

# THE CODE OF CIVIL PROCEDURE OF CAMBODIA

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**Note:**

*The original text in Khmer was passed by the National Assembly on May 26, 2006 during the fourth session of its third legislature and was adopted completely on the form and its legal substances by the Senate on June 23, 2006 during the first session of its second legislature and was signed by the King on July 6, 2006.*

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## **BOOK ONE GENERAL PROVISIONS**

### **Chapter One PURPOSE OF CODE, PURPOSE OF CIVIL ACTIONS, AND OBLIGATIONS OF COURT AND PARTIES**

#### **1. Purpose of Code**

Procedures for civil suits shall be governed by the provisions of this Code in addition to the provisions of any other laws and/or regulations.

#### **2. Purpose of civil actions and right of access to the courts**

1. The purpose of a civil suit is for the courts to intervene to resolve civil disputes in accordance with the law so as to protect the rights of private parties.
2. The right of access to the courts in a civil dispute shall be guaranteed to all persons.

#### **3. Right to request hearing and the principle of adversarial examination**

1. No party shall be tried without hearing or summons.
2. The court shall, in all cases, adhere to the principles of the adversarial system.

#### **4. Responsibility of courts and parties**

Courts shall endeavor to ensure that civil suits are carried out fairly and expeditiously, and that the parties conduct such civil suits in good faith.

#### **5. Language used within court and rights of parties to request interpreters**

1. The Khmer language shall be the official language of the courts.
2. A party who is unable to understand the Khmer language may utilize a qualified interpreter. Should the party be unable to secure such an interpreter by his/her own means, the State shall assign one on his/her behalf.

#### **6. Attendance of public prosecutors**

1. Where the court deems it necessary in the public interest, the court shall notify the public prosecutor of the receipt of a complaint.
2. Regardless of whether the public prosecutor has received said notice prescribed in Paragraph 1, the public prosecutor may, should he/she deem it necessary in the public interest, attend the proceedings of the civil suit and present opinions.

## **Chapter Two COURTS**

### **Section I. Jurisdiction**

#### **7. Definition of Court with Jurisdiction**

A Court with Jurisdiction shall mean a court that has the right to lawfully receive a complaint, conduct proceedings, and render judgment.

#### **8. Jurisdiction determined by domicile**

Actions against the following listed persons shall be filed in the court

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of first instance that has jurisdiction over the locations specified in the respective item:

- (a) a natural person:
  - [1] his/her domicile; [2] his /her residence, if he/she has no domicile in Cambodia or his/her domicile is unknown; or [3] his/her last domicile if he/she has no residence in Cambodia or his/her residence is unknown.
- (b) a Cambodian juridical person:
  - [1] location of its principal office or business office; or [2] the location of the domicile of its representative or any other principal person in charge of its business if it has no business office or other office.
- (c) a foreign juridical person
  - [1] the location of its principal office or business office in Cambodia; or [2] the location of the domicile of its representative or any other principal person in charge of its business in Cambodia if it has no business office or other office in Cambodia.

#### **9. Jurisdiction over Action concerning Property Rights**

In addition to the courts prescribed in **Article 8 (Jurisdiction determined by domicile)**, the following listed actions may also be filed with the Court with Jurisdiction over the place specified in the respective items:

- (a) an action demanding performance of obligations:
  - The location where the obligations should be performed;
- (b) an action demanding payment of money for a bill, note or check:
  - The location where payment of the bill, note or check shall be made;
- (c) an action demanding performance of obligations against a person who has no domicile in Cambodia or whose domicile is unknown:
  - The location of the defendant's property that is the subject of the claim or security thereof, or of any seizable property of the defendant;
- (d) an action demanding performance of obligations against juridical persons that have no principal office or business office in Cambodia, or whose principal office or business office is unknown:
  - The location of the defendant's property which is the subject of the claim or security thereof, or of any seizable property of the defendant;
- (e) actions against a person who has a business office or other office that relates to the business conducted at such business office:
  - The location of the business office or other office in question;
- (f) an action relating to tort:
  - The location where the tort was committed;
- (g) an action relating to real property:
  - The location of the real property;
- (h) an action relating to registration:
  - The location where the registration should be made;
- (i) an action relating to probate:
  - [1]The location of the domicile of the deceased at the time of commencement of probate; [2] his/her residence if he/she has no domicile in Cambodia or his/her domicile is unknown; or [3] his/her last domicile if he/she has no residence in Cambodia or his/her residence is unknown.

**10. Special jurisdiction for cases of divorce and parent-child relationships**

1. An action for divorce or an action to confirm the existence or nonexistence of a parent-child relationship shall be subject to the exclusive jurisdiction of the court of first instance with jurisdiction over the location of the domicile of the person whose status is related to the action or the location of the domicile of the person at the time of his/her death.
2. Should he/she have no domicile, as set forth in Paragraph 1, within Cambodia or should his/her domicile within Cambodia be unknown, the venue shall be determined by his/her place of residence. If he/she has no place of residence, or his/her place of residence is unknown, the venue shall be determined by the last known domicile.

**11. Jurisdiction over joint claims**

Where two or more claims that are subject to the jurisdiction of different courts are to be made under a single action, such action may be filed with the court that has jurisdiction over one of said claims.

