

Civil Enforcement Act

(Act No. 4 of March 30, 1979)

Chapter I General Provisions (Article 1 through Article 21)

Chapter II Judicial Enforcement

Section 1 General Provisions (Article 22 through Article 42)

Section 2 Judicial Enforcement of Claims for Payment of Money

Subsection 1 Judicial Enforcement Under the Provisions of Against
Immovable Property

Division 1 General Rules (Article 43 and Article 44)

Division 2 Compulsory Auction (Article 45 through Article 92)

Division 3 Forced Administration (Article 93 through Article 111)

Subsection 2 Enforcement Against Vessels (Article 112 through Article
121)

Subsection 3 Enforcement Against Movables (Article 122 through Article
142)

Subsection 4 Enforcement Against Claims and Other Property Rights

Division 1 Enforcement Against Claims (Article 143 through Article 167)

Division 2 Enforcement Against Claims Arising from Small Claims
Actions (Article 167-2 through Article 167-14)

Subsection 5 Special Provisions on Judicial Enforcement for Monetary
Claims Related to a Duty to Support (Article 167-15 through Article 167-
16)

Section 3 Judicial Enforcement of Claims that Are Not for Payment of Money
(Article 168 through Article 179)

Chapter III Auctioning Property as a Means of Enforcing a Security Interest
(Article 180 through Article 195)

Chapter IV Investigation of Obligor's Financial Status

Section 1 Asset Disclosure Procedures (Article 196 through Article 203)

Section 2 Procedures for Acquiring Information from a Third Party (Article
204 through Article 211)

Chapter V Penal Provisions (Article 212 through Article 215)

Chapter I General Provisions

(Purpose)

Article 1 Beyond what is provided for in other laws and regulations, judicial enforcement; the auctioning of property as a means of enforcing a security interest; the auctioning of property for a realization under the Civil Code (Act

No. 89 of 1896), the Commercial Code (Act No. 48 of 1899), or any other Act; and the investigation of an obligor's financial status (collectively referred to as "civil enforcement" below) are governed by the provisions of this Act.

(Enforcement Authority)

Article 2 A court or court enforcement officer carries out civil enforcement upon petition.

(Enforcement Court)

Article 3 For civil enforcement that is carried out by a court, an enforcement court is the court that the provisions of this Act requires to take enforcement measures, and for enforcement measures taken by a court enforcement officer, an enforcement court is the district court to which that officer belongs.

(Optional Oral Arguments)

Article 4 An enforcement court may render a judicial decision without holding oral arguments.

(Interrogations)

Article 5 An enforcement court may interrogate an interested person or other person of reference if it finds this to be necessary when taking an enforcement measure.

(Ensuring the Performance of Duties by Court Enforcement Officers or Civil Enforcement Official)

Article 6 (1) If a court enforcement officer faces resistance when performing their duties, then they may use force or request police assistance to eliminate the resistance; provided, however, that this does not apply to performance of duties based on the provisions of Article 64-2, paragraph (5) (including as applied mutatis mutandis pursuant to Article 188).

(2) A person other than a court enforcement officer who performs duties related to civil enforcement at the order of an enforcement court may request assistance from a court enforcement officer if they face resistance when performing their duties.

(Observers)

Article 7 If, when entering a person's residence and performing their duties, a court enforcement officer or a person who performs duties related to civil enforcement at the order of an enforcement court (referred to as a "court enforcement officer or civil enforcement official" below) does not encounter the occupant or their agent, a cohabiting relative, or an employee or other worker

or discerning person, then this person must have a municipal official, police officer, or other person deemed suitable as a witness. The same applies if a court enforcement officer uses force or receives police assistance pursuant to the provisions of paragraph (1) of the preceding Article.

(Enforcement on Sundays and Holidays or at Night)

Article 8 (1) A court enforcement officer or civil enforcement official must obtain the permission of an enforcement court to enter a person's residence to perform their duties on a Sunday or general holiday or during the period from 7:00 PM to 7:00 AM the following morning.

(2) In performing their duties, a court enforcement officer or civil enforcement official must present a document proving that they have obtained permission pursuant to the provisions of the preceding paragraph.

(Carrying Identification)

Article 9 When performing their duties, a court enforcement officer or civil enforcement official must carry a document proving their status or credentials and present it if requested by a person having an interest.

(Appealing an Enforcement Decision)

Article 10 (1) A person may file an appeal against a judicial decision concerning a civil enforcement procedure only if there are special provisions allowing this.

(2) A person must file an appeal against an enforcement decision by submitting a petition for appeal to the court of prior instance within an inalterable period of one week from the day on which the notice of judicial decision is received.

(3) If the reason for an appeal against an enforcement decision is not stated in the petition for appeal, then the appellant must submit a statement of reason for the appeal to the court of prior instance within one week after the day on which the appellant has submitted the petition.

(4) The reason for an appeal against an enforcement decision must be stated pursuant to the provisions of the Rules of the Supreme Court.

(5) In circumstances falling under any of the following items, the court of prior instance must deny an appeal against an enforcement decision:

(i) if the appellant fails to submit the statement of reason under paragraph (3);

(ii) if the statement of reason for the appeal clearly violates the provisions of the preceding paragraph;

(iii) if it is clear that the appeal is not in accordance with the law and the defect cannot be corrected; or

(iv) if the appeal has been filed to unreasonably delay a civil enforcement procedure.

(6) During the period up until the judicial decision on an appeal against an

enforcement decision becomes effective, the court in charge of appeal may order a stay of enforcement of the judicial decision of prior instance or a stay of all or part of a civil enforcement procedure while either requiring or not requiring security to be provided, or may issue an order for the enforcement of that decision or the enforcement procedure to continue while requiring security to be provided. The court of prior instance may also order these measures while the record of the case is still at the court of prior instance.

- (7) The court in charge of appeal examines only the reason stated in the petition for appeal or in the statement of reason for the appeal against the enforcement measure; provided, however, that it may examine, by its own authority, whether there has or has not been any violation of laws and regulations or error of fact that would have affected the judicial decision of prior instance.
- (8) An appeal may be filed against a decision under paragraph (5).
- (9) An appeal may not be filed against a decision under paragraph (6).
- (10) The provisions of Article 349 of the Code of Civil Procedure (Act No. 109 of 1996) apply *mutatis mutandis* when a judicial decision against which an appeal may be filed has become final and binding.

(Objecting to Enforcement Measures)

Article 11 (1) A person may file an objection with the enforcement court to the measures of that court that may not be appealed. A person may also file an objection to a court enforcement officer's measures or to a court enforcement officer's delay or negligence.

- (2) The provisions of the first sentence of paragraph (6) of the preceding Article and paragraph (9) of that Article apply *mutatis mutandis* when a person has made a filing provided in the preceding paragraph.

(Appealing a Ruling to Cancel a Procedure)

Article 12 (1) An appeal may be filed against a ruling to void a civil enforcement procedure. This also applies to a judicial decision denying an objection to a court enforcement officer's measure voiding a civil enforcement procedure and to a ruling ordering a court enforcement officer to cancel a civil enforcement procedure.

- (2) A judicial decision against which an appeal may be filed pursuant to the provisions of the preceding paragraph does not take effect until it becomes final and binding.

(Representatives)

Article 13 (1) Except in proceedings in an action or in an appeal against an enforcement decision, a person other than one who is permitted to serve as a litigation representative pursuant to the provisions of Article 54 of the Code of

Civil Procedure may act as a person's representative in proceedings that take place in the enforcement court, with the court's permission.

- (2) The enforcement court may revoke the permission referred to in the preceding paragraph at any time.

(Prepayment of Expenses)

Article 14 (1) When filing a petition for civil enforcement with the enforcement court, the petitioner must prepay the amount that the court clerk establishes as the expenses needed for civil enforcement proceedings. The same applies if the expenses that the person has prepaid will be insufficient and the court clerk specifies a reasonable period of time and orders the person to prepay the insufficient funds.

- (2) The petitioner may file an objection with the enforcement court against the court clerk's disposition under the preceding paragraph within an inalterable period of one week from the day on which the petitioner is informed of those measures.
- (3) A court clerk's disposition under paragraph (1) is not effective until it becomes final and binding.
- (4) If a petitioner fails to prepay expenses, the enforcement court may deny the petition for civil enforcement or cancel the civil enforcement procedure.
- (5) The petitioner may appeal a ruling denying a petition pursuant to the provisions of the preceding paragraph.

(Provision of Security)

Article 15 (1) To provide security pursuant to the provisions of this Act, a person must make a deposit of money or securities (including book-entry transfer company bonds prescribed in Article 278, paragraph (1) of the Act on Book-Entry Transfer of Corporate Bonds and Shares (Act No. 75 of 2001)) that the court which has ordered the person to provide security (referred to as the "ordering court" in this paragraph) finds to be reasonable, with an official depository within the jurisdictional district of the district court that has jurisdiction in the locality of the ordering court, or by any other means specified by the Rules of the Supreme Court; provided, however, that if the party concerned has made a special agreement about this, then the agreement prevails.

- (2) The provisions of Article 77, Article 79, and Article 80 of the Code of Civil Procedure apply mutatis mutandis to the security referred to in the preceding paragraph.

(Special Provisions on Service)

Article 16 (1) A person who has filed a petition, made an offer, or filed a

notification with an enforcement court in connection with a civil enforcement procedure, or been served with a document or 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 below) by an enforcement court in connection with a civil enforcement procedure must notify the enforcement court of the place (limited to within Japan) if they are to be served with documents. In this case, the person may also notify the enforcement court of the designated person to be served.

- (2) The provisions of Article 104, paragraphs (2) and (3) and Article 107 of the Code of Civil Procedure apply *mutatis mutandis* to the cases referred to in the first sentence of the preceding paragraph.
- (3) Service of documents about a person who has not filed a notification under the first sentence of paragraph (1) (excluding the person prescribed in Article 104, paragraph (3) of the Code of Civil Procedure as applied *mutatis mutandis* pursuant to the preceding paragraph) are to be made at the person's domicile, residence, business office, or office that is indicated in the case record.
- (4) If service under the preceding paragraph is to be effected but it is not possible to effect service pursuant to the provisions of Article 106 of the Code of Civil Procedure as applied *mutatis mutandis* pursuant to Article 20 (excluding when service is possible pursuant to the provisions of Article 109-2 of that Code as applied *mutatis mutandis* pursuant to Article 20), the court clerk may send the document to the domicile, residence, business office, or office referred to in the paragraph by registered mail or using services for delivering correspondence that are prescribed in Article 2, paragraph (2) of the Act on Correspondence Delivery by Private Business Operators (Act No. 99 of 2002) that are provided by a general correspondence delivery provider prescribed in paragraph (6) of the Article or specified correspondence delivery provider prescribed in paragraph (9) of the Article and that are specified by the Rules of the Supreme Court as services equivalent to registered mail. In this case, the provisions of Article 107, paragraphs (2) and (3) of the Code of Civil Procedure apply *mutatis mutandis*.

(Access to Non-Electronic or Magnetic Case Record)

- Article 17 (1) An interested person, in connection with the civil enforcement that the enforcement court carries out, may file a request with the court clerk to inspect or copy the hard-copy case records (meaning the portion of a case record excluding the electronic or magnetic case record prescribed in paragraph (1) of the following Article), or to be issued an authenticated copy, transcript, or extract of the record.
- (2) The provisions of Article 91, paragraphs (4) and (5) of the Code of Civil

Procedure apply mutatis mutandis to requests made under the preceding paragraph.

(Access to Electronic or Magnetic Case Record)

- Article 17-2 (1) An interested person, in connection with the civil enforcement that the enforcement court carries out, may file a request with the court clerk pursuant to the provisions of the Rules of the Supreme Court to inspect the content of electronic or magnetic case records (meaning the portion of a case record relating to matters recorded in files stored on a computer (including input and output devices; the same applies below) used by the court pursuant to the provisions of this Act and other laws and regulations; the same applies in this Article) displayed in a manner prescribed by the Rules of the Supreme Court.
- (2) An interested person, in connection with the civil enforcement that the enforcement court carries out, may file a request with the court clerk, pursuant to the provisions of the Rules of the Supreme Court, to copy the matters recorded in electronic or magnetic case records by recording the matters in files stored on computers 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 person of the procedure via a telecommunications line; the same applies below) or any other method prescribed by the Rules of the Supreme Court.
- (3) An interested person, in connection with the civil enforcement that the enforcement court carries out, may file a request with the court clerk, pursuant to the provisions of the Rules of the Supreme Court, to issue a document stating all or part of the matters recorded in electronic or magnetic case records as certified by the court clerk to contain information identical to the matters recorded in the electronic or magnetic record according to the methods prescribed by the Rules of the Supreme Court, or to provide an electronic or magnetic record containing all or part of the matters as certified by the court clerk to contain information identical to the matters recorded in the electronic or magnetic case records according to the methods prescribed by the Rules of the Supreme Court, by recording it in a file stored on a computer used by the person via an electronic data processing system prescribed by the Rules of the Supreme Court or any other method prescribed by the Rules of the Supreme Court.
- (4) The provisions of Article 91, paragraph (5) of the Code of Civil Procedure apply mutatis mutandis to requests made under paragraphs (1) and (2).

(Certification of Matters Related to the Case)

Article 17-3 An interested person, in connection with the civil enforcement that

the enforcement court carries out, may file a request with the court clerk, pursuant to the provisions of the Rules of the Supreme Court, to issue a document stating the matters related to 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 recording it in a file stored on a computer used by the person via an electronic data processing system prescribed by the Rules of the Supreme Court or any other method prescribed by the Rules of the Supreme Court.

(Request for Assistance from Government Agencies)

Article 18 (1) If necessary for civil enforcement purposes, the enforcement court or court enforcement officer may request a government agency or public office for assistance.

(2) In a case provided for in the preceding paragraph, the enforcement court or court enforcement officer may request the government agency or public office with jurisdiction a certificate it needs concerning taxes or other relevant public charges imposed on the property that is the subject matter of civil enforcement (this includes any building that stands on that property, if the property is land, and includes the site on which the property stands, if the property is a building).

(3) The provisions of the preceding paragraph apply mutatis mutandis if a person who seeks to file a petition for civil enforcement needs the certificate referred to in that paragraph for filing that petition.

(Omission of Submission of Recorded Information Certificates)

Article 18-2 A person that is required to submit or present a certificate of recorded information (meaning a document that states the matters recorded in a file stored on a computer used by the court (simply referred to as a "file" below) and certified by the court clerk to contain information identical to the matters recorded in the relevant file; the same applies below) related to the matters stated in the following items to a court, court clerk, or court enforcement officer in civil enforcement proceedings pursuant to the provisions of this Act, in lieu of that submission or presentation, may submit the information prescribed by the Rules of the Supreme Court as information necessary for identifying the matters stated in the relevant item below, pursuant to the provisions of the Rules of the Supreme Court. In this case, the person is deemed to have submitted or presented the relevant certificate of recorded information.

(i) judicial decisions;

- (ii) disposition by a court clerk;
- (iii) judicial settlements or mediation;
- (iv) beyond what is referred in the preceding three items, a document or an electronic or magnetic record that has the same effect as a final and binding judgment; and
- (v) electronic records (meaning electronic or magnetic records prepared by a court clerk pursuant to the provisions of Article 160, paragraph (1) of the Code of Civil Procedure (including as applied mutatis mutandis pursuant to other laws and regulations) or other laws and regulations to record and publicly authenticate the formality, details, progress, etc. of proceedings on a court date or any other date) certifying that a title of obligation prescribed in Article 22, items (ii) through (iv)-2 is withdrawn or is not valid for other reasons; the same applies in Article 39, paragraph (1), items (iv) and (iv)-2 and Article 167-2, paragraph (1), item (iv)).

(Exclusive Jurisdiction)

Article 19 The court's jurisdiction provided for in this Act is exclusive.

(Filing Motion or Statements with the Court Through Electronic Data Processing Systems)

Article 19-2 (1) A petition or other statement connected with civil enforcement proceedings (referred to as a "motion or statement" in this Article through Article 19-6) which, pursuant to the provisions of this Act or other laws and regulations concerning the petition or other statement, is to be filed or entered with the court (including those to be filed or entered with that court's presiding judge, authorized judge, commissioned judge, or court clerk) through a document or other tangible medium (meaning a document, transcript, extract, authenticated copy, or duplicate of a document, duplicate of a bill or note, or any other paper or other tangible object into which information that can be perceived with the human senses, as characters and shapes, has been entered; the same applies below), may be filed or entered by recording in a file the matters to be stated in the document or other tangible medium using electronic data processing systems pursuant to the provisions of the Rules of the Supreme Court, notwithstanding the provisions of the laws and regulations.

(2) The provisions of Article 132-10, paragraphs (2) through (6) of the Code of Civil Procedure apply mutatis mutandis to petitions and other statements filed by the method prescribed in the preceding paragraph. In this case, the term "service" in Article 132-10, paragraph (5) and (6) is deemed to be replaced with "service or delivery."

(Special Provisions on Filing Petitions with the Court Through Electronic Data

Processing Systems)

Article 19-3 (1) When the person stated in the following items files a petition or other statement with the court in relation to the cases provided in the respective items (including petitions or other statement filed with that court's presiding judge, authorized judge, commissioned judge, or court clerk; the same applies in the following Article), that petition or other statement must be filed by the means prescribed in paragraph (1) of the preceding Article; provided, however, that this does not apply when petitions or other statement that may be filed orally are, filed orally.

- (i) a representative who has been delegated a case (excluding a person who became a representative with approval pursuant to Article 13, paragraph (1) of this Act or the proviso to Article 54, paragraph (1) of the Code of Civil Procedure): the delegated case;
 - (ii) a person designated under Article 2, Article 5, paragraph (1), Article 6, paragraph (2), Article 6-2, paragraph (4) or (5), Article 6-3, paragraph (4) or (5), or Article 7, paragraph (3) of the Act on the Authority of the Minister of Justice over Suits Relating to the Interests of the State (Act No. 194 of 1947) (including cases where these provisions apply *mutatis mutandis* pursuant to Article 9 of that Act): the case subject to the designation; and
 - (iii) an official delegated under Article 153, paragraph (1) of the Local Autonomy Act (Act No. 67 of 1947): the delegated case.
- (2) The provisions of Article 132-11, paragraph (2) of the Code of Civil Procedure apply *mutatis mutandis* to the person stated in the items of the preceding paragraph, and the provisions of paragraph (3) of that Article apply *mutatis mutandis* to motion or other statement prescribed in the main clause of the preceding paragraph, respectively.

(Filing a Motion or Statement Using a Paper Document)

Article 19-4 (1) When a motion or statement is filed with the court by document or other tangible medium (unless it is filed in violation of the provisions of paragraph (1) of the preceding Article) in a civil enforcement procedure, the court clerk must record in a file the matters detailed in that document or other tangible medium (excluding the matters prescribed in the following items in the cases stated in the respective items); provided, however, that this does not apply if there are circumstances that make it difficult to record these particulars in a file:

- (i) if, regarding the document or other tangible medium to which that motion or statement pertains, a petition as referred to in Article 92, paragraph (1) of the Code of Civil Procedure applicable *mutatis mutandis* pursuant to Article 20 (limited to those filed because the grounds stated in item (ii) of that paragraph exist; the same applies in this item) is filed together with that

motion or statement, and the use of a trade secret (meaning a trade secret prescribed in Article 2, paragraph (6) of the Unfair Competition Prevention Act (Act No. 47 of 1993); this applies in this item and paragraph (1), item (i) of the following Article) detailed in that document or other tangible medium for purposes other than that of conducting the procedure or the disclosure of that trade secret would be detrimental to the business activities carried out by a party based on that trade secret, and the court finds it to be particularly necessary to prevent this (unless the petition referred to in that paragraph is denied or a judicial decision revoking a ruling on the petition referred to in Article 92, paragraph (1) of the Code of Civil Procedure applicable *mutatis mutandis* pursuant to Article 20 becomes final and binding): the trade secret detailed in that document or other tangible medium;

- (ii) if a notification under Article 133, paragraph (2) of the Code of Civil Procedure applicable *mutatis mutandis* pursuant to Article 20 is submitted by a document or other tangible medium: the matters detailed in that document or other tangible medium; and
- (iii) if, regarding the document or other tangible medium to which that motion or statement pertains, a petition referred to in Article 133-2, paragraph (2) of the Code of Civil Procedure applicable *mutatis mutandis* pursuant to Article 20 is filed together with that motion or statement and the court finds it to be necessary (unless the petition referred to in that paragraph is denied or a judicial decision revoking a ruling on the petition referred to in that paragraph becomes final and binding): the part containing concealed information prescribed in that paragraph which is detailed in that document or other tangible medium.

- (2) The provisions of Article 132-12, paragraphs (2) and (3) of the Code of Civil Procedure apply *mutatis mutandis* to service or delivery of a motion or statement with the court by a document or other tangible medium when the matters stated in the document or other tangible medium are recorded in a file pursuant to the provisions of the preceding paragraph.

(Recording the Information Detailed in Paper Documents into the Court's Computer Files)

Article 19-5 (1) A court clerk must file the matters recorded in a document or other tangible medium or recorded on a recording medium storing electronic or magnetic records submitted to the court pursuant to the provisions of this Act or any other laws and regulations in civil enforcement proceedings, in addition to documents or other tangible medium concerning a motion or statement prescribed in paragraph (1) of the preceding Article (excluding the particulars prescribed in the following items in the cases stated in the respective items).; provided, however, that this does not apply if there are circumstances that

make it difficult to record these particulars in a file:

- (i) if, regarding the document or other tangible medium or recording medium, a petition referred to in Article 92, paragraph (1) of the Code of Civil Procedure applicable *mutatis mutandis* pursuant to Article 20 is filed together with these submissions, and the use of a trade secret detailed or recorded in that document or other tangible medium or recording medium for purposes other than the purpose of conducting the procedure or the disclosure of that trade secret would be detrimental to the business activities carried out by a party based on that trade secret, and the court finds it to be particularly necessary in order to prevent this (unless the petition is denied or a judicial decision revoking a ruling on the petition becomes final and binding): the trade secret detailed or recorded in that document or other tangible medium or recording medium;
 - (ii) if a notification under Article 133, paragraph (2) of the Code of Civil Procedure applicable *mutatis mutandis* pursuant to Article 20 is submitted through a recording medium: the matters detailed on that recording medium;
 - (iii) if, regarding the document or other tangible medium or recording medium, a petition referred to in Article 133-2, paragraph (2) of the Code of Civil Procedure applicable *mutatis mutandis* pursuant to Article 20 is filed together with these submissions, and the court finds it to be necessary (unless the petition is denied or a judicial decision revoking a ruling on the petition becomes final and binding): the part containing concealed information prescribed in that paragraph which is detailed or recorded in that document or other tangible medium or recording medium; and
 - (iv) if a decision under Article 133-3, paragraph (1) of the Code of Civil Procedure applicable *mutatis mutandis* pursuant to Article 20 is made and the court finds it to be necessary (unless a judicial decision revoking a ruling on the petition becomes final and binding): the matters detailed in documents or other tangible medium or recorded on a recording medium storing an electronic or magnetic record of the decision.
- (2) The provisions of Article 132-12, paragraphs (2) and (3) of the Code of Civil Procedure apply *mutatis mutandis* to service or delivery of a document or other tangible medium or a recording medium storing an electronic or magnetic record of the matters stated or recorded in the document or other tangible medium or recording medium storing an electronic or magnetic record are recorded in a file pursuant to the provisions of the preceding paragraph.

(Motion or Statement to a Court Enforcement Officer)

Article 19-6 The provisions of Articles 19-2 through 19-4 apply *mutatis mutandis* to a motion or statement filed with a court enforcement officer, and the provisions of the preceding Article apply *mutatis mutandis* to a document or

other tangible medium or a recording medium storing an electronic or magnetic record submitted to a court enforcement officer pursuant to the provisions of this Act of other laws and regulations in a civil enforcement procedure, respectively. In this case, the term "file" in Article 19-2, paragraph (1), Article 19-4, and the preceding Article is deemed to be replaced with "file stored on a computer (including input and output devices) used by the court enforcement officer," and the phrase "excluding a person who became a representative with approval pursuant to Article 13, paragraph (1) of this Act or the proviso to Article 54, paragraph (1) of the Code of Civil Procedure" in Article 19-3, paragraph (1), item (i) is deemed to be replaced with "limited to attorneys at law."

(Application Mutatis Mutandis of the Code of Civil Procedure)

Article 20 Unless otherwise provided, and unless contrary to its nature, the provisions of Part 1 through Part 4 of the Code of Civil Procedure apply mutatis mutandis to civil enforcement procedures. In this case, the phrase "the items of Article 132-11, paragraph (1)" in Article 109-4, paragraph (1) of the Code of Civil Procedure is deemed to be replaced with "the items of Article 19-3, paragraph (1) of the Code of Civil Procedure (including as replaced and applied mutatis mutandis pursuant to Article 19-6)."

(Rules of the Supreme Court)

Article 21 Beyond what is provided for in this Act, the Rules of the Supreme Court provide the necessary matters concerning civil enforcement procedures.

Chapter II Judicial Enforcement

Section 1 General Provisions

(Titles of Obligation)

Article 22 Judicial enforcement is carried out based on any of the following (referred to as a "title of obligation" below):

- (i) a final and binding judgment;
- (ii) a judgment bearing a declaration of provisional enforcement;
- (iii) a judicial decision that may not be appealed except in the form of an appeal against a ruling (but only one that has become final and binding, if it constitutes a judicial decision that is only effective once it becomes final and binding);
- (iii)-2 an order for damages bearing a declaration of provisional enforcement;
- (iii)-3 an order to pay a filed claim bearing a declaration of provisional enforcement;
- (iv) a demand for payment bearing a declaration of provisional enforcement;

- (iv)-2 a measure by the court clerk setting the amount to be borne for court costs, settlement costs, or costs in a non-contentious case (including a case to which the provisions of the Non-Contentious Case Procedures Act (Act No. 51 of 2011) apply *mutatis mutandis* pursuant to the provisions of other laws and regulations), domestic relations case, or case relating to the return of a child provided for in Article 29 of the Act for Implementation of the Convention on the Civil Aspects of International Child Abduction (Act No. 48 of 2013); or a measure by the court clerk setting the enforcement costs and the amount of money to be returned provided for in Article 42, paragraph (4) (for the latter measure, this is limited to one that has become final and binding);
- (v) a notarial instrument that a notary has prepared concerning a claim for payment of a fixed amount of money or the delivery of a certain amount of any other fungible thing or of securities, which contains or records a statement indicating that the obligor will immediately face judicial enforcement (referred to as a "notarial instrument authorizing enforcement" below);
- (vi) a foreign court judgment (including a judicial decision in a domestic relations case; the same applies in Article 24) for which an enforcement judgment has become final and binding;
- (vi)-2 an arbitral award for which an order of enforceability has become final and binding; or
- (vi)-3 an order for interim measures prescribed in Article 50 of the Arbitration Act (Act No. 138 of 2003) for which an enforcement approval order has become final and binding;
- (vi)-4 an international settlement agreement for which an order of enforceability has become final and binding;
- (vi)-5 a specific settlement for which an order of enforceability has become final and binding; or
- (vii) a document that has the same effect as a final and binding judgment (excluding the judicial decision stated in item (iii)).

(Scope of a Person for or Against Whom Judicial Enforcement May Be Carried Out)

Article 23 (1) Judicial enforcement that is based on a title of obligation other than a notarial instrument authorizing enforcement may be carried out for or against any of the following persons:

- (i) a party indicated in the title of obligation;
- (ii) a person on whose behalf the party indicated in the title of obligation became the party, if applicable; or
- (iii) a person who became the successor of the person stated in one of the preceding two items after the establishment of the title of obligation (or a

- successor arising after the conclusion of oral arguments, for a title of obligation stated in item (i), item (ii) or item (vi) of the preceding Article; or a successor arising after the conclusion of the proceedings, for a title of obligation stated in item (iii)-2 of that Article or for a title of obligation stated in item (vii) of that Article that concerns an order for damages).
- (2) Judicial enforcement based on a notarial instrument authorizing enforcement may be carried out for or against a party indicated in the instrument or a person who became the successor of that person after the preparation of the instrument.
- (3) Judicial enforcement based on a title of obligation provided for in paragraph (1) may also be carried out against a person possessing the subject matter of the claim on behalf of a person stated in one of the items of that paragraph.

(Enforcement Judgments for Foreign Court Judgments)

- Article 24 (1) An action seeking an enforcement judgment for a foreign court judgment is subject to the jurisdiction of the district court (or the family court, for an action concerning a judicial decision in a domestic relations case; the same applies in this paragraph) having jurisdiction in the locality constituting the general venue of the obligor, and if there is no general venue, it is subject to the jurisdiction of the district court having jurisdiction in the place where the subject matter of the claim or the seizable property of the obligor is located.
- (2) Notwithstanding the provisions of the preceding paragraph, even if all or part of an action as referred to in that paragraph is subject to the jurisdiction of the family court, the district court provided for in the preceding paragraph, upon petition or by its own authority, may conduct the trial and reach a judicial decision itself for all or part of the litigation in the action, if it finds this to be appropriate.
- (3) Notwithstanding the provisions of paragraph (1), even if all or part of an action as referred to in that paragraph is subject to the jurisdiction of the district court, the family court provided for in that paragraph, upon petition or by its own authority, may conduct the trial and reach a judicial decision itself for all or part of the litigation in the action, if it finds this to be appropriate.
- (4) The court must make an enforcement judgment without investigating the correctness or incorrectness of the judicial decision.
- (5) The action referred to in paragraph (1) must be denied if it is not proved that the judgment of a foreign court has become final and binding or when the judgment fails to satisfy the requirements stated in the items of Article 118 of the Code of Civil Procedure (including as applied *mutatis mutandis* pursuant to Article 79-2 of the Domestic Relations Case Procedure Act (Act No. 52 of 2011)).
- (6) In an enforcement judgment, a declaration must be made permitting judicial

enforcement based on the foreign court judgment.

(Implementing Judicial Enforcement)

Article 25 Judicial enforcement is implemented on the basis of an authenticated copy of the title of obligation bearing an attestation of enforceability (if the electronic or magnetic record related to a title of obligation is recorded in a file, then a certificate of recorded information, and if a title of obligation is a notarial instrument authorizing enforcement prepared as an electronic or magnetic record, then a document prescribed in Article 44, paragraph (1), item (ii) of the Notary Act (Act No. 53 of 1908) or electronic or magnetic record prescribed in item (iii) of that paragraph; the same applies below); provided, however, that judicial enforcement for or against an indicated party based on a final and binding judgment in a small claims action or based on a judgment in a small claims action or demand for payment bearing a declaration of provisional enforcement is implemented on the basis of an authenticated copy of that title of obligation.

