

JUDICIAL CONCILIATION OF CIVIL DISPUTES ACT

Act No. 4202, Jan. 13, 1990

Amended by Act No. 4299, Dec. 31, 1990

Act No. 4505, Nov. 30, 1992

Act No. 5007, Dec. 6, 1995

Act No. 5589, Dec. 28, 1998

Act No. 6407, Jan. 29, 2001

Act No. 6626, Jan. 26, 2002

Act No. 9417, Feb. 6, 2009

Act No. 10200, Mar. 31, 2010

Act No. 11157, Jan. 17, 2012

Act No. 13952, Feb. 3, 2016

Act No. 16910, Feb. 4, 2020

Article 1 (Purpose)

The purpose of this Act is to settle civil disputes in an appropriate, fair, prompt, and efficient manner while respecting efforts of parties for the voluntary and autonomous settlement of disputes in accordance with conciliation procedures. *<Amended by Act No. 16910, Feb. 4, 2020>*

Article 2 (Case of Conciliation)

@Parties to a civil dispute may file a request for conciliation with a court. *<Amended by Act No. 16910, Feb. 4, 2020>*

Article 3 (Competent Court)

(1) A conciliation case shall be under the jurisdiction of the district court, the branch court of the district court, the Si court, or the Gun court (hereinafter referred to as "Si/Gun court"), which has the jurisdiction over places falling under any of the following subparagraphs:

1. The place of general forum of a respondent under Articles 3 through 6 of the Civil Procedure Act;
2. The place of business or business office of a respondent;
3. The place of work of a respondent;
4. The location of the subject-matter of disputes;
5. The place where damage occurs.

(2) Notwithstanding paragraph (1), a conciliation case may be placed under the jurisdiction of an exclusive competent court of a case equivalent thereto, or a court determined by agreement of parties.

Article 4 (Transfer)

(1) A judge in charge of a conciliation case, as designated by the chief justice of the high court, the chief judge of the district court or the chief judge of a branch court of the district court, or a judge of a Si/Gun court in charge of a conciliation case (hereinafter referred to as "conciliation judge"), shall transfer cases to the competent court by means of a ruling, if no jurisdiction exists in his or her court: Provided, That this shall not apply where a respondent makes a statement in a conciliation procedure without a plea of non-competence or if a stay is deemed particularly necessary to resolve a case.

(2) A conciliation judge may transfer a case to another competent court ex officio or by decision upon application of a party, if deemed reasonable notwithstanding its competence thereof.

(3) No appeal against decisions prescribed in paragraphs (1) and (2) shall be made.

Article 5 (Ways to Request Conciliation)

(1) A request for conciliation may be filed in writing or orally.

(2) When making a request orally, the applicant shall make a statement in the presence of a court official of Grade IV, V, VI or VII (hereinafter referred to as "court official of Grade IV, etc.").

(3) In cases falling under paragraph (2), a court official of Grade IV, etc. shall prepare a protocol specifying the request for conciliation, and sign his or her name and affix his or her seal thereto.

(4) In filing a request for conciliation, fees shall be paid, as prescribed by the Supreme Court Regulations.

Article 5-2 (Shifting Demand Procedure to Conciliation)

(1) Where the court which has issued a payment order pursuant to Article 473 (1) of the Civil Procedure Act following the receipt of an objection lawfully raised by a debtor pursuant to Article 469 (2) of the same Act orders the supplementation of the stamps, a creditor may file a request for shifting the demand procedure to conciliation within the relevant period in lieu of supplementing the stamps.

(2) When a request for shift filed pursuant to paragraph (1) is deemed unlawful, the above mentioned court shall dismiss it by its ruling. An immediate appeal may be made against such ruling.

(3) Notwithstanding the provisions of Article 472 (2) of the Civil Procedure Act, where a creditor has filed a lawful request for shift pursuant to paragraph (1), it shall be deemed that the conciliation has been applied for the value of claim's objects against which an objection was raised when the request for a payment order was filed.

Article 5-3 (Dispositions Following Shift of Demand Procedure to Conciliation)

(1) Where conciliation is deemed to have been requested pursuant to Article 5-2 (3), the court which has issued a payment order shall order a creditor, when he or she files a request for conciliation, to supplement the stamp equivalent to the amount obtained by deducting the amount of revenue from stamps attached upon the request for payment order from the amount of the fee payable under Article 5 (4) within a reasonable period.

(2) When a creditor fails to pay the fees for the stamps within the period under paragraph (1), the aforementioned court shall dismiss by its ruling a request for the payment order. An immediate appeal may be made against such ruling.