**12. Designation of court with jurisdiction**

Should the court having jurisdiction be unable to exercise its jurisdiction by law or fact, or should a Court with Jurisdiction not be determined due to ill-defined court districts, the Supreme Court shall, upon petition and via the issuing of a ruling, designate a Court with Jurisdiction.

**13. Agreement on jurisdiction**

1. An agreement that sets forth a Court with Jurisdiction shall become effective only where it is made between a merchant(s) and/or a juristic person(s), and only where such is made in the court first instance.
2. The agreement set forth in Paragraph 1 shall not come into effect unless it has been made in writing with respect to an action based upon uniform legal relationships.

**14. Jurisdiction by appearance**

Should the defendant have made statements in preparatory proceedings or presented oral arguments on the merits before a court of first instance without filing a motion of lack of jurisdiction, such court shall have jurisdiction.

**15. Exclusion from application in the case of statutory exclusive jurisdiction**

The provisions of **Articles 13 (Agreement on jurisdiction and Article 14 Jurisdiction by appearance)** shall not apply where exclusive jurisdiction over the action in question is provided for by law.

**16. Examination of evidence on court's authority**

The court may conduct an examination of the evidence on its own authority with regard to the matters concerning jurisdiction.

**17. Time basis for determining jurisdiction**

The jurisdiction of a court shall be determined at the time of the filing of the action.

**18. Lack of jurisdiction**

1. The court, when it finds that a suit, in whole or part, is not subject to its jurisdiction, shall, upon petition or by its own authority, transfer the suit to a court with jurisdiction.
2. A petition for transfer shall be filed in writing, except for cases where the filing is made for the petition on the appearance date. When filing the petition set forth in the preceding sentence, the reasons for the petition shall be clearly stated.

**19. Transfer to avoid delay**

1. A court of first instance, even should the suit be subject to its jurisdiction, may, upon petition or by its own authority, transfer the suit, in whole or part, to another Court with Jurisdiction should it find it necessary in order to avoid substantial delay in the suit or to ensure equity between the parties. This shall be done in consideration of the domicile of each party and witness to be examined by the parties, the location of any subject of an observation to be used, and any other circumstances.
2. Once the petition set forth in Paragraph 1 has been filed, the court shall issue an order once it has heard the opinions of the counterparty. A court may, when issuing the order of transfer set forth in Paragraph 1 on its own authority, hear the opinions of the parties.

**20. Restriction on transfer in case of exclusive jurisdiction**

The provision of **Article 19 (Transfer to avoid delay)** shall not apply where a suit is subject to the exclusive jurisdiction of the court before which it is pending.

**21. Chomtoah Appeal**

A *Chomtoah Appeal* may be filed against a ruling of transfer and may dismiss without prejudice a petition for transfer.

**22. Binding effect of a ruling of transfer**

1. A ruling of transfer that has become final and binding shall be binding upon the court that has accepted the suit transferred thereto.
2. The court that has accepted the suit transferred thereto shall not transfer the suit to another court.
3. Once a ruling of transfer has become final and binding, the transferred suit shall be deemed to have been pending before the court to which it has been transferred since it was first filed with the initial court.
4. Once a ruling of transfer has become final and binding, the court that has issued the ruling of transfer shall forward the case record to the court that has accepted the suit transferred thereto.

**Section II. Structure of Courts**

**23. Single judge and panel systems in the courts of first instance**

1. A Court of first instance shall, except for the cases prescribed in Paragraph 2, handle cases on a single judge basis.
2. The following cases shall be handled by a panel of judges:
  - (a) cases where the value of the subject matter of the action equals or exceeds 5 million riel, and it is determined that adjudication of the case conducted by a panel of judges is appropriate, taking into consideration the number of parties

- and any other relevant circumstances;
- (b) cases where it has been established by law that the case should be heard and adjudicated by a panel of judges.
- 3. A panel prescribed in Paragraph 2 shall consist of three judges; one of whom shall be the presiding judge.
- 4. Where a panel of judges has conducted the trial and decision pursuant to the provisions of subparagraph (a) of Paragraph 2 hereto, the panel shall issue the ruling in relation to such.

**24. Deliberations by panel**

- 1. Deliberations of the panel in a case shall not be publicly disclosed.
- 2. Deliberations shall be commenced and regulated by the presiding judge.
- 3. Each judge shall express his/her opinions within the deliberations.
- 4. Strict secrecy must be observed with respect to the deliberation proceedings, the opinions of each judge, and the number of opinions constituting the majority and/or minority.

**25. Decision by panel**

- 1. A case shall be decided based on the opinions of the majority of the judges.
- 2. Each judge comprising the panel shall be given an equal vote.

**Section III. Distribution of Cases, Disqualification and Challenging of Judges**

**26. Distribution of cases**

- 1. The distribution of cases within a court and the order of appointment for substitute judges in cases where impairment may arise from the involvement of a particular judge shall be determined in advance for each year by the president of that court.
- 2. Cases shall be distributed automatically to each judge pursuant to Paragraph 1.
- 3. The distribution of cases within a court and the order of appointment of substitute judges where impairment may arise from the involvement of a particular judge, as provided in Paragraph 1, shall not be altered within that year except where one judge is deemed to have an excessive workload, where a judge retires or is transferred, where there is a continuing impairment from a particular judge due to a long-term absence of the judge, or for other reasons. Changes made based on these reasons shall be decided upon by the president of that court.

