

Bankruptcy Act

(Act No. 75 of June 2, 2004)

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Chapter I General Provisions

(Purpose)

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

opportunity for rehabilitation of their economic life.

(Definitions)

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

- (12) The term "bankruptcy trustee" as used in this Act means a person who has a right to administer and dispose of property that belongs to the bankruptcy estate in bankruptcy proceedings.
- (13) The term "provisional administrator" as used in this Act means a person who is ordered to administer a debtor's property pursuant to the provision of Article 91(1).
- (14) The term "bankruptcy estate" as used in this Act means a bankrupt's property, inherited property or trust property for which a bankruptcy trustee has an exclusive right to administration over and disposition of in bankruptcy proceedings.

(Status of Foreign Nationals)

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

(Jurisdiction over Bankruptcy Cases)

- Article 4 (1) A petition for commencement of bankruptcy proceedings under the provisions of this Act may be filed only if the debtor, who is an individual, has a business office, domicile, residence or property in Japan, or if the debtor, who is a juridical person or any other association or foundation, has a business office or other office or property in Japan.
- (2) A claim for which demand by litigation may be made pursuant to the provisions of the Code of Civil Procedure (Act No. 109 of 1996) shall be deemed to exist in Japan.

- Article 5 (1) A bankruptcy case shall be subject to the jurisdiction of the district court that has jurisdiction over: if the debtor engages in commercial business, the location of the debtor's principal business office; if the debtor engages in commercial business and has a principal business office in a foreign state, the location of the debtor's principal business office in Japan; if the debtor does not engage in commercial business or engages in commercial business but does not have any business office, the location of the debtor's general venue.
- (2) If there is no court with jurisdiction under the provision of the preceding paragraph, the bankruptcy case shall be subject to the jurisdiction of the district court that has jurisdiction over the location of the debtor's property (in the case of a claim, the place where demand by litigation may be made).

- (3) Notwithstanding the provisions of the preceding two paragraphs, where a juridical person holds the majority of voting rights (excluding the voting rights of the shares of stock which may not be exercised for all matters that may be resolved at a shareholders meeting, and including the voting rights of the shares of stock for which the shareholder is deemed to have voting rights pursuant to the provision of Article 879(3) of the Companies Act (Act No. 86 of 2005); hereinafter the same shall apply in the following paragraph, Article 83(2)(ii) and (3) and Article 161(2)(ii)(a) and (b)) of all shareholders of a stock company, if a bankruptcy case, rehabilitation case or reorganization case (hereinafter referred to as a "bankruptcy case, etc." in this Article) is pending against said juridical person (hereinafter referred to as a "parent juridical person" in this Article and Article 161(2)(ii)(b)), a petition for commencement of bankruptcy proceedings against said stock company (hereinafter referred to as a "subsidiary stock company" in this Article and Article 161(2)(ii)(b)) may also be filed with the district court before which the bankruptcy case, etc. against the parent juridical person is pending, and if a bankruptcy case, etc. is pending against the subsidiary stock company, a petition for commencement of bankruptcy proceedings against the parent juridical person may also be filed with the district court before which the bankruptcy case, etc. against the subsidiary stock company is pending.
- (4) Where the subsidiary stock company independently holds or the parent juridical person and the subsidiary stock company jointly hold the majority of voting rights of all shareholders of another stock company, the provision of the preceding paragraph shall be applied by deeming such other stock company as a subsidiary stock company of the parent juridical person.
- (5) Notwithstanding the provisions of paragraph (1) and paragraph (2), where a stock company, as provided for by Article 444 of the Companies Act, has prepared consolidated financial statements (meaning consolidated financial statements prescribed in paragraph (1) of said Article) for the most recent business year with regard to the stock company itself and another juridical person, and reported the contents thereof at an annual shareholders meeting of the stock company, if a bankruptcy case, etc. is pending against the stock company, a petition for commencement of bankruptcy proceedings against such other juridical person may also be filed with the district court before which the bankruptcy case, etc. against the stock company is pending, and if a bankruptcy case, etc. is pending against such other juridical person, a petition for commencement of bankruptcy proceedings against the stock company may also be filed with the district court before which the bankruptcy case, etc. against such other juridical person is pending.
- (6) Notwithstanding the provisions of paragraph (1) and paragraph (2), where a bankruptcy case, etc. is pending against a juridical person, a petition for

commencement of bankruptcy proceedings against the representative person of the juridical person may also be filed with the district court before which the bankruptcy case, etc. against the juridical person is pending, and where a bankruptcy case or rehabilitation case is pending against the representative person of a juridical person, a petition for commencement of bankruptcy proceedings against the juridical person may also be filed with the district court before which the bankruptcy case or rehabilitation case against the representative person of the juridical person is pending.

- (7) Notwithstanding the provisions of paragraph (1) and paragraph (2), if a bankruptcy case is pending against either one of the persons set forth in each of the following items, a petition for commencement of bankruptcy proceedings against the other person set forth in the respective items may also be filed with the district court before which the bankruptcy case is pending:
- (i) Individuals who are joint and several debtors with each other
 - (ii) Individuals one of whom is a principal debtor and the other is his/her guarantor
 - (iii) Husband and wife
- (8) Notwithstanding the provisions of paragraph (1) and paragraph (2), if there are 500 or more creditors who hold claims that are supposed to be bankruptcy claims should an order of commencement of bankruptcy proceedings be made, a petition for commencement of bankruptcy proceedings may also be filed with the district court that has jurisdiction over the location of the high court that has jurisdiction over the location of the court with jurisdiction under these provisions.
- (9) Notwithstanding the provisions of paragraph (1) and paragraph (2), if there are 1,000 or more creditors prescribed in the preceding paragraph, a petition for commencement of bankruptcy proceedings may also be filed with the Tokyo District Court or the Osaka District Court.
- (10) If two or more district courts have jurisdiction over a bankruptcy case pursuant to the provisions of the preceding paragraphs, the bankruptcy case shall be subject to the jurisdiction of the district court with which the first petition for commencement of bankruptcy proceedings is filed.

(Exclusive Jurisdiction)

Article 6 The court jurisdiction prescribed in this Act shall be exclusive.

(Transfer of Bankruptcy Cases)

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

the petition for grant of discharge) to any of the following district courts:

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

(Optional Oral Argument, etc.)

Article 8 (1) A judicial decision concerning bankruptcy proceedings, etc. may be made without oral argument.

(2) The court, by its own authority, may conduct necessary investigation on a case pertaining to bankruptcy proceedings, etc.

(Appeal)

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

(Public Notice, etc.)

Article 10 (1) A public notice under the provisions of this Act shall be effected by publication in an official gazette.

(2) A public notice shall become effective on the day following the day on which it is publicized.

(3) Where a service is required to be made pursuant to the provisions of this Act, it may be substituted by a public notice; provided, however, that this shall not apply where both public notice and service are required to be made pursuant to

the provisions of this Act.

- (4) When a public notice of a judicial decision is made pursuant to the provisions of this Act, it shall be deemed that all interested parties are notified of the judicial decision.
- (5) The provisions of the preceding two paragraphs shall not apply where special provisions exist in this Act.

(Inspection, etc. of Case Documents)

- Article 11 (1) An interested person, pursuant to the provisions of this Act (including other Acts as applied mutatis mutandis pursuant to this Act), may make a request to a court clerk for the inspection of documents and any other objects (hereinafter referred to as "documents, etc." in this Article and paragraph (1) of the following Article) submitted to the court or prepared by the court.
- (2) An interested person may make a request to a court clerk for the copying of documents, etc., issuance of an authenticated copy, transcript or extract of documents, etc. or issuance of a certificate of matters concerning the case in question.
 - (3) The provision of the preceding paragraph shall not apply with respect to documents, etc. which are prepared in the form of audiotapes or videotapes (including objects on which certain matters are recorded by any means equivalent thereto). In this case, upon the request of an interested person with regard to these objects, a court clerk shall permit reproduction thereof.
 - (4) Notwithstanding the provisions of the preceding three paragraphs, a person set forth in each of the following items may not make a request under the provisions of the preceding three paragraphs until the order, temporary restraining order or judicial decision specified in the respective items is issued or made; provided, however, that this shall not apply where the person in question is a petitioner for commencement of bankruptcy proceedings:
 - (i) An interested person other than the debtor: A stay order under the provision of Article 24(1), comprehensive prohibition order prescribed in Article 25(2), temporary restraining order under the provision of Article 28(1), provisional administration order prescribed in Article 91(2), temporary restraining order under the provision of Article 171(1) or judicial decision on a petition for commencement of bankruptcy proceedings
 - (ii) The debtor: A judicial decision to designate the date for oral argument concerning or date for interrogation on which the debtor is to be summoned to appear with respect to a petition for commencement of bankruptcy proceedings, or any order, temporary restraining order or judicial decision specified in the preceding item

(Restriction on Inspection, etc. of Detrimental Part of Documents, etc)

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

- (i) Documents, etc. submitted to the court for the purpose of obtaining permission under Article 36, the proviso to Article 40(1) or said proviso as applied mutatis mutandis pursuant to Article 40(2) (including cases where these provisions are applied mutatis mutandis pursuant to Article 96(1)), Article 78(2) (including cases where applied mutatis mutandis pursuant to Article 93(3)), Article 84 (including cases where applied mutatis mutandis pursuant to Article 96(1)) or the proviso to Article 93(1)
 - (ii) Documents, etc. pertaining to the report under the provision of Article 157(2)
- (2) When the petition set forth in the preceding paragraph is filed, no interested person (excluding one who filed the petition set forth in said paragraph; the same shall apply in the following paragraph) may make a request for inspection, etc. of the detrimental part until a judicial decision on the petition becomes final and binding.
 - (3) An interested person who intends to make a request for inspection, etc. of the detrimental part may file a petition to the bankruptcy court for revocation of the order made under the provision of paragraph (1), on the grounds that the requirement prescribed in said paragraph is not met or is no longer met.
 - (4) An immediate appeal may be filed against an order to dismiss without prejudice the petition set forth in paragraph (1) and a judicial decision on the petition set forth in the preceding paragraph.
 - (5) An order to revoke the order made under the provision of paragraph (1) shall not become effective unless it becomes final and binding.

(Application Mutatis Mutandis of the Code of Civil Procedure)

Article 13 With respect to bankruptcy proceedings, etc., except as otherwise provided, the provisions of the Code of Civil Procedure shall apply mutatis mutandis.

(Rules of the Supreme Court)

Article 14 In addition to what is provided for in this Act, the necessary matters concerning bankruptcy proceedings, etc. shall be specified by the Rules of the Supreme Court.

Chapter II Commencement of Bankruptcy Proceedings

Section 1 Petition for Commencement of Bankruptcy Proceedings

(Grounds for Commencement of Bankruptcy Proceedings)

Article 15 (1) When a debtor is unable to pay debts, the court, upon petition, shall commence bankruptcy proceedings by an order pursuant to the provision of Article 30(1).

(2) When a debtor has suspended payments, the debtor shall be presumed to be unable to pay debts.

(Grounds for Commencement of Bankruptcy Proceedings against a Juridical Person)

Article 16 (1) For the purpose of application of the provision of paragraph (1) of the preceding Article in cases where the debtor is a juridical person, the term "unable to pay debts" in said paragraph shall be deemed to be replaced with "unable to pay debts or insolvent (meaning the condition in which a debtor is unable to pay its debts in full with its property)."

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

(Presumption of the Grounds for Commencement of Bankruptcy Proceedings)

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

(Petition for Commencement of Bankruptcy Proceedings)

Article 18 (1) A creditor or debtor may file a petition for commencement of bankruptcy proceedings.

(2) A creditor, when filing a petition for commencement of bankruptcy proceedings, shall make a prima facie showing of the existence of the claim held thereby and the fact constituting the grounds for the commencement of

bankruptcy proceedings.

(Petition for Commencement of Bankruptcy Proceedings against a Juridical Person)

Article 19 (1) Against a juridical person set forth in each of the following items, the person specified in the respective items may file a petition for commencement of bankruptcy proceedings.

(i) A general incorporated association or general incorporation foundation:
Director

(ii) A stock company or mutual company (meaning a mutual company prescribed in Article 2(5) of the Insurance Business Act (Act No. 105 of 1995; the same shall apply in Article 150(6)(iii)): Director

(iii) A general partnership company, limited partnership company or limited liability company: Managing member

(2) Against a juridical person set forth in any of the items of the preceding paragraph, a liquidator may also file a petition for commencement of bankruptcy proceedings.

(3) When filing a petition for commencement of bankruptcy proceedings pursuant to the provisions of the preceding two paragraphs against a juridical person set forth in any of the items of paragraph (1), a prima facie showing of the fact constituting the grounds for the commencement of bankruptcy proceedings shall be made, except when the petition for commencement of bankruptcy proceedings is filed by all of its directors, managing members or liquidators.

(4) The provisions of the preceding three paragraphs shall apply mutatis mutandis to a juridical person other than those listed in the items of paragraph (1).

(5) Against a juridical person, even after its dissolution, a petition for commencement of bankruptcy proceedings may be filed until the delivery or distribution of its residual assets is completed.

(Method of Filing Petition for Commencement of Bankruptcy Proceedings)

Article 20 (1) A petition for commencement of bankruptcy proceedings shall be filed by means of a document stating the matters specified by the Rules of the Supreme Court.

(2) A person other than a creditor, when filing a petition for commencement of bankruptcy proceedings, shall submit to the court a list of creditors stating the matters specified by the Rules of the Supreme Court; provided, however, that if it is impossible to submit a list of creditors upon filing the petition, it shall be sufficient to submit it without delay after filing the petition.

(Examination of Written Petition for Commencement of Bankruptcy

Proceedings)

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

(2) The disposition set forth in the preceding paragraph shall become effective when a notice thereof is given by a method that is considered to be appropriate.

(3) An objection may be made to a disposition set forth in paragraph (1) within an unextendable period of one week from the day on which a notice thereof is received.

(4) The objection set forth in the preceding paragraph shall have the effect of stay of execution.

(5) Where an objection under paragraph (3) is made, the court, when it finds in a written petition for commencement of bankruptcy proceedings any defect other than the defect for which it ordered correction by a disposition set forth in paragraph (1), shall specify a reasonable period and order that such additional defect should be corrected within that period.

(6) In the case referred to in paragraph (1) or the preceding paragraph, if a petitioner for commencement of bankruptcy proceedings fails to correct the defect, the presiding judge, by a direction, shall dismiss without prejudice the written petition for commencement of bankruptcy proceedings.

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

(Prepayment of Expenses)

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

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

(Temporary Payment of Expenses)

Article 23 (1) When the court, while taking into consideration the petitioner's financial resources, the status of property that is to constitute the bankruptcy estate and any other circumstances concerned, finds it particularly necessary for the protection of the interests of the petitioner and any interested person, it may make temporary payment of expenses for bankruptcy proceedings from the

national treasury. The same shall apply where the court makes an order of commencement of bankruptcy proceedings by its own authority.

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

(Stay Order, etc. for Other Procedures and Proceedings)

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

(i) Procedure already initiated against the debtor's property for compulsory execution, provisional seizure, provisional disposition, or exercise of a general statutory lien or auction by reason of a right of retention (excluding a right of retention under the provisions of the Commercial Code (Act No. 48 of 1899) or the Companies Act) (hereinafter referred to as "compulsory execution, etc." in this Section), which is based on a claim that is supposed to be a bankruptcy claim or claim on the estate should an order of commencement of bankruptcy proceedings be made against the debtor (hereinafter referred to as a "bankruptcy claim, etc." in this paragraph and paragraph (8) of the following Article), or is intended to secure a bankruptcy claim, etc.

(ii) Procedure already initiated against the debtor's property for the exercise of an enterprise mortgage, which is based on a bankruptcy claim, etc.

(iii) Court proceedings of an action relating to the debtor's property

(iv) Procedure for a case relating to the debtor's property that is pending before an administrative agency

(v) Proceedings for limitation of shipowners liability (meaning proceedings for limitation of shipowners liability under the provisions of Chapter III of the Act on Limitation of the Liability of Shipowners, etc (Act No. 94 of 1975) or Chapter V of the Act on Liability for Oil Pollution Damage (Act No. 95 of 1975); the same shall apply in Article 263 and Article 264(1)) for the debtor

(2) The court may change or revoke a stay order issued under the provision of the preceding paragraph.

- (3) Where a provisional administration order prescribed in Article 91(2) is issued, the court, when it finds it particularly necessary for the administration and disposition of the debtor's property, upon the petition of a provisional administrator, may order the revocation of the procedure for compulsory execution, etc. stayed pursuant to the provision of paragraph (1), while requiring security to be provided.
- (4) An immediate appeal may be filed against a stay order issued under the provision of paragraph (1), an order made under the provision of paragraph (2) and a revocation order issued under the provision of the preceding paragraph.
- (5) The immediate appeal set forth in the preceding paragraph shall not have the effect of stay of execution.
- (6) Where a judicial decision prescribed in paragraph (4) and a judicial decision on the immediate appeal set forth in said paragraph are made, the written decisions shall be served upon the parties concerned.

(Comprehensive Prohibition Order)

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

- (2) Upon issuing a prohibition order under the provision of the preceding paragraph (hereinafter referred to as a "comprehensive prohibition order"), the court, when it finds it appropriate, may exclude a certain range of compulsory execution, etc. or procedure for collection of national tax delinquency from the scope of subject of a comprehensive prohibition order.
- (3) Where a comprehensive prohibition order is issued, the procedure for compulsory execution, etc. already initiated against the debtor's property (limited to such procedure that is to be prohibited by the comprehensive prohibition order) shall be stayed until an order is made on the petition for

commencement of bankruptcy proceedings.

- (4) The court may change or revoke a comprehensive prohibition order.
- (5) Where a provisional administration order prescribed in Article 91(2) is issued, the court, when it finds it particularly necessary for the administration and disposition of the debtor's property, upon the petition of a provisional administrator, may order revocation of the procedure for compulsory execution, etc. stayed pursuant to the provision of paragraph (3), while requiring security to be provided.
- (6) An immediate appeal may be filed against a comprehensive prohibition order, an order made under the provision of paragraph (4) and a revocation order issued under the provision of the preceding paragraph.
- (7) The immediate appeal set forth in the preceding paragraph shall not have the effect of stay of execution.
- (8) When a comprehensive prohibition order is issued, the prescription shall not be completed with regard to a bankruptcy claim, etc. (limited to such claim for which compulsory execution, etc. or procedure for collection of national tax delinquency is prohibited by the comprehensive prohibition order) until the day on which two months have elapsed since the day following the day on which the comprehensive prohibition order ceases to be effective.

(Public Notice and Service, etc. Concerning Comprehensive Prohibition Order)

Article 26 (1) Where a comprehensive prohibition order is issued and an order to change or revoke said order is made, a public notice shall be made to that effect, the written orders shall be served upon the debtor (or a provisional administrator if any provisional administrator is appointed; the same shall apply in the following paragraph) and the petitioner, and a notice of the main text of the respective order shall be given to known creditors and the debtor (limited to cases where a provisional administrator is appointed).

- (2) A comprehensive prohibition order and an order to change or revoke said order shall become effective as from the time when the written orders are served upon the debtor.
- (3) Where a judicial decision on an immediate appeal set forth in paragraph (6) of the preceding Article (excluding an order to change or revoke a comprehensive prohibition order) is made, the written decision shall be served upon the parties concerned.

(Cancellation of Comprehensive Prohibition Order)

Article 27 (1) The court, when it finds, after issuing a comprehensive prohibition order, that the order is likely to cause undue damage to a creditor who filed a petition for compulsory execution, etc., upon the petition of said creditor, may make an order that the comprehensive prohibition order shall be cancelled only

with regard to said creditor. In this case, the creditor may enforce compulsory execution, etc. against the debtor's property, and any procedure for compulsory execution, etc. initiated by the creditor prior to the issuance of the comprehensive prohibition order and then stayed pursuant to the provision of Article 25(3) shall be continued.

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

(Temporary Restraining Order Concerning Debtor's Property)

Article 28 (1) Where a petition for commencement of bankruptcy proceedings is filed, the court, upon the petition of an interested person or by its own authority, may issue a provisional disposition that prohibits the disposition of the debtor's property or any other necessary temporary restraining order concerning such property until an order is made on the petition for commencement of bankruptcy proceedings.

- (2) The court may change or revoke a temporary restraining order issued under the provision of the preceding paragraph.
- (3) An immediate appeal may be filed against a temporary restraining order issued under the provision of paragraph (1) and an order made under the provision of the preceding paragraph.
- (4) The immediate appeal set forth in the preceding paragraph shall not have the effect of stay of execution.
- (5) Where a judicial decision prescribed in paragraph (3) and a judicial decision

on the immediate appeal set forth in said paragraph are made, the written decisions shall be served upon the parties concerned. In this case, the provision of the main clause of Article 10(3) shall not apply.

- (6) Where the court, pursuant to the provision of paragraph (1), has issued a temporary restraining order to prohibit the debtor from making payment to a creditor or conducting any other act with the creditor to cause his/her debt to be extinguished, the creditor may not assert, in relation to the bankruptcy proceedings, the effect of the payment or any other act to cause the debt to be extinguished, which is made or conducted in violation of the temporary restraining order; provided, however, that this shall apply only if the creditor knows, at the time of commission of such act, the fact that the temporary restraining order was issued.

(Restriction on Withdrawal of Petition for Commencement of Bankruptcy Proceedings)

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

Section 2 Order of Commencement of Bankruptcy Proceedings

(Order of Commencement of Bankruptcy Proceedings)

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

- (i) Where expenses for bankruptcy proceedings are not prepaid (excluding cases where temporary payment of such expenses is made from the national treasury pursuant to the provision of the first sentence of Article 23(1))
 - (ii) Where the petition for commencement of bankruptcy proceedings is filed for an unjustifiable purpose or it is not filed in good faith
- (2) The order made under the preceding paragraph shall become effective as from the time when it is made.

(Matters to Be Specified upon Making an Order of Commencement of

Bankruptcy Proceedings)

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

- (i) The period during which proofs of bankruptcy claims should be filed
 - (ii) The date of a creditors meeting that is to be convoked to report the status of the debtor's property (referred to as a "meeting for reporting the status of property" in paragraph (4), Article 136(2) and (3) and Article 158)
 - (iii) The period for conducting an investigation of bankruptcy claims (or the date for conducting an investigation of bankruptcy claims in the case referred to in Article 116(2))
- (2) Notwithstanding the provisions of item (i) and item (iii) of the preceding paragraph, the court, when it finds that the bankruptcy estate is likely to be insufficient for paying expenses for bankruptcy proceedings, may choose not to specify the period set forth in item (i) of said paragraph and the period and date set forth in item (iii) of said paragraph.
- (3) In the case referred to in the preceding paragraph, the court, when it finds that the bankruptcy estate is no longer likely to be insufficient for paying expenses for bankruptcy proceedings, shall promptly specify the period set forth in paragraph (1)(i) and the period or date set forth in item (iii) of said paragraph.
- (4) Notwithstanding the provision of paragraph (1)(ii), the court, when it finds it inappropriate to convoke a meeting for reporting the status of property while taking into consideration the number of known bankruptcy creditors and any other circumstances concerned, may choose not to specify the date set forth in paragraph (1)(ii).
- (5) In the case referred to in paragraph (1), the court, if there are 1,000 or more known bankruptcy creditors and it finds it appropriate, may make an order not to give a notice to bankruptcy creditors under the provisions of paragraph (3)(i) of the following Article, as applied mutatis mutandis pursuant to the main clauses of paragraph (4) and paragraph (5) of said Article, and the provisions of the main clause of Article 33(3) and the main clause of Article 139(3) (in the case referred to in the main clause of Article 139(3), creditors with voting rights prescribed in the main clause of Article 139(3); the same shall apply in paragraph (2) of the following Article), and not to summon, on the date of a creditors meeting, bankruptcy creditors who filed proofs of bankruptcy claims pursuant to the provisions of Article 111, Article 112 or Article 114 (hereinafter referred to as "holders of filed bankruptcy claims").

(Public Notice of Commencement of Bankruptcy Proceedings, etc.)

Article 32 (1) The court, when it has made an order of commencement of

bankruptcy proceedings, shall immediately make a public notice of the following matters:

- (i) The main text of the order of commencement of bankruptcy proceedings
 - (ii) The name of a bankruptcy trustee
 - (iii) The period(s) or date specified pursuant to the provision of paragraph (1) of the preceding Article
 - (iv) The order to the effect that a person who possesses property that belongs to the bankruptcy estate and person who owes a debt to the bankrupt (referred to as a "possessor of property, etc." in paragraph (3)(ii)) shall not deliver the property or make payment to the bankrupt
 - (v) In cases where it is found to be appropriate to make a simplified distribution under the provision of Article 204(1)(ii), the order to the effect that any bankruptcy creditor who has an objection to the making of a simplified distribution shall state such objection to the court by the time of expiration of the period set forth in item (iii) of paragraph (1) of the preceding Article or the end of the date set forth in said item.
- (2) When an order under paragraph (5) of the preceding Article is made, the court, in addition to the matters listed in the items of the preceding paragraph, shall make a public notice to the effect that it will not give a notice to bankruptcy creditors under the provisions of item (i) of the following paragraph, as applied mutatis mutandis pursuant to the main clauses of paragraph (4) and paragraph (5), and the provisions of the main clause of paragraph (3) of the following Article and the main clause of Article 139(3), and also will not summon holders of filed bankruptcy claims on the date of a creditors meeting.
- (3) The following persons shall be given a notice of the matters of which a public notice shall be made pursuant to the provisions of the preceding two paragraphs:
- (i) A bankruptcy trustee, the bankrupt, and known bankruptcy creditors
 - (ii) Known possessors of property, etc.
 - (iii) A provisional administrator in cases where a provisional administration order prescribed in Article 91(2) is issued
 - (iv) The labor union, etc. (meaning the labor union consisting of the majority of the bankrupt's employees and other workers, if there is any such labor union, or the person representative of the majority of the bankrupt's employees and other workers, if there is no labor union consisting of the majority of bankrupt's employees and other workers; the same shall apply in Article 78(4) and Article 136(3))
- (4) The provisions of paragraph (1)(iii) and item (i) of the preceding paragraph shall apply mutatis mutandis where the period set forth in paragraph (1)(i) of the preceding Article and the period or date set forth in item (iii) of said paragraph are specified pursuant to the provision of paragraph (3) of said

Article; provided, however, that when an order under paragraph (5) of said Article is made, the notice shall not be required to be given to known bankruptcy creditors.

- (5) The provisions of paragraph (1)(ii) and paragraph (3)(i) and (ii) shall apply mutatis mutandis where there is a change to the matter set forth in paragraph (1)(ii), and the provisions of paragraph (1)(iii) and paragraph (3)(i) shall apply mutatis mutandis where there is a change to the matter set forth in paragraph (1)(iii) (limited to cases where there is a change to the period set forth in paragraph (1)(i) of the preceding Article or the date set forth in item (ii) of said paragraph); provided, however, that when an order under paragraph (5) of said Article is made, the notice shall not be required to be given to known bankruptcy creditors.

(Appeal against a Ruling)

- Article 33 (1) An immediate appeal may be filed against a judicial decision on a petition for commencement of bankruptcy proceedings.
- (2) The provisions of Article 24 to Article 28 shall apply mutatis mutandis where an immediate appeal set forth in the preceding paragraph is filed against an order to dismiss with prejudice on the merits a petition for commencement of bankruptcy proceedings.
- (3) The court that has made an order of commencement of bankruptcy proceedings, if an immediate appeal set forth in paragraph (1) is filed and an order to revoke said order becomes final and binding, shall immediately make a public notice of the main text of the revocation order and give a notice of the main text thereof to the persons listed in the items of paragraph (3) of the preceding Article (excluding item (iii)); provided, however, that when an order set forth in Article 31(5) is made, the notice shall not be required to be given to known bankruptcy creditors.