(3) If the stamps as stipulated in paragraph (1) are supplemented, a court official of Grade V, etc. shall promptly forward the record on the conciliation case to the competent court described in Article 3.

(4) In cases of Article 5-2, the expenses incurred in the demand procedures shall be deemed to constitute some of the expenses incurred in the conciliation procedures.

Article 6 (Conciliation Referral)

A court of a suit may, if deemed necessary, refer a case pending therein to conciliation by a ruling before a judgment in an appellate trial is given.

Article 7 (Organs of Conciliation)

- (1) Cases of conciliation shall be dealt with by the conciliation judge.
- (2) A conciliation judge may directly conciliate cases or has the commissioners (hereinafter referred to as "standing commissioners") who regularly deal with the affairs related to conciliation under this Act and a council of conciliation conciliate cases: Provided, That he or she shall allow the council of conciliation to conciliate cases if a party makes such application.
- (3) The court of a suit may directly conciliate cases, notwithstanding paragraphs (1) and (2), if the court of the suit refers cases to conciliation pursuant to Article 6, and if it is deemed appropriate for it to directly handle cases.
- (4) The standing commissioners and the court of the suit that conciliate cases under the main sentence of paragraph (2) and paragraph (3) shall have the same power as a conciliation judge.
- (5) In cases under paragraph (3), the court of the suit may have a commissioned judge or an entrusted judge take charge of conciliation. In such cases, the commissioned judge or the entrusted judge shall have the same power as a conciliation judge.
- (6) Where a conciliation judge directly conciliate cases or has a council of conciliation conciliate cases pursuant to paragraph (2), the conciliation judge and the chief commissioner may have commissioners hear the opinions of persons interested in the case to achieve an agreement, or perform other affairs necessary to handle case of conciliation, in order to have commissioners formulate plans for resolving disputes. *<Newly Inserted by Act No. 16910, Feb. 4, 2020>*

Article 8 (Council of Conciliation)

A council of conciliation shall be comprised of a chief commissioner and two or more commissioners. *<Amended by Act No. 16910, Feb. 4, 2020>*

Article 9 (Chief Commissioner)

A chief commissioner shall be as follows:

1. In cases falling under Article 7 (2), a conciliation judge or a standing commissioner;
2. In cases falling under Article 7 (3), the chief judge of the court of the suit;
3. In cases falling under Article 7 (5), a commissioned judge or an entrusted judge;
4. In cases falling under a Si/Gun court, a judge of the Si/Gun court.

Article 10 (Commissioner)

(1) A commissioner shall be appointed, in advance, by the chief justice of a high court, the chief judge of a district court, or the chief judge of a branch court of a district court from among persons who have advanced knowledge and high moral reputation: Provided, That a standing commissioner shall be appointed by the Minister of National Court Administration from among persons who are a licensed attorney with certain careers determined by the Supreme Court Regulations.

(2) The term of office of commissioners shall be two years: Provided, That under special circumstances, a commissioner may be commissioned with his or her term of office fixed within two years.

(3) Any commissioner under paragraph (1) shall execute the following affairs: *<Amended by Act No. 16910, Feb. 4, 2020>*

1. Participating in a conciliation case;
2. Conducting affairs provided for in Article 7 (6) according to entrustment of a conciliation judge or a chief commissioner.

(4) The court shall provide commissioners with regular education and training opportunities. *<Newly Inserted by Act No. 16910, Feb. 4, 2020>*

Article 10-2 (Commissioner Comprising Council of Conciliation)

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

Article 11 (Conciliation Proceedings)

(1) The conciliation proceedings by a council of conciliation shall be conducted by the chief commissioner. *<Amended by Act No. 16910, Feb. 4, 2020>*

(2) Organs of conciliation under Article 7 shall treat parties equally in the conciliation proceedings and provide them with sufficient opportunities to state their case. *<Newly Inserted by Act No. 16910, Feb. 4, 2020>*

Article 12 (Allowance of Commissioners)

In accordance with the Supreme Court Regulations, a commissioner shall be paid an allowance and, if necessary, travelling expenses, daily allowances, and lodging cost.

Article 13 (Examination of Payment of Fees)

(1) If an applicant fails to pay fees prescribed in Article 5 (4), the conciliation judge shall determine an appropriate period and issue orders for payment of such fees within such period.

(2) If an applicant fails to comply with an order issued pursuant to paragraph (1), the conciliation judge shall dismiss the application by order.

(3) An immediate appeal may be made against an order under paragraph (2). <Amended by Act No. 11157, Jan. 17, 2012>

Article 14 (Service of Written Request for Conciliation)

A written request for conciliation or a protocol specifying the request for conciliation shall be served on a respondent without delay.