(Granting Attestations of Enforceability)

Article 26 (1) Upon petition, a clerk of the court in which the record of the case exists grants an attestation of enforceability for a title of obligation other than a notarial instrument authorizing enforcement, and the notary preserving the original of a notarial instrument authorizing enforcement (if the attestation of enforceability is prepared as an electronic or magnetic record, that electronic or magnetic record) grants an attestation of enforceability for that instrument.

(2) If the obligee is entitled to judicial enforcement against the obligor based on the title of obligation, the court clerk or notary grants an attestation of enforceability by the method prescribed in each of the following items in accordance with the category stated in the respective items:

(i) granting attestations of enforceability if the electronic or magnetic record related to the title of obligation is recorded in a file: the method of recording together with the electronic or magnetic record stating that the obligee is entitled to judicial enforcement against the obligor pursuant to the title of obligation;

(ii) granting attestations of enforceability if the title of obligation is a notarial instrument authorizing enforcement prepared as an electronic or magnetic record: the means of recording together with the electronic or magnetic record stating that the obligee is entitled to judicial enforcement against the obligor related to the title of obligation and adding a note indicating this at the end of the document related to the title of obligation prescribed in Article 44, paragraph (1), item (ii) of the Notary Act or recording a statement to that effect together with the electronic or magnetic record related to the title of

- obligation prescribed in paragraph (1), item (iii) of that Article; or
- (iii) granting attestations of enforceability in cases other than those prescribed in the preceding two items: the method of adding a note indicating this at the end of an authenticated copy of the title of obligation stating that the obligee is entitled to judicial enforcement against the obligor pursuant to the title of obligation.

- Article 27 (1) If a claim involves the occurrence of a fact that an obligee is required to prove, the court clerk or notary may grant an attestation of enforceability only once the obligee has produced a document or electronic or magnetic record proving that the fact has occurred.
- (2) The court clerk or notary may grant an attestation of enforceability naming a person other than the party indicated in the title of obligation as the obligee or obligor, but only if it is apparent to the court clerk or notary that judicial enforcement may be carried out for or against that person, or if the obligee has produced a document or electronic or magnetic record proving this.
- (3) If any of the following grounds are present in connection with the title of obligation and there are special circumstances that make it difficult to identify the person in possession of the immovable property before its delivery or eviction is enforced based on that title of obligation, the court clerk or notary may grant an attestation of enforceability without specifying the obligor, but only if the obligee has produced a document or electronic or magnetic record proving this:
- (i) the title of obligation indicates a claim for the delivery or eviction of immovable property, an order of provisional disposition prohibiting the transfer of possession (meaning an order of provisional disposition prohibiting the transfer of possession prescribed in Article 25-2, paragraph (1) of the Civil Provisional Remedies Act (Act No. 91 of 1989)) has been carried out in connection with the principal proceedings involving that claim, and Article 62, paragraph (1) of the Civil Provisional Remedies Act permits the obligee to enforce delivery or surrender against the person in possession of the immovable property based on that title of obligation; or
- (ii) the title of obligation is an order under the main clause of Article 83, paragraph (1) (including as applied *mutatis mutandis* pursuant to Article 188) issued in proceedings for a compulsory auction (including the auctioning of property as a means of enforcing a security interest; the same applies in this item) (referred to as a "delivery order" below), the provisional order stated in any of (a) through (c) below or the provisional order to post a public notice (meaning the provisional order to post a public notice provided for in Article 55, paragraph (1); the same applies in this paragraph) stated in any of (a) through (c) below has been carried out against the person with a duty

to deliver the property named in the delivery order in those proceedings, and the provisions of Article 83-2, paragraph (1) (including as applied mutatis mutandis pursuant to Article 187, paragraph (5) or Article 188) permit the obligee to enforce delivery against the person in possession of the immovable property based on that delivery order:

- (a) the provisional order stated in Article 55, paragraph (1), item (iii) and the provisional order to post a public notice stated in that item (including as applied mutatis mutandis pursuant to Article 188); or
 - (b) the provisional order stated in Article 77, paragraph (1), item (iii) or provisional order to post a public notice stated in that item (including as applied mutatis mutandis pursuant to Article 188);
 - (c) the provisional order provided for in Article 187, paragraph (1) or provisional order to post a public notice provided for in that paragraph (limited to one stated in Article 55, paragraph (1), item (iii)).
- (4) Judicial enforcement based on an authenticated copy of a title of obligation bearing an attestation of enforceability as referred to in the preceding paragraph may only be carried out before the expiration of four weeks from the day on which the attestation of enforceability is granted, and only if the person in possession can be identified at the time the immovable property is removed from their possession through judicial enforcement.
- (5) When judicial enforcement that is based on an authenticated copy of a title of obligation bearing an attestation of enforceability granted pursuant to the provisions of paragraph (3) is carried out pursuant to the provisions of the preceding paragraph, the person that has had the immovable property removed from their possession as a result of enforcement becomes the obligor.

(Granting Additional Attestations of Enforceability)

- Article 28 (1) An additional attestation of enforceability may be granted, but only if multiple authenticated copies of a title of obligation bearing an attestation of enforceability are required to receive full performance of a claim or if the authenticated copy bearing the attestation has been lost.
- (2) The provisions of the preceding paragraph apply mutatis mutandis if an additional authenticated copy or certificate of recorded information is issued of a final and binding judgment in a small claims action, or of a judgment in a small claims action or demand for payment bearing a declaration of provisional enforcement.

(Serving Titles of Obligation)

- Article 29 Judicial enforcement may begin only if an authenticated copy or transcript of a title of obligation or of a judicial decision that becomes a title of obligation once it is final and binding or an electronic or magnetic record

related to that title of obligation or judicial decision has been served upon the obligor in advance or at the same time. If an attestation of enforceability has been granted pursuant to the provisions of Article 27, transcripts of the attestation of enforceability or electronic or magnetic records related to the attestation of enforceability and transcript of the document produced by the obligee pursuant to the provisions of that Article or an electronic or magnetic record by recording all matters recorded in the electronic or magnetic record produced by the obligee pursuant to the provisions of that Article must also have been served in advance or at the same time.

(Judicial Enforcement in Situations Involving the Arrival of a Fixed Due Date or Provision of Security)

- Article 30 (1) If a claim involves the arrival of a fixed due date, judicial enforcement may begin only after the arrival of that due date.
- (2) Judicial enforcement based on a title of obligation that establishes provision of security as a condition for implementing judicial enforcement may begin only once the obligee produces a document or electronic or magnetic record proving that the obligee has provided security.

(Judicial Enforcement in Situations Involving Default of Counter-Performance or Other Performance)

- Article 31 (1) If an obligor's performance is due in exchange for counter-performance, judicial enforcement may begin only once the obligee proves that counter-performance has been made or tendered.
- (2) If an obligor's performance is due in lieu of some other performance in a case in which the purpose of judicial enforcement cannot be achieved for that other performance, judicial enforcement may begin only once the obligee proves that the purpose of judicial enforcement could not be achieved for that other performance.

(Filing an Opposition in Connection with the Granting of an Attestation of Enforceability)

- Article 32 (1) An opposition may be filed to a measure connected with a petition to grant an attestation of enforceability; for measures by a court clerk, a person may file an opposition with the court to which the court clerk belongs, and for measures by a notary, a person may file an opposition with the district court having jurisdiction in the locality of the notary's office.
- (2) If an opposition has been filed to the granting of an attestation of enforceability, the court may order a stay of enforcement until a judicial decision on the opposition is made, while either requiring or not requiring security to be provided, or may issue an order for enforcement to continue until

a judicial decision on the opposition is made, with requiring security to be provided. If there are pressing circumstances, the presiding judge may also order these measures.

- (3) The court may render a judicial decision on a petition under paragraph (1) or a judicial decision under the preceding paragraph without hearing oral arguments.
- (4) A judicial decision as provided in the preceding paragraph may not be appealed.
- (5) The provisions of the preceding paragraphs apply *mutatis mutandis* to the issuance of an authenticated copy or certificate of recorded information of a final and binding judgment in a small claims action or of a judgment in a small claims action or demand for payment bearing a declaration of provisional enforcement under Article 28, paragraph (2).

(Action for the Granting of an Attestation of Enforceability)

- Article 33 (1) If an obligee is unable to produce the document or electronic or magnetic record prescribed in Article 27, paragraph (1) or (2), the obligee may file an action seeking an attestation of enforceability to ask for an attestation of enforceability to be granted (excluding one that is granted pursuant to the provisions of paragraph (3) of that Article).
- (2) The court provided in the following relevant items has jurisdiction over an action as stated in the preceding paragraph for the category of title of obligation stated in that item:
 - (i) a title of obligation as stated in Article 22, items (i) through (iii) or items (vi) through (vi)-5, or a title of obligation as stated in item (vii) of that Article other than one as stated in the following item, item (i)-3, or item (vi): the court of first instance;
 - (i)-2 a title of obligation as stated in Article 22, item (iii)-2, or a title of obligation as stated in item (vii) of that Article that relates to an order for damages or to a settlement or acknowledgment of a claim in the proceedings of a case involving an order for damages: the district court before which the order for damages is pending;
 - (i)-3 a title of obligation as stated in Article 22, item (iii)-3 or a title of obligation as stated in item (vii) of that Article that relates to an order to pay a filed claim, or to approval or denial of a filed claim or a settlement in simple determination proceedings: the district court before which the simple determination proceedings were pending;
 - (ii) a title of obligation as stated in Article 22, item (iv), other than one as stated in the following item: the summary court to which the court clerk who has issued the demand for payment bearing a declaration of provisional enforcement belongs (or, if the claim connected with that demand is not

- under the jurisdiction of the summary court, the district court having jurisdiction in the locality of the summary court);
- (iii) a title of obligation as stated in Article 22, item (iv) that is based on a petition for a demand for payment filed with the court clerk of a designated summary court under Article 397 of the Code of Civil Procedure: the court with which an action is deemed to have been filed pursuant to the provisions of Article 398 of that Act as it concerns that petition;
 - (iv) a title of obligation as stated in Article 22, item (iv)-2: the court to which the court clerk who has taken the measure stated in that item belongs;
 - (v) a title of obligation as stated in Article 22, item (v): the court having jurisdiction in the locality of the general venue for the obligor (or, if the obligor has no general venue, the court having jurisdiction in the locality of the subject matter of the claim or the obligor's seizable property); and
 - (vi) a title of obligation as stated in Article 22, item (vii) that relates to a settlement or mediation (excluding a settlement or mediation reached in an upper instance court) or to a labor tribunal decision (excluding a title of obligation as stated in item (i)-2 or (i)-3): the summary court, district court, or family court where the settlement or mediation is reached (or, if the claim involved in the settlement or mediation that is reached in summary court is not under the jurisdiction of the summary court, the district court having jurisdiction in the locality of the summary court), or the district court before which the labor tribunal case is pending when the labor tribunal decision is made.

(Action Opposing the Granting of an Attestation of Enforceability)

- Article 34 (1) When an attestation of enforceability has been granted pursuant to the provisions of Article 27, an obligor who disputes that a fact to be proved by the obligee has occurred or objects to it being permissible to carry out judicial enforcement for or against a person other than the party indicated in the title of obligation may file an action opposing the granting of an attestation of enforceability to call for the court to disallow judicial enforcement based on the authenticated copy of the title of obligation bearing that attestation of enforceability.
- (2) If there are several grounds for opposition, an obligor must allege those grounds at the same time.
 - (3) The provisions of paragraph (2) of the preceding Article apply *mutatis mutandis* to the action stated in paragraph (1).

(Action to Dispute a Claim)

- Article 35 (1) An obligor who disputes the existence or content of the claim under a title of obligation (excluding a title of obligation stated in Article 22,

item (ii), or items (iii)-2 through (iv) which has yet to become final and binding; the same applies in this paragraph) may file an action to dispute the claim to call for the court to disallow judicial enforcement based on that title of obligation. The same applies for an obligor who disputes the establishment of a title of obligation not constituting a judicial decision.

(2) Grounds to dispute a final and binding judgment are limited to those that arise after the conclusion of oral arguments.

(3) The provisions of Article 33, paragraph (2) and paragraph (2) of the preceding Article apply *mutatis mutandis* to the action stated in paragraph (1).

(Judicial Decision Staying Enforcement in Connection with an Action Opposing the Granting of an Attestation of Enforceability)

Article 36 (1) If an action opposing the granting of an attestation of enforceability or an action to dispute a claim has been filed, and if the circumstances that the person alleges for raising the opposition or dispute appear to be legally well-grounded and a *prima facie* showing is made on factual matters, the court in charge of the case, upon petition, may order a stay of enforcement until a judicial decision as referred to in paragraph (1) of the following Article is made in the final judgment, while either requiring or not requiring security to be provided, or, in addition to the order, may issue an order for judicial enforcement to continue while requiring security to be provided, or may issue an order voiding an enforcement measure that has already been taken while requiring security to be provided. If there are pressing circumstances, the presiding judge may also order these measures.

(2) The court may render a judicial decision on the petition referred to in the preceding paragraph without hearing oral arguments.

(3) If the grounds prescribed in paragraph (1) exist, if there are pressing circumstances, the enforcement court, upon petition, may order the measures prescribed in that paragraph, while specifying a period for submitting an authenticated copy or certificate of recorded information of a judicial decision under that paragraph. This judicial decision may also be made before the filing of an action opposing the granting of an attestation of enforceability or an action to dispute a claim.

(4) When the period specified pursuant to the provisions of the preceding paragraph has expired or when a judicial decision under paragraph (1) has been submitted to the enforcement court or court enforcement officer within the period, the judicial decision stated in the preceding paragraph ceases to be effective.

(5) No appeal may be entered against a judicial decision on the petition referred to in paragraph (1) or paragraph (3).

(Judicial Decision to Stay Enforcement in the Final Judgment)

- Article 37 (1) In the final judgment on an action opposing the granting of an attestation of enforceability or an action to dispute a claim, the court in charge of the case may order the measures prescribed in paragraph (1) of the preceding Article or void, change, or approve a judicial decision under that paragraph that has already been made. The court must make a declaration of provisional enforcement for this judicial decision.
- (2) No appeal may be entered against a judicial decision under the preceding paragraph.

(Third-Party Actions Opposing Enforcement)

- Article 38 (1) A third party who has ownership of the subject matter of judicial enforcement or any other right that obstructs assignment or delivery of the subject matter may file, against the obligee, a third-party action opposing enforcement to call for the court to disallow enforcement.
- (2) The third party prescribed in the preceding paragraph may file an action against the obligor regarding the subject matter of judicial enforcement, in consolidation with the action referred to in that paragraph.
- (3) The action referred to in paragraph (1) is under the jurisdiction of the enforcement court.
- (4) The provisions of the preceding two paragraphs apply *mutatis mutandis* pursuant to a judicial decision to stay enforcement in connection with the action referred to in paragraph (1).

(Stay of Judicial Enforcement)

- Article 39 (1) Judicial enforcement must be stayed if any of the following documents or electronic or magnetic records has been submitted:
- (i) an enforceable authenticated copy or certificate of recorded information of a judicial decision containing a statement that a title of obligation (excluding a notarial instrument authorizing enforcement) or a declaration of provisional enforcement is revoked or a statement that judicial enforcement is not permitted;
 - (ii) an authenticated copy or certificate of recorded information of a final and binding judgment declaring a settlement, acknowledgment, mediation or labor tribunal decision that a title of obligation concerns to be invalid;
 - (iii) an authenticated copy of a record or any other document prepared by a court clerk which proves that any of the titles of obligation stated in Article 22, item (ii) through (iv)-2 has ceased to be effective due to withdrawal of the action or any other grounds;
 - (iv) an authenticated copy or certificate of recorded information of a record or electronic record of a judicial settlement or mediation in which it is indicated

that the obligation will not be enforced or that the petition for enforcement is withdrawn;

- (iv)-2 a written tribunal decision or an electronically written tribunal decision (meaning an electronic tribunal decision document prescribed in Article 20, paragraph (3) of the Labor Tribunal Act (Act No. 45 of 2004)) of a labor tribunal decision that has the same effect as a judicial settlement in which it is indicated that the obligation will not be enforced or that the petition for enforcement is withdrawn, or an authenticated copy or certificate of recorded information of a record or electronic record containing a statement or record of the main text of the order and an outline of the reasons for a labor tribunal decision made by making an oral announcement in lieu of preparing these items;
 - (v) a document or electronic or magnetic record proving that security for avoiding judicial enforcement has been provided;
 - (vi) an authenticated copy or certificate of recorded information of a judicial decision in which the court has indicated that it is issuing an order staying enforcement and voiding an enforcement measure;
 - (vii) an authenticated copy or certificate of recorded information of a judicial decision in which the court has indicated that it is issuing an order for a temporarily staying enforcement; or
 - (viii) a document or electronic or magnetic record indicating or recording that, after the establishment of a title of obligation, the obligee has had their claim satisfied or consented to granting a grace period for performance.
- (2) A stay of judicial enforcement based on submission of a document or electronic or magnetic record stated in item (viii) of the preceding paragraph which contains or records a statement that an obligee received performance is limited to a period of four weeks.
- (3) A stay of judicial enforcement based on submission of a document or electronic or magnetic record stated in paragraph (1), item (viii) which contains or records a statement that an obligee consented to granting a grace period of performance that may only be effected twice and the total period does not exceed six months.
- (4) If a document (excluding a certificate of recorded information) stated in paragraph (1), item (iii) should be submitted pursuant to the provisions of that paragraph, a person seeking to submit a petition to stay enforcement may, pursuant to the provisions of the Rules of the Supreme Court, submit the information prescribed in the Rules of the Supreme Court as the information necessary to identify the case concerning which the grounds prescribed in the item have arisen in lieu of submitting the document. In this case, that person is deemed to have submitted the relevant document.

(Voiding an Enforcement Disposition)

- Article 40 (1) If a document or electronic or magnetic record stated in paragraph (1), item (i) through (vi) of the preceding Article has been submitted, the enforcement court or court enforcement officer must void even an enforcement disposition that has already been taken.
- (2) The provisions of Article 12 do not apply if the enforcement court or court enforcement officer voids an enforcement disposition pursuant to the provisions of the preceding paragraph.

(Continuation of Judicial Enforcement If the Obligor Has Died)

- Article 41 (1) Judicial enforcement may be continued even if the obligor died after its commencement.
- (2) In the cases of the preceding paragraph, if existence of an heir to the obligor or the whereabouts of this person is unknown, the enforcement court may, upon petition, appoint a special representative for the inherited property or heir.
- (3) The provisions of Article 35, paragraphs (2) and (3) of the Code of Civil Procedure apply *mutatis mutandis* to the special representative referred to in the preceding paragraph.

(Sharing of Enforcement Costs)

- Article 42 (1) The cost of judicial enforcement that is necessary (referred to as "enforcement cost" below) is borne by the obligor.
- (2) In judicial enforcement of claim for payment of money, the enforcement cost may be collected simultaneously in the course of the enforcement procedures without requiring a title of obligation.
- (3) When a judicial decision revoking a title of obligation (excluding a notarial instrument authorizing enforcement) on which enforcement is based, or a judgment declaring invalidity of a settlement, acknowledgment, mediation or labor tribunal decision that a title of obligation concerns has become final and binding, the obligee must return, to the obligor, money equivalent to the enforcement cost that has been paid to the obligee.
- (4) The portion of the enforcement cost to be borne by an obligor pursuant to the provisions of paragraph (1) (excluding costs that were collected pursuant to the provisions of paragraph (2); the same applies in the following paragraph and paragraph (7)) and the amount of money to be returned by an obligee pursuant to the provisions of the preceding paragraph are established by a clerk of the enforcement court, upon petition.
- (5) A petition prescribed in the preceding paragraph must be filed within 10 years from the day stated in the following items in accordance with the categories of the amounts stated in the respective items:

- (i) the amount of the enforcement cost prescribed in the preceding paragraph: the day on which the judicial enforcement proceedings are completed; or
 - (ii) the amount of money to be returned prescribed in the preceding paragraph: the day on which the judicial decision or judgment prescribed in paragraph (3) becomes final and binding.
- (6) A person may file an objection with the enforcement court to the court clerk's disposition concerning a petition referred to in paragraph (4), within an inalterable period of one week from the day on which the person is notified of those measures.
- (7) If the enforcement court finds there to be grounds to the filing of an objection to a court clerk's disposition under paragraph (4), and the enforcement cost and the amount of money to be returned prescribed in that paragraph are required to be established, the court must establish those amounts itself.
- (8) An appeal may be filed against a ruling on the objection under paragraph (6).
- (9) A court clerk's disposition under paragraph (4) does not become effective until it becomes final and binding.
- (10) The provisions of Article 74, paragraph (1) of the Code of Civil Procedure apply mutatis mutandis to a court clerk's disposition under paragraph (4). In this case, the provisions of paragraph (6), paragraph (8), the preceding paragraph and Article 74, paragraph (3) apply mutatis mutandis.

Section 2 Judicial Enforcement of Claims for Payment of Money
Subsection 1 Judicial Enforcement Under the Provisions of Against
Immovable Property
Division 1 General Rules

(Method of Enforcement Against Immovable Property)

Article 43 (1) Judicial enforcement against immovable property (excluding any fixtures on land that are not registrable; the same applies in this Section) (referred to as "enforcement against immovable property" below) is carried out by the method of a compulsory auction or forced administration. These methods may be used jointly.

- (2) As it concerns judicial enforcement of claim for payment of money, co-ownership interests in immovable property, registered superficies and farming rights, and co-ownership interests in those rights are deemed to be immovable property.

(Enforcement Court)

Article 44 (1) The district court having jurisdiction over the relevant location (or, for what is regarded to be immovable property pursuant to the provisions of paragraph (2) of the preceding Article, the place where it is to be registered)

has jurisdiction over enforcement against immovable property as the enforcement court.

- (2) If a building exists over multiple jurisdictional districts of district courts, any of the district courts having jurisdiction in the locality of the land on which that building exists have jurisdiction over judicial enforcement against that building as the enforcement court, and the district court having jurisdiction in the locality of the relevant land or the district court that has received a petition for judicial enforcement against the building has jurisdiction over judicial enforcement against the land on which that building exists as the enforcement court.
- (3) In the cases of the preceding paragraph, the enforcement court may, when it finds it to be necessary, transfer the case to another court with jurisdiction.
- (4) No appeal may be entered against an order under the preceding paragraph.

Division 2 Compulsory Auction

(Commencement Order)

- Article 45 (1) to commence proceedings for a compulsory auction, the enforcement court must issue an order commencing compulsory-auction proceedings, and, in that order, it must declare that immovable property will be seized for the benefit of the obligee.
- (2) The commencement order referred to in the preceding paragraph must be served upon the obligor.
 - (3) An appeal may be filed against a judicial decision to deny a petition for a compulsory auction.

(Effects of a Seizure)

- Article 46 (1) A seizure becomes effective when an order commencing compulsory-auction proceedings is served upon the obligor; provided, however, that if the seizure is registered before the service of the commencement order, the seizure becomes effective at the time of the registration.
- (2) A seizure does not preclude the obligor from using or making profits from the immovable property in an ordinary way.

(Overlapped Commencement Order)

- Article 47 (1) If a person files a petition for a compulsory auction of immovable property for which an order commencing compulsory auction proceedings or the auctioning of property as a means of enforcing a security interest (referred to as an "auction" in this Section) has been issued, the enforcement court is to issue another order commencing compulsory auction proceedings.
- (2) If a petition for a compulsory auction or auction connected with a previous

commencement order is withdrawn or if the proceedings for the compulsory auction or auction connected with a previous commencement order are canceled, the enforcement court must continue the proceedings based on the subsequent commencing compulsory auction proceedings.

- (3) In the cases of the preceding paragraph, if the subsequent commencing compulsory auction proceedings are connected with a petition that is filed after the deadline for a distribution demand, the court clerk must set a new deadline for a distribution demand. In this case, it is not required to demand a notification under Article 49, paragraph (2) from any person who has already filed a proof as referred to in Article 50, paragraph (1) (including as applied *mutatis mutandis* pursuant to Article 188).
- (4) A person may file an objection with the enforcement court to a court clerk's disposition under the preceding paragraph.
- (5) The provisions of the first sentence of Article 10, paragraph (6) and Article 10, paragraph (9) apply *mutatis mutandis* to cases where an objection under the preceding paragraph has been filed.
- (6) If the proceedings for a compulsory auction or auction connected with a previous commencement order are stayed, the enforcement court, upon petition, may make a judicial decision to continue the proceedings based on subsequent commencing compulsory-auction proceedings (limited to one resulting from a petition filed no later than the deadline for a distribution demand); provided, however, that this does not apply if the cancellation of the proceedings connected with the previous order would change the matter stated in Article 62, paragraph (1), item (ii).
- (7) An appeal may be filed against an order to deny the petition referred to in the preceding paragraph.

(Commissioning the Registration of a Seizure)

- Article 48 (1) When an order commencing compulsory auction proceedings has been issued, a court clerk must immediately commission the registration of the seizure connected with that commencement order.
- (2) A registrar must, when having made registration of a seizure based on a commission under the preceding paragraph, notify the enforcement court to that effect and of the matters prescribed in the Rules of the Supreme Court.

(Public Notice of a Commencement Order and the Deadline for a Distribution Demand)

- Article 49 (1) When a seizure associated with an order commencing compulsory-auction proceedings becomes effective (unless another order commencing compulsory-auction proceedings or auction has been issued before the commencement order in question), the court clerk must set a deadline for any

distribution demands by taking into consideration the period required for the procedure for preparation of the electronic description of property (meaning an electronic description of property prescribed in Article 62, paragraph (2)).

- (2) Once the court clerk sets the deadline for a distribution demand, they must give public notice of the fact that a commencement order has been issued and of the deadline for a distribution demand, and demand the following persons or entities to file notifications with the enforcement court of the existence or non-existence of claims (including interests and any other incidental claims) and the basis and amounts of those claims by the deadline for a distribution demand:
 - (i) obligee stated in Article 87, paragraph (1), item (iii);
 - (ii) obligee stated in Article 87, paragraph (1), item (iv) (in cases of a holder of mortgage instruments, limited to a known holder); or
 - (iii) government agency or public office that has administrative jurisdiction over tax and other public charges.
- (3) If the court clerk finds it to be particularly necessary, they may extend the deadline for a distribution demand.
- (4) If the court clerk has extended the deadline for a distribution demand pursuant to the provisions of the preceding paragraph, they must give public notice of the extended deadline.
- (5) A person may file an objection with the enforcement court to a court clerk's disposition under paragraph (1) or paragraph (3).
- (6) The provisions of the first sentence of Article 10, paragraph (6) and Article 10, paragraph (9) apply mutatis mutandis to cases where an objection under the preceding paragraph has been filed.

(Obligation of a Person Who Received a Demand to File Proof of Their Claims)

- Article 50 (1) A person stated in paragraph (2), item (i) or (ii) of the preceding Article who has demanded under that paragraph must make a filing concerning the demanded information by the deadline for a distribution demand.
- (2) If there is a change in the amount of principal from a claim under a filing as referred to in the preceding paragraph, the person that made that filing must make a filing to that effect.
 - (3) If, intentionally or through negligence, a person that is required to make a filing pursuant to the provisions of the preceding two paragraphs fails to make that filing or makes a false filing, that person is liable to compensate for the damage that results.

(Distribution Demand)

- Article 51 (1) An obligee that has an authenticated copy of a title of obligation

based on which judicial enforcement may be implemented pursuant to the provisions of Article 25 (referred to as an "authenticated copy of an enforceable title of obligation" below); an obligee effecting a provisional seizure who has been registered after the registration of the seizure resulting from an order commencing compulsory auction proceedings; an obligee who has a registered (excluding provisional registration) general statutory lien; or an obligee who has proved that the obligee has a general statutory lien based on any of the documents or electronic or magnetic records stated in Article 181, paragraph (1) , item (ii) may demand distribution.

- (2) An appeal may be filed against a judicial decision to deny a distribution demand.

(Changing the Deadline for a Distribution Demand)

Article 52 If a ruling to permit a sale is not issued within three months from the deadline for a distribution demand or if a ruling to permit a sale that is issued within the three month period is revoked or ceases to be effective, the deadline for a distribution demand is deemed to have been changed to the day after the expiration of three months following the deadline; provided, however, that this does not apply if a ruling to permit a sale that is issued within three months from the deadline for when a distribution demand ceased to be effective and ruling to permit the sale has been issued for the next-highest offer under Article 67 (excluding cases where the order has been revoked or has ceased to be effective).

(Voiding Proceedings for a Compulsory Auction Due to a Loss of Immovable Property)

Article 53 If it becomes clear that immovable property has been lost or that there are other circumstances hindering the transfer of immovable property, the enforcement court must cancel the proceedings for the compulsory auction.

(Commissioning the Deletion of a Registration of a Seizure)

Article 54 (1) If a petition for a compulsory auction is withdrawn or if an order voiding the proceedings for a compulsory auction becomes effective, the court clerk must commission the deletion of the registration of a seizure subject to that commencement order.

- (2) The registration and license tax and any other expenses required for a commission under the preceding paragraph are borne by the attaching obligee associated with that withdrawal or cancellation order.

(Provisional Order for Sale)

Article 55 (1) If an obligor or a possessor of immovable property engages in a

price reducing act (meaning an act that reduces or is likely to reduce the price of immovable property; the same applies in this paragraph), the enforcement court, upon petition by an attaching obligee (excluding an attaching obligee who filed a petition for a compulsory auction or an auction after the deadline for a distribution demand), may issue the provisional order stated in any of the following items or the provisional order to post a public notice (meaning a provisional order directing a court enforcement officer to give public notice of the content of the relevant provisional order by posting a written public notice or any other sign at the place where the immovable property is located; the same applies below) stated in any of the following items, up until the purchaser pays the full price; provided, however, that this does not apply when the reduction in the price caused by the price reducing act or the extent of that likelihood is slight:

- (i) a provisional order prohibiting the person who commits the price reducing act from committing the price reducing act or ordering that person to conduct a certain act (including a provisional order to post a public notice, if the enforcement court finds it to be necessary);
 - (ii) a provisional order containing the following matters (including a provisional order to post a public notice, if the enforcement court finds it to be necessary):
 - (a) ordering the person who commits the price reducing act to give up possession of the immovable property and deliver it to the court enforcement officer;
 - (b) having the court enforcement officer retain the immovable property.
 - (iii) a provisional order containing the following matters, and a provisional order to post a public notice:
 - (a) the matters stated in (a) and (b) of the preceding item;
 - (b) prohibiting the person prescribed in (a) of the preceding item from transferring the possession of immovable property and permitting the person to use the immovable property.
- (2) The provisional order stated in item (ii) or item (iii) of the preceding paragraph may not be issued unless either of the following cases applies:
- (i) cases where the obligor referred to in the preceding paragraph possesses the immovable property; or
 - (ii) cases where the title to possession held by the possessor of the immovable property referred to in the preceding paragraph may not be duly asserted against the attaching obligee, the obligee effecting a provisional seizure or the person whose right is extinguished pursuant to the provisions of Article 59, paragraph (1).
- (3) In the case of issuing an order under paragraph (1) against a possessor other than the obligor, if it finds it to be necessary, the enforcement court must

interrogate that person.