Section 3 Effect of the Commencement of Bankruptcy Proceedings

Subsection 1 General Rules

(Scope of the Bankruptcy Estate)

- Article 34 (1) Any and all property that the bankrupt holds at the time of commencement of bankruptcy proceedings (irrespective of whether or not it exists in Japan) shall constitute the bankruptcy estate.
- (2) Any claim which may arise in the future and be enforced by the bankrupt based on a cause that has occurred prior to the commencement of bankruptcy proceedings shall belong to the bankruptcy estate.
- (3) Notwithstanding the provision of paragraph (1), the following property shall not belong to the bankruptcy estate:

- (i) An amount of money prescribed in Article 131(iii) of the Civil Execution Act (Act No. 4 of 1979), multiplied by two-thirds
 - (ii) Property that may not be seized (excluding money prescribed in Article 131(iii) of the Civil Execution Act); provided, however, that this shall not apply to property for which a seizure is allowed pursuant to the provision of Article 132(1) of said Act (including cases where applied mutatis mutandis pursuant to Article 192 of said Act) and property which becomes seizable after the commencement of bankruptcy proceedings.
- (4) During the period from the time when an order of commencement of bankruptcy proceedings is made until the day on which one month has elapsed since the day on which the order becomes final and binding, the court, upon the petition of the bankrupt or by its own authority, by an order, may expand the scope of property that shall not belong to the bankruptcy estate, while taking into consideration the bankrupt's living conditions, the types of property listed in the items of the preceding paragraph that the bankrupt held at the time of commencement of bankruptcy proceedings and amounts thereof, the likelihood for the bankrupt to earn income and any other circumstances concerned.
- (5) The court, when making an order set forth in the preceding paragraph, shall hear opinions of a bankruptcy trustee.
- (6) The bankrupt may file an immediate appeal against an order dismissing without prejudice the petition set forth in paragraph (4).
- (7) Where an order set forth in paragraph (4) or a judicial decision on the immediate appeal set forth in the preceding paragraph is made, the written order/decision shall be served upon the bankrupt and a bankruptcy trustee. In this case, the provision of the main clause of Article 10(3) shall not apply.

(Constructive Existence of a Juridical Person)

Article 35 A juridical person that is dissolved by reason of an order of commencement of bankruptcy proceedings under the provisions of other Acts or a dissolved juridical person that has received an order of commencement of bankruptcy proceedings shall be deemed to remain in existence to the extent of the purpose of liquidation through bankruptcy proceedings until the bankruptcy proceedings are closed.

(Continuation of the Bankrupt's Business)

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

(Restriction on the Bankrupt's Residence)

Article 37 (1) The bankrupt shall not leave his/her residence without obtaining

permission of the court upon his/her petition.

- (2) The bankrupt may file an immediate appeal against an order dismissing without prejudice the petition set forth in the preceding paragraph.

(Bringing of the Bankrupt to the Court, etc.)

Article 38 (1) The court, when it finds it necessary, may order the bankrupt to be brought to the court or any other place.

- (2) When a petition for commencement of bankruptcy proceedings is made, the court, even prior to making an order of commencement of bankruptcy proceedings, may order the debtor to be brought to the court or any other place.
- (3) The bringing to the court, etc. under the provisions of the preceding two paragraphs shall be executed on the issuance of a warrant of appearance.
- (4) The bankrupt or debtor may file an immediate appeal against an order to order the bringing to the court, etc. made under the provisions of paragraph (1) or paragraph (2).
- (5) The provisions of the Code of Criminal Procedure (Act No. 131 of 1948) concerning subpoena shall apply mutatis mutandis to the bringing to the court, etc. under the provisions of paragraph (1) and paragraph (2).

(Application Mutatis Mutandis to Persons Equivalent to the Bankrupt)

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

(Obligation of Explanation of the Bankrupt, etc.)

Article 40 (1) The following persons, upon the request of a bankruptcy trustee or the creditors committee prescribed in Article 144(2) or the request based on a resolution at a creditors meeting, shall give a necessary explanation concerning bankruptcy; provided, however, that with regard to the person set forth in item (v), this shall apply only when permitted by the court:

- (i) The bankrupt
 - (ii) The bankrupt's agent
 - (iii) In cases where the bankrupt is a juridical person, its director, executive officer, inspector, auditor and liquidator
 - (iv) Any other person equivalent to the persons listed in the preceding item
 - (v) The bankrupt's employee (excluding the person set forth in item (ii))
- (2) The provision of the preceding paragraph shall apply mutatis mutandis to a person who was any of the persons listed in the items of said paragraph (excluding item (i)).

(Obligation of Disclosure of Important Property of the Bankrupt)

Article 41 The bankrupt, without delay after an order of commencement of bankruptcy proceedings is made, shall submit to the court a document stating the contents of real property, cash, securities, deposits and savings and any other type of property designated by the court that the bankrupt owns.

(Loss of Effect of Other Procedures, etc.)

- Article 42 (1) Where an order of commencement of bankruptcy proceedings is made, it is not allowed to enforce, against property that belongs to the bankruptcy estate, compulsory execution, provisional seizure, provisional disposition, exercise of a general statutory lien or exercise of an enterprise mortgage, which is based on a bankruptcy claim or claim on the estate, or is intended to secure a bankruptcy claim or claim on the estate, respectively.
- (2) In the case prescribed in the preceding paragraph, the procedure for compulsory execution, provisional seizure, provisional disposition, exercise of a general statutory lien or exercise of an enterprise mortgage prescribed in said paragraph, which has already been initiated against property that belongs to the bankruptcy estate, shall cease to be effective against the bankruptcy estate; provided, however, that with regard to the procedure for compulsory execution or exercise of a general statutory lien prescribed in said paragraph (hereinafter referred to as "compulsory execution or exercise of a statutory lien" in this Article), this shall not preclude a bankruptcy trustee from continuing the procedure in the interest of the bankruptcy estate.
- (3) With regard to the procedure for compulsory execution or exercise of a statutory lien continued pursuant to the provision of the proviso to the preceding paragraph, the provisions of Article 63 and Article 129 of the Civil Execution Act (including cases where these provisions are applied mutatis mutandis pursuant to said Act or other laws and regulations concerning a procedure for compulsory execution) shall not apply.
- (4) A claim for expenses against the bankrupt for the procedure for compulsory execution or exercise of a statutory lien continued pursuant to the provision of the proviso to paragraph (2) shall be a claim on the estate.
- (5) With regard to a third party action against the compulsory execution or exercise of a statutory lien continued pursuant to the provision of the proviso to paragraph (2), a bankruptcy trustee shall stand as a defendant.
- (6) When an order of commencement of bankruptcy proceedings is made, no petition may be filed for an assets disclosure procedure (meaning an assets disclosure procedure prescribed in Article 196 of the Civil Execution Act; hereinafter the same shall apply in this paragraph and Article 249(1) and (2)) based on a bankruptcy claim or claim on the estate, and an assets disclosure procedure based on a bankruptcy claim or claim on the estate shall cease to be

effective.

(Procedure for Collection of National Tax Delinquency, etc.)

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

(Action Relating to the Bankruptcy Estate)

- Article 44 (1) When an order of commencement of bankruptcy proceedings is made, any action relating to the bankruptcy estate in which the bankrupt stands as a party shall be discontinued.
- (2) A bankruptcy trustee may take over the action discontinued under the provision of the preceding paragraph which does not relate to any bankruptcy claim. In this case, a petition for taking over of action may also be filed by the opponent.
- (3) In the case referred to in the preceding paragraph, the opponent's claim for court costs against the bankrupt shall be a claim on the estate.
- (4) When the bankruptcy proceedings are closed, any action relating to the bankruptcy estate in which a bankruptcy trustee stands as a party shall be discontinued.
- (5) The bankrupt shall take over the action discontinued under the provision of the preceding paragraph. In this case, a petition for taking over of action may also be filed by the opponent.
- (6) If the bankruptcy proceedings are closed before the action discontinued pursuant to the provision of paragraph (1) is taken over under the provision of paragraph (2), the bankrupt shall automatically take over the action.

(Action for Obligee's Subrogation Right and Action for Avoidance of Fraudulent

Act)

- Article 45 (1) If an action filed by a bankruptcy creditor or holder of claim on the estate pursuant to the provisions of Article 423 or Article 424 of the Civil Code (Act No. 89 of 1896) is pending at the time of commencement of bankruptcy proceedings, the action shall be discontinued.
- (2) A bankruptcy trustee may take over the action discontinued pursuant to the provision of the preceding paragraph. In this case, a petition for taking over of action may also be filed by the opponent.
- (3) In the case referred to in the preceding paragraph, the opponent's claim for court costs against the bankruptcy creditor or holder of claim on the estate shall be a claim on the estate.
- (4) If the bankruptcy proceedings are closed after the action discontinued under the provision of paragraph (1) was taken over under the provision of paragraph (2), the action shall be discontinued.
- (5) In the case referred to in the preceding paragraph, the bankruptcy creditor or holder of claim on the estate shall take over the action. In this case, a petition for taking over of action may also be filed by the opponent.
- (6) If the bankruptcy proceedings are closed before the action discontinued under the provision of paragraph (1) is taken over under the provision of paragraph (2), the bankruptcy creditor or holder of claim on the estate shall automatically take over the action.

(Cases Pending before Administrative Agencies)

Article 46 The provision of Article 44 shall apply mutatis mutandis to a case relating to the bankruptcy estate that is pending before an administrative agency.

Subsection 2 Effect of the Commencement of Bankruptcy Proceedings

(Effect of Juridical Acts after Commencement)

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

(Effect of the Acquisition of Rights after Commencement)

Article 48 (1) Where a right is acquired after the commencement of bankruptcy proceedings with respect to property that belongs to the bankruptcy estate, if it

is not by way of the bankrupt's juridical act, such acquisition of the right may not be asserted as effective in relation to the bankruptcy proceedings.

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

(Effect of Registrations after Commencement)

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

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

(Effect of Payment to the Bankrupt after Commencement)

Article 50 (1) Payment made to the bankrupt after the commencement of bankruptcy proceedings without knowledge of the commencement may also be asserted as effective in relation to the bankruptcy proceedings.

(2) Payment made to the bankrupt after the commencement of bankruptcy proceedings with knowledge of the commencement may be asserted as effective in relation to the bankruptcy proceedings only to the extent that the bankruptcy estate has been enriched.

(Presumption of the Existence or Absence of Knowledge)

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

(Co-ownership)

Article 52 (1) Where two or more persons jointly hold a property right, if any one of them has received an order of commencement of bankruptcy proceedings, a claim for division of the property in co-ownership may be made even if there is

an agreement between the co-owners to the effect that division shall not be made.

- (2) In the case referred to in the preceding paragraph, other co-owners may acquire the bankrupt's co-ownership interest in the property by paying reasonable compensation.

(Bilateral Contract)

Article 53 (1) If both the bankrupt and his/her counter party under a bilateral contract have not yet completely performed their obligations by the time of commencement of bankruptcy proceedings, a bankruptcy trustee may cancel the contract or may perform the bankrupt's obligation and request the counter party to perform his/her obligation.

- (2) In the case referred to in the preceding paragraph, the counter party may specify a reasonable period and make a demand on a bankruptcy trustee that he/she should give a definite answer within that period with regard to whether he/she will cancel the contract or request the performance of the obligation. In this case, if the bankruptcy trustee fails to give a definite answer within that period, it shall be deemed that he/she cancels the contract.

- (3) The provision of the preceding paragraph shall apply mutatis mutandis where the counter party or a bankruptcy trustee may give a notice of termination pursuant to the provision of the first sentence of Article 631 of the Civil Code or cancel the contract pursuant to the first sentence of Article 642(1) of said Code.

Article 54 (1) Where a contract is cancelled pursuant to the provisions of paragraph (1) or paragraph (2) of the preceding Article, the counter party may exercise his/her right over damages as a bankruptcy creditor.

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

(Bilateral Contract for Continuous Performance)

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

- (2) A claim arising from the performance that is provided by the counter party to

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

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

(Lease Contract, etc.)

Article 56 (1) The provisions of Article 53(1) and (2) shall not apply where the counter party of the bankrupt under a contract for the establishment of a leasehold or any other right of use or making profit has a registration or meets any other requirement for duly asserting such right against any third party.
(2) In the case prescribed in the preceding paragraph, a claim held by the counter party shall be a claim on the estate.

(Contract of Mandate)

Article 57 Where a bankruptcy proceeding is commenced against the mandator, the mandatary, if he/she has administered the mandated business without receiving a notice of commencement of bankruptcy proceedings under the provision of Article 655 of the Civil Code and also without knowing the fact of the commencement of bankruptcy proceedings, may exercise his/her right over a claim arising from such administration as a bankruptcy creditor.

(Contract for Transaction of Goods with Market Quotation)

Article 58 (1) With regard to a contract for a transaction of goods with a quotation on an exchange or any other market quotation the purpose of which, from the nature of the transaction, cannot be achieved unless the transaction is performed on a specific date or within a specific period of time, if the due date is to come after the commencement of bankruptcy proceedings, it shall be deemed that such contract is cancelled.
(2) In the case referred to in the preceding paragraph, the amount of damages shall be determined by a difference between the quotation for the same kind of transaction to be performed at the same time at the place of performance or any other reference place for quotation, and the price of the goods under the contract.
(3) The provision of Article 54(1) shall apply mutatis mutandis to damages under the provision of the preceding paragraph.
(4) If there are any special provisions in the exchange or market in question with

regard to the matters specified in paragraph (1) or paragraph (2), such provisions shall prevail.

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

(Current Account)

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

- (2) The claim under the provision of the preceding paragraph shall belong to the bankruptcy estate if it is held by the bankrupt or shall be a bankruptcy claim if it is held by the other party.

(Acceptance or Payment of Bills of Exchange, etc.)

Article 60 (1) Where a bankruptcy proceeding is commenced against the drawer or endorser of a bill of exchange, if the drawee or the drawee in case of need has accepted or paid the bill without knowledge of the fact of the commencement, the drawee or the drawee in case of need may exercise his/her right over a claim arising from such acceptance or payment as a bankruptcy creditor.

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

(Change of the Administrator of the Marital Property of Husband and Wife, etc.)

Article 61 (1) The provisions of Article 758(2) and (3) and Article 759 of the Civil Code shall apply mutatis mutandis where a bankruptcy proceeding is commenced against a husband or wife who administers the property of his/her spouse, and the provision of Article 835 of said Code shall apply mutatis mutandis where bankruptcy proceedings are commenced against a person who exercises parental authority.

- (2) For the purpose of application of the Act on Adjudication of Domestic Relations (Act No. 152 of 1947), a disposition on the change of the

administrator of property and division of property in co-ownership under the provisions of Article 758(2) and (3) of the Civil Code, as applied mutatis mutandis pursuant to the preceding paragraph, shall be deemed to be included in the matters listed in Article 9(1), Type II, of the Act on Adjudication of Domestic Relations, and an adjudication of the loss of the right of administration under the provision of Article 835 of the Civil Code, as applied mutatis mutandis pursuant to the preceding paragraph, shall be deemed to be included in the matters listed in Article 9(1), Type I, of the Act on Adjudication of Domestic Relations.

Subsection 3 Right of Segregation

(Right of Segregation)

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

(Right of Segregation of the Seller, etc. over the Goods in Transit)

- Article 63 (1) Where the seller has dispatched the goods that are the subject matter of sale to the buyer, if an order of commencement of bankruptcy proceedings is made against the buyer while the buyer has not yet paid the price in full and not yet received the goods at the destination, the seller may segregate the goods; provided, however, that this shall not preclude a bankruptcy trustee from requesting the delivery thereto of the goods by paying the price in full.
- (2) The provision of the preceding paragraph shall not preclude the application of the provisions of Article 53(1) and (2).
- (3) The provision of paragraph (1) shall apply mutatis mutandis where the commission agent who is commissioned to purchase goods has dispatched the goods to the consigner. In this case, the term "price" in said paragraph shall be deemed to be replaced with "fees and expenses."

(Right of Substitutional Segregation)

Article 64 (1) Where the bankrupt (or a provisional administrator if any provisional administrator is appointed) has transferred, to a third party, property that is the subject matter of a right of segregation prior to the commencement of bankruptcy proceedings, the person who has a right of segregation over said property may request the transfer thereto of a claim for counter-performance. The same shall apply where a bankruptcy trustee transfers, to a third party, property that is the subject matter of a right of

segregation.

- (2) In the case referred to in the preceding paragraph, if a bankruptcy trustee has received counter-performance, the person who has a right of segregation set forth in said paragraph may request the delivery thereto of the property received by the bankruptcy trustee in the form of counter-performance.

Subsection 4 Right of Separate Satisfaction

(Right of Separate Satisfaction)

Article 65 (1) A right of separate satisfaction may be exercised without going through bankruptcy proceedings.

- (2) Where property that is the subject matter of a security interest (meaning a special statutory lien, pledge or mortgage; hereinafter the same shall apply in this paragraph) no longer belongs to the bankruptcy estate due to sale by private contract by a bankruptcy trustee or for any other reason, the person who has such security interest, if it still exists, may also have a right of separate satisfaction over the property that is the subject matter of the security interest.

(Treatment of Right of Retention)

Article 66 (1) A right of retention under the provisions of the Commercial Code or the Companies Act that exists, at the time of commencement of bankruptcy proceedings, over property that belongs to the bankruptcy estate, shall be deemed to be a special statutory lien against the bankruptcy estate.

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

Subsection 5 Right of Set-Off

(Right of Set-Off)

Article 67 (1) A bankruptcy creditor, if he/she owes a debt to the bankrupt at the time of commencement of bankruptcy proceedings, may effect a set-off without going through bankruptcy proceedings.

- (2) Even when a claim held by a bankruptcy creditor is subject to a due date or condition subsequent at the time of commencement of bankruptcy proceedings or it falls within the category of claims listed in Article 103(2)(i), this shall not

preclude the bankruptcy creditor from effecting a set-off pursuant to the provision of the preceding paragraph. The same shall apply when a debt owed by a bankruptcy creditor is subject to a due date or condition or it relates to a claim which may arise in the future.

(Amount of Bankruptcy Claim Permissible for Set-Off)

Article 68 (1) The amount of a bankruptcy claim for which a bankruptcy creditor effects a set-off pursuant to the provision of the preceding Article shall be the amount specified in each item of Article 103(2) for the categories of claims listed in the respective items.

(2) Notwithstanding the provision of the preceding paragraph, if a claim held by a bankruptcy creditor is a claim without interest or claim for periodic payments, the bankruptcy creditor may effect a set-off only up to the amount of his/her claim after deducting therefrom the amount of the portion set forth in Article 99(1)(ii) to (iv).

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

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

(Request for Contractual Deposit by the Holder of Claim Subject to a Condition Precedent, etc.)

Article 70 Where a person who holds a claim subject to a condition precedent or a claim which may arise in the future pays his/her debt to the bankrupt, the person, in order to effect a set-off later, may request a contractual deposit of the amount of payment up to the amount of his/her claim. The same shall apply where a person who holds a claim to refund the security deposit pays his/her rent debt.

(Prohibition of Set-Off)

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

- (i) Where the bankruptcy creditor has assumed a debt to the bankruptcy estate after the commencement of bankruptcy proceedings
- (ii) Where the bankruptcy creditor has assumed a debt to the bankrupt by, after the bankrupt became unable to pay debts, concluding a contract for disposing of the bankrupt's property with the bankrupt with the intent to set off any debt to be assumed by the bankruptcy creditor under the contract exclusively against bankruptcy claims, or concluding a contract for assuming

any debt owed by another person to the bankrupt, and the bankruptcy creditor knew, at the time of conclusion of the contract, that the bankrupt was unable to pay debts.

- (iii) Where the bankruptcy creditor has assumed a debt to the bankrupt after the bankrupt suspended payments, and the bankruptcy creditor knew, at the time of assumption of the debt, the fact that the bankrupt had suspended payments; provided, however, that this shall not apply if the bankrupt was not unable to pay debts at the time when the bankrupt suspended payments.
 - (iv) Where the bankruptcy creditor has assumed a debt to the bankrupt after a petition for commencement of bankruptcy proceedings was filed, and the bankruptcy creditor knew, at the time of assumption, of the fact that a petition for commencement of bankruptcy proceedings had been filed.
- (2) The provisions of item (ii) to item (iv) of the preceding paragraph shall not apply where the assumption of a debt prescribed in these provisions arose from any of the causes listed in the following items:
- (i) A statutory cause
 - (ii) A cause that had occurred before the bankruptcy creditor came to know the fact that the bankrupt had been unable to pay debts, that the bankrupt had suspended payments or that a petition for commencement of bankruptcy proceedings had been filed
 - (iii) A cause that had occurred not less than one year before a petition for commencement of bankruptcy proceedings was filed

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

- (i) Where the person has acquired another person's bankruptcy claim after the commencement of bankruptcy proceedings.
 - (ii) Where the person has acquired a bankruptcy claim after the bankrupt became unable to pay debts, and the person knew, at the time of acquisition of the claim, the fact that the bankrupt was unable to pay debts.
 - (iii) Where the person has acquired a bankruptcy claim after the bankrupt suspended payments, and the person knew, at the time of acquisition of the claim, the fact that the bankrupt had suspended payments; provided, however, that this shall not apply if the bankrupt was not unable to pay debts at the time when the bankrupt suspended payments.
 - (iv) Where the person has acquired a bankruptcy claim after a petition for commencement of bankruptcy proceedings was filed, and the person knew, at the time of acquisition of the claim, the fact that a petition for commencement of bankruptcy proceedings had been filed.
- (2) The provisions of item (ii) to item (iv) of the preceding paragraph shall not apply where the acquisition of a bankruptcy claim prescribed in these

provisions arose from any of the causes listed in the following items:

- (i) A statutory cause
- (ii) A cause that had occurred before the person who owes a debt to the bankrupt came to know the fact that the bankrupt had been unable to pay debts, that the bankrupt had suspended payments or that a petition for commencement of bankruptcy proceedings had been filed
- (iii) A cause that had occurred not less than one year before a petition for commencement of bankruptcy proceedings was filed
- (iv) A contract concluded between the bankrupt and the person who owes a debt to the bankrupt

(Bankruptcy Trustee's Right of Demand)

- Article 73 (1) A bankruptcy trustee, after the period set forth in Article 31(1)(iii) expires or the date set forth in Article 31(1)(iii) ends, may set a period of not less than one month and make a demand on a bankruptcy creditor who may effect a set-off pursuant to the provision of Article 67 that he/she should give a definite answer within that period with regard to whether or not he/she will effect a set-off with his/her bankruptcy claim; provided, however, that this shall apply only if the debt borne by the bankruptcy creditor is due.
- (2) Where a demand under the provision of the preceding paragraph is made, if the bankruptcy creditor fails to give a definite answer within the period specified under the provision of said paragraph, the bankruptcy creditor may not assert the effect of the set-off with his/her bankruptcy claim in relation to the bankruptcy proceedings.

Chapter III Authorities for Bankruptcy Proceedings

Section 1 Bankruptcy Trustee

Subsection 1 Appointment and Supervision of Bankruptcy Trustee

(Appointment of Bankruptcy Trustee)

- Article 74 (1) A bankruptcy trustee shall be appointed by the court.
- (2) A juridical person may serve as a bankruptcy trustee.

(Supervision of Bankruptcy Trustee, etc.)

- Article 75 (1) A bankruptcy trustee shall be supervised by the court.
- (2) The court, upon the petition of an interested person or by its own authority, may dismiss a bankruptcy trustee if the bankruptcy trustee does not appropriately perform the administration and disposition of property that belongs to the bankruptcy estate, or there are any other material reasons. In this case, the court shall interrogate the bankruptcy trustee.

(Performance of Duties by Two or More Bankruptcy Trustees)

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

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

(Bankruptcy Trustee Representative)

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

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

Subsection 2 Powers of Bankruptcy Trustee, etc.

(Powers of Bankruptcy Trustee)

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

(2) A bankruptcy trustee shall obtain permission of the court in order to conduct the following acts:

- (i) Sale by private contract of a real right on real property, Japanese vessel or foreign vessel that should be registered
- (ii) Sale by private contract of a mining right, fishing right, patent right, utility model right, design right, trademark right, right of layout-designs of integrated circuits, breeder's right, copyright or neighboring right
- (iii) Transfer of an operation or business
- (iv) Package sale of goods
- (v) Borrowing of money
- (vi) Acceptance of renunciation of inheritance under the provision of Article 238(2), acceptance of renunciation of a comprehensive testamentary gift under the provision of Article 243 as applied mutatis mutandis pursuant to Article 238(2) or acceptance of a specific testamentary gift pursuant to the provision of Article 244(1)
- (vii) Sale by private contract of movable property
- (viii) Transfer of a claim or securities
- (ix) Request for performance under the provision of Article 53(1)
- (x) Filing of an action
- (xi) Settlement or arbitration agreement (meaning an arbitration agreement

- prescribed in Article 2(1) of the Arbitration Act (Act No. 138 of 2003))
- (xii) Waiver of a right
 - (xiii) Admittance of a claim on the estate, right of segregation or right of separate satisfaction
 - (xiv) Redemption of the collateral for a right of separate satisfaction
 - (xv) Any other act designated by the court
- (3) Notwithstanding the provision of the preceding paragraph, in the following cases, the acts listed in item (vii) to item (xiv) of said paragraph do not require the permission set forth in said paragraph:
- (i) Where the value of the subject matter of the act in question is not more than the amount specified by the Rules of the Supreme Court.
 - (ii) In addition to the case set forth in the preceding item, where the court considers that its permission set forth in the preceding paragraph is not required for the act in question.
- (4) The court, when granting the permission set forth in paragraph (2) for the transfer of an operation or business pursuant to the provision of paragraph (2)(iii), shall hear opinions of the labor union, etc.
- (5) Any act conducted without the permission set forth in paragraph (2) shall be void; provided, however, that this may not be asserted against a third party without knowledge.
- (6) A bankruptcy trustee, when he/she intends to conduct any of the acts listed in the items of paragraph (2), shall hear opinions of the bankrupt, except in cases where such hearing is likely to cause a delay or in any of the cases listed in the items of paragraph (3).

(Administration of the Bankruptcy Estate)

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

(Standing to Sue or to Be Sued)

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

(Management of Postal Items, etc.)

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

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

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

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

(Investigation by Bankruptcy Trustee, etc.)

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

- (2) A bankruptcy trustee, when necessary in order to perform his/her duties, may request a subsidiary company, etc. (meaning a juridical person specified in each of the following items for the cases listed in the respective items; the same shall apply in the following paragraph) of the bankrupt to give an explanation on the status of its business and property, or may inspect its books, documents and any other objects:

- (i) Where the bankrupt is a stock company: A subsidiary company (meaning a subsidiary company prescribed in Article 2(iii) of the Companies Act) of the bankrupt

- (ii) Where the bankrupt is a person other than a stock company: A stock company in which the bankrupt holds the majority of voting rights of all shareholders

- (3) Where a subsidiary company, etc. of the bankrupt (limited to one that is a person other than a stock company; hereinafter the same shall apply in this paragraph) independently holds or the bankrupt and the bankrupt's subsidiary

company, etc. jointly hold the majority of voting rights of all shareholders of another stock company, for the purpose of application of the provision of the preceding paragraph, such other stock company shall be deemed to be a subsidiary company of the bankrupt.

(Ensuring the Performance of Duties by Bankruptcy Trustee)

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

(Bankruptcy Trustee's Duty of Care)

Article 85 (1) A bankruptcy trustee shall perform his/her duties with the due care of a prudent manager.

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

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

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

(Remuneration for Bankruptcy Trustee, etc.)

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

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

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

(Bankruptcy Trustee's Duty to Report upon Termination of Office, etc.)

Article 88 (1) A bankruptcy trustee, upon the termination of his/her office, shall submit a report of account to the court without delay.

(2) In the case referred to in the preceding paragraph, if there is a vacancy in the office of bankruptcy trustee, the report of account set forth in said paragraph, notwithstanding the provision of said paragraph, shall be submitted by a successor bankruptcy trustee.

(3) In the case referred to in paragraph (1) or the preceding paragraph, the bankruptcy trustee set forth in paragraph (1) or the successor bankruptcy trustee set forth in the preceding paragraph shall file a petition set forth in the

main clause of Article 135(1) for the purpose of making a report of account to a creditors meeting upon the termination of the bankruptcy trustee's office.

