy proceedings, if it satisfies all of the following requirements:

- (i) the act has the actual risk that the bankrupt would conceal, gratuitously convey, or otherwise dispose of the property in a manner prejudicial to bankruptcy creditors (hereinafter referred to as "concealing or carrying out other disposal") by realizing real property or otherwise changing the type of property through the disposal;
- (ii) the bankrupt had, at the time of the act, the intention of concealing or carrying out other disposal of the money or any other property received as consideration for the act; or
- (iii) the other party had, at the time of the act, knowledge that the bankrupt had the intention of concealing or carrying out other disposal referred to in the preceding item.

(2) For the purpose of application of the provisions of the preceding paragraph, if the other party to the act is any of the following persons, the other party is presumed to have known, at the time of the act, that the bankrupt had the intention of concealing or carrying out other disposal referred to in item (ii) of that paragraph:

- (i) if the bankrupt is a corporation, its director, company director, executive officer, inspector, company auditor, liquidator, or any other person equivalent to them;
- (ii) if the bankrupt is a corporation, a person who falls under any of the persons set forth in the following sub-items (a) through (c) in relation to the bankrupt:
 - (a) a person who holds the majority of voting rights of all shareholders of the stock company that is the bankrupt;
 - (b) the parent corporation when the majority of voting rights of all shareholders of the stock company that is the bankrupt are held by its subsidiary stock company or jointly by the parent corporation and its subsidiary stock company;
 - (c) if the bankrupt is a corporation other than a stock company, a person equivalent to the persons set forth in sub-item (a) or (b);
- (iii) the bankrupt's relative or a person living together with the bankrupt.

(Avoidance of Provision of Security to Specific Creditors)

Article 162 (1) The following acts (limited to acts concerning the provision of security or extinguishment of debt conducted with regard to an existing debt) may be avoided in the interest of the bankruptcy estate after the commencement of bankruptcy proceedings:

(i) an act conducted by the bankrupt after becoming unable to pay debts or a petition to commence bankruptcy proceedings was filed; provided, however, that this applies only when the creditor had, at the time of the act, known either of the facts specified in the following sub-item (a) or (b) in accordance with the category set forth in sub-item (a) or (b), respectively:

(a) if the act was conducted after the bankrupt became unable to pay debts:

the fact that the bankrupt was unable to pay debts or suspended payments

(b) if the act was conducted after a petition to commence bankruptcy proceedings was filed: the fact that a petition to commence bankruptcy proceedings was filed; or

(ii) an act that is not included in the scope of the bankrupt's obligation in terms of the act itself or the time of performance of the act, which was conducted within 30 days before the bankrupt became unable to pay debts; provided, however, that this does not apply if the creditor did not know, at the time of the act, that the act would prejudice other bankruptcy creditors.

(2) For the purpose of application of the provisions of item (i) of the preceding paragraph, in the following cases, the creditor is presumed to have known, at the time of the act set forth in that item, either of the facts specified in the following sub-item (a) or (b) in accordance with the category of the case set forth in sub-item (a) or (b), respectively (in the case set forth in sub-item (a) of that item, both the fact that the bankrupt was unable to pay debts and the fact that the bankrupt suspended payments):

(i) when the creditor is any of the persons set forth in the items of paragraph (2) of the preceding Article; or

(ii) when the act set forth in item (i) of the preceding paragraph is not included in the scope of the bankrupt's obligation in terms of the act itself or the means taken or time of performance of the act.

(3) For the purpose of application of the provisions of the items of paragraph (1), after suspension of payments took place (limited to suspension that took place within one year prior to the filing of a petition to commence bankruptcy proceedings), the bankrupt is presumed to have been unable to pay debts.

(Exceptions to Payment of Debts on Negotiable Instruments)

Article 163 (1) The provisions of paragraph (1), item (i) of the preceding Article do not apply when a person who has received payment of a negotiable

instrument from the bankrupt would lose their right on the negotiable instrument against one or more debtors on the negotiable instrument unless the person receives the payment.

- (2) In the case referred to in the preceding paragraph, if the final obligor for reimbursement or the person who had entrusted the drawing of the negotiable instrument had known or was negligent in not knowing, at the time of drawing, the fact that suspension of payments, etc. had taken place, a bankruptcy trustee may have these persons redeem the money paid by the bankrupt to them.
- (3) The provisions of paragraph (1) of the preceding Article do not apply to an act concerning the provision of security or extinguishment of debt, which is conducted by the bankrupt with regard to a claim for tax, etc. (excluding a claim for a foreign tax subject to mutual assistance) or claim for a fine, etc., for the person who has the authority to collect the claim.

(Avoidance of Requirements for Perfection of Changes in Rights)

Article 164 (1) When an act necessary to assert the establishment, transfer, or modification of a right against a third party (including a provisional registration) was conducted after suspension of payments, etc. took place, if the act was conducted after 15 days had elapsed from the date of establishment, transfer or modification of the right, knowing that suspension of payments, etc. had taken place, the act may be avoided in the interest of the bankruptcy estate after the commencement of bankruptcy proceedings; provided, however, that this does not apply to a definitive registration based on prior unavoidable provisional registration.

- (2) The provisions of the preceding paragraph apply mutatis mutandis to a registration based on which the acquisition of a right becomes effective.

(Avoidance of Acts of Execution)

Article 165 The exercise of a right of avoidance is not to be precluded even when an act to be avoided is accompanied by an enforceable title of obligation or is based on an act of execution.

(Restrictions on Avoidance by Reason of Suspension of Payments)

Article 166 An act conducted not less than one year before the date of filing of a petition to commence bankruptcy proceedings (excluding the act prescribed in Article 160, paragraph (3)) may not be avoided by reason that the act was conducted after suspension of payments had taken place or while knowing the fact of suspension of payments.

(Effect of the Exercise of a Right of Avoidance)

Article 167 (1) The exercise of a right of avoidance restores the bankruptcy estate to its original state.

(2) When an act prescribed in Article 160, paragraph (3) is avoided, if the other party did not know, at the time of the act, that suspension of payments, etc. had taken place nor that the act would prejudice a bankruptcy creditor, it is sufficient for the other party to reimburse to the extent actually enriched.

(Rights Held by the Other Party Over Counter-Performance Received by the Bankrupt)

Article 168 (1) When an act prescribed in Article 160, paragraph (1) or (3), or Article 161, paragraph (1) is avoided, the other party may exercise a right specified in each of the following items in accordance with the category set forth in the respective items:

(i) when the counter-performance received by the bankrupt actually exists within the bankruptcy estate: a right to claim return of the counter-performance; or

(ii) when the counter-performance received by the bankrupt does not actually exist within the bankruptcy estate: a right to claim, as a holder of claim on the estate, reimbursement of the value of the counter-performance.

(2) Notwithstanding the provisions of item (ii) of the preceding paragraph, in the cases set forth in that item, if the bankrupt, at the time when the act in question was conducted, had the intention to conceal or carry out other disposal of the property that they received as a value for the act and the other party knew that the bankrupt had such intention, the other party may exercise a right specified in each of the following items in accordance with category set forth in the respective items:

(i) when the enrichment arising from the counter-performance received by the bankrupt actually exists in whole within the bankruptcy estate: a right to claim, as a holder of claim on the estate, return of the actual enrichment;

(ii) when the enrichment arising from the counter-performance received by the bankrupt does not actually exist within the bankruptcy estate: a right to claim, as a bankruptcy creditor, reimbursement of the value of the counter-performance; or

(iii) when the enrichment arising from the counter-performance received by the bankrupt actually exists in part within the bankruptcy estate: a right to claim, as a holder of claim on the estate, return of the actual enrichment, and a right to claim, as a bankruptcy creditor, reimbursement of any difference between the counter-performance and the actual enrichment.

(3) For the purpose of application of the provisions of the preceding paragraph, if the other party to the act in question is any of the persons set forth in the items of Article 161, paragraph (2), the other party is presumed to have known,

at the time of the act, that the bankrupt had the intention to conceal or carry out other disposal referred to in the preceding paragraph.

(4) A bankruptcy trustee may, when seeking to avoid an act prescribed in Article 160, paragraph (1) or (3), or Article 161, paragraph (1), in lieu of requesting return of the property that should be returned to the bankruptcy estate pursuant to the provisions of paragraph (1) of the preceding Article, request the other party to reimburse the amount obtained by deducting the amount that is included in the scope of claims on the estate pursuant to the provisions of the preceding three paragraphs (in the case set forth in paragraph (1), item (i), the value of the counter-performance received by the bankrupt) from the value of the property to be returned.

(Restoration of the Other Party's Claim)

Article 169 When an act prescribed in Article 162, paragraph (1) is avoided, if the other party returns the performance received or reimburses the value of the performance, this restores the other party's claim to its original state.

(Right of Avoidance Against Subsequent Acquirers)

Article 170 (1) In the cases set forth in the following items, a right of avoidance may also be exercised against subsequent acquirers specified in the respective item if there are grounds for avoidance against the other party to the act to be avoided; provided, however, that if the relevant subsequent acquirer acquired the subject matter from another subsequent acquirer, this is limited to cases where there were grounds for avoidance against all subsequent acquirers who acquired the subject matter before the relevant subsequent acquirer acquired the subject matter:

(i) when the subsequent acquirers had known, at the time of acquisition, that the act of the bankrupt would prejudice the bankruptcy creditors;

(ii) when each of the subsequent acquirers is any of the persons set forth in the items of Article 161, paragraph (2); provided, however, that this does not apply if the subsequent acquirers did not know, at the time of acquisition, that the act of the bankrupt would prejudice the bankruptcy creditors; and

(iii) when the subsequent acquirers acquired the subject matter by a gratuitous act or by an onerous act that should be deemed to be equivalent to such an act.

(2) The provisions of Article 167, paragraph (2) apply mutatis mutandis when a right of avoidance is exercised pursuant to the provisions of item (iii) of the preceding paragraph.

(Rights of Subsequent Acquirers Relating to Counter-Performance Received by the Bankrupt)

- Article 170-2 (1) If an act conducted by a bankrupt referred to in the provisions of Article 160, paragraph (1) or paragraph (3) or Article 161, paragraph (1) was avoided by the exercise of a right of avoidance against a subsequent acquirer, the subsequent acquirer may exercise the rights prescribed in the items of Article 168, paragraph (1) in accordance with the category set forth in the respective item; provided, however, that in the case set forth in item (i) of that paragraph, if the value of the counter-performance received by the bankrupt exceeds the value of the counter-performance by the subsequent acquirer or the value of the extinguished claims of the subsequent acquirer referred to in paragraph (4), the subsequent acquirer may exercise the right to make a claim for reimbursement of the value of the counter-performance received by the bankrupt as a holder of a claim on the estate.
- (2) Notwithstanding the provisions of the preceding paragraph, in the case set forth in Article 168, paragraph (1), item (ii), if the bankrupt, at the time when the act in question was conducted, had the intention to conceal or carry out other disposal of the property received as value for the act and the other party knew that the bankrupt had the intention, the subsequent acquirer may exercise the rights specified in each item of paragraph (2) of that Article in accordance with category set forth in the respective item.
- (3) For the purpose of application of the provisions of the preceding paragraph, if the other party to the act in question is any of the persons set forth in the items of Article 161, paragraph (2), the other party is presumed to have known, at the time of the act, that the bankrupt had the intention to conceal or carry out other disposal referred to in the preceding paragraph.
- (4) The exercise of rights under the provisions of paragraph (1) and (2) is limited to the value of the counter-performance by the subsequent acquirer in order to acquire the property from the predecessor or the value of the claim that was extinguished as a result of the acquisition of the property by the subsequent acquirer from the predecessor.
- (5) A bankruptcy trustee may, when seeking to avoid an act prescribed in paragraph (1) by exercising a right of avoidance against the subsequent acquirer, in lieu of requesting return of the property that should be returned to the bankruptcy estate pursuant to the provisions of Article 167, paragraph (1), request the subsequent acquirer to reimburse the amount obtained by deducting the amount that is included in the scope of claims on the estate pursuant to the provisions of the preceding four paragraphs (in the case set forth in Article 168, paragraph (1), item (i) (excluding cases filing under the proviso of paragraph (1)), the value of the counter-performance received by the bankrupt) from the value of the property to be returned.

(Rights of a Subsequent Acquirer Pertaining to the Other Party's Claim)

Article 170-3 If an act conducted by a bankrupt prescribed in Article 162, paragraph (1) is avoided through the exercise of a right of avoidance against a subsequent acquirer and the subsequent acquirer returns the performance received or reimburses the value of the performance, the subsequent acquirer may exercise the claim of the other party to be restored to its original state pursuant to the provisions of Article 169 if that act were avoided through the exercise of a right of avoidance against the other party. In this case, the provisions of paragraph (4) of the preceding Article apply *mutatis mutandis*.

(Provisional Order for Right of Avoidance)

Article 171 (1) When the court finds it necessary in order to secure a right of avoidance during the period after a petition to commence bankruptcy proceedings is filed until ruling on the petition is made, upon the petition of an interested person (or a provisional administrator if any provisional administrator is appointed) or by its own authority, the court may issue an order of provisional seizure, a provisional disposition, or any other necessary provisional order.

- (2) The provisional order under the provisions of the preceding paragraph may be issued with or without requiring the provision of security.
- (3) The court may, upon petition or by its own authority, change or revoke a provisional order under the provisions of paragraph (1).
- (4) An immediate appeal may be filed against a provisional order under the provisions of paragraph (1) and a judicial decision on the petition referred to in the preceding paragraph.
- (5) The immediate appeal referred to in the preceding paragraph does not have the effect of stay of execution.
- (6) When a judicial decision prescribed in paragraph (4) and a judicial decision on the immediate appeal referred to in that paragraph are made, the electronic judgments must be served upon the parties concerned. In such a case, the provisions of the main clause of Article 10, paragraph (3) do not apply.
- (7) The provisions of the preceding paragraphs apply *mutatis mutandis* when an immediate appeal referred to in Article 33, paragraph (1) is filed against an order dismissing a petition to commence bankruptcy proceedings.

(Continuation of Procedures for Provisional Order and Handling of Security)

Article 172 (1) When a provisional order under the provisions of paragraph (1) of the preceding Article (including as applied *mutatis mutandis* pursuant to paragraph (7) of that Article) is issued, if an order of commencement of bankruptcy proceedings is made, a bankruptcy trustee may continue the procedures for the provisional order.

- (2) If a bankruptcy trustee does not continue the procedures for the provisional

order referred to in the preceding paragraph pursuant to the provisions of that paragraph within one month after an order of commencement of bankruptcy proceedings is made, the provisional order ceases to be effective.

- (3) When a bankruptcy trustee seeks to continue the procedures for the provisional order referred to in paragraph (1) pursuant to the provisions of that paragraph, if the whole or part of the security prescribed in paragraph (2) of the preceding Article (including as applied *mutatis mutandis* pursuant to paragraph (7) of that Article) does not belong to the bankruptcy estate, the bankruptcy trustee must substitute the whole or part of the security with another security by way of property that belongs to the bankruptcy estate.
- (4) The provisions of Article 18, and Chapter II, Section 4 (excluding Article 37, paragraphs (5) through (7)) and Section 5 of the Civil Preservation Act (Act No. 91 of 1989) apply *mutatis mutandis* to a provisional order issued for the proceedings to be continued by a bankruptcy trustee pursuant to the provisions of paragraph (1).

(Exercise of a Right of Avoidance)

- Article 173 (1) A right of avoidance is exercised by a bankruptcy trustee by filing an action, making a request for avoidance, or filing a defense.
- (2) The action and case of request for avoidance referred to in the preceding paragraph are subject to the jurisdiction of the bankruptcy court.

(Request for Avoidance)

- Article 174 (1) When making a request for avoidance, the requester must make a *prima facie* showing of the fact constituting the grounds for avoidance.
- (2) A judicial decision to uphold a request for avoidance or dismiss the request must be made by an order with reasons attached thereto.
- (3) The court must, when making an order referred to in the preceding paragraph, interrogate the other party or any subsequent acquirers.
- (4) When an order to uphold a request for avoidance is made, the electronic judgment must be served upon the parties concerned. In such a case, the provisions of the main clause of Article 10, paragraph (3) do not apply.
- (5) The proceedings for a request for avoidance are closed upon the closing of bankruptcy proceedings.

(Action Against an Order to Uphold a Request for Avoidance)

- Article 175 (1) A person who is dissatisfied with an order to uphold a request for avoidance may file an action to oppose the order within an unextendable period of one month after the day on which the order is served.
- (2) The action referred to in the preceding paragraph is subject to the jurisdiction of the bankruptcy court.

- (3) A judgment rendered with regard to the action referred to in paragraph (1) approves, changes or revokes the order referred to in that paragraph, except when the action is dismissed as unlawful.
- (4) When a judgment to approve an order set forth in paragraph (1) becomes final and binding, the order has the same effect as a final and binding judgment. The same applies if the action referred to in the preceding paragraph is not filed within the period prescribed in that paragraph or is dismissed without prejudice.
- (5) With regard to a judgment to approve or change the order referred to in paragraph (1), the court in charge of the case may, as provided for by Article 259, paragraph (1) of the Code of Civil Procedure, declare provisional execution.
- (6) The court proceedings of an action referred to in paragraph (1) are concluded upon the closing of bankruptcy proceedings, notwithstanding the provisions of Article 44, paragraph (4).

(Period for Exercising a Right of Avoidance)

Article 176 A right of avoidance may not be exercised if two years have elapsed since the date of commencement of bankruptcy proceedings. The same applies when 10 years have elapsed since the date of the act to be avoided.

