

JUDICIAL CONCILIATION OF CIVIL DISPUTES ACT

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Act No. 4202, Jan. 13, 1990
Amended by Act No. 4299, Dec. 31, 1990
Act No. 4505, Nov. 30, 1992
Act No. 5007, Dec. 6, 1995
Act No. 5589, Dec. 28, 1998
Act No. 6407, Jan. 29, 2001
Act No. 6626, Jan. 26, 2002

Article 1 (Purpose)

The purpose of this Act is to settle civil disputes according to a simple procedure based on the mutual concession between the parties, common sense and actual circumstances.

Article 2 (Case of Conciliation)

Parties of a civil dispute may file an application for conciliation to a court.

Article 3 (Competent Court)

(1) A conciliation case shall be under the jurisdiction of the district court, the branch court of the district court, the *Shi* court or the *Kun* court (hereinafter referred to as the "*Shi/Kun* court"), which has the jurisdiction under one of the following subparagraphs: <Amended by Act No. 5007, Dec. 6, 1995; Act No. 6626, Jan. 26, 2002>

1. The place of general forum of the respondent under Articles 3 through 6 of the Civil Procedure Act;
2. The place of business or business offices of the respondent;
3. The work place of the respondent;
4. The location of the subject-matter of the dispute; and
5. The place where damage occurred.

(2) Notwithstanding the provisions of paragraph (1), a conciliation case may be placed under the jurisdiction of an exclusive competent court of a case equivalent thereto, or a court determined by an agreement of parties. <Amended by Act No. 5589, Dec. 28, 1998>

Article 4 (Transfer)

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(1) A judge, who is in charge of a conciliation case as designated by the chief judge of the high court, the chief judge of the district court or the chief judge of a branch court of the district court, or a judge of a *Shi/Kun* court, who is in charge of a case of conciliation, (hereinafter referred to as the "conciliation judge") shall transfer the case to the competent court by means of a ruling, if there is no jurisdiction in his court: *Provided*, That this shall not apply to the case where the respondent makes a statement in a conciliation procedure without a plea of non-competence or if a stay is deemed particularly necessary to resolve the case. <Amended by Act No. 5007, Dec. 6, 1995>

(2) A conciliation judge may transfer the case to another competent court *ex officio* or by decision according to the application of a party, if it is recognized as reasonable notwithstanding its competence.

(3) On decisions as prescribed in paragraphs (1) and (2), an appeal shall not be filed.

Article 5 (Form of Application)

(1) An application for conciliation may be filed in writing or orally.

(2) In the case of an oral application, an applicant shall make a statement in the presence of a court official of Grade IV, V, VI or VII (hereinafter referred to as the "court official of Grade IV, etc.").

(3) In the case of paragraph (2), a court official of Grade IV, etc. shall make a court record of the application for conciliation, and sign and affix his seal on it.

(4) In the case of application for conciliation, the application fee shall be paid as prescribed by the Supreme Court Regulations.

Article 6 (Conciliation Referral)

A court of a suit may, if deemed necessary, place a case pending therein in conciliation by a ruling before a judgment in an appellate trial is given. <Amended by Act No. 4505, Nov. 30, 1992; Act No. 5007, Dec. 6, 1995; Act No. 5589, Dec. 28, 1998>

Article 7 (Organs of Conciliation)

(1) Cases of conciliation shall be dealt with by the conciliation judge.

(2) The conciliation judge may conciliate the cases by himself or let the council of conciliation conciliate it: *Provided*, That he shall allow the council of conciliation to conciliate the cases if there is an application of a party to do such. <Amended by Act No. 4505, Nov. 30, 1992>

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(3) The court of a suit may conciliate the case by itself notwithstanding the provisions of paragraphs (1) and (2), even though the court of the suit refers to the conciliation pursuant to the provisions of Article 6, if it is deemed necessary. <Newly Inserted by Act No. 4505, Nov. 30, 1992; Act No. 5007, Dec. 6, 1995>

(4) In the case of paragraph (3), the court of the suit shall have the same power of a conciliation judge. <Newly Inserted by Act No. 4505, Nov. 30, 1992>

(5) In the case of paragraph (3), the court of the suit may have a commissioned judge or an entrusted judge take charge of conciliation. In this case, the commissioned judge or the entrusted judge shall have the same power of a conciliation judge. <Newly Inserted by Act No. 6407, Jan. 29, 2001>

Article 8 (Council of Conciliation)

A council of conciliation shall comprise of a chief commissioner and two or more commissioners.