- (4) The bankrupt, a bankruptcy creditor or successor bankruptcy trustee (excluding the successor bankruptcy trustee set forth in paragraph (2)) may make an objection to the report of account set forth in paragraph (1) or paragraph (2) on the date of a creditors meeting convoked upon the petition set forth in the preceding paragraph.
- (5) There shall be an interval of three days or more between the date of a creditors meeting set forth in the preceding paragraph and the date of submission of a report of account under the provision of paragraph (1) or paragraph (2).
- (6) Where an objection set forth in paragraph (4) is not made on the date of a creditors meeting set forth in said paragraph, it shall be deemed that the account set forth in paragraph (1) or paragraph (2) is approved.

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

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

(Administration of Property upon Termination of Office)

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

- (2) Where an order of revocation of the order of commencement of bankruptcy proceedings or an order of discontinuance of bankruptcy proceedings becomes

final and binding, a bankruptcy trustee shall pay claims on the estate; provided, however, that with regard to a claim on the estate which is in dispute in terms of its existence or nonexistence or its amount, a bankruptcy trustee shall make a statutory deposit of such payment in the interest of the person who holds such claim.

Section 2 Provisional Administrator

(Provisional Administration Order)

- Article 91 (1) Where a petition for commencement of bankruptcy proceedings is filed, when a debtor (limited to a juridical person; hereinafter the same shall apply in this Section, Article 148(4) and Article 152(2)) administers and disposes of its property in an inappropriate manner or the court otherwise finds it particularly necessary for securing the debtor's property, the court, upon the petition of an interested person or by its own authority, may make a disposition to order that the debtor's property be administered by a provisional administrator until an order is made on the petition for commencement of bankruptcy proceedings.
- (2) The court, when making a disposition under the provision of the preceding paragraph (hereinafter referred to as a "provisional administration order"), shall appoint one or more provisional administrators in the provisional administration order.
- (3) The provisions of the preceding two paragraphs shall apply mutatis mutandis where an immediate appeal set forth in Article 33(1) is filed against an order dismissing with prejudice on the merits a petition for commencement of bankruptcy proceedings.
- (4) The court may change or revoke a provisional administration order.
- (5) An immediate appeal may be filed against a provisional administration order and an order made under the provision of the preceding paragraph.
- (6) The immediate appeal set forth in the preceding paragraph shall not have the effect of stay of execution.

(Public Notice and Service Concerning a Provisional Administration Order)

- Article 92 (1) The court, when it has issued a provisional administration order, shall make a public notice to that effect. The same shall apply where the court makes an order to change or revoke a provisional administration order.
- (2) Where a provisional administration order is issued, an order under the provision of paragraph (4) of the preceding Article is made, and a judicial decision on the immediate appeal set forth in paragraph (5) of said Article is made, the written orders/decision shall be served upon the parties concerned.
- (3) The provision of Article 10(4) shall not apply to the case referred to in

paragraph (1).

(Powers of Provisional Administrator)

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

(2) Any act conducted without the permission set forth in the proviso to the preceding paragraph shall be void; provided, however, that this may not be asserted against a third party without knowledge.

(3) The provisions of Article 78(2) to (6) shall apply *mutatis mutandis* to a provisional administrator.

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

Article 94 (1) A provisional administrator, upon the termination of his/her office, shall make a report of account to the court in writing without delay.

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

(Provisional Administrator Representative)

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

(2) The appointment of a provisional administrator representative under the provision of the preceding paragraph shall require permission of the court.

(Application *Mutatis Mutandis*)

Article 96 (1) The provision of Article 40 shall apply *mutatis mutandis* to a request made by a provisional administrator, the provisions of Article 47, Article 50 and Article 51 shall apply *mutatis mutandis* where a provisional administration order is issued, the provisions of Article 74(2), Article 75, Article 76, Article 79, Article 80, Article 82 to Article 85, Article 87(1) and (2) and Article 90(1) shall apply *mutatis mutandis* to a provisional administrator, and the provisions of Article 87(1) and (2) shall apply *mutatis mutandis* to a provisional administrator representative. In these cases, the phrase "public notice under the provision of Article 32(1)" in Article 51 shall be deemed to be replaced with "public notice under the provision of Article 92(1)," and the

phrase "successor bankruptcy trustee" in Article 90(1) shall be deemed to be replaced with "successor provisional administrator or a bankruptcy trustee."

(2) With regard to an action relating to a debtor's property and a case relating to a debtor's property that is pending before an administrative agency, the provisions specified in the following items shall apply mutatis mutandis in the cases listed in the respective items:

- (i) Where a provisional administration order is issued: Article 44(1) to (3)
- (ii) Where a provisional administration order ceases to be effective (excluding cases where an order of commencement of bankruptcy proceedings is made): Article 44(4) to (6)

Chapter IV Bankruptcy Claims

Section 1 Rights of Bankruptcy Creditors

(Claims Included in the Scope of Bankruptcy Claims)

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

- (i) Claim for interest arising after the commencement of bankruptcy proceedings
- (ii) Claim for damages or penalty for a default arising after the commencement of bankruptcy proceedings
- (iii) Claim for a delinquent tax, interest tax or delinquent charge arising after the commencement of bankruptcy proceedings
- (iv) Claim that may be collected as provided for by the National Tax Collection Act (Act No. 147 of 1959) or by the same procedure as that for collecting national tax (hereinafter referred to as "claim for tax, etc."), which arises against the bankruptcy estate from a cause that occurs after the commencement of bankruptcy proceedings
- (v) Claim for an additional tax (meaning an accuracy-related penalty, penalty for failure to file, additional tax on non-payment and fraud penalty prescribed in Article 2(iv) of the Act on General Rules for National Taxes (Act No. 66 of 1962)) or penalty imposed by local government (meaning an accuracy-related penalty, additional charge imposed by local government for no return or return after due date and fraud penalty prescribed in Article 1(1)(xiv) of the Local Tax Act (Act No. 226 of 1950))
- (vi) Claim for a fine, petty fine, court costs for a criminal case, collection of equivalent value or non-penal fine (hereinafter referred to as "claim for a fine, etc.")
- (vii) Claim for expenses for participation in bankruptcy proceedings
- (viii) Claim for damages of the counter party prescribed in Article 54(1) (including cases where applied mutatis mutandis pursuant to Article 58(3))

- (ix) Claim prescribed in Article 57
- (x) Claim under the provision of Article 59(1), which is held by the other party
- (xi) Claim prescribed in Article 60(1) (including cases where applied mutatis mutandis pursuant to paragraph (2) of said Article)
- (vii) Rights specified in Article 168(2)(ii) or (iii)

(Preferred Bankruptcy Claims)

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

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

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

(Subordinate Bankruptcy Claims, etc.)

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

(i) Claims listed in Article 97(i) to (vii)

(ii) With regard to a claim with a fixed due date that is to become due after the commencement of bankruptcy proceedings and bears no interest, the portion of which should be regarded as the amount of statutory interest for the claim to be accrued according to the number of years during the period from the time of commencement of bankruptcy proceedings until the due date (any fraction of less than one year during that period shall be rounded off)

(iii) With regard to a claim with an uncertain due date that is to become due after the commencement of bankruptcy proceedings and bears no interest, the portion of which amounts to the difference between the amount of the claim and the amount of the claim estimated as of the time of commencement of bankruptcy proceedings

(iv) With regard to a claim for periodic payments the amount and duration of which are fixed, the portion of which amounts to the total of the amounts calculated with regard to the respective periodic payments in accordance with the provision of item (ii) (in cases where the amount calculated by

deducting said total from the total amount of periodic payments exceeds the amount of principal which would accrue interest equivalent to the periodic payments when calculating at a statutory interest rate, such amount in excess shall be added)

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

(Enforcement of Bankruptcy Claims)

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

- (2) The provision of the preceding paragraph shall not apply where a claim for tax, etc., which is a bankruptcy claim, is enforced by way of the following acts:
- (i) Procedure for collection of national tax delinquency already initiated, at the time of commencement of bankruptcy proceedings, against property that belongs to the bankruptcy estate
 - (ii) Appropriation of a refund or payment by mistake, which is enforced by a person with power of collection

(Permission for Payment of Claim for Salary, etc.)

Article 101 (1) Where a bankruptcy creditor who filed a proof of claim for salary or claim for retirement allowance, both of which are preferred bankruptcy claims, is likely to have difficulties in maintaining his/her living standards unless he/she receives payment of these bankruptcy claims, the court, before permission is granted for the first time for the final distribution prescribed in Article 195(1), simplified distribution prescribed in Article 204(1), consensual distribution prescribed in Article 208(1) or interim distribution prescribed in Article 209(1), upon the petition of a bankruptcy trustee or by its own authority, may permit payment of the claim in whole or part; provided, however, that this shall apply only if such payment is not likely to harm the interest of a person who holds a claim on the estate or any other preferred bankruptcy claim with the senior or same priority.

- (2) A bankruptcy trustee, when requested by the bankruptcy creditor set forth in the preceding paragraph to file the petition set forth in said paragraph, shall report to the court to that effect immediately. In this case, if the bankruptcy trustee has decided not to file a petition, he/she shall report the reason to the court without delay.

(Set-Off by Bankruptcy Trustee)

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

(Bankruptcy Creditor's Participation in Proceedings)

Article 103 (1) A bankruptcy creditor may participate in bankruptcy proceedings by reason of a bankruptcy claim that he/she holds.

(2) In the case referred to in the preceding paragraph, the amount of a bankruptcy claim shall be the amount specified in each of the following items for the categories of claims listed in the respective items:

(i) The following claims: The amount of the claim estimated as of the time of commencement of bankruptcy proceedings:

(a) Claim not intended for payment of money

(b) Monetary claim the amount of which is not fixed or the amount of which is fixed in a foreign currency

(c) Claim for periodic payments the amount and duration of which are not fixed

(ii) Claim other than those listed in the preceding item: The amount of the claim

(3) If a bankruptcy claim is a claim with a due date that is to become due after the commencement of bankruptcy proceedings, such bankruptcy claim shall be deemed to become due at the time of commencement of bankruptcy proceedings.

(4) Even if a bankruptcy claim, at the time of commencement of bankruptcy proceedings, is a claim with condition or claim which may arise in the future, the bankruptcy creditor may participate in the bankruptcy proceedings by reason of such bankruptcy claim.

(Participation in Proceedings Where Two or More Persons Have the Obligation of Entire Performance, etc.)

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

(2) In the case referred to in the preceding paragraph, even if other person(s) who have the obligation of entire performance has made payment to the creditor or conducted any other act with the creditor to cause their debt to be extinguished

(hereinafter referred to as "payment, etc." in this Article) after the commencement of bankruptcy proceedings, the creditor, except where the whole amount of the claim is extinguished, may exercise his/her right for the whole amount of the claim that he/she holds at the time of the commencement of bankruptcy proceedings.

- (3) In the case prescribed in paragraph (1), a person who has a right to obtain reimbursement to be exercised against the bankrupt in the future may participate in the bankruptcy proceedings with regard to the whole amount of reimbursement; provided, however, that this shall not apply when a creditor has participated in the bankruptcy proceedings with regard to the claim that he/she holds at the time of commencement of bankruptcy proceedings.
- (4) Where a creditor participates in the bankruptcy proceedings pursuant to the provision of paragraph (1), if a person who has a right to obtain reimbursement to be exercised against the bankrupt in the future has made payment, etc. to the creditor after the commencement of bankruptcy proceedings, the person who has a right to obtain reimbursement, only where the whole amount of the creditor's claim is extinguished, may exercise the creditor's right as a bankruptcy creditor only to the extent of the right to obtain reimbursement.
- (5) The provision of paragraph (2) shall apply mutatis mutandis where a third party who provided his/her property as security in order to secure the bankrupt's debt (hereinafter referred to as a "third party mortgagor/pledgor" in this paragraph) has made payment, etc. to the creditor after the commencement of bankruptcy proceedings, and the provisions of the preceding two paragraphs shall apply mutatis mutandis to a third party mortgagor/pledgor who has a right of exoneration to be exercised thereby against the bankrupt in the future.

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

Article 105 When an order of commencement of bankruptcy proceedings is made against a guarantor, the creditor may participate in the bankruptcy proceedings with regard to the whole amount of the claim that he/she holds at the time of commencement of bankruptcy proceedings.

(Participation in Proceedings in the case of Bankruptcy of Person with Unlimited Liability for Juridical Person's Debts)

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

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

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

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

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

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

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

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

Article 109 A bankruptcy creditor, even where he/she, by exercising his/her right against property that belongs to the bankruptcy estate and exists in a foreign state, has received payment of his/her bankruptcy claim after an order of commencement of bankruptcy proceedings is made, may participate in the bankruptcy proceedings with regard to the amount of the claim as of the time before receiving such payment.

(Bankruptcy Creditors' Representative)

Article 110 (1) Bankruptcy creditors, with permission of the court, may jointly or

- severally appoint one or more bankruptcy creditors' representatives.
- (2) A bankruptcy creditors' representative may perform any and all acts involved in bankruptcy proceedings in the interest of the bankruptcy creditors who appoint him/her.
 - (3) If there are two or more bankruptcy creditors' representatives, they shall exercise their powers jointly; provided, however, that it shall be sufficient that a manifestation of intention by a third party be made to any one of them.
 - (4) The court may rescind permission set forth in paragraph (1) when it finds the exercise of powers by the bankruptcy creditors' representative to be extremely unfair.

Section 2 Filing Proofs of Bankruptcy Claims

(Filing Proofs of Bankruptcy Claims)

- Article 111 (1) A bankruptcy creditor who intends to participate in bankruptcy proceedings shall file a proof of the following matters to the court within a period during which proofs of bankruptcy claims should be filed as specified pursuant to the provisions of Article 31(1)(i) or (3) (hereinafter referred to as a "period for filing proofs of claims"):
- (i) The amount and cause of each bankruptcy claim
 - (ii) If the claim in question is a preferred bankruptcy claim, a statement to that effect
 - (iii) If the claim in question is a subordinate bankruptcy claim or consensually-subordinated bankruptcy claim, a statement to that effect
 - (iv) If the total amount of distribution given to the bankruptcy creditor is less than the amount specified by the Rules of the Supreme Court but the creditor has the intention of receiving distribution money, a statement to that effect
 - (v) In addition to what is listed in the preceding items, matters specified by the Rules of the Supreme Court
- (2) A holder of a right of separate satisfaction, in addition to the matters listed in the items of the preceding paragraph, shall also file a proof of the following matters:
- (i) The collateral for the right of separate satisfaction
 - (ii) The amount of the claim for which payment is not expected to be received by exercising the right of separate satisfaction
- (3) The provision of the preceding paragraph shall apply mutatis mutandis to a holder of a special statutory lien, pledge or mortgage or holder of a bankruptcy claim prescribed in Article 108(2) (hereinafter referred to as a "holder of a quasi-right of separate satisfaction").

(Filing of Proof after the Expiration of the Ordinary Period for Investigation or after the End of the Ordinary Date of Investigation, etc.)

- Article 112 (1) Where a bankruptcy creditor was unable to file a proof of bankruptcy claim by the expiration of the period set forth in Article 31(1)(iii) (hereinafter referred to as the "ordinary period for investigation") or the end of the date set forth in Article 31(1)(iii) (hereinafter referred to as the "ordinary date of investigation") due to grounds not attributable thereto, he/she may file a proof only within one month after the grounds cease to exist.
- (2) The one-month period prescribed in the preceding paragraph may not be extended or shortened.
- (3) With regard to a bankruptcy claim arising after the expiration of the ordinary period for investigation or the end of the ordinary date of investigation, a proof shall be filed within an unextendable period of one month after the claim arose.
- (4) The provisions of paragraph (1) and paragraph (2) shall apply mutatis mutandis where a bankruptcy creditor, after the expiration of the ordinary period for investigation or the end of ordinary date of investigation, makes a change to any filed matter, which is prejudicial to the interest of other bankruptcy creditors, due to grounds not attributable thereto.

(Transfer of the Title of Holder of Filed Claim)

- Article 113 (1) A person who has acquired a filed bankruptcy claim may receive a transfer of the title of the holder of filed claim even after the expiration of the ordinary period for investigation or the end of the ordinary date of investigation.
- (2) The person who receives a transfer of the title of the holder of filed claim pursuant to the provision of the preceding paragraph, if he/she has the intention of receiving distribution money even where the total amount of distribution given to him/her is less than the amount specified by the Rules of the Supreme Court prescribed in Article 111(1)(iv), shall file a proof with the court to that effect.

(Filing of Proofs of Claims for Tax, etc.)

- Article 114 A person who holds any of the following claims shall file with the court a proof of the amount and cause of the claim and any other matters specified by the Rules of the Supreme Court without delay. In this case, if the person who holds the claim is a holder of a right of separate satisfaction or holder of a quasi-right of separate satisfaction, the provision of Article 111(2) shall apply mutatis mutandis:
- (i) A claim for tax, etc., which does not fall within the scope of claims on the estate
- (ii) A claim for a fine, etc., which does not fall within the scope of claims on the

estate

Section 3 Investigation and Determination of Bankruptcy Claims

Subsection 1 General Rules

(Preparation of a Schedule of Bankruptcy Creditors, etc.)

Article 115 (1) A court clerk shall prepare a schedule of bankruptcy creditors with regard to filed bankruptcy claims.

(2) In the schedule of bankruptcy creditors set forth in the preceding paragraph, the matters listed in Article 111(1)(i) to (iv) and paragraph (2)(ii) of said Article (including cases where applied *mutatis mutandis* pursuant to paragraph (3) of said Article) and any other matters specified by the Rules of the Supreme Court shall be entered.

(3) If there are any errors in the entries in the schedule of bankruptcy creditors, a court clerk, upon petition or by his/her own authority, may make a disposition to correct the entries at any time.

(Method of Investigation of Bankruptcy Claims)

Article 116 (1) An investigation of bankruptcy claims by the court shall be conducted pursuant to the provisions of the following Subsection based on a statement of approval or disapproval prepared by a bankruptcy trustee as well as written objections made by bankruptcy creditors and by the bankrupt.

(2) Notwithstanding the provision of the preceding paragraph, the court, when it finds it necessary, may conduct an investigation of bankruptcy claims pursuant to the provisions of Subsection 3 based on an approval or disapproval given by a bankruptcy trustee as well as objections made by bankruptcy creditors and by the bankrupt on the date set for the investigation.

(3) The court, even after conducting the investigation of bankruptcy claims on the ordinary date of investigation under the provision of Article 121, may also conduct an investigation of bankruptcy claims in writing during the special period for investigation under the provision of Article 119, and when it finds it necessary, even after conducting the investigation of bankruptcy claims in writing during the ordinary period for investigation under the provision of Article 118, may also conduct an investigation of bankruptcy claims on the special date of investigation under the provision of Article 122.

Subsection 2 Investigation of Bankruptcy Claims in Writing

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

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

his/her approval or disapproval of the following matters with regard to each bankruptcy claim filed during the period for filing proofs of claims:

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

(Investigation during the Ordinary Period for Investigation)

Article 118 (1) A holder of filed bankruptcy claim may make an objection in writing to the court, within the ordinary period for investigation, with regard to the matters listed in the items of paragraph (1) of the preceding Article concerning a bankruptcy claim prescribed in paragraph (1) or paragraph (2) of

said Article.

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

(Investigation during the Special Period for Investigation)

- Article 119 (1) The court, with regard to a bankruptcy claim which is filed or for which a change is made to any filed matter after the period for filing proofs of claims has expired but before the ordinary period for investigation expires or the ordinary date of investigation ends, shall specify a period for conducting an investigation of such claim (hereinafter referred to as a "special period for investigation"); provided, however, that this shall not apply where, with regard to such bankruptcy claim, a bankruptcy trustee states, in the statement of approval or disapproval submitted pursuant to the provision of Article 117(3), his/her approval or disapproval of the whole or part of the matters listed in the items of paragraph (1) of said Article, or no objection is made by a bankruptcy trustee or any bankruptcy creditors against conducting an investigation on the ordinary date of investigation.
- (2) The main clause of the preceding paragraph shall also apply to a bankruptcy claim which is filed under the provisions of Article 112(1) or (3) or for which a change is made to any filed matter under the provision of paragraph (1) of said Article as applied mutatis mutandis pursuant to paragraph (4) of said Article after the expiration of the ordinary period for investigation or the end of the ordinary date of investigation.
 - (3) In the case referred to in the main clause of paragraph (1) or in the preceding paragraph, the expenses for the special period for investigation shall be borne by the person who holds the bankruptcy claim investigated.

- (4) A bankruptcy trustee, with regard to a bankruptcy claim to be investigated during the special period for investigation, shall prepare a statement of approval or disapproval to state his/her approval or disapproval of the matters listed in the items of Article 117(1), and submit it to the court by the time limit set by the court prior to the special period for investigation. In this case, the provision of paragraph (4) of said Article shall apply mutatis mutandis.
- (5) A holder of filed bankruptcy claim and the bankrupt may make an objection in writing to the court within the special period for investigation, with regard to the matters listed in the items of Article 117(1) concerning the bankruptcy claim set forth in the preceding paragraph and the amount of said bankruptcy claim, respectively.
- (6) The provisions of paragraph (3) to paragraph (5) of the preceding Article shall apply mutatis mutandis to the service of a written order where an order to specify or change the special period for investigation is made.

(Prepayment of Expenses for the Special Period for Investigation)

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

Subsection 3 Investigation of Bankruptcy Claims on the Date

(Investigation on the Ordinary Date of Investigation)

- Article 121 (1) A bankruptcy trustee, when an ordinary date of investigation is specified, shall appear on said ordinary date of investigation and state his/her

approval or disapproval of the matters listed in the items of Article 117(1) with regard to each bankruptcy claim filed during the period for filing proofs of claims.

- (2) A holder of filed bankruptcy claim or his/her agent may appear on the ordinary date of investigation and make an objection with regard to the matters prescribed in the preceding paragraph concerning the bankruptcy claim set forth in said paragraph.
- (3) The bankrupt shall appear on the ordinary date of investigation; provided, however, that he/she may have his/her agent appear on his/her behalf if there are justifiable reasons.
- (4) The bankrupt who appears pursuant to the provision of the main clause of the preceding paragraph may make an objection with regard to the amount of the bankruptcy claim set forth in paragraph (1).
- (5) The bankrupt who appears pursuant to the provision of the main clause of paragraph (3) shall state his/her opinions on necessary matters.
- (6) The provisions of the preceding two paragraphs shall apply mutatis mutandis to the agent set forth in the proviso to paragraph (3).
- (7) The provisions of the preceding paragraphs shall apply mutatis mutandis where no objection is made by any bankruptcy trustee or bankruptcy creditors against conducting an investigation on the ordinary date of investigation with regard to a bankruptcy claim which is filed or for which a change is made to any filed matter after the expiration of the period for filing proofs of claims.
- (8) An investigation of bankruptcy claims on the ordinary date of investigation may not be conducted without the appearance of a bankruptcy trustee.
- (9) The court, when it has made an order to change the ordinary date of investigation, shall serve the written order upon a bankruptcy trustee, the bankrupt, and holders of filed bankruptcy claims (prior to the expiration of the period for filing proofs of claims, known bankruptcy creditors).
- (10) The court, when it has made an order to postpone or continue the investigation of bankruptcy claims on the ordinary date of investigation, shall serve the written order upon a bankruptcy trustee, the bankrupt and holders of filed bankruptcy claims, except where it is rendered on said ordinary date of investigation.
- (11) The provisions of Article 118(4) and (5) shall apply mutatis mutandis to the service under the provisions of the preceding two paragraphs.

(Investigation on the Special Date of Investigation)

Article 122 (1) The court, with regard to a bankruptcy claim which is filed or for which a change is made to any filed matter after the period for filing proofs of claims has expired but before the ordinary period for investigation expires or the ordinary date of investigation ends, may specify a date for conducting an

investigation of such claim (hereinafter referred to as a "special date of investigation"), when it finds it necessary; provided, however, that this shall not apply where, with regard to such bankruptcy claim, a bankruptcy trustee states, in the statement of approval or disapproval submitted pursuant to the provision of Article 117(3), his/her approval or disapproval of the whole or part of the matters listed in the items of paragraph (1) of said Article, or no objection is made by any bankruptcy trustee or bankruptcy creditors against conducting an investigation on the ordinary date of investigation.

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

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

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

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

Subsection 4 Determination of Bankruptcy Claims

(Determination of a Bankruptcy Claim Without Objection, etc.)

Article 124 (1) The matters listed in the items of Article 117(1) (excluding item (iv)) shall be determined if, in the investigation of bankruptcy claims, they are approved by a bankruptcy trustee and no objection is made by any holder of filed bankruptcy claim during the ordinary period for investigation or special period for investigation or on the ordinary date of investigation or special date of investigation.

- (2) A court clerk shall make an entry of the results of the investigation of bankruptcy claims in the schedule of bankruptcy creditors.
- (3) The entries in the schedule of bankruptcy creditors with regard to the matters that are determined pursuant to the provision of paragraph (1) shall have the same effect as a final and binding judgment against all bankruptcy creditors.

(Bankruptcy Claim Assessment Order)

Article 125 (1) Where, in an investigation of bankruptcy claims, a bankruptcy

trustee has disapproved the amount of a bankruptcy claim or the type of the claim, namely, preferred bankruptcy claim, subordinate bankruptcy claim or consensually-subordinated bankruptcy claim (hereinafter referred to as the "amount, etc." in this Article and Article 127(1)) or an objection has been made by any holder(s) of filed bankruptcy claim with regard to these matters, the holder(s) of filed bankruptcy claim who holds the bankruptcy claim in question (thereinafter referred to as the "denied/disputed bankruptcy claim"), in order to determine the amount and type of the claim, may file a petition to the court, against said bankruptcy trustee as well as said holder(s) of filed bankruptcy claim who made the objection (hereinafter referred to as the "denying/disputing party" in this Subsection), for assessment of the amount, etc. of the claim (hereinafter referred to as a "petition for bankruptcy claim assessment"); provided, however, that this shall not apply in the case referred to in Article 127(1) and Article 129(1) and (2).

- (2) A petition for bankruptcy claim assessment shall be filed within an unextendable period of one month from the last day of the ordinary period for investigation or special period for investigation for the denied/disputed bankruptcy claim or from the ordinary date for investigation or special date of investigation for said claim.
- (3) Where a petition for bankruptcy claim assessment is filed, the court, by an order, shall make a judicial decision to assess the existence or nonexistence of the denied/disputed bankruptcy claim and the amount, etc. thereof (hereinafter referred to as a "bankruptcy claim assessment order" in the following paragraph), except where it dismisses the petition as unlawful without prejudice.
- (4) The court, when making a bankruptcy claim assessment order, shall interrogate the denying/disputing party(s).
- (5) Where an order is made on a petition for bankruptcy claim assessment, the written order shall be served upon the parties concerned. In this case, the provision of the main clause of Article 10(3) shall not apply.

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

- Article 126 (1) A person who disagrees with an order on a petition for bankruptcy claim assessment may file an action to oppose (hereinafter referred to as an "action to oppose bankruptcy claim assessment") within an unextendable period of one month after the day on which the person received the service of the order.
- (2) An action to oppose bankruptcy claim assessment shall be subject to the jurisdiction of the bankruptcy court.
 - (3) The court of first instance with which an action to oppose bankruptcy claim assessment is filed, when it finds it necessary in order to avoid substantial

detriment or delay in cases where the bankruptcy court's jurisdiction over the bankruptcy case is based on no provisions of laws or regulations other than the provision of Article 5(8) or (9) (including cases where the bankruptcy court has accepted the bankruptcy case transferred thereto pursuant to the provision of Article 7(iv) and the acceptance of the transferred case is based on no provision other than the provision of Article 7(iv) (b) or (c)), by its own authority, may transfer the suit pertaining to said action to oppose bankruptcy claim assessment to the district court prescribed in Article 5(1) (or the district court prescribed in Article 5(2) if there is no such court that corresponds to the court prescribed in Article 5(1)), notwithstanding the provision of the preceding paragraph.