Section 3 Pursuing the Liabilities of Officers of Corporations

(Provisional Orders on Officer's Property)

- Article 177 (1) When an order of commencement of bankruptcy proceedings is made against a debtor who is a corporation, the court may, when it finds it necessary, upon the petition of a bankruptcy trustee or by its own authority, with regard to a claim for damages based on the liabilities of the corporation's director, company director, executive officer, inspector, company auditor, liquidator, or any other person equivalent to them (hereinafter referred to as "officer" in this Section), issue a provisional order on the property of these officers.
- (2) When the court finds that there is an urgent need even during the period after a petition to commence bankruptcy proceedings is filed until an order on the petition is made, the court may, upon the petition of a debtor (or a provisional administrator if any provisional administrator is appointed) or by its own authority, issue a provisional order under the provisions of the preceding paragraph.
 - (3) The court may change or revoke a provisional order under the provisions of the preceding two paragraphs.
 - (4) An immediate appeal may be filed against a provisional order under the provisions of paragraph (1) or (2) or an order under the provisions of the

preceding paragraph.

- (5) The immediate appeal referred to in the preceding paragraph does not have the effect of a stay of execution.
- (6) When a judicial decision prescribed in paragraph (4) and a judicial decision on the immediate appeal referred to in that paragraph are made, the electronic judgments must be served upon the parties concerned. In such a case, the provisions of the main clause of Article 10, paragraph (3) do not apply.
- (7) The provisions of paragraph (2) through the preceding paragraph apply mutatis mutandis if an immediate appeal referred to in Article 33, paragraph (1) is filed against an order dismissing a petition to commence bankruptcy proceedings.

(Petitions for Assessment of Officer's Liabilities)

- Article 178 (1) When an order of commencement of bankruptcy proceedings is made against a debtor who is a corporation, the court may, when it finds it necessary, upon the petition of a bankruptcy trustee or by its own authority, reach an assessment decision on the rights to seek damages pursuant to the liability of the officers (hereinafter referred to as an "officer's liability assessment order" in this Section), by an order.
- (2) When filing the petition referred to in the preceding paragraph, the petitioner must make a prima facie showing of the fact constituting the grounds for liability.
 - (3) When the court commences proceedings for an officer's liability assessment order by its own authority, it must make an order to that effect.
 - (4) When a petition referred to in paragraph (1) is filed or an order referred to in the preceding paragraph is made, for the purpose of postponement of expiry of prescription and renewal of prescription, it is deemed that demand by litigation has been made.
 - (5) The proceedings for an officer's liability assessment order is closed upon the closing of bankruptcy proceedings (excluding cases in which an officer's liability assessment order is already made at the time of the closing of bankruptcy proceedings).

(Officer's Liability Assessment Orders)

- Article 179 (1) An officer's liability assessment order and an order dismissing the petition referred to in paragraph (1) of the preceding Article must state reasons therefor.
- (2) The court must, when making a judicial decision prescribed in the preceding paragraph, interrogate the officer in question.
 - (3) When an officer's liability assessment order is made, the electronic judgment must be served upon the parties concerned. In such a case, the provisions of

the main clause of Article 10, paragraph (3) do not apply.

(Action Against Officer's Liability Assessment Orders)

- Article 180 (1) A person who is dissatisfied with an officer's liability assessment order may file an action to oppose the order within an unextendable period of one month after the day on which the person received service of the order.
- (2) The action referred to in the preceding paragraph is subject to the jurisdiction of the bankruptcy court.
- (3) In an action set forth in paragraph (1), a bankruptcy trustee must stand as a defendant if it is filed by an officer, and an officer must stand as a defendant if it is filed by a bankruptcy trustee.
- (4) A judgment rendered with regard to the action referred to in paragraph (1) approves, changes or revokes the officer's liability assessment order, except when the action is dismissed as unlawful.
- (5) A judgment that approves or changes an officer's liability assessment order has the same effect as a judgment to order performance for the purpose of compulsory execution.
- (6) With regard to a judgment that approves or changes an officer's liability assessment order, the court in charge of the case may, as provided for by Article 259, paragraph (1) of the Code of Civil Procedure, declare provisional execution.

(Effect of Officer's Liability Assessment Order)

Article 181 If an action referred to in paragraph (1) of the preceding Article is not filed within the period referred to in that paragraph or is dismissed, the officer's liability assessment order has the same effect as a final and binding judgment to order performance.

(Member's Liability of Contributions)

Article 182 The provisions of Article 663 of the Companies Act apply mutatis mutandis when an order of commencement of bankruptcy proceedings is made against a debtor that is a corporation. In such a case, the term "such membership company in liquidation" in that Article is deemed to be replaced with "a bankruptcy trustee."

(Silent Partner's Liability of Contributions)

Article 183 When a silent partnership agreement terminates by reason that the proprietor has received an order of commencement of bankruptcy proceedings, a bankruptcy trustee may have the silent partners pay contributions up to the amount of loss to be borne by them.

Chapter VII Realization of Bankruptcy Estates

Section 1 General Rules

(Method of Realization)

- Article 184 (1) Realization of the property referred to in Article 78, paragraph (2), items (i) and (ii), except when it is conducted through sale by private contract pursuant to those provisions, is to be conducted pursuant to the provisions of the Civil Execution Act and other laws and regulations concerning a procedure for compulsory execution.
- (2) A bankruptcy trustee may, pursuant to the provisions of the Civil Execution Act and other laws and regulations concerning a procedure for compulsory execution, realize the collateral for the right of separate satisfaction. In such a case, the holder of the right of separate satisfaction may not refuse the realization.
- (3) In the cases referred to in the preceding two paragraphs, the provisions of Article 63 and Article 129 of the Civil Execution Act (including as applied *mutatis mutandis* pursuant to the provisions of that Act and other laws and regulations concerning a procedure for compulsory execution) do not apply.
- (4) In the case referred to in paragraph (2), if the amount to be received by a holder of a right of separate satisfaction has not been finalized, a bankruptcy trustee must separately deposit the fee. In such a case, the right of separate satisfaction exists upon the fee deposited.

(Designation of the Period for Disposal by a Holder of a Right of Separate Satisfaction)

- Article 185 (1) If a holder of a right of separate satisfaction has a right to dispose of the collateral for the right of separate satisfaction by a means other than that prescribed by law, the court may, upon the petition of a bankruptcy trustee, specify a period during which the holder of the right of separate satisfaction should dispose the collateral.
- (2) A holder of a right of separate satisfaction that fails to dispose the collateral within the period set forth in the preceding paragraph loses the right referred to in that paragraph.
- (3) An immediate appeal may be filed against a judicial decision on the petition referred to in paragraph (1).
- (4) When a judicial decision on the petition referred to in paragraph (1) and a judicial decision on the immediate appeal referred to in the preceding paragraph are made, the electronic judgments must be served upon the parties concerned. In such a case, the provisions of the main clause of Article 10, paragraph (3) do not apply.

Section 2 Extinguishment of Security Interests

(Petitions for Permission for Extinguishment of Security Interests)

Article 186 (1) If any security rights (meaning a special statutory lien, pledge, mortgage, or a right of retention under the provisions of the Commercial Code or the Companies Act; hereinafter the same applies in this Section) exists at the time of commencement of bankruptcy proceedings against property that belongs to the bankruptcy estate, if it is in the common interest of bankruptcy creditors to extinguish the security interests by selling the property by private contract, a bankruptcy trustee may file a petition to the court for permission to sell the property by private contract and extinguish all security interests on the property by paying to the court the amount of money specified in each of the following items in accordance with the category set forth in the respective items; provided, however, that this does not apply if it is found that this would unduly harm the interest of the persons who hold the security interests:

- (i) when the bankruptcy trustee seeks to transfer part of the amount of money that can be obtained from the counterparty through sale (excluding the amount of money consisting of the amount of actual costs already paid or to be paid in the future from the bankruptcy estate for concluding and performing the sales contract and the amount of consumption tax, etc. to be imposed on the transfer of the property (meaning the amount of consumption tax and the amount of local consumption tax to be imposed based on the former amount as a tax base; hereinafter the same applies in this Section), which is to be borne by the counterparty under the sales contract; hereinafter referred to as "proceeds" in this Section) into the bankruptcy estate: the amount obtained by deducting the amount of money to be deducted from the proceeds and added to the bankruptcy estate (hereinafter referred to as the "money deducted from the proceeds and added to the bankruptcy estate" in this Section) from the amount of proceeds; or
 - (ii) cases other than the one set forth in the preceding item: the amount of proceeds.
- (2) In the case set forth in item (i) of the preceding paragraph, a bankruptcy trustee who seeks to file a petition referred to in that paragraph must consult with the person who holds the security interest in question in advance with regard to the amount of money deducted from the proceeds and added to the bankruptcy estate.
- (3) The petition referred to in paragraph (1) must be filed by means of a document stating the following particulars (hereinafter referred to as a "written petition" in this Section):
- (i) the indication of the property that is the subject of the security interest;
 - (ii) the amount of proceeds (if the property referred to in the preceding item

- consists of two or more pieces of property, the amount of proceeds and the amount allocated to each piece of property);
- (iii) the name of the counterparty to the sale of the property referred to in item (i);
 - (iv) the indication of the security interests required to be extinguished;
 - (v) the amount of claim secured by the security interests referred to in the preceding item;
 - (vi) in the case set forth in paragraph (1), item (i), the amount of money to be deducted from the proceeds and added to the estate (if the property referred to in the preceding item consists of two or more pieces of property, the amount of money to be deducted from the proceeds and added to the bankruptcy estate and the amount allocated to each piece of property); and
 - (vii) the content and process of the consultation under the provisions of the preceding paragraph.
- (4) When a petition referred to in paragraph (1) is filed, a document or electronic or magnetic record stating or recording the content of the sales contract for the sale of property referred to in item (i) of the preceding paragraph (including the amount of money consisting of the amount of actual costs already paid or to be paid in the future from the bankruptcy estate for concluding and performing the sales contract and the amount of consumption tax, etc. to be imposed on the transfer of the property, which is to be borne by the counterparty under the sales contract) must be submitted to the court.
- (5) If a petition referred to in paragraph (1) is filed, the written petition and the document or the electronic or magnetic record referred to in the preceding paragraph must be served upon the person who holds the security right referred to in paragraph (3), item (iv) which is stated in the written petition (hereinafter referred to as "designated security interest holder" in this Section). In such a case, the provisions of the main clause of Article 10, paragraph (3) do not apply.

(Petitions for Exercise of Security Interests)

- Article 187 (1) If a designated security interest holder has an objection to the petition referred to in paragraph (1) of the preceding Article, they may submit to the court a document or the electronic or magnetic record that certifies their filing of a petition for exercise of security interest within one month after the day on which the written petition and the document or the electronic or magnetic record referred to in paragraph (4) of that Article are served upon all designated security interest holders pursuant to the provisions of paragraph (5) of that Article,.
- (2) The court may extend the period referred to in the preceding paragraph upon the petition of a security interest holder, only if the designated security

interest holder has compelling reasons.

- (3) If there is an agreement between a bankruptcy trustee and a designated security interest holder with regard to the amounts of proceeds and of money to be deducted from the proceeds and added to the estate (in the case set forth in paragraph (1), item (ii) of the preceding Article, the amount of proceeds), the designated security interest holder may not file a petition for exercise of security interests.
- (4) A designated security interest holder may not file a petition for exercise of security interests after the period referred to in paragraph (1) (if it is extended pursuant to the provisions of paragraph (2), the extended period; hereinafter the same applies in this Section) has expired, except when an order of permission referred to in Article 189, paragraph (1) is revoked pursuant to the provisions of Article 190, paragraph (6) or an order of non-permission referred to in that paragraph becomes final and binding.
- (5) If, after a document or the electronic or magnetic record that certifies the filing of a petition for exercising security interests referred to in paragraph (1) was submitted, the petition for exercise of security interest has been withdrawn or dismissed without prejudice, the document or the electronic or magnetic record is deemed not to have been submitted. The same applies when the procedure for exercising security interests referred to in that paragraph is revoked pursuant to the provisions of Article 63 of the Civil Execution Act as applied mutatis mutandis pursuant to Article 188 of that Act, or Article 129 of that Act as applied mutatis mutandis pursuant to Article 192 of that Act (including as applied mutatis mutandis pursuant to that Act and other laws and regulations concerning a procedure for compulsory execution).
- (6) If, after an order of non-permission set forth in Article 189, paragraph (1) became final and binding, a petition for exercising security interests referred to in paragraph (1) has been withdrawn or dismissed, a bankruptcy trustee files a petition referred to in paragraph (1) of the preceding Article, the designated security interest holder who has filed the petition for exercising security interests may not submit the document or the electronic or magnetic record that certifies their filing of the petition for exercising security interests referred to in that paragraph, notwithstanding the provisions of paragraph (1).

(Purchase Offers)

Article 188 (1) A designated security interest holder who has an objection to the petition referred to in Article 186, paragraph (1) may make an offer to a bankruptcy trustee within the period set forth in paragraph (1) of the preceding Article to the effect that the designated security interest holder or any other person will purchase the property referred to in Article 186, paragraph (3), item (i) (hereinafter referred to as a "purchase offer" in this

Section).

- (2) A purchase offer must be made by means of a document stating the following particulars:
 - (i) the name of the person who seeks to purchase the property set forth in Article 186, paragraph (3), item (i) (hereinafter referred to as the "applicant for purchase" in this Section);
 - (ii) the amount of money that a bankruptcy trustee can obtain from the applicant for purchase through the sale of the property referred to in Article 186, paragraph (3), item (i) (excluding the amount of money consisting of the amount of actual costs already paid or to be paid in the future from the bankruptcy estate for concluding and performing the sales contract and the amount of consumption tax, etc. to be imposed on the transfer of the property, which is to be borne by the purchase applicant under the sales contract; hereinafter referred to as the "offered purchase price" in this Section); and
 - (iii) if the property set forth in Article 186, paragraph (3), item (i) consists of two or more pieces of property, the amount of offered purchase price allocated to each piece of property.
- (3) The offered purchase price must be not less than the sum obtained by adding the amount of proceeds referred to in Article 186, paragraph (3), item (ii) which is stated in the written petition to the amount equivalent to one-twentieth of the amount.
- (4) If the property referred to in Article 186, paragraph (3), item (i) consists of two or more pieces of property, the amount of the offered purchase price set forth in paragraph (2), item (iii) allocated to each piece of property must not be below the amount of proceeds referred to in paragraph (3), item (ii) of that Article allocated to each respective piece of property.
- (5) A purchase applicant must, upon making a purchase offer, provide a bankruptcy trustee with a guarantee of the amount and by the means specified by the Rules of the Supreme Court.
- (6) The provisions of paragraph (3) of the preceding Article apply *mutatis mutandis* to a purchase offer.
- (7) A person who makes a purchase offer (or a purchase applicant if the person other than the person who makes a purchase offer is a purchase applicant) may withdraw the purchase offer within the period referred to in paragraph (1) of the preceding Article.
- (8) When a purchase offer is made, a bankruptcy trustee must, after the period referred to in paragraph (1) of the preceding Article has expired, notify the court to the effect that they will sell the property referred to in Article 186, paragraph (3), item (i) to the purchase applicant. In such a case, if two or more purchase offers are made, a bankruptcy trustee must give notification to the effect that they will sell the property to the purchase applicant who has made

the purchase offer with the highest offered purchase price (if there are two or more purchase offers with the highest offered purchase price, the purchase applicant who has made the first offer).

- (9) In the case referred to in the preceding paragraph, a bankruptcy trustee must submit to the court the document referred to in paragraph (2) related to the purchase offer made within the period set forth in paragraph (1) of the preceding Article.
- (10) When a purchase offer is made, in order to withdraw the petition referred to in Article 186, paragraph (1), a bankruptcy trustee must obtain consent from the purchase applicant (after the order of permission set forth in paragraph (1) of the following Article becomes final and binding, the purchaser prescribed in paragraph (2) of that Article).

(Order of Permission for Extinguishment of Security Interests)

Article 189 (1) The court must, except when it makes an order of non-permission by reason that a designated security interest holder has submitted a document or an electronic or magnetic record that certifies their filing of a petition for exercise of security interests within the period referred to in Article 187, paragraph (1), make an order of permission referred to in Article 186, paragraph (1), designating the person specified in each of the following items in accordance with the category set forth in the respective items as the counterparty to the sale related to the permission:

- (i) when the notification prescribed in paragraph (8) of the preceding Article has not been made: the counterparty to the sale set forth in Article 186, paragraph (3), item (iii); or
 - (ii) when the notification prescribed in paragraph (8) of the preceding Article has been made: the purchase applicant prescribed in that paragraph.
- (2) In the case set forth in item (ii) of the preceding paragraph, when the order of permission set forth in that paragraph has become final and binding, it is deemed that a bankruptcy trustee and the purchase applicant specified in that item (hereinafter referred to as the "purchaser" in this Section) related to the permission has concluded a sales contract with the same content as that stated or recorded in the document or the electronic or magnetic record referred to in Article 186, paragraph (4) (excluding the counter party to the sale). In such a case, the offered purchase price is deemed to be the amount of proceeds under the sales contract.
 - (3) When a judicial decision on the petition set forth in Article 186, paragraph (1) is made, a purchase applicant may (excluding the purchase applicant specified in paragraph (1), item (ii)), until the judicial decision becomes final and binding, withdraw the purchase offer related to them.
 - (4) An immediate appeal may be filed against a judicial decision on the petition

referred to in Article 186, item (1).

- (5) When a judicial decision on the petition referred to in Article 186, paragraph (1) or a judicial decision on the immediate appeal referred to in the preceding paragraph is made, the electronic judgment must be served upon the parties concerned. In such a case, the provisions of the main clause of Article 10, paragraph (3) do not apply.