Article 14-2 (Separation or Joinder of Cases)

Conciliation organs provided for in Article 7 may order a separation or joinder of conciliation cases, or may revoke such order.

Article 15 (Hearing Date for Conciliation)

(1) The hearing date for conciliation shall be notified to the parties.

(2) Notification of the hearing date for conciliation may be made in any appropriate manner, such as the service of a writ of summons.

(3) Where both parties appear before the court and file a request for conciliation, the hearing date for conciliation shall be the date of the request, in the absence of special circumstances.

Article 16 (Joining by Interested Person)

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

(2) The conciliation judge may, if it is deemed necessary, allow a person interested in the result of conciliation to join the conciliation proceedings.

Article 17 (Rectification of Respondent)

(1) If it is obvious that an applicant has designated a wrong respondent, a conciliation judge may, upon application of the applicant, grant permission for rectification of the respondent by decision.

(2) When the decision of permission is made under paragraph (1), a request for conciliation

n on a new respondent shall be regarded to have been raised at the time an application for rectification is filed under paragraph (1).

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

(4) With respect to cases referred to conciliation by the court of first instance pursuant to Article 6, the rectification of a respondent made under Article 260 of the Civil Procedure Act shall be binding in the legal proceedings.

Article 18 (Representative of Party)

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

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

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

(4) The representative of the party may, for the interest of the party, perform all conciliation activities individually except the following cases:

1. Acceptance of conciliation condition draft;
2. Withdrawal of request for conciliation;
3. Activities related to decisions under Articles 30 and 32;
4. Appointment of an attorney.

(5) If the representative of the party is appointed, a notification of the hearing date for conciliation need not be served on the persons in the party, other than the representative of the party.

Article 19 (Venue of Conciliation)

(1) A conciliation judge may hold a conciliation hearing, based on such considerations as the substance of the case, intention, convenience, etc. of parties, in an appropriate venue other than a court. <Amended by Act No. 16910, Feb. 4, 2020>

(2) Where a commissioner under Article 7 (6) performs conciliation affairs in a venue other than a court, he or she shall do so with permission from the conciliation judge in advance. <Newly Inserted by Act No. 16910, Feb. 4, 2020>

Article 20 (Non-Publicity)

Conciliation proceedings may not be disclosed publicly: Provided, That a conciliation judge may allow other persons to attend conciliation proceedings, if deemed appropriate, even if such conciliation proceedings are not open to the public.

Article 21 (Disposition before Conciliation)

(1) Where deemed particularly necessary for conciliation, a conciliation judge may, upon a application of one party, issue the following orders to the other party or other person interested in the case, as a disposition before such conciliation:

1. Prohibition of changing the status quo, or disposing of goods;
2. Prohibition of other acts which make it impossible or considerably difficult to accomplish the purpose of the conciliation.

(2) In taking measures under paragraph (1), a sanction against infringement under Article 42 shall be notified.

(3) An immediate appeal may be made against any measure under paragraph (1).

(4) Any measure under paragraph (1) shall not have the executive power.

Article 22 (Hearing of Statement and Fact-Findings)

If a conciliation judge deems it necessary after hearing the statements of the parties or any person interested in the conciliation, he or she may conduct fact-findings by appropriate means. <Amended by Act No. 16910, Feb. 4, 2020>

Article 23 (Restriction on Invoking Statements)

The opinions and statements made during conciliation proceedings may not be invoked in civil proceedings (excluding quasi-retrial of the relevant conciliation). <Amended by Act No. 16910, Feb. 4, 2020>

Article 24 (Preparation of Conciliation Protocol)

The court official of Grade IV, etc. attending conciliation shall prepare a conciliation protocol: Provided, That he or she may omit a part of its content with permission of a conciliation judge.

Article 25 (Dismissal of Request for Conciliation)

(1) Where the hearing date for conciliation cannot be notified to the party, a conciliation judge may dismiss a request for conciliation by decision.

(2) No appeal against dismissal under paragraph (1) shall be filed.

Article 26 (Rulings Not to be Proceeded with Conciliation)

(1) Where a case is deemed not suitable in its nature for conciliation or a party is deemed to file a request for conciliation with an improper purpose, a conciliation judge may terminate the procedure by decision under which no conciliation shall be proceeded with.

(2) No appeal against the decision under paragraph (1) shall be filed.

Article 27 (Failure of Conciliation)

If a case falls under any of the following, and a conciliation judge makes no decision under Article 30, he or she shall terminate such case as failed conciliation:

1. If the parties fail to reach agreement;
2. If the details of agreement are deemed inappropriate.

Article 28 (Completion of Conciliation)

Conciliation shall be duly constituted by entering in the conciliation protocol the matters agreed upon between the parties.