- (4) In an action to oppose bankruptcy claim assessment, all of the denying/disputing party(s). shall stand as defendants if it is filed by the bankruptcy creditor who holds the denied/disputed bankruptcy claim, and such bankruptcy creditor shall stand as a defendant if it is filed by a denying/disputing party.
- (5) Oral argument for an action to oppose bankruptcy claim assessment may not be commenced until the period set forth in paragraph (1) has expired.
- (6) If two or more actions to oppose bankruptcy claim assessment are pending with respect to the same bankruptcy claim concurrently, oral arguments and judicial decisions of these actions shall be made in a consolidated manner. In this case, the provisions of Article 40(1) to (3) of the Code of Civil Procedure shall apply mutatis mutandis.
- (7) A judgment rendered with regard to an action to oppose bankruptcy claim assessment, except where the action is dismissed as unlawful without prejudice, shall approve or change the order on the petition for bankruptcy claim assessment.

(Taking Over of Action Relating to Denied/Disputed Bankruptcy Claim)

Article 127 (1) Where an action relating to a denied/disputed bankruptcy claim is pending at the time of commencement of bankruptcy proceedings, when a bankruptcy creditor seeks to determine the amount, etc. of the claim, he/she shall file a petition for taking over of action, designating all of the denying/disputing party(s) as the opponents.

- (2) The provision of Article 125(2) shall apply mutatis mutandis to the petition set forth in the preceding paragraph.

(Limitation to Assertion)

Article 128 In the proceedings for assessment based on a petition for bankruptcy claim assessment or court proceedings of an action to oppose bankruptcy claim assessment or court proceedings of an action taken over under the provision of

paragraph (1) of the preceding Article, a bankruptcy creditor may assert the matters listed in Article 111(1)(i) to (iii) concerning the denied/disputed bankruptcy claim, only as entered in the schedule of bankruptcy creditors.

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

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

(2) Where an action relating to the denied/disputed bankruptcy claim prescribed in the preceding paragraph is pending at the time of commencement of bankruptcy proceedings, when the denying/disputing party set forth in said paragraph intends to assert an objection under the provision of said paragraph, the denying/disputing party shall take over the action in which the bankruptcy creditor who holds the bankruptcy claim in question stands as the opponent.

(3) The provision of Article 125(2) shall apply mutatis mutandis to the assertion of an objection under the provision of paragraph (1) or the taking over of action under the provision of the preceding paragraph, and the provisions of Article 126(5) and (6) and the preceding Article shall apply to the cases referred to in the preceding two paragraphs. In this case, the phrase "the period set forth in paragraph (1)" in Article 126(5) shall be deemed to be replaced with "an unextendable period of one month from the last day of the ordinary period for investigation or special period for investigation for the denied/disputed bankruptcy claim or from the ordinary date of investigation or special date of investigation for said claim."

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

(Entry of the Outcome of an Action Concerning the Determination of a Bankruptcy Claim)

Article 130 A court clerk, upon the petition of a bankruptcy trustee or a bankruptcy creditor, shall make an entry, in the schedule of bankruptcy creditors, of the outcome of an action concerning the determination of a bankruptcy claim (in cases where an action to oppose bankruptcy claim

assessment against an order on a petition for bankruptcy claim assessment is not filed within the period prescribed in Article 126(1) or is dismissed without prejudice, the content of said order).

(Effect of a Judgment, etc. on an Action Concerning the Determination of a Bankruptcy Claim)

Article 131 (1) A judgment made upon an action concerning the determination of a bankruptcy claim shall be effective against all bankruptcy creditors.

(2) If an action to oppose bankruptcy claim assessment against an order on a petition for bankruptcy claim assessment is not filed within the period prescribed in Article 126(1) or is dismissed without prejudice, said order shall have the same effect as a final and binding judgment against all bankruptcy creditors.

(Reimbursement of Court Costs)

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

(Treatment of the Proceedings for Determination of a Bankruptcy Claim upon Close of Bankruptcy Proceedings)

Article 133 (1) The proceedings for petition for bankruptcy claim assessment which are pending at the time of close of bankruptcy proceedings shall be closed if the close of bankruptcy proceedings results from an order of revocation of the order of commencement of bankruptcy proceedings or an order of discontinuance of bankruptcy proceedings, which has become final and binding, and shall continue to be pending if the close of bankruptcy proceedings results from an order of termination of bankruptcy proceedings.

(2) Where bankruptcy proceedings are closed as a result of an order of termination of bankruptcy proceedings, if an order on a petition for bankruptcy claim assessment is made after the close of bankruptcy proceedings, an action to oppose bankruptcy claim assessment may be filed pursuant to the provision of Article 126(1).

(3) An action to oppose bankruptcy claim assessment or action taken over pursuant to the provisions of Article 127(1) or Article 129(2), which is pending at the time of close of bankruptcy proceedings and in which a bankruptcy trustee stands as a party, shall not be discontinued, notwithstanding the provision of Article 44(4), if the close of bankruptcy proceedings results from an

order of termination of bankruptcy proceedings.

- (4) An action to oppose bankruptcy claim assessment, which is pending at the time of close of bankruptcy proceedings and in which a bankruptcy trustee does not stand as a party, shall be concluded if the close of bankruptcy proceedings results from an order of revocation of the order of commencement of bankruptcy proceedings or an order of discontinuance of bankruptcy proceedings, which has become final and binding, and shall continue to be pending if the close of bankruptcy proceedings results from an order of termination of bankruptcy proceedings.
- (5) An action taken over pursuant to the provisions of Article 127(1) or Article 129(2) which is pending at the time of close of bankruptcy proceedings and in which a bankruptcy trustee does not stand as a party shall be discontinued if the close of bankruptcy proceedings results from an order of revocation of the order of commencement of bankruptcy proceedings or an order of discontinuance of bankruptcy proceedings, which has become final and binding, and shall continue to be pending if the close of bankruptcy proceedings results from an order of termination of bankruptcy proceedings.
- (6) Where an action is discontinued pursuant to the provision of the preceding paragraph, the provision of Article 44(5) shall apply *mutatis mutandis*.

Subsection 5 Special Provisions for Claims for Tax, etc.

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

- (2) Where the cause of a claim (excluding claims for a fine, petty fine, and court costs for a criminal case) filed under the provision of Article 114 is a disposition against which a request for review, action (excluding a criminal action; the same shall apply in the following paragraph) or any other appeal may be filed, a bankruptcy trustee may assert an objection with regard to the filed claim by a method of filing such an appeal.
- (3) In the case referred to in the preceding paragraph, if an action relating to the filed claim is pending at the time of commencement of bankruptcy proceedings, a bankruptcy trustee who intends to assert an objection prescribed in said paragraph shall take over the action in which the bankruptcy creditor who holds the filed claim stands as the opponent. The same shall apply where a case relating to the bankruptcy estate is pending before an administrative agency with regard to the filed claim at the time of commencement of bankruptcy proceedings.
- (4) The assertion of an objection under the provision of paragraph (2) or the taking over of action under the provision of the preceding paragraph shall be

performed within an unextendable period of one month after the day on which a bankruptcy trustee came to know the fact of the filing prescribed in paragraph (2).

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

Section 4 Creditors Meetings and Creditors Committee

Subsection 1 Creditors Meetings

(Convocation of Creditors Meetings)

Article 135 (1) The court shall convoke a creditors meeting upon the petition of any of the persons listed in the following items; provided, however, that this shall not apply when the court finds it inappropriate to convoke a creditors meeting while taking into consideration the number of known bankruptcy creditors and any other circumstances concerned.

(i) A bankruptcy trustee

(ii) The creditors committee prescribed in Article 144(2)

(iii) A bankruptcy creditor who holds a bankruptcy claim that accounts for one-tenth or more of the amount of total claims held by known bankruptcy creditors as estimated by the court

- (2) The court, without the petition set forth in the main clause of the preceding paragraph, may convoke a creditors meeting when it finds it appropriate.

(Summon on the Date of Creditors Meeting, etc.)

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

- (2) Notwithstanding the provision of the main clause of the preceding paragraph, it is allowed not to summon holders of filed bankruptcy claims who may not exercise their voting rights. In the case of a meeting for reporting the status of property, the same shall apply to persons who are given a notice pursuant to the provision of Article 32(3).

- (3) The court shall make a public notice and give a notice of the date of a meeting for reporting the status of property pursuant to the provisions of Article 32(1)(iii) and (3), and shall also make a public notice of the date of each creditors meeting (excluding a meeting for reporting the status of property);

hereinafter the same shall apply in this paragraph) and the matters that are the purposes of the meeting, and give a notice of the date of each creditors meeting to the labor union, etc..

- (4) If it is rendered, on the date of a creditors meeting, that the meeting shall be postponed or continued, the provisions of the main clause of paragraph (1) and the preceding paragraph shall not apply.

(Direction of Creditors Meetings)

Article 137 Creditors meetings shall be directed by the court.

(Resolution at Creditors Meeting)

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

(Order to Refer to Resolution)

Article 139 (1) The court, when a person set forth in each item of Article 135(1) has filed a petition set forth in the main clause of Article 135(1) for the purpose of referring a matter that requires a resolution at a creditors meeting to such a resolution, shall make an order to refer the matter in question to a resolution at a creditors meeting.

- (2) The court, in the order to refer to a resolution set forth in the preceding paragraph, shall designate any of the following methods as the method available to voting right holders for exercising their voting rights:
- (i) The method of exercising a voting right on the date of a creditors meeting
 - (ii) The method of exercising a voting right by voting by document, etc.
(meaning voting by document or any other means specified by the Rules of the Supreme Court) within a period specified by the court.
 - (iii) The method of exercising a voting right by either of the methods listed in the preceding two items as chosen by voting right holders. In this case, the last day of the period set forth in the preceding item shall precede the date of a creditors meeting set forth in item (i).
- (3) The court, when it has designated either of the methods set forth in item (ii) or item (iii) of the preceding paragraph as the method for exercising a voting right, shall make a public notice to that effect, and shall give a notice to voting right holders that voting by document, etc. prescribed in item (ii) of said paragraph shall be allowed only within a period specified by the court;

provided, however, that the notice shall not be required to be given if an order set forth in Article 31(5) is made.

(Method of Determination the Amount of a Voting Right Where a Creditors Meeting Is to Be Held on the Date Set Therefor, etc.)

Article 140 (1) Where the court designates either of the methods set forth in paragraph (2)(ii) or (iii) of the preceding Article as the method for exercising a voting right, voting right holders may exercise their voting rights in accordance with the amount specified in each of the following items for the categories listed in the respective items:

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

(Method of Determination the Amount of a Voting Right Where a Creditors

Meeting Is Not to Be Held on the Date Set Therefor, etc.)

Article 141 (1) Where the court designates the method set forth in Article 139(2)(ii) as the method for exercising a voting right, voting right holders may exercise their voting rights in accordance with the amount specified in each of the following items for the categories listed in the respective items:

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

(Voting Rights of Bankruptcy Creditors)

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

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

(Exercise of Voting Rights by Proxy)

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

Subsection 2 Creditors Committee

(Creditors Committee)

Article 144 (1) Where there is a committee consisting of bankruptcy creditors, the court, upon the petition of an interested person, may give approval to the participation of said committee in bankruptcy proceedings as provided for by this Act; provided, however, that this shall apply only where all of the conditions listed in the following items are met:

- (i) The number of committee members is not less than three and not more than the number specified by the Rules of the Supreme Court.
- (ii) It is found that the majority of bankruptcy creditors consent to the committee's participation in bankruptcy proceedings.

- (iii) It is found that the committee will properly represent the interest of bankruptcy creditors as a whole.
- (2) The court, when it finds it necessary, may request the committee approved pursuant to the provision of the preceding paragraph (hereinafter referred to as the "creditors committee") to state its opinions in bankruptcy proceedings.
- (3) The creditors committee may state its opinions to the court or a bankruptcy trustee in bankruptcy proceedings.
- (4) When it is found that the creditors committee has carried out activities that contribute to ensuring smooth progress in bankruptcy proceedings, the court, upon the petition of a bankruptcy creditor who has incurred necessary expenses for said activities, may permit reimbursement of the amount of expenses, which it finds reasonable, to said bankruptcy creditor from the bankruptcy estate. In this case, a claim for such expenses shall be a claim on the estate.
- (5) The court, upon the petition of an interested person or by its own authority, may rescind the approval given pursuant to the provision of paragraph (1) at any time.

(Hearing of Opinions of the Creditors Committee)

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

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

- Article 146 (1) A bankruptcy trustee, when he/she has submitted written reports, etc. (meaning written reports, inventory of assets or balance sheets; hereinafter the same shall apply in this Article) to the court pursuant to the provisions of Article 153(2) or Article 157, without delay, shall also submit said written reports, etc. to the creditors committee.
- (2) When a bankruptcy trustee, in the case referred to in the preceding paragraph, has filed a petition set forth in Article 12(1), alleging that the written reports, etc. in question contain a detrimental part prescribed in Article 12(1), it shall be sufficient for him/her to submit the written reports, etc. excluding such part to the creditors committee.

(Report Order to Bankruptcy Trustee)

- Article 147 (1) The creditors committee, when it is necessary for the interest of

bankruptcy creditors as a whole, may request the court to order that a bankruptcy trustee make a report under the provision of Article 157(2) with regard to the necessary matters concerning the administration and disposition of property that belongs to the bankruptcy estate.

- (2) The court that has received a request made under the provision of the preceding paragraph, when it finds the request appropriate, shall order that a bankruptcy trustee make a report under the provision of Article 157(2).

Chapter V Claims on the Estate

(Claims in the Scope of Claims on the Estate)

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

- (i) A claim for expenses for court proceedings performed for the common interest of bankruptcy creditors
 - (ii) A claim for expenses for the administration, realization and liquidating distribution of the bankruptcy estate
 - (iii) A claim for tax, etc. arising from a cause that has occurred before the commencement of bankruptcy proceedings (excluding the claim set forth in Article 97(v)), for which, by the time of commencement of bankruptcy proceedings, the due date of payment has not yet arrived or one year has not yet elapsed after the due date of payment (in cases where a procedure for collection of national tax delinquency may not be enforced for a certain part of the one-year period due to the issuance of a comprehensive prohibition order during said period, such part of the period shall be excluded)
 - (iv) A claim arising from an act conducted by a bankruptcy trustee with respect to the bankruptcy estate
 - (v) A claim arising against the bankruptcy estate after the commencement of bankruptcy proceedings from management without mandate or unjust enrichment
 - (vi) A claim arising against the bankruptcy estate after the commencement of bankruptcy proceedings from an act conducted due to pressing circumstances after the termination of mandate or extinguishment of the authority of representation.
 - (vii) A claim held by the counter party in cases where a bankruptcy trustee performs the obligation pursuant to the provision of Article 53(1)
 - (viii) A claim arising, in cases where a notice of termination of a bilateral contract (including termination of a lease contract pursuant to the provisions of Article 53(1) or (2)) is given by reason of the commencement of bankruptcy proceedings, during the period after the commencement of bankruptcy proceedings until the end of the contract
- (2) If a bankruptcy trustee has received performance of a testamentary gift with

burden, the claim held by the party to whom he/she bears duties to seek the benefit of the burden shall be a claim on the estate.

(3) The provisions of Article 103(2) and (3) shall apply mutatis mutandis to the claims on the estate prescribed in paragraph (1)(vii) and the preceding paragraph. In this case, if the claim on the estate is a claim without interest or claim for periodic payments, the amount of such claim shall be the amount obtained by deducting therefrom an amount equivalent to the part of the claim that shall be a subordinate bankruptcy claim set forth in Article 99(1)(ii) to (iv) should the claim be treated as a bankruptcy claim.

(4) Any claim arising from an act conducted by a provisional administrator with his/her powers with respect to a debtor's property shall be a claim on the estate.

(Salaries for Employees, etc.)

Article 149 (1) A claim for salary of an employee of the bankrupt for the three months preceding the commencement of bankruptcy proceedings shall be a claim on the estate.

(2) A claim for retirement allowance of an employee of the bankrupt who has retired prior to the close of bankruptcy proceedings (excluding the part of the claim that shall be a subordinate bankruptcy claim should it be treated as a bankruptcy claim in whole) shall be a claim on the estate for an amount equivalent to the total amount of the employee's salary for the three months preceding retirement (in cases where such total amount is less than the total amount of his/her salary for the three months preceding the commencement of bankruptcy proceedings, the total amount of his/her salary for the three months preceding the commencement of bankruptcy proceedings).

(Expenses and Remuneration for Bond Administrator, etc.)

Article 150 (1) Where a bond administrator intends to administer the affairs concerning the administration of company bonds that are bankruptcy claims, the court, when it finds it necessary in order to ensure smooth progress in bankruptcy proceedings, may grant permission to the effect that the bond administrator's claim for expenses to be incurred for the administration of said affairs shall be a claim on the estate.

(2) Even where a bond administrator has administered the affairs concerning the administration of company bonds that are bankruptcy claims without the permission set forth in the preceding paragraph, the court, if it is found that the bond administrator has contributed to ensuring smooth progress in bankruptcy proceedings, may grant permission to the effect that a claim for reimbursement of the expenses incurred for the administration of said affairs shall be a claim on the estate for an amount that the court finds reasonable by taking into consideration the degree of his/her contribution.

- (3) The court may grant permission to the effect that a bond administrator's claim for remuneration arising from a cause that has occurred after the commencement of bankruptcy proceedings shall be a claim on the estate for an amount that the court finds reasonable.
- (4) A claim for which permission is obtained under the provisions of the preceding three paragraphs shall be a claim on the estate.
- (5) An immediate appeal may be filed against an order of permission under the provisions of paragraph (1) to paragraph (3).
- (6) The provisions of the preceding paragraphs shall apply mutatis mutandis to a claim for expenses or remuneration that arises from the affairs concerning the administration of a claim set forth in each of the following items, which is a bankruptcy claim, for the categories of the persons listed in the respective items:
 - (i) A trustee company under a trust agreement prescribed in Article 2(1) of the Secured Bonds Trust Act (Act No. 52 of 1905): Company bonds prescribed in Article 2(1) of said Act
 - (ii) A social medical care corporation bond administrator prescribed in Article 54-5 of the Medical Care Act (Act No. 205 of 1948): Social medical care corporation bonds prescribed in Article 54-2(1) of said Act
 - (iii) An investment corporation bond administrator prescribed in Article 139-8 of the Act on Investment Trust and Investment Corporation (Act No. 198 of 1951): Investment corporation bonds prescribed in Article 2(17) of said Act
 - (iv) A bond administrator prescribed in Article 61-6 of the Insurance Business Act: Company bonds issued by a mutual company
 - (v) A specified bond administrator prescribed in Article 126 of the Act on Securitization of Assets (Act No. 105 of 1998): Specified company bonds prescribed in Article 2(7) of said Act

(Treatment of Claims on the Estate)

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

(Method of Payment from the Insufficient Bankruptcy Estate, etc.)

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

- (2) Notwithstanding the provision of the preceding paragraph, claims on the estate set forth in Article 148(1)(i) and (ii) (including a claim for expenses for

the administration and realization of a debtor's property, which is prescribed in paragraph (4) of said Article), in the case prescribed in the main clause of said paragraph, shall be paid in preference to other claims on the estate.

Chapter VI Administration of the Bankruptcy Estate

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

(Evaluation of Property, etc.)

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

(2) A bankruptcy trustee, when he/she has completed the evaluation under the provision of the preceding paragraph, shall immediately prepare an inventory of assets and a balance sheet as of the time of commencement of bankruptcy proceedings and submit these to the court.

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

(Presentation of the Collateral for a Right of Separate Satisfaction, etc.)

Article 154 (1) A bankruptcy trustee may request a holder of a right of separate satisfaction to present the collateral for the right of separate satisfaction.

(2) When a bankruptcy trustee intends to value the collateral set forth in the preceding paragraph, the holder of a right of separate satisfaction may not refuse it.

(Sealing and Closing of Books)

Article 155 (1) A bankruptcy trustee, when he/she finds it necessary, may have a court clerk, court execution officer or notary put a seal on property that belongs to the bankruptcy estate or remove such seal.

(2) A court clerk, when he/she finds it necessary, upon the petition of a bankruptcy trustee, may close books relating to the bankruptcy estate.

(Delivery of Property Belonging to the Bankruptcy Estate)

Article 156 (1) The court, upon the petition of a bankruptcy trustee may make an order that the bankrupt deliver property that belongs to the bankruptcy estate to the bankruptcy trustee.

- (2) The court, when making an order set forth in the preceding paragraph, shall interrogate the bankrupt.
- (3) An immediate appeal may be filed against an order on the petition set forth in paragraph (1).
- (4) Where an order on the petition set forth in paragraph (1) and a judicial decision on immediate appeal set forth in the preceding paragraph are made, the written order/decision shall be served upon the parties concerned. In this case, the provision of the main clause of Article 10(3) shall not apply.
- (5) The order set forth in paragraph (1) shall not become effective unless it becomes final and binding.

(Report to the Court)

Article 157 (1) A bankruptcy trustee, without delay after the commencement of bankruptcy proceedings, shall submit to the court a written report stating the following matters:

- (i) The circumstances that have resulted in the commencement of bankruptcy proceedings
 - (ii) The past and existing status of the bankrupt and the bankruptcy estate
 - (iii) Whether or not there are circumstances that require a temporary restraining order under the provision of Article 177(1) or officer's liability assessment order prescribed in Article 178(1)
 - (iv) Other necessary matters concerning bankruptcy proceedings
- (2) In addition to what is prescribed in the preceding paragraph, a bankruptcy trustee, as provided for by the court, shall report to the court the status of the administration and disposition of property that belongs to the bankruptcy estate and any other matters as ordered by the court.

(Report to a Meeting for Reporting the Status of Property)

Article 158 At a meeting for reporting the status of property, a bankruptcy trustee shall report the gist of the matters listed in the items of paragraph (1) of the preceding Article.

(Report to Creditors Meetings)

Article 159 A bankruptcy trustee, as provided for by a resolution at a creditors meeting, shall report the status of the bankruptcy estate to the creditors meeting.

Section 2 Right of Avoidance

(Avoidance of Acts Prejudicial to Bankruptcy Creditors)

Article 160 (1) The following acts (excluding acts concerning the provision of

security or extinguishment of debt) may be avoided in the interest of the bankruptcy estate after the commencement of bankruptcy proceedings:

- (i) An act conducted by the bankrupt while knowing that it would prejudice bankruptcy creditors; provided, however, that this shall not apply where the person who has benefited from said act did not know, at the time of the act, the fact that it would prejudice any bankruptcy creditor.
 - (ii) An act that would prejudice bankruptcy creditors conducted by the bankrupt after suspension of payments or filing of a petition for commencement of bankruptcy proceedings (hereinafter referred to as "suspension of payments, etc." in this Section) took place; provided, however, that this shall not apply where the person who has benefited from said act did not know, at the time of the act, the fact that suspension of payments, etc. had taken place nor the fact that the act would prejudice any bankruptcy creditor.
- (2) With respect to an act concerning the extinguishment of debt conducted by the bankrupt, if the value of the performance received by the creditor exceeds the amount of the debt extinguished by said act, and said act satisfies any of the requirements listed in the items of the preceding paragraph, such act may be avoided in the interest of the bankruptcy estate after the commencement of bankruptcy proceedings only with regard to the part other than the part equivalent to the amount of the debt extinguished.
- (3) Any gratuitous act, or any onerous act that should be deemed to be equal to such an act, conducted by the bankrupt after or within six months prior to suspension of payments, etc. may be avoided in the interest of the bankruptcy estate after the commencement of bankruptcy proceedings.

(Avoidance of Acts of Disposing of Property Conducted While Receiving Reasonable Value)

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

- (i) The act has the actual risk that the bankrupt would conceal, gratuitously convey or otherwise dispose of the property in a manner prejudicial to bankruptcy creditors (hereinafter referred to as "concealment or other disposition" in this Article and Article 168(2) and (3)) by realizing real property or otherwise changing the type of property by way of such disposition.
- (ii) The bankrupt, at the time of the act, had the intention of conducting concealment or other disposition of the money or any other property that

he/she received as a value for the act.

(iii) The other party, at the time of the act, knew that the bankrupt had the intention of conducting concealment or other disposition set forth in the preceding item.

(2) For the purpose of application of the provision of the preceding paragraph, if the other party to the act in question is any of the following persons, the other party shall be presumed to have known, at the time of the act, that the bankrupt had the intention of conducting concealment or other disposition set forth in item (ii) of said paragraph:

(i) In cases where the bankrupt is a juridical person, its director, executive officer, inspector, auditor, liquidator or any other person equivalent thereto

(ii) In cases where the bankrupt is a juridical person, a person who falls under any of the categories of persons listed in (a) to (c) below in relation to the bankrupt:

(a) In cases where the bankrupt is a stock company, a person who holds the majority of voting rights of all shareholders of the bankrupt

(b) In cases where the bankrupt is a stock company, and the majority of voting rights of all shareholders of the bankrupt are held independently by a subsidiary stock company of a parent juridical person or jointly by a parent juridical person and its subsidiary stock company, the parent juridical person

(c) In cases where the bankrupt is a juridical person other than a stock company, a person equivalent to those set forth in (a) or (b)

(iii) The bankrupt's relative or a person living together with the bankrupt

(Avoidance of Provision of Security, etc. to Specific Creditors)

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

(i) An act conducted by the bankrupt after he/she became unable to pay debts or a petition for commencement of bankruptcy proceedings was filed; provided, however, that this shall apply only where the creditor, at the time of the act, knew either of the facts set forth in (a) or (b) below for the cases listed in (a) or (b), respectively:

(a) Where the act was conducted after the bankrupt became unable to pay debts: The fact that the bankrupt was unable to pay debts or suspended payments

(b) Where the act was conducted after a petition for commencement of bankruptcy proceedings was filed: The fact that a petition for commencement of bankruptcy proceedings was filed

- (ii) An act that is not included in the scope of the bankrupt's obligation in terms of the act itself or the time of performance of the act, which was conducted within 30 days before the bankrupt became unable to pay debts; provided, however, that this shall not apply if the creditor did not know, at the time of the act, the fact that it would prejudice other bankruptcy creditors.
- (2) For the purpose of application of the provision of item (i) of the preceding paragraph, in the following cases, the creditor shall be presumed to have known, at the time of the act set forth in said item, either of the facts set forth in (a) or (b) below for the cases listed in (a) or (b), respectively (in the case set forth in (a) of said item, both the facts that the bankrupt was unable to pay debts and that the bankrupt suspended payments):
 - (i) Where the creditor is any of the persons listed in the items of paragraph (2) of the preceding Article
 - (ii) Where the act set forth in item (i) of the preceding paragraph is not included in the scope of the bankrupt's obligation in terms of the act itself or the method or time of performance of the act
- (3) For the purpose of application of the provisions of the items of paragraph (1), after suspension of payments took place (limited to suspension that took place within one year prior to the filing of a petition for commencement of bankruptcy proceedings), the bankrupt shall be presumed to have been unable to pay debts.

(Exceptions to Payment of Debts on Negotiable Instrument, etc.)

Article 163 (1) The provision of paragraph (1)(i) of the preceding Article shall not apply where a person who has received payment of a negotiable instrument from the bankrupt would lose his/her right on the negotiable instrument against one or more debtors on the negotiable instrument unless he/she receives such payment.

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

(Avoidance of Requirements of Perfection of Changes in Rights)

Article 164 (1) Where an act necessary for duly asserting the establishment,

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

(2) The provision of the preceding paragraph shall apply mutatis mutandis to a registration based on which the acquisition of a right shall become effective.

(Avoidance of Acts of Execution)

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

(Restriction on Avoidance by Reason of Suspension of Payments)

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

(Effect of the Exercise of Right of Avoidance)

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

(2) Where an act prescribed in Article 160(3) is avoided, if the other party did not know, at the time of the act, the fact that suspension of payments, etc. had taken place nor the fact that the act would prejudice any bankruptcy creditor, it shall be sufficient for the other party to reimburse the enrichment that he/she actually enjoys.

(Rights Held by the Other Party over Counter-Performance Received by the Bankrupt, etc.)

