

mediation at the stage of their decision-making or confirmation of the intention of the child, and interpretation and implementation of whether the parents' consent is required or not according to the proviso of Art. 817-6 of the Civil Code.

3. Law of Civil Procedure and Bankruptcy

The Act Partially Amending the Civil Execution Act and the Act for Implementation of the Convention on the Civil Aspects of International Child Abduction

Law No.2, May 10, 2019 (Effective on May 17, 2019)

1. Background:

On May 10, 2019, the Act Partially Amending the Civil Execution Act and the Act for Implementation of the Convention on the Civil Aspects of International Child Abduction (Act No.2 of 2019) were enacted and they have already come into effect on May 17, 2019. The legislative process of these laws is as follows.

In consideration of various reasons around the civil execution process, so as to improve the effectiveness of the system for the discovery of obligor assets, and prevent members of organized crime groups from buying real property at auction, and clear the rules relating compulsory execution of orders to hand over children etc., on September 12, 2016, the Minister of Justice reported in the Legislative Council and the Legislative Committee for Civil Execution was established.

As a result of the investigation and the deliberation by the Committee, "the summary plan of the amendment regarding the legal system of Civil Execution" was settled in the Conference by the Committee which took place on August 31, 2018, and "the outline of the amendment regarding the legal system of Civil Execution" which had the same content as the summary plan was adopted in the Legislative Council which took place on October 4, 2018. Afterwards the outline was reported to the Minister of Justice.

After that, the Ministry of Justice framed the outline, and on February

19, 2019, the bill for the amendment was submitted to the Natural Diet. The bill was committed to the Legal Committee in the first place on March 19, 2019, and the Legal Committee decided that the plenary session of House of Representatives should amended vote unanimously on the amendment after the draft amendment against the bill was submitted. The plenary session of House of Representatives voted unanimously on the amendment in response to this decision. Afterwards the plenary session of House of Councilors voted unanimously on May 10, 2019, and the act was enacted. It came into effect on May 17, 2019.

2. Main provisions and Editorial note:

(1) Improving the effectiveness of the system for the discovery of obligor assets

First, so as to improve the effectiveness of the system regarding the investigation on the status of the obligor's property, the New Civil Execution Act extends the range of the petitioner for the property disclosure, and reinforces the penalty against a person who fails to appear on the property disclosure date, etc., and provides the procedures for acquiring information about the obligor's property from a third party. The details are as follows.

(a) The penalties against violation of the disclosure procedures

Under the Old Civil Execution Act, a person who failed to appear on the property disclosure date on which it was summoned by an execution court without justifiable grounds or refused to swear under oath on the property disclosure date, etc. was subject to a non-criminal fine of not more than three hundred thousand yen, Article 203, paragraph (1), Old Civil Execution Act.

However, the numbers of uses of property disclosure procedure before the amendment were few, and the above light penalty for refusing to make a statement, etc. was considered as a cause. Therefore, the New Civil Execution Act reinforces the penalties against the violation of the disclosure procedures. Specifically, the Article 213, item (v) and (vi), New Civil Execution Act, provides that a person who is obliged to disclose who breached the procedure for the property disclosure shall be imprisoned with work for not more than six months or a fine of not more than five hundred thousand yen.

(b) New procedures for acquiring information from a third party other than the obligor

Further, in order to secure the effectiveness of the system regarding the investigation on the status of the obligor's property, the new system for acquiring information from a third party other than the obligor had been required. Therefore, the New Civil Execution Act established new procedures for acquiring information from a third party other than the obligor. The new system provides the range of the third party and information individually.

For examples, creditors are able to acquire information about the obligor's claims to money in deposits and savings, and information about listed shares, JGBs, and similar assets that belong to the obligor from financial institutions, Article 207, New Civil Execution Act. And information about the obligor's land and buildings can be acquired from registry offices, Article 205, New Civil Execution Act.