(Payment of Money)

Article 190 (1) When an order of permission referred to in paragraph (1) of the preceding Article has become final and binding, the counterparty to the sale related to the permission must pay to the court the amount of money specified in each of the following items in accordance with the category of the cases set forth in the respective items by the due date set by the court:

- (i) in the case set forth in paragraph (1), item (i) of the preceding Article: the amount specified in each item of Article 186, paragraph (1) in accordance with category set forth in the respective items; and
- (ii) in the case set forth in paragraph (1), item (ii) of the preceding Article: the amount obtained by deducting the amount of guarantee provided by the purchaser pursuant to the provisions of Article 188, paragraph (5) from the amount of proceeds prescribed in the second sentence of paragraph (2) of that Article.
- (2) When payment of money pursuant to the provisions of item (ii) of the preceding paragraph is made, the amount of money equivalent to the amount of guarantee provided by the purchaser pursuant to the provisions of Article 188, paragraph (5) is allocated to proceeds.
- (3) In the case referred to in the preceding paragraph, a bankruptcy trustee must immediately pay to the court the amount of money equivalent to the amount of guarantee referred to in that paragraph.
- (4) In the case referred to in paragraph (1), item (i), the security interests held by designated security interest holders is to be extinguished when payment of money pursuant to the provisions of paragraph (1), item (i) is made, and in the case set forth in paragraph (1), item (ii), the security interests held by designated security interest holder is to be extinguished when payment of money pursuant to the provisions of paragraph (1), item (ii) and payment of money pursuant to the provisions of the preceding paragraph are made.
- (5) When payment of money prescribed in the preceding paragraph is made, a court clerk must commission cancellation of the registrations of the security interests extinguished.
- (6) If payment of money under the provisions of paragraph (1) is not made, the court must revoke the order of permission referred to in paragraph (1) of the preceding Article.

(7) In the case referred to in the preceding paragraph, the purchaser may not claim return of the guarantee referred to in paragraph (2).

(Implementation of Distribution)

Article 191 (1) When payment of money prescribed in paragraph (4) of the preceding Article is made, the court must implement the distribution according to an electronic distribution list (meaning an electronic or magnetic record prepared pursuant to the provisions of Article 85, paragraph (3) of the Code of Civil Procedure applied mutatis mutandis pursuant to paragraph (4) that has been recorded in a file pursuant to the provisions of paragraph (5) of that Article applied mutatis mutandis pursuant to paragraph (4)) for distribution of the money to each designated security interest holder, except in the case prescribed in the following paragraph.

(2) When there is only one designated security interest holder or when there are two or more designated security interest holders and the money prescribed in paragraph (4) of the preceding Article is sufficient for paying the claims secured by the security interests held by those holders, the court, pursuant to the provisions of the Rules of the Supreme Court, prepares an electronic statement of delivery of the money (meaning an electronic or magnetic record prepared by the court clerk pursuant to the provisions of the Rules of the Supreme Court recording the amount of the payment money and surplus, the amounts of the principal of the claims, interest, and any other incidental claims of the claims secured by security rights held by each designated security interest holder and the order and amounts of delivery of payment money so that the payment money and surplus can be delivered; the same applies in the following paragraph), and delivers the payment money to the designated security interest holders and delivers any surplus to a bankruptcy trustee.

(3) If a court has prepared an electronic statement of delivery pursuant to the provisions of the preceding paragraph, the court must record the electronic statement of delivery in a file, pursuant to the provisions of the Rules of the Supreme Court.

(4) The provisions of Articles 85 through 86 and Articles 88 through 92 of the Civil Execution Act apply mutatis mutandis to the procedure for distribution referred to in paragraph (1), and the provisions of Article 88, Article 91, and Article 92 of that Act apply mutatis mutandis to the procedure for delivery of payment money pursuant to the provisions of paragraph (2).

Section 3 Extinguishment of a Right of Retention Under the Commercial Code

Article 192 (1) When any right of retention under the provisions of the

Commercial Code or the Companies Act exists against the property that belongs to the bankruptcy estate at the time of commencement of bankruptcy proceedings, if the property is necessary for the business continued pursuant to the provisions of Article 36 or the recovery of the property otherwise contributes to maintaining or increasing the value of the bankruptcy estate, a bankruptcy trustee may make a demand to the holder of the right of retention that the right be extinguished.

- (2) In order to make a demand under the provisions of the preceding paragraph, the amount of money equivalent to the value of the property referred to in that paragraph must be paid to the holder of the right of retention referred to in that paragraph.
- (3) Permission of the court must be obtained in order to make a demand under the provisions of paragraph (1) and to make a payment prescribed in the preceding paragraph.
- (4) If the permission referred to in the preceding paragraph is granted and the amount of payment prescribed in paragraph (2) is sufficient to cover the value of the property referred to in paragraph (1), the right of retention referred to in that paragraph is extinguished at the time when the payment is made or at the time when a demand under the provisions of paragraph (1) is made, whichever occurs later.
- (5) In an action to request the return of the property set forth in paragraph (1) on the grounds that the right of retention referred to in that paragraph is extinguished pursuant to the provisions of the preceding paragraph, even if the amount of payment prescribed in paragraph (2) is not sufficient to cover the value of the property, upon the plaintiff's petition and when the court in charge of the action finds it appropriate, the court may order the holder of the right of retention referred to in paragraph (1) to return the property, on the condition that the amount of any shortage is to be paid within a reasonable period of time.

Chapter VIII Distribution

Section 1 General Rules

(Means of Distribution)

- Article 193 (1) A bankruptcy creditor may, as provided for by this Chapter, receive a distribution from the bankruptcy estate.
- (2) A bankruptcy creditor must receive a distribution at the place where a bankruptcy trustee performs their duties; provided, however, that this does not preclude other provisions to be made by an agreement between a bankruptcy trustee and a bankruptcy creditor.
 - (3) A bankruptcy trustee must, when having made a distribution, submit to the

court a report stating the amount distributed. In this case, the court clerk must, pursuant to the provisions of the Rules of the Supreme Court, record the amount stated in the report in the electronic schedule of bankruptcy creditors.

(Order of Distribution)

Article 194 (1) Distributions are to be made in the following order among bankruptcy claims and in the order of priority prescribed in Article 98, paragraph (2) among preferred bankruptcy claims:

- (i) preferred bankruptcy claims;
- (ii) bankruptcy claims other than those set forth in the preceding item, the following item, and item (iv);
- (iii) subordinate bankruptcy claims; and
- (iv) consensually-subordinated bankruptcy claims.

(2) With regard to bankruptcy claims eligible for distribution with the same priority, distribution is made in proportion to the amount of each claim.

Section 2 Final Distribution

(Final Distribution)

Article 195 (1) A bankruptcy trustee must, after the ordinary period for investigation has expired or the ordinary date of investigation has ended and after realization has been completed for property that belongs to the bankruptcy estate, make a distribution under the provisions of this Section (hereinafter referred to as a "final distribution" in this Chapter and the following Chapter) to holders of filed bankruptcy claims without delay, except in the case prescribed in Article 217, paragraph (1).

- (2) A bankruptcy trustee must obtain permission of a court clerk in order to make a final distribution.
- (3) The court may, after hearing opinions of a bankruptcy trustee, set the time for making a final distribution in advance.

(Distribution Lists)

Article 196 (1) A bankruptcy trustee must, when permission under the provisions of paragraph (2) of the preceding Article is granted, prepare a distribution list stating the following particulars and submit it to the court without delay:

- (i) the name and address of each bankruptcy creditor who may participate in the procedure for a final distribution;
- (ii) the amount of each claim that may enter into the procedure for a final distribution; and
- (iii) the amount available for the final distribution.

- (2) The particulars set forth in item (ii) of the preceding paragraph are stated by distinguishing preferred bankruptcy claims, subordinate bankruptcy claims, and consensually-subordinated bankruptcy claims from other bankruptcy claims, and with regard to preferred bankruptcy claims, the particulars must be stated in the order of priority prescribed in Article 98, paragraph (2).
- (3) With regard to bankruptcy claims secured by a revolving mortgage which pertains to a right of separate satisfaction, a bankruptcy trustee must state the claims in the distribution list even if the bankruptcy creditor who holds the bankruptcy claims does not prove to the bankruptcy trustee the amount of the claims for which payment cannot be received by exercising the revolving mortgage. In such a case, the part of the amount of the bankruptcy claims on the day on which permission under the provisions of paragraph (2) of the preceding Article was granted, which exceeds the maximum amount, is to be the amount of the claims that may enter into the procedure for a final distribution.
- (4) The provisions of the preceding paragraph apply mutatis mutandis to a person who holds a mortgage prescribed in Article 108, paragraph (2) (limited to one that is a revolving mortgage).

(Public Notice of Distribution)

- Article 197 (1) A bankruptcy trustee must, without delay after submitting a distribution list to the court pursuant to the provisions of paragraph (1) of the preceding Article, make a public notice of the total amount of the claims that may enter into the procedure for a final distribution and the amount available for a final distribution, or give a notice of those particulars to holders of filed bankruptcy claims.
- (2) The notice under the provisions of the preceding paragraph is deemed to have arrived at the time when the notice should have normally arrived.
 - (3) When the time at which the notice given under the provisions of paragraph (1) should have normally reached the holders of filed bankruptcy claims has passed, a bankruptcy trustee must notify the court to that effect without delay.

(Exclusion of Bankruptcy Claims)

- Article 198 (1) In order to participate in the procedure for a final distribution with regard to a denied or disputed bankruptcy claim (excluding those prescribed in Article 129, paragraph (1)), the bankruptcy creditor who holds the denied or disputed bankruptcy claim must, within two weeks from the day on which the public notice under the provisions of paragraph (1) of the preceding Article becomes effective or the day on which the notification is made under the provisions of paragraph (3) of that Article, prove to a bankruptcy trustee the fact that the proceedings for assessment based on a petition for the

finalization of the denied or disputed bankruptcy claim, the court proceedings of an action to oppose bankruptcy claim assessment, or the court proceedings of an action taken over pursuant to the provisions of Article 127, paragraph (1) are pending.

- (2) In order to participate in the procedure for a final distribution with regard to a bankruptcy claim that is a claim subject to a condition precedent or claim which may arise in the future, the bankruptcy claim is required to become enforceable within the period prescribed in the preceding paragraph (hereinafter referred to as the "period of exclusion concerning a final distribution" in this Section and Section 5).
- (3) In order to participate in the procedure for a final distribution, a holder of a right of separate satisfaction must, within the period of exclusion concerning a final distribution, prove to a bankruptcy trustee the fact that the whole or part of the claim secured by a security right prescribed in Article 65, paragraph (2) which pertains to the right of separate satisfaction is no longer secured after the commencement of bankruptcy proceedings, or prove the amount of the claim for which payment cannot be received by exercising the security right, except in the case referred to in the following paragraph.
- (4) With regard to bankruptcy claims secured by a revolving mortgage that are stated in the distribution list pursuant to the provisions of the first sentence of Article 196, paragraph (3) (including as applied *mutatis mutandis* pursuant to paragraph (4) of that Article), except when the amount of the claims for which payment cannot be received by exercising the security right is proven within the period of exclusion concerning a final distribution, the part of the amount of the claims that may enter into the procedure for a final distribution stated in the distribution list under the provisions of the second sentence of paragraph (3) of that Article (including as applied *mutatis mutandis* pursuant to paragraph (4) of that Article) is deemed to be the amount of claims for which payment cannot be received.
- (5) The provisions of paragraph (3) apply *mutatis mutandis* to a holder of a quasi-right of separate satisfaction.

(Correction of Distribution Lists)

Article 199 (1) In the following cases, a bankruptcy trustee must immediately correct the distribution list:

- (i) when a cause that requires correction to the electronic schedule of bankruptcy creditors occurs within the period of exclusion concerning a final distribution;
- (ii) when the particular prescribed in paragraph (1) of the preceding Article is proved within the period of exclusion concerning a final distribution; and
- (iii) when the particular prescribed in paragraph (3) of the preceding Article is

- proved within the period of exclusion concerning a final distribution.
- (2) The provisions of item (iii) of the preceding paragraph apply *mutatis mutandis* to a holder of a quasi-right of separate satisfaction.

(Objection to Distribution Lists)

- Article 200 (1) A bankruptcy creditor who is dissatisfied with an entry in the distribution list may raise an objection to the court within one week after the period of exclusion concerning a final distribution expires.
- (2) The court must, when it finds an objection raised under the provisions of the preceding paragraph well-grounded, order a bankruptcy trustee to correct the distribution list.
- (3) An immediate appeal may be filed against a judicial decision on the objection raised under the provisions of paragraph (1). In such a case, the period for filing an immediate appeal against an order to order correction of the distribution list is calculated from the day on which it becomes possible for an interested person to make a request for inspection of the electronic judgment pursuant to the provisions of Article 11-2, paragraph (1).
- (4) When a judicial decision to dismiss the objection raised under the provisions of paragraph (1) and a judicial decision on the immediate appeal referred to in the first sentence of the preceding paragraph (excluding an order to order correction of the distribution list) are made, the electronic judgments must be served upon the parties concerned.

(Determination and Notice of the Amount of Distribution)

- Article 201 (1) A bankruptcy trustee must, without delay after the period prescribed in paragraph (1) of the preceding Article has expired (if an objection under the provisions of that paragraph is raised, after the proceedings of the objection have been closed), determine the amount of distribution to be given to each bankruptcy creditor who may participate in the procedure for a final distribution.
- (2) A bankruptcy trustee must make a distribution of any amount deposited pursuant to the provisions of Article 70 in the interest of a bankruptcy creditor who was unable to participate in the procedure for a final distribution by reason of the failure to conform to the provisions of Article 198, paragraph (2), to other bankruptcy creditors as part of a final distribution.
- (3) With regard to a bankruptcy claim that is a claim subject to a condition subsequent, if the condition is not met within the period of exclusion concerning a final distribution, the security provided under the provisions of Article 69 ceases to be effective, and the amount deposited pursuant to the provisions of that Article must be paid to the bankruptcy creditor who holds the bankruptcy claim.

- (4) A bankruptcy creditor who has received payment pursuant to the provisions of Article 101, paragraph (1) or a bankruptcy creditor who has received payment prescribed in Article 109 may not receive a final distribution until any other bankruptcy creditor with the same priority as the creditor receives a distribution at the same proportion as the payment they have received.
- (5) When the amount of distribution to be given to each bankruptcy creditor is determined pursuant to the provisions of paragraph (1), if, with regard to a bankruptcy creditor who has not made a notification under the provisions of Article 111, paragraph (1), item (iv) or Article 113, paragraph (2), the amount of distribution determined for the bankruptcy creditor is less than the amount specified by the Rules of the Supreme Court as prescribed in Article 111, paragraph (1), item (iv), a bankruptcy trustee must make a final distribution of the amount of distribution to bankruptcy creditors other than the bankruptcy creditor. In such a case, the amount of distribution to be given to those other bankruptcy creditors must be determined for the amount of distribution.
- (6) If any property available for a final distribution is newly discovered before giving a notice of the amount of distribution pursuant to the provisions of the following paragraph, a bankruptcy trustee must correct the distribution list without delay.
- (7) A bankruptcy trustee must give a notice of the amount of distribution determined pursuant to the provisions of paragraph (1) through the preceding paragraph to each bankruptcy creditor who may participate in the procedure for a final distribution (excluding a bankruptcy creditor who may not receive a final distribution pursuant to the provisions of paragraph (5)).

(Depositing Amounts for Distribution)

Article 202 A bankruptcy trustee must make a deposit of the following amounts of distribution in the interest of the bankruptcy creditor who is to receive the distribution:

- (i) the amount for distribution to a denied or disputed bankruptcy claim for which the proceedings for assessment based on a petition for bankruptcy claim assessment, court proceedings of an action to oppose bankruptcy claim assessment, court proceedings of an action taken over under the provisions of Article 127, paragraph (1) or Article 129, paragraph (2), or court proceedings of the assertion of an objection under the provisions of Article 129, paragraph (1) are pending, at the time when a notice of the amount for distribution is given under the provisions of paragraph (7) of the preceding Article;
- (ii) the amount for distribution for a right to impose taxes, etc. or for a right to impose a fine, etc. for which proceedings for a request for review, action (excluding a criminal action), or any other appeal have not been closed by the time when a notice of the amount for distribution is given pursuant to the

provisions of paragraph (7) of the preceding Article; and
(iii) the amount for distribution that a bankruptcy creditor refuses to receive.

(Handling of Holders of Claims on Estates Unknown to Bankruptcy Trustees)
Article 203 A holder of claim on the estate who is unknown to a bankruptcy trustee at the time when a notice of the amount of distribution pursuant to the provisions of Article 201, paragraph (7) is given may not receive payment by using the amount available for a final distribution.

Section 3 Simplified Distribution

(Simplified Distribution)

Article 204 (1) When a final distribution may be made pursuant to the provisions of Article 195, paragraph (1), a court clerk may, in the following cases, upon the petition of a bankruptcy trustee, permit distribution under the provisions of this Section (hereinafter referred to as a "simplified distribution" in this Chapter and the following Chapter) in lieu of a final distribution:

- (i) when it is found that the amount available for distribution is less than ten million yen;
 - (ii) when the court has made a public notice of the particular set forth in Article 32, paragraph (1), item (v) pursuant to the provisions of paragraph (1) of that Article and given a notice to that effect to known bankruptcy creditors pursuant to the provisions of paragraph (3), item (i) of that Article, and no objection is made by any holder of filed bankruptcy claim by the time prescribed in paragraph (1), item (v) of that Article; or
 - (iii) beyond what is listed in the preceding two items, when a simplified distribution is found appropriate.
- (2) When permission under the provisions of the preceding paragraph is granted, a bankruptcy trustee must, without delay after submitting the distribution list to the court pursuant to the provisions of Article 196, paragraph (1) as applied mutatis mutandis pursuant to the following Article following the deemed replacement of terms, determine the estimated amount of distribution to be given to each holder of a filed bankruptcy claim, and give a notice to each holder of filed a bankruptcy claim of the total amount of claims that may enter into the procedure for a simplified distribution, the amount available for a simplified distribution, and the estimated amount of distribution.
- (3) The notice under the provisions of the preceding paragraph is deemed to have reached the addressee at the time when the notice should have normally arrived.
- (4) When the time at which the notice given under the provisions of paragraph (2) should have normally reached the holders of filed bankruptcy claims has

passed, a bankruptcy trustee must notify the court to that effect without delay.