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

(i) Where the counter-performance received by the bankrupt actually exists within the bankruptcy estate: A right to claim return of the counter-performance

(ii) Where the counter-performance received by the bankrupt does not actually

- exist within the bankruptcy estate: A right to claim, as a holder of claim on the estate, reimbursement of the value of the counter-performance
- (2) Notwithstanding the provision of item (ii) of the preceding paragraph, in the cases listed in said item, if the bankrupt, at the time of the act in question, had the intention of conducting concealment or other disposition of the property that he/she received as a value for the act and the other party knew that the bankrupt had such intention, the other party may exercise a right set forth in each of the following items for the cases listed in the respective items:
- (i) Where the enrichment arising from the counter-performance received by the bankrupt actually exists in whole within the bankruptcy estate: A right to claim, as a holder of claim on the estate, return of the actual enrichment
 - (ii) Where the enrichment arising from the counter-performance received by the bankrupt does not actually exist within the bankruptcy estate: A right to claim, as a bankruptcy creditor, reimbursement of the value of the counter-performance
 - (iii) Where the enrichment arising from the counter-performance received by the bankrupt actually exists in part within the bankruptcy estate: A right to claim, as a holder of claim on the estate, return of the actual enrichment, and a right to claim, as a bankruptcy creditor, reimbursement of any difference between the counter-performance and the actual enrichment
- (3) For the purpose of application of the provision of the preceding paragraph, if the other party to the act in question is any of the persons listed in the items of Article 161(2), the other party shall be presumed to have known, at the time of the act, that the bankrupt had the intention of conducting concealment or other disposition set forth in the preceding paragraph.
- (4) A bankruptcy trustee, when he/she intends to avoid an act prescribed in Article 160(1) or (3) or Article 161(1), in lieu of requesting return of the property that should be returned to the bankruptcy estate pursuant to the provision of paragraph (1) of the preceding Article, may request the other party to reimburse the amount obtained by deducting the amount that shall be included in the scope of claims on the estate pursuant to the provisions of the preceding three paragraphs (in the case set forth in paragraph (1)(i), the value of the counter-performance received by the bankrupt) from the value of said property to be returned.

(Restoration of the Other Party's Claim)

Article 169 Where an act prescribed in Article 162(1) is avoided, if the other party returns the performance that he/she has received or reimburses the value of such performance, this shall restore the other party's claim to its original state.

(Right of Avoidance against Subsequent Acquirers)

Article 170 (1) In the following cases, a right of avoidance may also be exercised against any subsequent acquirers:

- (i) Where the subsequent acquirers knew, at the time of acquisition, that there were grounds for avoidance against their predecessors.
 - (ii) Where each of the subsequent acquirers is any of the persons listed in the items of Article 161(2); provided, however, that this shall not apply if the subsequent acquirers did not know, at the time of acquisition, that there were grounds for avoidance against their predecessors.
 - (iii) Where the subsequent acquirers acquired the subject matter by any gratuitous act or by any onerous act that should be deemed to be equal to such an act, and there were grounds for avoidance against their predecessors.
- (2) The provision of Article 167(2) shall apply mutatis mutandis where a right of avoidance is exercised pursuant to the provision of item (iii) of the preceding paragraph.

(Temporary Restraining Order for Right of Avoidance)

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

- (2) The temporary restraining order under the provision of the preceding paragraph may be issued while requiring or not requiring the provision of security.
- (3) The court, upon petition or by its own authority, may change or revoke a temporary restraining order issued under the provision of paragraph (1).
- (4) An immediate appeal may be filed against a temporary restraining order issued under the provision of paragraph (1) and a judicial decision on the petition set forth in the preceding paragraph.
- (5) The immediate appeal set forth in the preceding paragraph shall not have the effect of stay of execution.
- (6) Where a judicial decision prescribed in paragraph (4) and a judicial decision on the immediate appeal set forth in said paragraph are made, the written decisions shall be served upon the parties concerned. In this case, the provision of the main clause of Article 10(3) shall not apply.
- (7) The provisions of the preceding paragraphs shall apply mutatis mutandis where an immediate appeal set forth in Article 33(1) is filed against an order dismissing with prejudice on the merits a petition for commencement of

bankruptcy proceedings.

(Continuation of Procedure Pertaining to Temporary Restraining Order and Treatment of Security)

- Article 172 (1) Where a temporary restraining order under the provision of paragraph (1) of the preceding Article (including cases where applied mutatis mutandis pursuant to paragraph (7) of said Article) is issued, if an order of commencement of bankruptcy proceedings is made, a bankruptcy trustee may continue the procedure pertaining to the temporary restraining order.
- (2) If a bankruptcy trustee does not continue, within one month after an order of commencement of bankruptcy proceedings is made, the procedure pertaining to a temporary restraining order set forth in the preceding paragraph pursuant to the provision of said paragraph, the temporary restraining order shall cease to be effective.
- (3) Where a bankruptcy trustee intends to continue the procedure pertaining to a temporary restraining order set forth in paragraph (1) pursuant to the provision of said paragraph, if the whole or part of the security prescribed in paragraph (2) of the preceding Article (including cases where applied mutatis mutandis pursuant to paragraph (7) of said Article) does not belong to the bankruptcy estate, he/she shall substitute, for the whole or part of such security, another security by way of property that belongs to the bankruptcy estate
- (4) The provisions of Article 18 of the Civil Preservation Act (Act No. 91 of 1989) and Chapter II, Section 4 (excluding Article 37(5) to (7)) and Section 5 of said Act shall apply mutatis mutandis to a temporary restraining order issued for the proceedings to be continued by a bankruptcy trustee pursuant to the provision of paragraph (1).

(Exercise of Right of Avoidance)

- Article 173 (1) A right of avoidance shall be exercised by a bankruptcy trustee by filing an action, making a request for avoidance or filing a defense.
- (2) Cases of the action and request for avoidance set forth in the preceding paragraph shall be subject to the jurisdiction of the bankruptcy court.

(Request for Avoidance)

- Article 174 (1) When making a request for avoidance, the requester shall make a prima facie showing of the fact constituting the grounds for avoidance.
- (2) A judicial decision to uphold a request for avoidance or dismiss it with prejudice on the merits shall be made by an order with reasons attached thereto.
- (3) The court, when making an order set forth in the preceding paragraph, shall

interrogate the other party or any subsequent acquirers.

- (4) Where an order to uphold a request for avoidance is made, the written order shall be served upon the parties concerned. In this case, the provision of the main clause of Article 10(3) shall not apply.
- (5) The proceedings for a request for avoidance shall be closed upon the close of bankruptcy proceedings.

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

- Article 175 (1) A person who disagrees with an order to uphold a request for avoidance may file an action to oppose within an unextendable period of one month after the day on which the person received the service of the order.
- (2) The action set forth in the preceding paragraph shall be subject to the jurisdiction of the bankruptcy court.
 - (3) A judgment rendered with regard to the action set forth in paragraph (1), except where the action is dismissed as unlawful without prejudice, shall approve, change or revoke the order set forth in said paragraph.
 - (4) When a judgment to approve an order set forth in paragraph (1) becomes final and binding, the order shall have the same effect as a final and binding judgment. The same shall apply if the action set forth in the preceding paragraph is not filed within the period prescribed in said paragraph or is dismissed without prejudice.
 - (5) With regard to a judgment to approve or change the order set forth in paragraph (1), the court in charge of the case, as provided for by Article 259(1) of the Code of Civil Procedure, may declare provisional execution.
 - (6) The action set forth in paragraph (1), notwithstanding the provision of Article 44(4), shall be concluded upon the close of bankruptcy proceedings.

(Period for Exercise of Right of Avoidance)

Article 176 A right of avoidance may not be exercised if two years have elapsed since the date of commencement of bankruptcy proceedings. The same shall apply where 20 years have elapsed since the date of the act to be avoided.

Section 3 Pursuing the Liabilities of Officers of Juridical Persons, etc.

(Temporary Restraining Order upon Officer's Property)

Article 177 (1) Where an order of commencement of bankruptcy proceedings is made against a debtor who is a juridical person, the court, when it finds it necessary, upon the petition of a bankruptcy trustee or by its own authority, with regard to a claim for damages based on the liabilities of the juridical person's director, executive officer, inspector, auditor, liquidator or any other person equivalent thereto (hereinafter referred to as "officer" in this Section),

- may issue a temporary restraining order upon the property of these officers.
- (2) The court, when it finds urgent necessity even during the period after a petition for commencement of bankruptcy proceedings is filed until an order on said petition is made, upon the petition of a debtor (or a provisional administrator if any provisional administrator is appointed) or by its own authority, may issue a temporary restraining order under the provision of the preceding paragraph.
 - (3) The court may change or revoke a temporary restraining order issued under the provisions of the preceding two paragraphs.
 - (4) An immediate appeal may be filed against a temporary restraining order issued under the provisions of paragraph (1) or paragraph (2) and an order made under the provision of the preceding paragraph.
 - (5) The immediate appeal set forth in the preceding paragraph shall not have the effect of stay of execution.
 - (6) Where a judicial decision prescribed in paragraph (4) and a judicial decision on the immediate appeal set forth in said paragraph are made, the written decisions shall be served upon the parties concerned. In this case, the provision of the main clause of Article 10(3) shall not apply.
 - (7) The provisions of paragraph (2) to the preceding paragraph shall apply *mutatis mutandis* where an immediate appeal set forth in Article 33(1) is filed against an order to dismiss with prejudice on the merits a petition for commencement of bankruptcy proceedings.

(Petition for Assessment of Officer's Liability, etc.)

- Article 178 (1) Where an order of commencement of bankruptcy proceedings is made against a debtor who is a juridical person, the court, when it finds it necessary, upon the petition of a bankruptcy trustee or by its own authority, by an order, may make an assessment decision on a claim for damages based on its officer's liability (hereinafter referred to as an "officer's liability assessment order" in this Section).
- (2) When filing the petition set forth in the preceding paragraph, the petitioner shall make a *prima facie* showing of the fact constituting the grounds for liability.
 - (3) Where the court commences proceedings for an officer's liability assessment order by its own authority, it shall make an order to that effect.
 - (4) When a petition set forth in paragraph (1) is filed or an order set forth in the preceding paragraph is made, for the purpose of interruption of prescription, it shall be deemed that demand by litigation is made.
 - (5) The proceedings for an officer's liability assessment order shall be closed upon the close of bankruptcy proceedings (excluding the case where an officer's liability assessment order is already made at the time of the close of

bankruptcy proceedings).

(Officer's Liability Assessment Order, etc.)

- Article 179 (1) An officer's liability assessment order and an order to dismiss with prejudice on the merits the petition set forth in paragraph (1) of the preceding Article shall state reasons therefor.
- (2) The court, when making a judicial decision prescribed in the preceding paragraph, shall interrogate the officer in question.
- (3) Where an officer's liability assessment order is made, the written order shall be served upon the parties concerned. In this case, the provision of the main clause of Article 10(3) shall not apply.

(Action Against Officer's Liability Assessment Order)

- Article 180 (1) A person who disagrees with an officer's liability assessment order may file an action to oppose within an unextendable period of one month after the day on which the person received the service of the order.
- (2) The action set forth in the preceding paragraph shall be subject to the jurisdiction of the bankruptcy court.
- (3) In an action set forth in paragraph (1), a bankruptcy trustee shall stand as a defendant if it is filed by the officer in question, and the officer in question shall stand as a defendant if it is filed by a bankruptcy trustee.
- (4) A judgment rendered with regard to the action set forth in paragraph (1), except where the action is dismissed as unlawful without prejudice, shall approve, change or revoke the officer's liability assessment order.
- (5) A judgment that approves or changes an officer's liability assessment order, for the purpose of compulsory execution, shall have the same effect as a judgment to order performance.
- (6) With regard to a judgment that approves or changes an officer's liability assessment order, the court in charge of the case, as provided for by Article 259(1) of the Code of Civil Procedure, may declare provisional execution.

(Effect of Officer's Liability Assessment Order)

- Article 181 If an action set forth in paragraph (1) of the preceding Article is not filed within the period set forth in said paragraph or is dismissed without prejudice, the officer's liability assessment order shall have the same effect as a final and binding judgment to order performance.

(Officer's Liability of Contributions)

- Article 182 The provision of Article 663 of the Companies Act shall apply *mutatis mutandis* where an order of commencement of bankruptcy proceedings is made against a debtor who is a juridical person. In this case, the term "such

membership company in liquidation" in said Article shall be deemed to be replaced with "a bankruptcy trustee."

(Silent Partner's Liability of Contributions)

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

Chapter VII Realization of the Bankruptcy Estate

Section 1 General Rules

(Method of Realization)

Article 184 (1) Realization of the types of property listed in Article 78(2)(i) and (ii), except where it is conducted through sale by private contract pursuant to these provisions, shall be conducted pursuant to the provisions of the Civil Execution Act and other laws and regulations concerning a procedure for compulsory execution.

(2) A bankruptcy trustee, pursuant to the provisions of the Civil Execution Act and other laws and regulations concerning a procedure for compulsory execution, may conduct realization of the collateral for a right of separate satisfaction. In this case, the holder of the right of separate satisfaction may not refuse such realization.

(3) In the cases referred to in the preceding two paragraphs, the provisions of Article 63 and Article 129 of the Civil Execution Act (including cases where these provisions are applied mutatis mutandis pursuant to the provisions of said Act and other laws and regulations concerning a procedure for compulsory execution) shall not apply.

(4) In the case referred to in paragraph (2), if the amount to be received by a holder of a right of separate satisfaction has not yet been determined, a bankruptcy trustee shall make a contractual deposit of the price separately. In this case, the right of separate satisfaction shall exist upon the price deposited.

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

Article 185 (1) If a holder of a right of separate satisfaction has a right to dispose of, by a method other than those stipulated by law, the collateral for the right of separate satisfaction, the court, upon the petition of a bankruptcy trustee, may specify a period during which the holder of the right of separate satisfaction should conduct such disposition.

(2) A holder of a right of separate satisfaction, if he/she fails to conduct

disposition within the period set forth in the preceding paragraph, shall lose the right set forth in said paragraph.

- (3) An immediate appeal may be filed against a judicial decision on the petition set forth in paragraph (1).
- (4) Where a judicial decision on the petition set forth in paragraph (1) and a judicial decision on the immediate appeal set forth in the preceding paragraph are made, the written decisions shall be served upon the parties concerned. In this case, the provision of the main clause of Article 10(3) shall not apply.

Section 2 Extinguishment of Security Interests

(Petition for Permission for Extinguishment of Security Interests)

Article 186 (1) Where there exist any security interests (meaning a special statutory lien, pledge, mortgage, or a right of retention under the provisions of the Commercial Code or the Companies Act; hereinafter the same shall apply in this Section), at the time of commencement of bankruptcy proceedings, against property that belongs to the bankruptcy estate, if it is in the common interests of bankruptcy creditors to cause said security interests to be extinguished by selling by private contract said property, a bankruptcy trustee may file a petition to the court for permission for the measure to sell by private contract the property and cause all security interests to be extinguished by paying to the court the amount of money specified in each of the following items for the cases listed in the respective items; provided, however, that this shall not apply if such measure would unduly harm the interest of the persons who hold the security interests in question:

- (i) Where the bankruptcy trustee intends to transfer part of the amount of money that can be obtained from the counter party through the sale (excluding the amount of money consisting of the amount of actual costs already paid or to be paid in the future from the bankruptcy estate for concluding and performing the sales contract and the amounts of consumption tax, etc. to be imposed on the transfer of the property (meaning the amount of consumption tax and the amount of local consumption tax to be imposed based on the former amount as a tax base; hereinafter the same shall apply in this Section), which shall be borne by the counter party under the sales contract; hereinafter referred to as "proceeds" in this Section) into the bankruptcy estate: The amount obtained by deducting the amount of money to be deducted from the proceeds and added to the estate (hereinafter referred to as the "money deducted from the proceeds and added to the estate" in this Section) from the amount of proceeds
- (ii) Cases other than the one set forth in the preceding item: The amount of proceeds

- (2) In the case set forth in item (i) of the preceding paragraph, a bankruptcy trustee who intends to file a petition set forth in said paragraph shall consult with the person(s) who holds the security interest(s) in question in advance with regard to the amount of money deducted from the proceeds and added to the estate.
- (3) The petition set forth in paragraph (1) shall be filed by means of a document stating the following matters (hereinafter referred to as a "written petition" in this Section):
- (i) The indication of the property that is the subject matter of the security interest(s)
 - (ii) The amount of proceeds (if the property set forth in the preceding item consists of two or more pieces of property, the amount of proceeds and the amount thereof allocated to each piece of property)
 - (iii) The name of the counter party to the sale of the property set forth in item (i)
 - (iv) The indication of the security interest(s) to be extinguished
 - (v) The amount of claim secured by the security interest(s) set forth in the preceding item
 - (vi) In the case set forth in paragraph (1)(i), the amount of money to be deducted from the proceeds and added to the estate (if the property set forth in the preceding item consists of two or more pieces of property, the amount of money to be deducted from the proceeds and added to the estate and the amount thereof allocated to each piece of property)
 - (vii) The outcome and process of the consultation under the provision of the preceding paragraph
- (4) A written petition shall be accompanied by a document stating the contents of the sales contract for the sale of property set forth in item (i) of the preceding paragraph (including the amount of money consisting of the amount of actual costs already paid or to be paid in the future from the bankruptcy estate for concluding and performing the sales contract and the amounts of consumption tax, etc. to be imposed on the transfer of the property, which shall be borne by the counter party under the sales contract).
- (5) Where a petition set forth in paragraph (1) is filed, the written petition and the document set forth in the preceding paragraph shall be served upon the person(s) who holds the security interest(s) set forth in paragraph (3)(iv) as stated in the written petition (hereinafter referred to as "designated security interest holder" in this Section). In this case, the provision of the main clause of Article 10(3) shall not apply.

(Petition for Exercise of Security Interests)

Article 187 (1) A designated security interest holder, if he/she has an objection

to the petition set forth in paragraph (1) of the preceding Article, within one month after the day on which the written petition and the document set forth in paragraph (4) of said Article are served upon all designated security interest holders pursuant to the provision of paragraph (5) of said Article, may submit to the court a document that certifies his/her filing of a petition for exercise of security interest.

- (2) The court, upon the petition of a security interest holder, may extend the period set forth in the preceding paragraph only where the designated security interest holder has any unavoidable grounds.
- (3) Where there is an agreement between a bankruptcy trustee and a designated security interest holder with regard to the amounts of proceeds and of money to be deducted from the proceeds and added to the estate (in the case set forth in paragraph (1)(ii) of the preceding Article, the amount of proceeds), the designated security interest holder may not file a petition for exercise of security interest.
- (4) A designated security interest holder, after the period set forth in paragraph (1) (in cases where it is extended pursuant to the provision of paragraph (2), the period as extended; hereinafter the same shall apply in this Section) has expired, may not file a petition for exercise of security interest, except where an order of permission set forth in Article 189(1) is revoked pursuant to the provision of Article 190(6) or an order of non-permission set forth in said paragraph becomes final and binding.
- (5) Where, after a document that certifies the filing of a petition for exercise of security interest set forth in paragraph (1) was submitted, the petition for exercise of security interest has been withdrawn or dismissed without prejudice, the document shall be deemed to have never been submitted. The same shall apply where the procedure for exercise of a security interest set forth in said paragraph is revoked pursuant to the provisions of Article 63 of the Civil Execution Act as applied mutatis mutandis pursuant to Article 188 of said Act or Article 129 of said Act as applied mutatis mutandis pursuant to Article 192 of said Act (including cases where these provisions are applied mutatis mutandis pursuant to said Act and other laws and regulations concerning a procedure for compulsory execution).
- (6) Where, after an order of non-permission set forth in Article 189(1) became final and binding, the petition for exercise of security interest set forth in paragraph (1) has been withdrawn or dismissed without prejudice, if a bankruptcy trustee files a petition set forth in paragraph (1) of the preceding Article, the designated security interest holder who has filed the petition for exercise of security interest, notwithstanding the provision of paragraph (1), may not submit the document that certifies his/her filing of the petition for exercise of security interest set forth in said paragraph.

(Purchase Offer)

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

(2) A purchase offer shall be made by means of a document stating the following matters:

(i) The name of the person who intends to purchase the property set forth in Article 186(3)(i) (hereinafter referred to as the "applicant for purchase" in this Section)

(ii) The amount of money that a bankruptcy trustee can obtain from the applicant for purchase through the sale of the property set forth in Article 186(3)(i) (excluding the amount of money consisting of the amount of actual costs already paid or to be paid in the future from the bankruptcy estate for concluding and performing the sales contract and the amounts of consumption tax, etc. to be imposed on the transfer of the property, which shall be borne by the applicant for purchase under the sales contract; hereinafter referred to as the "offered purchase price" in this Section)

(iii) If the property set forth in Article 186(3)(i) consists of two or more pieces of property, the offered purchase price and the amount thereof allocated to each piece of property)

(3) The offered purchase price shall be not less than the amount obtained by adding the amount of proceeds set forth in Article 186(3)(ii) as stated in the written petition and the amount equivalent to one-twentieth of the former.

(4) If the property set forth in Article 186(3)(i) consists of two or more pieces of property, the amount of the offered purchase price set forth in paragraph (2)(iii) allocated to each piece of property shall not be below the amount of proceeds set forth in paragraph (3)(ii) of said Article allocated to the respective piece of property.

(5) An applicant for purchase, upon making a purchase offer, shall provide a bankruptcy trustee with a guarantee by the amount and method specified by the Rules of the Supreme Court.

(6) The provision of paragraph (3) of the preceding Article shall apply mutatis mutandis to a purchase offer.

(7) A person who has made a purchase offer (or an applicant for purchase if a person other than the person who has made a purchase offer is an applicant for purchase), may withdraw the purchase offer within the period set forth in paragraph (1) of the preceding Article.

- (8) When a purchase offer is made, a bankruptcy trustee, after the period set forth in paragraph (1) of the preceding Article has expired, shall notify the court to the effect that he/she will sell the property set forth in Article 186(3)(i) to the applicant for purchase. In this case, if two or more purchase offers are made, a bankruptcy trustee shall notify to the effect that he/she will sell the property to the applicant for purchase who has made the purchase offer with the highest offered purchase price (in cases where there are two or more purchase offers with the highest offered purchase price, the applicant for purchase who has made the first offer).
- (9) In the case referred to in the preceding paragraph, a bankruptcy trustee shall submit to the court the document set forth in paragraph (2) pertaining to the purchase offer made within the period set forth in paragraph (1) of the preceding Article.
- (10) When a purchase offer is made, a bankruptcy trustee, in order to withdraw the petition set forth in Article 186(1), shall obtain consent from the applicant for purchase (after the order of permission set forth in paragraph (1) of the following Article becomes final and binding, the purchaser prescribed in paragraph (2) of said Article).

(Order of Permission for Extinguishment of Security Interest, etc.)

Article 189 (1) The court, except where it makes an order of non-permission by reason that a designated security interest holder has submitted a document that certifies his/her filing of a petition for exercise of security interest within the period set forth in Article 187(1), shall make an order of permission set forth in Article 186(1), designating the person specified in each of the following items for the cases listed in the respective items as the counter party to the sale pertaining to the permission:

- (i) Where the notification prescribed in paragraph (8) of the preceding Article has not been made: The counter party to the sale set forth in Article 186(3)(iii)
 - (ii) Where the notification prescribed in paragraph (8) of the preceding Article has been made: The applicant for purchase prescribed in said paragraph
- (2) In the case set forth in item (ii) of the preceding paragraph, when the order of permission set forth in said paragraph has become final and binding, it shall be deemed that a bankruptcy trustee and the applicant for purchase specified in said item (hereinafter referred to as the "purchaser" in this Section) who pertains to said permission has concluded a sales contract with the same contents as those stated in the document set forth in Article 186(4) (excluding the counter party to the sale). In this case, the offered purchase price shall be deemed to be the amount of proceeds under the sales contract.
 - (3) Where a judicial decision on the petition set forth in Article 186(1) is made,

an applicant for purchase (excluding the applicant for purchase specified in paragraph (1)(ii)), until the judicial decision becomes final and binding, may withdraw the purchase offer pertaining to said applicant for purchase.

(4) An immediate appeal may be filed against a judicial decision on the petition set forth in Article 186(1).

(5) Where a judicial decision on the petition set forth in Article 186(1) and a judicial decision on the immediate appeal set forth in the preceding paragraph are made, the written decisions shall be served upon the parties concerned. In this case, the provision of the main clause of Article 10(3) shall not apply.

(Payment of Money, etc.)

Article 190 (1) When an order of permission set forth in paragraph (1) of the preceding Article has become final and binding, the counter party to the sale pertaining to said permission shall pay to the court the amount of money specified in each of the following items for the cases listed in the respective items by the time limit set by the court:

(i) In the case set forth in paragraph (1)(i) of the preceding Article: The amount specified in each item of Article 186(1) for the cases listed in the respective items

(ii) In the case set forth in paragraph (1)(ii) of the preceding Article: The amount obtained by deducting the amount of a guarantee provided by the purchaser pursuant to the provision of Article 188(5) from the amount of proceeds prescribed in the second sentence of paragraph (2) of said Article

(2) When payment of money is made pursuant to the provision of item (ii) of the preceding paragraph, the amount of money equivalent to the amount of a guarantee provided by the purchaser pursuant to the provision of Article 188(5) shall be appropriated to proceeds.

(3) In the case referred to in the preceding paragraph, a bankruptcy trustee shall immediately pay to the court the amount of money equivalent to the amount of the guarantee set forth in said paragraph.

(4) The security interest(s) held by designated security interest holder(s) shall be extinguished, in the case referred to in paragraph (1)(i), when payment of money under the provision of paragraph (1)(i) is made, and such security interest(s) shall be extinguished, in the case set forth in paragraph (1)(ii), when payment of money pursuant to the provision of paragraph (1)(ii) and payment of money pursuant to the provision of the preceding paragraph are made.

(5) When payment of money prescribed in the preceding paragraph is made, a court clerk shall commission cancellation of the registration(s) of the security interest(s) extinguished.

(6) If payment of money under the provision of paragraph (1) is not made, the

court shall revoke the order of permission set forth in paragraph (1) of the preceding Article.

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

(Implementation of Liquidating Distribution, etc.)

Article 191 (1) Where payment of money prescribed in paragraph (4) of the preceding Article is made, the court, according to a distribution list pertaining to liquidating distribution of said money to each designated security interest holder, shall implement such liquidating distribution, except in the case prescribed in the following paragraph.

(2) Where there is only one designated security interest holder or where there are two or more designated security interest holders and the money prescribed in paragraph (4) of the preceding Article is sufficient for paying the claims secured by the security interests held by the respective holders, the court shall prepare a statement of delivery of said money, and deliver payment money to the designated security interest holder(s) and deliver any surplus to a bankruptcy trustee.

(3) The provisions of Article 85 and Article 88 to Article 92 of the Civil Execution Act shall apply mutatis mutandis to the procedure for a liquidating distribution set forth in paragraph (1), and the provisions of Article 88, Article 91 and Article 92 of said Act shall apply mutatis mutandis to the procedure for delivery of payment money under the provision of the preceding paragraph.

Section 3 Extinguishment of Right of Retention under Commercial Law

Article 192 (1) Where there exists any right of retention under the provisions of the Commercial Code or the Companies Act, at the time of commencement of bankruptcy proceedings, against property that belongs to the bankruptcy estate, if said property is necessary for the business continued pursuant to the provision of Article 36 or the recovery of the property otherwise contributes to maintaining or increasing the value of the bankruptcy estate, a bankruptcy trustee may make a demand to the holder of the right of retention that the right be extinguished.

(2) In order to make demand under the provision of the preceding paragraph, it is required to pay the amount of money equivalent to the value of the property set forth in said paragraph to the holder of the right of retention set forth in said paragraph.

(3) In order to make demand under the provision of paragraph (1) and to make payment prescribed in the preceding paragraph, it is required to obtain permission of the court.

- (4) Where the permission set forth in the preceding paragraph is granted, if the amount of payment prescribed in paragraph (2) satisfies the value of the property set forth in paragraph (1), the right of retention set forth in said paragraph shall be extinguished at the time when such payment is made or at the time when demand is made under the provision of paragraph (1), whichever occurs later.
- (5) In an action to seek return of the property set forth in paragraph (1) by reason that the right of retention set forth in said paragraph is extinguished pursuant to the provision of the preceding paragraph, even if the amount of payment prescribed in paragraph (2) does not satisfy the value of the property, upon the plaintiff's petition and when the court in charge of the action finds it appropriate, said court may order the holder of the right of retention set forth in paragraph (1) to return the property, on the condition that the amount of any shortage shall be paid within a reasonable period of time.