Article 9 (Chief Commissioner)

The chief commissioner shall be designated among the judges of the competent court by the chief judge of the high court, the chief judge of the district court or the chief judge of a branch court of the district court: *Provided*, That in the case of Article 7 (2), a conciliation judge, in the case of paragraph (5) of the same Article, a commissioned judge or an entrusted judge, and in the case of a *Shi/Kun* court, a judge of the *Shi/Kun* court, shall be the chief commissioner. <Amended by Act No. 6407, Jan. 29, 2001>

[*This Article Wholly Amended by Act No. 5007, Dec. 6, 1995*]

Article 10 (Commissioner)

(1) A commissioner shall be a person who is learned and who has a high moral reputation and is appointed previously by the chief judge of the high court, the chief judge of the district court or the chief judge of a branch court of the district court, and the term of his office shall be two years: *Provided*, That in the case of special situations, a commissioner may be commissioned with fixing his term within 2 years. <Amended by Act No. 5007, Dec. 6, 1995; Act No. 6407, Jan. 29, 2001>

(2) A commissioner under paragraph (1) shall execute the affairs falling under any of the following subparagraphs: <Amended by Act No. 6407, Jan. 29, 2001>

1. Affairs to participate in a conciliation procedure; and
2. Affairs to listen to the opinion of a party or conduct any necessary matters for the resolution of disputes, according to the entrustment

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of the conciliation judge or the chief commissioner.

[This Article Wholly Amended by Act No. 4505, Nov. 30, 1992]

Article 10-2 (Commissioner Comprising Council of Conciliation)

The commissioners, who comprise a council of conciliation, shall be designated by the agreement of the parties or by the chief commissioner among commissioners under Article 10 (1), in each case.

[This Article Newly Inserted by Act No. 4505, Nov. 30, 1992]

Article 11 (Conciliation Proceeding)

The conciliation proceeding by a council of conciliation shall be conducted by the chief commissioner.

Article 12 (Allowance, etc. of Commissioner)

Subject to the Supreme Court Regulations, a commissioner shall be paid an allowance and such other travelling expenses, daily allowances, and lodging cost as may be necessary. *<Amended by Act No. 6407, Jan. 29, 2001>*

Article 13 (Examination of Payment of Fee)

- (1) If an applicant has not paid the fee as prescribed by Article 5 (4), the conciliation judge shall fix an appropriate period and order the payment of the fee within such period.
- (2) When the applicant has failed to comply with the order under paragraph (1), the conciliation judge shall dismiss the application by an order.
- (3) An immediate appeal may be made against the order under paragraph (2).

Article 14 (Service of Written Application for Conciliation)

A written application for conciliation or a court record of an application for conciliation shall be served on the respondent without delay.

Article 14-2 (Separation or Joinder of Cases)

A conciliation organ as provided in Article 7 may order a separation or joinder of conciliation cases, or may revoke such an order.

[This Article Newly Inserted by Act No. 5589, Dec. 28, 1998]

Article 15 (Date of Hearing for Conciliation)

- (1) A date of hearing for conciliation shall be notified to the parties.
- (2) Notification of the date may be made in any other manners as appropriate, in addition to the service of a writ of summons.
- (3) In the case where both parties appear before the court and apply for conciliation, the hearing for conciliation shall be held on the day of the application except where there are special circumstances. *<Newly Inserted*

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by Act No. 4505, Nov. 30, 1992>

Article 16 (Joining by Interested Person)

(1) A person interested in the result of a conciliation may join in the conciliation procedure upon the permission of the conciliation judge.

(2) The conciliation judge, if it is deemed proper, may let a person interested in the result of a conciliation join the procedure.

Article 17 (Rectification of Respondent)

(1) If it is obvious that the applicant has made a mistake and wrongly designated the respondent, the conciliation judge may, upon application of the applicant, permit a rectification of the respondent by decision.

(2) When the decision of permission is made under paragraph (1), an application for conciliation on a new respondent shall be regarded to have been raised at the time of the application for rectification under paragraph (1).

(3) When a decision of permission is made under paragraph (1), the application for conciliation against the previous respondent shall be regarded to have been withdrawn at the time of the application for rectification under paragraph (1).