(Application, Mutatis Mutandis)

Article 205 With regard to a simplified distribution, the provisions of the preceding Section (excluding Article 195, Article 197, Article 200, paragraphs (3) and (4), and Article 201, paragraph (7)) apply mutatis mutandis. In such a case, the phrase "permission under the provisions of paragraph (2) of the preceding Article" in Article 196, paragraphs (1) and (3) is deemed to be replaced with "permission under the provisions of Article 204, paragraph (1)"; in Article 198, paragraph (1), the phrase "the day on which the public notice made under the provisions of paragraph (1) of the preceding Article becomes effective or the day on which the notification is made under the provisions of paragraph (3) of that Article" is deemed to be replaced with "the day on which the notification is made under the provisions of Article 204, paragraph (4)," and the phrase "within two weeks" is deemed to be replaced with "within one week"; the phrase "after the proceedings of the objection have been closed" in Article 201, paragraph (1) is deemed to be replaced with "after an order on the objection is made"; the phrase "before giving a notice of the amount of distribution under the provisions of the following paragraph" in Article 201, paragraph (6) is deemed to be replaced with "within the period prescribed in paragraph (1) of the preceding Article"; the phrase "when a notice of the amount of distribution is given under the provisions of paragraph (7) of the preceding Article" in Article 202, item (i) and, item (ii) and the phrase "when a notice of the amount of distribution under the provisions of Article 201, paragraph (7) is given" in Article 203 is deemed to be replaced with "when the period prescribed in Article 200, paragraph (1) expires."

(Rescission of Permission for Simplified Distribution)

Article 206 When permission under the provisions of Article 204, paragraph (1), item (iii) is granted, a bankruptcy trustee must, when giving a notice pursuant to the provisions of paragraph (2) of that Article, simultaneously give a notice that a bankruptcy creditor who has any objection to the implementation of a simplified distribution is required to make an objection to the court within one week from the date of notification under the provisions of paragraph (4) of that Article. In such a case, if an objection is made by a holder of a filed bankruptcy claim within one week from the date of notification under the provisions of that paragraph, a court clerk must rescind the permission.

(Exclusion from Application)

Article 207 Permission for a simplified distribution under the provisions of Article 204, paragraph (1) may not be granted if an interim distribution

prescribed in Article 209, paragraph (1) has been made.

Section 4 Consensual Distribution

- Article 208 (1) When a final distribution may be made pursuant to the provisions of Article 195, paragraph (1), a court clerk may, upon the petition of a bankruptcy trustee, permit distribution under the provisions of this Article (hereinafter referred to as a "consensual distribution" in this Chapter and the following Chapter) in lieu of a final distribution. In such a case, a bankruptcy trustee may file a petition only when all of the holders of filed bankruptcy claims have consented to the distribution list, the amount of distribution, and the time and means of distribution determined by the bankruptcy trustee.
- (2) When permission under the provisions of the preceding paragraph is granted, a bankruptcy trustee may make a consensual distribution to the holders of filed bankruptcy claims referred to in the second sentence of that paragraph according to the distribution list, the amount of distribution, and the time and means of distribution set forth in the second sentence of that paragraph.
- (3) With regard to a consensual distribution, the provisions of Article 196, paragraphs (1) and (2), and Article 203 apply mutatis mutandis. In such a case, the phrase "when permission under the provisions of paragraph (2) of the preceding Article is granted, without delay" in Article 196, paragraph (1) is deemed to be replaced "in advance," and the phrase "when a notice of the amount of distribution under the provisions of Article 201, paragraph (7) is given" in Article 203 is deemed to be replaced with "when permission under the provisions of Article 208, paragraph (1) is granted."

Section 5 Interim Distribution

(Interim Distribution)

- Article 209 (1) When a bankruptcy trustee finds after the ordinary period for investigation has expired or the ordinary date of investigation has ended and before realization is completed for property that belongs to the bankruptcy estate, that money suitable for distribution that belongs to the bankruptcy estate exists, the bankruptcy trustee may make a distribution under the provisions of this Section (hereinafter referred to as an "interim distribution" in this Section) to holders of filed bankruptcy claims, prior to a final distribution.
- (2) A bankruptcy trustee must obtain permission of the court in order to make an interim distribution.
- (3) With regard to an interim distribution, the provisions of Article 196, paragraphs (1) and (2), Article 197, Article 198, paragraph (1), Article 199,

paragraph (1), items (i) and (ii), Article 200, Article 201, paragraph (4), and Article 203 apply mutatis mutandis. In such a case, the phrase "permission under the provisions of paragraph (2) of the preceding Article" in Article 196, paragraph (1) is deemed to be replaced with "permission under the provisions of Article 209, paragraph (2)," the phrase "period of exclusion concerning a final distribution" in the items of Article 199, paragraph (1) and Article 200, paragraph (1) is deemed to be replaced with "period of exclusion concerning an interim distribution prescribed in Article 210, paragraph (1)," and the phrase "amount of distribution under the provisions of Article 201, paragraph (7)" in Article 203 is deemed to be replaced with "percentage of distribution under the provisions of Article 211."

(Exclusion of Holder of Right of Separate Satisfaction)

- Article 210 (1) In order to participate in the procedure for an interim distribution, a holder of a right of separate satisfaction must, within the period prescribed in Article 198, paragraph (1) as applied mutatis mutandis pursuant to paragraph (3) of the preceding Article (hereinafter referred to as the "period of exclusion concerning an interim distribution" in this Section), prove to a bankruptcy trustee the fact that they have commenced the disposal of the collateral for the right of separate satisfaction, and also make a prima facie showing of the amount of the claim for which payment cannot be received by the disposal to a bankruptcy trustee.
- (2) The provisions of the preceding paragraph apply mutatis mutandis to a holder of a quasi-right of separate satisfaction.
- (3) When proof is made and a prima facie showing is made within the period of exclusion concerning an interim distribution with regard to the particulars prescribed in paragraph (1) (including as applied mutatis mutandis pursuant to the preceding paragraph), a bankruptcy trustee must immediately correct the distribution list.

(Determination and Notice of the Percentage of Distribution)

Article 211 A bankruptcy trustee must, without delay after the period prescribed in Article 200, paragraph (1) as applied mutatis mutandis pursuant to Article 209, paragraph (3) has expired (in cases where an objection under the provisions of Article 200, paragraph (1) is raised, after an order on the objection is made), determine the percentage of distribution and give notice of the percentage to each bankruptcy creditor who may participate in the procedure for an interim distribution.

(Handling of Claims Subject to a Condition Subsequent)

Article 212 (1) With regard to a bankruptcy claim that is a claim subject to a

condition subsequent, an interim distribution may not be received unless reasonable security is provided.

- (2) With regard to the bankruptcy claim set forth in the preceding paragraph, if the condition is not met within the period of exclusion concerning a final distribution, the security provided under the provisions of that paragraph ceases to be effective.

(Handling of Excluded Bankruptcy Claims in Subsequent Distributions)

Article 213 With regard to a bankruptcy claim that was unable to enter into the procedure for an interim distribution on the grounds of failure to prove the particular prescribed in Article 198, paragraph (1) as applied *mutatis mutandis* pursuant to Article 209, paragraph (3), if the bankruptcy creditor who holds the bankruptcy claim has proven the particular within the period of exclusion concerning a final distribution or within the period of exclusion concerning an interim distribution that may be made after the interim distribution, the bankruptcy creditor, in the final distribution or a subsequent interim distribution that may be made after the previous interim distribution, may receive a distribution at the amount that they could have received in the previous interim distribution, in preference to other bankruptcy creditors with the same priority. The same applies when a holder of a right of separate satisfaction (including a holder of a quasi-right of separate satisfaction) who was unable to participate in the procedure for an interim distribution on the grounds of failure to prove or make a *prima facie* showing of the particular prescribed in Article 210, paragraph (1) (including as applied *mutatis mutandis* pursuant to paragraph (2) of that Article) has proved and made a *prima facie* showing of the particular within the period of exclusion concerning a subsequent interim distribution that may be made after the interim distribution.

(Depositing Amounts for Distribution)

Article 214 (1) A bankruptcy trustee who seeks to make an interim distribution must make a deposit of the amount of distribution to the following bankruptcy claims:

- (i) a denied or disputed bankruptcy claim, for which the proceedings set forth in Article 202, item (i) are pending;
- (ii) a claim for tax, etc. or claim for a fine, etc., for which the proceedings set forth in Article 202, item (ii) have not been closed by the time when a notice of the percentage of distribution under the provisions of Article 211 is given;
- (iii) part of a claim for which proof is made and a *prima facie* showing is made pursuant to the provisions of Article 210, paragraph (1) (including as applied *mutatis mutandis* pursuant to paragraph (2) of that Article) within the

- period of exclusion concerning an interim distribution, related to the amount subject to the prima facie showing:
- (iv) a bankruptcy claim that is a claim subject to a condition precedent or claim which may arise in the future;
 - (v) a bankruptcy claim that is a claim subject to a condition subsequent, for which security pursuant to the provisions of Article 212, paragraph (1) is not provided; and
 - (vi) a bankruptcy claim held by a bankruptcy creditor who has not filed a notification pursuant to the provisions of Article 111, paragraph (1), item (iv) or Article 113, paragraph (2).
- (2) When a deposit of the amount of distribution to a bankruptcy claim set forth in item (i) or (ii) of the preceding paragraph is made pursuant to the provisions of those items, a bankruptcy trustee must, when making a deposit of the amount of distribution to the bankruptcy claim pursuant to the provisions of Article 202, item (i) or (ii), deposit the amount of distribution deposited, in the interest of the bankruptcy creditor who is to receive it.
- (3) When a deposit of the amount of distribution to a bankruptcy claim set forth in item (iii) or (iv) of paragraph (1) is made pursuant to the provisions of those items, if the bankruptcy creditor or holder of a right of separate satisfaction (including a holder of a quasi-right of separate satisfaction) who holds the bankruptcy claim was unable to participate in the procedure for a final distribution due to the failure to conform to the provisions of Article 198, paragraph (2) or prove the particular prescribed in paragraph (3) of that Article (including as applied mutatis mutandis pursuant to paragraph (5) of that Article), a bankruptcy trustee must make a final distribution of the amount of distribution deposited to other bankruptcy creditors.
- (4) When a deposit of the amount of distribution to a bankruptcy claim set forth in paragraph (1), item (v) is made pursuant to the provisions of that item, if the condition attached to the bankruptcy claim is not met within the period of exclusion concerning a final distribution, a bankruptcy trustee must pay the amount of distribution deposited to the bankruptcy creditor who holds the bankruptcy claim.
- (5) For the purpose of application of the provisions of Article 201, paragraph (5) in cases where a deposit of the amount of distribution to a bankruptcy claim set forth in paragraph (1), item (v) is made pursuant to the provisions of that item, in Article 201, paragraph (5), the phrase "the amount of distribution determined for the bankruptcy creditor is less than the amount specified by the Rules of the Supreme Court prescribed in Article 111, paragraph (1), item (iv)" is deemed to be replaced with "the total of the amount of distribution determined for the bankruptcy creditor and the amount of distribution to a bankruptcy claim set forth in item (vi) of Article 214, paragraph (1) deposited

by a bankruptcy trustee pursuant to the provisions of that item is less than the amount specified by the Rules of the Supreme Court prescribed in Article 111, paragraph (1), item (iv)," and the phrase "the amount of distribution" is deemed to be replaced with "the sum."

Section 6 Subsequent Distribution

- Article 215 (1) If, after a notice of the amount of distribution pursuant to the provisions of Article 201, paragraph (7) is given (in the case of a simplified distribution, after the period prescribed in Article 200, paragraph (1) as applied mutatis mutandis pursuant to Article 205 expires, and in the case of a consensual distribution, after the permission pursuant to the provisions of Article 208, paragraph (1) is granted), a considerable amount of property available for a new distribution is confirmed, a bankruptcy trustee, with permission of the court, must make a distribution under the provisions of this Article (hereinafter referred to as a "subsequent distribution" in this Article) to holders of filed bankruptcy claims, in addition to a final distribution, simplified distribution, or consensual distribution. The same applies after an order of termination of bankruptcy proceedings is made.
- (2) With regard to a subsequent distribution, the provisions of Article 201, paragraphs (4) and (5), Article 202, and Article 203 apply mutatis mutandis. In such a case, the term "provisions of paragraph (1)" in Article 201, paragraph (5) is deemed to be replaced with "provisions of Article 215, paragraph (4)," and the term "paragraph (7) of the preceding Article" in Article 202, items (i) and (ii) and the term "Article 201, paragraph (7)" in Article 203 is deemed to be replaced with "Article 215, paragraph (5)."
- (3) A subsequent distribution is made according to the distribution list prepared for a final distribution, simplified distribution, or consensual distribution.
- (4) A bankruptcy trustee must, when permission pursuant to the provisions of paragraph (1) is granted, determine the amount of distribution to each bankruptcy creditor who may participate in the procedure for a subsequent distribution without delay.
- (5) A bankruptcy trustee must give notice of the amount of distribution determined pursuant to the provisions of the preceding paragraph to each bankruptcy creditor who may participate in the procedure for a subsequent distribution (excluding a bankruptcy creditor who may not receive a subsequent distribution pursuant to the provisions of Article 201, paragraph (5) as applied mutatis mutandis pursuant to paragraph (2) following the deemed replacement of terms).
- (6) A bankruptcy trustee must, without delay after making a subsequent distribution, make a report of accounts to the court in writing.

- (7) In the case referred to in the preceding paragraph, if there is a vacancy in the office of a bankruptcy trustee, the report of accounts set forth in that paragraph must be made by a successor bankruptcy trustee, notwithstanding the provisions of that paragraph.

Chapter IX Closing of Bankruptcy Proceedings

(Order of Discontinuance of Bankruptcy Proceedings to be Made At the Same Time as Making an Order of Commencement of Bankruptcy Proceedings)

Article 216 (1) If the court finds that the bankruptcy estate is insufficient for paying expenses for bankruptcy proceedings, the court must make an order of discontinuance of bankruptcy proceedings at the same time as making an order of commencement of bankruptcy proceedings.

- (2) The provisions of the preceding paragraph do not apply if an amount sufficient for paying expenses for bankruptcy proceedings is prepaid.
- (3) The court must, when it has made an order of discontinuance of bankruptcy proceedings at the same time as making an order of commencement of bankruptcy proceedings pursuant to the provisions of paragraph (1), immediately make a public notice of the following particulars and give a notice of those particulars to the bankrupt:
- (i) the main text of the order of commencement of bankruptcy proceedings; and
 - (ii) the main text of the order of discontinuance of bankruptcy proceedings and the outline of the reasons attached.
- (4) An immediate appeal may be filed against an order of discontinuance of bankruptcy proceedings under the provisions of paragraph (1).
- (5) The immediate appeal referred to in the preceding paragraph does not have the effect of a stay of execution.
- (6) The provisions of Article 31 and Article 32 apply *mutatis mutandis* when an order to revoke the order of discontinuance of bankruptcy proceedings made pursuant to the provisions of paragraph (1) becomes final and binding.

(Order of Discontinuance of Bankruptcy Proceedings Made after Making an Order of Commencement of Bankruptcy Proceedings)

Article 217 (1) When the court finds, after making an order of commencement of bankruptcy proceeding, that the bankruptcy estate is insufficient for paying expenses for bankruptcy proceedings, it must, upon the petition of a bankruptcy trustee or by its own authority, make an order of discontinuance of bankruptcy proceedings. In such a case, the court must hear the opinions of bankruptcy creditors on the date of a creditors meeting.

- (2) Notwithstanding the provisions of the second sentence of the preceding paragraph, the court may, when it finds it appropriate, hear the opinion of

bankruptcy creditors by document or any other means specified by the Rules of the Supreme Court, in lieu of hearing the opinions of bankruptcy creditors on the date of a creditors meeting. In such a case, a person set forth in Article 135, paragraph (1), item (ii) or (iii) may not file a petition for convocation of a creditor meeting pursuant to the provisions of Article 135, paragraph (1) for the purpose of conducting the hearing of opinions.

- (3) The provisions of the preceding two paragraphs do not apply when an amount sufficient for paying expenses for bankruptcy proceedings is prepaid.
- (4) The court must, when it has made an order of discontinuance of bankruptcy proceedings under the provisions of paragraph (1), immediately give public notice of the main text of the order and the outline of the reasons attached, and serve the electronic judgment upon the bankrupt and a bankruptcy trustee.
- (5) The court must, when it has made an order dismissing the petition referred to in paragraph (1), serve the electronic judgment upon a bankruptcy trustee. In such a case, the provisions of the main clause of Article 10, paragraph (3) do not apply.
- (6) An immediate appeal may be filed against an order of discontinuance of bankruptcy proceedings pursuant to the provisions of paragraph (1) and an order dismissing the petition referred to in that paragraph.
- (7) When an order to revoke the order of discontinuance of bankruptcy proceedings pursuant to the provisions of paragraph (1) has become final and binding, the court that has made the order of discontinuance of bankruptcy proceedings must immediately make a public notice to that effect.
- (8) An order of discontinuance of bankruptcy proceedings pursuant to the provisions of paragraph (1) does not become effective unless it becomes final and binding.