Chapter VIII Liquidating Distribution

Section 1 General Rules

(Method of Liquidating Distribution, etc.)

- Article 193 (1) A bankruptcy creditor, as provided for by this Chapter, may receive a liquidating distribution from the bankruptcy estate.
- (2) A bankruptcy creditor shall receive a liquidating distribution at the place where a bankruptcy trustee performs his/her duties; provided, however, that this shall not preclude any other provisions by an agreement between a bankruptcy trustee and a bankruptcy creditor.
- (3) A bankruptcy trustee, when he/she has made a liquidating distribution, shall state the amount distributed in the schedule of bankruptcy creditors.

(Order of Liquidating Distribution, etc.)

- Article 194 (1) A liquidating distribution shall be made in the following order among bankruptcy claims or the order of priority prescribed in Article 98(2) among preferred bankruptcy claims:
- (i) Preferred bankruptcy claims
 - (ii) Bankruptcy claims other than those listed in the preceding item, the following item and item (iv)
 - (iii) Subordinate bankruptcy claims
 - (iv) Consensually-subordinated bankruptcy claims
- (2) With regard to bankruptcy claims eligible for a liquidating distribution with the same priority, a liquidating distribution shall be made in proportion to the amount of each claim.

Section 2 Final Distribution

(Final Distribution)

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

(2) A bankruptcy trustee shall obtain permission of a court clerk in order to make a final distribution.

(3) The court, after hearing opinions of a bankruptcy trustee, may set the time for making a final distribution in advance.

(Distribution List)

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

(i) The name and address of each bankruptcy creditor who may participate in the procedure for the final distribution

(ii) The amount of each claim that may enter into the procedure for the final distribution

(iii) The amount available for the final distribution

(2) The matter set forth in item (ii) of the preceding paragraph shall be stated by distinguishing preferred bankruptcy claims, subordinate bankruptcy claims and consensually-subordinated bankruptcy claims from other bankruptcy claims, and with regard to preferred bankruptcy claims, it shall be stated in the order of priority prescribed in Article 98(2).

(3) With regard to bankruptcy claims secured by a revolving mortgage which pertains to a right of separate satisfaction, a bankruptcy trustee shall state such claims in the distribution list even where the bankruptcy creditor who holds said bankruptcy claims does not prove to the bankruptcy trustee the amount of the claims for which payment cannot be received by exercising the revolving mortgage. In this case, the part of the amount of the bankruptcy claims as of the day on which permission under the provision of paragraph (2) of the preceding Article was granted, which is beyond the maximum amount, shall be the amount of the claims that may enter into the procedure for a final distribution.

(4) The provision of the preceding paragraph shall apply mutatis mutandis to a person who holds a mortgage prescribed in Article 108(2) (limited to one that is

a revolving mortgage).

(Public Notice of Liquidating Distribution, etc.)

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

(Exclusion of Bankruptcy Claims, etc.)

- Article 198 (1) In order to participate in the procedure for a final distribution with regard to a denied/disputed bankruptcy claim (excluding those prescribed in Article 129(1)), the bankruptcy creditor who holds said denied/disputed bankruptcy claim, within two weeks from the day on which the public notice made under the provision of paragraph (1) of the preceding Article becomes effective or the day on which the notification is made under the provision of paragraph (3) of said Article, shall prove to a bankruptcy trustee the fact that with respect to the determination of the denied/disputed bankruptcy claim, the proceedings for assessment based on a petition for bankruptcy claim assessment or court proceedings of an action to oppose bankruptcy claim assessment or court proceedings of an action taken over under the provision of Article 127(1) are pending.
- (2) In order to participate in the procedure for a final distribution with regard to a bankruptcy claim that is a claim subject to a condition precedent or claim which may arise in the future, said bankruptcy claim shall be required to become enforceable within the period prescribed in the preceding paragraph (hereinafter referred to as the "period of exclusion concerning a final distribution" in this Section and Section 5).
- (3) In order to participate in the procedure for a final distribution, a holder of a right of separate satisfaction, within the period of exclusion concerning a final distribution, shall prove to a bankruptcy trustee the fact that the whole or part of the claim secured by a security interest prescribed in Article 65(2) which pertains to the right of separate satisfaction is no longer secured after the commencement of bankruptcy proceedings, or prove the amount of the claim for which payment cannot be received by exercising said security interest, except

in the case referred to in the following paragraph.

- (4) With regard to bankruptcy claims secured by a revolving mortgage that are stated in the distribution list under the provision of the first sentence of Article 196(3) (including cases where applied mutatis mutandis pursuant to paragraph (4) of said Article), except where the amount of the claims for which payment cannot be received by exercising such security interest is proven within the period of exclusion concerning a final distribution, the part of the amount of the claims that may enter into the procedure for a final distribution as stated in the distribution list under the provision of the second sentence of paragraph (3) of said Article (including cases where applied mutatis mutandis pursuant to paragraph (4) of said Article) shall be deemed to be such amount of the claims for which payment cannot be obtained.
- (5) The provision of paragraph (3) shall apply mutatis mutandis to a holder of a quasi-right of separate satisfaction.

(Correction of Distribution List)

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

- (i) Where a cause that requires correction to the schedule of bankruptcy creditors occurs within the period of exclusion concerning a final distribution.
 - (ii) Where proof of the matter prescribed in paragraph (1) of the preceding Article is shown within the period of exclusion concerning a final distribution.
 - (iii) Where proof of the matter prescribed in paragraph (3) of the preceding Article is shown within the period of exclusion concerning a final distribution.
- (2) The provision of item (iii) of the preceding paragraph shall apply mutatis mutandis to a holder of a quasi-right of separate satisfaction.

(Objection to Distribution List)

Article 200 (1) A bankruptcy creditor who disagrees with the statements in the distribution list may raise an objection to the court within one week after the period of exclusion concerning a final distribution expires.

- (2) The court, when it finds an objection raised under the provision to the preceding paragraph well-grounded, shall order a bankruptcy trustee to correct the distribution list.
- (3) An immediate appeal may be filed against a judicial decision on the objection raised under the provision of paragraph (1). In this case, the period for filing an immediate appeal against an order to order correction of the distribution list shall be calculated from the day on which it becomes possible for any interested person to make a request for inspection of the written order pursuant to the provision of Article 11(1).
- (4) Where a judicial decision to dismiss without prejudice the objection raised

under the provision of paragraph (1) and a judicial decision on the immediate appeal set forth in the first sentence of the preceding paragraph (excluding an order to order correction of the distribution list) are made, the written decisions shall be served upon the parties concerned.

(Determination and Notice of the Amount of Distribution)

- Article 201 (1) A bankruptcy trustee, without delay after the period prescribed in paragraph (1) of the preceding Article has expired (in cases where an objection under the provision of said paragraph is raised, after the proceedings of said objection have been closed), shall determine the amount of distribution to be given to each bankruptcy creditor who may participate in the procedure for a final distribution.
- (2) A bankruptcy trustee shall make a distribution of any amount deposited by contract pursuant to the provision of Article 70 in the interest of a bankruptcy creditor who was unable to participate in the procedure for a final distribution by reason of the failure to conform to the provision of Article 198(2), to other bankruptcy creditors as part of a final distribution.
- (3) With regard to a bankruptcy claim that is a claim subject to a condition subsequent, if the condition is not met within the period of exclusion concerning a final distribution, the security provided under the provision of Article 69 shall cease to be effective, and the amount deposited by contract pursuant to the provision of said Article shall be paid to the bankruptcy creditor who holds said bankruptcy claim.
- (4) A bankruptcy creditor who has received payment pursuant to the provision of Article 101(1) or bankruptcy creditor who has received payment prescribed in Article 109 may not receive a final distribution until any other bankruptcy creditor with the same priority as his/hers receives a liquidating distribution at the same proportion as he/she has received payment.
- (5) Where the amount of distribution to be given to each bankruptcy creditor is determined pursuant to the provision of paragraph (1), if, with regard to a bankruptcy creditor who has not filed a proof under the provisions of Article 111(1)(iv) or Article 113(2), the amount of distribution determined for said bankruptcy creditor is less than the amount specified by the Rules of the Supreme Court as prescribed in Article 111(1)(iv), a bankruptcy trustee shall make a final distribution of said amount of distribution to bankruptcy creditors other than said bankruptcy creditor. In this case, the amount of distribution to be given to such other bankruptcy creditors shall be determined while taking into consideration said amount of distribution.
- (6) If any property available for a final distribution is newly discovered before giving a notice of the amount of distribution under the provision of the following paragraph, a bankruptcy trustee shall correct the distribution list

without delay.

- (7) A bankruptcy trustee shall give a notice of the amount of distribution determined pursuant to the provisions of paragraph (1) to the preceding paragraph to each bankruptcy creditor who may participate in the procedure for a final distribution (excluding a bankruptcy creditor who may not receive a final distribution pursuant to the provision of paragraph (5)).

(Statutory Deposit of the Amount of Distribution)

Article 202 A bankruptcy trustee shall make a statutory deposit of the amount of distribution listed below in the interest of the bankruptcy creditor who is to receive it:

- (i) The amount of distribution to a denied/disputed bankruptcy claim for which with respect to the determination thereof, the proceedings for assessment based on a petition for bankruptcy claim assessment, court proceedings of an action to oppose bankruptcy claim assessment, court proceedings of an action taken over under the provision of Article 127(1) or Article 129(2) or court proceedings of the assertion of objection under the provision of Article 129(1) are pending at the time when a notice of the amount of distribution is given under the provision of paragraph (7) of the preceding Article
- (ii) The amount of distribution to a claim for tax, etc. or claim for a fine, etc. for which proceedings for a request for review, action (excluding a criminal action) or any other appeal have not yet been closed by the time when a notice of the amount of distribution is given pursuant to the provision of paragraph (7) of the preceding Article.
- (iii) The amount of distribution that the bankruptcy creditor who is supposed to receive it refuses to receive

(Treatment of Holders of Claims on the Estate Unknown to Bankruptcy Trustee)

Article 203 Any holder of claim on the estate who is unknown to a bankruptcy trustee at the time when a notice of the amount of distribution under the provision of Article 201(7) is given may not receive payment from the amount available for a final distribution.

Section 3 Simplified Distribution

(Simplified Distribution)

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

Chapter and the following Chapter) in lieu of a final distribution:

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

(Application Mutatis Mutandis)

Article 205 With regard to a simplified distribution, the provisions of the preceding Section (excluding Article 195, Article 197, Article 200(3) and (4) and Article 201(7)) shall apply mutatis mutandis. In this case, the phrase "permission under the provision of paragraph (2) of the preceding Article" in Article 196(1) and (3) shall be deemed to be replaced with "permission under the provision of Article 204(1)"; in Article 198(1), the phrase "the day on which the public notice made under the provision of paragraph (1) of the preceding Article becomes effective or the day on which the notification is made under the provision of paragraph (3) of said Article" shall be deemed to be replaced with "the day on which the notification is made under the provision of Article 204(4)," and the phrase "within two weeks" shall be deemed to be replaced with "within one week"; the phrase "after the proceedings of said objection have been closed" in Article 201(1) shall be deemed to be replaced with "after an order on said objection is made"; the phrase "before giving a notice of the

amount of distribution under the provision of the following paragraph" in Article 201(6) shall be deemed to be replaced with "within the period prescribed in paragraph (1) of the preceding Article"; the phrase "when a notice of the amount of distribution is given under the provision of paragraph (7) of the preceding Article" in Article 202(i) and (ii) and the phrase "when a notice of the amount of distribution under the provision of Article 201(7) is given" in Article 203 shall be deemed to be replaced with "when the period prescribed in Article 200(1) expires."

(Rescission of Permission for Simplified Distribution)

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

(Exclusion from Application)

Article 207 Permission for a simplified distribution under the provision of Article 204(1) may not be granted where an interim distribution prescribed in Article 209(1) has been made.

Section 4 Consensual Distribution

Article 208 (1) Where a final distribution may be made under the provision of Article 195(1), a court clerk, upon the petition of a bankruptcy trustee, may permit a liquidating distribution under the provisions of this Article (hereinafter referred to as a "consensual distribution" in this Chapter and the following Chapter) in lieu of a final distribution. In this case, a bankruptcy trustee may file a petition only where all holders of filed bankruptcy claims consent to the distribution list, the amount of distribution, and the time and method of liquidating distribution determined by the bankruptcy trustee.

(2) Where permission under the provision of the preceding paragraph is granted, a bankruptcy trustee may make a consensual distribution to the holders of filed bankruptcy claims set forth in the second sentence of said paragraph according to the distribution list, the amount of distribution, and the time and method of distribution set forth in the second sentence of said paragraph.

(3) With regard to a consensual distribution, the provisions of Article 196(1) and

(2) and Article 203 shall apply mutatis mutandis. In this case, the phrase "when permission under the provision of paragraph (2) of the preceding Article is granted, without delay" in Article 196(1) shall be deemed to be replaced "in advance," and the phrase "when a notice of the amount of distribution under the provision of Article 201(7) is given" in Article 203 shall be deemed to be replaced with "when permission under the provision of Article 208(1) is granted."

Section 5 Interim Distribution

(Interim Distribution)

Article 209 (1) A bankruptcy trustee, when he/she finds, after the ordinary period for investigation has expired or the ordinary date of investigation has ended and before realization is completed for property that belongs to the bankruptcy estate, that there exists any money suitable for a liquidating distribution that belongs to the bankruptcy estate, shall make a liquidating distribution under the provisions of this Section (hereinafter referred to as an "interim distribution" in this Section) to holders of filed bankruptcy claims, prior to a final distribution.

(2) A bankruptcy trustee shall obtain permission of the court in order to make an interim distribution.

(3) With regard to an interim distribution, the provisions of Article 196(1) and (2), Article 197, Article 198(1), Article 199(1)(i) and (ii), Article 200, Article 201(4) and Article 203 shall apply mutatis mutandis. In this case, the phrase "permission under the provision of paragraph (2) of the preceding Article" in Article 196(1) shall be deemed to be replaced with "permission under the provision of Article 209(2)," the phrase "period of exclusion concerning a final distribution" in the items of Article 199(1) and Article 200(1) shall be deemed to be replaced with "period of exclusion concerning an interim distribution prescribed in Article 210(1)," and the phrase "amount of distribution under the provision of Article 201(7)" in Article 203 shall be deemed to be replaced with "percentage of distribution under the provision of Article 211."

(Exclusion of Holder of Right of Separate Satisfaction, etc.)

Article 210 (1) In order to participate in the procedure for an interim distribution, a holder of a right of separate satisfaction, within the period prescribed in Article 198(1) as applied mutatis mutandis pursuant to paragraph (3) of the preceding Article (hereinafter referred to as the "period of exclusion concerning an interim distribution" in this Section), shall prove to a bankruptcy trustee the fact that he/she has commenced the disposition of the collateral for the right of separate satisfaction, and shall also make, to the

bankruptcy trustee, a prima facie showing of the amount of the claim for which payment cannot be received by such disposition.

(2) The provision of the preceding paragraph shall apply mutatis mutandis to a holder of a quasi-right of separate satisfaction.

(3) Where proof is shown and prima facie showing is made within the period of exclusion concerning an interim distribution with regard to the matters prescribed in paragraph (1) (including cases where applied mutatis mutandis pursuant to the preceding paragraph), a bankruptcy trustee shall immediately correct the distribution list.

(Determination and Notice of the Percentage of Distribution)

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

(Treatment of Claim Subject to Condition Subsequent)

Article 212 (1) With regard to a bankruptcy claim that is a claim subject to a condition subsequent, an interim distribution may not be received unless reasonable security is provided.

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

(Treatment of Excluded Bankruptcy Claims, etc. in Later Liquidating Distribution)

Article 213 With regard to a bankruptcy claim that was unable to enter into the procedure for an interim distribution by reason of the failure to prove the matter prescribed in Article 198(1) as applied mutatis mutandis pursuant to Article 209(3), if the bankruptcy creditor who holds said bankruptcy claim has proven said matter within the period of exclusion concerning a final distribution or within the period of exclusion concerning any interim distribution that may be made after said interim distribution, said bankruptcy creditor, in said final distribution or any later interim distribution that may be made after the previous interim distribution, may receive a liquidating distribution at the amount that he/she could have received in the previous interim distribution, in preference to other bankruptcy creditors with the same

priority. The same shall apply where a holder of a right of separate satisfaction (including a holder of a quasi-right of separate satisfaction) who was unable to participate in the procedure for an interim distribution by reason of the failure to show proof or make a prima facie showing of the matter prescribed in Article 210(1) (including cases where applied mutatis mutandis pursuant to paragraph (2) of said Article) has shown proof and made a prima facie showing of said matter within the period of exclusion concerning any later interim distribution that may be made after said interim distribution.

(Contractual Deposit of the Amount of Distribution)

- Article 214 (1) A bankruptcy trustee who intends to make an interim distribution shall make a contractual deposit of the amount of distribution to the following bankruptcy claims:
- (i) A denied/disputed bankruptcy claim, for which the proceedings set forth in Article 202(i) are pending
 - (ii) A claim for tax, etc. or claim for a fine, etc., for which the proceedings set forth in Article 202(ii) have not yet been closed by the time when a notice of the percentage of distribution under the provision of Article 211 is given
 - (iii) Part of a claim for which proof is shown and a prima facie showing is made pursuant to the provision of Article 210(1) (including cases where applied mutatis mutandis pursuant to paragraph (2) of said Article) within the period of exclusion concerning an interim distribution, which pertains to the amount subject to such prima facie showing
 - (iv) A bankruptcy claim that is a claim subject to a condition precedent or claim which may arise in the future
 - (v) A bankruptcy claim that is a claim subject to condition subsequent, for which security under the provision of Article 212(1) is not provided
 - (vi) A bankruptcy claim held by a bankruptcy creditor who has not filed a proof under the provision of Article 111(1)(iv) or Article 113(2)
- (2) Where a contractual deposit of the amount of distribution to a bankruptcy claim set forth in item (i) or item (ii) of the preceding paragraph is made pursuant to the provision of these items, a bankruptcy trustee, when making a statutory deposit of the amount of distribution to such bankruptcy claim pursuant to the provision of Article 202(i) or (ii), shall make a statutory deposit of such amount of distribution deposited by contract, in the interest of the bankruptcy creditor who is to receive it.
- (3) Where a contractual deposit of the amount of distribution to a bankruptcy claim set forth in item (iii) or item (iv) of paragraph (1) is made pursuant to the provision of these items, if the bankruptcy creditor or holder of a right of separate satisfaction (including a holder of a quasi-right of separate satisfaction) who holds said bankruptcy claim was unable to participate in the

procedure for a final distribution by reason of the failure to conform to the provision of Article 198(2) or show proof of the matter prescribed in paragraph (3) of said Article (including cases where applied mutatis mutandis pursuant to paragraph (5) of said Article), a bankruptcy trustee shall make a final distribution of such amount of distribution deposited by contract to other bankruptcy creditors.

- (4) Where a contractual deposit of the amount of distribution to a bankruptcy claim set forth in item (v) of paragraph (1) is made pursuant to the provision of said item, if the condition attached to said bankruptcy claim is not met within the period of exclusion concerning a final distribution, a bankruptcy trustee shall pay such amount of distribution deposited by contract to the bankruptcy creditor who holds said bankruptcy claim.
- (5) For the purpose of application of the provision of Article 201(5) in cases where a contractual deposit of the amount of distribution to a bankruptcy claim set forth in item (vi) of paragraph (1) is made pursuant to the provision of said item, in Article 201(5), the phrase "the amount of distribution determined for said bankruptcy creditor is less than the amount specified by the Rules of the Supreme Court as prescribed in Article 111(1)(iv)" shall be deemed to be replaced with "the total of the amount of distribution determined for said bankruptcy creditor and the amount of distribution to a bankruptcy claim set forth in item (vi) of Article 214(1) deposited by contract by a bankruptcy trustee pursuant to the provision of said item is less than the amount specified by the Rules of the Supreme Court as prescribed in Article 111(1)(iv)," and the phrase "said amount of distribution" shall be deemed to be replaced with "said total."

Section 6 Subsequent Distribution

Article 215 (1) If, after a notice of the amount of distribution under the provision of Article 201(7) is given (in the case of a simplified distribution, after the period prescribed in Article 200(1) as applied mutatis mutandis pursuant to Article 205 expires, and in the case of a consensual distribution, after permission under the provision of Article 208(1) is granted), a considerable amount of property available for a liquidating distribution is newly identified, a bankruptcy trustee, with permission of the court, shall make a liquidating distribution under the provision of this Article (hereinafter referred to as a "subsequent distribution" in this Article) to holders of filed bankruptcy claims, in addition to a final distribution, simplified distribution or consensual distribution. The same shall apply after an order of termination of bankruptcy proceedings is made.

- (2) With regard to a subsequent distribution, the provisions of Article 201(4) and

- (5), Article 202 and Article 203 shall apply mutatis mutandis. In this case, the phrase "provision of paragraph (1)" in Article 201(5) shall be deemed to be replaced with "provision of Article 215(4)," and the phrase "paragraph (7) of the preceding Article" in Article 202(i) and (ii) and the term "Article 201(7)" in Article 203 shall be deemed to be replaced with "Article 215(5)."
- (3) A subsequent distribution shall be made according to the distribution list prepared for a final distribution, simplified distribution or consensual distribution.
- (4) A bankruptcy trustee, when permission under the provision of paragraph (1) is granted, without delay, shall determine the amount of distribution to each bankruptcy creditor who may participate in the procedure for a subsequent distribution.
- (5) A bankruptcy trustee shall give a notice of the amount of distribution determined under the provision of the preceding paragraph to each bankruptcy creditor who may participate in the procedure for a subsequent distribution (excluding a bankruptcy creditor who may not receive a subsequent distribution pursuant to the provision of Article 201(5) as applied mutatis mutandis by replacing the relevant terms and phrases pursuant to paragraph (2)).
- (6) A bankruptcy trustee, without delay after making a subsequent distribution, shall make a report of account to the court in writing.
- (7) In the case referred to in the preceding paragraph, if there is a vacancy in the office of bankruptcy trustee, the report of account set forth in said paragraph, notwithstanding the provision of said paragraph, shall be made by a successor bankruptcy trustee.

Chapter IX Close of Bankruptcy Proceedings

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

- Article 216 (1) The court, when it finds that the bankruptcy trustee is insufficient for paying expenses for bankruptcy proceedings, shall make an order of discontinuance of bankruptcy proceedings upon making an order of commencement of bankruptcy proceedings.
- (2) The provision of the preceding paragraph shall not apply where an amount sufficient for paying expenses for bankruptcy proceedings is prepaid.
- (3) The court, when it has made an order of discontinuance of bankruptcy proceedings upon making an order of commencement of bankruptcy proceedings pursuant to the provision of paragraph (1), shall immediately make a public notice of the following matters and give a notice of these matters to the bankrupt:

- (i) The main text of the order of commencement of bankruptcy proceedings
 - (ii) The main text of the order of discontinuance of bankruptcy proceedings and the gist of the reasons attached thereto
- (4) An immediate appeal may be filed against an order of discontinuance of bankruptcy proceedings made under the provision of paragraph (1).
- (5) The immediate appeal set forth in the preceding paragraph shall not have the effect of stay of execution.
- (6) The provisions of Article 31 and Article 32 shall apply mutatis mutandis where an order to revoke the order of discontinuance of bankruptcy proceedings made under the provision of paragraph (1) becomes final and binding.

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

- Article 217 (1) The court, when it finds, after making an order of commencement of bankruptcy proceeding, that the bankruptcy estate is insufficient for paying expenses for bankruptcy proceedings, upon the petition of a bankruptcy trustee or by its own authority, shall make an order of discontinuance of bankruptcy proceedings. In this case, the court shall hear opinions of bankruptcy creditors on the date of a creditors meeting.
- (2) Notwithstanding the provision of the second sentence of the preceding paragraph, the court, when it finds it appropriate, may hear opinions of bankruptcy creditors in writing, in lieu of hearing opinions of bankruptcy creditors on the date of a creditors meeting. In this case, a person set forth in Article 135(1)(ii) or (iii) may not file a petition for convocation of a creditors meeting under the provision of Article 135(1) for the purpose of conducting such hearing of opinions.
- (3) The provisions of the preceding two paragraphs shall not apply where an amount sufficient for paying expenses for bankruptcy proceedings is prepaid.
- (4) The court, when it has made an order of discontinuance of bankruptcy proceedings under the provision of paragraph (1), shall immediately make a public notice of the main text of the order and the gist of the reasons attached thereto, and serve the written order upon the bankrupt and a bankruptcy trustee.
- (5) The court, when it has made an order dismissing with prejudice on the merits the petition set forth in paragraph (1), shall serve the written order upon a bankruptcy trustee. In this case, the provision of the main clause of Article 10(3) shall not apply.
- (6) An immediate appeal may be filed against an order of discontinuance of bankruptcy proceedings made under the provision of paragraph (1) and an order dismissing with prejudice on the merits the petition set forth in said

paragraph.

- (7) When an order to revoke the order of discontinuance of bankruptcy proceedings made under the provision of paragraph (1) has become final and binding, the court that has made said order of discontinuance of bankruptcy proceedings shall immediately make a public notice to that effect.
- (8) An order of discontinuance of bankruptcy proceedings made under the provision of paragraph (1) shall not become effective unless it becomes final and binding.

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

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

- (i) The bankrupt has obtained consent for discontinuance of bankruptcy proceedings from all bankruptcy creditors who filed proofs within the period for filing proofs of claims.
 - (ii) Where there is any bankruptcy creditor who does not give the consent set forth in the preceding item, and the bankrupt has provided security to said bankruptcy creditor that the court finds reasonable; provided, however, that if such security is provided from the bankruptcy estate, this provision shall apply only where consent is obtained from other holders of filed bankruptcy claims to the provision of the security from the bankruptcy estate.
- (2) Notwithstanding the provision of the preceding paragraph, the court may make an order not to require the consent set forth in item (i) of said paragraph and the proviso to item (ii) of said paragraph from any bankruptcy creditor who holds a bankruptcy claim that is not yet determined. For the purpose of application of the provisions of item (i) of said paragraph and the proviso to item (ii) of said paragraph in this case, the term "holders of filed bankruptcy claims" in these provisions shall be deemed to be replaced with "holders of filed bankruptcy claims (excluding a bankruptcy creditor who holds a bankruptcy claim that is not yet determined, from whom the court does not require consent)."
 - (3) The court, when the petition set forth in paragraph (1) is filed, shall make a public notice to that effect.
 - (4) A holder of filed bankruptcy claim, within two weeks from the day on which the public notice prescribed in the preceding paragraph becomes effective, may state his/her opinions to the court with regard to the petition set forth in paragraph (1).
 - (5) The provisions of paragraph (4) to paragraph (8) of the preceding Article shall apply mutatis mutandis to an order of discontinuance of bankruptcy

proceedings made under the provision of paragraph (1). In this case, the term "a bankruptcy trustee" in paragraph (5) of said Article shall be deemed to be replaced with "the bankrupt."

(Order of Discontinuance of Bankruptcy Proceedings with Consent of
Bankruptcy Creditors Where the Bankrupt Is a Juridical Person)

Article 219 The bankrupt who is a juridical person, in order to file a petition set forth in paragraph (1) of the preceding Article, shall perform the procedure for maintaining its juridical personality in advance by complying with the provisions concerning the amendment of articles of incorporation or other basic articles, and if the bankrupt is an incorporated foundation, by obtaining approval of the competent government agency.

(Order of Termination of Bankruptcy Proceedings)

Article 220 (1) The court shall make an order of termination of bankruptcy proceedings when, after a final distribution, simplified distribution or consensual distribution is completed, a creditors meeting set forth in Article 88(4) is concluded or the period prescribed in Article 89(2) expires.