Article 29 (Effect of Conciliation)

Conciliation shall have the same effect as a settlement in court.

Article 30 (Decision in Lieu of Conciliation)

With respect to cases where agreement has not been reached or where the terms of agreement are deemed inappropriate, a conciliation judge may render decisions to ensure a fair resolution of the case, taking into account ex officio the interests of parties and all other relevant circumstances to the extent not contrary to the purport of the request for conciliation. < Amended by Act No. 16910, Feb. 4, 2020 >

Article 31 (Non-Appearance of Applicants)

(1) Where an applicant fails to appear on the hearing date for conciliation, another hearing date shall be determined and notified to the applicant.

(2) Where an applicant fails to appear for hearing on the new hearing date under paragraph (1) or one of subsequent hearing dates, the request for conciliation shall be regarded to have been withdrawn.

Article 32 (Non-Appearance of Respondent)

Where a respondent fails to appear on the hearing date for conciliation, a conciliation judge may, when it is deemed reasonable, make a decision provided for in Article 30 ex officio . <Amended by Act No. 16910, Feb. 4, 2020>

Article 33 (Service of Conciliation Protocol)

(1) In any of the following cases, the court official of Grade IV, etc. shall state the reasons therefor in writing in the conciliation protocol:

1. If there is a ruling not to proceed with conciliation for cases;
2. If conciliation fails;
3. If a decision is made in lieu of conciliation.

(2) The court official of Grade IV, etc. shall serve a certified copy of the conciliation protocol stating a ruling not to proceed with conciliation or the reasons for failure of conciliation, and an authentic copy of the conciliation protocol under Article 28 or the conciliation protocol stating a decision made in lieu of conciliation, on each party.

Article 34 (Objection)

(1) A party may file an objection against the decision under Article 30 or 32 within two weeks from the date on which an authentic copy of the conciliation protocol was served on him or her: Provided, That an objection may be filed prior to the service of the authentic copy of the conciliation protocol.

(2) Where an objection is filed within the period under paragraph (1), the conciliation judge shall notify the other party without delay.

(3) A party who has filed an objection may withdraw the objection with the consent of the other party until any court of a corresponding level makes judgment on the case. In such cases, Article 266 (3) through (6) of the Civil Procedure Act shall apply mutatis mutandis, but "suit" in the provisions shall be regarded as "objection".

(4) Where it falls under any of the following subparagraphs, the decisions under Articles 30 and 32 shall have the same effect as a settlement in court:

1. When no objection is filed within the period under the provisions of paragraph (1);
2. When an objection is withdrawn;
3. When an objection is dismissed under the Supreme Court Regulations.

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

Article 35 (Interruption of Extinctive Prescription)

(1) A request for conciliation shall have the effect of interruption of extinctive prescription

(2) If any ground falling under any of the following subparagraphs exists with regard to the case for conciliation filed by an applicant, it shall not have the effect of interruption of extinctive prescription unless he or she files a suit within one month: <Amended by Act No. 4505, Nov. 30, 1992>

1. When a request for conciliation is withdrawn;
2. When a request for conciliation is regarded to have been withdrawn under Article 31 (2).

Article 36 (Shifting to Civil Procedure Due to Objection)

(1) Where it falls under any of the following subparagraphs, a suit shall be regarded to have been filed at the time a request for conciliation is filed:

1. Where there is a ruling not to proceed with conciliation pursuant to Article 26;
2. Where a case is terminated by the failure of conciliation under Article 27;
3. Where an objection is filed within the period mentioned in Article 34 (1) against the decision in lieu of conciliation under Article 30 or 32.

(2) Where a suit shall be deemed to be instituted at the time a request for conciliation pursuant to paragraph (1) is filed, the amount of the stamp shall be supplemented to reflect the amount of the stamp to be affixed to the complaint less the amount of the stamp affixed to the written request for conciliation.

Article 37 (Procedural Costs)

(1) Where conciliation is successful, expenses incurred therein shall be borne by each party unless otherwise specially agreed upon between the parties, and where conciliation has failed, they shall be borne by the applicant.

(2) Where a request for conciliation has shifted to a civil procedure under Article 36 (1), the expenses under paragraph (1) shall be regarded as part of the costs involved in a suit.