**27. Disqualification of judge**

- 1. In the following cases, a judge shall be disqualified from performing his/her duties:
  - (a) where a judge or his/her spouse is or was a party to the case;
  - (b) where a judge is or was a party's relative by blood within sixth degrees, or relative through marriage within three degrees;
  - (c) where a judge is a guardian in relation to a party;
  - (d) where litigation is or was pending between the judge and a party;
  - (e) where a judge has served as a witness or an expert witness in the case;
  - (f) where a judge is or was a party's agent or assistant in court for the case; or



- (g) where a judge has participated in the making of an arbitral award in the case or participated in the making of a judicial decision in the prior instance against which an appeal is entered.
- 2. If any of the grounds for disqualification prescribed in Paragraph 1 exists, the court, upon petition or by its own authority, shall issue a judicial decision of disqualification.

**28. Challenge to judge**

- 1. Should there be circumstances with regard to a judge which would prejudice the impartiality of the judicial decision; a party may challenge such judge.
- 2. A party who has, in the presence of a judge, presented oral arguments or made a statement in the preparatory proceedings may not challenge said judge. This shall not apply where the party did not know of the existence of any grounds for such challenge or where any grounds for such challenge occurred thereafter.

**29. Recusal of judge**

A judge may, in the cases prescribed in Paragraph 1 of **Article 27 (Disqualification of judge)** or Paragraph 1 of **Article 28 (Challenge to judge)**, recuse him/herself by obtaining the permission of the court with the power of supervision over said judge.

**30. Judicial decision of disqualification or challenge**

- 1. The judicial decision of the disqualification of or challenge to a judge shall be made via a ruling of the panel of the court to which the judge belongs.
- 2. A judge may not participate in the making a judicial decision on the qualification of or a challenge to him/herself.
- 3. The petition for disqualification or challenge shall be filed in writing with the court to which the judge belongs and shall clearly indicate cause through a prima facie showing therefore.
- 4. When a petition for disqualification of or challenge is filed, the court proceedings shall be stayed until an order on the petition becomes final and binding. This shall not apply to the preservation of evidence or any other urgent act.
- 5. No appeal may be entered against a ruling finding in favor of a disqualification or challenge.
- 6. A *Chomtoah Appeal* may be filed against a ruling finding against a disqualification or challenge.

**31. Mutatis mutandis application to court clerk**

The provisions of this section shall apply *mutatis mutandis* to court clerks. In such case, a judicial decision shall be made by the court to which a court clerk in question belongs.

## Chapter Three PARTIES

### Section I. Capacity to be Party and Capacity to Litigate

**32. Capacity to be a party, capacity to file suit or be subject to suit, and statutory agents for persons without the capacity to file**

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**suit or be subject to suit**

1. Persons who are entitled to exercise rights or have obligations pursuant to the provisions of the Civil Code or other laws may be a plaintiff or defendant of a civil suit.
2. Persons who have the capacity to independently act pursuant to the provisions of the Civil Code or other laws may file a complaint on their own behalf as a plaintiff, appear as a defendant, or perform any other necessary procedural act.
3. Minors and persons who is a typical ward of a court may not perform valid procedural acts unless through a statutory agent. This shall not apply where a minor is able to perform acts upon their own will and authority.
4. Statutory agents and their authority shall be subject to the provisions of the Civil Code and other laws.

**33. Special provisions on procedural acts by persons under curatorship or statutory agents**

1. In order for a person under curatorship or a statutory agent to perform any procedural acts with regard to an action or appeal filed by a counterparty, he/she shall not be required to obtain the consent of or a delegation of power from the curator or supervising guardian.
2. In order for a person under curatorship or a statutory agent to perform any of the following procedural acts, he or/she shall be required to obtain a special delegation of power:
  - (a) discontinuing an action, entering into a settlement, waiving or acknowledging a claim, or;
  - (b) discontinuing an *Uttor* appeal or *Satuk* appeal.

**34. Special provision on capacity of foreign nationals to file suit or be subject to suit**

A foreign national, whether or not he/she has the capacity to file a suit or be subject to a suit under his/her national law, shall be deemed to be capable of filing a suit or being subject to a suit if he/she has the capacity to sue or be sued under the laws of the Kingdom of Cambodia.

**35. Measures for lack of capacity to file a suit or be subject to a suit**

1. Should a person lack the capacity to file a suit or be subject to a suit, or the authority of a statutory agency or delegation of powers necessary for performing procedural acts, the court shall specify a time period and order correction of such defect. In such case, if there is a risk of damage arising due to the delay, the court may have such person perform a procedural act on a temporary basis.
2. Any procedural act by a person who lacks the capacity to file a suit or be subject to a suit, or the authority of a statutory agency or delegation of powers necessary for performing a procedural act shall become effective retroactively as of the time of the act once ratified by the party or statutory agent bearing such right.
3. The authority of a statutory agency or the delegation of powers necessary for performing procedural acts shall be evidenced in writing.

**36. Special agent**

1. Where there is no statutory agent or where a statutory agent is unable to exercise the authority of agency, a person who intends to perform

a procedural acts against a person who lacks the capacity to file a suit or be subject to a suit may, upon making a prima facie showing of the risk of suffering damage due to delay, request the presiding judge of the court in charge of the case to appoint a special agent.