(Order of Discontinuance of Bankruptcy Proceedings with the Consent of Bankruptcy Creditors)

Article 218 (1) The court must, upon the petition of a bankrupt who satisfies any of the requirements set forth in the following items, make an order of discontinuance of bankruptcy proceedings:

- (i) when the bankrupt has obtained consent for discontinuance of bankruptcy proceedings from all bankruptcy creditors who filed a notification within the period for filing notification of claims; or
- (ii) when there is any bankruptcy creditor who does not give the consent referred to in the preceding item, and the bankrupt has provided security to the bankruptcy creditor that the court finds reasonable; provided, however, that if the security is provided from the bankruptcy estate, this is limited to the case in which consent is obtained from other holders of filed bankruptcy claims for the provision of the security from the bankruptcy estate.

- (2) Notwithstanding the provisions of the preceding paragraph, the court may make an order not to require the consent referred to in item (i) of that paragraph and the proviso to item (ii) of that paragraph from a bankruptcy creditor who holds a bankruptcy claim that has not been finalized. For the purpose of application of the provisions of item (i) of that paragraph and the proviso to item (ii) of that paragraph in such a case, the term "holders of filed bankruptcy claims" in these provisions is deemed to be replaced with "holders of filed bankruptcy claims (excluding a bankruptcy creditor who holds a bankruptcy claim that has not been finalized, from whom the court does not require consent)."
- (3) The court must, when the petition set forth in paragraph (1) is filed, make a public notice to that effect.
- (4) A holder of filed bankruptcy claim may, within two weeks from the day on which the public notice prescribed in the preceding paragraph becomes effective, state their opinion to the court with regard to the petition referred to in paragraph (1).
- (5) The provisions of paragraphs (4) through (8) of the preceding Article apply mutatis mutandis to an order of discontinuance of bankruptcy proceedings pursuant to the provisions of paragraph (1). In such a case, the term "a bankruptcy trustee" in paragraph (5) of that Article is deemed to be replaced with "the bankrupt."

(Order of Discontinuance of Bankruptcy Proceedings with the Consent of
Bankruptcy Creditors In Which the Bankrupt Is a Corporation)

Article 219 A bankrupt that is a corporation must, in order to file a petition referred to in paragraph (1) of the preceding Article, perform the procedure for the corporation to continue to exist, in advance, by complying with the provisions concerning the amendment of articles of incorporation or other basic articles.

(Order of Termination of Bankruptcy Proceedings)

- Article 220 (1) The court must make an order of termination of bankruptcy proceedings when, after a final distribution, simplified distribution, or consensual distribution is completed, a creditors meeting referred to in Article 88, paragraph (4) is concluded or the period prescribed in Article 89, paragraph (2) expires.
- (2) The court must, when it has made an order of termination of bankruptcy proceedings pursuant to the provisions of the preceding paragraph, immediately make a public notice of the main text of the order and the outline of the reasons attached, and give a notice of these to the bankrupt.

(Effect of Records in the Electronic Schedule of Bankruptcy Creditors after
Discontinuance or Termination of Bankruptcy Proceedings)

- Article 221 (1) When an order of discontinuance of bankruptcy proceedings pursuant to the provisions of Article 217, paragraph (1) or Article 218, paragraph (1) becomes final and binding or when an order of termination of bankruptcy proceedings pursuant to the provisions of paragraph (1) of the preceding Article is made, with regard to bankruptcy claims that are finalized, the records in the electronic schedule of bankruptcy creditors have the same effect as a final and binding judgment against the bankrupt. In such a case, a bankruptcy creditor, with regard to a bankruptcy claim that has been finalized, may enforce compulsory execution against the bankrupt based on the records in the electronic schedule of bankruptcy creditors.
- (2) The provisions of the preceding paragraph do not apply when the bankrupt (including the agent referred to in the proviso to Article 121, paragraph (3)) has made an objection pursuant to the provisions of Article 118, paragraph (2), Article 119, paragraph (5), Article 121, paragraph (4) (including as applied mutatis mutandis pursuant to Article 121, paragraph (6) (including as applied mutatis mutandis pursuant to paragraph (7) of that Article or Article 122, paragraph (2)) or Article 121, paragraph (7) or Article 122, paragraph (2)) or Article 123, paragraph (1).

Chapter X Special Provisions Concerning Bankruptcy of Inherited Property
Section 1 Bankruptcy of Inherited Property

(Jurisdiction over a Bankruptcy Case Relating to Inherited Property)

- Article 222 (1) A petition to commence bankruptcy proceedings under the provisions of this Act against inherited property may be filed only if the decedent's address as of the time of commencement of succession or property that belongs to the inherited property exists in Japan.
- (2) A bankruptcy case relating to an inherited property is subject to the jurisdiction of the district court that has jurisdiction over the decedent's domicile as of the time of commencement of succession.
- (3) If there is no court with jurisdiction pursuant to the provisions of the preceding paragraph, the bankruptcy case relating to an inherited property is subject to the jurisdiction of the district court that has jurisdiction over the locality of property that belongs to the inherited property (in the case of a claim, the place where demand by litigation may be made).
- (4) For the purpose of application of the provisions of Article 5, paragraphs (8) and (9), and Article 7, item (v) to a bankruptcy case relating to an inherited property, the term "paragraphs (1) and (2)" in Article 5, paragraphs (8) and (9) is deemed to be replaced with "Article 222, paragraphs (2) and (3)," and the

phrase "paragraph (1) or (2) of that Article" in Article 7, item (v) is deemed to be replaced with "Article 222, paragraphs (2) and (3)."

- (5) If two or more district courts have jurisdiction over a bankruptcy case relating to an inherited property pursuant to the provisions of the preceding three paragraphs, the bankruptcy case is subject to the jurisdiction of the district court with which the first petition to commence bankruptcy proceedings is filed.

(Grounds for Commencement of Bankruptcy Proceedings against Inherited Property)

Article 223 For the purpose of application of Article 30, paragraph (1) to an inherited property, the phrase "when it finds a fact constituting the grounds for the commencement of bankruptcy proceedings" in Article 30, paragraph (1) is deemed to be replaced with "when it finds it impossible to pay debts to inheritance obligees and to legatees in full with the inherited property."

(Petitions to Commence Bankruptcy Proceedings)

Article 224 (1) With regard to inherited property, in addition to an inheritance obligee or a legatee, an heir, administrator of the inherited property, liquidator of the inherited property, or executor (limited to an executor who has a right to conduct acts necessary for the administration of the inherited property; hereinafter the same applies in this Section) may file a petition to commence bankruptcy proceedings.

- (2) When a person set forth in each of the following items files a petition to commence bankruptcy proceedings against the inherited property, they must make a prima facie showing of the fact specified in the respective items:
- (i) an inheritance obligee or a legatee: the existence of the claim held by them and the fact constituting the grounds for the commencement of bankruptcy proceedings against the inherited property; and
 - (ii) an heir, administrator of the inherited property, liquidator of the inherited property, or executor: the fact constituting the grounds for the commencement of bankruptcy proceedings against the inherited property.

(Period for Filing a Petition to Commence Bankruptcy Proceedings)

Article 225 A petition to commence bankruptcy proceedings may be filed against an inherited property only within the period during which a request for division of property may be made pursuant to the provisions of Article 941, paragraph (1) of the Civil Code; provided, however, that if qualified acceptance is made or division of property is conducted, a petition to commence bankruptcy proceedings may be made until payment to inheritance obligees and legatees is completed.

(Commencement of Succession Before an Order of Commencement of
Bankruptcy Proceedings is Made)

Article 226 (1) When succession has commenced with regard to a debtor after a petition to commence bankruptcy proceedings is filed and before an order of commencement of bankruptcy proceedings is made, the court may, upon the petition of an inheritance obligee, a legatee, an heir, an administrator of the inherited property, liquidator of the inherited property, or executor, make an order to continue the bankruptcy proceedings against the inherited property.

(2) The petition for continuation prescribed in the preceding paragraph must be filed within one month after the succession commences.

(3) The bankruptcy proceedings prescribed in paragraph (1) is closed, if a petition for continuation prescribed in paragraph (1) is not filed within the period referred to in the preceding paragraph, at the time when the period expires, and if a petition for continuation prescribed in paragraph (1) is made within the period set forth in the preceding paragraph and a judicial decision to dismiss the petition becomes final and binding, at the time when the decision becomes final and binding.

(4) An immediate appeal may be filed against a judicial decision to dismiss the petition for continuation prescribed in paragraph (1).

(Commencement of Succession after an Order of Commencement of Bankruptcy
Proceedings is Made)

Article 227 When succession has commenced with regard to the bankrupt after an order of commencement of bankruptcy proceedings is made, the court continues the bankruptcy proceedings against the inherited property.

(Relationship with the Procedures for Qualified Acceptance or Division of
Property)

Article 228 An order of commencement of bankruptcy proceedings against an inherited property does not preclude qualified acceptance or division of property; provided, however, that the procedures for qualified acceptance or division of property is stayed until an order of revocation of the order of commencement of bankruptcy proceedings or an order of discontinuance of bankruptcy proceedings becomes final and binding, or an order of termination of bankruptcy proceedings is made.

(Scope of Bankruptcy Estates)

Article 229 (1) If an order of commencement of bankruptcy proceedings is made against an inherited property, any and all property that belongs to the inherited property (irrespective of whether or not it exists in Japan) is to

constitute the bankruptcy estate. In such a case, rights that the decedent held vis-à-vis an heir are deemed not to have been extinguished.

- (2) If an order of commencement of bankruptcy proceedings is made against inherited property after an heir has disposed of all or a part of the inherited property, rights that the heir holds with regard to counter-performance belong to the bankruptcy estate.
- (3) In the case prescribed in the preceding paragraph, if the heir has already received the counter-performance set forth in that paragraph, the heir must return the counter-performance to the bankruptcy estate; provided, however, that if the heir did not know, at the time of receiving the counter-performance, the fact constituting the grounds for the commencement of bankruptcy proceedings or the fact that the filing of a petition to commence bankruptcy proceedings has been made, it is sufficient for the heir to return the benefit that they retain.

(Obligation of Explanation of Heirs)

Article 230 (1) If an order of commencement of bankruptcy proceedings is made against an inherited property, the following persons must, upon the request of a bankruptcy trustee or creditor committee, or a request based on a resolution at a creditor meeting, give a necessary explanation concerning bankruptcy:

- (i) a person who was the decedent's agent;
- (ii) an heir and their agent; and
- (iii) an administrator of the inherited property, liquidator of the inherited property, and an executor.

- (2) The provisions of the preceding paragraph apply mutatis mutandis to a person who was any of the persons listed in item (ii) or (iii) of that paragraph.
- (3) The provisions of Article 37 and Article 38 apply mutatis mutandis to heirs and their statutory agent and manager in cases where an order of commencement of bankruptcy proceedings is made against the inherited property.

(Status of Inheritance Obligees and Legatees)

Article 231 (1) If an order of commencement of bankruptcy proceedings is made against an inherited property, an inheritance obligee and a legatee may, even when an order of commencement of bankruptcy proceedings is made against an heir, participate in bankruptcy proceedings with regard to the whole amount of their claims.

- (2) If an order of commencement of bankruptcy proceedings is made against an inherited property, claims held by an inheritance obligee take precedence over claims held by a legatee.

(Status of Heirs)

Article 232 (1) If an order of commencement of bankruptcy proceedings is made against an inherited property, rights that an heir held vis-à-vis the decedent is deemed not to have been extinguished. In such a case, an heir has the same rights as an inheritance obligee with regard to a claim that they held vis-à-vis the decedent.

(2) In the case prescribed in the preceding paragraph, when an heir has made payment to an inheritance obligee or conducted any other act that causes the debts to be extinguished with their own property, the heir may exercise rights that the inheritance obligee held vis-à-vis the decedent, to the extent of the amount paid thereby.

(Status of Heir's Creditors)

Article 233 If an order of commencement of bankruptcy proceedings is made against an inherited property, an heir's creditors may not exercise their rights as bankruptcy creditors.

(Application of Provisions on the Right of Avoidance)

Article 234 For the purpose of application of the provisions of Chapter VI, Section 2, in cases where an order of commencement of bankruptcy proceedings is made against an inherited property, an act conducted by the decedent, an heir, an administrator of the inherited property, liquidator of the inherited property, or an executor with respect to the inherited property is deemed to have been conducted by the bankrupt.

(Avoidance of Provision of Security to Legatees)

Article 235 (1) If an order of commencement of bankruptcy proceedings is made against an inherited property, if an act concerning the provision of security or extinguishment of debt to a legatee would prejudice a bankruptcy creditor who holds a claim that takes precedence over the legatee's claim, the act may be avoided.

(2) The provisions of Article 167, paragraph (2) apply mutatis mutandis when the act set forth in the preceding paragraph is avoided pursuant to the provisions of that paragraph. In such a case, the phrase "that the act would prejudice a bankruptcy creditor" in Article 167, paragraph (2) is deemed to be replaced with "that the act would prejudice a bankruptcy creditor set forth in Article 235, paragraph (1)."

(Distribution of Residual Assets after Avoidance)

Article 236 If an order of commencement of bankruptcy proceedings is made against an inherited property, if an act conducted by the decedent, an heir, an

administrator of an inherited property, liquidator of the inherited property, or an executor with regard to the inherited property is avoided, a bankruptcy trustee must, after making payment to the inheritance obligee, distribute residual assets to the other party to the avoided act, in accordance with the value of the other party's right.

(Petition for Discontinuance of Bankruptcy Proceedings with the Consent of Bankruptcy Creditors)

Article 237 (1) A petition referred to in Article 218, paragraph (1) with regard to bankruptcy of an inherited property is to be filed by an heir.

(2) If there are two or more heirs, each heir may file the petition referred to in the preceding paragraph.

Section 2 Bankruptcy of Heirs

(Effect of Unconditional Acceptance of Inheritance or Renunciation of Inheritance by the Bankrupt)

Article 238 (1) If inheritance commences with regard to the bankrupt before an order of commencement of bankruptcy proceedings is made, unconditional acceptance of inheritance made by the bankrupt after an order of commencement of bankruptcy proceedings is made has the effect of qualified acceptance vis-à-vis the bankruptcy estate. The same applies to renunciation of inheritance made by the bankrupt after an order of commencement of bankruptcy proceedings is made.

(2) A bankruptcy trustee may, notwithstanding the provisions of the second sentence of the preceding paragraph, acknowledge the effect of renunciation of inheritance. In such a case, a bankruptcy trustee must, within three months after the time when they came to know the fact that inheritance had been renounced, make a statement to the family court to that effect.

(Relationship with the Procedures for Qualified Acceptance or Division of Property)

Article 239 An order of commencement of bankruptcy proceedings against an heir does not preclude qualified acceptance or division of property; provided, however, that if no heir other than the heir in question has the authority to conduct acts necessary for the payment of debts with regard to the inherited property, the procedures for qualified acceptance or division of property is stayed until an order of revocation of the order of commencement of bankruptcy proceedings or an order of discontinuance of bankruptcy proceedings becomes final and binding, or an order of termination of bankruptcy proceedings is made.

(Status of Inheritance Obligees, Legatees, and Heir's Creditors)

Article 240 (1) If an order of commencement of bankruptcy proceedings is made against an heir and a legatee may, even when division of property is made or an order of commencement of bankruptcy proceedings is made against the inherited property, participate in the bankruptcy proceedings with regard to the whole amount of their claims.

(2) If an order of commencement of bankruptcy proceedings is made against an heir and an order of commencement of bankruptcy proceedings is made against the inherited property, with regard to the heir's bankruptcy estate, claims held by the heir's creditors has precedence over claims held by an inheritance obligee and a legatee.

(3) If an order of commencement of bankruptcy proceedings is made against an heir based on a petition to commence bankruptcy proceedings filed within the period prescribed in Article 225, claims held by the heir's creditors with regard to the heir's own property, have precedence over claims held by an inheritance obligee and a legatee, and claims held by an inheritance obligee and a legatee with regard to the inherited property, have precedence over claims held by the heir's creditors.

(4) If an order of commencement of bankruptcy proceedings is made against an heir and the heir has made qualified acceptance, an inheritance obligee and a legatee may not exercise their rights over the heir's own property as bankruptcy creditors. The same applies when unconditional acceptance of inheritance has the effect of qualified acceptance pursuant to the provisions of Article 238, paragraph (1).

(Payment Received by Inheritance Obligees in the Procedures for Qualified Acceptance or Division of Property)

Article 241 (1) An inheritance obligee or a legatee may, even when they, by exercising their rights in the procedures for qualified acceptance or division of property, have received payment of their bankruptcy claims after an order of commencement bankruptcy proceedings is made against an heir, participate in bankruptcy proceedings with regard to the amount of the claims at the time before receiving the payment. The same applies when an heir's creditor, by exercising their right in the procedure for division of property, has received payment of their bankruptcy claim after an order of commencement of bankruptcy proceedings is made against the heir.

(2) The inheritance obligee or legatee, or heir's creditor referred to in the preceding paragraph may not receive a distribution through bankruptcy proceedings until any other bankruptcy creditor with the same priority as them receives a distribution of the same proportion of payment they have received (if

there are two or more heirs, the payment is limited to the part corresponding to the inheritance share of the heir who has received the order of commencement of bankruptcy proceedings; the same applies in the following paragraph).

- (3) The inheritance obligee or legatee, or heir's creditor referred to in paragraph (1) may not exercise their voting rights with regard to the amount of the claims for which they received payment under the preceding paragraph.