- (4) When an enforcement court issues an order under paragraph (1), it may have the petitioner provide security; provided, however, that the provisional order stated in item (ii) of that paragraph may not be issued under that paragraph without having the petitioner provide security.
- (5) When there has been a change in circumstances, an enforcement court may, upon petition, void or change an order under paragraph (1).
- (6) An appeal may be filed against the judicial decision on the petition referred to in paragraph (1) or the preceding paragraph.
- (7) An order under paragraph (5) is not effective until it becomes final and binding.
- (8) A ruling establishing a provisional order stated in paragraph (1), item (ii) or (iii) or a provisional order to post a public notice stated in those items must not be carried out once two weeks have passed from the day on which the petitioner is notified of the ruling.
- (9) The ruling provided for in the preceding paragraph may be carried out even before it is served upon the opposite person.
- (10) The expenses required for the petition referred to in paragraph (1) or the enforcement of an order under that paragraph (excluding item (i)) (including the expenses required for retention of immovable property) are treated as administrative expenses in the proceedings for compulsory auction of that immovable property.

(Provisional Order for Sale Issued Without Identifying the Other Party)

- Article 55-2 (1) The enforcement court may issue a ruling establishing the provisional order stated in paragraph (1), item (ii) or (iii) of the preceding Article or the provisional order to post a public notice stated in those items without identifying the other person if there are special circumstances that make it difficult to identify the other person before the ruling being carried out.
- (2) A ruling under the preceding paragraph may not be carried out if it is not possible to identify the possessor of the immovable property at the time it is removed from their possession.
 - (3) Once a ruling under paragraph (1) is carried out, the person who has had the immovable property removed from their possession through that the carrying out of the ruling becomes the other person to the ruling.
 - (4) A ruling under paragraph (1) is not required to be served upon the other person if it is not enforced within the period referred to in paragraph (8) of the preceding Article. In this case, a ruling to void the security under Article 79, paragraph (1) of the Code of Civil Procedure as applied *mutatis mutandis* pursuant to Article 15, paragraph (2), which concerns the security that a person is made to provide pursuant to the provisions of paragraph (4) of the

preceding Article, becomes effective through notification of the petitioner by a means that the enforcement court finds to be reasonable.

(Permission to Pay Land Rent in Place of the Obligor)

- Article 56 (1) If an order commencing compulsory auction proceedings has been issued against a building, if the obligor fails to pay rent for the superficies or right of lease for owning that building, the enforcement court may, upon petition, permit the attaching obligee (excluding an attaching obligee who filed a petition for a compulsory auction or an auction after the deadline for a distribution demand) to perform that unpaid rent in place of the obligor.
- (2) The provisions of Article 55, paragraph (10) apply mutatis mutandis to the expenses required for the petition referred to in the preceding paragraph and the rent paid by obtaining the permission referred to in that paragraph.

(Investigation of the Current Conditions)

- Article 57 (1) An enforcement court must order a court enforcement officer to investigate the shape, possession status and any other current conditions of immovable property.
- (2) When carrying out the investigation referred to in the preceding paragraph, a court enforcement officer may enter immovable property, ask questions to the obligor or a third party possessing the immovable property or request that person to present documents.
- (3) In cases of entering immovable property pursuant to the provisions of the preceding paragraph, if it is necessary, a court enforcement officer may take the necessary disposition to open a closed door.
- (4) If it is necessary for the investigation referred to in paragraph (1), a court enforcement officer may request the municipality (or, for an area where there are special wards, the metropolitan government) to deliver copies of drawings or any other materials it possesses regarding the fixed property tax imposed on the immovable property (when the immovable property is land, it includes any building built on the land, and when the immovable property is a building, it includes the building site).
- (5) A court enforcement officer may, in the cases prescribed in the preceding paragraph, request corporations engaged in public welfare undertakings, which provide supply of electricity, gas or tap water or make any other continuous performance equivalent to that, to report necessary matters.

(Appraisal)

- Article 58 (1) An enforcement court must appoint an appraiser and order the appraiser to appraise immovable property.
- (2) An appraiser must make an appraisal, without delay, appropriately taking

into consideration the transaction prices of similar immovable property in the neighborhood, the income to be generated from the immovable property, the original cost of the immovable property and any other circumstances affecting the price formation of the immovable property. In this case, the appraiser must take into account the fact that it is an appraisal for implementing the sale of immovable property in proceedings for a compulsory auction.

- (3) In order for an appraiser to request assistance from a court enforcement officer pursuant to the provisions of Article 6, paragraph (2), the appraiser must obtain the permission of the enforcement court.
- (4) The provisions of Article 18, paragraph (2) and paragraphs (2), (4) and (5) of the preceding Article apply mutatis mutandis to cases where an appraiser makes an appraisal.

(Extinguishment of Rights upon Sale)

Article 59 (1) Any statutory lien, any pledge with provisions not to use or make profits from immovable property, and any mortgage existing on immovable property are extinguished when the property is sold.

- (2) Any acquisition of rights on immovable property that may not be duly asserted against a person whose right is extinguished pursuant to the provisions of the preceding paragraph, an attaching obligee or an obligee effecting a provisional seizure ceases to be effective when the property is sold.
- (3) The carrying out of a seizure or provisional seizure of immovable property; or the carrying out of a provisional disposition that may not be duly asserted against a person whose right is extinguished pursuant to the provisions of paragraph (1), an attaching obligee, or an obligee effecting a provisional seizure ceases to be effective when the property is sold.
- (4) Regarding any right of retention and any pledge without provisions not to use or make profits from immovable property existing on immovable property, to which the provisions of paragraph (2) do not apply, the purchaser is liable to perform claims secured by the right or pledge.
- (5) When a person having an interest has given notification that they have concluded an agreement that differs from the provisions of paragraph (1), paragraph (2) or the preceding paragraph by the time the standard sales price provided in paragraph (1) of the following Article is determined, the changes in rights on immovable property through the sale are in accordance with that agreement.

(Order on the Standard Sales Price)

Article 60 (1) An enforcement court must determine the price that is to serve as the standard for the sales price of immovable property (referred to as the "standard sales price" below), based on an appraisal by an appraiser.

- (2) An enforcement court may, if it finds it to be necessary, change the standard sales price.
- (3) A purchase offer price must be not less than the price obtained by deducting from the standard sales price an amount equivalent to two-tenths of that price (referred to as the "minimum purchase price" below).

(Package Sale)

Article 61 If the enforcement court finds it to be reasonable to have the same purchaser purchase a piece of immovable property and another piece of immovable property (including those related to a different attaching obligee or a different obligor) considering the relationship in the use of the respective pieces of property, it may determine to sell the pieces of property in a package; provided, however, that this is limited to cases where the consent of the obligor has been obtained, if it is expected to be possible to fully perform the claims and enforcement costs of the respective obligees with the minimum purchase price of part of the several pieces of property for which an order commencing compulsory-auction proceedings has been issued based on a single petition.

(Electronic Property Description)

Article 62 (1) The court clerk must, for the sale of immovable property, prepare an electronic or magnetic record in advance in which the matters stated in the following items are recorded pursuant to the provisions of the Rules of the Supreme Court and record that record in a file:

- (i) information identifying the immovable property;
 - (ii) any acquisition of rights to the immovable property or carrying out of provisional dispositions that does not cease to be effective upon sale; and
 - (iii) the outline of the superficies that is deemed to have been established upon sales.
- (2) A court clerk must keep a document prepared by outputting the matters recorded in the electronic description of property (meaning the electronic or magnetic record recorded to a file pursuant to the provisions of the preceding paragraph; the same applies in this paragraph and Article 71, item (vii)) at the enforcement court and take measures to make it available for public inspection, take the measures to put those matters in a condition where they can be viewed on the screen of a computer installed at the court, or take the measure specified by the Rules of the Supreme Court for enabling many and unspecified persons to access the contents of the relevant electronic description of property.
 - (3) A person may file an objection with the enforcement court to a court clerk's disposition under the preceding two paragraphs.
 - (4) The provisions of the first sentence of Article 10, paragraph (6) and Article 10, paragraph (9) apply mutatis mutandis to cases where an objection under the

preceding paragraph has been filed.

(Measures Taken If Surplus Is Not Expected)

Article 63 (1) An enforcement court must, if it finds that any of the following items apply, notify the attaching obligee (meaning the attaching obligee associated with the first order commencing compulsory-auction proceedings, or, if a judicial decision to continue the procedure provided in Article 47, paragraph (6) has been issued, the attaching obligee who received that judicial decision; the same applies in this Article) to that effect:

- (i) If there is no claim that takes preference over the claim of the attaching obligee (referred to as a "preferential claim" in this Article), if the minimum purchase price of the immovable property does not exceed the estimated amount of the part of the enforcement costs that constitutes administrative expenses (referred to as "procedural expenses" below); or
- (ii) If there is a preferential claim, and the minimum purchase price of the immovable property is below the total of the estimated amount of the procedural expenses and that of the preferential claim.

(2) When the attaching obligee fails to make an offer or to provide a guarantee, as provided in each of the following items for the cases stated respectively in those, within one week from the day of receipt of a notice under the preceding paragraph, by deciding, if there is no preferential claim, a price that exceeds the estimated amount of procedural expenses, or if there is a preferential claim, a price that is not less than the total of the estimated amount of procedural expenses and that of the preferential claim (this price is referred to as the "obligee's offered price" in this paragraph), the enforcement court must cancel the proceedings for a compulsory auction under the petition filed by the attaching obligee; provided, however, that this does not apply when the attaching obligee has proved, within that period, that none of the items of the preceding paragraph apply, or if, in a case that falls under item (ii) of that paragraph, the minimum purchase price of the immovable property exceeds the estimated amount of procedural expenses and consent has been obtained from the persons who have the preferential claim (excluding a person who is expected to be able to receive full performance of the person's preferential claim at the minimum purchase price) for the sale of the immovable property:

- (i) cases where the attaching obligee is able to purchase the immovable property: making of an offer that the attaching obligee will purchase the immovable property at the obligee's offered price if there is no purchase offer that reaches the obligee's offered price, and provisions of a guarantee equivalent to the obligee's offered price; or
- (ii) cases where the attaching obligee is unable to purchase the immovable property: making of an offer that the attaching obligee will pay any

difference between the obligee's offered price and the purchase offer price if the purchase offer price fails to reach the obligee's offered price, and provisions of a guarantee equivalent to the difference between the obligee's offered price and the minimum purchase price.

- (3) If an offer has been made and a guarantee has been provided under item (ii) of the preceding paragraph, if there is no purchase offer at or beyond the minimum purchase price, the enforcement court must cancel the proceedings for a compulsory auction under the petition filed by the attaching obligee.
- (4) The provision of a guarantee referred to in paragraph (2) must be made to the enforcement court by the method specified by the Rules of the Supreme Court.

(Sales Method and Public Notice)

Article 64 (1) Immovable property is sold by the sales method specified by the court clerk.

- (2) The sales method of immovable property is bidding, an auction or any other method specified by the Rules of the Supreme Court.
- (3) The court clerk must, when carrying out a sale by bidding or an auction, decide on the date and place of the sale and have a court enforcement officer implement the sale.
- (4) In the case of the preceding paragraph, the court clerk must, simultaneously with a disposition to have a sale implemented, designate the period for the expression of opinions pursuant to the provisions of Article 70, paragraph (1) and the day on which the ruling specified in Article 69, paragraph (1) is rendered.
- (5) In the cases referred to in paragraph (3), a court clerk must give public notice of the indication of the immovable property to be sold, the standard sales price and the date and place of the sale.
- (6) A person may file an objection with the enforcement court to a court clerk's disposition under paragraph (1), paragraph (3), or paragraph (4).
- (7) The provisions of the first sentence of Article 10, paragraph (6) and Article 10, paragraph (9) apply *mutatis mutandis* to cases where an objection under the preceding paragraph has been filed.

(Preliminary Inspection)

Article 64-2 (1) An enforcement court must, upon petition by the attaching obligee (excluding an attaching obligee who filed a petition for a compulsory auction or an auction after the deadline for a distribution demand), order a court enforcement officer to implement a preliminary inspection (meaning an occasion of having persons wishing to purchase the immovable property enter and inspect the immovable property; the same applies in this Article); provided, however, that this does not apply when the title to possession held by the

possessor of that immovable property may be duly asserted against the attaching obligee, the obligee effecting a provisional seizure or the person whose right will be extinguished pursuant to the provisions of Article 59, paragraph (1), and the possessor does not give their consent.

- (2) The petition referred to in the preceding paragraph must be filed, pursuant to the provisions of the Rules of the Supreme Court, by the time the court clerk makes a disposition to have a sale implemented.
- (3) The court enforcement officer who has received the order referred to in paragraph (1) must, by the time of implementation of the sale, implement a preliminary inspection for persons who have requested to participate in the preliminary inspection pursuant to the provisions of the Rules of the Supreme Court (excluding those who lack the qualification or capacity to purchase the immovable property or those for whom any of the grounds specified by the Rules of the Supreme Court exist; referred to as "preliminary inspection participants" in paragraph (5) and paragraph (6)).
- (4) An enforcement court may, when it is clear that smooth implementation of a preliminary inspection is difficult, set aside the order referred to in paragraph (1).
- (5) A court enforcement officer may, when implementing a preliminary inspection, enter the immovable property themselves and have preliminary inspection participants enter the immovable property.
- (6) When any preliminary inspection participant commits an act that obstructs smooth implementation of the preliminary inspection, a court enforcement officer may restrict their entry into the immovable property or have them leave the immovable property.

(Maintenance of Order at the Place of Sale)

Article 65 A court enforcement officer may restrict entry of any of the following into the place of sale, have them leave that place or disallow them to make a purchase offer:

- (i) a person who has committed or caused another person to commit an act to obstruct others from making purchase offers or obstruct fair implementation of a sale, such as uniting for unjustly lowering the price;
- (ii) a person who has been recognized as falling under the preceding item in a ruling not to permit a sale that has been issued in another civil enforcement procedure, if it has not been two years since the day on which the ruling not to permit the sale became final and binding; and
- (iii) a person who, in relation to a sale in a civil enforcement procedure, has been sentenced to a punishment pursuant to the provisions of Articles 95 through 96-5, Article 197 through 197-4 or Article 198 of the Penal Code (Act No. 45 of 1907), Article 3, paragraph (1), items (i) through (iv) or paragraph

(2) (limited to the parts concerning paragraph (1), items (i) through (iv) of the same Article) of the Act on Punishment of Organized Crime and Control of Proceeds of Crime (Act No. 136 of 1999), or Article 1, paragraph (1), Article 2, paragraph (1) or Article 4 of the Act on Punishment of Persons Holding Public Office Who Acquire Benefits by Exerting Influence (Act No. 130 of 2000), if two years have yet to pass from the day on which its judicial decision became final and binding.

(Statement Indicating That the Relevant Person Is Not a Current or Former Member of an Organized Crime Group)

Article 65-2 A person seeking to submit an offer to purchase immovable property (or their legal representative, if they have one; or the representative, if the person is a corporation) may not submit that offer without giving a statement, pursuant to the provisions of the Rules of the Supreme Court, indicating that none of the following items applies:

- (i) the person seeking to submit the purchase offer (or its officers, if that person is a corporation) is a member of an organized crime group provided for in Article 2, item (vi) of the Act on Preventing Unjust Acts by Members of Organized Crime Groups (Act No. 77 of 1991) (referred to as a "member of an organized crime group" in this item) or is someone who ceased to be a member of an organized crime group on a date that is less than five years in the past (referred to as a "current or former member of an organized crime group" in this division); or
- (ii) one person seeking to have a second person submit the purchase offer on the first person's own account (or its officers, if that person is a corporation) and is a current or former member of an organized crime group.

(Purchase Offer Guarantee)

Article 66 A person seeking to submit an offer to purchase immovable property must provide a guarantee in the amount and by the method specified by the enforcement court pursuant to the provisions of the Rules of the Supreme Court.

(Next Highest Offer)

Article 67 A person who has made the next highest purchase offer to the highest bidder may, provided that that person's purchase offer price is not less than the minimum purchase price and not less than the price obtained by deducting the amount of the purchase offer guarantee from the price offered by the highest bidder, make an offer seeking permission of sale for the offeror's purchase offer if the order permitting the sale to the highest bidder ceases to be effective pursuant to the provisions of Article 80, paragraph (1) (the offer is

referred to as the "next highest offer" below) to a court enforcement officer, by the time of the termination of implementation of the sale.

(Prohibition of a Purchase Offer by an Obligor)

Article 68 An obligor may not make a purchase offer.

(Provisional Order for an Attaching Obligee Who Has Made a Purchase Offer)

Article 68-2 (1) If no purchase offer is made when the court clerk had a sale implemented by the method of bidding or an auction, if the obligor or the possessor of the immovable property has committed or is likely to commit an act that makes the sale of the immovable property difficult, the enforcement court may, upon petition by an attaching obligee (excluding an attaching obligee who filed a petition for a compulsory auction or an auction after the deadline for a distribution demand; the same applies in the following paragraph), issue a provisional order containing the following matters (including a provisional order to post a public notice, if the enforcement court finds it to be necessary), while requiring provision of security, until a purchaser pays the price:

- (i) ordering the obligor or the possessor of the immovable property to give up possession of the immovable property and deliver it to the court enforcement officer or the petitioner; and
- (ii) having the court enforcement officer or the petitioner retain the immovable property.

(2) An attaching obligee must, to file the petition referred to in the preceding paragraph, decide on a price not less than the minimum purchase price (referred to as the "obligee's offered price" in this paragraph), make an offer that the obligee must purchase the immovable property at the obligee's offered price if there is no purchase offer that reaches that price upon the next implementation of a sale by bidding or an auction, and provide a guarantee equivalent to the obligee's offered price.

(3) When there has been a change in circumstances, an enforcement court may, upon petition or by its own authority, void or change an order under paragraph (1).

(4) The provisions of Article 55, paragraph (2) apply mutatis mutandis to a provisional order under paragraph (1), the provisions of paragraph (3) of the Article apply mutatis mutandis to an order under paragraph (1), the provisions of paragraph (6) of the Article apply mutatis mutandis to a judicial decision on the petition referred to in paragraph (1), a judicial decision under the preceding paragraph or a judicial decision to deny the petition referred to in that paragraph, the provisions of paragraph (7) of that Article apply mutatis mutandis to an order under the preceding paragraph, the provisions of

paragraph (8) and paragraph (9) of that Article and Article 55-2 apply mutatis mutandis to an order granting the provisional order prescribed in paragraph (1), the provisions of Article 55 , paragraph (10) apply mutatis mutandis to expenses required for the petition referred to in paragraph (1) or carrying out of an order under the paragraph, and the provisions of Article 63, paragraph (4) apply mutatis mutandis to the provisions of a guarantee referred to in paragraph (2).

(Measures for When Immovable Property Is Unlikely to Be Sold)

- Article 68-3 (1) If no purchase offer has been made even though the court clerk has had a sale implemented three times through bidding or an auction, and if the enforcement court, taking into consideration the shape of the immovable property, its intended use, regulations on its use under laws and regulations, and any other circumstances, finds that the property is unlikely to be sold even if the court clerk has a sale implemented again, the enforcement court may stay the proceedings for the compulsory auction. In this case, the enforcement court must notify the attaching obligee to that effect.
- (2) If, within three months from the day of receipt of notice under the preceding paragraph, an attaching obligee has made an offer to the enforcement court seeking to have a sale implemented on the basis that there is a person seeking to make a purchase offer, a court clerk must have a sale implemented pursuant to the provisions of Article 64.
- (3) If an attaching obligee does not make an offer seeking to have a sale implemented under the preceding paragraph within the period referred to in that paragraph, the enforcement court may cancel the proceedings for the compulsory auction. The same applies if no purchase offer is made when a court clerk has a sale implemented pursuant to the provisions of that paragraph.

(Commission of Investigation)

- Article 68-4 (1) An enforcement court must commission the prefectural police having jurisdiction of the location of the enforcement court to conduct necessary investigation concerning whether or not the highest bidder (or officers if the person is a corporation; the same applies in this paragraph) falls under a current or former member of an organized crime group; provided, however, that this does not apply to cases, which the Rules of the Supreme Court provide, that there are circumstances which cause the enforcement court to find that the highest bidder does not fall under a current or former member of an organized crime group
- (2) If an enforcement court finds that there is a person who makes the highest bidder make the purchase offer on the person's account, the enforcement court

must commission the prefectural police having jurisdiction of the location of the enforcement court to conduct necessary investigation concerning whether or not the person who makes the offeror make the purchase offer (or officers if the person is a corporation; the same applies in this paragraph) falls under a current or former member of an organized crime group; provided, however, that this does not apply to cases, which the Rules of the Supreme Court provide, that there are circumstances which cause the enforcement court to find that the person who makes the offeror make the purchase offer does not fall under a current or former member of an organized crime group

(Ruling on a Sale)

Article 69 (1) An enforcement court must rule to permit or not to permit that sale.

(2) A ruling specified in the preceding paragraph must be done by preparing an electronic ruling (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 20; the same applies in Article 190, paragraph (1), item (iii)), pursuant to the provisions of the Rules of the Supreme Court.

(Statement of Opinions on Permitting or Not Permitting a Sale)

Article 70 (1) A person who has interest in the sale of immovable property being permitted or not permitted may state their opinion regarding any of the grounds stated in the items of the following Article that affect their rights.

(2) Statements of opinion under the preceding paragraph must be made in writing within the period designated in accordance with the provisions of Article 64, paragraph (4).

(Grounds for Not Permitting a Sale)

Article 71 If an enforcement court finds there to be any of the following grounds, it must rule not to permit the sale:

- (i) the proceedings for the compulsory auction should not be commenced or continued;
- (ii) the highest bidder lacks the qualification or capacity to purchase the immovable property or their agent lacks the authority to act as agent;
- (iii) the highest bidder is a person who has made a purchase offer on the account of a person who is not eligible to purchase the immovable property;
- (iv) the highest bidder, their agent or the person who, on their own account, had the highest bidder make a purchase offer falls under any of the following categories:
 - (a) a person who has engaged in the act prescribed in Article 65, item (i) in

- the proceedings for the compulsory auction;
- (b) a person who has failed to pay the fee or a person who has, on their own account, had the relevant person make a purchase offer in the proceedings for the compulsory auction;
- (c) the person stated in Article 65, item (ii) or (iii);
- (v) the highest bidder or a person who makes the highest bidder make the purchase offer on their own account falls under any of the following items:
 - (a) a current or former member of an organized crime group (including a person who is a current or former member of an organized crime group when the purchase offer is made);
 - (b) a corporation which has a person who falls under a current or former member of an organized crime group as its officer (including a corporation which had a person who falls under a current or former member of an organized crime group as its officer when the purchase offer is made);
- (vi) there is a petition not to permit the sale under Article 75, paragraph (1);
- (vii) there is a serious error in an order of the standard sales price, an order of package sale, preparation of an electronic description of property, or the procedure of that order or preparation; or
- (viii) there is a serious error in the procedure of sale.

(Measures for When a Judicial Decision to Stay Enforcement Has Been Submitted After Sale Procedures Have Finished Being Implemented)

- Article 72 (1) If the document stated in Article 39, paragraph (1), item (vii) has been submitted during the period from when sale procedures have finished being implemented until the ruling to permit or not permit a sale, the enforcement court may not rule to permit or not permit a sale, unless it will rule not to permit the sale based on different grounds. In this case, the highest bidder or the next highest bidder may make a filing with the enforcement court rescinding their purchase offer.
- (2) If the document prescribed in the preceding paragraph has been submitted after the ruling to permit or not permit a sale, the provisions of Article 39 apply only if a ruling to permit the sale is set aside or ceased to be effective or a ruling to not permit the sale became final and binding.
- (3) If the document or electronic or magnetic record stated in Article 39, paragraph (1), item (viii) is submitted after sale procedures have finished being implemented, the provisions of that Article apply only if the ruling to permit that sale is set aside or ceases to be effective or the ruling to not permit that sale has become final and binding.

(Measures in Cases of Becoming an Excess Sale)

- Article 73 (1) If multiple pieces of immovable property are being sold and it is

expected to be possible to fully pay the claims and enforcement costs of the obligees with the purchase offer price of some of the pieces of property, the enforcement court must withhold the ruling to permit the sale of the remaining pieces of property.

- (2) In the cases of the preceding paragraph, if it is expected to be possible to fully perform the claims and enforcement costs of the respective obligees with the purchase offer price of any of several pieces of property, the enforcement court must hear the opinion of the obligor in advance regarding the pieces of immovable property for which a sale should be permitted.
- (3) The highest bidder or the next highest bidder for whom a ruling to permit a sale has been withheld pursuant to the provisions of paragraph (1) may rescind their purchase offer to the enforcement court.
- (4) When the price has been paid for immovable property for which a ruling to permit a sale has been issued, the enforcement court must cancel the proceedings for the compulsory auction involving the immovable property referred to in the preceding paragraph.

(Appeal Against a Ruling to Permit or Not Permit a Sale)

Article 74 (1) An appeal may be filed against a ruling to permit or not permit a sale, but only if the appellant asserts that the appellant's rights will be prejudiced by the ruling.

- (2) The grounds for an appeal against a ruling to permit a sale must be that any of the grounds stated in the items of Article 71 exist or that there is a serious error in the proceedings for the ruling to permit the sale.
- (3) Notwithstanding the provisions of the preceding two paragraphs, the grounds stated in the items of Article 338, paragraph (1) of the Code of Civil Procedure may serve as the basis for an appeal against a ruling to permit or not permit a sale.
- (4) Regarding application of the provisions of Article 10, paragraph (2) for an appeal against a ruling to permit or not permit a sale, the phrase "the day on which the person is notified of the judicial decision" in that paragraph is deemed to be replaced with "the day of the ruling to permit or not permit a sale."
- (5) A court of appeal may, if it finds it to be necessary, specify the opposite party of the appellant.
- (6) A ruling to permit or not permit a sale does not take effect until it becomes final and binding.

(Petitioning the Court Not to Permit a Sale If Immovable Property Has Been Damaged)

Article 75 (1) If, after the highest bidder or purchaser has made a purchase offer,

the immovable property is damaged due to a natural disaster or other grounds not attributable to them, the highest bidder or purchaser may petition the enforcement court not to permit the sale, if it is before the issuance of a ruling to permit the sale, or may petition the enforcement court to set aside the ruling to permit the sale, if it is after that ruling has been issued but before the time the price is paid; provided, however, that this does not apply if the damage to the immovable property is slight.

- (2) An appeal may be filed against a ruling on the petition to void the ruling permitting the sale under the preceding paragraph.
- (3) A ruling to void a ruling permitting a sale based on a petition prescribed in the preceding paragraph does not take effect until it becomes final and binding.

(Withdrawal of a Petition for a Compulsory Auction After a Purchase Offer Has Been Made)

Article 76 (1) To withdraw a petition for a compulsory auction after a purchase offer has been made, the consent of the highest bidder or the purchaser and the next highest bidder must be obtained; provided, however, that this does not apply when there is any other attaching obligee (excluding an attaching obligee who filed a petition for a compulsory auction or an auction after the deadline for a distribution demand) and the withdrawal does not cause any change to the matter stated in Article 62, paragraph (1), item (ii).

- (2) The provisions of the preceding paragraph apply mutatis mutandis to the case of submitting the document or electronic or magnetic record stated in Article 39, paragraph (1), items (iv) through (v) after a purchase offer has been made.

(Provisional Order for the Highest Bidder or the Purchaser)

Article 77 (1) If the obligor or the possessor of immovable property has value reduction, etc. (meaning engaging in an act that reduces the value of immovable property or makes it difficult to deliver; the same applies in this paragraph) or is likely to do so, the enforcement court, upon petition by the highest bidder or the purchaser, may establish the provisional order stated in any of the following items or the provisional order to post a public notice stated in any of those items, until the delivery order is carried out, while requiring payment of money equivalent to the purchase offer price (or the purchase offer price less the amount of the guarantee referred to in Article 66, if the person has provided that guarantee in the form of money) or payment of the price:

- (i) a provisional order prohibiting the obligor or the possessor of the immovable property from value reduction, etc. or ordering that person to engaged a specific act (this includes a provisional order to post a public notice, if the enforcement court finds it to be necessary);
- (ii) a provisional order with the following content (this includes a provisional

order to post a public notice, if the enforcement court finds it to be necessary):

- (a) that the court orders the person who has reduced the value of the property or is likely to do so to give up possession of the immovable property and deliver it to the court enforcement officer;
- (b) that the court will have the court enforcement officer take custody of the immovable property.
- (iii) a provisional order with the following content, and a provisional order to post a public notice:
 - (a) the matters stated in (a) and (b) of the preceding item;
 - (b) that the court prohibits the person prescribed in (a) of the preceding item from transferring the possession of immovable property, and that it permits that person to use the immovable property.
- (2) The provisions of Article 55, paragraph (2) (limited to the portion related to item (i)) apply mutatis mutandis to the provisional order stated in item (ii) or item (iii) of the preceding paragraph, the provisions of paragraph (2) of that Article (limited to the portion related to item (ii)) apply mutatis mutandis to the provisional order stated in the preceding paragraph, the provisions of paragraph (3), the main clause of paragraph (4) and paragraph (5) of that Article applies mutatis mutandis to an order under the preceding paragraph, the provisions of paragraph (6) of the Article apply mutatis mutandis pursuant to a judicial decision on the petition referred to in the preceding paragraph or the petition referred to in paragraph (5) of the Article as applied mutatis mutandis pursuant to this paragraph, the provisions of paragraph (7) of the Article apply mutatis mutandis to an order under paragraph (5) of the Article as applied mutatis mutandis pursuant to this paragraph, and the provisions of paragraph (8) and paragraph (9) of the Article and Article 55-2 apply mutatis mutandis to an order granting the provisional order stated in item (ii) or item (iii) of the preceding paragraph.

(Payment of the Fee)

- Article 78 (1) When a ruling to permit a sale becomes final and binding, the purchaser must pay the fee to the enforcement court by the time limit specified by the court clerk.
- (2) The money provided by the purchaser as a purchase offer guarantee and the money paid by their pursuant to the provisions of paragraph (1) of the preceding Article are allotted to the payment of the fee.
 - (3) If the purchaser has provided the guarantee referred to in Article 63, paragraph (2), item (i) or Article 68-2, paragraph (2) by a method other than payment of money, the enforcement court conducts realization of what has been provided as the guarantee pursuant to the provisions of the Rules of the

Supreme Court, and allot the amount obtained by deducting the expenses required for the realization from the realization value to the payment of the fee. In this case, the expenses required for the realization are borne by the purchaser.