2. The court may replace a special agent at any time.
3. A notice of the judicial decision for the appointment or replacement of a special agent shall also be given to the special agent.
4. In order for a special agent to perform procedural acts, he/she shall be required to obtain the same delegation of powers as a guardian.

**37. Notice of extinction of statutory agency authority**

1. The extinction of the authority of statutory agency shall not come into effect unless the principal or her/his agent notifies the other party to such effect.
2. A person who has given a notice of extinction of the authority of statutory agency shall notify the court in writing to such effect.

**38. Application *Mutatis mutandis* to representative of juridical person**

For this code, the provisions concerning statutory agency and a statutory agent shall apply *mutatis mutandis* to representatives of juridical persons.

## Section II. Joint Suits

**39. General requirements for joint suits**

Where any of the following grounds are shared among multiple persons, such persons may file a suit or be subject to a suit as co-parties:

- (a) where the rights or obligations that are the subject of the suit are common;
- (b) where the rights or obligations that are the subject of the suit are based on the same factual or statutory cause;
- (c) where the rights or obligations that are the subject of the suit are of the same kind and based on the same kind of cause in fact or by law.

**40. Status of co-party in ordinary joint litigation**

Any procedural acts performed by one of the co-parties, any procedural act performed against one of the co-parties by the counterparty, or matters that have occurred with regard to one of the co-parties shall not affect the other co-party (ies).

**41. Rules regarding proceedings in mandatory joint suit**

1. Where the rights and obligation that are the subject of the suits are to be determined in a single form for all co-parties, procedural acts performed by one of parties shall be effected in the interest of all co-parties, notwithstanding the provisions of **Article 40 (Status of co-party in ordinary joint litigation)**.
2. In the case prescribed in Paragraph 1, procedural acts performed against one of the co-parties by the counterparty shall become effective against all of the co-parties.
3. For the case prescribed in Paragraph 1, where discontinuing action or suspending court proceedings with regard to one of the co-parties, the discontinuance or suspension shall become effective for all of the co-parties.

**42. Appointed party**

1. Persons who share common interests may appoint, from among themselves, one or more persons as parties to stand as plaintiff(s) or defendant(s) on behalf of all such persons.
2. If, after a suit is pending before the court, a party to stand as a plaintiff(s) or defendant(s) is appointed pursuant to the Paragraph 1, parties other than the one appointed shall automatically withdraw from the suit.
3. Persons who are the plaintiff(s) or defendant(s) pursuant to Paragraph 1 may rescind their appointment or change the party thus appointed.
4. Should any of the appointed parties have lost his/her status due to death or for any other reason, another appointed party (ies) may perform procedural acts on behalf of the group.

**Section III. Intervention/Participation**

**43. Assisting intervention**

A third party who has a legal interest in the outcome of a suit may intervene in the suit in order to assist either party in the suit.

**44. Application for assisting intervention**

1. An application for assisting intervention shall be made to the court where the procedural acts should be performed through the assisting intervention via the clarification of the purpose of and reasons for said intervention.
2. An application for assisting intervention may be made upon the performing of a procedural act that may be performed by an assisting intervener.

**45. Objection to assisting intervention**

1. Where a party makes an objection to assisting intervener, the court, via the issuance of a ruling, shall make a judicial decision with regard to whether or not such assisting intervention is to be permitted. In such case, the assisting intervener shall make a prima facie showing of the reason for said intervention.
2. A party, after he/she has presented oral arguments or made statements in the preparatory proceedings without making an objection as set forth in Paragraph 1, may not make such objection.
3. A *Chomtoah Appeal* may be filed against a ruling set forth in Paragraph 1.

**46. Procedural acts by assisting intervener**

1. An assisting intervener, with regard to the suit in question, may advance allegations and evidence, make an objection, file an appeal, file an action for retrial, or perform any other procedural acts. This shall not apply to procedural acts that the assisting intervener may not perform depending on the progress of the suit at the time of assisting intervention.
2. Any procedural acts performed by the assisting intervener shall be effective if they conflict with procedural acts performed by the party to be assisted through intervention.
3. An assisting intervener may, even where an objection is made to assisting intervention, perform procedural acts until a judicial

decision prohibiting the assisting intervention has become final and binding.

4. Any procedural act performed by an assisting intervenor, even when a judicial decision prohibiting assisting intervention becomes final and binding, shall be effective if invoked by a party.

**47. Effect of judgment against assisting intervenor**

For the suit that has been intervened upon in order to assist either party, where a judgment against the assisted party has become final and binding, the assisting intervenor is bound by such judgment in relation to the assisted party, except in the following situations:

- (a) where the assisting intervenor was unable to perform procedural acts pursuant to the provisions of the second sentence of Paragraph 1 of **Article 46 (Procedural acts by assisting intervenor)**;
- (b) where the procedural acts performed by the assisting intervenor were not effective pursuant to the provisions of Paragraph 2 of **Article 46 (Procedural acts by assisting intervenor)**;
- (c) where the assisted party interfered with the procedural act performed by the assisting intervenor; or
- (d) where the assisted party, intentionally or negligently, failed to perform the procedural acts that the assisting intervenor could not perform.