Article 38 (Application Mutatis Mutandis of Civil Procedure Act)

(1) With regard to conciliation, Articles 51, 52, 55 through 60 (excluding the latter part of Article 58 (1)), 62, 62-2, 63 (1), 64, 145, 152 (2) and (3), and 163 of the Civil Procedure Act shall apply mutatis mutandis. <Amended by Act No. 13952, Feb. 3, 2016; Act No. 16910, Feb. 4, 2020>

(2) The provisions of the Civil Procedure Act shall apply mutatis mutandis to the fixed date, period, and the service of documents, as prescribed in this Act: Provided, That Articles 185 (2), 187, and 194 through 196 of the Civil Procedure Act shall apply mutatis mutandis only to the service of the conciliation protocol prepared under Article 28 of this Act.

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

@Part I (excluding Article 15) of the Non-Contentious Case Litigation Procedure Act shall, unless it is contrary to its nature, apply mutatis mutandis to the conciliation, except as otherwise provided for in this Act.

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

Where a council of conciliation conciliates a case, the council of conciliation and the chief commissioner shall have the authority of a conciliation judge, as classified below: <Amended by Act No. 16910, Feb. 4, 2020>

1. Council of conciliation: The authority vested to a conciliation judge prescribed under Articles 16, 17 (1), 18 (3), 19 (1), 21 (1), 22, 25 (1), 26 (1), 27, 30, and 32;
2. Chief commissioner: The authority vested to a conciliation judge prescribed under Articles 13 (1) and (2), 20, 24, 34 (2), and 42.

Article 40-2 (Legal Fiction as Public Officials of Standing Commissioners)

In the application of Articles 129 through 132 of the Criminal Act, standing commissioners shall be deemed public officials.

Article 41 (Penalty Provisions)

(1) A person, who is or has been a conciliation commissioner, leaks the process of conference, the opinion of the chief commissioner or the conciliation commissioner, and the number of conciliation commissioners by opinion without a justifiable ground, shall be punished by a fine not exceeding 300 thousand won.

(2) A person, who is or has been a conciliation commissioner, leaks any confidential information of another person he or she has become aware of while performing his or her duty, without a justifiable ground, shall be punished by imprisonment for not more than two years or a fine not exceeding one million won.

(3) The public prosecution against the crime under paragraph (2) shall not be charged with

out accusation.

Article 42 (Sanction on Violator of Disposition before Conciliation)

(1) Where a party or a joiner fails to comply with the disposition imposed before conciliation under Article 21, a conciliation judge shall impose upon him or her an administrative fine not exceeding five million won ex officio. *<Amended by Act No. 16910, Feb. 4, 2020>*

(2) The provisions concerning the public prosecutor in Articles 248 and 250 of the Non-Contentious Case Litigation Procedure Act shall not apply to a trial for an administrative fine under paragraph (1).

Article 43 (Delegation Provision)

Except as provided for in this Act, the hearings of opinions, fact-findings, prepayment of procedural costs in conciliation procedures, relationship to demanding procedures, civil procedures, and executory procedures, and other matters necessary for conciliation shall be as prescribed by the Supreme Court Regulations. *<Amended by Act No. 11157, Jan. 17, 2012; Act No. 16910, Feb. 4, 2020>*

ADDENDA

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

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

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

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

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

(2) through (4) Omitted.

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

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

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

(3) Omitted.

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

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

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

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

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

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

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

Article 1 (Enforcement Date)

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

Articles 2 through 7 Omitted.

ADDENDA <Act No. 9417, Feb. 6, 2009>

- (1) (Enforcement Date) This Act shall enter into force on the date of its promulgation.
- (2) (Transitional Measures) This Act shall apply to cases pending in court at the time when this Act enters into force.

ADDENDUM <Act No. 10200, Mar. 31, 2010>

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

ADDENDA <Act No. 11157, Jan. 17, 2012>

Article 1 (Enforcement Date)

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

Article 2 (Applicability concerning Shifting Demand Procedure to Conciliation and Disposition thereof)

The amended provisions of Articles 5-2 and 5-3 shall apply beginning with the first relevant demand procedures against which a debtor raises an objection under Article 469 (2) of the Civil Procedure Act after this Act enters into force.

ADDENDA <Act No. 13952, Feb. 3, 2016>

Article 1 (Enforcement Date)

This Act shall enter into force one year after the date of its promulgation.

Articles 2 through 4 Omitted.

ADDENDA <Act No. 16910, Feb. 4, 2020>

Article 1 (Enforcement Date)

This Act shall enter into force one month after the date of its promulgation.

Article 2 (Applicability)

This Act shall apply to cases pending in court as at the time this Act enters into force: Provided, That the amended provisions of Articles 19-2, 22, and 42 shall apply beginning with the first case where a party files a request for conciliation with a court or which is referred to conciliation after this Act enters into force.

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