(4) If the purchaser is an obligee who is to receive a distribution or payment from the proceeds of the sale, the purchaser may pay the fee from which the amount of distribution or payment to be received has been deducted, by making the proposal to the enforcement court by the time when the order of permission of sale becomes final and binding. In this case, the sales price must be paid by the day when the period for filing an objection (meaning the period for filing an objection prescribed in Article 85-2, paragraph (1); the same applies in the following paragraph) ends or paid on the distribution date (meaning the distribution date prescribed in Article 85-3, paragraph (1); the same applies in the following paragraph and Article 85, paragraph (1)) or the day of delivery of payment.

(5) In the case of the preceding paragraph, if an objection is filed regarding the amount of distribution to be received by the purchaser, the purchaser must pay money equivalent to the portion that the objection concerns within one week from the day that the period for filing an objection ends or the distribution date.

(6) A court clerk may, if the court clerk finds it to be particularly necessary, change the time limit referred to in paragraph (1).

(7) A person may file an objection with the enforcement court to a court clerk's disposition under paragraph (1) or the preceding paragraph.

(8) The provisions of the first sentence of Article 10, paragraph (6) and Article 10, paragraph (9) apply *mutatis mutandis* to cases where an objection under the preceding paragraph has been filed.

(Time of Acquisition of the Immovable Property)

Article 79 A purchaser acquires immovable property at the time of payment of the fee.

(Effects of Non-Payment of the Fee)

Article 80 (1) A ruling to permit a sale ceases to be effective if the purchaser fails to pay the fee. In this case, the purchaser may not claim return of the guarantee provided pursuant to the provisions of Article 66.

(2) In the cases referred to in the first sentence of the preceding paragraph, if there is a next highest offer, the enforcement court must rule to permit or not permit the sale in connection with that offer.

(Statutory Superficies)

Article 81 If land and any building built on it are under the ownership of an

obligor, if the land or building has been seized and the owner of either the land or building has changed to a person other than that obligor through its sale, a superficies is deemed to have been established for the building. In this case, the rent is specified by the court, upon request by the party concerned.

(Commission of Registration upon Payment of the Fee)

Article 82 (1) Once a purchaser pays the purchase fee, the court clerk must commission the following registration or deletion:

- (i) registration of transfer of the rights acquired by the purchaser;
 - (ii) deletion of a registration connected with any rights that were extinguished through the sale or acquisition of rights or provisional dispositions that ceased to be effective through the sale; and
 - (iii) deletion of a registration of any seizure or provisional seizure.
- (2) If the purchaser or a person who seeks to receive establishment of a mortgage on immovable property from the purchaser has made a proposal by the time of payment of the price, pursuant to the provisions of the Rules of the Supreme Court, the commission under the preceding paragraph must be made by providing commission information to a person who is capable of providing an agency service of application for registration as a business and who has been designated by the proposer, and having that person provide the commission information to the registry. In this case, the person designated by the proposer must provide the commission information to the registry without delay.
- (3) To make a commission under paragraph (1), information proving that a ruling to permit the sale has been issued must be provided along with the commission information.
- (4) The registration and license tax and any other costs required for a commission under paragraph (1) is borne by the purchaser.

(Delivery Order)

Article 83 (1) An enforcement court may, upon petition by a purchaser who has paid the fee, order an obligor or a possessor of immovable property to deliver the immovable property to the purchaser; provided, however, that this does not apply to a person who is recognized, under the record of the case, to possess the immovable property based on a title that may be duly asserted against the purchaser.

- (2) A purchaser may not file the petition referred to in the preceding paragraph when six months (or, for a purchaser of a building that had been possessed by the mortgaged building user prescribed in Article 395, paragraph (1) of the Civil Code at the time of the purchase, nine months) have passed from the day of payment of the fee.
- (3) An enforcement court must, in the case of issuing an order under paragraph

- (1) to a possessor other than the obligor, interrogate that person; provided, however, that this does not apply when it is clear, under the record of the case, that the person does not possess the immovable property based on a title that may be duly asserted against the purchaser or if the enforcement court has already interrogated that person.
- (4) An appeal may be filed against a judicial decision on the petition referred to in paragraph (1).
- (5) An order under paragraph (1) is not effective until it becomes final and binding.

(Effects of a Provisional Order Prohibiting Transfer of Possession)

Article 83-2 (1) In proceedings for a compulsory auction, if a ruling establishing a provisional order stated in Article 55, paragraph (1), item (iii) or Article 77, paragraph (1), item (iii) and a provisional order to post a public notice stated in those items has been carried out and a delivery order has been issued against the respondent associated with that ruling upon petition by the purchaser, the purchaser may enforce the delivery of the immovable property against either of the following persons based on the delivery order:

- (i) a person who possessed the immovable property, knowing that the ruling has been carried out; or
 - (ii) a person who succeeded to the possession of that immovable property by the respondent associated with the ruling after the ruling has been carried out, without knowing that the ruling had been carried out.
- (2) A person taking possession of the immovable property referred to in the preceding paragraph after the enforcement of the ruling referred to in that paragraph is presumed to take possession of the immovable property while knowing that the ruling has been carried out.
- (3) If an attestation of enforceability against a person other than the respondent of the order referred to in paragraph (1) has been provided regarding the delivery order referred to that paragraph, this person may file an objection to the granting of the attestation of enforceability on the basis that they possess the immovable property based on a title that may be duly asserted against the purchaser or that they do not fall under any of the items of that paragraph.

(Implementing a Distribution Out of the Proceeds of a Sale)

Article 84 (1) If the sales price has been paid, an enforcement court must implement distribution based on an electronic distribution list (an electronic distribution list prescribed in paragraph (3) of the following Article recorded in a file pursuant to the provisions of paragraph (5) of that Article) except in the cases prescribed in the following paragraph.

- (2) If there is only one obligee or if there are two or more obligees and it is

possible to fully perform the claims and enforcement costs of the respective obligees with the proceeds of the sale, the enforcement court prepares an electronic statement of delivery of the proceeds of the sale (meaning an electronic or magnetic record prepared by the enforcement court, pursuant to the provisions of the Rules of the Supreme Court, by recording the amount of the proceeds of the sale, the amounts of the principal of the claims, interest, and any other incidental claims of each obligee, the amount of the enforcement costs, and the order and amounts of delivery of payment money to enable the payment money and surplus to be delivered; the same applies in the following paragraph) pursuant to the provisions of the Rules of the Supreme Court, and delivers payment money to the obligees and delivers any surplus to the obligor.

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

(4) If a document or electronic or magnetic record stated in Article 39, paragraph (1), items (i) through (vi) has been submitted after the payment of the fee, and there is another obligee that is to receive distribution from the proceeds of the sale or that is to be delivered payment (referred to as "distribution or payment" below), the enforcement court must implement distribution or payment for that obligee.

(5) The enforcement court must also implement distribution or payment if the document or electronic or magnetic record stated in Article 39, paragraph (1), item (vii) or (viii) has been submitted after the payment of the fee.

(Preparation of Electronic Distribution List)

Article 85 (1) An enforcement court determines the amounts of the principal of the claim, interest, and any other incidental claims, the amount of enforcement costs, and the order and amount of distribution for each of the obligees stated in the items of Article 87, paragraph (1); provided, however, that this does not apply to the order and amount of distribution if an agreement has been reached among all of the obligees and notification to that effect is submitted to the enforcement court or an agreement has been reached among all of the obligees on the distribution date.

(2) When determining the order and amount of a distribution pursuant to the provisions of the main clause of the preceding paragraph, the enforcement court must make the determination in accordance with the provisions of the Civil Code, Commercial Code and any other Acts.

(3) When the matters prescribed in the main clause of paragraph (1) (excluding the order and amount of the distribution, in the case prescribed in the proviso to that paragraph; the same applies in paragraph (1) of the following Article)

have been determined pursuant to the provisions of paragraph (1), a court clerk must prepare an electronic distribution list (meaning an electronic or magnetic record prepared by the court clerk, pursuant to the provisions of the Rules of the Supreme Court, by recording the matters stated in the following paragraph to implement a distribution; the same applies below) pursuant to the provisions of the Rules of the Supreme Court.

- (4) A statement of the amount of the proceeds of the sale and the content of the enforcement court's determination on the matters prescribed in the main clause of paragraph (1) (and, in a case as provided in the proviso to that paragraph, the content of the agreement on the order and amount of the distribution) must be recorded in an electronic distribution list.
- (5) If a court clerk has prepared an electronic distribution list pursuant to the provisions of paragraph (3), the court clerk must record the electronic distribution list in a file pursuant to the provisions of the Rules of the Supreme Court.

(Designation of Period for Filing an Opposition)

Article 85-2 (1) When an enforcement court determines the matters prescribed in the main clause of paragraph (1) of the preceding Article pursuant to the provisions of that paragraph, the enforcement court must designate the period when oppositions under Article 89, paragraph (1) should be filed (referred to as the "opposition filing period" below).

- (2) When an enforcement court designates the opposition filing period under the preceding paragraph, the enforcement court must send the judicial decision designating the opposition filing period and the electronic distribution list prepared pursuant to the provisions of paragraph (3) of the preceding Article (limited to an electronic distribution list that is recorded in a file pursuant to the provisions of paragraph (5) of that Article; the same applies below, except for paragraph (4) of the following Article) on the obligees and obligor prescribed in paragraph (1) of the preceding Article.

(Distribution Date)

Article 85-3 (1) When an enforcement court finds it to be necessary, the enforcement court may designate a date when objections under Article 89, paragraph (1) should be filed (referred to as the "distribution date" below). In this case, notwithstanding the provisions of paragraph (1) of the preceding Article, it is not necessary for the enforcement court to designate an objection filing period.

- (2) On the distribution date, the obligees prescribed in Article 85, paragraph (1) and the obligor must be summoned.
- (3) The provisions of Article 16, paragraphs (3) and (4) apply mutatis mutandis to

service of electronic writs of summon (meaning the electronic writs of summon prescribed in Article 94, paragraph (1), item (i) of the Code of Civil Procedure applicable *mutatis mutandis* pursuant to Article 20) related to the summons of the obliges specified in the preceding paragraph (excluding the person prescribed in the first sentence of paragraph (1) of that Article).

- (4) When a distribution date is designated pursuant to the provisions of paragraph (1), determination of the matters under the main clause of Article 85, paragraph (1) under that paragraph, the notification specified in the proviso of that paragraph, and preparation of the electronic distribution list under paragraphs (3) and (4) of that Article must be performed on the relevant distribution date.
- (5) On the distribution date, if the enforcement court finds it to be necessary for determining the matters prescribed in the main clause of Article 85, paragraph (1), it may interrogate the obligees and the obligor who appeared and immediately examine any documentary evidence that may be examined or the details of information recorded in electronic or magnetic records.

(Distribution Date Through Communication by Audio Transmission)

Article 86 (1) If an enforcement court finds it to be reasonable, the enforcement court may perform procedures on a distribution date by a method of communication that enables the enforcement court and the obligees prescribed in Article 85, paragraph (1) and the obligor to simultaneously communicate with one another by audio transmission pursuant to the provisions of the Rules of the Supreme Court.

- (2) A person who does not appear on a distribution date prescribed in the preceding paragraph and participates in the proceedings is deemed to have appeared on that distribution date.

(Proceeds of the Sale)

Article 86-2 (1) Proceeds of the sale are to consist of the following:

- (i) the price of the immovable property;
 - (ii) the portion of the guarantee that has been provided pursuant to the provisions of Article 63, paragraph (2), item (ii) that is equivalent to the amount that remains after deducting the price from the obligee's offered price; and
 - (iii) the guarantee of which return may not be claimed by the purchaser pursuant to the provisions of the second sentence of Article 80, paragraph (1).
- (2) If immovable property has been sold in a package pursuant to the provisions of Article 61, if it is necessary to determine the amount of the proceeds of the sale for each piece of immovable property, the amount is the amount obtained by dividing the total amount of the proceeds of the sale proportionately

according to the standard sales price of each piece of property. The same applies to the burden of enforcement costs for each piece of property.

- (3) The provisions of Article 78, paragraph (3) apply *mutatis mutandis* to a realization if the guarantee prescribed in paragraph (1), item (ii) or (iii) has been provided by a method other than payment of money.

(Scope of Obligees Entitled to Receive a Distribution)

Article 87 (1) Obligees entitled to receive a distribution or payment from the proceeds of the sale are the following:

- (i) an attaching obligee (limited one that has filed a petition for a compulsory auction or an auction to enforce a general statutory lien by the deadline for a distribution demand);
 - (ii) obligees that have filed a distribution demand by the deadline to demand distribution;
 - (iii) the obligee in any provisional seizure that is registered before registration of the seizure (meaning the seizure resulting from the first order commencing compulsory auction proceedings; the same applies in the following item); and
 - (iv) obligees holding any statutory lien (excluding general statutory liens held by the obligees stated in item (i) or item (ii)), pledge or mortgage which is registered (including provisional registration based on the provisional disposition prescribed in Article 53, paragraph (2) of the Civil Preservation Act) before registration of the order of the seizure and are extinguishable through the sale (including the holder of mortgage instruments connected to that mortgage).
- (2) If the right of the obligee stated in item (iv) of the preceding paragraph has been registered after registration of a provisional seizure, that obligee may receive distribution or payment only when the obligee effecting a provisional seizure has been defeated in the suit on the merits or the provisional seizure has ceased to be effective.
- (3) If proceedings for a compulsory auction involving a seizure have been stayed and a judicial decision to continue the proceedings has been issued under Article 47, paragraph (6), and if the attaching obligee subject to the stay is defeated in a suit or other dispute connected with that stay, obligees holding any right prescribed in paragraph (1), item (iv) which is registered after registration of the seizure and before registration of a seizure connected with the judicial decision of continuation may receive distribution or payment.

(Distribution or Payment for Claims with Due Dates)

Article 88 (1) A claim for which the fixed due date has yet to arrive is deemed to have become due as it concerns distribution or payment.

- (2) If the claim referred to in the preceding paragraph bears no interest, the amount of distribution or payment must be calculated with the amount of principal, which together with the interest for the period from the day of distribution or payment until the due date calculated based on the statutory interest rate as of the day of distribution or payment constitutes the amount of the claim, being deemed to be the amount of the claim.

(Filing of an Opposition to Distribution)

Article 89 (1) An obligee or obligor who is dissatisfied with any of the amounts of claim or distribution of the respective obligees recorded in the electronic distribution list may file an opposition (referred to as "filing an opposition to distribution" below).

- (2) An enforcement court must implement a distribution of only the part of the proceeds against whose distribution no filing an opposition to distribution has been filed.
- (3) Filing of an opposition to distribution under paragraph (1) must be made through a document within the opposition filing period designated pursuant to the provisions of Article 85-2, paragraph (1); provided, however, that if a distribution date is designated pursuant to the provisions of Article 85-3, paragraph (1), filing of an opposition to distribution must be made either through a document or orally on the relevant distribution date.

(Action to Oppose Distribution)

Article 90 (1) An obligee who has filed an opposition to distribution or an obligor who has filed an opposition to distribution against an obligee who does not have an authenticated copy of an enforceable title of obligation must file an action to oppose distribution.

- (2) The action referred to in the preceding paragraph is under the jurisdiction of the enforcement court.
- (3) The action referred to in paragraph (1) must be denied if the plaintiff fails to appear on the first date of oral argument, except when the plaintiff fails to appear based on grounds not attributable to them.
- (4) In a judgment on the action referred to in paragraph (1), the electronic distribution list must be changed or the electronic distribution list must be rescinded to prepare a new electronic distribution list.
- (5) An obligor who has filed an opposition to distribution against an obligee who has an authenticated copy of an enforceable title of obligation must file an action to dispute a claim or the action referred to in Article 117, paragraph (1) of the Code of Civil Procedure.
- (6) The filing of an opposition to distribution is deemed to have been withdrawn if the obligee or the obligor who has filed it fails to prove to the enforcement

court that they have filed the action referred to in paragraph (1) or fails to prove that they have filed the action referred to in the preceding paragraph and submit an authenticated copy or certificate of recorded information of a judicial decision to stay enforcement in connection with action to the enforcement court within one week (or, if the purchaser is to pay money pursuant to the provisions of Article 78, paragraph (5), within two weeks) from the expiration date of the opposition filing period or the distribution date (or, for the filing of an opposition to distribution against an unknown holder of mortgage instruments, the day on which that holder became known).

(Statutory Deposit in the Amount of Distribution)

Article 91 (1) If any of the following grounds exist for the claim of an obligee who is to receive distribution or payment, the court clerk must make a statutory deposit of money equivalent to the amount of the distribution or payment:

- (i) if the claim is one subject to a condition precedent or one with an uncertain due date;
- (ii) if the claim is one held by the obligee effecting a provisional seizure;
- (iii) if the document stated in Article 39, paragraph (1), item (vii) or Article 183, paragraph (1), item (ii), (e) has been submitted;
- (iv) if an authenticated copy or certificate of recorded information of a judicial decision temporarily prohibiting the enforcement of the statutory lien, pledge, or mortgage (referred to as a "statutory lien or other charge" below) under the claim has been submitted;
- (v) if provisional registration or provisional registration based on a provisional disposition under Article 53, paragraph (2) of the Civil Preservation Act has been made for the statutory lien or other charge under the claim;
- (vi) if the amount for distribution is not fixed due to the existence of a statutory lien or other charge that is registered after the registration of a provisional seizure or a seizure subject to a stay; or
- (vii) if an action to oppose distribution has been filed.

(2) The court clerk must make a statutory deposit of money equivalent to the amount of distribution or payment for any obligee who failed to appear to the enforcement court to receive distribution or payment (including any unknown holder of mortgage instruments).

(Implementation of Distribution when Rights Become Final and Binding)

Article 92 (1) If a statutory deposit has been made under paragraph (1) of the preceding Article, and the grounds for that statutory deposit have extinguished, the enforcement court must implement distribution or payment of the deposit money.

(2) If distribution is to be implemented pursuant to the provisions of the

preceding paragraph, and it is no longer possible to implement distribution to any obligee connected with the statutory deposit based on the grounds stated in paragraph (1), items (i) through (v) of the preceding Article or any obligee effecting a provisional seizure or any attaching obligee subject to a stay of enforcement related to a statutory deposit based on the grounds stated in item (vi) of the paragraph, or if an obligee connected with the statutory deposit based on the grounds stated in item (vii) of that paragraph has been defeated in an action to oppose distribution filed by the obligor, the enforcement court must also change the electronic distribution list for obligees who did not file an opposition to distribution.

- (3) If a statutory deposit is made under paragraph (1) of the preceding Article and the grounds for that statutory deposit have been extinguished, an obligee connected with that statutory deposit (when a statutory deposit is made for the reasons provided in item (vi) of that paragraph, an obligee effecting a provisional seizure or obligee effecting a seizure subject to a stay of enforcement; the same applies in this Article) must immediately notify the enforcement court to that effect.
- (4) If a statutory deposit is made under paragraph (1) of the preceding Article and two years have passed from the day when the statutory deposit is made (when notification is provided stating that the grounds for the statutory deposit have not been extinguished pursuant to the provisions of this paragraph, then the day that the last notification is provided) without the provision of the notification under the preceding paragraph, enforcement court must demand that, if the grounds for the statutory deposit have been extinguished, obligees connected with the statutory deposit provide notification to that effect, and if the grounds for the statutory deposit have not been extinguished, that those obliges provide notification to that effect.
- (5) If an obligee connected to a statutory deposit who received demand under the preceding paragraph does not provide notification under paragraph (3) or does not provide notification stating that the grounds for the statutory deposit have not been extinguished under the preceding paragraph within two weeks from the day that the demand is received, the enforcement court may make a decision that a distribution or payment is implemented in relation to the statutory deposit pursuant to the provisions of paragraphs (1) and (2) excluding the obligee connected to the statutory deposit.
- (6) A decision specified in the preceding paragraph becomes effective on the day when an inalterable period of one week passes from the day that the obligee connected to the relevant statutory deposit received the notification; provided, however, that this does not apply when the obligee connected to the relevant statutory deposit submits notification provided in paragraph (3) or notification that the grounds for the statutory deposit have not been extinguished provided

in paragraph (4) before the inalterable period passes.

- (7) When an obligee connected to a statutory deposit provides notification to the enforcement court stating that the grounds for the statutory deposit have not been extinguished before the period prescribed in paragraph (4) passes, notification stating that the grounds for the statutory deposit have not been extinguished is deemed to have been received under that paragraph regarding application of the provisions of that paragraph.

Division 3 Forced Administration

(Commencement Order)

- Article 93 (1) An enforcement court must, to commence a forced administration procedure, issue a commencement order for forced administration and in it, declare that immovable property be seized for the obligee and prohibit the obligor from disposing earnings and, if the obligor has a claim for a rent or any other right to seek delivery related to earnings from the immovable property (referred to as a "delivery claim" below), order the person who has the obligation to make that delivery to the obligor (referred to as the "person obligated to deliver" below) to deliver the subject matter of the delivery to the administrator.
- (2) The earnings referred to in the preceding paragraph are natural fruits to be harvested on a later date and civil fruits that are already due and will be due on a later date.
- (3) The commencement order referred to in paragraph (1) must be served upon the obligor and any person obligated to deliver.
- (4) The commencement order referred to in paragraph (1) becomes effective against a person obligated to deliver when the commencement order is served upon that person obligated to deliver.
- (5) An appeal may be filed against a judicial decision on a petition for forced administration.

(Overlapped Commencement Order)

- Article 93-2 If a commencement order for a forced administration has already been issued, or if a petition for a forced administration is filed for immovable property for which a commencement order for enforcement against earnings from secured immovable property has been issued provided in Article 180, item (ii), the enforcement court is to issue another commencement order for forced administration.

(Demand for the Person Obligated to Deliver to State the Presence of any Conflicting Order of Seizure of Claims)

Article 93-3 A court clerk must, upon servicing a commencement order for forced administration upon a person obligated to deliver, make a demand to the person obligated to deliver to state the presence or absence of any order of seizure or disposition of seizure against the delivery claim and any other matters specified by the Rules of the Supreme Court within two weeks from the day of service of the commencement order. In this case, the provisions of Article 147, paragraph (2) apply mutatis mutandis.

(Suspension of the Effects of a Conflicting Order of Seizure of Claims on the Delivery Claim)

Article 93-4 (1) When a commencement order for forced administration has become effective against a person obligated to deliver pursuant to the provisions of Article 93, paragraph (4), the effects of any order of seizure or disposition of seizure against the delivery claim, which is already effective, are suspended; provided, however, that this not applies to cases where the commencement order for forced administration becomes effective against the person obligated to deliver after the times stated in the items of Article 165 (including the cases where the provisions of the items of Article 165 (excluding item (iii) and item (iv)) are applied mutatis mutandis pursuant to Article 167-14, paragraph (1) and the cases where they are applied mutatis mutandis pursuant to Article 193, paragraph (2)).

(2) When a commencement order for forced administration has become effective against a person obligated to deliver pursuant to the provisions of Article 93, paragraph (4), the effects of any order of provisional seizure against the delivery claim, which is already effective, are suspended.

(3) The obligee in the order of seizure or disposition of seizure referred to in paragraph (1), an obligee who made a distribution demand in the procedure of enforcement against a claim (meaning the enforcement against a claim prescribed in Article 143) or enforcement against a claim arising from a small claims action (meaning enforcement against a claim arising from a small claims action as prescribed in Article 167-2, paragraph (2)) by the time of suspension of the effects of the order of seizure or disposition of seizure referred to in paragraph (1), and the obligee in the order of provisional seizure referred to in the preceding paragraph may receive distribution or payment in the forced administration procedure referred to in the preceding two paragraphs, notwithstanding the provisions of Article 107, paragraph (4).

(Appointment of an Administrator)

Article 94 (1) An enforcement court must appoint an administrator simultaneously with the issuance of a commencement order for forced administration.

- (2) A trust company (meaning a person who obtained the license referred to in Article 3 or Article 53, paragraph (1) of the Trust Business Act (Act No. 154 of 2004)), a bank, or any other corporation may become an administrator.

(Authority of an Administrator)

Article 95 (1) An administrator may conduct administration, collect earnings and conduct a realization regarding the immovable property for which a commencement order for forced administration has been issued.

- (2) An administrator must, to lease immovable property beyond the period specified in Article 602 of the Civil Code, obtain the consent of the obligor.
- (3) When there are several administrators, they perform their duties jointly; provided, however, that they may divide the duties among them by obtaining the permission of the enforcement court.
- (4) When there are several administrators, it is sufficient for a third party to manifest their intention to any one of them.

(Possession of Immovable Property for a Forced Administration)

Article 96 (1) An administrator may remove immovable property from the obligor's possession and take possession of it.

- (2) In the cases of the preceding paragraph, if an administrator finds it to be necessary to open a closed door, the administrator may request assistance from a court enforcement officer.
- (3) The provisions of Article 57, paragraph (3) apply mutatis mutandis to a court enforcement officer who has been requested to provide assistance pursuant to the provisions of the preceding paragraph.

(Permission to Use a Building)

Article 97 (1) If a commencement order for forced administration has been issued for a building in which the obligor resides and the obligor is unable to find another place to reside, the enforcement court, upon petition, may permit use of the building to the extent necessary for the obligor and any cohabiting relatives whose living expenses are paid from the same resources as the obligor (including a person whose relationship with the obligor is, de facto, that of husband and wife or adoptive parent and adopted child, even though they have not registered a marriage or adoption; referred to as the "obligor's household" below) to reside in it for a period it has specified.

- (2) When the obligor has obstructed the administration by the administrator or when there is any change in circumstances, the enforcement court may, upon petition, void or change an order under the preceding paragraph.
- (3) An appeal may be filed against an order on the petition referred to in the preceding two paragraphs.

(Giving a Portion of the Earnings)

- Article 98 (1) If the obligor would fall into extreme poverty through forced administration, the enforcement court may, upon petition, order the administrator to give the obligor the necessary money or earnings, depending on the extent of their poverty, from the earnings or the realization price.
- (2) The provisions of paragraph (2) of the preceding Article apply mutatis mutandis to an order under the preceding paragraph, and the provisions of paragraph (3) of that Article apply mutatis mutandis to an order based on the petition referred to in the preceding paragraph or the petition referred to in paragraph (2) of the preceding Article as applied mutatis mutandis pursuant to this paragraph.

(Supervision of an Administrator)

Article 99 An administrator is supervised by the enforcement court.

(Duty of Care of an Administrator)

- Article 100 (1) An administrator must perform their duties with due care of a prudent manager.
- (2) If an administrator fails to have the due care referred to in the preceding paragraph, the administrator is jointly and severally liable to compensate for damage to any person having an interest.

(Remuneration for an Administrator)

- Article 101 (1) An administrator may receive advance payments of expenses necessary for forced administration as well as a remuneration determined by the enforcement court.
- (2) An appeal may be filed against an order under the preceding paragraph.

(Dismissal of an Administrator)

Article 102 The enforcement court may, upon petition by a person having an interest or by its own authority, dismiss an administrator if there are material grounds to do so. In this case, the enforcement court must interrogate the administrator.

(Duty to Make a Report of Account)

Article 103 An administrator must, upon the termination of the administrator's office, make a report of account to the enforcement court without delay.

(Stay of Forced Administration)

Article 104 (1) If the document or electronic or magnetic record stated in Article

39, paragraph (1), item(vii) or (viii) has been submitted, forced administration may be continued with the same conditions as at the time of the submission, except for the procedure of distribution or payment. In this case, the administrator must make a statutory deposit of the money to be allotted to the distribution or payment and notify the enforcement court of the circumstances.

- (2) When it is possible to fully perform the claims and enforcement costs of the respective obligees with the amount of money deposited pursuant to the provisions of the preceding paragraph, the enforcement court must cancel the forced administration procedure, except for the procedure of distribution or payment

(Distribution Demand)

Article 105 (1) An obligee having an authenticated copy of an enforceable title of obligation, an obligee who has a registered (excluding provisional registration) general statutory lien, and an obligee who has proved that the obligee has a general statutory lien based on any of the documents or electronic or magnetic records stated in Article 181, paragraph (1), item (ii) may make a distribution demand to the enforcement court.

- (2) An appeal may be filed against a judicial decision to deny a distribution demand.

(Money to Be Allocated to Distribution)

Article 106 (1) The amount of money to be allocated to distribution or payment is that obtained by deducting the tax or public charges imposed on the immovable property, the remuneration for the administrator and any other necessary expenses from the earnings or the realization price remaining after giving any portion of this under Article 98, paragraph (1).

- (2) If it is unlikely that any money to be allotted to distribution or payment will arise, the enforcement court must cancel the forced administration procedure.

(Implementation of Distribution by an Administrator)

Article 107 (1) An administrator must pay expenses provided in paragraph (1) of the preceding Article, calculate the amount of money to be allotted to distribution or payment for each period specified by the enforcement court, and implement of distribution or payment.

- (2) If there is only one obligee or if there are two or more obligees and it is possible to fully perform the claims and enforcement costs of the respective obligees with the money to be allotted to distribution or payment, the administrator delivers payment money to the obligee and delivers any surplus to the obligor.
- (3) Except in the cases prescribed in the preceding paragraph, if an agreement is

reached among the obligees regarding distribution of the money to be allocated to distribution or payment, the administrator implements distribution in accordance with the agreement.

- (4) The obligees who are to receive distribution are the following:
- (i) the attaching obligee who falls under any of (a) through (c) below:
 - (a) an obligee who has filed a petition for forced administration by the time of expiration of the period referred to in paragraph (1);
 - (b) an obligee who has filed a petition for the enforcement against earnings from secured immovable property prescribed in Article 180, item (ii) for exercise of a general statutory lien by the time of expiration of the period referred to in paragraph (1);
 - (c) an obligee who has filed a petition for the enforcement against earnings from secured immovable property prescribed in Article 180, item (ii) by the time of expiration of the period referred to in paragraph (1) (excluding the obligee stated in (b) above) if that petition is based on a security interest that has been registered (including provisional registration for preservation prescribed in Article 53, paragraph (2) of the Civil Preservation Act) before registration of the seizure involving in the first commencement order for forced administration;
 - (ii) the obligee effecting a provisional seizure (limited to an obligee who has filed a petition to effect a provisional seizure through forced administration by the time of expiration of the period referred to in paragraph (1)); and
 - (iii) obligees who made a distribution demand by the time of expiration of the period referred to in paragraph (1).
- (5) If the agreement referred to in paragraph (3) is not reached, the administrator must notify the enforcement court of the circumstances.

(Statutory Deposit in the Distribution Amount by an Administrator)

Article 108 If any of the grounds stated in the items of Article 91, paragraph (1) (excluding item (vii)) exist for the claim of an obligee who is to receive distribution or payment, the administrator must make a statutory deposit of the money equivalent to the amount of the distribution or payment and notify the enforcement court of the circumstances. The same applies when an obligee has failed to appear to the enforcement court to receive distribution

(Implementation of Distribution by an Enforcement Court)

Article 109 An enforcement court must implement the procedure of distribution or payment, immediately if notification has been given under Article 107, paragraph (5) and at the time when the grounds for statutory deposit were extinguished if notification has been given under Article 104, paragraph (1) or the preceding Article.

