

the Juridical Person, with the enactment of the act. In the Civil Code, 5 articles are left. Art. 33 corresponds to the present art. 33. Art. 34 corresponds to the present art. 43. This provision relates to the Capacity of the Juridical Person. Art. 35 corresponds to the present art. 36. This provision relates to the Foreign Juridical Person. Art. 36 and Art. 37 correspond to no provisions in the present. The former relates to the register and the latter to the register of the Foreign Juridical Person.

Editorial Note:

We can appreciate the introduction of the unified Judicial Persons system, abolishing the present system which is plural and complicated. But the relation between the General Judicial Person system and the Judicial Person systems in special acts (e.g. an educational foundation, a religious corporation) is left unclear, although the General Judicial Persons and the Stock Corporations are actively compared. Especially, the establishment of the General Foundations system probably leads its function to be similar to that of a trust, so we need to discuss the relation between the Judicial Persons system and trusts.

4. Law of Civil Procedure and Bankruptcy

Act Revising the Consumer Contract Act

Law No.56, June 7, 2006 (effective on June 7, 2007)

Background:

The Consumer Contract Act was promulgated in May 2000, and enforced in April 2001, in light of the recent rapid increase in the number of conflicts in the area of the dissolution and cancellation of consumer contracts concluded between consumers and businesses. The purpose of this Act is to protect the interests of consumers, and thereby to contribute to the stabilization and improvement of the general welfare of the people's life and to the sound development of the national economy by permitting, in consideration of the gap in quality and quantity of information and negotiating power between consumers and businesses, the avoidance of decla-

rations of intention to offer or accept contracts made by consumers when they are mistaken or distressed by certain acts of businesses, and by nullifying, in part or in whole, clauses that exempt businesses from liability for damages or that otherwise unfairly impair the interests of consumers (Art.1).

But in Japan, it has been pointed out for many years that the need exists to introduce a system that enables consumer organizations to file injunctions against inadequate business performances.

The Quality-of-Life Council engaged in deliberations from April 2004 and based on the Council's report, the Cabinet Office advanced the work of drafting a law. As a result, the "Act Revising the Consumer Contract Act" for the purpose of introducing injunctions by consumer associations was enacted.

(<http://www.consumer.go.jp/english/cprj/index.html>)

Main Provisions:

The injunctions by consumer organizations are added as "Chapter 3 Injunction Demand." The concrete contents are as follows;

Section 1 Right to Demand an Injunction (Art. 12)

Section 2 Qualified Consumer Organization

Subsection 1 Certification of Qualified Consumer Organizations, etc. (Art. 13–Art. 22)

Subsection 2 Services Involved in Demand of a Injunction, etc. (Art. 23–Art. 29)

Subsection 3 Supervision (Art. 30–Art. 35)

Subsection 4 Auxiliary Provisions (Art. 36–Art. 40)

Section 3 Special Provisions of Court Proceedings, etc. (Art. 41–Art. 47)

The previous "Chapter 3 Nullity of Consumer Contract Clauses" is changed to Section 2 in "Chapter 2 Consumer Contract."

The previous Article 12 is moved to "Chapter 4 Miscellaneous Provision (Art. 48)."

And a new "Chapter 5 Penal Provisions (Art. 49–Art. 53)" is added.

Editorial Note:

Formerly there were opinions that the American Class Action should be introduced in Japan, but this was not realized because of many objec-

tions. Injunctions by consumer organizations in this amendment are not modeled after Class Actions, but the system which has been introduced in many EU nations.

In the case where business operator, etc. conducts or is likely to conduct such acts prescribed in the provisions of Para. (1)–(3) of Art. 4 to many unspecified Consumers or it enters into a consumer contract which includes the provisions referred to in Art. 8–Art. 10 with many unspecified consumers, qualified consumer organizations may demand against said business operators, etc. an injunction of such acts (Art. 12[1]–[3])

A person who intends to provide services involved in demand of an injunction shall be certified by the Prime Minister. (Art. 13[1])

A qualified consumer organization shall exercise its right to demand an injunction properly for the interests of many unspecified consumers and shall not abuse it. Furthermore a qualified consumer organization shall notify other qualified consumer organizations without delay and pursuant to a Cabinet Office Ordinance and shall report the details of the same and other matters provided by a Cabinet Office Ordinance to the Prime Minister. In this case, the qualified consumer organization shall be deemed to have notified and reported the same, when, in lieu of the notification and the report, it takes measures provided by a Cabinet Office Ordinance that allows all qualified consumer organizations and the Prime Minister to review the same information through electromagnetic means. (Art. 23)

If the Prime Minister has been notified of matters prescribed in Items (iv)–(ix) and Item (xi) of Para. (4) of Art. 23 from a qualified consumer organization, the Prime Minister shall immediately make public any judgment pertaining to the demand for an injunctions or a summary of non-judicial settlement, the name of said qualified consumer organization and the name of the business operator, etc. and other matters prescribed by Cabinet Office Ordinance, by means of the Internet or other appropriate means, in order to contribute to prevention of and remedy for harm to consumers. (Art. 39[1])

If a qualified consumer organization intends to file a lawsuit pertaining to demand of an injunction, it may not file such a lawsuit unless it demands in writings the business operator who is to be the defendant of the lawsuit, the suspension, stating the gist of the demand, the summary

of the dispute and other matters provided by Cabinet Office Ordinance, and one week has elapsed after the notice of the demand has been served on the business operator. (Art. 41 [1])

By the way, this amendment is limited to demand of an injunction by qualified consumer organizations and does not allow qualified consumer organizations to claim damages in place of the various victims.

5. Criminal Law and Procedure

Law for the Amendment of a Part of the Law against Guns and Knives Law No. 6, May 24, 2006

Background:

The original Law against Guns and Knives was established in 1953, and since then there have been several amendments of it reflecting change in the social situation. For example, from the point of view the prevention of danger, the first Law against Guns and Knives was restricted to the possession or use of genuine guns and knives, but as the danger of the possession or use of *semi*-genuine guns and knives grew, they were made the objects of control. In this amendment, even model guns, like a kind of toy, have been brought under control. These guns are called air guns and are very popular with the gun fans who usually comply with the law. Thus, such an easy control can lead to the invasion of freedom of hobbies and life and legislation which is as deliberate as possible is required by society.

(1) Legal status of so-called air guns

The traditional law against Guns and Knives defined air guns as ones which can discharge metallic bullets at more than a certain speed. These “metallic bullets” were ones having the quantity, density and hardness more than metal. This “more than a certain speed” was the one which had a movement energy of 20J/cm². Because of this, the guns which have the function of discharging non-metallic bullets by using compressed air, but have no function of discharging metallic bullets at more than a certain speed were not made the objects of control.