(2) The court, when it has made an order of termination of bankruptcy proceedings pursuant to the provision of the preceding paragraph, shall immediately make a public notice of the order and the gist of the reasons attached thereto, and give a notice of these to the bankrupt.

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

Article 221 (1) When an order of discontinuance of bankruptcy proceedings made under the provisions of Article 217(1) or Article 218(1) becomes final and binding or when an order of termination of bankruptcy proceedings under the provision of paragraph (1) of the preceding Article is made, with regard to bankruptcy claims that are determined, the entries in the schedule of bankruptcy creditors shall have the same effect as a final and binding judgment against the bankrupt. In this case, a bankruptcy creditor, with regard to a bankruptcy claim that is determined, may enforce compulsory execution against the bankrupt based on the entries in the schedule of bankruptcy creditors.

(2) The provision of the preceding paragraph shall not apply where the bankrupt (including the agent set forth in the proviso to Article 121(3)) has made an objection under the provisions of Article 118(2), Article 119(5), Article 121(4) (including cases where applied mutatis mutandis pursuant to Article 121(6) (including cases where applied mutatis mutandis pursuant to Article 121(7) or Article 122(2)) or Article 121(7) or Article 122(2)) or Article 123(1).

Chapter X Special Provisions Concerning Bankruptcy of the Inherited Property, etc.

Section 1 Bankruptcy of the Inherited Property

(Jurisdiction over a Bankruptcy Case Relating to the Inherited Property)

Article 222 (1) A petition for commencement of bankruptcy proceedings under the provisions of this Act against the inherited property may be filed only if the decedent's domicile as of the time of commencement of inheritance or property that belongs to the inherited property exists in Japan.

(2) A bankruptcy case relating to the inherited property shall be subject to the jurisdiction of the district court that has jurisdiction over the decedent's place of domicile as of the time of commencement of inheritance.

(3) If there is no court with jurisdiction under the provision of the preceding paragraph, the bankruptcy case relating to the inherited property shall be subject to the jurisdiction of the district court that has jurisdiction over the location of property that belongs to the inherited property (in the case of a claim, the place where demand by litigation may be made).

(4) For the purpose of application of the provisions of Article 5(8) and (9) and Article 7(v) to a bankruptcy case relating to the inherited property, the phrase "paragraph (1) and paragraph (2)" in Article 5(8) and (9) shall be deemed to be replaced with "Article 222(2) and (3)," and the phrase "paragraph (1) or paragraph (2) of said Article" in Article 7(v) shall be deemed to be replaced with "Article 222(2) and (3)."

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

(Grounds for Commencement of Bankruptcy Proceedings against the Inherited Property)

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

(Petition for Commencement of Bankruptcy Proceedings)

Article 224 (1) Against the inherited property, not only an inheritance obligee or donee, but also an heir, administrator of the inherited property or executor

(limited to an executor who has a right to conduct acts necessary for the administration of the inherited property; hereinafter the same shall apply in this Section) may file a petition for commencement of bankruptcy proceedings.

- (2) A person set forth in each of the following items, when filing a petition for commencement of bankruptcy proceedings against the inherited property, shall make a prima facie showing of the fact specified in the respective items:
- (i) An inheritance obligee or donee: The existence of the claim held thereby and the fact constituting the grounds for the commencement of bankruptcy proceedings against the inherited property
 - (ii) An heir, administrator of the inherited property or executor: The fact constituting the grounds for the commencement of bankruptcy proceedings against the inherited property

(Period for Filing a Petition for Commencement of Bankruptcy Proceedings)

Article 225 Against the inherited property, a petition for commencement of bankruptcy proceedings may be filed only within the period during which an application for division of property may be made pursuant to the provision of Article 941(1) of the Civil Code; provided, however, that if qualified acceptance is made or division of property is conducted, a petition for commencement of bankruptcy proceedings may be made until payment to inheritance obligee(s) and donee(s) is completed.

(Commencement of Inheritance prior to an Order of Commencement of Bankruptcy Proceedings)

- Article 226 (1) The court, when inheritance has commenced with regard to a debtor after a petition for commencement of bankruptcy proceedings is filed and before an order of commencement of bankruptcy proceedings is made, upon the petition of an inheritance obligee, donee, heir, administrator of the inherited property or executor, may make an order to continue the bankruptcy proceedings against said inherited property.
- (2) The petition for continuation prescribed in the preceding paragraph shall be filed within one month after inheritance commences.
- (3) The bankruptcy proceedings prescribed in paragraph (1) shall be closed, if a petition for continuation prescribed in paragraph (1) is not filed within the period set forth in the preceding paragraph, at the time when this period expires, and if a petition for continuation prescribed in paragraph (1) is made within the period set forth in the preceding paragraph and a judicial decision to dismiss the petition without prejudice becomes final and binding, at the time when such decision becomes final and binding.
- (4) An immediate appeal may be filed against a judicial decision to dismiss without prejudice the petition for continuation prescribed in paragraph (1).

(Commencement of Inheritance after an Order of Commencement of
Bankruptcy Proceedings)

Article 227 The court, when inheritance has commenced with regard to the bankrupt after the commencement of bankruptcy proceedings is made, shall continue the bankruptcy proceedings against the inherited property concerned.

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

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

(Scope of the Bankruptcy Estate)

Article 229 (1) Where an order of commencement of bankruptcy proceedings is made against the inherited property, any and all property that belongs to the inherited property (irrespective of whether or not it exists in Japan) shall constitute the bankruptcy estate. In this case, rights that the decedent held vis-à-vis an heir shall be deemed not to have been extinguished.

(2) If an order of commencement of bankruptcy proceedings is made against the inherited property after an heir has disposed of the whole or part of the inherited property, rights that the heir holds with regard to counter-performance shall belong to the bankruptcy property.

(3) In the case prescribed in the preceding paragraph, if the heir has already received the counter-performance set forth in said paragraph, the heir shall return the counter-performance to the bankruptcy estate; provided, however, that if the heir did not know, at the time of receiving the counter-performance, the fact constituting the grounds for the commencement of bankruptcy proceedings or the filing of a petition for commencement of bankruptcy proceedings, it shall be sufficient for the heir to return the enrichment that he/she actually enjoys.

(Obligation of Explanation of Heir, etc.)

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

bankruptcy:

- (i) A person who was the decedent's agent
 - (ii) An heir and his/her agent
 - (iii) An administrator of the inherited property and an executor
- (2) The provision of the preceding paragraph shall apply mutatis mutandis to a person who was any of the persons listed in item (ii) or item (iii) of said paragraph.
- (3) The provisions of Article 37 and Article 38 shall apply mutatis mutandis to an heir and his/her statutory agent and manager in cases where an order of commencement of bankruptcy proceedings is made against the inherited property.

(Status of Inheritance Obligees and Donees)

- Article 231 (1) Where an order of commencement of bankruptcy proceedings is made against the inherited property, an inheritance obligee and a donee, even when an order of commencement of bankruptcy proceedings is made against an heir, may participate in the bankruptcy proceedings with regard to the whole amount of their claims.
- (2) When an order of commencement of bankruptcy proceedings is made against the inherited property, claims held by an inheritance obligee shall take preference over claims held by a donee.

(Status of Heirs)

- Article 232 (1) Where an order of commencement of bankruptcy proceedings is made against the inherited property, rights that an heir held vis-à-vis the decedent shall be deemed not to have been extinguished. In this case, an heir shall have the same rights as an inheritance obligee with regard to a claim that he/she held vis-à-vis the decedent.
- (2) In the case prescribed in the preceding paragraph, when an heir has made payment to an inheritance obligee or conducted any other act to cause any of the debts to be extinguished with his/her own property, the heir may exercise rights that the inheritance obligee held vis-à-vis the decedent, to the extent of the amount paid thereby.

(Status of Heir's Creditors)

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

(Application of the Provisions on Right of Avoidance)

- Article 234 For the purpose of application of the provisions of Chapter VI,

Section 2, in cases where an order of commencement of bankruptcy proceedings is made against the inherited property, any act conducted by the decedent, an heir, administrator of the inherited property or executor with respect to the inherited property shall be deemed to have been conducted by the bankrupt.

(Avoidance of Provision of Security to Donees, etc.)

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

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

(Distribution of Residual Assets after Avoidance, etc.)

Article 236 Where an order of commencement of bankruptcy proceedings is made against the inherited property, if any act conducted by the decedent, an heir, administrator of the inherited property or executor with regard to the inherited property is avoided, a bankruptcy trustee, after making payment to inheritance obligees, shall distribute residual assets to the other party to the avoided act, according to the value of the other party's right.

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

Article 237 (1) A petition set forth in Article 218(1) with regard to bankruptcy of the inherited property shall be filed by an heir.

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

Section 2 Bankruptcy of Heir

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

Article 238 (1) Where inheritance commenced with regard to the bankrupt before an order of commencement of bankruptcy proceedings is made, unconditional acceptance of inheritance made by the bankrupt after an order of commencement of bankruptcy proceedings is made shall have the effect of

qualified acceptance vis-à-vis the bankruptcy estate. The same shall apply to renunciation of inheritance made by the bankrupt after an order of commencement of bankruptcy proceedings is made.

- (2) A bankruptcy trustee, notwithstanding the provision of the second sentence of the preceding paragraph, may acknowledge the effect of renunciation of inheritance. In this case, a bankruptcy trustee, within three months after the time when he/she came to know the fact that inheritance had been renounced, shall make a statement to the family court to that effect.
- (3) The acceptance of a statement made under the provision of the preceding paragraph, for the purpose of application of the Act on Adjudication of Domestic Relations, shall be deemed to be included in the matters listed in Article 9(1), Type I, of said Act.

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

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

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

- Article 240 (1) Where an order of commencement of bankruptcy proceedings is made against an heir, an inheritance obligee and a donee, even when division of property is made or an order of commencement of bankruptcy proceedings is made against the inherited property, may participate in the bankruptcy proceedings with regard to the whole amount of their claims.
- (2) When an order of commencement of bankruptcy proceedings is made against an heir and an order of commencement of bankruptcy proceedings is also made against the inherited property, with regard to the heir's bankruptcy estate, claims held by the heir's creditors shall take preference over claims held by an inheritance obligee and a donee.
 - (3) When an order of commencement of bankruptcy proceedings is made against an heir based on a petition for commencement of bankruptcy proceedings filed within the period prescribed in Article 225, with regard to the heir's own property, claims held by the heir's creditors shall take preference over claims held by an inheritance obligee and a donee, and with regard to the inherited

property, claims held by an inheritance obligee and a donee shall take preference over claims held by the heir's creditors.

- (4) When an order of commencement of bankruptcy proceedings is made against an heir and the heir has made qualified acceptance, an inheritance obligee and a donee may not exercise their rights over the heir's own property as bankruptcy creditors. The same shall apply where unconditional acceptance or renunciation of inheritance shall have the effect of qualified acceptance pursuant to the provision of Article 238(1).

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

- Article 241 (1) An inheritance obligee or donee, even where they, by exercising their rights in the procedures for qualified acceptance or division of property, have received payment of their bankruptcy claims after an order of commencement of bankruptcy proceedings is made against an heir, may participate in the bankruptcy proceedings with regard to the amount of the claims as of the time before receiving such payment. The same shall apply where an heir's creditor, by exercising his/her right in the procedure for division of property, has received payment of his/her bankruptcy claim after an order of commencement of bankruptcy proceedings is made against the heir.
- (2) The inheritance obligee or donee or heir's creditor set forth in the preceding paragraph may not receive a liquidating distribution through bankruptcy proceedings until any other bankruptcy creditor with the same priority as theirs receives a liquidating distribution at the same proportion as they have received payment (in cases where there are two or more heirs, such payment shall be limited to the part of it corresponding to the inheritance share of the heir who received the order of commencement of bankruptcy proceedings; the same shall apply in the following paragraph).
- (3) The inheritance obligee or donee or heir's creditor set forth in paragraph (1) may not exercise their voting rights with regard to the amount of the claims paid under the preceding paragraph.

(Administration and Disposition, etc. of the Inherited Property after Qualified Acceptance or Division of Property, etc.)

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

- (2) If there are any residual assets after a bankruptcy trustee has completed the administration and disposition of the inherited property under the provision of the preceding paragraph, the part of such residual assets that should belong to the heir in question shall be deemed to be the heir's own property. In this case, a bankruptcy trustee shall supplement the bankruptcy estate's inventory of assets and balance sheet with regard to such residual assets.
- (3) The provisions of the first sentence of paragraph (1) and the preceding paragraph shall apply mutatis mutandis in cases where unconditional acceptance or renunciation of inheritance shall have the effect of qualified acceptance pursuant to the provision of Article 238(1) and the case referred to in Article 240(3).

Section 3 Bankruptcy of Donee

(Bankruptcy of Testamentary Donee by Universal Succession)

Article 243 The provisions of the preceding Section shall apply mutatis mutandis where an order of commencement of bankruptcy proceedings is made against a testamentary donee by universal succession.

(Acceptance or Renunciation of Specific Testamentary Gift)

Article 244 (1) Where a specific testamentary gift was given to the bankrupt before an order of commencement of bankruptcy proceedings is made, if the bankrupt has not yet accepted or renounced the gift by the time when the order is made, a bankruptcy trustee may accept or renounce the gift on behalf of the bankrupt.

- (2) The provision of Article 987 of the Civil Code shall apply in the case referred to in the preceding paragraph.

Chapter X-2 Special Provisions Concerning Bankruptcy of the Trust Property

(Jurisdiction over a Bankruptcy Case Relating to the Trust Property)

Article 244-2 (1) A petition for commencement of bankruptcy proceedings under the provisions of this Act against the trust property may be filed only if the property that belongs to the trust property or the trustee's domicile exists in Japan.

- (2) A bankruptcy case relating to the trust property shall be subject to the jurisdiction of the district court that has jurisdiction over the trustee's place of domicile (in cases where there are two or more trustees, the place of domicile of any of them).
- (3) If there is no court with jurisdiction under the provision of the preceding

paragraph, the bankruptcy case relating to the trust property shall be subject to the jurisdiction of the district court that has jurisdiction over the location of the property that belongs to the trust property (in the case of a claim, the place where demand by litigation may be made).

- (4) For the purpose of application of the provisions of Article 5(8) and (9) and Article 7(v) to a bankruptcy case relating to the trust property, the phrase "paragraph (1) and paragraph (2)" in Article 5(8) and (9) shall be deemed to be replaced with "Article 244-2(2) and (3)," and the phrase "paragraph (1) or paragraph (2) of said Article" in Article 7(v) shall be deemed to be replaced with "Article 244-2(2) and (3)."
- (5) If two or more district courts have jurisdiction over a bankruptcy case relating to the trust property pursuant to the provisions of the preceding three paragraphs, the bankruptcy case shall be subject to the jurisdiction of the district court with which the first petition for commencement of bankruptcy proceedings is filed.

(Grounds for Commencement of Bankruptcy Proceedings against the Trust Property)

Article 244-3 For the purpose of application of Article 15(1) to the trust property, the term "unable to pay debts" in Article 15(1) shall be deemed to be replaced with "unable to pay debts or insolvent (meaning the condition in which the trustee is unable to pay, with property that belongs to the trust property, his/her debts covered by the trustee's liability for payment based on the trust property in full)."

(Petition for Commencement of Bankruptcy Proceedings)

Article 244-4 (1) Against the trust property, not only a person who holds a claim in trust (meaning a claim in trust prescribed in Article 21(2)(ii) of the Trust Act; the same shall apply in item (i) of the following paragraph and Article 244-7) or a beneficiary, but also the trustee or the administrator of trust property, administrator of incorporated trust property, or administrator set forth in Article 170(1) of said Act (hereinafter collectively referred to as the "trustee, etc.") may file a petition for commencement of bankruptcy proceedings.

- (2) A person set forth in each of the following items, when filing a petition for commencement of bankruptcy proceedings against the trust property, shall make a prima facie showing of the fact specified in the respective items:
- (i) A person who holds a claim in trust or beneficiary: The existence of the claim in trust or beneficial claim held thereby and the fact constituting the grounds for the commencement of bankruptcy proceedings against the trust property
- (ii) The trustee, etc.: The fact constituting the grounds for the commencement

- of bankruptcy proceedings against the trust property
- (3) The provision of item (ii) of the preceding paragraph shall not apply where there is only one trustee, etc. or where there are two or more trustees, etc. and the petition for commencement of bankruptcy proceedings is filed by all of the trustees, etc.
- (4) Against the trust property, even after the termination of the trust, a petition for commencement of bankruptcy proceedings may be filed until the payment of its residual assets is completed.

(Scope of the Bankruptcy Estate)

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

(Obligation of Explanation of Trustee, etc.)

- Article 244-6 (1) Where an order of commencement of bankruptcy proceedings is made against the trust property, the following persons, upon the request of a bankruptcy trustee or creditors committee or a request based on a resolution at a creditors meeting, shall give a necessary explanation concerning bankruptcy:
- (i) The trustee, etc.
- (ii) The accounting auditor (meaning an accounting auditor prescribed in Article 248(1) or (2) of the Trust Act; hereinafter the same shall apply in this Chapter)
- (2) The provision of the preceding paragraph shall apply mutatis mutandis to a person who was the person set forth in each item of said paragraph.
- (3) The provisions of Article 37 and Article 38 shall apply mutatis mutandis to the trustee, etc. (limited to the trustee, etc. who is an individual) in cases where an order of commencement of bankruptcy proceedings is made against the trust property.
- (4) The provision of Article 41 shall apply mutatis mutandis to the trustee, etc. in cases where an order of commencement of bankruptcy proceedings is made against the trust property.

(Status of Holders of Claims in Trust and Beneficiaries)

Article 244-7 (1) Where an order of commencement of bankruptcy proceedings is made against the trust property, a person who holds a claim in trust and a beneficiary, even when an order of commencement of bankruptcy proceedings is made against the trustee, may participate in the bankruptcy proceedings with regard to the whole amount of the claim that each of them holds at the time of commencement of bankruptcy proceedings.

- (2) When an order of commencement of bankruptcy proceedings is made against the trust property, claims in trust shall take preference over beneficial claims.
- (3) Beneficial claims and consensually-subordinated bankruptcy claims shall have the same priority; provided, however, that consensually-subordinated bankruptcy claims may be given preference over beneficial claims based on the provisions set by an act of trust.

(Status of Trustee)

Article 244-8 A right held by the trustee pursuant to the provision of Article 49(1) of the Trust Act (including cases where applied mutatis mutandis pursuant to Article 53(2) and Article 54(4) of said Act) shall be deemed to be a monetary claim, in relation to bankruptcy proceedings against the trust property.

(Status of Creditors Pertaining to Debts Covered by the Trustee's Liability for Payment Only Based on the Trustee's Own Property, etc.)

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

(Application of the Provisions on Right of Avoidance, etc.)

Article 244-10 (1) For the purpose of application of the provisions of Chapter VI, Section 2, in cases where an order of commencement of bankruptcy proceedings is made against the trust property, any act conducted by the trustee, etc. with respect to the trust property shall be deemed to have been conducted by the bankrupt.

- (2) For the purpose of application of the provision of Article 161(1) in the case referred to in the preceding paragraph, if the other party to the act in question is the trustee, etc. or accounting auditor, the other party shall be presumed to have known, at the time of the act, that the trustee, etc. had the intention of conducting concealment or other disposition set forth in Article 161(1)(ii).
- (3) For the purpose of application of the provision of Article 162(1)(i) in the case referred to in paragraph (1), if the creditor is the trustee, etc. or accounting auditor, the creditor shall be presumed to have known, at the time of the act set forth in Article 162(1)(i), either of the facts set forth in (a) or (b) of Article 162(1)(i) for the cases listed in (a) or (b), respectively (in the case set forth in (a), both the facts that the bankrupt was unable to pay debts and that the bankrupt suspended payments).

(4) For the purpose of application of the provision of Article 168(2) in the case referred to in paragraph (1), if the other party to the act in question is the trustee, etc. or accounting auditor, the other party shall be presumed to have known, at the time of the act, that the trustee, etc. had the intention of conducting concealment or other disposition set forth in Article 168(2).

(Powers of Bankruptcy Trustee)

Article 244-11 (1) Where an order of commencement of bankruptcy proceedings is made against the trust property, the following acts shall be conducted by a bankruptcy trustee:

- (i) Exercise of the right to rescind under the provisions of Article 27(1) or (2) of the Trust Act
 - (ii) Ratification under the provision of Article 31(5) of the Trust Act
 - (iii) Exercise of the right to rescind under the provisions of Article 31(6) or (7) of the Trust Act
 - (iv) Exercise of the right under the provision of Article 32(4) of the Trust Act
 - (v) Pursuing the liability under the provisions of Article 40 or Article 41 of the Trust Act
 - (vi) Exemption from the liability under the provision of Article 42 of the Trust Act (including cases where applied mutatis mutandis pursuant to Article 254(3) of said Act)
 - (vii) Pursuing the liability under the provisions of Article 226(1), Article 228(1) or Article 254(1) of the Trust Act
- (2) The provision of the preceding paragraph shall apply mutatis mutandis to a provisional administrator.
- (3) The provision of Article 177 shall apply mutatis mutandis to a temporary restraining order upon the property of the trustee, etc. or accounting auditor in cases where an order of commencement of bankruptcy proceedings is made against the trust property, and the provisions of Article 178 to Article 181 shall apply mutatis mutandis to an assessment of a claim for compensation for loss or for restoration based on the liability of the trustee, etc. or accounting auditor in the bankruptcy proceedings against the trust property.

(Provisional Administration Order)

Article 244-12 For the purpose of application of the provisions of Chapter III, Section 2, in cases where a petition for commencement of bankruptcy proceedings is filed against the trust property, the phrase "when a debtor (limited to a juridical person; hereinafter the same shall apply in this Section, Article 148(4) and Article 152(2)) administers and disposes of its property" in Article 91(1) shall be deemed to be replaced with "when a debtor (limited to a juridical person; hereinafter the same shall apply in this Section, Article 148(4)

and Article 152(2)) administers and disposes of property that belongs to the trust property," and the phrase "the debtor's property" in Article 91(1), Article 93(1) and Article 96(2) shall be deemed to be replaced with "property that belongs to the trust property."

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

Article 244-13 (1) A petition set forth in Article 218(1) with regard to bankruptcy of the trust property shall be filed by the trustee, etc.

(2) If there are two or more trustees, etc., each trustee, etc. may severally file the petition set forth in the preceding paragraph.

(3) When filing a petition set forth in paragraph (1) for bankruptcy of the trust property, the petitioner shall perform the procedure for maintaining the trust in advance by complying with the provisions concerning the amendment of a trust.

Chapter XI Special Provisions Where Foreign Insolvency Proceedings Exist

(Cooperation with Foreign Trustees)

Article 245 (1) A bankruptcy trustee, where there exist foreign insolvency proceedings (meaning proceedings commenced in a foreign state, which are equivalent to bankruptcy proceedings or rehabilitation proceedings; hereinafter the same shall apply in this Chapter) taken against the bankrupt, may request a foreign trustee (meaning a person who has a right to administer and dispose of the bankrupt's property in said foreign insolvency proceedings; hereinafter the same shall apply in this Chapter) to provide cooperation and information necessary for the proper implementation of bankruptcy proceedings.

(2) In the case prescribed in the preceding paragraph, a bankruptcy trustee shall endeavor to provide a foreign trustee with cooperation and information necessary for the proper implementation of foreign insolvency proceedings.

(Powers of Foreign Trustee, etc.)

Article 246 (1) A foreign trustee may file a petition for commencement of bankruptcy proceedings against a debtor.

(2) A foreign trustee, when filing the petition set forth in the preceding paragraph, shall make a prima facie showing of the fact constituting the grounds for the commencement of bankruptcy proceedings.

(3) A foreign trustee may attend a creditors meeting on the date specified therefor and state his/her opinions in bankruptcy proceedings against the bankrupt.

(4) Where a foreign trustee has filed a petition for commencement of bankruptcy

proceedings pursuant to the provision of paragraph (1), a notice shall be given to the foreign trustee with regard to: when a comprehensive prohibition order is issued or an order to change or revoke said order is made, the main text of the respective order; when an order of commencement of bankruptcy proceedings is made, the matters for which a public notice shall be made pursuant to the provision of Article 32(1); when there is a change to the matter set forth in item (ii) or item (iii) of Article 32(1), the statement to that effect; when an order to revoke the order of commencement of bankruptcy proceedings becomes final and binding, the main text of the order.

(Mutual Participation in Proceedings)

- Article 247 (1) A foreign trustee, while representing a bankruptcy creditor who has not filed a proof of claim but has participated in foreign insolvency proceedings against the bankrupt, may participate in bankruptcy proceedings against the bankrupt; provided, however, that this shall apply only where the foreign trustee has the power to do so pursuant to laws and regulations of the foreign state concerned.
- (2) A bankruptcy trustee, while representing a bankruptcy creditor who has filed a proof of claim but has not participated in foreign insolvency proceedings, may participate in said foreign insolvency proceedings.
- (3) A bankruptcy trustee, when he/she has participated in foreign insolvency proceedings under the provision of the preceding paragraph, may perform any and all acts involved in the foreign insolvency proceedings in the interest of the bankruptcy creditor whom he/she represents pursuant to the provision of said paragraph; provided, however, that delegation of powers from said bankruptcy creditor shall be required in order to withdraw a proof of claim filed, seek a settlement or perform any other act that is likely to prejudicing the rights of other bankruptcy creditors.

Chapter XII Discharge Proceedings and Restoration of Rights

Section 1 Discharge Proceedings

(Petition for Grant of Discharge)

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

as the "debtor" in this Section) was unable to file a petition for grant of discharge within the period prescribed in said paragraph due to grounds not attributable thereto, he/she may file the petition only within one month after the grounds cease to exist.

- (3) When filing a petition for grant of discharge, the petitioner shall submit a list of holders of dischargeable claims stating the matters specified by the Rules of the Supreme Court; provided, however, that if it is impossible to submit a list of holders of dischargeable claims upon filing the petition, it shall be sufficient to submit it without delay after filing the petition.
- (4) Where the debtor has filed a petition for commencement of bankruptcy proceedings, he/she shall be deemed to have filed a petition for grant of discharge upon filing said petition; provided, however, that this shall not apply if the debtor, upon filing the petition for commencement of bankruptcy proceedings, has manifested his/her intention to the contrary.
- (5) When a petition for grant of discharge is deemed to have been filed pursuant to the provision of the main clause of the preceding paragraph, the list of creditors set forth in Article 20(2) shall be deemed to be the list of holders of dischargeable claims set forth in the main clause of paragraph (3).
- (6) The debtor, if he/she has filed a petition for grant of discharge, may not file a petition set forth in Article 218(1) or a petition for commencement of rehabilitation proceedings.
- (7) The debtor, if he/she has filed any of the petitions listed in the following items, notwithstanding the provisions of paragraph (1) or paragraph (2), may not file a petition for grant of discharge until the order specified in the respective items becomes final and binding:
 - (i) A petition set forth in Article 218(1): An order dismissing the petition with prejudice on the merits
 - (ii) A petition for commencement of rehabilitation proceedings: An order dismissing the petition with prejudice on the merits, order of discontinuance of rehabilitation proceedings or order of disconfirmation of the rehabilitation plan

(Prohibition of Compulsory Execution, etc.)

Article 249 (1) Where a petition for grant of discharge is filed and an order of discontinuance of bankruptcy proceedings under the provision of Article 216(1) is made, an order of discontinuance of bankruptcy proceedings made under the provision of Article 217(1) has become final and binding or an order of termination of bankruptcy proceedings under the provision of Article 220(1) is made, until a judicial decision on said petition becomes final and binding, it is not allowed to, against the bankrupt's property, enforce compulsory execution, provisional seizure or provisional disposition based on a bankruptcy claim, or

exercise of a general statutory lien or auction by reason of a right of retention (excluding a right of retention under the provisions of the Commercial Code or the Companies Act) as intended to secure a bankruptcy claim (hereinafter referred to as "compulsory execution based on a bankruptcy claim, etc." in this Article), to file a petition for assets disclosure procedure based on a bankruptcy claim or to enforce a procedure for collection of national tax delinquency against the bankrupt's property, and any procedure for compulsory execution, etc. based on a bankruptcy claim already initiated against the bankrupt's property and assets disclosure procedure based on a bankruptcy claim already initiated against the bankrupt shall be stayed.