(4) With respect to the cases referred to conciliation by the court of first instance pursuant to Article 6, the rectification of the respondent made under the provisions of Article 260 of the Civil Procedure Act shall be binding in the legal proceedings. *<Newly Inserted by Act No. 5007, Dec. 6, 1995; Act No. 6626, Jan. 26, 2002>*

Article 18 (Representative of Party)

(1) If there is a party which consists of not less than one person with a common interest, those who are in the party may appoint one or more persons among themselves as the representative of the party.

(2) The appointment under paragraph (1) shall be attested in writing.

(3) The conciliation judge may, if necessary, order the party to appoint the representative of the party.

(4) The representative of the party may, for the interests of the party, perform all acts on the conciliation procedure individually except in case of the acceptance of conciliation condition draft, the withdrawal of the application for conciliation, the acts related to the decisions under the provisions of Articles 30 and 32, or the appointment of an attorney.

<Amended by Act No. 4505, Nov. 30, 1992>

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(5) When the representative of the party is appointed, the notification of the hearing date for conciliation may not be served on the other persons in the party who appointed the representative of the party.

Article 19 (Place of Conciliation)

The conciliation judge may hold a conciliation hearing, according to the actual circumstances of the case, in an appropriate place out of the court.

Article 20 (Non-Publicity)

The conciliation procedure may not be held publicly: *Provided*, That the conciliation judge may allow other persons to attend the procedure, if it is deemed appropriate, even when a conciliation procedure is not to be openly held.

[This Article Wholly Amended by Act No. 4505, Nov. 30, 1992]

Article 21 (Disposition before Conciliation)

(1) In the cases where it is deemed particularly necessary for conciliation, the conciliation judge may, upon application of one party, order the other party or other person interested in the case not to change the *status quo*, or to dispose the goods, and may prohibit other acts which make it impossible or considerably difficult to accomplish the purpose of the conciliation, before the conciliation.

(2) In rendering an disposition under paragraph (1), a sanction against infringement under Article 42 shall be informed.

(3) An immediate appeal may be made against the disposition under paragraph (1).

(4) The disposition under paragraph (1) shall not have the executory power.

Article 22 (Hearing of Statement and Investigation of Evidence)

If the conciliation judge hears the statement of a party or any person interested in the conciliation and if he deems it necessary, he may investigate the facts and the evidences by the suitable means.

Article 23 (Restriction on Use of Statement)

The statement of a party or any person interested in the conciliation proceeding shall not be used as evidence in a civil procedure.

Article 24 (Preparation of Court Record)

The court official of Grade IV, etc. attending the conciliation, shall write a court record: *Provided*, That he may omit a part of its content, upon the permission of the conciliation judge.

Article 25 (Dismissal of Application for Conciliation)

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(1) In cases where the hearing date for conciliation cannot be served on the party, the conciliation judge may dismiss an application for conciliation by decision.

(2) An appeal against the dismissal under paragraph (1) shall not be filed.

Article 26 (Ruling of Not to Proceed with Conciliation)

(1) Where a case is deemed not to be suitable in its nature for conciliation or a party is deemed to file an application for conciliation with unjustifiable intent, the conciliation judge may terminate the procedure by decision of not to proceed with conciliation.

(2) An appeal against the decision under paragraph (1) shall not be filed. *<Amended by Act No. 4505, Nov. 30, 1992>*

Article 27 (Non-Reaching Agreement of Conciliation)

Where agreement has not been made between the parties or where the agreement made is unreasonable, the conciliation judge shall terminate the procedure as a non-reaching agreement, if he does not make a decision under the provisions of Article 30.

[This Article Wholly Amended by Act No. 4505, Nov. 30, 1992]

Article 28 (Completion of Conciliation)

A conciliation shall be made by writing the agreement between the parties in the court record.

Article 29 (Effect of Conciliation)

A conciliation shall have the same effect as a settlement in court.

Article 30 (Decision Instead of Conciliation)

The conciliation judge shall make a decision on the case for the fair resolution of the case, considering interests of parties and all other circumstances *ex officio*, unless unreasonable, to the extent of the gist of the application, where agreement has not been made or where the agreement made is unreasonable.

[This Article Wholly Amended by Act No. 4505, Nov. 30, 1992]

Article 31 (Non-Appearance of Applicant)

(1) In cases where an applicant has not appeared on the hearing date for conciliation, another hearing date shall be fixed and served.

