

ACT ON SPECIAL CASES CONCERNING EXPEDITION, ETC. OF LEGAL
PROCEEDINGS

ACT ON SPECIAL CASES CONCERNING
EXPEDITION, ETC. OF LEGAL
PROCEEDINGS

Act No. 3361, Jan. 29, 1981
Amended by Act No. 4203, Jan. 13, 1990
Act No. 5507, Jan. 13, 1998
Act No. 6039, Dec. 28, 1999
Act No. 6626, Jan. 26, 2002
Act No. 6627, Jan. 26, 2002
Act No. 6868, May 10, 2003
Act No. 7728, Dec. 14, 2005

CHAPTER I GENERAL PROVISIONS

Article 1 (Purpose)

The purpose of this Act is to prevent a delay of litigation, to ensure a prompt realization of rights and duties of the nationals, and a facilitation of dispute settlements.

Article 2 (Scope of Special Cases)

This Act provides for the special cases concerning the statutory interest rates and the criminal proceedings, in order to achieve the purpose under Article 1. <Amended by Act No. 4203, Jan. 13, 1990>

CHAPTER II SPECIAL CASES CONCERNING
STATUTORY INTEREST RATES

Article 3 (Statutory Interest Rates)

(1) In case where an adjudication to order a performance of the whole or part of monetary obligations (including a judgment; hereinafter the same shall apply) is to be declared, the statutory interest rates constituting the standards for computing the amount of indemnification for damages resulting from a default of monetary obligations shall be in accordance with the interest rates as prescribed by the Presidential Decree

ACT ON SPECIAL CASES CONCERNING EXPEDITION, ETC. OF LEGAL
PROCEEDINGS

within the scope of 40 percent per year in consideration of the interest rate on delayed payments applied by financial institutions under the Banking Act and other economic conditions from the day next to that the written complaint to demand a performance of the said monetary obligations or a document corresponding thereto has been served on the obligor: *Provided*, That the same shall not apply to the case falling under the lawsuit stipulated in Article 251 of the Civil Procedure Act. <Amended by Act No. 5507, Jan. 13, 1998; Act No. 6626, Jan. 26, 2002; Act No. 6868, May 10, 2003; Act No. 7728, Dec. 14, 2005>

<The term "interest rates as prescribed by the Presidential Decree" in the main passage of this paragraph was amended by Act No. 6868, on May 10, 2003, following the decision of unconstitutionality made by the Constitutional Court on April 24, 2003>

(2) When it is deemed proper for the obligor to contend against whether or not the performance obligation exists or its extents, not later than the declaration of adjudication at a fact-finding proceedings which declares the existence of the said performance obligation, the provisions of paragraph (1) shall not apply within the said proper extents.

CHAPTERS III and IV Deleted.

Articles 4 through 20 Deleted. <by Act No. 4203, Jan. 13, 1990>

CHAPTER V SPECIAL CASES CONCERNING
CRIMINAL PROCEEDINGS

Article 21 (Period of Declaration of Adjudication)

Declaration of adjudication shall be rendered in the court of first instance within 6 months from the day a prosecution has been instituted, and in the review of appellate court and the hearing of final appeal within 4 months from the day of receiving the record of proceedings, respectively.

Article 22 (Period of Summary Order)

A summary order shall be rendered within 14 days from the day the demand thereof has been made, except for the case of Article 450 of the Criminal Procedure Act. <Amended by Act No. 7728, Dec. 14, 2005>

Article 23 (Special Cases at Court of First Instance)

When it is impossible to confirm the whereabouts of an accused, in the procedures at the court of first instance, up to an elapse of 6 months

ACT ON SPECIAL CASES CONCERNING EXPEDITION, ETC. OF LEGAL
PROCEEDINGS

from the time when the report on impossibility of service on the accused has been received, the judgment may be rendered without hearing a statement of the accused under the conditions as determined by the Supreme Court Regulations: *Provided*, That the same shall not apply to the case falling under death penalty, life imprisonment, or imprisonment with or without prison labor exceeding 10 years of long term. <Amended by Act No. 6039, Dec. 28, 1999>

<This Article was amended by Act No. 6039, Dec. 28, 1999 after the Constitutional Court handed down an unconstitutional ruling on July 16, 1998>

Article 23-2 (Retrial)

(1) In case where any person, who has been found guilty in an adjudication pursuant to the provisions of the main passage of Article 23 and such adjudication has been made definite, has been unable to attend the trial proceedings due to the reasons unattributable to him, any person as stipulated in Article 424 of the Criminal Procedure Act may file a request for a retrial with the court of first instance within 14 days from the day he has become aware of the fact that such adjudication was rendered (when the applicant for a retrial has failed to apply for a retrial within the above period due to the reasons unattributable to him, within 14 days from the day the said reasons disappeared). <Amended by Act No. 7728, Dec. 14, 2005>

(2) When there exists a request under the provisions of paragraph (1), the court shall render a decision to suspend an execution of judgment.