(Voidance of a Forced Administration Procedure Through Performance)

Article 110 When the respective obligees have received full performance of their claims and enforcement costs through distribution or payment, the enforcement court must cancel the forced administration procedure.

(Application Mutatis Mutandis of the Provisions on Compulsory Auctions)

Article 111 The provisions of Article 46, paragraph (1), Article 47 , paragraph (2), the main clause of Article 47, paragraph (6), Article 47, paragraph (7), Article 48, Article 53, Article 54, Article 84, paragraphs (4) and (5), Article 87 , paragraphs (2) and (3) and Article 88 apply mutatis mutandis to forced administration, and the provisions of Article 84, paragraphs (1) through (3), Article 85 through 86, and Articles 89 through 92 apply mutatis mutandis to the procedure of distribution or payment implemented by the enforcement court pursuant to the provisions of Article 109. In this case, the phrase "after the payment of the fee" in Article 84, paragraphs (4) and (5) is deemed to be replaced with "after the passage of the period referred to in Article 107, paragraph (1)."

Subsection 2 Judicial Enforcement Against a Vessel

(Vessel Enforcement Method)

Article 112 Judicial enforcement against a vessel of not less than twenty tons gross (excluding oar or paddle watercrafts or any other craft that uses solely or mainly oars or paddles for propulsion; referred to as a "vessel" in this Section and the following Chapter) (referred to as "vessel enforcement" below) is carried out through a compulsory auction.

(Enforcement Court)

Article 113 The district court having jurisdiction in the locality of the vessel at the time of issuance of an order commencing compulsory auction proceedings has jurisdiction over vessel enforcement as the enforcement court.

(Commencement Order)

Article 114 (1) To commence proceedings for a compulsory auction, the enforcement court must issue an order commencing compulsory auction proceedings, and order a court enforcement officer to confiscate the document proving the nationality of the vessel and any other documents needed for the vessel to sail (referred to as the "ship's papers" below) and to submit them to the enforcement court; provided, however, that the order to a court enforcement officer is not necessary if the ship's papers have already been

confiscated based on a commencement order issued before that commencement order.

- (2) In an order commencing compulsory auction proceedings, the enforcement court must declare that a vessel must be seized for the obligee and prohibit the obligor from allowing the vessel to depart.
- (3) When a court enforcement officer has confiscated the ship's papers before the service of an order commencing compulsory auction proceedings or registration of a seizure, the seizure becomes effective at the time of the confiscation.

(Order to Deliver the Ship's Papers Before the Filing of a Petition for Vessel Enforcement)

Article 115 (1) If it is likely that vessel enforcement will become extremely difficult unless the ship's papers are confiscated before the filing of a petition for vessel enforcement, the district court having jurisdiction in the locality of the vessel's registry (or, for a vessel without registry, the place designated by the Supreme Court) may, upon petition, order the obligor to deliver the ship's papers to a court enforcement officer. If there are pressing circumstances, the district court having jurisdiction in the locality of the vessel may also issue this order.

- (2) The court may render a judicial decision under the preceding paragraph without hearing oral arguments.
- (3) To file the petition referred to in paragraph (1), a petitioner must present an authenticated copy of an enforceable title of obligation and make a prima facie showing of the grounds prescribed in that paragraph.
- (4) A court enforcement officer must, when the obligee fails to submit a document or electronic or magnetic record proving that the obligee has filed a petition for vessel enforcement within five days from the day on which the court enforcement officer received delivery of the ship's papers, return the ship's papers to the obligor.
- (5) An immediate appeal may be filed against an order under paragraph (1).
- (6) The immediate appeal referred to in the preceding paragraph does not have the effect of staying enforcement.
- (7) The provisions of Article 55, paragraphs (8) through (10) apply mutatis mutandis to an order under paragraph (1).

(Appointment of a Custodian)

Article 116 (1) Upon petition by the attaching obligee, an enforcement court may, if the court finds it to be necessary, appoint a custodian for the vessel for which an order commencing compulsory-auction proceedings has been issued.

- (2) The expenses required by the custodian referred to in the preceding paragraph for retaining the vessel (including the remuneration referred to in

Article 101, paragraph (1) as applied mutatis mutandis pursuant to paragraph (4)) are procedural expenses.

(3) An appeal may be filed against an order issued regarding the petition referred to in paragraph (1).

(4) The provisions of Article 94, paragraph (2), Article 96 and Articles 99 through 103 apply mutatis mutandis to the custodian referred to in paragraph (1).

(Voidance Proceedings for a Compulsory Auction Based on Provision of a Guarantee)

Article 117 (1) If the document or electronic or magnetic record stated in Article 39, paragraph (1), item (vii) or (viii) has been submitted regarding the claim of an attaching obligee, and if, before any purchase offer, the obligor provides a guarantee equivalent to the total amount of the claims and enforcement costs of the attaching obligee and any obligees that have filed a demand for distribution by the time the obligor provides the guarantee (or by the deadline for a distribution demand, if the obligor is providing the guarantee after that deadline), the enforcement court, upon petition, must cancel the proceedings for the compulsory auction, other than proceedings for distribution or payment.

(2) If a stay of based on submission of the document or electronic or magnetic record prescribed in the preceding paragraph has ceased to be effective, the enforcement court must implement distribution or payment of the guarantee that has been provided pursuant to the provisions of that paragraph to the obligees referred to in that paragraph. In this case, the enforcement court may reclaim any securities that have been deposited as provision of a guarantee.

(3) An appeal may be filed against a judicial decision to deny the petition referred to in paragraph (1).

(4) The provisions of Article 12 do not apply to an order under paragraph (1).

(5) The provisions of Article 15 apply mutatis mutandis to the provision of the guarantee referred to in paragraph (1) and the provisions of Article 78, paragraph (3) apply mutatis mutandis to a realization if the guarantee referred to in paragraph (1) has been provided by a method other than a statutory deposit of money.

(Navigation Permission)

Article 118 (1) If an enforcement court finds that there is a necessity in terms of business or there are other reasonable grounds, if there is the consent of the respective obligees and the highest bidder or the purchaser and the next highest bidder, the enforcement court may permit navigation of the vessel on petition by the obligor.

(2) An appeal may be filed against a judicial decision on the petition referred to in the preceding paragraph.

(3) An order under paragraph (1) does not be effective until it becomes final and binding.

(Case Transfer)

Article 119 (1) An enforcement court may, if the vessel for which an order commencing compulsory auction proceedings has been issued is relocated to a place outside its jurisdictional district, transfer the case to the district court having jurisdiction in the locality of the vessel.

(2) No appeal may be entered against an order under the preceding paragraph.

(Voidance Proceedings for a Compulsory Auction If Confiscation of a Ship's Papers Is Not Possible)

Article 120 If a court enforcement officer is unable to confiscate a ship's papers within two weeks from the day on which an order commencing compulsory auction proceedings is issued, the enforcement court must cancel the proceedings for the compulsory auction.

(Application Mutatis Mutandis of the Provisions on the Compulsory Auction of Immovable Property)

Article 121 The provisions of Division 2 of the preceding Subsection (excluding Article 45, paragraph (1), Article 46, paragraph (2), Article 48, Article 54, Article 55, paragraph (1), item (ii), Article 56, Article 64-2, Article 65-2, Article 68-4, Article 71, item (v), Article 81 and Article 82) apply mutatis mutandis to enforcement against a vessel, and the provisions of Article 48, Article 54 and Article 82 applies mutatis mutandis to judicial enforcement against the Japanese vessel prescribed in Article 1 of the Ships Act (Act No. 46 of 1899) respectively. In this case, the phrase "the document stated in Article 181, paragraph (1), item (ii)" in Article 51, paragraph (1) is deemed to be replaced with "the document", and the phrase "a general statutory lien based on" is deemed to be replaced with "a statutory lien based on".

Subsection 3 Judicial Enforcement Against Movables

(Commencement of Enforcement Against Movables)

Article 122 (1) Judicial enforcement against movables (including any fixtures on land that are not registrable, natural fruits before being separated from land which are to be harvested within one month for certain, and securities other than those forbidden to be endorsed; the same applies in this Section, the following Chapter and Chapter IV) (referred to as "enforcement against movables" below) is commenced through a seizure of the subject matter by a court enforcement officer.

- (2) In enforcement against movables, a court enforcement officer may accept the performance of the claims and enforcement costs for the attaching obligee.

(Seizure of Movables Possessed by the Obligor)

Article 123 (1) Movable property possessed by the obligor is seized by way of a court enforcement officer taking possession of the movables.

- (2) When carrying out the seizure referred to in the preceding paragraph, a court enforcement officer may enter the residence of the obligor or any other place possessed by the obligor, and search the subject matter at the relevant place or in a safe or any other containers possessed by the obligor. In this case, if it is necessary, a court enforcement officer may take a necessary measure to open a closed door, safe and any other containers.
- (3) A court enforcement officer may, if the officer finds it to be reasonable, have the obligor retain the seized movables (referred to as the "seized property" below). In this case, the seizure is effective only when an indication of the seizure is made regarding the seized property through sealing or any other method.
- (4) If a court enforcement officer has the obligor retain the seized property pursuant to the provisions of the preceding paragraph, if the officer finds it to be reasonable, the court enforcement officer may permit the obligor to use the seized property.
- (5) A court enforcement officer may, if the officer finds it to be necessary, retain the seized property which the officer had the obligor retain pursuant to the provisions of paragraph (3) or revoke the permission under the preceding paragraph.

(Seizure of Movables Possessed by a Person Other than the Obligor)

Article 124 The provisions of paragraph (1) and paragraphs (3) through (5) of the preceding Article apply mutatis mutandis to a seizure of movables possessed by an obligee or a third party who does not refuse to submit it.

(Prohibition of an Overlapped Seizure and Consolidation of Cases)

Article 125 (1) A court enforcement officer may not carry out another seizure of seized property or movables for which a provisional seizure has been effected.

- (2) If another petition for enforcement against movables is filed against an obligor against whom a seizure has already been effected in the location in question, the court enforcement officer must seize any movables that have yet to be seized if there are any, and if there are no movables to be seized, the officer will make this clear and consolidate the case of enforcement against movables with the earlier case of enforcement against movables. The same applies if another petition for enforcement against movables is filed against an

obligor against whom a provisional seizure has already been effected in the location in question.

- (3) When two cases of enforcement against movables have been consolidated pursuant to the provisions of the first sentence of the preceding paragraph, the movables that were seized in the later case are deemed to have been seized in the earlier case at the time of the consolidation, and the petition for the later case becomes effective as a distribution demand. If the earlier attaching obligee has withdrawn the petition for enforcement against movables or the procedure related to the petition has been stayed or revoked, the movables seized in the earlier case are deemed to have been seized for the later case at the time of the consolidation.
- (4) If a case involving a provisional seizure and a case involving enforcement against movables are consolidated pursuant to the provisions of the second sentence of paragraph (2), the movables against which the provisional seizure is effected are deemed to have been seized in the case involving enforcement against movables at the time of the consolidation, and the petition in the case involving the provisional seizure becomes effective as a distribution demand. If the attaching obligee has withdrawn the petition for enforcement against movables or the procedure initiated by the petition has been canceled, the movables seized in the case of the enforcement against movables are deemed to have undergone a provisional seizure in the case involving the provisional seizure at the time of the consolidation.

(Scope of Effects of a Seizure)

Article 126 Effects of a seizure extend to natural products produced from the seized property.

(Order to Deliver the Seized Property)

Article 127 (1) When a third party has taken possession of seized property, the enforcement court may, upon petition by the attaching obligee, order the relevant third party to deliver the seized property to a court enforcement officer.

- (2) The petition referred to in the preceding paragraph must be filed within one week from the day on which the attaching obligee became aware that the third party is in possession of the seized property.
- (3) An appeal may be filed against a judicial decision on the petition referred to in paragraph (1).
- (4) The provisions of Article 55, paragraphs (8) through (10) apply *mutatis mutandis* to an order under paragraph (1).

(Prohibition of Excessive Seizure)

Article 128 (1) Movable property must not be seized beyond the extent necessary for the performance of the claim and enforcement costs of the attaching obligee.
(2) After a seizure, when it is clear that the seizure goes beyond the extent referred to in the preceding paragraph, a court enforcement officer must void the excessive portion of the seizure.

(Prohibition of a Seizure if Surplus Is Not Expected)

Article 129 (1) When the amount of proceeds from the movables to be seized is not expected to exceed the amount of the procedural expenses, a court enforcement officer must not carry out the seizure.
(2) When the amount of proceeds from the seized property is not expected to reach the total amount of the procedural expenses and the amount of any claims that take precedence over the claim of the attaching obligee, a court enforcement officer must void the seizure.

(Voidance of a Seizure of Seized Property that Is Unlikely to Be Sold)

Article 130 If a seized property is not expected to be sold even after implementing a sale by a reasonable method, a court enforcement officer may void the seizure of that seized property.

(Seizure-Prohibited Movables)

Article 131 The following movables must not be seized:

- (i) clothing, bedding, furniture, kitchen appliances, tatami mats or fixtures and fittings that are essential to the daily life of the obligor's household;
- (ii) the food or fuel that the obligor's household needs for one month of daily life;
- (iii) money in the amount specified by a Cabinet Order taking into account an average household's necessary living expenses for two months;
- (iv) equipment, fertilizers, work animals or their feed that are indispensable for agriculture as well as seeds or any similar agricultural products that are indispensable for continuing agriculture until the next harvest conducted by a person who works in agriculture mainly on their own;
- (v) fishing nets or any other fishing tackle, bait or juvenile fish or other similar marine products that are indispensable for catching or farming marine products by a person who works in the fishing industry mainly on their own;
- (vi) equipment or any other objects (excluding merchandise) that are indispensable for the work of a technician, an artisan, a laborer or any other person who works in an occupation or business that relies on their intellect or physical labor (excluding those prescribed in the preceding two items);
- (vii) a registered seal or any other seal that is indispensable for an occupation or daily living;

- (viii) a Buddhist statue, a memorial tablet or other object that is indispensable for direct use in religious service or worship;
- (ix) a record of family genealogy, journals, business ledgers or any similar documents that are necessary to the obligor;
- (x) a medal or any other object representing honors received by the obligor or their relatives;
- (xi) papers or equipment that a member of the obligor's household needs for their studies at school or any other educational institution;
- (xii) an object connected with an invention or a copyrighted work that has yet to be made public;
- (xiii) a prosthetic arm, hand, leg, or foot, or any other relevant assistive device that a member of the obligor's household needs; and
- (xiv) fire fighting machinery or equipment, evacuation equipment or any other supplies that are required to be put in place in a building or any other structure pursuant to the provisions of laws and regulations for disaster prevention or safety reasons.

(Change in the Scope of Seizure-Prohibited Movables)

- Article 132 (1) An enforcement court may, upon petition, order voidance of all or part of a seizure or permit seizure of any of the movables stated in the items of the preceding Article, taking into consideration the living conditions of the obligor and the obligee and any other circumstances.
- (2) When there has been a change in circumstances, an enforcement court may, upon petition, permit a seizure of movables of which seizure had been voided pursuant to the provisions of the preceding paragraph or order rescission of all or part of a seizure under that paragraph.
- (3) When a petition has been filed seeking an order to void a seizure pursuant to the provisions of the preceding two paragraphs, an enforcement court may, until a judicial decision on the petition becomes effective, order a stay of the judicial enforcement, while requiring or not requiring provision of security.
- (4) An appeal may be filed against an order to deny the petition referred to in paragraph (1) or paragraph (2) and an order to permit a seizure pursuant to these provisions.
- (5) No appeal may be entered against an order under paragraph (3).

(Distribution Demand by a Statutory Lien Holder)

Article 133 A statutory lien holder or a pledgee may make a distribution demand by submitting a document or electronic or magnetic record that proves their right.

(Sales Method)

Article 134 A court enforcement officer must sell seized property by bidding process, auction or any other method specified by the Rules of the Supreme Court.

(Application Mutatis Mutandis of the Provisions Concerning Maintenance of Order at the Place of Sale)

Article 135 The provisions of Article 65 and Article 68 apply mutatis mutandis to cases of selling seized property.

(Obligation to Present a Negotiable Instrument)

Article 136 If a court enforcement officer has seized a negotiable instrument, check, or other instrument with the payment of money as its subject matter (referred to as a "negotiable instrument" below) that is required to be presented for acceptance or payment, or to have payment demanded against it (referred to as "presenting" the instrument below), within the period established for the exercise of rights under that instrument, and if the commencement of that period has arrived, the court enforcement officer must present the instrument in place of the obligor.

(Sale During a Stay of Enforcement)

Article 137 (1) If the document or electronic or magnetic record stated in Article 39, paragraph (1), item (vii) or (viii) has been submitted, if there is a likelihood of a considerable decline in the price of the seized property or if an inappropriate amount of costs are to be required for retention of that seized property, a court enforcement officer may sell the seized property.

(2) A court enforcement officer, when the officer has sold seized property pursuant to the provisions of the preceding paragraph, must make a statutory deposit of the proceeds of the sale.

(Indorsement of Securities)

Article 138 A court enforcement officer may, when the officer has sold securities, carry out, in place of the obligor, acts necessary for indorsement or entry of a name change for the purchaser.

(Implementation of Distribution by a Court Enforcement Officer)

Article 139 (1) If there is only one obligee, or if there are two or more obligees but it is possible to fully satisfy the claims and enforcement costs of each of the obligees out of the sale proceeds, monies seized, or payments against negotiable instruments (referred to as the "enforcement proceeds" below), the court enforcement officer delivers payment money to the obligees and delivers any surplus to the obligor.

- (2) Except in the cases prescribed in the preceding paragraph, if an agreement is reached among the obligees regarding distribution of the enforcement proceeds, a court enforcement officer implements distribution in accordance with the agreement.
- (3) If the agreement referred to in the preceding paragraph is not reached, a court enforcement officer must notify the enforcement court of the circumstances.
- (4) The provisions of Article 84, paragraphs (4) and (5) and Article 88 apply *mutatis mutandis* to the case of implementing distribution or payment pursuant to the provisions of paragraph (1) or paragraph (2).

(Scope of Obligees Entitled to Distribution)

Article 140 Obligees entitled to distribution or payment are the obligees effecting a seizure as well as obligees who made a distribution demand, in the case of proceeds, by the time a court enforcement officer receives delivery of proceeds (or, in the case of proceeds that were deposited pursuant to the provisions of Article 137 or Article 49, paragraph (3) of the Civil Preservation Act, by the time the enforcement against movables is decided to be continued), or in the case of seized money, by the time a court enforcement officer seizes that money, or in the case of the amount payable on a negotiable instrument, by the time a court enforcement officer receives payment for it.

(Statutory Deposit by a Court Enforcement Officer)

Article 141 (1) In the case of implementing distribution or payment pursuant to the provisions of Article 139, paragraph (1) or (2), if any of the following grounds exist for the claim of an obligee who is to receive distribution or payment, a court enforcement officer makes a statutory deposit of money equivalent to the amount of the distribution or payment and notifies the enforcement court of the circumstances:

- (i) when the claim is one subject to a condition precedent or one with an uncertain due date;
 - (ii) when the claim is one held by the obligee effecting a provisional seizure;
 - (iii) when the document stated in Article 39, paragraph (1), item (vii) or Article 183, paragraph (1), item (ii), (e) as applied *mutatis mutandis* pursuant to Article 192 has been submitted; or
 - (iv) when an authenticated copy or certificate of recorded information of a judicial decision to temporarily prohibit exercise of a statutory lien or pledge for the claim has been submitted.
- (2) A court enforcement officer must make a statutory deposit of money equivalent to the amount of distribution or payment for any obligee who failed to appear to receive distribution or payment

(Implementation of Distribution by the Enforcement Court)

- Article 142 (1) The enforcement court must implement the procedure of distribution or payment, immediately if notification has been given under Article 139 , paragraph (3) and at the time when the grounds for statutory deposit were extinguished if notification has been given under paragraph (1) of the preceding Article.
- (2) The provisions of Articles 84 through 86 and Articles 88 through 92 apply mutatis mutandis to the procedure of distribution or payment implemented by an enforcement court pursuant to the provisions of the preceding paragraph.

**Subsection 4 Judicial Enforcement Against a Claim and Any Other
Property Right
Division 1 Enforcement Against Claims**

(Commencement of Enforcement Against Claims)

- Article 143 Enforcement against a claim for the payment of money or delivery of a vessel or movables (excluding a claim for which securities subject to enforcement against movables have been issued; referred to as a "claim" in this Section) (this excludes the enforcement against a claim arising from a small claims action prescribed in Article 167-2, paragraph (2); referred to as "enforcement against a claim" in this Section) commences through an order of seizure by an enforcement court.

(Enforcement Court)

- Article 144 (1) The district court having jurisdiction in the locality of the general venue of the obligor has jurisdiction over enforcement against a claim as the enforcement court, and if there is no general venue, the district court having jurisdiction in the locality of the claim to be seized has jurisdiction over enforcement as the enforcement court.
- (2) A claim to be seized is deemed to exist within the locality of the general venue of the obligor of that claim (referred to as the "third party obligor" below); provided, however, that a claim for delivery of a vessel or movables and a claim secured by a security interest in property is deemed to exist within the locality of the property.
- (3) If another order of seizure has been issued for a claim subject to a seizure (limited to a claim that has been seized based on an order of seizure; the same applies in this Division), if the enforcement court that has issued that order of seizure is different from the earlier enforcement court, either enforcement court may transfer its case to the other enforcement court.
- (4) No appeal may be entered against an order under the preceding paragraph.

(Order of Seizure)

Article 145 (1) An enforcement court must, in an order of seizure, prohibit the obligor from collecting or otherwise disposing the claim and prohibit the third party obligor from providing performance to the obligor.

(2) An order of seizure is issued without interrogating the obligor and the third party obligor.

(3) An order of seizure must be served upon the obligor and the third party obligor.

(4) In serving an order of seizure, a court clerk must inform the obligor that a petition for voiding the order of seizure under Article 153, paragraph (1) or (2) can be filed and other matters provided by the Rules of the Supreme Court, pursuant to the provisions of the Rules of the Supreme Court.

(5) A seizure becomes effective when an order of seizure is served upon the third party obligor.

(6) An appeal may be filed against a judicial decision on a petition for an order of seizure.

(7) If an enforcement court is unable to service an order of seizure to an obligor, the enforcement court may specify a reasonable period and order the attaching obligee to make a proposal for an address, residence, and a place where a document on the order of seizure should be served (petition for service by publication in the cases stated in the items of Article 110, paragraph (1) of the Code of Civil Procedure, which apply *mutatis mutandis* pursuant to Article 20; the same applies in the following paragraph).

(8) If an enforcement court orders the proposal of the preceding paragraph, the enforcement court may set aside the order of seizure if the attaching obligee does not make the proposal of the paragraph.

(Scope of Seizure)

Article 146 (1) An enforcement court may issue an order of seizure for the entirety of a claim to be seized.

(2) When the price of the seized claim exceeds the amount of the claim and enforcement costs of the attaching obligee, an enforcement court must not seize any other claims.

(Demanding a Third Party Obligor Statement)

Article 147 (1) When a petition has been filed by the attaching obligee, a court clerk must, upon servicing an order of seizure, make a demand to the third party obligor to state the presence or absence of any claim subject to a seizure and any other matters specified by the Rules of the Supreme Court within two weeks from the day of service of the order of seizure.

- (2) A third party obligor, when the obligor has failed to make a statement or has made a false statement intentionally or negligently in response to a demand under the preceding paragraph, is liable to compensate for any damages that occur as a result

(Delivery of a Claim Deed)

Article 148 (1) When a deed exists for a claim subject to a seizure, the obligor must deliver that deed to the attaching obligee.

- (2) The attaching obligee may receive delivery of the deed referred to in the preceding paragraph by the method of judicial enforcement of delivery of movables provided in Article 169, based on an order of seizure.

(Effect of Partially Conflicting Seizures)

Article 149 If part of a claim has been seized or a provisional seizure has been effected against it, and an order of seizure is issued beyond the remaining portion of the claim, the effects of each seizure or provisional seizure extend to the entirety of the claim. The same applies to the effects of a seizure if an order of seizure has been issued for part of a claim after the entirety of the claim has been seized or a provisional seizure has been effected against it.

(Commissioning the Registration of a Seizure of a Claim Secured by a Statutory Lien)

Article 150 When an order of seizure against a claim secured by a registered statutory lien, pledge or mortgage has become effective, a court clerk must, upon petition, commission registration that that claim has been seized.

(Seizure of a Claim to Continuous Performance)

Article 151 The effects of a seizure against a claim for a compensation or any other continuous performance extend to the performance to be received after the seizure, not exceeding the amount of the claim and enforcement costs of the attaching obligee.

(Special Provisions on Cases of Enforcing a Claim for Periodic Payments Related to Duty to Support)

Article 151-2 (1) If the obligor has a claim for periodic payments with provisions on fixed due dates related to any of the following duties, if any part of the claim is in default, enforcement against a claim may be commenced even for the portion of that claim for periodic payments for which the fixed due date has yet to arrive, notwithstanding the provisions of Article 30, paragraph (1):

- (i) the duty of cooperation and mutual assistance between a husband and wife under Article 752 of the Civil Code;

- (ii) duty of sharing the expenses arising from marriage under Article 760 of the Civil Code;
 - (iii) the duty concerning custody of a child under Article 766 of the Civil Code (including as applied *mutatis mutandis* pursuant to Article 749, Article 771 and Article 788 of the Civil Code); or
 - (iv) the duty to support under Article 877 through Article 880 of the Civil Code.
- (2) In enforcement against a claim that has been commenced pursuant to the provisions of the preceding paragraph, related to compensation or any other continuous performance it is possible to seize only the claim that becomes due after the arrival of the fixed due date of each claim for the periodic payments.

(Seizure-Prohibited Claim)

- Article 152 (1) In the case of either of the following claims, the portion equivalent to three-quarters of the performance to be received when the claim is due (or, if the amount exceeds the amount specified by a Cabinet Order by taking into account an average household's necessary living expenses, the portion equivalent to the amount specified by a Cabinet Order) must not be seized:
- (i) a claim related to continuous performance that the obligor receives from a person other than the State or local public entity for maintaining the obligor's daily living; or
 - (ii) a claim related to a compensation, wage, salary, retirement pension, bonus or any remuneration similar in nature.
- (2) In the case of a claim related to a retirement allowance or any remuneration similar in nature, the portion equivalent to three-quarters of its performance must not be seized.
- (3) To apply the provisions of the preceding two paragraphs in the case of enforcing a monetary claim (meaning a claim for payment of money; the same applies below) related to any of the duties stated in the items of paragraph (1) of the preceding Article, the term "three-quarters" in the preceding two paragraphs is deemed to be replaced with "a half."

(Change in the Scope of Seizure-Prohibited Claims)

- Article 153 (1) An enforcement court may, upon petition, order voiding all or part of an order of seizure or issue an order of seizure for the portion of a claim of which seizure is prohibited pursuant to the provisions of the preceding Article, taking into consideration the living conditions of the obligor and the obligee and any other circumstances.
- (2) When there has been a change in circumstances, an enforcement court may, upon petition, seize a claim for which an order of seizure had been voided pursuant to the provisions of the preceding paragraph or void all or part of an

order of seizure under that paragraph.

- (3) When the petition referred to in either of the preceding two paragraphs has been filed, an enforcement court may, until a judicial decision on the petition becomes effective, issue an order against the third party obligor prohibiting payment or any other performance, while requiring or not requiring provision of security.
- (4) An appeal may be filed against an order to deny a petition for voiding an order of seizure under paragraph (1) or paragraph (2).
- (5) No appeal may be entered against an order under paragraph (3).

(Distribution Demand)

Article 154 (1) An obligee having an authenticated copy of an enforceable title of obligation and an obligee who has proved that they have a statutory lien based on a document or electronic or magnetic record may make a distribution demand.

- (2) When the distribution demand referred to in the preceding paragraph has been made, an electronic or magnetic record (limited to a record that is recorded in a file) prepared by the recording court clerk recording a statement to that effect must be served upon the third party obligor.
- (3) An appeal may be filed against a judicial decision to deny a distribution demand.

(Collection of a Monetary Claim of an Attaching Obligee)

Article 155 (1) An obligee who has a monetary claim seized may collect the claim when one week has passed from the day on which an order of seizure is served upon the obligor; provided, however, that they may not receive payment beyond the amount of the claim and enforcement costs of the attaching obligee.

- (2) Regarding the application of the provisions of the preceding paragraph, if a seized monetary claim is a claim stated in the items in Article 152, paragraph (1) or a claim under paragraph (2) of the Article (except if a monetary claim related to the obligation stated in the items of Article 151-2, paragraph (1) is included in a claim of the attaching obligee), "one week" in that paragraph is deemed to be replaced with "four weeks".
- (3) When an attaching obligee has received payment from a third party obligor, the obligee's claim and enforcement costs are deemed to have been performed to the extent of the amount that has been received.
- (4) An attaching obligee must, when the obligee has received the payment referred to in the preceding paragraph, immediately notify the enforcement court to that effect.
- (5) If two years have passed without receiving the payment of paragraph (3) from the date when it is permitted to collect a monetary claim pursuant to

paragraph (1) (or the date when the notification is given last time if the notification is given under the preceding paragraph or this paragraph; the same applies in the following paragraph), an attaching obligee must notify the enforcement court that the obligee has not received the payment of that paragraph.

- (6) If an attaching obligee does not give notification under the preceding two paragraphs within four weeks after two years has passed from the date when it is permitted to collect a monetary claim pursuant to paragraph (1), the enforcement court may set aside the order of seizure.
- (7) If an attaching obligee gives notification under paragraph (4) (except for the notification that the obligee received payment of all of the seized monetary claim) or paragraph (5) within an inalterable period of one week after the attaching obligee is notified of a judicial decision to set aside the order of seizure pursuant to the preceding paragraph, the decision ceases to be effective.
- (8) If an attaching obligee gives notification to the enforcement court that the obligee does not receive the payment of paragraph (3) before a period under paragraph (5) has passed, regarding the application of the provisions of paragraph (5) and paragraph (6), it is deemed that the notification under paragraph (5) is given.

(Statutory Deposit by a Third Party Obligor)

- Article 156 (1) A third party obligor may make a statutory deposit of money equivalent to the total amount of the monetary claim subject to a seizure (limited to a monetary claim seized based on an order of seizure; the same applies in this Article and Article 161-2) to an official depository at the place of performance of the obligation.
- (2) A third party obligor must, by the time the obligor receives a service of a complaint for the action prescribed in paragraph (1) of the following Article, make a statutory deposit of money equivalent to the total amount of the claim if the obligor has been served with an order of seizure, a disposition of seizure or an order of provisional seizure that has been issued beyond the unseized portion of a monetary claim subject to a seizure, or money equivalent to the seized portion if the obligor has been served with an electronic or magnetic record (limited to a record that is recorded in a file) prepared by the recording court clerk recording that a distribution demand is made, to an official depository at the place of performance of the obligation.
 - (3) A third party obligor, when the obligor has received service of a statutory deposit order prescribed in the provisions of Article 161-2, paragraph (1), must make a statutory deposit of money equivalent to the total amount of the claim subject to a seizure to an official depository at the place of performance of the obligation.