(Administration and Disposal of Inherited Property after Qualified Acceptance or Division of Property)

Article 242 (1) If, after an order of commencement of bankruptcy proceedings is made against an heir, the heir has made qualified acceptance or division of property has been conducted with regard to the heir, a bankruptcy trustee must administer and dispose of the inherited property separately from the heir's own property. The same applies if an order of commencement of bankruptcy proceedings is made against an heir after qualified acceptance was made or division of property was conducted.

- (2) If there are any residual assets after a bankruptcy trustee has completed the administration and disposal of the inherited property pursuant to the provisions of the preceding paragraph, the part of the residual assets that should belong to the heir is deemed to be the heir's own property. In such a case, a bankruptcy trustee must supplement the bankruptcy estate's inventory of assets and balance sheet with regard to the residual assets.
- (3) The provisions of the first sentence of paragraph (1) and the preceding paragraph apply *mutatis mutandis* if unconditional acceptance has the effect of qualified acceptance pursuant to the provisions of Article 238, paragraph (1) and the case referred to in Article 240, paragraph (3).

Section 3 Bankruptcy of Legatee

(Bankruptcy of Universal Legatee)

Article 243 The provisions of the preceding Section apply *mutatis mutandis* if an order of commencement of bankruptcy proceedings is made against a universal legatee.

(Acceptance or Renunciation of Particular Legacy)

- Article 244 (1) If a particular legacy was given to a bankrupt before an order of commencement of bankruptcy proceedings is made, when the bankrupt has not accepted or renounced the legacy by the time the order is made, a bankruptcy trustee may accept or renounce the legacy on behalf of the bankrupt.
- (2) The provisions of Article 987 of the Civil Code apply *mutatis mutandis* in the

case referred to in the preceding paragraph.

Chapter X-2 Special Provisions Concerning Bankruptcy of Trust Property

(Jurisdiction over a Bankruptcy Case Relating to Trust Property)

Article 244-2 (1) A petition to commence bankruptcy proceedings pursuant to the provisions of this Act against trust property may be filed only if property that belongs to the trust property or the trustee's address is in Japan.

(2) A bankruptcy case relating to trust property is subject to the jurisdiction of the district court that has jurisdiction over the trustee's domicile (if there are two or more trustees, the domicile of any of the trustees).

(3) If there is no court with jurisdiction pursuant to the provisions of the preceding paragraph, the bankruptcy case relating to the trust property is subject to the jurisdiction of the district court that has jurisdiction over the locality of the property that belongs to the trust property (for a claim, the place where demand by litigation may be made).

(4) For the purpose of application of the provisions of Article 5, paragraphs (8) and (9), and Article 7, item (v) to a bankruptcy case relating to the trust property, the term "paragraphs (1) and (2)" in Article 5, paragraphs (8) and (9) is deemed to be replaced with "Article 244-2 ,paragraphs (2) and (3)," and the term "paragraph (1) or (2) of that Article" in Article 7, item (v) is deemed to be replaced with "Article 244-2 ,paragraph (2) or (3)."

(5) If two or more district courts have jurisdiction over a bankruptcy case relating to the trust property pursuant to the provisions of the preceding three paragraphs, the bankruptcy case is subject to the jurisdiction of the district court with which the first petition to commence bankruptcy proceedings is filed.

(Grounds for Commencement of Bankruptcy Proceedings against Trust Property)

Article 244-3 For the purpose of application of Article 15, paragraph (1) to trust property, the term "unable to pay debts" in Article 15, paragraph (1) is deemed to be replaced with "unable to pay debts or insolvent (meaning the condition in which the trustee is unable to make full payment on the obligation covered by the trust property with property that comes under trust property)."

(Petition to Commence Bankruptcy Proceedings)

Article 244-4 (1) In addition to a person who holds a trust claim (meaning a trust claim prescribed in Article 21, paragraph (2), item (ii) of the Trust Act; the same applies in item (i) of the following paragraph and Article 244-7) or a beneficiary, the trustee, or the administrator of trust property, the incorporated trust property administrator, or the administrator referred to in

Article 170, paragraph (1) of that Act (hereinafter collectively referred to as the "trustee, etc.") may file a petition to commence bankruptcy proceedings against the trust property.

- (2) When a person set forth in each of the following items files a petition to commence bankruptcy proceedings against trust property, they must make a prima facie showing of the fact specified in the respective items:
 - (i) a person who holds a trust claim or a beneficiary: the existence of the trust claim or beneficial claim held by the person and the fact constituting the cause for the commencement of bankruptcy proceedings against the trust property; and
 - (ii) the trustee, etc.: the fact constituting the cause for the commencement of bankruptcy proceedings against the trust property.
- (3) The provisions of item (ii) of the preceding paragraph do not apply when there is only one trustee, etc. or when there are two or more trustees, etc. and the petition to commence bankruptcy proceedings is filed by all of the trustees, etc.
- (4) Even after the termination of the trust, a petition to commence bankruptcy proceedings may be filed against the trust property, until the distribution of its residual assets is completed.

(Scope of Bankruptcy Estates)

Article 244-5 If an order of commencement of bankruptcy proceedings is made against trust property, any and all of the property that comes under trust property at the time of commencement of bankruptcy proceedings (irrespective of whether or not it exists in Japan) is to constitute the bankruptcy estate.

(Obligation of Explanation by Trustees)

Article 244-6 (1) If an order of commencement of bankruptcy proceedings is made against trust property, the following persons must, upon the request of a bankruptcy trustee or creditors committee, or a request based on a resolution at a creditor meeting, give necessary explanation concerning bankruptcy:

- (i) the trustee, etc.; and
 - (ii) the accounting auditor (meaning an accounting auditor prescribed in Article 248, paragraph (1) or (2) of the Trust Act; hereinafter the same applies in this Chapter).
- (2) The provisions of the preceding paragraph apply mutatis mutandis to a person who was the person set forth in each item of that paragraph.
 - (3) The provisions of Article 37 and Article 38 apply mutatis mutandis to a trustee, etc. (limited to a trustee, etc. who is an individual) if an order of commencement of bankruptcy proceedings is made against the trust property.
 - (4) The provisions of Article 41 apply mutatis mutandis to a trustee, etc. if an order of commencement of bankruptcy proceedings is made against the trust

property.

(Status of Trust Creditors and Beneficiaries)

- Article 244-7 (1) If an order of commencement of bankruptcy proceedings is made against trust property, a person who holds a trust claim and beneficiaries may, even when an order of commencement of bankruptcy proceedings is made against the trustee, participate in the bankruptcy proceedings with regard to the whole amount of the claim that each of them holds at the time of commencement of bankruptcy proceedings.
- (2) If an order of commencement of bankruptcy proceedings is made against the trust property, trust claims have precedence over beneficial claims.
- (3) Beneficial claims and consensually-subordinated bankruptcy claims have the same priority; provided, however, that consensually-subordinated bankruptcy claims may be given preference over beneficial claims by the provisions of the terms of trust.

(Status of Trustees)

Article 244-8 A right held by a trustee pursuant to the provisions of Article 49, paragraph (1) of the Trust Act (including as applied *mutatis mutandis* pursuant to Article 53, paragraph (2) and Article 54, paragraph (4) of that Act) is deemed to be a monetary claim, in its relation to bankruptcy proceedings against trust property.

(Status of Creditors Related to Obligations Covered Only by the Trustee's Own Property)

Article 244-9 If an order of commencement of bankruptcy proceedings is made against trust property, persons who hold claims pertaining to the obligation covered only by the trustee's own property, etc. (meaning obligation covered only by the trustee's own property, etc. as prescribed in Article 22, paragraph (1) of the Trust Act) may not exercise their rights as bankruptcy creditors.

(Application of the Provisions on the Right of Avoidance)

- Article 244-10 (1) For the purpose of application of the provisions of Chapter VI, Section 2, if an order of commencement of bankruptcy proceedings is made against trust property, an act conducted by a trustee, etc. with respect to the trust property is deemed to have been conducted by the bankrupt.
- (2) For the purpose of application of the provisions of Article 161, paragraph (1) in the case referred to in the preceding paragraph, if the other party to the act is a trustee, etc. or an accounting auditor, that other party is presumed to have known, at the time of the act, that the trustee, etc. had the intention of concealing or carrying out other disposal referred to in Article 161, paragraph

- (1), item (ii).
- (3) For the purpose of application of the provisions of Article 162, paragraph (1), item (i) in the case referred to in paragraph (1), if the creditor is a trustee, etc. or an accounting auditor, the creditor is presumed to have known, at the time of the act set forth in Article 162, paragraph (1), item (i), either of the facts specified in sub-item (a) or (b) of Article 162, paragraph (1), item (i) in accordance with the category of cases set forth in sub-item (a) or (b) (in the case set forth in sub-item (a), both of the facts that the bankrupt was unable to pay debts and that the bankrupt suspended payments).
- (4) For the purpose of application of the provisions of Article 168, paragraph (2) and Article 170-2, paragraph (2) in the case prescribed in paragraph (1), if the other party to the act is a trustee, etc. or an accounting auditor, the other party is presumed to have known, at the time of the act, that the trustee, etc. had the intention of concealing or carrying out other disposal prescribed in these provisions.

(Authority of Bankruptcy Trustee)

- Article 244-11 (1) If an order of commencement of bankruptcy proceedings is made against trust property, the following acts are conducted by a bankruptcy trustee:
- (i) exercising of the right to rescind under the provisions of Article 27, paragraph (1) or (2) of the Trust Act;
 - (ii) ratification under the provisions of Article 31, paragraph (5) of the Trust Act;
 - (iii) exercising of the right to rescind under the provisions of Article 31, paragraph (6) or (7) of the Trust Act;
 - (iv) exercising of the right under the provisions of Article 32, paragraph (4) of the Trust Act;
 - (v) pursuing the liability under the provisions of Article 40 or Article 41 of the Trust Act; and
 - (vi) exemption from liability under the provisions of Article 42 of the Trust Act (including as applied mutatis mutandis pursuant to Article 254, paragraph (3) of that Act);
 - (vii) pursuing the liability under the provisions of Article 226, paragraph (1), Article 228, paragraph (1), or Article 254, paragraph (1) of the Trust Act.
- (2) The provisions of the preceding paragraph apply mutatis mutandis to a provisional administrator.
- (3) The provisions of Article 177 apply mutatis mutandis to a provisional order on the property of a trustee, etc. or an accounting auditor if an order of commencement of bankruptcy proceedings is made against the trust property, and the provisions of Articles 178 through 181 apply mutatis mutandis to an

assessment of a claim for compensation for loss or for restoration based on the liability of the trustee, etc. or accounting auditor in the bankruptcy proceedings against the trust property.

(Provisional Administration Orders)

Article 244-12 For the purpose of application of the provisions of Chapter III, Section 2, if a petition to commence bankruptcy proceedings is filed against the trust property, the phrase "when a debtor (limited to a corporation; hereinafter the same applies in this Section, Article 148, paragraph (4), and Article 152, paragraph (2)) administers and disposes of its property" in Article 91, paragraph (1) and the term "the debtor's property" in Article 91, paragraph (1), Article 93, paragraph (1), and Article 96, paragraph (2) are deemed to be replaced with "property that comes under trust property."

(Petitions for Discontinuance of Bankruptcy Proceedings with the Consent of Bankruptcy Creditors)

Article 244-13 (1) A petition referred to in Article 218, paragraph (1) with regard to bankruptcy of trust property is filed by a trustee, etc.
(2) If there are two or more trustees, etc., each trustee, etc. may file the petition referred to in the preceding paragraph.
(3) When filing a petition referred to in paragraph (1) for bankruptcy of trust property, the petitioner must perform the procedure for maintaining the trust in advance by complying with the provisions concerning the modification of a trust.

Chapter XI Special Provisions When Foreign Insolvency Proceedings Exist

(Cooperation with Foreign Trustees)

Article 245 (1) If foreign insolvency proceedings taken against the bankrupt exists (meaning proceedings commenced in a foreign state, which are equivalent to bankruptcy proceedings or rehabilitation proceedings; hereinafter the same applies in this Chapter), a bankruptcy trustee may request a foreign trustee (meaning a person who has a right to administer and dispose of the bankrupt's property in the foreign insolvency proceedings; hereinafter the same applies in this Chapter) to provide cooperation and information necessary for the proper implementation of bankruptcy proceedings.
(2) In the case prescribed in the preceding paragraph, a bankruptcy trustee is to endeavor to provide a foreign trustee with cooperation and information necessary for the proper implementation of foreign insolvency proceedings.

(Authority of Foreign Trustees)

- Article 246 (1) Foreign trustees may file a petition to commence bankruptcy proceedings against a debtor.
- (2) Foreign trustees must, when filing the petition referred to in the preceding paragraph, make a prima facie showing of the fact constituting the grounds for the commencement of bankruptcy proceedings.
- (3) Foreign trustees may attend a creditor meeting on the date set for the meeting and state their opinions in bankruptcy proceedings against the bankrupt.
- (4) If a foreign trustee has filed a petition to commence bankruptcy proceedings pursuant to the provisions of paragraph (1), a notice must be given to the foreign trustee when a comprehensive stay order is issued or an order to change or revoke that order is made, the main text of the respective order; when an order of commencement of bankruptcy proceedings is made, the particulars for which a public notice should be made pursuant to the provisions of Article 32, paragraph (1); when there is a change to the particulars set forth in item (ii) or (iii) of Article 32, paragraph (1), a statement to that effect; when an order to revoke the order of commencement of bankruptcy proceedings becomes final and binding, the main text of the order.

(Mutual Participation in Proceedings)

- Article 247 (1) A foreign trustee may represent a bankruptcy creditor who has not filed a notification of claim but has participated in foreign insolvency proceedings against the bankrupt, and participate in bankruptcy proceedings against the bankrupt; provided, however, that this is limited to when the foreign trustee has the authority to do so pursuant to laws and regulations of the foreign state concerned.
- (2) A bankruptcy trustee may represent a holder of filed bankruptcy claim but has not participated in foreign insolvency proceedings, and participate in the foreign insolvency proceedings.
- (3) A bankruptcy trustee may, when they have participated in foreign insolvency proceedings under the provisions of the preceding paragraph, perform any and all acts involved in the foreign insolvency proceedings in the interest of the bankruptcy creditor whom they represented pursuant to the provisions of that paragraph; provided, however, that delegation of authority from the bankruptcy creditor is required in order to withdraw a notification of a claim filed, seek a settlement, or perform any other act that is likely to prejudice the rights of bankruptcy creditors.

Chapter XII Discharge Proceedings and Restoration of Rights
Section 1 Discharge Proceedings

(Petitions for Grant of Discharge)

Article 248 (1) A debtor who is an individual (or the bankrupt after an order of commencement bankruptcy proceedings is made; hereinafter the same applies in this Section, except for paragraph (4)) may, within a period from the day on which a petition to commence bankruptcy proceedings is filed until one month has elapsed since the day on which an order of commencement of bankruptcy proceedings becomes final and binding, file a petition to the bankruptcy court for grant of discharge.

(2) When the debtor referred to in the preceding paragraph (hereinafter referred to as the "debtor" in this Section) is unable to file a petition for grant of discharge within the period prescribed in that paragraph due to grounds not attributable to them, they may file the petition only within one month after the grounds cease to exist.

(3) When filing a petition for grant of discharge, the petitioner must submit a list of holders of dischargeable claims stating the particulars specified by the Rules of the Supreme Court; provided, however, that if it is not possible to submit a list of holders of dischargeable claims at the same time as filing the petition, it is sufficient to submit the list without delay after filing the petition.

(4) If the debtor has filed a petition to commence bankruptcy proceedings, the debtor is deemed to have filed a petition for grant of discharge at the same time as filing the petition; provided, however, that this does not apply if the debtor, upon filing the petition to commence bankruptcy proceedings, has manifested their intention to the contrary.

(5) When a petition for grant of discharge is deemed to have been filed pursuant to the provisions of the main clause of the preceding paragraph, the list of creditors referred to in Article 20, paragraph (2) is deemed to be the list of holders of dischargeable claims referred to in the main clause of paragraph (3).

(6) If the debtor has filed a petition for grant of discharge, they may not file a petition referred to in Article 218, paragraph (1) or a petition to commence rehabilitation proceedings.

(7) If the debtor has filed any of the petitions set forth in the following items, they may not file a petition for grant of discharge until the order specified in the respective items becomes final and binding, notwithstanding the provisions of paragraph (1) or (2):

(i) a petition referred to in Article 218, paragraph (1): an order dismissing the petition; and

(ii) a petition to commence rehabilitation proceedings: an order dismissing the petition, order of discontinuance of rehabilitation proceedings, or order of disconfirmation of the rehabilitation plan.

(Prohibition of Compulsory Execution)

Article 249 (1) If a petition for grant of discharge is filed and an order of discontinuance of bankruptcy proceedings under the provisions of Article 216, paragraph (1) is made, an order of discontinuance of bankruptcy proceedings made under the provisions of Article 217, paragraph (1) has become final and binding, or an order of termination of bankruptcy proceedings under the provisions of Article 220, paragraph (1) is made, until a judicial decision on the petition becomes final and binding, it is not allowed to enforce a compulsory execution, provisional seizure, provisional disposition or disposal of foreign tax delinquency based on a bankruptcy claim, or exercise a general statutory lien or auction on the grounds of a right of retention (excluding a right of retention under the provisions of the Commercial Code or the Companies Act) against the bankrupt's property (hereinafter referred to as "compulsory execution, etc. based on a bankruptcy claim" in this Article), or to file a petition for a property disclosure procedure or procedure for acquiring information from a third party based on a bankruptcy claim or make a collection of national tax delinquency (excluding a disposal of foreign tax delinquency) against the bankrupt's property, and any procedure for compulsory execution, etc. or disposition based on a bankruptcy claim already initiated against the bankrupt's property and property disclosure procedure and procedure for acquiring information from a third party based on a bankruptcy claim already initiated against the bankrupt is to be stayed.

