

Act on Fidelity Guarantee

(Act No. 42 of April 1, 1933)

Article 1 A fidelity guarantee contract that promises to compensate an employer for damage caused by an act of their employee for an indefinite period, regardless of its name, such as underwriting or guarantee, is effective for three years from the date of its establishment; provided, however, that a fidelity guarantee contract of an industrial or commercial apprentice is effective for five years.

Article 2 (1) The period of a fidelity guarantee contract may not exceed five years. When a longer period is prescribed, that period is shortened to five years. (2) A fidelity guarantee contract may be renewed; provided, however, that the period may not exceed five years from the time of renewal.

Article 3 An employer must notify the guarantor without delay in the following cases:

- (i) When the employee has been found to be unfit for, or to have acted in a dishonest manner in the course of their duties, and it has become known that this is likely to cause the guarantor to become liable;
- (ii) When the employee's duties or place of assignment are changed, thereby increasing the liability of the guarantor, or making the supervision of the employee by the guarantor difficult.

Article 4 Having been notified as referred to in the preceding Article, a guarantor may effect a prospective cancellation of the contract. The same applies when the guarantor personally comes to know that a fact as referred to in item (i) or (ii) of the preceding Article exists.

Article 5 In determining the liability of a guarantor for compensation for loss or damage and the amount of the compensation, the court takes into account whether or not the employer was negligent in terms of the supervision of the employee, the grounds that led the guarantor to provide the fidelity guarantee and the degree of care taken in doing so, changes in the duties or personal circumstances of the employee, and all other circumstances.

Article 6 Any special provisions contrary to the provisions of this Act and that are disadvantageous to a guarantor, are to be null and void.

Supplementary Provisions [Extract]

- (1) The effective date of this Act is specified by Imperial Order.