- (4) A third party obligor, when the obligor has made a statutory deposit under the preceding three paragraphs, must notify the enforcement court of the circumstances.

(Suit for Collection)

Article 157 (1) When an attaching obligee has filed an action seeking performance of a seized claim (referred to as a "suit for collection" below) against a third party obligor, the court in charge of the case may, upon petition by the third party obligor, order any other obligee who has seized the claim by the time of the service of the complaint to intervene on the plaintiff's side as a co-litigants

- (2) The court may render the judicial decision referred to in the preceding paragraph without hearing oral arguments.
- (3) Effects of a judgment in a suit for collection extend even to any attaching obligees who had been ordered to intervene pursuant to the provisions of paragraph (1) but had failed to intervene.
- (4) When upholding the plaintiff's claim in a suit for collection against a third party obligor who is obligated to make a statutory deposit pursuant to the provisions of paragraph (2) or (3) of the preceding Article, the court in charge of the case must include a statement that the payment of money for the claim should be made by the method of a statutory deposit in the main text of the judgment.
- (5) When the plaintiff of the judgment prescribed in the preceding paragraph is to receive distribution or payment in judicial enforcement or an auction, a statutory deposit of money equivalent to the amount of the distribution or payment must be made.

(Compensation of Damage to an Obligor)

Article 158 An attaching obligee is liable to compensate an obligor for any damages resulting from a failure to enforce a seized claim.

(Assignment Order)

Article 159 (1) An enforcement court may, upon petition by the attaching obligee, issue an order to assign the seized monetary claim to the attaching obligee at face value in lieu of payment (referred to as an "assignment order" below).

- (2) An assignment order must be served upon the obligor and the third party obligor.
- (3) If, by the time an assignment order is served upon the third party obligor, another obligee carries out a seizure or a provisional seizure or makes a distribution demand in connection with the monetary claim subject to the assignment order, the assignment order does not become effective.

- (4) An appeal may be filed against an order on the petition referred to in paragraph (1).
- (5) An assignment order is not effective until it becomes final and binding.
- (6) With regards to the application of the provisions of the preceding paragraph if a seized monetary claim is a claim stated in the items of Article 152, paragraph (1) or a claim under paragraph (2) of the Article (excluding cases where a monetary claim related to the obligations stated in the items of Article 151-2, paragraph (1) is included in claims of the attaching obligee), the phrase "unless it becomes final and binding" in the paragraph is deemed to be replaced with "until it becomes final and binding, and four weeks have passed from the date when the order of seizure is served to an obligor".
- (7) If an appeal against an enforcement decision has been filed on the basis that the document or electronic or magnetic record stated in Article 39, paragraph (1), item (vii) or (viii) is submitted after the issuance of an assignment order, the court of appeal must withhold the judicial decision on the appeal against an enforcement decision, except in the case of setting aside the assignment order based on another reason.

(Effects of an Assignment Order)

Article 160 If an assignment order has become effective, as long as the monetary claim for the assignment order exists, the claim and enforcement costs of the attaching obligee is deemed to have been performed, in the amount of the face value of the claim, at the time of the service of the assignment order upon the third party obligor.

(Transfer Order)

Article 161 (1) When a seized claim is one subject to a condition or one with a due date, or when it is difficult to collect the claim since it relates to counter-performance or due to any other grounds, the enforcement court may, upon petition by the attaching obligee, issue an order to transfer the claim to the attaching obligee at the price specified by the enforcement court in lieu of payment (referred to as a "transfer order" below), issue an order that orders a court enforcement officer to sell the claim by the method specified by the enforcement court in lieu of collection (referred to as a "sale order" below), issue an order to appoint an administrator and order the administrator to conduct administration of the claim (referred to as an "administration order" below), or issue any other order that orders a realization through a reasonable method (collectively referred to in Article 167-10, paragraph (1) as a "transfer order, etc.").

- (2) An enforcement court must, in the case of issuing an order under the preceding paragraph, interrogate the obligor; provided, however, that this does

not apply when the obligor is in a foreign state or the domicile of the obligor is unknown.

- (3) An appeal may be filed against an order on the petition referred to in paragraph (1).
- (4) An order under paragraph (1) is not effective until it becomes final and binding.
- (5) If the seized claim is a claim stated in the items of Article 152, paragraph (1) or a claim under paragraph (2) of that Article (excluding cases where a monetary claim related to the obligations stated in the items of Article 151-2, paragraph (1) is included in claims of the attaching obligee), the phrase "unless it becomes final and binding" in that paragraph is deemed to be replaced with "until it becomes final and binding, and four weeks have passed from the date when the order of seizure is served to an obligor".
- (6) When a court enforcement officer has sold a seized claim, the officer must, in lieu of the obligor, notify the third party obligor of the transfer of the claim by delivering an instrument bearing a certified date.
- (7) The provisions of Article 159, paragraphs (2) and (3) and the preceding Article apply mutatis mutandis to a transfer order, the provisions of Article 159, paragraph (7) apply mutatis mutandis to an appeal against an enforcement decision filed against a transfer order, the provisions of Article 65 and Article 68 apply mutatis mutandis to a sale by a court enforcement officer based on a sale order, the provisions of Article 159, paragraph (2) apply mutatis mutandis to an administration order, and the provisions of Article 84, paragraphs (4) and (5), Article 88, Article 94, paragraph (2), Article 95 , paragraphs (1), (3) and (4), Articles 98 through 104, and Articles 106 through 110 apply to administration based on an administration order, respectively. In this case, the phrase "after the payment of the fee" in Article 84, paragraphs (4) and (5) is deemed to be replaced with "after the passage of the period referred to in Article 107, paragraph (1) as applied mutatis mutandis pursuant to Article 161, paragraph (7)."

(Statutory Deposit Order)

Article 161-2 (1) In the cases falling under either of the following items, an enforcement court may, upon petition by an attaching obligee effecting a seizure, order a third party obligor to make a statutory deposit of money equivalent to the total amount of the claim subject to the seizure to an official depository at the place of performance of the obligation (in this Article and Article 167-10 referred to as a "statutory deposit order" below):

- (i) if a decision specified in Article 133, paragraph (1) of the Code of Civil Procedure applicable mutatis mutandis under Article 20 has been made regarding the domicile or name of the attaching obligee effecting a seizure or

- the obligee's statutory agent; or
- (ii) if the matters in lieu of the domicile or name of the attaching obligee effecting a seizure or the obligee's statutory agent specified pursuant to the provisions of Article 133, paragraph (5) of the Code of Civil Procedure (including as applied *mutatis mutandis* pursuant to other Acts) are indicated in a title of obligation.
- (2) A statutory deposit order must be served upon the third party obligor.
 - (3) An appeal may be filed against an order to deny the petition stated in paragraph (1).
 - (4) No appeal may be entered against a statutory deposit order.

(Carrying Out an Order to Seize a Claim for Delivery of a Vessel)

- Article 162 (1) An obligee who has had a claim for delivery of a vessel seized may, when one week has passed from the day on which an order of seizure is served upon the obligor, demand the third party obligor to deliver the vessel to the custodian appointed by the district court having jurisdiction in the locality of the vessel.
- (2) Judicial enforcement against a vessel delivered to a custodian pursuant to the provisions of the preceding paragraph is carried out by the means of enforcement against a vessel.
 - (3) If the custodian prescribed in paragraph (1) has received delivery of a vessel, if an order commencing compulsory auction proceedings is issued for the vessel, the custodian is deemed to be a custodian appointed pursuant to the provisions of Article 116, paragraph (1).

(Carrying Out an Order to Seize a Claim for Delivery of Movables)

- Article 163 (1) An obligee who has had a claim for delivery of movables seized may, when one week has passed from the day on which an order of seizure is served upon the obligor, demand the third party obligor to deliver the movables to the court enforcement officer who has received a petition by the attaching obligee.
- (2) When a court enforcement officer has received delivery of movables, the officer sells the property through the procedure of sale in enforcement against movables, and must submit the proceeds of the sale to the enforcement court.

(Commission of Registration of Transfer)

- Article 164 (1) When an assignment order or a transfer order has become effective and binding for the claim prescribed in Article 150, or when a sale based on a sale order has been terminated, a court clerk must, upon petition, commission registration of transfer of the statutory lien, pledge or mortgage for the attaching obligee or the purchaser who acquired the claim, and commission

deletion of registration under that Article.

- (2) In the case of making a commission under the preceding paragraph (excluding the case prescribed in the following paragraph), the commission document must have an attached certificate of recorded information of an assignment order or a transfer order or an attached certificate of recorded information of an electronic or magnetic record that is prepared by a court enforcement officer regarding a sale based on a sale order and recorded in a file.
- (3) In the case of making a commission under paragraph (1), when making a commission under Article 18 of the Immovable Property Registration Act (Act No. 123 of 2004) as applied *mutatis mutandis* pursuant to Article 16, paragraph (2) of the Act (including as applied *mutatis mutandis* pursuant to other laws and regulations), information proving the fact that an assignment order or a transfer order has been issued or information proving the contents of an electronic or magnetic record that is prepared by a court enforcement officer regarding a sale based on a sale order and recorded in a file must be submitted along with the commission information.
- (4) The registration and license tax and any other costs required for a commission under paragraph (1) are borne by the attaching obligee or the purchaser prescribed in the paragraph.
- (5) If registration has been made pursuant to the provisions of Article 150, when a document or electronic or magnetic record proving that a payment or a statutory deposit is made for the seized claim has been submitted, a court clerk must, upon petition, commission deletion of the relevant registration. The same applies when the petition for enforcement against a claim has been withdrawn or when an order to set aside an order of seizure has become final and binding.
- (6) The registration and license tax and any other costs required for a commission under the preceding paragraph are borne by the obligor in the case referred to in the first sentence of that paragraph, and by the attaching obligee in the case referred to in the second sentence of that paragraph.

(Scope of Obligees Entitled to Distribution)

Article 165 Obligees entitled to distribution or payment are obligees who have carried out a seizure or a provisional seizure or have made a distribution demand by any of the following times:

- (i) the time when the third party obligor made a statutory deposit under Article 156, paragraphs (1) through (3);
- (ii) the time when a complaint for a suit for collection is served upon the third party obligor;
- (iii) the time when a court enforcement officer received delivery of proceeds based on a sale order; or

- (iv) in the case of a seizure of a claim for delivery of movables, the time when a court enforcement officer received delivery of the movables.

(Implementation of Distribution)

Article 166 (1) An enforcement court must implement distribution or payment in any of the following cases, in addition to the cases prescribed in Article 109 as applied *mutatis mutandis* pursuant to Article 161, paragraph (7):

- (i) cases where a statutory deposit is made under Article 156, paragraph (1) through (3) or Article 157, paragraph (5);
 - (ii) cases where a sale is carried out based on a sale order;
 - (iii) cases where proceeds were submitted pursuant to the provisions of Article 163, paragraph (2).
- (2) The provisions of Articles 84 through 86 and Articles 88 through 92 apply *mutatis mutandis* to the procedure of distribution or payment to be implemented by an enforcement court pursuant to the provisions of the preceding paragraph.
- (3) If a seized claim is a claim stated in the items of Article 152, paragraph (1) or a claim under paragraph (2) of the Article (excluding cases where a monetary claim related to the obligations stated in the items of Article 151-2, paragraph (1) is included in claims of the attaching obligee (at least one person where they are several persons)), distribution or payment must not be implemented until four weeks have passed from the date when the order of seizure is served to the obligor.

(Judicial Enforcement Against any Other Property Right)

Article 167 (1) Judicial enforcement against a property right other than immovable property, a vessel, movables or a claim (referred to as "any other property right" in this Article) is governed by the rules of enforcement against a claim, except as otherwise provided.

- (2) The jurisdiction for judicial enforcement of any other property right whose transfer requires registration, is to be place of registration.
- (3) A seizure becomes effective against any other property right for which no third party obligor nor person equivalent there to exists, at the time when the order of seizure is served upon the obligor.
- (4) If, before the service of an order of seizure, registration of a seizure is made for any other property right for which registration is required in the case of transfer of the right, the seizure is effective at the time when the registration of the seizure is made; provided, however, that against any other property for which restriction of disposition of the right is not effective without making its registration, a seizure is effective at the time when registration of the seizure is made, even if registration of the seizure is made after the service of an order

of seizure.

- (5) The provisions of Article 48, Article 54 and Article 82 apply mutatis mutandis to registration concerning judicial enforcement against any other right for which registration is required in the case of transfer of the right.

Division 2 Enforcement Against a Claim Arising from a Small Claims Action

(Commencement of Enforcement Against a Claim Arising from a Small Claims Action)

Article 167-2 (1) Enforcement against a monetary claim that is based on the title of obligation arising from a small claims action stated in any of the following items is carried out by the court pursuant to the provisions of the preceding Division and, notwithstanding the provisions of Article 2, is carried out by the court clerk pursuant to the provisions of this Division, upon petition:

- (i) a final and binding judgment made in a small claims action;
 - (ii) a small claims judgment bearing a declaration of provisional enforcement;
 - (iii) a disposition by a court clerk determining the amount of court costs or settlement costs being borne in a small claims action;
 - (iv) a record or electronic record of a settlement or acknowledgment in a small claims action; or
 - (v) an order in lieu of settlement under Article 275-2, paragraph (1) of the Code of Civil Procedure in a small claims action.
- (2) The enforcement that the court clerk carries out pursuant to the provisions of the preceding paragraph (referred to as "enforcement against a claim arising from a small claims action" in this Division below) is commenced through a disposition of seizure by a court clerk.
- (3) A petition for enforcement against a claim arising from a small claims action is filed with a court clerk of the summary courts specified in the following items for the categories of the title of obligation specified by respectively in those items:
- (i) the title of obligation stated in paragraph (1), item (i): the summary court that has made the judgment referred to in the item;
 - (ii) the title of obligation stated in paragraph (1), item (ii): the summary court that has made the judgment referred to in the item;
 - (iii) the title of obligation stated in paragraph (1), item (iii): the summary court to which the court clerk who has made the disposition referred to in the item belongs;
 - (iv) the title of obligation stated in paragraph (1), item (iv): the summary court in which the settlement referred to in the item is concluded or the acknowledgment referred to in that item is made; or

- (v) the title of obligation stated in paragraph (1), item (v): the summary court that has issued the order in lieu of settlement referred to in the item.
- (4) The provisions of Article 144, paragraphs (3) and (4) apply *mutatis mutandis* to the case where another disposition of seizure has been made for the monetary claim subject to a seizure (limited to a monetary claim seized based on a disposition of seizure; the same applies in this Division). In this case, the phrase "the enforcement court that has issued the order of seizure" in paragraph (3) of that Article is deemed to be replaced with "the summary court to which the court clerk who has made the disposition of seizure belongs," the phrase "the earlier enforcement court may" in that paragraph is deemed to be replaced with "the earlier court clerk may," the phrase "the other enforcement court" in that paragraph is deemed to be replaced with "a court clerk of the other summary court," and the term "order" in paragraph (4) of that Article is deemed to be replaced with "disposition by a court clerk."

(Enforcement Court)

Article 167-3 For an enforcement measure taken by a court clerk in the procedure for enforcement against a claim arising from a small claims action, the enforcement court is the summary court to which the court clerk belongs.

(Effect of Court Clerks' Enforcement Measures)

- Article 167-4 (1) An enforcement measure that a court clerk takes in the procedure for enforcement against a claim arising from a small claims action becomes effective by notice of that measure being given by a method found to be reasonable, except as otherwise provided for.
- (2) A person may file an objection with the enforcement court to an enforcement measure that a court clerk takes which is provided for in the preceding paragraph.
- (3) The provisions of the first sentence of Article 10, paragraph (6) and Article 10, paragraph (9) apply *mutatis mutandis* to cases where an objection to an enforcement measure under the preceding paragraph has been filed.

(Disposition of Seizure)

- Article 167-5 (1) A court clerk must, in a disposition of seizure, prohibit the obligor from collecting or otherwise disposing the monetary claim and prohibit the third party obligor from providing performance to the obligor.
- (2) The provisions of Article 145, paragraphs (2), (3), (5), (7), and (8) apply *mutatis mutandis* to a disposition of seizure and the provisions of paragraph (4) of the Article apply *mutatis mutandis* to cases where a disposition of seizure is served, respectively. In this case, the phrase "Article 153, paragraph (1) or (2)" in that paragraph is deemed to be replaced with "Article 167-8,

paragraph (1) or (2)" and the phrase "enforcement court" in paragraph (7) and paragraph (8) of the Article is deemed to be replaced with "court clerk".

- (3) A person must file an objection to a court clerk's disposition on a petition for a disposition of seizure within an inalterable period of one week from the day on which the person is notified of the disposition.
- (4) An appeal may be filed against a judicial decision on the objection to an enforcement measure referred to in the preceding paragraph.
- (5) The provisions of Article 74, paragraph (1) of the Code of Civil Procedure apply *mutatis mutandis* to a disposition made by a court clerk on a petition for a disposition on seizure. In this case, the preceding two paragraphs and paragraph (3) of that Article apply *mutatis mutandis*.
- (6) A person must file an objection to a court clerk's enforcement measure under Article 145, paragraph (8) as applied *mutatis mutandis* pursuant to paragraph (2) within an inalterable period of one week from the date on which the person is notified of the measure.
- (7) An appeal may be filed against a judicial decision to deny the objection to an enforcement measure referred to in the preceding paragraph.
- (8) A disposition made by a court clerk under Article 145, paragraph (8) which are replaced and applied *mutatis mutandis* in paragraph (2) is not effective until it becomes final and binding.

(Prepayment of Expenses)

Article 167-6 (1) To apply the provisions of Article 14, paragraphs (1) and (4) to enforcement against a claim arising from a small claims action, the term "enforcement court" in these provisions is deemed to be replaced with "court clerk."

- (2) The provisions of Article 14, paragraphs (2) and (3) do not apply to a disposition by a court clerk under paragraph (1) of that Article as applied pursuant to the provisions of the preceding paragraph by replacing the terms.
- (3) A person must file an objection to a court clerk's disposition under Article 14, paragraph (4) as applied pursuant to the provisions of paragraph (1) following a replacement of terms within an inalterable period of one week from the day on which the person is notified of that measure.
- (4) An appeal may be filed against a judicial decision to deny the objection to an enforcement measure referred to in the preceding paragraph.
- (5) A measure by a court clerk to cancel the procedures for enforcement against a claim arising from a small claims action pursuant to the provisions of Article 14, paragraph (4) as applied *mutatis mutandis* pursuant to the provisions of paragraph (1) by replacing the terms is not effective until it becomes final and binding.

(Court with Jurisdiction over a Third Party Action Opposing Enforcement)

Article 167-7 Notwithstanding the provisions of Article 38, paragraph (3), a third-party action opposing enforcement in which the third-party asks the court not to permit enforcement against a claim arising from a small claims action is under the jurisdiction of the district court having jurisdiction in the locality of the enforcement court.

(Change in the Scope of Seizure-Prohibited Claims)

Article 167-8 (1) An enforcement court may, upon petition, order voidance of all or part of a disposition of seizure or order that a disposition of seizure be made for the portion of a monetary claim of which seizure is prohibited pursuant to the provisions of Article 152 as applied mutatis mutandis pursuant to Article 167-14, paragraph (1), taking into consideration the living conditions of the obligor and the obligee and any other circumstances.

(2) When there has been a change in circumstances, an enforcement court may, upon petition, order that a disposition of seizure be made for a monetary claim for which a disposition of seizure had been voided pursuant to the provisions of the preceding paragraph or void all or part of a disposition of seizure that has been made provided in that paragraph.

(3) The provisions of Article 153, paragraphs (3) through (5) apply mutatis mutandis to cases where the petition referred to in the preceding two paragraphs has been filed. In this case, the term "an order of seizure" in paragraph (4) of that Article is deemed to be replaced with "a disposition of seizure."

(Distribution Demand)

Article 167-9 (1) An obligee having an authenticated copy of an enforceable title of obligation and an obligee who has proved that the obligee has a statutory lien based on a document or electronic or magnetic record may make a demand for distribution to a court clerk.

(2) The provisions of Article 154, paragraph (2) apply mutatis mutandis to cases where the distribution referred to in the preceding paragraph has been made.

(3) A person must file an objection to a court clerk's disposition denying the distribution demand referred to in paragraph (1) within an inalterable period of one week from the day on which the person is notified of that measure.

(4) An appeal may be filed against a judicial decision to deny the objection to an enforcement measure referred to in the preceding paragraph.

(Transfer for Seeking an Assignment Order)

Article 167-10 (1) If an attaching obligee seeks an assignment order, a transfer order, etc., or a statutory deposit order (referred to as an "order for realizing a

claim" in this Article) in connection with the monetary claim subject to seizure, by clarifying which one of the order for realizing a claim the obligee seeks, the obligee must file a petition with the enforcement court seeking transfer of the case to the procedure of enforcement against a claim.

- (2) When the court has received a petition as referred to in the preceding paragraph in which the obligee has clarified the type of order prescribed in that paragraph, the enforcement court must move the case into the procedures for enforcing claims at the district court having jurisdiction in the locality of the enforcement court.
- (3) If, before the order under the preceding paragraph became effective, an objection is filed to an enforcement measure that had already been taken or an appeal is filed against an enforcement decision that had already been made, the order does not become effective until the judicial decision on the objection or appeal becomes final and binding.
- (4) No appeal may be entered against an order under paragraph (2).
- (5) An appeal may be filed against an order to deny the petition referred to in paragraph (1).
- (6) Once an order under paragraph (2) becomes effective, the petition for an order of seizure is deemed to have been filed with the district court prescribed in paragraph (2) at the time the petition for a disposition of seizure is filed or the petition for an order for realizing a claim is deemed to have been filed with that district court at the time the petition referred to in paragraph (1) is filed, and any enforcement measure or other relevant act already taken is deemed to have been taken in the procedures for enforcement against a claim.

(Transfer for Purposes of Distribution)

- Article 167-11 (1) If a statutory deposit has been made pursuant to the provisions of Article 156, paragraph (1) or (2) or Article 157, paragraph (5) as applied *mutatis mutandis* pursuant to Article 167-14, paragraph (1), and distribution is to be implemented since there are two or more obligees and it is not possible to fully perform the claims and enforcement costs of the respective obligees with the deposit money, the enforcement court transfers its case to the procedure of enforcement against a claim at the district court having jurisdiction in the locality of the enforcement court.
- (2) In the cases prescribed in the preceding paragraph, if another order of seizure or disposition of seizure has been made for the monetary claim subject to a seizure, the enforcement court may transfer its case to the procedure of enforcement against a claim at the enforcement court that has issued the order of seizure or at the district court having jurisdiction in the locality of the summary court to which the court clerk who has made that disposition of seizure belongs, in addition to the procedure of enforcement against a claim at

the district court prescribed in that paragraph.

- (3) If a statutory deposit has been made provided in paragraph (1), if there is only one obligee or if there are two or more obligees and it is possible to fully perform the claims and enforcement costs of the respective obligees with the deposit money, a court clerk records an electronic statement of delivery of the deposit money (meaning an electronic or magnetic record prepared by the court clerk, pursuant to the provisions of the Rules of the Supreme Court, by recording the amount of the deposit money, the amounts of the principal of the claims, interest, and any other incidental claims of each obligee, the amount of the enforcement expenses, and the order and amounts of delivery of payment money to enable the payment money and surplus to be delivered) in a file, and delivers the payment money to the obligee and delivers any surplus to the obligor.
- (4) In the cases prescribed in the preceding paragraph, if another order of seizure has been issued for the monetary claim subject to a seizure, the enforcement court may transfer its case to the procedure of enforcement against a claim at the district court having jurisdiction in the locality of the enforcement court or at the enforcement court that has issued the order of seizure.
- (5) If another order of seizure has been issued for the monetary claim subject to a seizure, if the enforcement court that has issued the order of seizure is to implement distribution or payment pursuant to the provisions of Article 109 as applied *mutatis mutandis* pursuant to Article 161, paragraph (7) or pursuant to the provisions of Article 166, paragraph (1), item (ii), the earlier enforcement court transfers its case to the procedure of enforcement against a claim at the enforcement court that has issued the order of seizure.
- (6) No appeal may be entered against an order under paragraph (1), paragraph (2), paragraph (4) or the preceding paragraph.
- (7) The provisions of Article 84, paragraphs (4) and (5), Article 88, Article 91 (excluding paragraph (1), items (vi) and (vii)) and Article 92, paragraph (1) and paragraphs (3) through (7), and Article 166, paragraph (3) apply *mutatis mutandis* to the procedure of delivery of payment money implemented by a court clerk pursuant to the provisions of paragraph (3), the provisions of paragraph (3) of the preceding Article apply *mutatis mutandis* to an order under paragraph (1), paragraph (2), paragraph (4) or paragraph (5), and the provisions of paragraph (6) of that Article apply *mutatis mutandis* to cases where an order under paragraph (1), paragraph (2), paragraph (4) or paragraph (5) has become effective, respectively. In this case, the term "order of seizure" in Article 166, paragraph (3) is deemed to be replaced with "disposition of seizure".

(Discretionary Transfer)

Article 167-12 (1) An enforcement court may, when it finds it to be reasonable by taking into consideration the contents of the monetary claim to be seized and any other circumstances, transfer its case to the procedure of enforcement against a claim at the district court having jurisdiction in the locality of the enforcement court.

(2) No appeal may be entered against an order under the preceding paragraph.

(3) The provisions of Article 167-10, paragraph (3) apply mutatis mutandis to an order under paragraph (1), and the provisions of paragraph (6) of that Article apply mutatis mutandis to cases where an order under paragraph (1) has become effective. In this case, the phrase "the petition for a disposition of seizure or the petition referred to in paragraph (1)" in paragraph (6) of that Article is deemed to be replaced with "the petition for a disposition of seizure," and the phrase "the petition for an order of seizure or the petition for an order for realizing a claim" in the paragraph is deemed to be replaced with "the petition for an order of seizure."

(Application of the General Provisions)

Article 167-13 To apply the provisions of Chapter I and Chapter II, Section 1 to enforcement against a claim arising from a small claims action, the phrase "procedures with an enforcement court" in Article 13, paragraph (1) is deemed to be replaced with "procedures for enforcement against a claim arising from a small claims action prescribed in Article 167-2, paragraph (2)," the term "enforcement court" in Article 16, paragraph (1) is deemed to be replaced with "court clerk," the phrase "civil enforcement carried out by an enforcement court" in Article 17, paragraph (1), Article 17-2, paragraphs (1) through (3), and Article 17-3 is deemed to be replaced with "the enforcement against a claim arising from a small claims action prescribed in Article 167-2, paragraph (2)," the phrase "the enforcement court or court enforcement officer" in Article 40, paragraph (1) is deemed to be replaced with "the court clerk," and the phrase "a court clerk of the enforcement court" in Article 42, paragraph (4) is deemed to be replaced with "a court clerk."

(Application Mutatis Mutandis of the Provisions on Enforcement Against Claims)

Article 167-14 (1) The provisions of Articles 146 through 152, Article 155, Article 156 (excluding paragraph (3)), Article 157, Article 158, Article 164, paragraphs (5) and (6), and Article 165 (excluding item (iii) and item (iv)) apply mutatis mutandis to enforcement against a claim arising from a small claims action. In this case, the term "enforcement court" in Article 146, Article 155, paragraphs (4) through (6) and (8) and Article 156, paragraph (4) is deemed to be replaced with "court clerk," the phrase "issue an order of seizure" in Article 146,

paragraph (1) is deemed to be replaced with "make a disposition of seizure," the term "order of seizure" in Article 147, paragraph (1), Article 148, paragraph (2), Article 150, Article 155, paragraphs (1), (6) and (7) and Article 156, paragraph (1) is deemed to be replaced with "disposition of seizure," the phrase "claim subject to a seizure" in Article 147, paragraph (1) and Article 148, paragraph (1) is deemed to be replaced with "monetary claim for a seizure," the phrase "an order of seizure is issued" in Article 149 is deemed to be replaced with "a disposition of seizure is made," the phrase "decision" in Article 155, paragraph (7) is deemed to be replaced with "a disposition by a court clerk", the phrase "an order to set aside an order of seizure" in Article 164, paragraph (5) is deemed to be replaced with "an order to set aside an order of seizure or a disposition by a court clerk to void a disposition of seizure," and the term "distribution or payment" in Article 165 (including the title of the Article) is deemed to be replaced with "delivery of payment money."

- (2) The provisions of Article 167-5, paragraphs (6) through (8) apply mutatis mutandis to cases where a disposition is made by a court clerk under Article 155, paragraph (6) which is replaced and applied mutatis mutandis in the preceding paragraph.

Subsection 5 Special Provisions on Judicial Enforcement for a Monetary Claim Related to Duty to Support

(Indirect Judicial Enforcement for a Monetary Claim Related to Duty to Support)

Article 167-15 (1) Judicial enforcement for a monetary claim related to any of the duties stated in the items of Article 151-2, paragraph (1) is carried out pursuant to the provisions of the preceding Subsections, and also, when a petition has been filed by the obligee, is carried out by the enforcement court by the method prescribed in Article 172, paragraph (1); provided, however, that this does not apply when the obligor is unable to perform the obligation related to that monetary claim due to a lack of the ability to pay or when the obligor is to fall into extreme poverty through performance of the obligation.

- (2) In the case of carrying out judicial enforcement for the monetary claim prescribed in the preceding paragraph pursuant to the provisions of the paragraph by the method prescribed in Article 172, paragraph (1), the enforcement court must, when determining the amount of money to be paid by the obligor to the obligee, particularly take into account the disadvantages to be incurred by the obligee through default of the obligation and the financial resources of the obligor and the mode of their performance of the obligation in the past.

- (3) When there has been a change in circumstances, an enforcement court may,

upon petition by the obligor, set aside an order under paragraph (1) retroactively as of the time when that petition is filed (or, if there is a change in circumstances after that petition is filed, the time of the change in circumstances).

- (4) When the petition referred to in the preceding paragraph has been filed, an enforcement court may order a stay of enforcement for an order under paragraph (1) until a judicial decision on the petition becomes effective, while either requiring or not requiring security to be provided.
- (5) No appeal may be entered against an order under the preceding paragraph.
- (6) The provisions of Article 172, paragraph (2) through (5) apply mutatis mutandis to the case referred to in paragraph (1), the provisions of paragraph (3) and paragraph (5) of that Article apply mutatis mutandis to the case referred to in paragraph (3), and the provisions of Article 173, paragraph (2) apply mutatis mutandis to the enforcement court referred to in paragraph (1).