**48. Special type of assisting intervention similar to joint suit**

1. Where the binding effect of a final judgment is to extend to the relation between an assisting intervenor and the counterparty to the assisted party, the status of the assisting intervenor in the civil action shall be equivalent to that of joint litigant under **Article 41 Rules regarding proceedings in mandatory joint suit**.
2. For cases set forth in Paragraph 1, the provisions of Paragraph 2 of **Article 46 (Procedural acts by assisting intervenor)** and of Items (b) and (c) of **Article 47 (Effect of judgment against assisting intervenor)** shall not be applicable.

**49. Intervention as co-party**

1. Where the rights and obligations which are the subject of the action are to be determined jointly and unseverably for one of the parties and a third party, such third party may intervene in the action as a co-party.
2. The provisions of **Article 44 (Application for assisting intervention)** shall apply *mutatis mutandis* to an application for intervention under Paragraph 1.
3. An application for intervention under Paragraph 1 shall be made in writing.
4. The written application described in Paragraph 3 shall be served on the other co-parties and the counterparty.

**50. Notice of action**

1. While the action is pending, a party may give notice of the action to a third party who may intervene in the action.
2. A notice of the action shall be given through submission to the court a document stating the reasons therefor and the progress of the action. The court shall serve this document on the person who is to receive the notice of action and on the counterparty in the action.
3. Even should a person who has received a notice of an action not

intervene in the action, for the purpose of the application of **Article 47 (Effect of judgment against assisting intervener)**, such person shall be deemed to have intervened in the action at the time when such person was capable of intervening.

**51. Action against plaintiff and defendant as joint defendants**

1. A third party alleging that all or part of the right which is the subject of the action between the parties belongs to himself/herself may, at any time during the pendency of that underlying action, file an action against both of the parties to the underlying action as joint defendants with the court of first instance with which the underlying action was filed.
2. Where an action is filed pursuant to Paragraph 1 while the underlying action is pending in the court of first instance, the court in which the action was filed may consolidate the two actions.

**Section IV. Appointed Representatives and Assistants in Court**

**52. Litigation by appointed representatives**

1. A party may perform procedural acts and all other acts concerning the action by himself/herself or via a representative who is appointed by said party.
2. Even where a party has appointed a representative, the party may appear in court together with the representative and present oral arguments by himself/herself.
3. Acts concerning the action that are performed by an appointed representative shall have the same effect as those performed by the party himself/herself. However, an admission of facts or other statement on facts made by an appointed representative shall not become effective if the party immediately retracts, or corrects such admission or statement.

**53. Qualifications of appointed representatives**

1. No person other than an attorney at law may serve as the appointed representative described in **Article 52 (Litigation by appointed representative)**, except in the cases provided in the following situations:
  - (a) where a third party who is not an attorney at law is permitted by this Code or other laws to perform acts concerning an action in place of the party;
  - (b) where the state, the executive agency, or other state organ is a party, and that organ or the organ's representative designates an official thereof to act as representative;
  - (c) where the court permits a specific third party who is not an attorney at law to act as a representative in cases where the value of the subject matter of the action is less than one million riel.
2. The authority of an appointed representative shall be evidenced in writing.
3. The court may at any time revoke the permission set forth in Item (c) of Paragraph 1.

**54. Authority of appointed representative**

1. An appointed representative, with regard to the case entrusted thereto, shall have the authority to perform procedural acts and

all other acts concerning the action, including the filing of an action, responding, cross-action, intervention, appeal, settlement, waiver of claims, or acknowledgment of claims.

2. The authority of representation granted for an action shall include the authority to carry out preservative relief or compulsory execution, to appoint a sub-agent, or to receive performance of an obligation.
3. Where an appointed representative is an attorney at law, the party may not limit the scope of the authority of representation, except for matters with regard to the filing of a cross-action, discontinuance of a suit, settlement, waiver of claims, acknowledgement of claims, withdrawal from the action, appeal and the discontinuance thereof, or appointment of a sub-agent.
4. Where the appointed representative is not an attorney at law, the party may permit such representative to perform only the acts concerning an action which are specifically designated by the party.
5. The provisions of the preceding four paragraphs shall not apply to a representative who is permitted by law to perform acts concerning an action in place of the party.

**55. Non-extinction of authority of appointed representative**

The authority of an appointed representative shall not be extinguished upon death of the party, loss of the party's capacity to file a suit or be subject to a suit, or the exchange of the statutory agent as well as other similar events.

**56. Grounds for extinction of authority of appointed representative**

1. The authority of an appointed representative shall be extinguished upon the representative's death or loss of qualification, or upon the completion of the entrusted tasks or other similar event.
2. A party may at any time dismiss an appointed representative, and an appointed representative may at any time resign.
3. The extinction of the authority of an appointed representative shall not come into effect unless the party or his/her agent notifies the counterparty to the action of such extinction.

**57. Measures for lack of authority of representation**

1. Where there is a suspicion that a person acting as an appointed representative lacks the authority of representation, the court shall, on its own authority, investigate the lack or existence of such authority at any stage in the proceedings of the action.
2. Where such person lacks the authority of representation, the court shall order that such defect be corrected within a specified period of time. In such case, the court may permit such person to perform acts concerning an action *pro tempore*.
3. Any act concerning an action which has been performed by a person lacking authority to act as an appointed representative shall become effective retroactively as of the time of the act, if such is ratified by the party.