(2) In cases where the applicant has not appeared on the new hearing date under paragraph (1) or one of subsequent hearing dates, the application for conciliation shall be regarded to have been withdrawn.

Article 32 (Non-Appearance of Respondent)

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When the respondent has not appeared on the hearing date for conciliation, the conciliation judge shall make a decision as provided in Article 30 *ex officio* unless there is any considerable reason.

[This Article Wholly Amended by Act No. 4505, Nov. 30, 1992]

Article 33 (Service of Court Record on Conciliation)

(1) When there is a ruling of not to proceed with conciliation, or non-reaching agreement, or a decision instead of conciliation, the court official of Grade IV, etc. shall write such fact in the court record.

(2) The court official of Grade IV, etc. shall serve the copy with respect to the court record containing a ruling of not to proceed with conciliation or non-reaching agreement, and the authentic copy with respect to the court record under Article 28 or the court record containing a decision instead of conciliation, to each party.

Article 34 (Objection)

(1) A party may file an objection against the decision under Article 30 or 32 within two weeks from the day on which an authentic copy of the court record was served on him: *Provided*, That an objection may be filed prior to the service of the authentic copy of the court record. *<Amended by Act No. 4505, Nov. 30, 1992; Act No. 5007, Dec. 6, 1995>*

(2) In cases where an objection has been filed within the period under paragraph (1), the conciliation judge shall notify it to the other party without delay. *<Amended by Act No. 5007, Dec. 6, 1995>*

(3) A party who has filed the objection may withdraw the objection with the consent of the other party until any court of a concerned level makes judgment on the case. In such cases, Article 266 (3) through (6) of the Civil Procedure Act shall apply *mutatis mutandis*, but "suit" in the provisions shall be regarded as "objection". *<Newly Inserted by Act No. 5007, Dec. 6, 1995; Act No. 6626, Jan. 26, 2002>*

(4) In cases where it falls under any of the following subparagraphs, the decisions under the provisions of Articles 30 and 32 shall have the same effect as a settlement in court: *<Amended by Act No. 5007, Dec. 6, 1995>*

1. When an objection has not been filed within the period under the provisions of paragraph (1);
2. When an objection has been withdrawn; or
3. When an objection has been dismissed under the Supreme Court Regulations.

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(5) The period mentioned in paragraph (1) shall be peremptory.

Article 35 (Interruption of Extinctive Prescription)

(1) An application for conciliation shall have the effect of interruption of extinctive prescription.

(2) If there are causes falling under any of the following subparagraphs on the case for conciliation filed by an applicant, it shall not have the effect of interruption of extinctive prescription unless he brings an action within one month: *<Amended by Act No. 4505, Nov. 30, 1992>*

1. When an application for conciliation has been withdrawn;
2. When an application for conciliation has been regarded to have been withdrawn under Article 31 (2); or
3. through 5. Deleted. *<by Act No. 4505, Nov. 30, 1992>*

Article 36 (Shifting to Litigation Procedure Due to Objection)

(1) In cases where it falls under any of the following subparagraphs, a suit shall be regarded to have been raised at the time when the application for conciliation was filed: *<Amended by Act No. 5007, Dec. 6, 1995>*

1. Where there is a ruling against proceeding with conciliation pursuant to the provisions of Article 26;
2. Where the case has been closed by the ruling of non-reaching agreement pursuant to the provisions of Article 27; and
3. Where an objection has been filed within the period mentioned in Article 34 (1) against the decision instead of the conciliation under Article 30 or 32.

(2) In cases where a suit shall be regarded to have been raised at the time of the application for conciliation pursuant to paragraph (1), the fee shall be added to the amount needed to file a suit.

[This Article Wholly Amended by Act No. 4505, Nov. 30, 1992]

Article 37 (Expenses of Procedure)

(1) In cases where the agreement in conciliation has been reached, the expenses thereof shall be borne by each party unless otherwise specially agreed upon between parties, and in cases where the agreement in conciliation has not been reached, it shall be borne by the applicant.