(Special Provisions on Cases of Enforcing a Claim for Periodic Payments
Related to Duty to Support)

Article 167-16 If the obligee has a claim for periodic payments with provisions on fixed due dates related to any of the duties stated in the items of Article 151-2, paragraph (1), if any part of the claim is in default, judicial enforcement by the method prescribed in paragraph (1) of the preceding Article may be commenced even for the portion of the claim for periodic payments for which the fixed due date is to arrive within six months, notwithstanding the provisions of Article 30, paragraph (1).

**Section 3 Judicial Enforcement of Claims that Are Not for Payment of
Money**

(Judicial Enforcement of Delivery of Immovable Property)

Article 168 (1) The delivery or eviction of immovable property or a residence (meaning immovable property or a vessel or other space in which a person resides; the same applies in this Article and in the following Article) is enforced by the court enforcement officer's removing the immovable property or a residence from the obligor's possession and having the obligee acquire possession of it.

- (2) If it is particularly necessary to identify the possessor of the immovable property or residence referred to in the preceding paragraph to carry out the enforcement referred to in the paragraph, the court enforcement officer may question a person who is present at that immovable property or residence or request that person to present documents, at the immovable property or residence or in a place adjacent to it.

- (3) The judicial enforcement referred to in paragraph (1) may be carried out only when the obligee or their agent appeared at the place of enforcement.
- (4) When carrying out the judicial enforcement referred to in paragraph (1), the court enforcement officer may enter the immovable property or residence possessed by the obligor, and, if necessary, may take necessary measures to open closed or locked doors.
- (5) In the judicial enforcement referred to in paragraph (1), a court enforcement officer must remove any movables that are not the subject matter of enforcement and deliver them to the obligor or their agent, a cohabiting relative, or an employee or other relevant worker who will exercise reasonable discretion. In this case, if it is not possible to deliver the movables to any of the persons, the court enforcement officer may sell those movables pursuant to the provisions of the Rules of the Supreme Court.
- (6) If any part of the movables referred to in the preceding paragraph has not been delivered or sold under the paragraph, a court enforcement officer must retain the part of the movables. In this case, the provisions of the second sentence of the preceding paragraph applies *mutatis mutandis*.
- (7) The expenses for retention under the preceding paragraph are enforcement costs.
- (8) When a court enforcement officer has sold movables pursuant to the provisions of paragraph (5) (including as applied *mutatis mutandis* pursuant to the second sentence of paragraph (6)), the officer must deduct the expenses required for the sale and retention from the proceeds of the sale and make a statutory deposit of the remainder.
- (9) The provisions of Article 57, paragraph (5) apply *mutatis mutandis* to the judicial enforcement referred to in paragraph (1).

(Demand for Eviction)

- Article 168-2 (1) If a petition to enforce the delivery or eviction of immovable property or a residence has been filed, and it is possible to commence enforcement, the court enforcement officer may demand its eviction (meaning demanding the person to deliver or evict the immovable property or residence; the same applies in this Article), specifying the time limit for delivery prescribed in the following paragraph; provided, however, that this does not apply if the obligor does not have possession of immovable property or a residence.
- (2) The time limit for delivery (meaning the time limit for carrying out judicial enforcement under paragraph (6) based on a demand for eviction; the same applies in this Article) is the day on which one month has passed from the day on which the demand for eviction is made; provided, however, that a court enforcement officer may designate another date as the time limit for delivery

by obtaining the permission of the enforcement court.

- (3) If the court enforcement officer demands the eviction of the property, they must give public notice of that fact, the time limit for delivery, and the fact that the obligor is prohibited from transferring possession of the immovable property or residence pursuant to the provisions of paragraph (5) by the method of posting a written public notice or any other sign at the place where the immovable property or residence is located.
- (4) Until the deadline for delivery passes, the court enforcement officer may extend the deadline for delivery with the permission of the enforcement court. In this case, the court enforcement officer must give public notice of the fact that the deadline for delivery has changed and the deadline for delivery after the change by posting a written public notice or any other type of sign at the place where the immovable property or a residence is located.
- (5) Once a demand for evict the property is made, the obligor must not transfer possession of the immovable property or residence; provided, however, that this does not apply if the obligor delivers or evicts the immovable property or residence to the obligee.
- (6) If possession of immovable property or a residence is transferred after a demand for eviction is made, until the time limit for delivery has been reached, judicial enforcement based on the petition referred to in paragraph (1) may be carried out against the possessor (meaning a person possessing the immovable property or residence referred to in paragraph (1) who is not the obligor; the same applies in this Article). In this case, that possessor is deemed to be the obligor regarding application of the provisions of Article 42 and the preceding Article.
- (7) If possession of immovable property or a residence is transferred after a demand for eviction is made, the possessor may file an action against the obligee calling for the court to disallow enforcement, on the basis that the possessor had no knowledge of a demand for eviction of the property having been made and the possessor is not a successor to the obligor's possession. In this case, the provisions of Article 36, Article 37 and Article 38, paragraph (3) apply *mutatis mutandis*.
- (8) A possessor taking possession of immovable property or a residence after a demand for eviction is made is presumed to have taken possession of it knowing that the demand had been made.
- (9) When judicial enforcement has been carried out against a possessor pursuant to the provisions of paragraph (6), the possessor may assert, as the basis for filing an objection to an enforcement measure, that they possess the subject matter based on a title which may be duly asserted against the obligee or that they have no knowledge of a demand for eviction having been made and they are not a successor to the obligor's possession.

(10) The expenses required for a demand for eviction are enforcement costs.

(Judicial Enforcement of Delivery of Movables)

Article 169 (1) Judicial enforcement of delivery of movables (including securities) other than the movables prescribed in Article 168, paragraph (1) is carried out by the method in which a court enforcement officer confiscates the movables from the obligor and delivers it to the obligee.

(2) The provisions of Article 122, paragraph (2), Article 123, paragraph (2) and Article 168, paragraphs (5) through (8) apply *mutatis mutandis* to the judicial enforcement referred to in the preceding paragraph.

(Judicial Enforcement of Delivery If a Third Party Possesses the Subject Matter)

Article 170 (1) If a third party possesses the subject matter of judicial enforcement, if the third party is liable to deliver the object to the obligor, judicial enforcement of delivery of the object is carried out by the method in which the enforcement court seizes the obligor's claim for delivery against the third party and issues an order permitting the obligee to exercise the claim.

(2) The provisions of Article 144, Article 145 (excluding paragraph (4)), Article 147, Article 148, Article 155, paragraphs (1) and (3) and Article 158 apply *mutatis mutandis* to the judicial enforcement referred to in the preceding paragraph.

(Enforcement Through Substituted Performance)

Article 171 (1) Enforcement as stated in the following items is carried out by the enforcement court's issuing of the orders specified in those items:

(i) judicial enforcement of an obligation to act: an order causing a third party to perform the action at the expense of the obligor; and

(ii) judicial enforcement of an obligation not to act: an order directing the removal of the outcome of the action performed by the obligor, or an appropriate ruling against any future action, at the expense of the obligor.

(2) The enforcement court referred to in the preceding paragraph is the court specified in Article 33, paragraph (2), items (i) and (vi) for the categories of the title of obligation stated respectively in those items.

(3) An enforcement court must interrogate the obligor in cases of issuing the order under paragraph (1).

(4) In cases of issuing the order under paragraph (1), an enforcement court may, upon petition, order the obligor to pay to the obligee, in advance, the expenses necessary for conducting the act stated in the order.

(5) An appeal may be filed against a judicial decision on the petition for the judicial enforcement referred to in paragraph (1) or on the petition referred to

in the preceding paragraph.

- (6) The provisions of Article 6, paragraph (2) apply *mutatis mutandis* when an order under paragraph (1) is enforced.

(Indirect Judicial Enforcement)

Article 172 (1) Judicial enforcement for an obligation to act or not to act but for which it is not possible to carry out the judicial enforcement referred to in paragraph (1) of the preceding Article is carried out by the enforcement court's ordering the obligor to pay to the obligee money of a fixed amount that it finds to be reasonable to ensure performance of the obligation, either based on the period of the delay, or immediately upon the obligor failing to perform the obligation within the fixed period that it finds to be reasonable.

- (2) If circumstances change and upon petition, the enforcement court may change an order under the preceding paragraph.
- (3) the enforcement court must interrogate the other person to the petition before issuing an order under the preceding two paragraphs.
- (4) If there has been payment of money that is ordered pursuant to the provisions of paragraph (1), if the amount of damages that resulted from default of the obligation exceeds the amount of payment, the obligee is not precluded from claiming compensation for damage for the amount in excess.
- (5) An appeal may be filed against a judicial decision on the petition for the judicial enforcement referred to in paragraph (1) or on the petition referred to in paragraph (2).
- (6) The provisions of paragraph (2) of the preceding Article apply *mutatis mutandis* to the enforcement court referred to in paragraph (1).

Article 173 (1) The judicial enforcement prescribed in Article 168, paragraph (1), Article 169, paragraph (1), Article 170, paragraph (1) and Article 171, paragraph (1) is carried out pursuant to the provisions of Articles 168 through 171 respectively, and also, when a petition has been filed by the obligee, is carried out by the enforcement court by the method prescribed in paragraph (1) of the preceding Article. In this case, the provisions of paragraphs (2) through (5) of that Article apply *mutatis mutandis*.

- (2) The enforcement court referred to in the preceding paragraph is, for the categories of the title of obligation stated in the items of Article 33, paragraph (2) (excluding items (i)-2, (i)-3 and (iv)), the court with jurisdiction over an action to granting an attestation of enforceability regarding the respective titles of obligation.

(Enforcing the Handover of a Child)

Article 174 (1) The handover of a child is enforced through the means stated in

the following items:

- (i) by the enforcement court's issuing a ruling to have a court enforcement officer implement the handover of the child; or
 - (ii) by the means prescribed in Article 172, paragraph (1).
- (2) A petition for enforcement by the means stated in item (i) of the preceding paragraph may not be filed unless it falls under any of the following items:
- (i) it has been two weeks since the day on which the order under Article 172, paragraph (1) has become final and binding (or until the expiration of the period in question, if the expiration of a fixed period to perform the obligations specified by the order comes after those two weeks have passed);
 - (ii) it is not found to be probable that the obligor will hand over care of the child even if enforcement is implemented by the means stated in item (ii) of the preceding paragraph; or
 - (iii) it is necessary to immediately carry out enforcement to prevent imminent danger to the child.
- (3) The enforcement court must interrogate an obligor if it issues an order under paragraph (1), item (i); provided, however, that this does not apply if the child is in imminent danger or if there are other circumstances in which interrogating the obligor would make it impossible to achieve the purpose of enforcement.
- (4) In the order under paragraph (1), item (i), the enforcement court must order a court enforcement officer to perform the necessary acts to remove the child from the care of the obligor.
- (5) The provisions of Article 171, paragraph (2) apply *mutatis mutandis* to the enforcement court referred to in paragraph (1), item (i) and the provisions of paragraph (4) of that Article apply *mutatis mutandis* to cases in which the order under that item is issued.
- (6) An appeal may be filed against a judicial decision on the petition for enforcement referred to in paragraph (2) or the petition of Article 170, paragraph (4) as applied *mutatis mutandis* pursuant to the preceding paragraph.

(Authority of Court Enforcement Officers)

Article 175 (1) In addition to attempting to persuade the obligor, as an act that needs to be performed to remove the child from the obligor's care, the court enforcement officer may perform the following acts in the residence of the obligor or any other place possessed by the obligor:

- (i) entering the place to search for the child. In this case, if it is necessary, taking the necessary measures to open a closed or locked door;
- (ii) having the obligee or their agent meet with the child or having the obligee or their agent meet with the obligor; and

- (iii) having the obligee or their agent enter the place.
- (2) If, after considering the physical and psychological impact on the child, the place in question and its surroundings, and other relevant circumstances, the court enforcement officer finds it to be appropriate to do so, the officer may perform an act stated in any of the items of the preceding paragraph as an act that needs to be performed to remove the child from the obligor's care, in a place other than as prescribed in the preceding paragraph, with the consent of the possessor of the place or with the permission under the following paragraph.
- (3) If the residence of the child is a place other than the place provided for in paragraph (1) and the enforcement court finds it to be appropriate to do so after taking into consideration the relationship between the obligor and the possessor of the place, the impact on the private life or business of the possessor, and other relevant circumstances, the enforcement court may give permission that substitutes for the consent of the possessor upon petition by the obligee.
- (4) If a court enforcement officer is granted the permission under the preceding paragraph and performs an act stated in the items of paragraph (1), the officer must present a document proving that they have been granted that permission in carrying out their duties.
- (5) The acts needed to remove the child from the care of the obligor under paragraph (1) or paragraph (2) may be carried out only if the obligee is present at the place prescribed in paragraph (1) or paragraph (2).
- (6) Notwithstanding the provisions of the preceding paragraph, even if the obligee cannot be present at the place prescribed in paragraph (1) or paragraph (2), if the enforcement court finds that having the obligee's agent present at that place in lieu of the obligee is sufficient to protect the interests of the child in light of the relationship between the agent and the child, the agent's knowledge and experience, and other relevant circumstances, the enforcement court, at the petition of the obligee, may issue an order indicating that the necessary acts to remove the child from the care of the obligor under paragraph (1) or paragraph (2) may also be performed if that agent is present at the place in question.
- (7) The enforcement court may set aside the order referred to in the preceding paragraph at any time.
- (8) Notwithstanding the provisions of Article 6, paragraph (1), the court enforcement officer may not use force on a child. The same applies to a person other than the child if there is a risk that using force against that person would physically or psychologically harm the child.
- (9) When performing the necessary acts to remove the child from the care of the obligor under paragraph (1) or paragraph (2), the court enforcement officer

may give the necessary instructions to the obligee or their agent.

(Responsibilities of Enforcement Courts and Court Enforcement Officers)

Article 176 In bringing about a child handover in proceedings to enforce the handing over of the child by the means stated in Article 174, paragraph (1), item (i), the enforcement court and court enforcement officer must give as much consideration as possible to preventing enforcement from physically or psychologically harming the child, taking into account the child's age and level of development and other relevant circumstances.

(Constructive Manifestations of Intention)

Article 177 (1) When a judgment or any other judicial decision ordering the obligor to manifest their intention has become final and binding, or when a title of obligation related to a settlement, acknowledgment, mediation or labor tribunal decision has been established, the obligor is deemed to have manifested their intention at the time when the judicial decision became final and binding or the title of obligation is established; provided, however, that if the manifestation of intention by the obligor relates to actualization of a fact to be proved by an obligee, the obligor is deemed to have manifested their intention at the time when an attestation of enforceability is granted pursuant to the provisions of Article 27, paragraph (1), and if it relates to an exchange with counter-performance or relates to absence of a fact to be proved by the obligor such as performance of an obligation, the obligor is deemed to have manifested their intention at the time when an attestation of enforceability is provided pursuant to the provisions of the following paragraph or paragraph (3).

(2) If the obligor's manifestation of intention is in exchange for counter-performance, an attestation of enforceability may be granted only when the obligee has submitted a document or electronic or magnetic record proving that the counter-performance has been provided or its offer has been made.

(3) If the obligor's manifestation of intention concerns something that is not a fact to be proven by the obligor and a petition for granting of an attestation of enforceability has been filed, a court clerk may demand that the obligor submit a document or electronic or magnetic record proving that fact, specifying a certain period for this, and may grant an attestation of enforceability only if the obligor fails to submit the document or electronic or magnetic record within that period.

Article 178 and Article 179 Deleted

Chapter III Auctioning Property as a Means of Enforcing a Security

Interest

(Means of Enforcing a Security Interest in Immovable Property)

Article 180 Enforcement of a security interest in immovable property (excluding any fixtures on land that are not registrable, and including what are deemed to be immovable property pursuant to the provisions of Article 43, paragraph (2); the same applies in this Chapter) (referred to as a "security interest in immovable property" in this Chapter) is carried out by either of the following methods that has been chosen by the obligee:

- (i) the method of a secured immovable property auction (meaning enforcement of a security interest in immovable property through an auction; the same applies in this Chapter); or
- (ii) the method of enforcement against earnings from secured immovable property (meaning enforcement of a security interest in immovable property by the method of allotting the earnings from immovable property to performance of the secured claim; the same applies in this Chapter).

(Commencing Enforcement of a Security Interest in Immovable Property)

Article 181 (1) Enforcement of a security interest in immovable property is commenced only when a petition specified in item (i) or a document or electronic or magnetic record specified in item (ii) has been submitted:

- (i) a petition for enforcement of a security interest in immovable property regarding immovable property for which a security interest has been registered (excluding provisional registration); or
- (ii) any of the following documents or electronic or magnetic records:
 - (a) a transcript or certificate of recorded information of a final and binding judgment, a ruling referred to in Article 75 of the Domestic Relations Case Procedure Act, or a document that has the same effect as that judgment or ruling, proving the existence of the security interest;
 - (b) a transcript of a notarial instrument referred to in Article 43, paragraph (1), item (i) of the Notary Act prepared by a notary, proving the existence of the security interest, a document referred to in item (ii) of that paragraph (limited to a document onto which all of the items recorded in the notarial instrument have been output), or an electronic or magnetic record referred to in item (iii) of that paragraph (limited to a record in which all of the items recorded in the notarial instrument have been recorded); or
 - (c) in the case of a general statutory lien, a document or electronic or magnetic record proving its existence.

(2) In order for a holder of mortgage instruments to file a petition for enforcement of a security interest in immovable property, the holder must

submit the mortgage instruments.

- (3) In the case of filing a petition for enforcement of a security interest in immovable property after the security interest has been succeeded, a document or electronic or magnetic record proving that succession must be submitted if that succession is inheritance or any other general succession, and a transcript of a judicial decision or any other official document (if electronic or magnetic record is used to prepare the document, including that electronic or magnetic record) proving that succession must be submitted if that succession is that other than general succession.
- (4) When a commencement order for enforcement of a security interest in immovable property has been issued, the court clerk, at the time of servicing the commencement order, must send to the opposite person an electronic or magnetic record in which the matters stated in the following items are recorded. In this case, if a document or electronic or magnetic record stated in paragraph (1), item (ii), (c) is submitted upon the filing of a petition for enforcement of a security interest in immovable property, an electronic or magnetic record relating to the matters stated or recorded in the document or electronic or magnetic record that are recorded in a file must also be sent to the opposite person.
- (i) an indication that a petition referred to in paragraph (1), item (i) is filed or a list of documents or electronic or magnetic records stated in item (ii) of that paragraph that were submitted upon the filing of a petition for enforcement of a security interest in immovable property; and
 - (ii) a list of the documents or electronic or magnetic records prescribed in preceding two paragraphs that were submitted upon the filing of a petition for enforcement of a security interest in immovable property.

(Appeal Against a Commencement Order)

Article 182 The obligor or the owner of immovable property (or, for what is deemed to be immovable property, its right holder; the same applies below) may assert the absence or extinguishment of the security interest as the basis for filing an appeal against or objection to a commencement order for enforcement of a security interest in immovable property.

(Stay of the Procedure of Enforcement of a Security Interest in Immovable Property)

Article 183 (1) The procedure of enforcement of a security interest in immovable property must be stayed when a petition referred to in item (i) or document referred to in item (ii) (in the case of (c) of that item, a document or electronic or magnetic record) has been submitted:

- (i) a petition for a stay of the procedure of enforcement of a security interest in

- immovable property for which registration of the security interest is deleted;
- (ii) any of the following documents (in the case of (c), a document or electronic or magnetic record):
- (a) a transcript or certificate of recorded information of a final and binding judgment (including a document that has the same effect as a final and binding judgment; the same applies in (b)) proving absence of the security interest;
 - (b) a transcript or certificate of recorded information of a final and binding judgment, which orders deletion of the registration stated in Article 181, paragraph (1), item (i) or voids or declares invalid the judicial decision stated in item (ii), (a) of that paragraph or a document that has the same effect as that judicial decision;
 - (c) a transcript of a record of a judicial settlement or any other official document containing a statement that the security interest is not to be exercised, the petition for enforcement of the security interest is withdrawn, the obligee has received performance of the claim secured by the security interest, or has granted a grace period for the claim (if the official document has been prepared in the form of an electronic or magnetic record, an electronic or magnetic record in which all of the matters recorded in that electronic or magnetic record are recorded);
 - (d) a transcript or certificate of recorded information of a judicial decision ordering a stay of procedures for enforcing a security interest in immovable property and the voidance of an enforcement measure;
 - (e) a transcript or certificate of recorded information of a judicial decision ordering a temporary stay of procedures for enforcing a security interest in immovable property; and
 - (f) a transcript or certificate of recorded information of a judicial decision temporarily prohibiting enforcement of the security interest.
- (2) If a petition referred to in item (i) of the preceding paragraph is filed or a document or electronic or magnetic record stated in item (ii), (a) through (d) is submitted, the enforcement court must void even an enforcement measure that has already been taken.
- (3) The provisions of Article 12 do not apply to an order under the preceding paragraph.

(Effects of Acquisition of Immovable Property Through Payment of the Fee)

Article 184 Acquisition of immovable property by the purchaser through payment of the fee in a secured immovable property auction does not be obstructed by absence or extinguishment of the security interest.

Article 185 Deleted

Article 186 Deleted

(Provisional Orders Before Commencement Order for Secured Immovable Property Auction)

- Article 187 (1) Even before a commencement order for a secured immovable property auction, if it is particularly necessary if the obligor or the owner or possessor of immovable property has committed a price reducing act (meaning the price reducing act prescribed in Article 55, paragraph (1); the same applies in this paragraph), the enforcement court, upon petition by a person seeking to file a petition for a relevant secured immovable property auction, may establish the provisional order stated in any of the items of paragraph (1) of that Article and the provisional order to post a public notice stated in those items, until the purchaser pays the price; provided, however, that this does not apply when the reduction in the price caused by the price reducing act or the extent of the likelihood is slight.
- (2) In cases of the preceding paragraph, the provisional order stated in Article 55, paragraph (1), item (ii) or (iii) may not be issued unless either of the following cases applies:
- (i) cases where the obligor referred to in the preceding paragraph or the owner of the immovable property referred to in the paragraph possesses the immovable property; or
 - (ii) cases where the title to possession held by the possessor of the immovable property referred to in the preceding paragraph may not be duly asserted against a person who has filed a petition under the paragraph.
- (3) To file a petition under paragraph (1), the documents to be submitted pursuant to the provisions of Article 181, paragraphs (1) (excluding item (i)), paragraph (2), or paragraph (3) in cases of filing a petition for a secured immovable property auction must be presented or an electronic or magnetic record to be submitted pursuant to these provisions must be submitted, except cases where a security interest regarding immovable property referred to in paragraph (1) has been registered (excluding provisional registration).
- (4) When a petitioner fails to submit a document or electronic or magnetic record proving that the petitioner has filed a petition for the secured immovable property auction referred to in paragraph (1) within three months from the day of receipt of the notice of an order granting the provisional order referred to in that paragraph, the enforcement court must set aside the order, upon petition by the respondent or the owner of the immovable property referred to in the paragraph.
- (5) The provisions of Article 55, paragraph (3) through (5) apply mutatis mutandis to an order under paragraph (1), the provisions of paragraph (6) of

that Article apply mutatis mutandis to a judicial decision on the petition referred to in paragraph (1) or in paragraph (5) of that Article as applied mutatis mutandis pursuant to this paragraph, the provisions of paragraph (7) of that Article apply mutatis mutandis to a ruling under paragraph (5) of that Article as applied mutatis mutandis pursuant to this paragraph, the provisions of paragraph (8) and paragraph (9) of that Article and Article 55-2 apply mutatis mutandis to a ruling under paragraph (1) (excluding a ruling establishing the provisional order stated to in Article 55, paragraph (1), item (i) or the provisional order to post a public notice stated in that item), the provisions of Article 55, paragraph (10) apply mutatis mutandis to expenses required for the petition referred to in paragraph (1) or carrying out a ruling provided in that paragraph (excluding a ruling establishing the provisional order stated in paragraph (1), item (i) of that Article or the provisional order to post a public notice stated in that item), the provisions of Article 83-2 apply mutatis mutandis to the case where a ruling under paragraph (1) (limited to a ruling establishing the provisional order stated in Article 55, paragraph (1), item (iii) and the provisional order to post a public notice stated in that item) has been carried out. In this case, the phrase "possessor other than the obligor" in Article 55, paragraph (3) is deemed to be replaced with "possessor who is neither the obligor nor the owner of the immovable property".

(Application Mutatis Mutandis of the Provisions on Enforcement Against Immovable Property)

Article 188 The provisions of Article 44 apply mutatis mutandis to the enforcement of a security interest in immovable property, the provisions of Section 2, Subsection 1, Division 2 of the preceding Chapter (excluding Article 81) apply mutatis mutandis to a sale-at-auction of secured immovable property, and the provisions of Division 3 of the Subsection apply mutatis mutandis to enforcement against earnings from secured immovable property.

(Auction of a Vessel)

Article 189 The provisions of Section 2, Subsection 2 of the preceding Chapter and Articles 181 through 184 apply mutatis mutandis to the auctioning of property as a means of enforcing a security interest in a vessel. In this case, the phrase "present an authenticated copy of an enforceable title of obligation and make a prima facie showing of the grounds prescribed in that paragraph" in Article 115, paragraph (3) is deemed to be replaced with "present any of the documents to be submitted pursuant to the provisions of Article 181, paragraph (1) (excluding item (i)), paragraph (2), or paragraph (3) as applied mutatis mutandis pursuant to Article 189 or submit electronic or magnetic records to be submitted pursuant to these provisions, except in the cases where a prima

facie showing of the grounds prescribed in that paragraph is made and a security interest has been registered (excluding provisional registration)," and the term "a general statutory lien" in Article 181, paragraph (1), item (ii), (c) is deemed to be replaced with "a statutory lien."

(Requirements for an Auction of Movables)

Article 190 (1) The auctioning of movables as a means of enforcing a security interest (referred to as an "auction of movables" below) is commenced only in any of the following cases:

- (i) cases where the obligee has submitted the movables to a court enforcement officer;
 - (ii) cases where the obligee has submitted to a court enforcement officer a document or electronic or magnetic record proving that the possessor of the movables has consented to a seizure; or
 - (iii) cases where the obligee has submitted a transcript of a written ruling or certificate of recorded information of the electronic ruling (limited to a ruling that has been recorded in a file pursuant to the provisions of Article 253, paragraph (2) of the Code of Civil Procedure applied mutatis mutandis pursuant to Article 122 of that Code applied mutatis mutandis pursuant to Article 20 of that Code) for the permission referred to in the following paragraph to a court enforcement officer, and that ruling has been served on the obligor before or simultaneously with a search under Article 123, paragraph (2) as applied mutatis mutandis pursuant to Article 192.
- (2) An enforcement court may, upon petition by an obligee who has submitted a document or electronic or magnetic record proving the existence of a security interest, permit commencement of an auction of movables in connection with that security interest.; provided, however, that this does not apply to cases where the movables do not exist at the place or in the container prescribed in Article 123, paragraph (2).
- (3) An order of the permission referred to in the preceding paragraph must be served upon the obligor.
- (4) An appeal may be filed against a judicial decision on the petition referred to in paragraph (2).

(Objecting to a Seizure of Movables)

Article 191 The obligor or the owner of movables may assert the absence or extinguishment of the security interest or the extinguishment of part of the claim secured by the security interest as the basis for filing an objection to a seizure connected with an auction of movables.

(Application Mutatis Mutandis of the Provisions on Enforcement Against

Movables)

Article 192 The provisions of Section 2, Subsection 3 of the preceding Chapter (excluding Article 123, paragraph (2), Article 128, Article 131 and Article 132) and Article 183 apply mutatis mutandis to an auction of movables, the provisions of Article 128, Article 131 and Article 132 apply mutatis mutandis to the auctioning of movables for exercise of a general statutory lien, and the provisions of Article 123, paragraph (2) apply mutatis mutandis to an auction of movables in the case referred to in Article 190, paragraph (1), item (iii).

(Requirements for Enforcing a Security Interest in a Claim or any Other Property Right)

Article 193 (1) Enforcement of a security interest in the claim prescribed in Article 143 or the property right prescribed in Article 167, paragraph (1) (referred to as "any other property right" in this paragraph) is commenced only when a document or electronic or magnetic record proving the existence of the security interest (or, for a security interest in any other property right for which registration is required in the case of transfer of the right and which is not a general statutory lien, if the security interest has been registered, etc. (excluding provisional registration) when a petition for enforcement of a security interest has been filed or a document or electronic or magnetic record prescribed in Article 181, paragraph (1), item (ii), (a) or (b) or paragraph (2) or (3) has been submitted). The same applies to the exercise of a security interest by a person having a security interest, conducted pursuant to the provisions of the Civil Code or any other Act against money or any other property to be received by the obligor as a result of a sale, lease or loss of or damage to the subject matter, establishment of a real right on the subject matter, or expropriation under the Land Expropriation Act (Act No. 219 of 1951) or any other administrative disposition.

(2) The provisions of Section 2, Subsection 4, Division 1 of the preceding Chapter (excluding Article 146, paragraph (2), Article 152 and Article 153) and Articles 182 through 184 apply mutatis mutandis to the enforcement or exercise of a security interest prescribed in the preceding paragraph, and the provisions of Article 146, paragraph (2), Article 152 and Article 153 apply mutatis mutandis to the enforcement or exercise of a general statutory lien prescribed in the preceding paragraph.

(Application Mutatis Mutandis of the General Provisions on Judicial Enforcement to Enforcement of a Security Interest)

Article 194 The provisions of Article 38, Article 41 and Article 42 apply mutatis mutandis to the auctioning of property as a means of enforcing a security interest, enforcement against earnings from secured immovable property and

the enforcement and exercise of a security interest prescribed in paragraph (1) of the preceding Article.

(Auction Based on a Right of Retention and Auction for a Realization Under the Civil Code, the Commercial Code or any Other Act)

Article 195 An auction based on a right of retention and an auction for a realization under the Civil Code, the Commercial Code or any other Act is governed by the rules on the auctioning of property as a means of enforcing a security interest.

Chapter IV Investigation of Obligor's Financial Status

Section 1 Asset Disclosure Procedures

(Jurisdiction)

Article 196 The district court having jurisdiction in the locality of the general venue of the obligor has jurisdiction over the procedure concerning disclosure of property of an obligor under this Section (referred to as the "asset disclosure procedure" below) as the enforcement court.

(Order of Implementation)

Article 197 (1) An enforcement court, when either of the following items applies, must order implementation of an asset disclosure procedure against an obligor, upon petition by an obligee of a monetary claim who has an authenticated copy of an enforceable title of obligation; provided, however, that this does not apply when it is not possible to commence judicial enforcement based on the authenticated copy of an enforceable title of obligation:

- (i) when the petitioner is unable to obtain full performance of that monetary claim in the procedure of distribution or payment (excluding a procedure that is terminated by at least six months before the day of filing the petition) in judicial enforcement or enforcement of a security interest; or
- (ii) when a prima facie showing is made that the petitioner is unable to obtain full performance of the relevant monetary claim even by implementing judicial enforcement against known property.