**58. Assistant<sup>1</sup> in court**

1. A party or appointed representative may, with the permission of the court, appear before the court with an assistant in court should it be necessary in order to clarify any matter related to the action.
2. The permission described in Paragraph 1 may be revoked at any time.
3. Statements made by an assistant in court shall be deemed to have been made by the party or the appointed representative unless they are immediately retracted or corrected by the party or the appointed representative.

## **Chapter Four LITIGATION COSTS<sup>2</sup>**

### **Section I. Definitions and Types of Litigation Costs**

**59. Scope and amount of costs of civil action to be borne by parties or other persons**

The parties or other persons<sup>3</sup> shall bear: [1] the "Court Costs" set forth in **Article 61 (Filing fee)** and **Article 62 (Court Costs other than filing fees)**; and [2] the "Party's Costs" set forth in **Article 63 (Party's Costs)**, in accordance with the provisions of **Article 64 (Apportionment of burden and compensation for costs)**.

**60. Computation of value of subject of action and computation of value of joint claims**

1. The value of the subject of an action shall be computed based on the value of the interest claimed in the action. Where multiple claims are asserted in one action, the value of the subject of the action shall be computed by aggregating the values of the multiple claims; provided that, where the interest asserted in the action is common to each claim, such shall not apply with respect to those claims.
2. Where a claim for fruits, damages, penalties for breach of contract or costs is the incidental subject of the action, the value of such claims shall not be included in the computation of the value of the subject of the action.
3. Where it is difficult to determine the value of the subject of an action in accordance with Paragraph 1, the court shall determine the value thereof at its reasonable discretion. Where it is impossible to determine the value of the subject of an action, the value shall be deemed to be 5,500,000 riel.

**61. Filing fee**

1. When an action is filed, a fee calculated by the provision of the following Items in accordance with the value of the subject of the action shall be paid to the court:

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<sup>1</sup> An "assistant" is a person allowed to supplement arguments or statements presented by the party or representative, or clarify the grounds for the assertions of the party, where the action requires highly specialized or technical knowledge to resolve the case (e.g. an intellectual property related cases, etc.) or where the party suffers from a speech disorder, defect of hearing ability, or other disabilities requiring special assistance.

<sup>2</sup> "Litigation costs" as used in this translation include both (i) "court costs" which are comprised of "filing fee" (Art. 61) and "advance" (Art. 62); and (ii) "party's costs" (Art. 63).

<sup>3</sup> Costs to be borne by "other persons" are only those set forth in Paragraph 4 of Article 64.



- (a) for the portion of the value of the subject of the action up to 10,000,000 riel; an amount of 1,000 riel for each 100,000 riel;
  - (b) for the portion of the value of the subject of the action exceeding 10,000,000 riel and not exceeding 100,000,000 riel; 700 riel for each 100,000 riel;
  - (c) for the portion of the value of the subject of the action exceeding 100,000,000 riel and not exceeding 1,000,000,000 riel; 300 riel for each 100,000 riel;
  - (d) for the portion of the value of the subject of the action exceeding 1,000,000,000 riel; 100 riel for each 100,000 riel.
2. The value of the subject matter of an action, on which the calculation of the amount of the filing fee is based in Paragraph 1, shall be computed in accordance with the provisions of **Article 60 (Computation of value of subject of action and computation of value of joint claims)**.
  3. When an *Uttor* appeal is filed, a fee equal to 1.5 times the fee calculated in accordance with Paragraph 1 and 2 shall be paid to the court. When a *Satuk* appeal is filed, a fee equal to twice such fee shall be paid to the court.
  4. When a motion for retrial is filed, a fee equal to 10,000 riel shall be paid to the court.
  5. When a motion for the issuing of a demand ruling is filed, a fee equal to one half of the fee calculated by paragraph 1 in accordance with the value of the subject matter of the action, shall be paid to the court. If the motion is deemed to be filing an action pursuant to Paragraph 2 of **Article 327 (Effect of objection to demand ruling made prior to declaration of provisional execution)** or **Article 331 (Transfer to an action upon objection to demand ruling filed after declaration of provisional execution)**, the person filing the motion for the issuing of a demand ruling shall pay a fee calculated by extracting the fee paid for the motion for the issuing of a demand ruling from the fee calculated pursuant to Paragraph 1.
  6. When a motion for the court's decision is filed for any matter other than those matters set forth in Paragraph 1 and Paragraphs 3 through 5, a fee equal to 5,000 riel shall be paid to the court.
  7. Fees shall be paid in cash at the reception area of the court. A motion for which the required fee has not been paid shall be deemed to be an unlawful motion.
  8. In the following cases, the amount of fees set forth in each Item below shall be returned upon motion by the person who paid said fees:
    - (1) where the fees were paid in excess:
      - the portion of the fee paid in excess;
    - (2) where a settlement has been reached between the parties before the commencement of oral arguments, where an action has been discontinued prior to the end of the first hearing date for oral arguments, or where a decision dismissing [without prejudice] the action prior to oral arguments has become final and binding:
      - One half of the fees paid.