(2) When an order of grant of discharge becomes final and binding, the procedure for compulsory execution, etc. based on a bankruptcy claim or disposition, and the property disclosure procedure and procedure for acquiring information from a third party based on a bankruptcy claim which have been stayed pursuant to the provisions of the preceding paragraph cease to be effective.

(3) In the case referred to in paragraph (1), the prescription period does not expire with regard to a bankruptcy claim set forth in each of the following items, until the day on which two months have elapsed since the day following the day on which the order specified in the respective items becomes final and binding:

- (i) a claim set forth in each item of Article 253, paragraph (1): an order on a petition for grant of discharge; and
- (ii) a bankruptcy claim other than the claim set forth in the preceding item: an order dismissing a petition to grant discharge or order of non-grant of discharge.

(Investigations and Reports on Discharge)

Article 250 (1) The court may have a bankruptcy trustee conduct an investigation on the existence or nonexistence of any of the grounds set forth in the items of Article 252, paragraph (1) or the circumstances to be considered

when determining whether or not to make an order grant of discharge, and report the results of the investigation.

- (2) The bankrupt must cooperate in investigations on the particulars prescribed in the preceding paragraph conducted by the court or investigation conducted by a bankruptcy trustee pursuant to the provisions of that paragraph.

(Statements of Opinion on Discharge)

- Article 251 (1) When a petition to grant discharge is filed, after an order of commencement of bankruptcy proceedings is made, the court must specify a period during which a bankruptcy trustee and bankruptcy creditors (excluding those who hold claims set forth in the items of Article 253, paragraph (1); the same applies in the following paragraph, paragraph (4) of the following Article, and Article 254) may state their opinions to the court with regard to whether or not it is appropriate to make an order to grant discharge to the bankrupt.
- (2) When the court has made an order to specify the period referred to in the preceding paragraph, it must make a public notice of the period and give a notice of the period to a bankruptcy trustee and known bankruptcy creditors.
- (3) The period referred to in paragraph (1) must be at least one month from the day on which the public notice made under the provisions of the preceding paragraph becomes effective.

(Requirements for an Order of Grant of Discharge)

- Article 252 (1) The court makes an order of grant of discharge if the bankrupt does not fall under any of the cases set forth in the following items:
- (i) for the purpose of harming the creditors, the bankrupt has concealed or damaged property that belongs or should belong to the bankruptcy estate, disposed of the property in a manner disadvantageous to creditors or conducted any other act that would unduly reduce the value of the bankruptcy estate;
 - (ii) for the purpose of delaying the commencement of bankruptcy proceedings, the bankrupt has assumed a debt under extremely disadvantageous conditions or purchased goods through a margin transaction and disposed of them under extremely disadvantageous conditions;
 - (iii) for the purpose of giving a special benefit to a specific creditor to whom they are indebted or for harming other creditors, the bankrupt has conducted an act concerning provision of security or extinguishment of debt which is not included in the scope of a debtor's obligation in terms of the act itself or the means or time of performance of the act;
 - (iv) through overspending, gambling, or any other speculative act, the bankrupt has significantly reduced their property or assumed excessive debt;
 - (v) during the period from the day one year before the day on which a petition

- to commence bankruptcy proceedings is filed until the day on which an order of commencement of bankruptcy proceedings is made, the bankrupt, knowing that a fact constituting the grounds for the commencement of bankruptcy proceedings exists, has acquired property through a marginal transaction by fraudulent means so as to make the other party believe that the fact does not exist;
- (vi) the bankrupt has spoliated, forged, or altered books, documents or any other articles concerning the status of their business and property;
 - (vii) the bankrupt has submitted a false list of holders of dischargeable claims (including a list of creditors that is deemed to be a list of holders of dischargeable claims pursuant to the provisions of Article 248, paragraph (5); the same applies in paragraph (1), item (vi) of the following Article);
 - (viii) the bankrupt has refused to give an explanation or given a false explanation in the investigation conducted by the court in bankruptcy proceedings;
 - (ix) the bankrupt, through fraudulent means, has obstructed the duties of a bankruptcy trustee, provisional administrator, bankruptcy trustee representative or provisional administrator representative;
 - (x) if any of the grounds set forth in the following sub-items (a) through (c) exist, a petition for grant of discharge is filed within seven years from the day specified in sub-item (a), (b), or (c), respectively:
 - (a) an order of grant of discharge became final and binding: the day on which the order of grant of discharge became final and binding;
 - (b) a rehabilitation plan for rehabilitation for salaried workers, etc. prescribed in Article 239, paragraph (1) of the Civil Rehabilitation Act (Act No. 225 of 1999) was carried out: the day on which the order of confirmation of the rehabilitation plan became final and binding;
 - (c) an order of discharge prescribed in Article 235, paragraph (1) of the Civil Rehabilitation Act (including as applied mutatis mutandis pursuant to Article 244 of that Act) became final and binding: the day on which the order of confirmation of the rehabilitation plan related to the order of discharge became final and binding; or
 - (xi) the bankrupt has violated the obligation prescribed in Article 40, paragraph (1), item (i), Article 41, or Article 250, paragraph (2) or any other obligation prescribed by this Act.
- (2) Notwithstanding the provisions of the preceding paragraph, even if the bankrupt falls under any of the cases set forth in the items of that paragraph, the court may, when it finds it appropriate to grant a discharge taking into consideration the developments that led to making an order of commencement of bankruptcy proceedings and all other circumstances, make an order of grant of discharge.

- (3) When an order of grant of discharge is made, a court clerk must, pursuant to the provisions of the Rules of the Supreme Court, prepare an electronic or magnetic record recording the main text of the order and record it in a file.
- (4) The court must, when it has made an order of grant of discharge, immediately serve the electronic judgment upon the bankrupt and a bankruptcy trustee and serve the electronic or magnetic record recorded in a file pursuant to the provisions of the preceding paragraph upon bankruptcy creditors. In such a case, the provisions of the main clause of Article 10, paragraph (3) do not apply with regard to the service of an electronic judgment.
- (5) The court must, when it has made an order of non-grant of discharge, immediately serve the electronic judgment upon the bankrupt. In such a case, the provisions of the main clause of Article 10, paragraph (3) do not apply.
- (6) An immediate appeal may be filed against a judicial decision on a petition for grant of discharge.
- (7) Where a judicial decision on the immediate appeal set forth in the preceding paragraph is made, the electronic judgment must be served upon the parties concerned. In such a case, the provisions of the main clause of Article 10, paragraph (3) do not apply.
- (8) An order of grant of discharge does not become effective unless it becomes final and binding.

(Effect of an Order of Grant of Discharge)

Article 253 (1) When an order of grant of discharge becomes final and binding, the bankrupt is discharged from their liabilities for bankruptcy claims, except for distribution in bankruptcy proceedings; provided, however, that this does not apply to the following claims:

- (i) a claim for tax, etc. (excluding a claim for a foreign tax subject to mutual assistance);
- (ii) a claim for damages for a tort that the bankrupt has committed in bad faith;
- (iii) a claim for damages for a tort that harms the life or body of another person which the bankrupt has committed intentionally or by gross negligence (excluding the claim set forth in the preceding item);
- (iv) a claim related to any of the following obligation:
 - (a) the obligation to cooperate and provide mutual assistance between husband and wife under the provisions of Article 752 of the Civil Code;
 - (b) the obligation to share expenses arising from marriage under the provisions of Article 760 of the Civil Code;
 - (c) the obligation concerning the custody of a child under the provisions of Article 766 of the Civil Code (including as applied *mutatis mutandis* pursuant to Article 749, Article 771, and Article 788 of that Code);

- (d) the obligation of support under the provisions of Articles 877 through 880 of the Civil Code;
 - (e) any obligation similar to those set forth in sub-items (a) through (d) above, which are under a contract;
 - (v) a claim of an employee and a claim for return of an employee's deposit, which have arisen from an employment relationship;
 - (vi) a claim that the bankrupt has not stated in the list of holders of dischargeable claims knowing its existence (excluding a claim held by a person who knew that an order of commencement of bankruptcy proceedings against the bankrupt has been made); or
 - (vii) a claim for a fine, etc.
- (2) An order of grant of discharge does not affect any rights held by bankruptcy creditors against the bankrupt's guarantor or any other person who owes debts jointly with the bankrupt and any security provided by persons other than the bankrupt in the interest of bankruptcy creditors.
- (3) If an order of grant of discharge has become final and binding, when there is an electronic schedule of bankruptcy creditors, a court clerk must, pursuant to the provisions of the Rules of the Supreme Court, record in the schedule to the effect that the order of grant of discharge has become final and.
- (4) Notwithstanding the provisions of paragraph (1), the effect of discharge under the provisions of that paragraph with regard to a claim for a foreign tax subject to mutual assistance may be asserted only in relation to the mutual assistance under the provisions of Article 11, paragraph (1) of the Act on Special Provisions for the Enforcement of Tax Treaties, etc.

(Order of Revocation of Discharge)

- Article 254 (1) When a judgment finding the bankrupt guilty for the crime set forth in Article 265 has become final and binding, the court may, upon the petition of a bankruptcy creditor or by its own authority, make an order of revocation of discharge. The same applies when an order of grant of discharge was made due to unlawful means used by the bankrupt, and a bankruptcy creditor has filed a petition for revocation of discharge within one year after the order of grant of discharge was made.
- (2) When an order of revocation of discharge is made, a court clerk must, pursuant to the provisions of the Rules of the Supreme Court, prepare an electronic or magnetic record recording the main text of the order and record it in a file.
- (3) The court must, when it has made an order of revocation of discharge, immediately serve the electronic judgment upon the bankrupt and the petitioner, and serve the electronic or magnetic record recorded in a file pursuant to the provisions of the preceding paragraph upon bankruptcy

creditors. In such a case, with regard to service of the electronic judgment, the provisions of the main clause of Article 10, paragraph (3) do not apply.

- (4) An immediate appeal may be filed against a judicial decision on the petition referred to in paragraph (1) and an order of revocation of discharge by the court's own authority.
- (5) When a judicial decision on the immediate appeal set forth in the preceding paragraph is made, the electronic judgment must be served upon the parties concerned. In such a case, the provisions of the main clause of Article 10, paragraph (3) do not apply.
- (6) When an order of revocation of discharge becomes final and binding, the order of grant of discharge ceases to be effective.
- (7) When an order of revocation of discharge has become final and binding, if there is a person who has acquired a claim against the bankrupt arising from a cause that occurred after the order of grant of discharge was made and before the order of revocation of discharge has become final and binding, the person has the right to receive payment of their claim in preference to other creditors in new bankruptcy proceedings.
- (8) The provisions of paragraph (3) of the preceding Article apply *mutatis mutandis* when an order of revocation of discharge becomes final and binding.

Section 2 Restoration of Rights

(Restoration of Rights)

Article 255 (1) The bankrupt's rights are restored in any of the following cases.

The same applies when an order of restoration of rights referred to in paragraph (1) of the following Article becomes final and binding.

- (i) when an order of grant of discharge has become final and binding;
 - (ii) when an order of discontinuance of bankruptcy proceedings under the provision of Article 218, paragraph (1) has become final and binding;
 - (iii) when an order of confirmation of the rehabilitation plan has become final and binding; or
 - (iv) when ten years have elapsed after an order of commencement of bankruptcy proceedings was made, and the bankrupt has not been given a final and binding judgment of conviction for the crime set forth in Article 265 during this period.
- (2) The effect of restoration of rights under the provision of the preceding paragraph is as provided for by laws and regulations concerning personal qualifications.
 - (3) When an order of revocation of discharge or order of revocation of a rehabilitation plan becomes final and binding, the restoration of rights under the provisions of paragraph (1), item (i) or (iii) cease to be effective from that

time onwards.

(Order of Restoration of Rights)

- Article 256 (1) When the bankrupt is discharged from all of their debts to bankruptcy creditors through payment or any other means, the bankruptcy court must, upon the petition of the bankrupt, make an order of restoration of rights.
- (2) The court must, when the petition referred to in the preceding paragraph is filed, make a public notice to that effect.
- (3) A bankruptcy creditor may, within three months from the day on which the public notice under the provisions of the preceding paragraph becomes effective, state their opinions on the petition set forth in paragraph (1) to the court.
- (4) When a judicial decision on a petition referred to in paragraph (1) is made, a court clerk must, pursuant to the provisions of the Rules of the Supreme Court, prepare an electronic or magnetic record recording the main text of the order and record it in a file.
- (5) The court must, when it has made a judicial decision on the petition referred to in paragraph (1), serve the electronic judgment upon the bankrupt, and serve the electronic or magnetic record recorded in a file pursuant to the provisions of the preceding paragraph upon bankruptcy creditors. In such a case, with regard to service of the electronic judgment, the provisions of the main clause of Article 10, paragraph (3) do not apply.
- (6) An immediate appeal may be filed against a judicial decision on the petition referred to in paragraph (1).
- (7) When a judicial decision on the immediate appeal referred to in the preceding paragraph is made, the electronic judgment must be served upon the parties concerned. In such a case, the provisions of the main clause of Article 10, paragraph (3) do not apply.

Chapter XIII Miscellaneous Provisions

(Commission of Registration in Bankruptcy Proceedings of Corporations)

- Article 257 (1) If an order of commencement of bankruptcy proceedings is made against a debtor that is a corporation, a court clerk must, by their own authority, commission the registry office with jurisdiction over the locality of the head office or principal office of the bankrupt to register the commencement of bankruptcy proceedings without delay; provided, however, that the commission must be made, if the bankrupt is a foreign corporation which is a foreign company, to the registry office with jurisdiction over the place of domicile of its representative person for Japan (limited to one who has a domicile in Japan) (in the case of a foreign company that has business offices

in Japan, the location of each business office), and if the bankrupt is any other foreign corporation, to the registry office with jurisdiction over the locality of each of its offices.

- (2) The registration referred to in the preceding paragraph must include the name and address of each bankruptcy trustee, if permission under the proviso to Article 76, paragraph (1) is granted for independent performance of duties by each bankruptcy trustee, a statement to that effect, and if permission under the proviso to that paragraph is granted for division of duties among bankruptcy trustees, a statement to that effect and the content of the duties assigned to each bankruptcy trustee.
- (3) The provisions of paragraph (1) apply *mutatis mutandis* when there is a change to any of the particulars prescribed in the preceding paragraph.
- (4) When a provisional administration order is issued against the debtor referred to in paragraph (1), a court clerk must, by their own authority, commission the registry office prescribed in that paragraph to make a registration of the provisional administration order without delay.
- (5) The registration referred to in the preceding paragraph must include the name and address of each provisional administrator, if permission set forth in the proviso to Article 76, paragraph (1) as applied *mutatis mutandis* pursuant to Article 96, paragraph (1) is granted for independent performance of duties by each provisional administrator, a statement to that effect, and if permission set forth in the proviso of Article 76, paragraph (1) as applied *mutatis mutandis* pursuant to Article 96, paragraph (1) is granted for division of duties among provisional administrators, a statement to that effect and the content of the duties assigned to each provisional administrator.
- (6) The provisions of paragraph (4) apply *mutatis mutandis* when an order to change or revoke the judicial decision prescribed in that paragraph is made or there is a change to any of the particulars prescribed in the preceding paragraph.
- (7) The provisions of paragraph (1) apply *mutatis mutandis* if, with regard to the bankrupt set forth in that paragraph, an order of revocation of the order of commencement of bankruptcy proceedings or an order of discontinuance of bankruptcy proceedings becomes final and binding or an order termination of bankruptcy proceedings is made.
- (8) The provisions of the preceding paragraphs apply *mutatis mutandis* if an order of commencement of bankruptcy proceedings is made against the trust property of a limited liability trust. In such a case, the phrase "the locality of the head office or principal office of the bankrupt" in paragraph (1) is deemed to be replaced with "the place of administration of affairs (meaning the place of administration of affairs prescribed in Article 216, paragraph (2) of the Trust Act) of the limited liability trust."

(Commission of Registration on Bankruptcy Proceedings of Individuals)

Article 258 (1) If an order of commencement of bankruptcy proceedings is made against a debtor who is an individual, a court clerk must, by their own authority commission a registry office to make a registration of the commencement of bankruptcy proceedings without delay, in the following cases:

- (i) when the court clerk comes to know that there is a registration concerning the bankrupt; or
 - (ii) when the court clerk comes to know that there is a registered right that belongs to the bankruptcy estate.
- (2) The provisions of the preceding paragraph apply mutatis mutandis if, with regard to the bankrupt, an order to revoke the order of commencement of bankruptcy proceedings or an order of discontinuance of bankruptcy proceedings becomes final and binding, or an order of termination of bankruptcy proceedings is made.
- (3) A court clerk must, if any right for which a registration of the commencement of bankruptcy proceedings was made pursuant to the provisions of paragraph (1), item (ii) is determined by the order under Article 34, paragraph (4) as not belonging to the bankruptcy estate, by their own authority, commission cancellation of the registration without delay. The same applies when a bankruptcy trustee has waived the registered right and filed a petition for commission of cancellation of the registration.
- (4) The provisions of paragraph (1), item (ii) (including as applied mutatis mutandis pursuant to paragraph (2)) and the second sentence of the preceding paragraph apply mutatis mutandis if an order of commencement bankruptcy proceedings is made against inherited property or trust property.
- (5) The provisions of paragraph (1), item (ii) apply mutatis mutandis if a provisional administration order is issued on the trust property or if the provisional administration order is changed or revoked.