(2) An enforcement court must, when either of the following items applies, order implementation of an asset disclosure procedure against an obligor, upon petition by an obligee who has submitted a document or electronic or magnetic record proving that the obligee has a general statutory lien in the property of the obligor:

- (i) when the petitioner is unable to obtain full performance of the secured claim related to the statutory lien in the procedure of distribution or payment (excluding a procedure that is terminated by at least six months before the

- day of filing the petition) in judicial enforcement or enforcement of a security interest; or
- (ii) when a prima facie showing is made that the petitioner is unable to obtain full performance of the secured claim referred to in the preceding item even by implementing the enforcement of a security interest against known property.
- (3) Notwithstanding the provisions of the preceding two paragraphs, when the obligor (or, if the obligor has a statutory agent, the statutory agent, and if the obligor is a corporation, its representative; the same applies in item (i)) has made a statement on their property on the asset disclosure date (the date on which asset is to be disclosed; the same applies below) within three years before the day of filing the petition referred to in the preceding two paragraphs, an order to implement an asset disclosure procedure may not be issued; provided, however, that this does not apply if any ground of the following items exist:
- (i) if the obligor failed to disclose part of their property on the relevant asset disclosure date;
- (ii) if the obligor acquired new property after the relevant asset disclosure date; or
- (iii) if the employment relationship between the obligor and their employer is terminated after the relevant asset disclosure date.
- (4) When the order referred to in paragraph (1) or paragraph (2) has been issued, the relevant order (or, for the order referred to in the paragraph, the order and a copy of the document referred to in the paragraph or an electronic or magnetic record in which all of the matters recorded in the electronic or magnetic record referred to in the paragraph has been recorded) must be served upon the obligor.
- (5) An appeal may be filed against a judicial decision on the petition referred to in paragraph (1) or paragraph (2).
- (6) The order referred to in paragraph (1) or paragraph (2) is not effective until it becomes final and binding.

(Designation of the Date and Summons for the Date)

- Article 198 (1) An enforcement court must designate the asset disclosure date when the order referred to in paragraph (1) and paragraph (2) of the preceding Article has become final and binding.
- (2) The following persons must be summoned for the asset disclosure date:
- (i) the petitioner;
- (ii) the obligor (or, if the obligor has a statutory agent, the statutory agent, and if the obligor is a corporation, its representative).

(Asset Disclosure Date)

- Article 199 (1) A person obliged to disclose (meaning the person stated in paragraph (2), item (ii) of the preceding Article; the same applies below) must appear on the asset disclosure date and make a statement on the property (excluding the movables stated in Article 131, item (i) or (ii)) of the obligor.
- (2) The statement referred to in the preceding paragraph must clearly indicate the matters necessary for filing a petition for judicial enforcement under Chapter II, Section 2 or enforcement of a security interest under the preceding Chapter and other matters specified by the Rules of the Supreme Court as those required to be disclosed to the petitioner, regarding the property subject to the statement.
- (3) An enforcement court may ask questions to the person obliged to disclose on the asset disclosure date.
- (4) A petitioner may appear on the asset disclosure and, to clarify the status of the property of the obligor, ask questions to the person obliged to disclose, by obtaining the permission of the enforcement court.
- (5) An enforcement court may implement the procedure on the asset disclosure date even if the petitioner does not appear.
- (6) The procedure on the asset disclosure date does not be made public.
- (7) The provisions of Article 195 and Article 206 of the Code of Civil Procedure apply mutatis mutandis to the procedure of the preceding paragraphs, and the provisions of Article 201, paragraphs (1) and (2) of that Act apply mutatis mutandis to a person obliged to disclose.

(Asset Disclosure Date Communicated by Audio Transmission)

- Article 199-2 (1) If an enforcement court finds it to be reasonable, the enforcement court may perform procedures on an asset disclosure date by communication that enables the enforcement court, the petitioner and the person obliged to disclose to simultaneously communicate with one another by audio transmission pursuant to the provisions of the Rules of the Supreme Court.
- (2) A petitioner who does not appear on an asset disclosure date and participates in the proceedings is deemed to have appeared on that asset disclosure date.

(Statement of Person Obligated to Disclose Communicated by Audio and Visual Transmission)

- Article 199-3 In the cases stated below, if an enforcement court finds it to be reasonable, the enforcement court may cause a person obliged to disclose to make the statement under Article 199, paragraph (1) by communication that enables mutual communication with an awareness of one another's state of being, through audio and visual transmissions, pursuant to the provisions of

the Rules of the Supreme Court:

- (i) cases where the enforcement court determines that it would be difficult for the person obliged to disclose to appear before the enforcement court due to the domicile, age, mental or physical state, or any other circumstances of the person obliged to disclose;
- (ii) cases where the enforcement court determines that, due to the nature of the case, the age or mental or physical state of the person obliged to disclose, the relationship between the person obliged to disclose and the petitioner or the petitioner's statutory representative, or any other circumstances, there is a risk of the person obliged to disclose being under pressure or the peace of mind of the person obliged to disclose may be significantly injured if the person obliged to disclose makes a statement at the place where the enforcement court and petitioner are present; and
- (iii) cases where the petitioner has no objection.

(Partial Exemption from the Obligation of Statement)

- Article 200 (1) Notwithstanding the provisions of Article 199, paragraph (1), a person obliged to disclose who has disclosed part of the property of the obligor on the asset disclosure date is not required to make a statement on the remaining property, if the permission of the enforcement court has been obtained, if the consent of the petitioner has been obtained or if it is obvious that the hindrance to full performance of the monetary claim referred to in Article 197, paragraph (1) or the secured claim referred to in the items of paragraph (2) of the Article has been eliminated through the disclosure.
- (2) An appeal may be filed against a judicial decision on the petition for the permission referred to in the preceding paragraph.

(Restriction on Inspection of the Record of an Asset Disclosure Case)

- Article 201 Only the following persons may make a request under Article 17, paragraph (1), the provisions of Article 91, paragraph (4) of the Code of Civil Procedure applied mutatis mutandis pursuant to Article 17, paragraph (2), and the provisions of Article 17-2, paragraphs (1) through (3) and Article 17-3 for the portion of the record of an asset disclosure case that relates to the asset disclosure date:
- (i) the petitioner;
 - (ii) an obligee who has an authenticated copy of an enforceable title of obligation for a monetary claim against the obligor;
 - (iii) an obligee who has submitted a document or electronic or magnetic record proving that the obligee has a general statutory lien in the property of the obligor; or
 - (iv) the obligor or the person obliged to disclose.

(Restriction on Use of Information on an Asset Disclosure Case for Unintended Purpose)

Article 202 (1) A petitioner must not use or provide information on the property or obligation of the obligor, which has been obtained in an asset disclosure procedure, for a purpose other than for exercising the claim against the obligor according to its main objective.

(2) The person stated in item (ii) or item (iii) of the preceding Article, who has obtained information on the portion of the record of an asset disclosure case that relates to the asset disclosure date, must not use or provide the relevant information for a purpose other than for exercising the claim against the obligor of the relevant asset disclosure case according to its main objective.

(Application Mutatis Mutandis of the Provisions on Judicial Enforcement and Enforcement of a Security Interest)

Article 203 The provisions of Article 39 and Article 40 apply mutatis mutandis to an asset disclosure procedure based on an authenticated copy of an enforceable title of obligation, the provisions of Article 42 (excluding paragraph (2)) apply mutatis mutandis to an asset disclosure procedure, and the provisions of Article 182 and Article 183 apply mutatis mutandis to an asset disclosure procedure based on a general statutory lien.

Section 2 Procedures for Acquiring Information from a Third Party

(Jurisdiction)

Article 204 With regards to procedures on acquisition of information related to property of an obligor under this section (referred to as "procedures for acquiring information from a third party" below), a district court having jurisdiction in the locality of the general venue of the obligor; or if there is no general venue, a district court having jurisdiction in the locality of a person who should be ordered to provide information under this section, has jurisdiction over the procedure as an enforcement court.

(Acquisition of Information Related to Immovable Property of Obligor)

Article 205 (1) When any of the following items applies, an enforcement court must, upon a petition of a person provided by the item, order a registry specified by Ministry of Justice Order to provide information about matters specified by the Rules of the Supreme Court which is necessary for a petition for judicial enforcement or enforcement of a security interest to lands or buildings whose registered right holder of ownership is an obligor and matters specified by Ministry of Justice Order as being equivalent to these; provided,

however, that this does not apply when it is not possible to commence judicial enforcement based on an authenticated copy of an enforceable title of obligation under the item (i) in the cases stated in the item:

- (i) cases where any of the items of Article 197, paragraph (1) apply: obligee of a monetary claim who has an authenticated copy of an enforceable title of obligation; or
 - (ii) cases where any of the items of Article 197, paragraph (2) apply: obligee who has provided a document or electronic or magnetic record proving that it has general statutory lien in the property of the obligor
- (2) If procedures on the asset disclosure date were implemented (excluding the case where the permission of Article 200, paragraph (1) is given in an asset disclosure procedure related to the asset disclosure date), the petition of the preceding paragraph may be filed only within three years from the asset disclosure date.
- (3) When an order upholding the petition of paragraph (1) is issued, the order (in the case of item (ii) of that paragraph, the order and a copy of the document under that item or an electronic or magnetic record in which all of the matters recorded in the electronic or magnetic record prescribed in that item has been recorded) must be served to the obligor.
- (4) An appeal may be filed against a judicial decision on the petition of paragraph (1).
- (5) An order upholding the petition of paragraph (1) is not effective until it becomes final and binding.

(Acquisition of Information Related to Salary Claim of Obligor)

Article 206 (1) When any of the items of Article 197, paragraph (1) apply, an enforcement court must, upon a petition of an obligee having an authenticated copy of an enforceable title of obligation on a claim related to the obligations stated in the items of Article 151-2, paragraph (1) or a right to demand compensation for damage for infringement on human life or body, order a person stated in the following items whom the obligee selected pursuant to the provisions of the Rules of the Supreme Court, to provide information about matters provided in the items; provided, however, that this does not apply when it is not possible to commence judicial enforcement based on the enforceable authenticated copy of the title of obligation:

- (i) municipality (including special wards; the same applies in this item): matters provided by the Rules of the Supreme Court as matters necessary to file a petition for judicial enforcement or enforcement of a security interest provided in the proviso to Article 317-2, paragraph (1) of the Local Tax Act (Act No. 226 of 1950) for a claim to salaries which the obligor receives (they are limited to matters which the municipality learned in affairs related to

prefectural inhabitants tax (including special ward inhabitants tax) of the obligor.); or

- (ii) Japan Pension Service, National Public Service Personnel Mutual Aid Associations, Federation of National Public Service Personnel Mutual Aid Associations, Pension Fund for Local Government Officials, National Federation of Mutual Aid Associations for Municipal Personnel, or Promotion and Mutual Aid Corporation for Private Schools of Japan: matters provided by the Rules of the Supreme Court as matters necessary to file a petition for judicial enforcement or enforcement of a security interest for a claim related to remunerations under Article 3, paragraph (1), item (iii) or bonuses under item (iv) of that paragraph of the Employees' Pension Insurance Act (Act No. 115 of 1954) which the obligor receives (it is limited to an insured person of employees' pension insurance; the same applies in this item) (they are limited to matters which the person who is ordered to provide information learned in affairs related to employees' pension insurance of the obligor.).
- (2) The provisions of paragraphs (2) through (5) of the preceding Article apply mutatis mutandis to the petition of the preceding paragraph and a judicial decision of the petition.

(Acquisition of Information Related to Claim of Deposits or Savings of Obligor)
Article 207 (1) If any of the items of Article 197, paragraph (1) apply, the enforcement court, at the petition of an obligee having an authenticated copy of an enforceable title of obligation, must order a person stated in the following items that the obligee has selected pursuant to the provisions of the Rules of the Supreme Court provide information about matters provided for in those items; provided, however, that this does not apply when it is not possible to commence judicial enforcement based on the authenticated copy of the enforceable title of obligation:

- (i) a bank or other financial institution (meaning a bank, credit union, Federation of Credit Unions, Workers' Credit Union, Federation of Workers' Credit Union, Cooperative Credit Association, Federation of Cooperative Credit Association, Agricultural Cooperative, Federation of Agricultural Cooperatives, Fishery Cooperatives Association, Federation of Fishery Cooperatives Association, Fishery Processing Cooperatives Association, Federation of Fishery Processing Cooperatives Association, Agricultural and Forestry Central Bank, the Shoko Chukin Bank, or the Organization for Postal Savings, Postal Life Insurance and Post Office Network; the same applies in this item): matters provided for by the Rules of the Supreme Court as matters necessary to file a petition for judicial enforcement or for enforcement of a security interest for a claim to deposits (meaning the claim for deposits provided for in Article 466-5, paragraph (1) of the Civil Code)

- that an obligor has against a bank or other financial institution;
- (ii) a book-entry transfer institution (meaning a book-entry transfer institution under Article 2, paragraph (5) of the Act on Book-Entry Transfer of Corporate Bonds and Shares; the same applies in this item): matters provided by the Rules of the Supreme Court as matters necessary to file a petition for judicial enforcement or enforcement of a security interest for a book-entry corporate bond or other security (limited to a book-entry corporate bond or other security under Article 279 of that Act which has been entered or recorded in an account of the obligor in a book-entry account register that the book-entry transfer institution maintains).
- (2) When any of the items of Article 197, paragraph (2) apply, an enforcement court must, upon a petition of an obligee who has submitted a document or electronic or magnetic record proving that it has a general statutory lien for property of an obligor, order a person stated in the items of the preceding paragraph whom the obligee selected pursuant to the provisions of the Rules of the Supreme Court, to provide information about matters provided in the items.
- (3) An appeal may be filed against a judicial decision to deny the petition in the preceding two paragraphs.

(Method for Information Provision)

- Article 208 (1) The provisioning of information ordered by a decision upholding the petitions of Article 205, paragraph (1), Article 206, paragraph (1) or paragraph (1) or paragraph (2) of the preceding Article must be filed through a document to an enforcement court.
- (2) When the provisioning of information of the preceding paragraph has been made, the enforcement court must send a petitioner a copy of the document of that paragraph and notify the obligor that the information about their property is provided based on a decision under that paragraph pursuant to the provisions of the Rules of the Supreme Court.

(Restriction on Inspection of Case Record Related to Procedures for Acquiring Information from a Third Party)

- Article 209 (1) Only the following persons may make a request under Article 17, paragraph (1), the provisions of Article 91, paragraph (4) of the Code of Civil Procedure applied mutatis mutandis pursuant to Article 17, paragraph (2), and the provisions of Article 17-2, paragraphs (1) through (3) and Article 17-3 for the portion of the provisioning of information of paragraph (1) of the preceding Article in a case record related to procedures for acquiring information from a third party under Article 205 or Article 207:
- (i) petitioner;
 - (ii) obligee having an authenticated copy of an enforceable title of obligation for

- a monetary claim against an obligor;
 - (iii) obligee who has submitted a document or electronic or magnetic record proving that it has a general statutory lien for property of an obligor;
 - (iv) obligor; or
 - (v) person who has provided the information.
- (2) Only the following persons may make a request under Article 17, paragraph (1), the provisions of Article 91, paragraph (4) of the Code of Civil Procedure applied *mutatis mutandis* pursuant to Article 17, paragraph (2), and the provisions of Article 17-2, paragraphs (1) through (3) and Article 17-3 for the portion of the provisioning of information of paragraph (1) of the preceding Article in a case record related to procedures for acquiring information from a third party under Article 206:
- (i) petitioner;
 - (ii) obligee having an authenticated copy of an enforceable title of obligation on a claim related to the obligations stated in the items of Article 151-2, paragraph (1) or a right to demand compensation for damage for infringement on human life or body from an obligor;
 - (iii) obligor; or
 - (iv) person who has provided the information.

(Restriction on Use of Information on Case Related to Procedures for Acquiring Information from a Third Party for an Unintended Purpose)

Article 210 (1) A petitioner must not use or provide information on property of an obligor which is acquired in procedures for acquiring information from a third party for a purpose other than for exercising a claim against the obligor according to its main objective.

- (2) A person stated in paragraph (1), item (ii) or item (iii) or paragraph (2), item (ii) of the preceding Article, who acquired the information of the portion on provisioning of information of Article 208, paragraph (1) in a case record related to procedures for acquiring information from a third party, must not use or provide the information for a purpose other than for exercising a claim against the obligor of the case according to its main objective.

(Application *Mutatis Mutandis* of the Provisions on Judicial Enforcement and Enforcement of a Security Interest)

Article 211 The provisions of Article 39 and Article 40 apply *mutatis mutandis* to procedures for acquiring information from a third party based on an authenticated copy of an enforceable title of obligation, the provisions of Article 42 (excluding paragraph (2)) apply *mutatis mutandis* to procedures for acquiring information from a third party, and the provisions of Article 182 and Article 183 apply *mutatis mutandis* to procedures for acquiring information

from a third party based on a general statutory lien, respectively.

Chapter V Penal Provisions

(Crime of Damaging a Written Public Notice)

Article 212 A person who falls under either of the following items is punished by imprisonment for not more than one year or a fine of not more than one million yen:

- (i) a person who has damaged a written public notice or any other sign (excluding the seal or the mark of seizure prescribed in Article 96 of the Penal Code) posted by a court enforcement officer for giving public notice based on an order under Article 55, paragraph (1) (limited to the portion related to item (i)), Article 68-2, paragraph (1) or Article 77, paragraph (1) (limited to the portion related to item (i)) (including the cases where these provisions are applied mutatis mutandis pursuant to Article 121 (including as applied mutatis mutandis pursuant to Article 189 (including the cases that are to be governed by that rules pursuant to the provisions of Article 195)) and Article 188 (including the cases that are to be governed by those rules pursuant to the provisions of Article 195)) or Article 187, paragraph (1) (including the cases that are to be governed by that rules pursuant to the provisions of Article 195); or
- (ii) a person who has damaged a written public notice or any other sign posted by a court enforcement officer for giving public notice pursuant to the provisions of Article 168-2, paragraph (3) or (4).

(Crime of Refusing to Make a Statement)

Article 213 (1) A person who falls under either of the following items is punished by imprisonment for not more than six months or a fine of not more than five hundred thousand yen:

- (i) a person who has failed to appear or refused to make a statement or has made a false statement, without justifiable grounds, on the date of interrogation on which the person is summoned by the enforcement court regarding an order on the standard sales price
- (ii) a person who has failed to make a statement or refused to present a document or has made a false statement or presented a document containing a false statement, without justifiable grounds, in response to a question or a request for submission of a document from a court enforcement officer provided in Article 57, paragraph (2) (including as applied mutatis mutandis pursuant to Article 121 (including as applied mutatis mutandis pursuant to Article 189 (including the cases that are to be governed by the rules pursuant to the provisions of Article 195)) and Article 188 (including the cases that are

- to be governed by the rules pursuant to the provisions of Article 195))
- (iii) a person who made a false statement with regards to the matters to be stated pursuant to Article 65-2 (including as applied *mutatis mutandis* pursuant to Article 188 (including the cases that are to be governed by the rules pursuant to the provisions of Article 195));
 - (iv) an obligor or a third party possessing the immovable property or a residence prescribed in Article 168, paragraph (2) who has failed to make a statement or refused to present a document or has made a false statement or presented a document containing a false statement, without justifiable grounds, in response to a question or a request for submission of a document from a court enforcement officer under that paragraph;
 - (v) a person who failed to appear on the asset disclosure date on which the person is summoned by an enforcement court without justifiable grounds or refused to swear under oath on the asset disclosure date;
 - (vi) a person who is obliged to disclose who has sworn under oath on the asset disclosure date pursuant to Article 201, paragraph (1) of the Code of Civil Procedure which applies *mutatis mutandis* pursuant to Article 199, paragraph (7) and who failed to make a statement or made a false statement with regards to the matters to be stated pursuant to Article 199, paragraphs (1) through (4) without justifiable grounds.
- (2) When a possessor of immovable property (excluding any fixtures on land that are not registrable; the same applies in this paragraph) whose title to possession may not be duly asserted against the attaching obligee, the obligee effecting a provisional seizure or the person whose right will be extinguished pursuant to the provisions of Article 59, paragraph (1) (including as applied *mutatis mutandis* pursuant to Article 188 (including the cases that are to be governed by the rules pursuant to the provisions of Article 195)) has, without justifiable grounds, refused or obstructed entry to immovable property under Article 64-2, paragraph (5) (including as applied *mutatis mutandis* pursuant to Article 188 (including the cases that are to be governed by those rules pursuant to the provisions of Article 195)), this person is punished by a fine of not more than three hundred thousand yen.

(Cases Subject to Punishment by a Non-Penal Fine)

- Article 214 (1) A person who has, in violation of the provisions of Article 202, used or provided the information referred to in that Article for a purpose other than the purpose prescribed in that Article is punished by a non-penal fine of not more than three hundred thousand yen.
- (2) The provisions of the preceding paragraph also apply to a person who has, in violation of the provisions of Article 210, used or provided the information referred to in that Article for a purpose other than the purpose prescribed in

that Article.

(Jurisdiction)

Article 215 A case on the non-penal fine prescribed in the preceding Article is under the jurisdiction of the enforcement court.

Supplementary Provisions

(Provisions Applicable to Cases Concerning a Petition for Granting of a Special Attestation of Enforceability)

Article 5 The provisions of Article 15-2, Article 16, paragraph (5), and Article 19-2 through Article 20 do not apply to cases concerning a petition for granting of an attestation of enforceability (limited to cases where an electronic or magnetic record related to the title of obligation relating to the petition is recorded in a file; referred to as "cases concerning a petition for granting of a special attestation of enforceability" below) that had commenced during the period from the day of enforcement of the Act to Partially Amend the Code of Civil Procedure (Act No. 48 of 2022) to the day before the day of enforcement of the Act on the Development of Laws to Promote the Utilization of Information and Communications Technology in Civil Proceedings (Act No. 53 of 2023), and the following Article through Article 10 of the Supplementary Provisions apply.

(Filing of Petitions with the Court through Electronic Data Processing Systems in Cases Concerning a Motion or Statement for Granting of a Special Attestation of Enforceability)

Article 6 (1) Petitions and other statements connected with cases concerning a petition for granting of a special attestation of enforceability (referred to as "motion or statement in a case concerning a petition for granting of a special attestation of enforceability" below) which, pursuant to the provisions of this Act or other laws and regulations concerning the motion or statement in cases concerning a petition for granting of a special attestation of enforceability, is to be filed or entered with the court (including filed or entered with that court's presiding judge, authorized judge, commissioned judge, or court clerk) pursuant to the provisions of the Rules of the Supreme Court through documents or other tangible medium may be filed or entered by the method of recording in a file the particulars to be stated in the documents or other tangible medium using electronic data processing systems as specified by the Rules of the Supreme Court, notwithstanding the provisions of the laws and regulations.

(2) The provisions of Article 132-10, paragraphs (2) through (6) of the Code of Civil Procedure apply mutatis mutandis to motion or statement in cases

concerning a petition for granting of a special attestation of enforceability filed in accordance with the method specified in the preceding paragraph.

(Special Provisions on Filing of Motion or Statement with the Court Through Electronic Data Processing Systems in Cases Concerning a Petition for Granting of a Special Attestation of Enforceability)

Article 7 (1) When the persons stated in the following items file a petition or other statement with the court in cases concerning a petition for granting of a special attestation of enforceability in relation to the cases provided in the respective items (including motion or statement filed with that court's presiding judge, authorized judge, commissioned judge, or court clerk; the same applies in the following Article), that motion or statement must be filed by the means prescribed in paragraph (1) of the preceding Article; provided, however, that this does not apply when motion or statement in cases concerning a petition for granting of a special attestation of enforceability that may be filed orally are, in fact, filed orally.

(i) a representative who has been delegated a case (excluding a person who became a representative with approval pursuant to the proviso to Article 54, paragraph (1) of the Code of Civil Procedure): the delegated case;

(ii) a person designated under Article 2, Article 5, paragraph (1), Article 6, paragraph (2), Article 6-2, paragraph (4) or (5), Article 6-3, paragraph (4) or (5), or Article 7, paragraph (3) of the Act on the Authority of the Minister of Justice over Suits Relating to the Interests of the State (including cases where these provisions apply mutatis mutandis pursuant to Article 9 of that Act): the case subject to the designation; and

(iii) an official delegated under Article 153, paragraph (1) of the Local Autonomy Act: the delegated case.

(2) The provisions of Article 132-11, paragraph (2) of the Code of Civil Procedure apply mutatis mutandis to the person stated in the items of the preceding paragraph, and the provisions of paragraph (3) of that Article apply mutatis mutandis to motion or statement in cases concerning a petition for granting of a special attestation of enforceability specified in the main clause of the preceding paragraph, respectively.

(Filing of Petitions by Document in Cases Concerning a Motion or Statement for Granting of a Special Attestation of Enforceability)

Article 8 (1) When a motion or statement in a case concerning a petition for granting of a special attestation of enforceability is filed with the court by a document or other tangible medium (unless it is filed in violation of the provisions of paragraph (1) of the preceding Article), the court clerk must record in a file the particulars detailed in that document or other tangible

medium (excluding the particulars specified in the following items in the cases stated in the respective items); provided, however, that this does not apply if there are circumstances that make it difficult to record these particulars in a file:

- (i) if, regarding the document or other tangible medium to which that motion or statement in a case concerning a petition for granting of a special attestation of enforceability pertains, a petition as referred to in Article 92, paragraph (1) of the Code of Civil Procedure applicable *mutatis mutandis* pursuant to Article 10 of these Supplementary Provisions (limited to a petition filed because the grounds stated in item (ii) of that paragraph exist; the same applies in this item) is filed together with that petition, or other statement and the use of a trade secret (meaning a trade secret prescribed in Article 2, paragraph (6) of the Unfair Competition Prevention Act; the same applies in this item and paragraph (1), item (i) of the following Article) detailed in that document or other tangible medium for purposes other than the purpose of conducting the procedure or the disclosure of that trade secret would be detrimental to the business activities carried out by the party based on that trade secret, and the court finds it to be particularly necessary to prevent this (unless the petition referred to in Article 92, paragraph (1) of the Code of Civil Procedure applicable *mutatis mutandis* pursuant to Article 10 of these Supplementary Provisions is denied or a judicial decision revoking a ruling on the petition referred to in that paragraph becomes final and binding): the trade secret detailed in that document or other tangible medium;
 - (ii) if a notification under Article 133, paragraph (2) of the Code of Civil Procedure applicable *mutatis mutandis* pursuant to Article 10 of these Supplementary Provisions is submitted by a document or other tangible medium: the matters detailed in that document or other tangible medium; and
 - (iii) if, regarding the document or other tangible medium to which that motion or statement in a case concerning a petition for granting of a special attestation of enforceability pertains, a petition referred to in Article 133-2, paragraph (2) of the Code of Civil Procedure applicable *mutatis mutandis* pursuant to Article 10 of these Supplementary Provisions is filed together with that petition or other statement and the court finds it to be necessary (unless the petition referred to in that paragraph is denied or a judicial decision revoking a ruling on the petition referred to in that paragraph becomes final and binding): the part containing concealed information prescribed in that paragraph which is detailed in that document or other tangible medium.
- (2) The provisions of Article 132-12, paragraphs (2) and (3) of the Code of Civil Procedure apply *mutatis mutandis* to the service of a motion or statement in a

case concerning a petition for granting of a special attestation of enforceability with the court by a document or other tangible medium if the matters stated in the document or other tangible medium are recorded in a file pursuant to the provisions of the preceding paragraph.

(Recording the Information Detailed in Paper Documents into the Court's Computer Files)

Article 9 (1) A court clerk must record in a file the matters detailed in a document or other tangible medium or recorded on a recording medium storing electronic or magnetic records submitted to the court pursuant to the provisions of this Act or any other laws and regulations in connection with a case concerning a petition for granting of a special attestation of enforceability, in addition to documents or other tangible medium concerning a motion or statement in a case concerning a petition for granting of a special attestation of enforceability prescribed in paragraph (1) of the preceding Article (excluding the particulars prescribed in the following items in the cases stated in the respective items); provided, however, that this does not apply if there are circumstances that make it difficult to record these particulars in a file:

- (i) if, regarding the document or other tangible medium or recording medium, a petition as referred to in Article 92, paragraph (1) of the Code of Civil Procedure applicable *mutatis mutandis* pursuant to the following Article (limited to a petition filed due to the grounds prescribed in item (ii) of that paragraph) is filed together with these submissions, and the use of a trade secret detailed or recorded in that document or other tangible medium or recording medium for purposes other than the purpose of conducting the procedure or the disclosure of that trade secret would be detrimental to the business activities carried out by the party based on that trade secret, and the court finds it to be particularly necessary to prevent this (unless that petition is denied or a judicial decision revoking a ruling on that petition becomes final and binding): the trade secret detailed or recorded in that document or other tangible medium or recording medium;
- (ii) if a notification under Article 133, paragraph (2) of the Code of Civil Procedure applicable *mutatis mutandis* pursuant to the following Article is submitted through a recording medium: the matters detailed in that recording medium;
- (iii) if, regarding the document or other tangible medium or recording medium, a petition referred to in Article 133-2, paragraph (2) of the Code of Civil Procedure applicable *mutatis mutandis* pursuant to the following Article is filed together with these submissions, and the court finds it to be necessary (unless the petition is denied or a judicial decision revoking a ruling on the petition becomes final and binding): the part containing concealed

information prescribed in that paragraph which is detailed or recorded in that document or other tangible medium or recording medium; and
(iv) if a decision under Article 133-3, paragraph (1) of the Code of Civil Procedure applicable mutatis mutandis pursuant to the following Article is made and the court finds it to be necessary (unless a judicial decision revoking that ruling becomes final and binding): the matters detailed in documents or other tangible medium or recorded in a recording medium storing an electronic or magnetic record of the decision.

(2) The provisions of Article 132-12, paragraphs (2) and (3) of the Code of Civil Procedure apply mutatis mutandis to the service of a document or other tangible medium or a recording medium storing an electronic or magnetic record of the matters stated or recorded in the document or other tangible medium or recording medium storing an electronic or magnetic record is recorded in a file pursuant to the provisions of the preceding paragraph.

(Application Mutatis Mutandis of the Code of Civil Procedure in Relation to Cases Concerning a Petition for Granting of a Special Attestation of Enforceability)

Article 10 Beyond what is provided for in Article 6 through the preceding Article of these Supplementary Rules, unless contrary to its nature, the provisions of Parts 1 through 4 of the Code of Civil Procedure apply mutatis mutandis to cases concerning a petition for granting of a special attestation of enforceability. In this case, the phrase "the items of Article 132-11, paragraph (1)" in Article 109-4, paragraph (1) of that Code is deemed to be replaced with "the items of Article 7, paragraph (1) of the Supplementary Provisions of the Code of Civil Procedure."