(2) In cases where an application for conciliation has shifted to a civil procedure under Article 36 (1), the expenses under paragraph (1) shall be regarded as part of the costs of a suit. *<Amended by Act No. 4505, Nov. 30, 1992>*

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Article 38 (Application *Mutatis Mutandis* of Civil Procedure Act)

(1) On conciliation, Articles 51, 52, 55 through 60 (excluding the latter part of Article 58 (1)), 62, 63, 64, 87, 88, 145, and 152 (2) and (3) of the Civil Procedure Act shall apply *mutatis mutandis*. <Amended by Act No. 6626, Jan. 26, 2002>

(2) The provisions of the Civil Procedure Act shall apply *mutatis mutandis* to the fixed date, period, and the service of documents as prescribed in this Act: *Provided*, That the provisions of Articles 185 (2), 187, and 194 through 196 of the Civil Procedure Act shall apply *mutatis mutandis* only to the service of the court record prepared under Article 28 of this Act. <Amended by Act No. 5589, Dec. 28, 1998; Act No. 6626, Jan. 26, 2002>

Article 39 (Application *Mutatis Mutandis* of Non-Contentious Case Litigation Procedure Act)

The provisions of Part I of the Non-Contentious Case Litigation Procedure Act shall, unless it is contrary in its nature, shall apply *mutatis mutandis* to the conciliation, except where there are particular provisions in this Act: *Provided*, That Article 15 of the same Act shall not be applied to conciliation.

Article 40 (Power of Council of Conciliation and Chief Commissioner)

Where the council of conciliation conciliate a case, the power of the conciliation judge under Articles 16, 17 (1), 18 (3), 19, 21 (1), 22, 25 (1), 26 (1), 27, 30 and 32 shall be vested in the council of mediation, and the power of the conciliation judge under Articles 13 (1) and (2), 20, 24, 34 (2) and 42 shall be vested in the chief commissioner. <Amended by Act No. 4505, Nov. 30, 1992; Act No. 5007, Dec. 6, 1995>

Article 41 (Penal Provisions)

(1) A person, who is or has been a conciliation commissioner, has revealed the process of conference, the opinion of the chief commissioner or the conciliation commissioner without a justifiable cause, shall be punished by a fine not exceeding three hundred thousand won.

(2) A person, who is or has been a conciliation commissioner, has disclosed secrets of another person known in the performance of his duty without a justifiable cause, shall be punished by imprisonment for not more than two years or a fine not exceeding one million won.

(3) The public prosecution against the crime of paragraph (2) shall not be charged without accusation.

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Article 42 (Sanction against Breach of Order before Conciliation)

(1) In cases where a party or a joiner has not complied with the order before conciliation under Article 21, the conciliation judge shall impose upon him a fine for negligence not exceeding three hundred thousand won *ex officio*.

(2) The provisions with respect to the public prosecutor in Articles 248 and 250 of the Non-Contentious Case Litigation Procedure Act shall not apply to a case imposing a fine for negligence of paragraph (1).

<Amended by Act No. 4505, Nov. 30, 1992>

Article 43 (Delegation Provision)

Except as provided in this Act, the hearing of opinions, the examination of facts, the examination of evidence, the prepayment of procedural costs in conciliation procedures, the relationship with civil procedures, the relationship with executory procedures and other matters necessary for conciliation shall be determined by the Supreme Court Regulations.

ADDENDA

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

(2) (Repealed Act) The Conciliation on Lending of Land and House Act (Act No. 969) is hereby repealed.

(3) (Transitional Measures) This Act shall be applied to cases pending in court according to the previous provisions at the time when this Act enters into force.

ADDENDA <Act No. 4299, Dec. 31, 1990>

(1) (Enforcement Date) This Act shall enter into force on January 1, 1991.

(2) through (4) Omitted.

ADDENDA <Act No. 4505, Nov. 30, 1992>

(1) (Enforcement Date) This Act shall enter into force on January 1, 1993.

(2) (Transitional Measures) This Act shall be applied to cases pending in court according to the previous provisions at the time when this Act enters into force.

(3) Omitted.

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ADDENDA <Act No. 5007, Dec. 6, 1995>

- (1) (Enforcement Date) This Act shall enter into force on the date of its promulgation.
- (2) (Transitional Measures) Notwithstanding the amended provisions of Article 10 (1), the previous Act shall be applied to the term of the commissioner who is already entrusted under the previous provisions at the time when this Act enters into force.

ADDENDA <Act No. 5589, Dec. 28, 1998>

- (1) (Enforcement Date) This Act shall enter into force on the date of its promulgation.
- (2) (Transitional Measures) This Act shall apply to cases pending in court at the time when this Act enters into force: *Provided*, That this shall not prejudice any effect already taken under the previous provisions.

ADDENDUM <Act No. 6407, Jan. 29, 2001>

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

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.