(3) In case where a decision of suspending an execution has been rendered under the provisions of paragraph (2), if a detention of the accused is required, the court shall issue a warrant of arrest: *Provided*, That the same shall be limited to the case of satisfying the requirements under Article 70 of the Criminal Procedure Act. <Amended by Act No. 7728, Dec. 14, 2005>

(4) Any applicant for retrial shall enter a place to receive a service in his written application for retrial, and, when he alters it, he shall promptly file such purport with the court.

(5) In case where it becomes impossible to serve as the applicant for a retrial failed to make an entry or a report under the provisions of paragraph (4), the service by public notice may be effected pursuant to the provisions of Article 64 of the Criminal Procedure Act. <Amended by Act No. 7728, Dec. 14, 2005>

(6) The provisions of Article 365 of the Criminal Procedure Act shall apply

ACT ON SPECIAL CASES CONCERNING EXPEDITION, ETC. OF LEGAL
PROCEEDINGS

mutatis mutandis to the case where an applicant for a retrial has failed to be present at the court on the trial date, after a decision on commencing a retrial was made definite. <Amended by Act No. 7728, Dec. 14, 2005>

(7) The provisions of Articles 426, 427, 429 through 434, 435 (1), 437 through 440 of the Criminal Procedure Act shall apply *mutatis mutandis* to any retrial under this Act. <Amended by Act No. 7728, Dec. 14, 2005>

[This Article Newly Inserted by Act No. 6039, Dec. 28, 1999]

Article 24 (Inclusion of Number of Detention Days before Adjudication after Appeal)

In case where an appeal by an accused, or other person than the former, is to be dismissed, if deemed that the said appeal has been filed without any proper reasons, the number of days from the day on which the period of filing an appeal has been expired to that on which the period of submitting a written reason for appeal has been expired, among the number of detention days before a declaration of adjudication after filing an appeal, shall not be included in the regular penalty.

Article 25 (Compensation Order)

(1) When a conviction is to be declared in a criminal trial procedure of the first instance or the second instance against the crimes as stipulated in Articles 257 (1), 258 (1) and (2), 259 (1), 262 (except the crime of death or injury resulting from violence to a lineal ascendant), Chapters 26, 38 through 40, and 42 of the Criminal Act, the court may, either *ex officio* or upon application from the victim or his successor (hereinafter referred to as the "injured party"), order a compensation for direct physical damages, medical expenses, and solatium occurred due to the criminal acts of the accused case. <Amended by Act No. 7728, Dec. 14, 2005>

(2) The court may order the compensation pursuant to the provisions of paragraph (1), also for the amount of compensation for damages agreed upon between the accused and the injured party, in the accused case of crimes as provided in paragraph (1) and other crimes.

(3) The court shall not order any compensation when it falls under any of the following subparagraphs:

1. When the name and address of the injured party is not clear;
2. When the amount of damage is not specified;
3. When it is not clear whether or not there exists any liability of an accused for the compensation, or the extent thereof; and

ACT ON SPECIAL CASES CONCERNING EXPEDITION, ETC. OF LEGAL
PROCEEDINGS

4. When it is deemed that there exists a concern over a remarkable delay in the trial proceedings due to the compensation order, or that any issuing of a compensation order in the criminal proceedings is not proper.

Article 26 (Application for Compensation)

- (1) Any injured party may apply for damage compensation pursuant to the provisions of Article 25 to the court whereto the case is pending, not later than the closure of pleadings at the court of first instance or that of appeal. In this case, any stamps are not necessarily affixed.
- (2) The injured party shall, in applying for compensation, submit a written application and its copies commensurate with the number of other parties accused.
- (3) A written application shall contain an entry of the following items, and be signed and sealed by the applicant or his agent:
1. Number and name of the accused case, and the court whereto the case is pending;
 2. Name and address of the applicant;
 3. Name and address of the agent, when he files an application;
 4. Names and addresses of other parties accused;
 5. Those subject to compensation, and the details thereof; and
 6. Amount of demanding compensation.
- (4) Evidential documents may be appended to the written application.
- (5) Any injured party may make an oral application for compensation when he attends the court as a witness. In this case, the purports of application shall be entered in the protocol of a trial.
- (6) The applicant may at any time withdraw his application for compensation not later than the compensation order becomes final and conclusive.
- (7) Any injured party shall not make an application for compensation, when a demand for damage compensation under the different procedures is pending to a court for the damages incurred by the criminal acts of the accused case.
- (8) An application for compensation has the same effect as an institution of litigation in the civil procedure.