- (2) When an order of grant of discharge becomes final and binding, the procedure for compulsory execution, etc. based on a bankruptcy claim and assets disclosure procedure based on a bankruptcy claim stayed pursuant to the provision of the preceding paragraph shall cease to be effective.
- (3) In the case referred to in paragraph (1), the prescription shall not be completed with regard to a bankruptcy claim set forth in each of the following items until the day on which two months have elapsed since the day following the day on which the order specified in the respective items becomes final and binding:
 - (i) A claim set forth in each item of Article 253(1): An order on a petition for grant of discharge
 - (ii) A bankruptcy claim other than the claim set forth in the preceding item: An order dismissing without prejudice a petition for grant of discharge or order of non-grant of discharge

(Investigation and Report on Discharge)

- Article 250 (1) The court may have a bankruptcy trustee conduct an investigation on the existence or nonexistence of any of the cases listed in the items of Article 252(1) or the circumstances to be considered when determining whether or not to make an order of grant of discharge, and report the results of such investigation in writing.
- (2) The bankrupt shall cooperate in the investigation on the matters prescribed in the preceding paragraph conducted by the court or investigation conducted by a bankruptcy trustee pursuant to the provision of said paragraph.

(Statement of Opinions on Discharge)

- Article 251 (1) The court, when a petition for grant of discharge is filed, after an order of commencement of bankruptcy proceedings is made, shall specify a period during which a bankruptcy trustee and bankruptcy creditors (excluding those who hold claims listed in the items of Article 253(1); the same shall apply in the following paragraph, paragraph (3) of the following Article, and Article

254) may state their opinions to the court with regard to whether or not it is appropriate to make an order of grant of discharge to the bankrupt.

- (2) The court, when it has made an order to specify the period set forth in the preceding paragraph, shall make a public notice of the period and give a notice of the period to a bankruptcy trustee and known bankruptcy creditors.
- (3) The period set forth in paragraph (1) shall be not less than one month calculated from the day on which the public notice made under the provision of the preceding paragraph becomes effective.

(Requirements for an Order of Grant of Discharge, etc.)

Article 252 (1) The court shall make an order of grant of discharge if the bankrupt falls under none of the cases listed in the following items:

- (i) The bankrupt, for the purpose of harming his/her creditors, has concealed or damaged property that belongs or should belong to the bankruptcy estate, disposed of such property in a manner disadvantageous to creditors or conducted any other act that would unduly reduce the value of the bankruptcy estate.
- (ii) The bankrupt, for the purpose of delaying the commencement of bankruptcy proceedings, has assumed a debt under extremely disadvantageous conditions or purchased goods on credit and disposed of them under extremely disadvantageous conditions.
- (iii) The bankrupt, for the purpose of giving a special benefit to a specific creditor to whom he/she owes a debt or for harming other creditors, has conducted an act concerning the provision of security or extinguishment of debt that is not included in the scope of a debtor's obligation in terms of the act itself or the method or time of performance of the act.
- (iv) The bankrupt, by conducting extravagant spending, gambling or any other speculative act, has significantly reduced his/her property or assumed excessive debts.
- (v) During the period from the day one year before the day on which a petition for commencement of bankruptcy proceedings is filed until the day on which an order of commencement of bankruptcy proceedings is made, the bankrupt, knowing that there is a fact constituting the grounds for the commencement of bankruptcy proceedings, has acquired property on credit by fraudulent means so as to make the other party believe that there is no such fact.
- (vi) The bankrupt has spoliated, forged or altered books, documents or any other objects concerning the status of his/her business and property.
- (vii) The bankrupt has submitted a false list of holders of dischargeable claims (including a list of creditors that shall be deemed to be a list of holders of dischargeable claims pursuant to the provision of Article 248(5); the same shall apply in paragraph (1)(vi) of the following Article).

- (viii) The bankrupt has refused to give an explanation or given a false explanation in the investigation conducted by the court in bankruptcy proceedings.
- (ix) The bankrupt, by fraudulent means, has obstructed the performance of duties of a bankruptcy trustee, provisional administrator, bankruptcy trustee representative or provisional administrator representative.
- (x) In any of the cases listed in (a) to (c) below, a petition for grant of discharge is filed within seven years from the day specified in (a) to (c), respectively
 - (a) An order of grant of discharge that was made against the bankrupt became final and binding: The day on which said order of grant of discharge became final and binding
 - (b) A rehabilitation plan for rehabilitation for a salaried worker, etc. prescribed in Article 239(1) of the Civil Rehabilitation Act (Act No. 225 of 1999) was executed for the bankrupt: The day on which the order of confirmation of the rehabilitation plan became final and binding
 - (c) An order of discharge prescribed in Article 235(1) of the Civil Rehabilitation Act (including cases where applied mutatis mutandis pursuant to Article 244 of said Act) that was made against the bankrupt became final and binding: The day on which the order of confirmation of the rehabilitation plan pertaining to said order of discharge became final and binding
- (xi) The bankrupt has breached his/her duties prescribed in Article 40(1)(i), Article 41 or Article 250(2) or any other duties provided in this Act.
- (2) Notwithstanding the provision of the preceding paragraph, even where the bankrupt falls under any of the cases listed in the items of said paragraph, the court, when it finds it appropriate to grant a discharge while taking into consideration the circumstances where an order of commencement of bankruptcy proceedings was made and all other circumstances, may make an order of grant of discharge.
- (3) The court, when it has made an order of grant of discharge, shall immediately serve the written order upon the bankrupt and a bankruptcy trustee and also serve a document stating the main text of the order upon bankruptcy creditors, respectively. In this case, with regard to the service of the written order, the provision of the main clause of Article 10(3) shall not apply.
- (4) The court, when it has made an order of non-grant of discharge, shall immediately serve the written order upon the bankrupt. In this case, the provision of the main clause of Article 10(3) shall not apply.
- (5) An immediate appeal may be filed against a judicial decision on a petition for grant of discharge.
- (6) Where a judicial decision on the immediate appeal set forth in the preceding paragraph is made, the written decision shall be served upon the parties

concerned. In this case, the provision of the main clause of Article 10(3) shall not apply.

(7) An order of grant of discharge shall not become effective unless it becomes final and binding.

(Effect of an Order of Grant of Discharge, etc.)

Article 253 (1) When an order of grant of discharge becomes final and binding, the bankrupt shall be discharged from his/her liabilities for bankruptcy claims, except for a liquidating distribution through bankruptcy proceedings; provided, however, that this shall not apply to the following claims:

(i) A claim for tax, etc.

(ii) A claim for damages for a tort that the bankrupt has committed in bad faith

(iii) A claim for damages for a tort harming the life or body of another that the bankrupt has committed intentionally or by gross negligence (excluding the claim set forth in the preceding item)

(iv) A claim arising from any of the following duties:

(a) The duty to cooperate and provide mutual assistance between husband and wife under the provision of Article 752 of the Civil Code

(b) The duty to share expenses arising from marriage under the provision of Article 760 of the Civil Code

(c) The duty concerning the custody of a child under the provision of Article 766 of the Civil Code (including cases where applied mutatis mutandis pursuant to Article 749, Article 771 and Article 788 of said Code)

(d) The duty to support under the provisions of Article 877 to Article 880 of the Civil Code

(e) Any duties similar to the duties listed in (a) to (d) above, which are under a contract

(v) A claim of an employee and a claim for return of an employee's deposit, which have arisen from an employment relationship

(vi) A claim that the bankrupt has not stated in the list of holders of dischargeable claims while knowing it (excluding a claim held by a person who knew that an order of commencement of bankruptcy proceedings against the bankrupt had been made)

(vii) A claim for a fine, etc.

(2) An order of grant of discharge shall not affect any rights held by bankruptcy creditors against the bankrupt's guarantor or any other person who owes debts jointly with the bankrupt and any security provided by persons other than the bankrupt in the interest of bankruptcy creditors.

(3) Where an order of grant of discharge has become final and binding, if there is a schedule of bankruptcy creditors, a court clerk shall make an entry in the list to the effect that the order of grant of discharge has become final and binding.

(Order of Revocation of Discharge)

Article 254 (1) When a judgment to find the bankrupt guilty for the crime set forth in Article 265 has become final and binding, the court, upon the petition of a bankruptcy creditor or by its own authority, may make an order of revocation of discharge. The same shall apply where an order of grant of discharge was made due to unlawful means applied by the bankrupt, and then a bankruptcy creditor has filed a petition for revocation of discharge within one year after the order of grant of discharge was made.

(2) The court, when it has made an order of revocation of discharge, shall immediately serve the written order upon the bankrupt and the petitioner, and also serve a document stating the main text of the order upon bankruptcy creditors, respectively. In this case, with regard to the service of the written order, the provision of the main clause of Article 10(3) shall not apply.

(3) An immediate appeal may be filed against a judicial decision on the petition set forth in paragraph (1) and an order of revocation of discharge by the court's own authority.

(4) Where a judicial decision on the immediate appeal set forth in the preceding paragraph is made, the written decision shall be served upon the parties concerned. In this case, the provision of the main clause of Article 10(3) shall not apply.

(5) When an order of revocation of discharge becomes final and binding, the order of grant of discharge shall cease to be effective.

(6) Where an order of revocation of discharge has become final and binding, if there is a person who has acquired a claim against the bankrupt arising from a cause that occurred after the order of grant of discharge was made and before the order of revocation of discharge has become final and binding, such person shall have a right to receive payment of his/her claim in preference to other creditors in any additional bankruptcy proceedings.

(7) The provision of paragraph (3) of the preceding Article shall apply where an order of revocation of discharge becomes final and binding.

Section 2 Restoration of Rights

(Restoration of Rights)

Article 255 (1) The bankrupt's rights shall be restored in any of the following cases. The same shall apply where an order of restoration of rights set forth in paragraph (1) of the following Article becomes final and binding:

(i) Where an order of grant of discharge has become final and binding.

(ii) Where an order of discontinuance of bankruptcy proceedings under the provision of Article 218(1) has become final and binding

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

(Order of Restoration of Rights)

- Article 256 (1) When the bankrupt is discharged from all his/her debts to bankruptcy creditors by payment or any other methods, the bankruptcy court, upon the petition of the bankrupt, shall make an order of restoration of rights.
- (2) The court, when the petition set forth in the preceding paragraph is filed, shall make a public notice to that effect.
- (3) A bankruptcy creditor, within three months from the day on which the public notice made under the provision of the preceding paragraph becomes effective, may state to the court his/her opinions on the petition set forth in paragraph (1).
- (4) The court, when it has made a judicial decision on the petition set forth in paragraph (1), shall serve the written decision upon the bankrupt, and also serve a document stating the main text of the decision upon bankruptcy creditors, respectively. In this case, with regard to the service of the written decision, the provision of the main clause of Article 10(3) shall not apply.
- (5) An immediate appeal may be filed against a judicial decision on the petition set forth in paragraph (1).
- (6) Where a judicial decision on the immediate appeal set forth in the preceding paragraph is made, the written decision shall be served upon the parties concerned. In this case, the provision of the main clause of Article 10(3) shall not apply.

Chapter XIII Miscellaneous Provisions

(Commission of Registration, etc. on Bankruptcy Proceedings of Juridical Persons)

- Article 257 (1) Where an order of commencement of bankruptcy proceedings is made against a debtor who is a juridical person, a court clerk, by his/her own

authority, without delay, shall commission the registry office having jurisdiction over the location of the head office or principal office of the bankrupt to make a registration of the commencement of bankruptcy proceedings; provided, however, that such commission shall be made, if the bankrupt is a foreign juridical person which is categorized as a foreign company, to the registry office having jurisdiction over the place of domicile of its representative person for Japan (limited to one who has a domicile in Japan) (in the case of a foreign company that has business offices in Japan, the location of each such business office), and if the bankrupt is any other foreign juridical person, to the registry office having jurisdiction over the location of each of its offices.

- (2) The registration set forth in the preceding paragraph shall include the name and address of each bankruptcy trustee, if permission set forth in the proviso to Article 76(1) is granted for independent performance of duties by each bankruptcy trustee, a statement to that effect, and if permission set forth in the proviso of Article 76(1) is granted for division of duties among bankruptcy trustees, a statement to that effect and the contents of the duties assigned to each bankruptcy trustee.
- (3) The provision of paragraph (1) shall apply *mutatis mutandis* where there is a change to any of the matters prescribed in the preceding paragraph.
- (4) When a provisional administration order is issued against the debtor set forth in paragraph (1), a court clerk, by his/her own authority, without delay, shall commission the registry office prescribed in said paragraph to make a registration of the provisional administration order.
- (5) The registration set forth in the preceding paragraph shall include the name and address of each provisional administrator, if permission set forth in the proviso to Article 76(1) as applied *mutatis mutandis* pursuant to Article 96(1) is granted for independent performance of duties by each provisional administrator, a statement to that effect, and if permission set forth in the proviso of Article 76(1) as applied *mutatis mutandis* pursuant to Article 96(1) is granted for division of duties among provisional administrators, a statement to that effect and the contents of the duties assigned to each provisional administrator.
- (6) The provision of paragraph (4) shall apply *mutatis mutandis* where an order to change or revoke the judicial decision prescribed in said paragraph is made or there is a change to any of the matters prescribed in the preceding paragraph.
- (7) The provision of paragraph (1) shall apply *mutatis mutandis* where, with regard to the bankrupt set forth in said paragraph, an order of revocation of the order of commencement of bankruptcy proceedings or an order of discontinuance of bankruptcy proceedings becomes final and binding or an

order of termination of bankruptcy proceedings is made.

- (8) The provisions of the preceding paragraphs shall apply mutatis mutandis where an order of commencement of bankruptcy proceedings is made against the trust property of a limited liability trust. In this case, the phrase "the location of the head office or principal office of the bankrupt" in paragraph (1) shall be deemed to be replaced with "the place of administration of affairs (meaning the place of administration of affairs prescribed in Article 216(2) of the Trust Act) of the limited liability trust."

(Commission of Registration, etc. on Bankruptcy Proceedings of Individuals)

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

- (i) Where the court clerk becomes aware that there is any registration concerning the bankrupt.
- (ii) Where the court clerk becomes aware that there is any registered right that belongs to the bankruptcy estate.

(2) The provision of the preceding paragraph shall apply mutatis mutandis where, with regard to the bankrupt, an order of revocation of the order of commencement of bankruptcy proceedings or an order of discontinuance of bankruptcy proceedings becomes final and binding or an order of termination of bankruptcy proceedings is made.

(3) A court clerk, if any right for which a registration of the commencement of bankruptcy proceedings was made pursuant to the provision of paragraph (1)(ii) is determined by the order set forth in Article 34(4) as not belonging to the bankruptcy estate, by his/her own authority, without delay, shall commission cancellation of the registration. The same shall apply where a bankruptcy trustee has waived such right subject to the registration and filed a petition for commission of cancellation of the registration.

(4) The provisions of paragraph (1)(ii) (including cases where applied mutatis mutandis pursuant to paragraph (2)) and the second sentence of the preceding paragraph shall apply mutatis mutandis where an order of commencement of bankruptcy proceedings is made against the inherited property or trust property.

(5) The provision of paragraph (1)(ii) shall apply mutatis mutandis where a provisional administration order is issued upon the trust property or where the provisional administration order is changed or revoked.

(Commission of Registration on Temporary Restraining Order)

Article 259 (1) In the following cases, a court clerk, by his/her own authority, without delay, shall commission a registration of the temporary restraining order concerned:

- (i) Where a temporary restraining order under the provision of Article 28(1) (including cases where applied mutatis mutandis pursuant to Article 33(2)) is issued with respect to any registered right that belongs to a debtor's property.
 - (ii) Where a temporary restraining order under the provision of Article 171(1) (including cases where applied mutatis mutandis pursuant to paragraph (7) of said Article) or Article 177(1) or (2) (including cases where applied mutatis mutandis pursuant to paragraph (7) of said Article) is issued with respect to any registered right.
- (2) The provision of the preceding paragraph shall apply mutatis mutandis where the temporary restraining order prescribed in said paragraph is changed or revoked or such temporary restraining order ceases to be effective.

(Registration of Avoidance)

Article 260 (1) Where any act constituting the cause of registration is avoided, a bankruptcy trustee shall apply for a registration of avoidance. The same shall apply where a registration is avoided.

- (2) A registrar, when making a registration on a right pertaining to the registration of avoidance set forth in the preceding paragraph, by his/her own authority, shall cancel the following registrations:
- (i) The registration of avoidance in question
 - (ii) The registration arising from the avoided act as the cause of registration, or the avoided registration
 - (iii) Any subsequent registration made after the registration set forth in the preceding item
- (3) In the case prescribed in the preceding paragraph, if, after an avoided act was made but before a registration of the avoidance is made, a registration is made with respect to a third party's right (limited to such right whose effect may be asserted in relation to bankruptcy proceedings) the subject matter of which is the right pertaining to the registration set forth in item (ii) of said paragraph, notwithstanding the provision of said paragraph, a registrar, by his/her own authority, shall cancel said registration of avoidance and make a registration of the transfer of the right pertaining to the registration set forth in said item to the bankrupt.
- (4) Where a registration of avoidance set forth in paragraph (1) is made, if, with regard to the bankrupt, an order of revocation of the order of commencement of bankruptcy proceedings or an order of discontinuance of bankruptcy proceedings becomes final and binding or an order of termination of

bankruptcy proceedings is made, a court clerk, by his/her own authority, without delay, shall commission cancellation of said registration of avoidance. The same shall apply where a bankruptcy trustee has waived the right pertaining to the registration set forth in paragraph (2)(ii) and filed a petition for commission of cancellation of a registration of avoidance.

(Exclusion from Taxation)

Article 261 Registration and license tax shall not be imposed on the registrations under the provisions of Article 257 to the preceding Article.

(Application Mutatis Mutandis to Registered Rights)

Article 262 The provision of item (ii) of Article 258(1) and the provision of said item as applied mutatis mutandis pursuant to paragraph (2) of said Article (including cases where these provisions are applied mutatis mutandis pursuant to paragraph (4) of said Article), the provision of paragraph (3) of said Article (including cases where the provision of the second sentence of paragraph (3) of said Article is applied mutatis mutandis pursuant to paragraph (4) of said Article), and the provisions of the preceding three Articles shall apply mutatis mutandis to other registered rights.

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

Article 263 Where an order of discontinuance of proceedings for limitation of shipowners liability is made with regard to the proceedings for limitation of shipowners liability commenced in the interest of the bankrupt, bankruptcy proceedings shall be stayed until said order becomes final and binding.

(Measures to Be Taken upon Discontinuance of Proceeding for Limitation of Shipowners Liability)

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

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

(3) Known holders of claims under limitation shall be given a notice of the matters of which a public notice shall be made pursuant to the provision of Article 32(1)(i) and (ii) and the preceding paragraph.

(4) A bankruptcy trustee, the bankrupt, and holders of filed bankruptcy claims

shall be given a notice of the matters of which a public notice shall be made pursuant to the provision of paragraph (2); provided, however, that if the period or date for conducting an investigation of claims specified under the provision of paragraph (1) (in cases where such period or date is changed, the period or date as changed) is the same as the period or date specified under the provision of Article 31(1)(iii), the notice shall not be required to be given to holders of filed bankruptcy claims.

- (5) The provisions of the preceding three paragraphs shall apply mutatis mutandis where the period during which proofs of claims should be filed as specified under the provision of paragraph (1) is changed, the provisions of Article 118(3) to (5) shall apply mutatis mutandis pursuant where an order is made to change the period for conducting an investigation of claims specified under the provision of paragraph (1), the provisions of Article 121(9) to (11) shall apply mutatis mutandis pursuant where an order is made to change the date for conducting an investigation of claims specified under the provision of paragraph (1) or an order is made to postpone or continue the investigation of claims on said date. In this case, the term "a bankruptcy trustee" in Article 118(3) and Article 121(9) shall be deemed to be replaced with "holders of filed claims under limitation (or known holders of claims under limitation before the expiration of the period during which proofs of claims should be filed as specified under the provision of Article 264(1)), a bankruptcy trustee," and the term "a bankruptcy trustee" in Article 121(10) shall be deemed to be replaced with "holders of filed claims under limitation, a bankruptcy trustee."
- (6) The provisions of Article 31(2) and (3) shall apply mutatis mutandis to the period and date prescribed in paragraph (1).

Chapter XIV Penal Provisions

(Crime of Fraudulent Bankruptcy)

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

- (i) An act of concealing or damaging the debtor's property (in the case of

bankruptcy of the inherited property, property that belongs to the inherited property, and in the case of bankruptcy of the trust property, property that belongs to the trust property; hereinafter the same shall apply in this Article)

(ii) An act of faking the transfer of the debtor's property or assumption of debts

(iii) An act of altering the existing status of the debtor's property, thereby reducing its value

(iv) An act of disposing of the debtor's property in a manner disadvantageous to creditors, or an act, committed by the debtor, of assuming debts disadvantageous to creditors

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

(Crime of Providing Security to Specific Creditor, etc.)

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

(Crime of Special Breach of Trust by Bankruptcy Trustee, etc.)

Article 267 (1) Where a bankruptcy trustee, provisional administrator, bankruptcy trustee representative or provisional administrator representative, for the purpose of promoting his/her own interest or the interest of a third party, or inflicting damage on creditors, has committed an act in breach of his/her duty and caused financial loss to creditors, he/she shall be punished by imprisonment with work for not more than ten years or a fine of not more than ten million yen, or both.

(2) Where a bankruptcy trustee or provisional administrator is a juridical person, the provision of the preceding paragraph shall apply to its officer or official

who performs the duties of a bankruptcy trustee or provisional administrator.

(Crime of Refusal of Explanation and Inspection, etc.)

- Article 268 (1) A person who, in violation of the provisions of Article 40(1) (including cases where applied mutatis mutandis pursuant to paragraph (2) of said Article), Article 230(1) (including cases where applied mutatis mutandis pursuant to paragraph (2) of said Article) or Article 244-6(1) (including cases where applied mutatis mutandis pursuant to paragraph (2) of said Article) has refused to give an explanation or given a false explanation shall be punished by imprisonment with work for not more than three years or a fine of not more than three million yen, or both. The same shall apply to a person who, in violation of the provision of Article 40(1) (including cases where applied mutatis mutandis pursuant to paragraph (2) of said Article) as applied mutatis mutandis pursuant to Article 96(1), has refused to give an explanation or given a false explanation.
- (2) The provision of the first sentence of the preceding paragraph shall also apply where a representative person, agent, employee or other worker (hereinafter referred to as a "representative person, etc." in this paragraph and paragraph (4)) of a person set forth in items (ii) to (v) of Article 40(1) or person who was a person set forth in these items, or of a person listed in each item of Article 230(1) (excluding an heir) or person who was a person set forth in item (ii) or (iii) of Article 230(1) (excluding an heir), or of a person set forth in each of the items of Article 244-6(1) or person who was a person set forth in these items (each of such persons shall hereinafter be referred to as a "person under duty of explanation" in this paragraph), in connection with the business of the person under duty of explanation, in violation of the provisions of Article 40(1) (including cases where applied mutatis mutandis pursuant to paragraph (2) of said Article), Article 230(1) (including cases where applied mutatis mutandis pursuant to paragraph (2) of said Article) or Article 244-6(1) (including cases where applied mutatis mutandis pursuant to paragraph (2) of said Article), has refused to give an explanation or given a false explanation. The same shall apply where a representative person, etc. of a person under duty of explanation, in connection with the business of the person under duty of explanation, in violation of the provision of Article 40(1) (including cases where applied mutatis mutandis pursuant to paragraph (2) of said Article) as applied mutatis mutandis pursuant to Article 96(1), has refused to give an explanation or given a false explanation.
- (3) The provision of the first sentence of paragraph (1) shall also apply where the bankrupt has refused an inspection under the provision of Article 83(1) (including cases where applied mutatis mutandis pursuant to Article 96(1)), where an order of commencement of bankruptcy proceedings is made against

the inherited property and a person set forth in Article 230(1)(ii) or (iii) has refused an inspection under the provision of Article 83(1) or where an order of commencement of bankruptcy proceedings is made against the trust property and the trustee, etc. has refused an inspection under the provision of Article 83(1) (including cases where applied mutatis mutandis pursuant to Article 96(1)).

- (4) The provision of the first sentence of paragraph (1) shall also apply where a representative person, etc. of the bankrupt's subsidiary company, etc. prescribed in Article 83(2) (including one that shall be deemed to be the bankrupt's subsidiary company, etc. under paragraph (3) of said Article; hereinafter the same shall apply in this paragraph), in connection with the business of the bankrupt's subsidiary company, etc., has refused to give an explanation under the provision of paragraph (2) of said Article (including cases where applied mutatis mutandis pursuant to Article 96(1); hereinafter the same shall apply in this paragraph) or given a false explanation, or has refused an inspection under the provision of Article 83(2).

(Crime of Refusal of Disclosure of Important Property, etc.)

Article 269 Where the bankrupt (in the case of bankruptcy of the trust property, the trustee, etc.) has refused to submit a document under the provision of Article 41 (including cases where applied mutatis mutandis pursuant to Article 244-6(4)) or submitted a false document to the court, he/she shall be punished by imprisonment with work for not more than three years or a fine of not more than three million yen, or both.

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

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

(Crime of Refusal of Explanation in Interrogation, etc.)

Article 271 Where a debtor, in an interrogation on a petition for commencement of bankruptcy proceedings (excluding those filed by persons other than the debtor) or petition for grant of discharge, has refused to give an explanation with regard to the matters for which the court has required an explanation, or given a false explanation, he/she shall be punished by imprisonment with work for not more than three years or a fine of not more than three million yen, or both.

(Crime of Obstruction of Duties against Bankruptcy Trustee, etc.)

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

(Crime of Acceptance of Bribe)

- Article 273 (1) Where a bankruptcy trustee, provisional administrator, bankruptcy trustee representative or provisional administrator representative (referred to as a "bankruptcy trustee, etc." in the following paragraph), in connection with his/her duties, has accepted, solicited or promised to accept a bribe, he/she shall be punished by imprisonment with work for not more than three years or a fine of not more than three million yen, or both.
- (2) In the case referred to in the preceding paragraph, where the bankruptcy trustee, etc. has agreed to perform an act in response to an unlawful request, he/she shall be punished by imprisonment with work for not more than five years or a fine of not more than five million yen, or both.
- (3) Where a bankruptcy trustee or provisional administrator is a juridical person, if its officer or official who performs the duties of a bankruptcy trustee or provisional administrator, in connection with the duties of a bankruptcy trustee or provisional administrator, has accepted, solicited or promised to accept a bribe, he/she shall be punished by imprisonment with work for not more than three years or a fine of not more than three million yen, or both. The same shall apply where a bankruptcy trustee or provisional administrator is a juridical person, and its officer or official, in connection with the duties of a bankruptcy trustee or provisional administrator, has caused the bankruptcy trustee or provisional administrator to accept or solicit or promise to accept a bribe.
- (4) In the case referred to in the preceding paragraph, where the officer or official has agreed to perform an act in response to an unlawful request, he/she shall

be punished by imprisonment with work for not more than five years or a fine of not more than five million yen, or both.

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

(6) In the cases referred to in the preceding paragraphs, a bribe accepted by the offender or by the bankruptcy trustee or provisional administrator who is a juridical person shall be confiscated. If the whole or part of the bribe cannot be confiscated, an equivalent value thereof shall be collected.

(Crime of Offer of Bribe)

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

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

(Crime of Forcibly Demanding Meeting, etc. with the Bankrupt, etc.)

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

(Crimes Committed Outside Japan)

Article 276 (1) The crimes set forth in Article 265, Article 266, Article 270, Article 272 and Article 274 shall be governed by the provision of Article 2 of the Penal Code (Act No. 45 of 1907).

(2) The crimes set forth in Article 267 and Article 273 (excluding paragraph (5))

shall be governed by the provision of Article 4 of the Penal Code.

(3) The crime set forth in Article 273(5) shall also apply to a person who has committed the crime set forth in Article 273(5) outside Japan.

(Dual Liability)

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