## **62. Court Costs other than filing fees**

1. Amounts determined by the court as set forth below shall be paid as Court Costs by the parties or by interested persons of the case:

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- (a) an amount which is necessary for the court to investigate the evidence, serve documents, and conduct any other procedural act during the civil action; and
  - (b) an amount equivalent to necessary travel and lodging costs for a judge and a court clerk should the investigation of evidence, investigation of facts, or other act need to be carried out outside of the courtroom.
- 2. The party or the interested persons required to make such payment pursuant to Paragraph 1 shall be: [1] with regard to costs incurred in conducting acts upon a motion, the moving party; and [2] with regard to costs incurred in conducting acts upon the court's authority, the person designated by the court.
- 3. With regard to acts incurring costs pursuant to Paragraph 1, the court shall require a party or interested person to pay such costs in advance.
- 4. Where advance payment is ordered in accordance with the provisions of Paragraph 3, and the party or interested person does not make such payment, the court may refrain from conducting the acts incurring such costs.
- 5. The amount of costs prescribed in Paragraph 1 and unpaid in advance may, upon ruling of the court, be collected from the person who is to bear such costs pursuant to **Article 64 (Apportionment of burden and compensation for costs)**.

#### **63. Party's Costs**

In addition to those costs set forth in **Articles 61 (Filing fee)** and **Article 62 (Court Costs other than filing fees)**, the amount of costs prescribed in each Item below, which the court has determined to be reasonable through a consideration of the nature of the case, the financial ability of the parties and so forth, shall be deemed to be litigation costs:

- (a) costs incurred in producing documents such as complaints or other motions, preparatory documents for oral arguments and similar materials, and costs incurred in submitting such documents to the court;
- (b) travel costs, per diem allowances, and lodging costs incurred for a party or his/her representative to appear at court; and
- (c) other costs approved by the court as necessary for proceeding with the action.

## **Section II. Burden of Litigation Costs**

#### **64. Apportionment of burden and compensation for costs**

- 1. Litigation costs shall be borne by the non-prevailing party. The burden of litigation costs on each party in case of partial prevailing of both parties shall be determined by the court at its own discretion.
- 2. Notwithstanding the provisions of Paragraph 1, the court may, depending on the circumstances, impose all or part of the litigation costs on the prevailing party who has performed acts concerning the action which are unnecessary to assert or defend the case, or who has delayed the proceeding of the action.
- 3. Co-parties shall bear litigation costs equally. The court may, depending on the circumstances, impose litigation costs on co-parties jointly and severally, or impose a greater burden of litigation costs on a party who has performed acts concerning the

- action which are unnecessary to assert or defend the case.
4. Where a statutory agent, appointed representative or court clerk, intentionally or by gross negligence, has incurred unnecessary litigation costs, the court in charge of the case may, upon motion or on its own authority, issue a ruling which orders such person to reimburse the amount of such costs.
  5. A *Chomtoah* appeal may be filed against a ruling issued under Paragraph 4.

**65. Decision on the burden of litigation costs**

1. When rendering a decision that concludes a case, the court shall, on its own authority, decide on the burden of all litigation costs incurred in the instance thereof.
2. Where a superior court modifies a decision on the merits, it shall decide on the burden of the total litigation costs incurred in the action. This shall also apply where the court to which a case has been remanded or transferred renders a decision that concludes the case.
3. Where an action is concluded other than via decision, the court of first instance shall, upon motion, issue a ruling imposing litigation costs. Where an action is concluded upon settlement, litigation costs shall be imposed in accordance with the parties' agreement; should they have not agreed on the burden of such costs, each party shall bear his/her own costs.

**66. Procedures to determine amount of litigation costs**

1. A court clerk of the court of first instance shall, upon motion, determine the amount of the litigation costs after a decision on the burden of litigation costs has become enforceable.
2. In cases set forth in Paragraph 1, where both parties are to bear the litigation costs, it shall be deemed that the costs to be borne by the parties are set off against each other in the corresponding amount.
3. A disposition on the motion set forth in Paragraph 1 shall take effect once notice thereof has been provided in a manner deemed to be proper.
4. A motion objecting to the disposition set forth in Paragraph 3 shall be filed within one week of the day on which the notice of the disposition was received. Where the court finds that said motion objecting to the disposition is well-supported, the court shall determine the amount of litigation costs on its own.
5. The period described in Paragraph 4 may not be extended.

### **Section III. Security for Litigation Costs**

**67. Ruling on the provision of security**

1. Where a plaintiff does not have a domicile, business office or other office in Cambodia, the court shall, on a motion from the defendant, issue a ruling which orders the plaintiff to provide security for litigation costs. This shall also apply where the amount of security becomes insufficient.
2. A defendant may not file the motion described in Paragraph 1 should the defendant have made statements on the merits on the day of the preparatory proceedings or has presented arguments on the merits on the day of oral arguments after he/she became aware of any grounds for the providing of security.

3. A defendant who has filed a motion described in Paragraph 1 may refuse to appear until the plaintiff provides security.
4. The court shall, in its ruling described in Paragraph 1, specify the amount of security and a period for providing such security.
5. The amount of security shall be specified on the basis of the total amount of litigation costs to be paid by the defendant in all instances.
6. A *Chomtoah* appeal may be filed against the ruling described in Paragraph 1.

**68. Consequences of failure to provide security**

Where a plaintiff fails to provide security within the period for which security should be provided, the court may render a judgment dismissing the action without oral arguments. This shall not apply where security is provided before the rendering of such judgment.