Article 27 (Agent)

- (1) Any injured party may, subject to a permission of the court, make his spouse, lineal blood relatives, brothers and sisters, or the head of

ACT ON SPECIAL CASES CONCERNING EXPEDITION, ETC. OF LEGAL
PROCEEDINGS

a family act as his agent for an act of litigating concerning application for compensation.

(2) The attorney of the accused may conduct the act of litigating concerning the application for compensation as an agent of the accused.

Article 28 (Service of Copy of Written Application on Accused)

When there exists an application for compensation in writing, the court shall promptly serve the copy of such written application on the accused.

Article 29 (Notice of Date)

(1) When an application for compensation is made, the court shall notify the applicant of the trial date.

(2) When the applicant has failed to attend even if he received a notice of trial date, the judgment may be rendered without hearing his statements.

Article 30 (Inspection of Records, and Examination of Evidences)

(1) Any applicant and his agent may inspect trial records by obtaining a permit of the presiding judge within the limit not to delay substantially the trial procedure, examine the accused or a witness on the trial date, and submit any other necessary evidences.

(2) A judgment which has not rendered a permit under paragraph (1) shall be subject to no appeals.

Article 31 (Declaration, etc. of Compensation Order)

(1) A compensation order shall be issued simultaneously with a declaration of the conviction.

(2) A compensation order shall be made by ordering the monetary payment of a fixed amount, and the object and amount of the compensation shall be indicated in the text of a conviction. Reasons for a compensation order shall not be entered unless it is the case deemed to be particularly required.

(3) A compensation order may be accompanied with a declaration of possibility for a provisional execution.

(4) The provisions of Articles 213 (3), 215, 500 and 501 of the Civil Procedure Act shall apply *mutandis mutandis* to a declaration of provisional execution under paragraph (3). <Amended by Act No. 6626, Jan. 26, 2002; Act No. 7728, Dec. 14, 2005>

(5) When a compensation order has been issued, the authentic copy of a written adjudication of conviction shall be promptly served on the ac-

ACT ON SPECIAL CASES CONCERNING EXPEDITION, ETC. OF LEGAL
PROCEEDINGS

cused and the injured party.

Article 32 (Dismissal of Application)

(1) In case where an application for compensation is unlawful, or where it is deemed that an application is groundless or that the issuing of an order for compensation is not proper, it shall be dismissed by a decision.

(2) When the judgment under paragraph (1) is rendered simultaneously with the declaration of a conviction, it may be indicated in the text of a conviction.

(3) An applicant shall not appeal against the judgment dismissing an application or admitting a part thereof, and shall not file again an application for the same compensation.

Article 33 (Appeal)

(1) When an appeal against a conviction is filed, the compensation order shall be transferred to the appellate court together with the accused case.

(2) When the appellate court reverses a conviction of the original court, and renders a judgment of innocence, acquittal, or dismissal of prosecution, it shall revoke the compensation order by the original instance. In this case, when the appellate court has failed to revoke the compensation order by the original instance, it shall be deemed to have been revoked.

(3) The provisions of paragraph (2) shall not apply, when a compensation order was rendered by the original instance pursuant to the provisions of Article 25 (2).

(4) Even in case where the judgment of the original court is maintained in the appellate court, a compensation order may be revoked or altered.

(5) An accused may file an immediate appeal under the provisions of the Criminal Procedure Act, within the period of filing an appeal, only against a compensation order without filing an appeal against the conviction: *Provided*, That when a person entitled to an appeal files a lawful appeal after filing an immediate appeal, such immediate appeal shall be deemed to have been withdrawn. <Amended by Act No. 7728, Dec. 14, 2005>

Article 34 (Effect of Compensation Order, and Compulsory Execution)

(1) An authentic copy of the written conviction whereto entered a finalized compensation order or a compensation order with a declaration of a provisional execution, shall have the same effect as an authentic copy of civil judgment with executive force, with regard to a compulsory execution

ACT ON SPECIAL CASES CONCERNING EXPEDITION, ETC. OF LEGAL
PROCEEDINGS

under the Civil Execution Act. <Amended by Act No. 6627, Jan. 26, 2002; Act No. 7728, Dec. 14, 2005>

(2) When a compensation order pursuant to this Act has become final and decisive, an injured party shall not demand any damage compensation by means of any other procedures within the extent of the relevant admitted amount.