(Commission of Registration of Provisional Orders)

Article 259 (1) In the following cases, a court clerk must, by their own authority, commission a registration of the provisional order without delay:

- (i) if a provisional order under the provisions of Article 28, paragraph (1) (including as applied mutatis mutandis pursuant to Article 33 paragraph (2)) is issued with respect to a registered right that belongs to a debtor's property.; and
- (ii) if a provisional order under the provisions of Article 171, paragraph (1) (including as applied mutatis mutandis pursuant to paragraph (7) of that Article) or of Article 177, paragraph (1) or (2) (including as applied mutatis

mutandis pursuant to paragraph (7) of that Article) is issued with respect to a registered right.

- (2) The provisions of the preceding paragraph apply mutatis mutandis if the provisional order prescribed in that paragraph is changed or revoked or the provisional order ceases to be effective.

(Registration of Avoidance)

Article 260 (1) When an act constituting the cause of registration is avoided, a bankruptcy trustee must apply for a registration of avoidance. The same applies when a registration is avoided.

- (2) When making a registration on a right pertaining to the registration of avoidance referred to in the preceding paragraph, a registrar must, by their own authority, cancel the following registrations:
- (i) registration of the avoidance in question;
 - (ii) registration arising from the avoided act as the cause of registration, or the avoided registration; and
 - (iii) any subsequent registration made after the registration set forth in the preceding item.
- (3) In the case prescribed in the preceding paragraph, if, after an avoided act was made but before a registration of the avoidance is made, a registration is made with respect to a third party's right (limited to the right whose effect may be asserted in relation to bankruptcy proceedings) the subject matter of which is the right pertaining to the registration set forth in item (ii) of that paragraph, notwithstanding the provisions of that paragraph, a registrar must, by their own authority, cancel the registration of avoidance and make a registration of the transfer of the right pertaining to the registration set forth in that item to the bankrupt.
- (4) When a registration of avoidance referred to in paragraph (1) is made, if, with regard to the bankrupt, an order of revocation of the order of commencement of bankruptcy proceedings or an order of discontinuance of bankruptcy proceedings becomes final and binding, or an order of termination of bankruptcy proceedings is made, a court clerk must, by their own authority, commission cancellation of the registration of avoidance without delay. The same applies if a bankruptcy trustee has waived the right related to the registration set forth in paragraph (2), item (ii) and has filed a petition for commission of cancellation of the registration of avoidance.

(Exclusion from Taxation)

Article 261 Registration and license tax is not imposed on the registrations under the provisions of Article 257 through the preceding Article.

(Application, Mutatis Mutandis to Registered Rights)

Article 262 The provisions of Article 258, paragraph (1), item (ii) and the provisions of that item as applied mutatis mutandis pursuant to paragraph (2) of that Article (including as applied mutatis mutandis pursuant to paragraph (4) of that Article), the provisions of paragraph (3) of that Article (including cases in which the provisions of the second sentence of paragraph (3) of that Article is applied mutatis mutandis pursuant to paragraph (4) of that Article), and the provisions of the preceding three Articles apply mutatis mutandis to the registered rights.

(Stay of Bankruptcy Proceedings Upon Discontinuance of Limitation of Liability Proceedings)

Article 263 If an order of discontinuance of limitation of liability proceedings is made with regard to the limitation of liability proceedings commenced in the interest of the bankrupt, bankruptcy proceedings are stayed until the order becomes final and binding.

(Measures to Be Taken upon Discontinuance of Limitation of Liability Proceedings)

Article 264 (1) If an order of discontinuance of limitation of liability proceedings has become final and binding with regard to the limitation of liability proceedings commenced in the interest of the bankrupt, the court, in the interest of holders of claims under limitation, must specify a period during which a proof of the claims should be filed and a period or date for conducting an investigation of the claims.

(2) The court must make a public notice of the period or date specified under the provisions of the preceding paragraph.

(3) Known holders of claims subject to limitation must be notified of the particulars which should be given a public notice pursuant to the provisions of Article 32, paragraph (1), items (i) and (ii) and the preceding paragraph.

(4) A bankruptcy trustee, the bankrupt, and holders of filed bankruptcy claims must be notified of the particulars which should be given public notice pursuant to the provisions of paragraph (2); provided, however, that if the period or date for conducting an investigation of claims specified under the provisions of paragraph (1) (when the period or date is changed, the changed period or date) is the same as the period or date specified under the provisions of Article 31, paragraph (1), item (iii), notification is not required to be given to holders of filed bankruptcy claims.

(5) The provisions of the preceding three paragraphs apply mutatis mutandis when the period during which a proof of claims should be filed as specified under the provisions of paragraph (1) is changed, the provisions of Article 118,

paragraphs (3) through (5) apply mutatis mutandis when an order to change the period for conducting an investigation of claims specified under the provisions of paragraph (1) is made, the provisions of Article 121, paragraphs (9) through (11) apply mutatis mutandis pursuant when an order to change the date for conducting an investigation of claims specified under the provisions of paragraph (1) is made or an order to postpone or continue the investigation of claims on that date is made. In such cases, the term "a bankruptcy trustee" in Article 118, paragraph (3) and Article 121, paragraph (9) is deemed to be replaced with "holders of filed claims subject to limitation (or known holders of claims subject to limitation before the expiration of the period during which notification of claims should be filed as specified under the provisions of Article 264, paragraph (1)), a bankruptcy trustee," and the term "a bankruptcy trustee" in Article 121, paragraph (10) is deemed to be replaced with "holders of filed claims subject to limitation, a bankruptcy trustee."

(6) The provisions of Article 31, paragraphs (2) and (3) apply mutatis mutandis to the period and date prescribed in paragraph (1).

Chapter XIV Penal Provisions

(Crime of Fraudulent Bankruptcy)

Article 265 (1) A person who, regardless of whether before or after the commencement of bankruptcy proceedings, has conducted any of the following acts for the purpose of harming creditors, is to be punished by imprisonment for not more than ten years or a fine of not more than ten million yen, or both, when an order of commencement of bankruptcy proceedings against the debtor (in the case of bankruptcy of inherited property, the inherited property, and in the case of bankruptcy of trust property, the trust property; the same applies in the following paragraph) becomes final and binding. The same applies to a person who has served as the other party to the act set forth in item (iv) while knowing the purpose, when an order of commencement of bankruptcy proceedings becomes final and binding:

- (i) an act of concealing or damaging the debtor's property (in the case of bankruptcy of inherited property, property that belongs to the inherited property, and in the case of bankruptcy of trust property, property that comes under the trust property; hereinafter the same applies in this Article);
- (ii) an act of faking the transfer of the debtor's property or assumption of debts;
- (iii) an act of altering the existing status of the debtor's property, thereby reducing its value; or
- (iv) an act of disposing of the debtor's property in a manner disadvantageous to creditors, or an act of assuming debts disadvantageous to creditors by the debtor.

(2) Beyond what is prescribed in the preceding paragraph, the same also applies to a person who, knowing that an order of commencement of bankruptcy proceedings is made or a provisional administration order is issued against a debtor, for the purpose of harming creditors, has acquired the debtor's property or has had a third party acquire the property, without the consent of a bankruptcy trustee or any other legitimate grounds.

(Crime of Providing Security to Specific Creditors)

Article 266 If a debtor (in the case of bankruptcy of inherited property, including an heir, administrator of the inherited property, liquidator of the inherited property, or executor, and in the case of bankruptcy of trust property, including the trustee, etc.; hereinafter the same applies in this Article), regardless of whether before or after the commencement of bankruptcy proceedings, with regard to debt to a specific creditor, has for the purpose of harming other creditors conducted an act concerning the provision of security or extinguishment of debt that is not included in the scope of the debtor's obligation in terms of the act itself or the means or time of performance of the act, and an order of commencement of bankruptcy proceedings has become final and binding, the debtor is to be punished by imprisonment for not more than five years or a fine of not more than five million yen, or both.

(Crime of Special Breach of Trust by Bankruptcy Trustees)

Article 267 (1) When a bankruptcy trustee, provisional administrator, bankruptcy trustee representative, or provisional administrator representative has, for the purpose of promoting their own interest or the interest of a third party, or inflicting damage on creditors, committed an act in breach of their duties and caused financial loss to creditors, the person is to be punished by imprisonment for not more than ten years or a fine of not more than ten million yen, or both.

(2) When a bankruptcy trustee or provisional administrator is a corporation, the provisions of the preceding paragraph apply to the officers or employees who perform the duties of a bankruptcy trustee or provisional administrator.

(Crime of Refusal of Explanation or Inspection)

Article 268 (1) A person who, in violation of the provisions of Article 40, paragraph (1) (including as applied mutatis mutandis pursuant to paragraph (2) of that Article), Article 230, paragraph (1) (including as applied mutatis mutandis pursuant to paragraph (2) of that Article) or Article 244-6, paragraph (1) (including as applied mutatis mutandis pursuant to paragraph (2) of that Article), has refused to give an explanation or has given a false explanation is to be punished by imprisonment for not more than three years or a fine of not

more than three million yen, or both. The same applies to a person who, in violation of the provisions of Article 40, paragraph (1) (including as applied mutatis mutandis pursuant to paragraph (2) of that Article) as applied mutatis mutandis pursuant to Article 96, paragraph (1), has refused to give an explanation or has given a false explanation.

- (2) The provisions of the first sentence of the preceding paragraph also apply when a representative, agent, employee, or other worker (hereinafter referred to as a "representative, etc." in this paragraph and paragraph (4)) of a person set forth in Article 40, paragraph (1), items (ii) through (v) or a person who was a person set forth in these items, or of a person set forth in each item of Article 230, paragraph (1) (excluding an heir) or person who was a person set forth in item (ii) or (iii) of Article 230, paragraph (1) (excluding an heir), or of a person set forth in each item of Article 244-6, paragraph (1) or person who was a person set forth in these items (hereinafter each of those persons is referred to as a "person with a duty to explain" in this paragraph), in connection with the business of the person with a duty to explain, in violation of the provisions of Article 40, paragraph (1) (including as applied mutatis mutandis pursuant to paragraph (2) of that Article), Article 230, paragraph (1) (including as applied mutatis mutandis pursuant to paragraph (2) of that Article), or Article 244-6, paragraph (1) (including as applied mutatis mutandis pursuant to paragraph (2) of that Article), has refused to give an explanation or has given a false explanation. The same applies when a representative, etc. of a person with a duty to explain, in connection with the business of the person with a duty to explain, in violation of the provisions of Article 40, paragraph (1) (including as applied mutatis mutandis pursuant to paragraph (2) of that Article) as applied mutatis mutandis pursuant to Article 96, paragraph (1), has refused to give an explanation or has given a false explanation.
- (3) The provisions of the first sentence of paragraph (1) also apply when the bankrupt has refused an inspection under the provisions of Article 83, paragraph (1) (including as applied mutatis mutandis pursuant to Article 96, paragraph (1)), when an order of commencement of bankruptcy proceedings is made against the inherited property and a person set forth in Article 230, paragraph (1), item (ii) or (iii) has refused an inspection under the provisions of Article 83, paragraph (1), or when an order of commencement of bankruptcy proceedings is made against the trust property and the trustee, etc. has refused an inspection under the provisions of Article 83, paragraph (1) (including as applied mutatis mutandis pursuant to Article 96, paragraph (1)).
- (4) The provisions of the first sentence of paragraph (1) also apply when a representative, etc. of the bankrupt's subsidiary company, etc. prescribed in Article 83, paragraph (2) (including one that is deemed to be the bankrupt's subsidiary company, etc. under paragraph (3) of that Article; hereinafter the

same applies in this paragraph), in connection with the business of the bankrupt's subsidiary company, etc., has refused to give an explanation under the provisions of paragraph (2) of that Article (including as applied mutatis mutandis pursuant to Article 96, paragraph (1); hereinafter the same applies in this paragraph) or has given a false explanation, or has refused an inspection under the provisions of Article 83, paragraph (2).

(Crime of Refusal of Disclosure of Important Property)

Article 269 When the bankrupt (in the case of bankruptcy of trust property, the trustee, etc.) has refused to submit a document pursuant to the provisions of Article 41 (including as applied mutatis mutandis pursuant to Article 244-6, paragraph (4)) or has submitted false documents to the court, the person is to be punished by imprisonment for not more than three years or a fine of not more than three million yen, or both.

(Crime of Spoliation of Objects Concerning the Status of Business and Property)

Article 270 A person who, regardless of whether before or after the commencement of bankruptcy proceedings, for the purpose of harming creditors, has spoliated, forged, or altered books, documents or any other objects concerning the status of a debtor's business and property (in the case of bankruptcy of the inherited property, property that belongs to the inherited property, and in the case of bankruptcy of trust property, property that comes under the trust property) is to be punished by imprisonment for not more than three years or a fine of not more than three million yen, or both, when an order of commencement of bankruptcy proceedings against the debtor (in the case of bankruptcy of the inherited property, the inherited property, and in the case of bankruptcy of trust property, the trust property) becomes final and binding. The same applies to a person who has spoliated, forged, or altered books concerning the bankruptcy estate closed pursuant to the provisions of Article 155, paragraph (2).

(Crime of Refusal of Explanation in Interrogations)

Article 271 When a debtor, in an interrogation concerning a petition to commence bankruptcy proceedings (excluding those filed by persons other than the debtor) or petition for grant of discharge, has refused to give an explanation with regard to the particulars for which the court has required an explanation, or has given a false explanation, the person is to be punished by imprisonment for not more than three years or a fine of not more than three million yen, or both.

(Crime of Obstruction of Duties against Bankruptcy Trustees)

Article 272 A person who has, by the use of fraudulent means or force, obstructed the duties of a bankruptcy trustee, provisional administrator, bankruptcy trustee representative, or provisional administrator representative, is to be punished by imprisonment for not more than three years or a fine of not more than three million yen, or both.

(Crime of Acceptance of Bribes)

Article 273 (1) When a bankruptcy trustee, provisional administrator, bankruptcy trustee representative, or provisional administrator representative (referred to as a "bankruptcy trustee, etc." in the following paragraph), in connection with their duties, has accepted, solicited or promised to accept a bribe, the person is to be punished by imprisonment for not more than three years or a fine of not more than three million yen, or both.

(2) In the case referred to in the preceding paragraph, when the bankruptcy trustee, etc. has agreed to perform an act in response to an unlawful request, the person is to be punished by imprisonment for not more than five years or a fine of not more than five million yen, or both.

(3) If a bankruptcy trustee or provisional administrator is a corporation, when its officer or employee who performs the duties of a bankruptcy trustee or provisional administrator has, in connection with the duties of a bankruptcy trustee or provisional administrator, accepted, solicited or promised to accept a bribe, the person is to be punished by imprisonment for not more than three years or a fine of not more than three million yen, or both. The same applies if a bankruptcy trustee or provisional administrator is a corporation, and its officer or employee has, in connection with the duties of a bankruptcy trustee or provisional administrator, had the bankruptcy trustee or provisional administrator accept or solicit or promise to accept a bribe.

(4) In the case referred to in the preceding paragraph, when the officer or employee has agreed to perform an act in response to an unlawful request, the person is to be punished by imprisonment for not more than five years or a fine of not more than five million yen, or both.

(5) Where a bankruptcy creditor or bankruptcy creditors' representative or their agent, officer or employee, in connection with the exercise of a voting right on the date of a creditors meeting or exercise of a voting right by voting by document, etc. prescribed in Article 139, paragraph (2), item (ii), has accepted, solicited or promised to accept a bribe while agreeing to perform an act in response to an unlawful request, the person is to be punished by imprisonment for not more than five years or a fine of not more than five million yen, or both.

(6) In the cases referred to in the preceding paragraphs, a bribe accepted by the offender or by the bankruptcy trustee or provisional administrator who is a

corporation is to be confiscated. If the whole or part of the bribe cannot be confiscated, an amount equivalent to its value is to be collected.

(Crime of Offering a Bribe)

Article 274 (1) A person who has given, offered or promised to offer a bribe prescribed in paragraph (1) or (3) of the preceding Article is to be punished by imprisonment for not more than three years or a fine of not more than three million yen, or both.

(2) A person who has given, offered or promised to offer a bribe prescribed in paragraph (2), (4), or (5) of the preceding Article is to be punished by imprisonment for not more than five years or a fine of not more than five million yen, or both.

(Crime of Forcibly Demanding a Meeting with the Bankrupt)

Article 275 A person who, for the purpose of forcing the bankrupt (limited to a bankrupt who is an individual, or in the case of bankruptcy of the inherited property, an heir; hereinafter the same applies in this Article) or their relative or any other person to pay a bankruptcy claim (after the closing of discharge proceedings, limited to those discharged; hereinafter the same applies in this Article), or for the purpose of forcing the bankrupt's relative or any other person to guarantee a bankruptcy claim, has forcibly demanded a meeting with the bankrupt or their relative or any other person, or intimidated any of these persons is to be punished by imprisonment for not more than three years or a fine of not more than three million yen, or both.

(Crimes Committed Outside Japan)

Article 276 (1) The crimes referred to in Article 265, Article 266, Article 270, Article 272, and Article 274 are governed by the provisions of Article 2 of the Penal Code (Act No. 45 of 1907).

(2) The crimes referred to in Article 267 and Article 273 (excluding paragraph (5)) are governed by the provisions of Article 4 of the Penal Code.

(3) The crime set forth in Article 273, paragraph (5) also applies to a person who has committed the crime referred to in that paragraph outside Japan.

(Dual Criminal Liability Provision)

Article 277 When a representative of a corporation, or an agent, employee, or any other worker of a corporation or individual, in connection with the business or property of the corporation or individual, has committed a violation of Article 265, Article 266, Article 268 (excluding paragraph (1)), Articles 269 through 272, Article 274 or 275, not only is the offender punished but also the corporation or individual is punished by a fine prescribed in the respective

Articles.