(2) Measures to prevent members of organized crime groups from buying real property at auction

In order to prevent an organized crime group from buying real properties at auction, the New Civil Execution Act provided a new "Ground for Non-permission of Sale". Under the new "Ground for Non-permission of Sale", an execution court shall issue an order of non-permission of sale, when the highest purchase offerer or a person who makes the highest purchase offerer make the purchase offer on his/her own account falls under an organized crime group member, etc., Article 71, item (v), New Civil Execution Act.

In addition, under the New Civil Execution Act, an execution court shall commission the prefectural police having jurisdiction of the location of the execution court to conduct necessary investigation whether or not the highest purchase offerer falls under an organized crime group member, etc., Article 68-4, paragraph (1), New Civil Execution Act.

(3) Achieving clarity in the rules for compulsory execution of orders to hand over children in Japan

Before this amendment, the existing law relating to civil execution included no express provisions about the compulsory execution of orders

to hand over children in Japan. Therefore, against the matter regarding compulsory execution of orders to hand over children in Japan the provisions relating to personal property were being applied by analogy. Thus, the clear rules were required from a consideration of the interests of the child.

Under the New Civil Execution Act, creditors can make a petition for compulsory execution of surrendering custody of a child by the method in which an execution court orders a court execution officer to carry out the surrender of custody of the child, where it is not found to be expected that an obligor releases the care of a child even if the compulsory execution is carried out by the method of indirect execution, Article 174, paragraph (2), item (ii), New Civil Execution Act, or where it is necessary to immediately carry out the compulsory execution in order to prevent imminent danger to a child, Article 174, paragraph (2), item (iii), New Civil Execution Act, etc. When a court execution officer carries out the surrender of custody of the child, he will travel to the site for execution, take the child out of the obligor's custody, and hand the child over to the obligee, Article 174, paragraph (4), New Civil Execution Act. While it is unnecessary for the child and obligor to be together at the time of the execution by this method, the Act in general requires the obligee to be present instead, considering the interests of the child, Article 175, New Civil Execution Act.

(4) Revising the rules for compulsory execution of orders to return children to foreign countries

The rules relating compulsory execution of orders to return children to foreign countries were required to be revised as well. Therefore, the Hague Convention Implementation Act was partially amended by this amendment. Especially, under the New Hague Convention Implementation Act, while it becomes unnecessary for indirect execution to be attempted first, considering the child's interest, creditors can make a petition for compulsory execution of orders to return children to foreign countries only when one of the requirements which is provided in the Act is met, Article 138, New Hague Convention Implementation Act. And under the Act, while it is unnecessary for the child and obligor to be together at the time of the execution, the obligee is required to be present instead in

general, Article 140, New Hague Convention Implementation Act.

(5) Etcetera

In addition, by this amendment, the rules involving seizure-prohibited claims and the rules involving the end of an execution against claims are revised.

4. Commercial Law

Act Partially Amending the Companies Act and Act on Arrangement of Relevant Acts Incidental to Enforcement of the Act Partially Amending the Companies Act

Law No.71, December 4, 2019

Background:

Article 25 of the Supplementary Provisions of Act Partially Amending the Companies Act, which had been enacted in 2014 and enforced in 2015, said that “The Government of Japan is, when two years have passed after the enforcement of this Act, to review systems of corporate governance taking into account changes which occur to the socioeconomic environment, including the prevalence of the appointment of outside directors. The Government of Japan is to take necessary measures, including imposing the obligation to appoint an outside director, in cases where this is deemed necessary based on the findings of the review.”

In 2017, when two years had passed since the above Act had been enforced, the Minister of Justice issued Consultation Document No.104 which said “After considering the necessity of reconsidering the discipline of corporate governance taking into account changes which occur to the socioeconomic environment, which includes rationalizing the procedure for shareholder meetings, preparing discipline for giving a proper incentive to directors and officers, reconsidering how the administration of corporate bonds should function, and imposing the obligation to appoint an outside director, you should report a summary outline if you need revision of the above discipline.”