(3) In case where any district courts have been established by dividing into a civil district court and a criminal district court, any litigation of appeal against a claim for a compensation order shall be administered by a civil district court having jurisdiction over the location of a criminal district court, which serves as a court of first instance.

(4) Any allegation of objections against the claim shall not be governed by the restrictions as stipulated in Article 44 (2) of the Civil Execution Act. <Amended by Act No. 6627, Jan. 26, 2002; Act No. 7728, Dec. 14, 2005>

Article 35 (Costs of Litigation)

Costs of procedures for a compensation order shall be borne by the national treasury, except for the case where the person to bear such costs has been specially determined.

Article 36 (Reconciliation in Criminal Proceedings with Regard to Civil Controversy)

(1) Where an agreement is reached concerning a civil controversy between the accused and the injured party in an accused criminal case (limited to a case where a controversy over damage related with the relevant accused case is included), the accused and the injured party may in collaboration apply to the court of the first instance or the second instance whereat the relevant accused case is pending to have the agreement entered in the protocol of the trial.

(2) Where the agreement referred to in paragraph (1) is about a payment of money by the accused to the injured party, when a person other than the accused guarantees the payment thereof or has reached an agreement to jointly bear the obligation, the person in association with the accused and the injured party may apply to have such purport entered in the protocol of the trial at the same time when the application referred to in paragraph (1) is filed.

(3) The applications referred to in paragraphs (1) and (2) shall be made in writing by attending at the court on the trial date not later than the

ACT ON SPECIAL CASES CONCERNING EXPEDITION, ETC. OF LEGAL
PROCEEDINGS

closure of argument.

(4) The document referred to in paragraph (3) shall enter the agreement related to the relevant application and the fact sufficient to specify the right which is the object of the civil controversy, the agreement of which has been made.

(5) The provisions of Articles 220 and 389 of the Civil Procedure Act shall apply *mutatis mutandis* with regard to the effect and the reconciliation expense of the protocol of the trial wherein the agreement is entered.

[This Article Newly Inserted by Act No. 7728, Dec. 14, 2005]

Article 37 (Reconciliation Records)

(1) Notwithstanding the provisions of Article 55 of the Criminal Procedure Act, any person who has reached an agreement entered in the protocol of the trial following the application referred to in Article 36 (1) or (2), or a third party who has vindicated the relation of interest, may apply under the conditions determined by the Supreme Court Regulations to the court officials of Grade IV, V, VI or VII (hereinafter referred to as the "court officials of Grade V, etc.") for inspection or duplication of the pertinent protocol of the trial (limited to the portion stating the pertinent agreement and the fact sufficient to specify the right which is the object of the civil controversy, the agreement of which has been reached), documents referred to in Article 36 (3) related with the relevant application, and other records with regard to the relevant agreement (hereinafter referred to as "reconciliation records"), the delivery of an original, certified or abstract copy of the protocol, or the delivery of a certificate of the matters with regard to the reconciliation.

(2) Any person who makes an application under paragraph (1) shall pay fees under the conditions determined by the Supreme Court Regulations.

(3) Any objection to a disposition by the court official of Grade V, etc. with regard to an application for inspection or duplication of the reconciliation records referred to in paragraph (1), a delivery of an original, certified or abstract copy of the protocol, or a delivery of a certificate of the matters with regard to the reconciliation shall be governed by the examples referred to in Article 223 of the Civil Procedure Act, and the procedure of restriction on inspection, etc. for the protection of secrets with regard to the reconciliation records shall be governed by the examples referred to in Article 163 of the same Act.

ACT ON SPECIAL CASES CONCERNING EXPEDITION, ETC. OF LEGAL
PROCEEDINGS

(4) Reconciliation records shall be kept at the court of the first instance of the relevant accused case after the closure of the accused criminal case.

[This Article Newly Inserted by Act No. 7728, Dec. 14, 2005]

Article 38 (*Mutatis Mutandis* Application of Civil Procedure Act with Regard to Parties Concerned, etc. of Reconciliation Procedure)

The provisions of Sections 1 (excluding the provisions with regard to appointed parties and special representatives) and 4, Chapter II, Part I shall apply *mutatis mutandis* to the party concerned and an agent in a reconciliation procedure of criminal proceedings involving a civil controversy referred to in Articles 36 and 37, so long as it is not against the nature thereof.

[This Article Newly Inserted by Act No. 7728, Dec. 14, 2005]

Article 39 (Special Rules with Respect to Suit, etc. for Granting Execution Clause)

Notwithstanding the provisions of Articles 33, 44 (1) and 45 of the Civil Execution Act, the court of the first instance of the relevant accused case has exclusive jurisdiction over a suit for granting an execution clause related to a reconciliation in the criminal proceedings involving a civil controversy referred to in Article 36, a suit for an objection against a request, or a suit for an objection against granting an execution clause.

[This Article Newly Inserted by Act No. 7728, Dec. 14, 2005]

Article 40 (Entrustment Provisions)

Matters not particularly provided in this Act concerning procedures for a compensation order shall be governed under the conditions as determined by the Supreme Court Regulations, and matters necessary for a reconciliation in criminal proceedings with regard to a civil controversy except for those determined in the provisions of Articles 36 through 39 shall be determined by the Supreme Court Regulations.

[This Article Wholly Amended by Act No. 7728, Dec. 14, 2005]

ADDENDA

Article 1 (Enforcement Date)

This Act shall enter into force on March 1, 1981.

Article 2 (Transitional Measures)

(1) Except as otherwise provided in this Act, this Act shall apply to the cases which are pending in the court before the enforcement of this Act: *Provided*, That it shall not exert any influence on the effects already

ACT ON SPECIAL CASES CONCERNING EXPEDITION, ETC. OF LEGAL
PROCEEDINGS

originated from other Acts.

(2) The provisions of Articles 3, 20 and 25 shall apply only to the cases prior to the closure of pleadings at the court of first instance, from among the cases pending in the court at the time of enforcement of this Act.

(3) The provisions of Article 5 shall apply only to the cases on which no judgment has yet been rendered, from among the cases pending in the court at the time of enforcement of this Act.

(4) The provisions of Articles 8 through 10, 15 and 24 shall not apply to the cases for which a written appeal or a petition of appeal has been accepted prior to the enforcement date of this Act.

(5) The provisions of Articles 11 through 13 shall not apply to the cases for which a written appeal or a petition of reappeal has been accepted prior to the enforcement date of this Act.

(6) The provisions of Articles 16 and 18 shall not apply to the cases which have been accepted prior to the enforcement date of this Act.

Article 3 (Repealed Acts)

The Act on Transitional Measures for Civil Procedure and the Act on Special Measures for Criminal Procedure shall be repealed.

ADDENDA <Act No. 4203, Jan. 13, 1990>

(1) (Enforcement Date) This Act shall enter into force on September 1, 1990.

(2) (Transitional Measures on Approval for Final Appeal, etc.) The cases for which no decision on whether or not a permit for appeal or for reappeal is to be rendered has yet been rendered, from among the cases for which an application for a permit for appeal or for reappeal was filed at the time of enforcement of this Act, shall be deemed to be those for which an appeal or reappeal has been filed under the Civil Procedure Act.

ADDENDA <Act No. 5507, Jan. 13, 1998>

Article 1 (Enforcement Date)

This Act shall enter into force on the date of its promulgation.

Article 2 Omitted.

ADDENDA <Act No. 6039, Dec. 28, 1999>

Article 1 (Enforcement Date)

ACT ON SPECIAL CASES CONCERNING EXPEDITION, ETC. OF LEGAL
PROCEEDINGS

This Act shall enter into force on the date of its promulgation.

Article 2 (Transitional Measures)

(1) This Act shall also apply to the cases pending in a court at the time of enforcement of this Act.

(2) For the cases subjected to a conviction under the provisions of previous Article 23, which have not been finalized at the time of July 16, 1998, any progress of the period of raising an appeal shall be suspended from such a day, and the remainder of the period of raising an appeal shall again progress from the enforcement date of this Act. In this case, even for the cases which shall not be judged without hearing a statement of the accused under the amendments to Article 23, an application for retrial under the amended provisions of Article 23-2 may be filed.

ADDENDA <Act No. 6626, Jan. 26, 2002>

Article 1 (Enforcement Date)

This Act shall enter into force on July 1, 2002.

Articles 2 through 7 Omitted.

ADDENDA <Act No. 6627, Jan. 26, 2002>

Article 1 (Enforcement Date)

This Act shall enter into force on July 1, 2002.

Articles 2 through 7 Omitted.

ADDENDA <Act No. 6868, May 10, 2003>

(1) (Enforcement Date) This Act shall enter into force on June 1, 2003.

(2) (Transitional Measures on Cases Pending before Court) The amended provisions of the main sentence of Article 3 (1) shall also apply to the cases for which written complaints or documents corresponding thereto are already served on the obligors prior to the enforcement of this Act: *Provided*, That the statutory interest rates in those cases shall follow the interest rates as stipulated in the amended provisions from June 1, 2003.

ADDENDUM <Act No. 7728, Dec. 14, 2005>

This Act shall enter into force six months after the date of its promulgation.