## Section IV. Judicial Aid

**69. Grant of aid**

1. The court may, upon motion, issue a ruling to grant judicial aid to a person who lacks the financial resources to pay the costs necessary for preparing for and proceeding with an action, or for a person who will suffer substantial detriment to his/her life from paying such costs. This shall not apply where it is clear that such person is unlikely to prevail in the case.
2. A ruling to grant judicial aid shall be issued for each instance.
3. Grounds for judicial aid shall be established by a *prima facie* showing.

**70. Contents of judicial aid**

1. A ruling to grant judicial aid, as provided for herein, shall have the following effects:
  - (a) grace period for payment of Court Costs; or
  - (b) exemption from payment of Court Costs. This shall be limited to cases where, after the grace period for payment has expired, the court determines such exemption to be proper, taking into account the party's financial resources and other circumstances.
2. A ruling to grant judicial aid shall be effective only on the person who receives it.
3. Where a person who has received a ruling to grant judicial aid is found not to meet the requirements set forth in **Article 69 (Grant of aid)**, or where he/she no longer meets such requirements, the court in which the case record is kept may, at any time and upon motion of an interested person or on its own authority, revoke the ruling to grant judicial aid and order payment of the costs for which grace period or exemption were given.
4. A *Chomtoah* appeal may be filed against a ruling set forth in **Article 69 (Grant of aid)** or in this Article.

## Chapter Five SECURITY IN LITIGATION

**71. Method of providing security and substitution of security**

1. Security shall be provided through the depositing of money or negotiable instruments that the court deems appropriate with a

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depository office; by making a court deposit of money or negotiable instruments, which the court deems appropriate, at the court; or by other methods provided by law.

2. The court may, upon motion by the person providing security, issue a ruling to order the substitution of such security. This shall not preclude the substituting of another security for such security through contract.

**72. Rights of person receiving provision of security**

The person in protection of whose interest security was provided shall, in order to obtain payment of said secured claim, have a right to receive payment in preference to other creditors from the money or negotiable instruments deposited with the depository office or court in accordance with the provisions of **Article 71 (Method of providing security and substitution of security)**.

**73. Cancellation of security**

1. A 'Person Entitled to Security' as used in this Article shall mean the person in protection of whose interest security was provided.
2. Where the person who provided security has proven that the grounds for providing security have ceased to exist, the court shall, upon motion, order via the issuing of a ruling that such security be rescinded.
3. The provisions of Paragraph 2 shall also apply where the person who provided the security has proven that he/she obtained consent for the cancellation of such security from the person entitled to such security.
4. Where the court, after the grounds occur for the Person Entitled to Security to exercise his/her right, demands upon motion by the person who provided the security that the Person Entitled to Security exercise such right within two weeks, and the Person Entitled to the Security fails to exercise such right within such period, the Person Entitled to the Security shall be deemed to have consented to the cancellation of the security.
5. A *Chomtoah* appeal may be filed against the ruling described in Paragraphs 2 and 3.

## BOOK TWO PROCEEDINGS AT THE COURT OF FIRST INSTANCE

### Chapter One ACTION

#### **74. Benefits of action**

An action may be filed where such action shall adjudicate a concrete legal dispute and where the dispute can be resolved by means of a judgment.

#### **75. Method of filing action and matters written in complaint**

1. An action shall be filed by submitting a complaint to the court.
2. A complaint shall state the following information:
  - (a) the names and addresses of the parties, and the names and addresses of their statutory agents; and
  - (b) the contents of the judgment sought, and the facts necessary to identify the claim.
3. In addition to the matters set forth in Item (b) of Paragraph 2, the plaintiff shall make efforts to describe in the complaint the concrete facts supporting the claims, and shall set forth, for each matter required to be proved, material facts and evidence relating to such facts.
4. A complaint that advances allegations or evidence shall also serve as a preparatory document for oral arguments.

#### **76. Action for future performance**

An action to seek future performance may be filed only where it is necessary to make a claim therefor in advance.

#### **77. Joinder of claims**

Two or more claims, only when made through the same type of court proceeding, may be made through the filing of a single action.

#### **78. Examination of complaint**

1. Where a complaint violates the provisions of Paragraph 2 of **Article 75 (Method of filing action and matters written in complaint)**, the court shall specify a reasonable period and order that such defect be corrected within that period. This shall also apply where the fee for filing an action required by **Article 61 (Filing fee)** has not been paid.
2. For cases set forth in Paragraph 1, should the plaintiff fail to correct the defect, the court shall, via the issuance of a ruling, dismiss the complaint.
3. A *Chomtoah* appeal may be filed against a ruling described in Paragraph 2.

#### **79. Service of complaint**

1. The complaint shall be served on the defendant.
2. The provisions of **Article 78 (Examination of complaint)** shall apply *mutatis mutandis* to cases in which the complaint cannot be served. The same shall apply to cases in which the costs necessary to serve the complaint are not paid in advance by the plaintiff.

**80. Designation of initial day of preparatory proceedings for oral arguments**

1. Once an action is filed, the court shall promptly designate the day for the preparatory proceedings for oral arguments and summon the parties.
2. Except where special circumstances exist, the day designated pursuant to Paragraph 1 shall be a day within thirty days from the day on which the action was filed.

**81. Dismissal of action without oral arguments**

Where an action is unlawful and such defect cannot be corrected, the court may, via the issuing of a judgment, dismiss the action without hearing oral arguments.

**82. Dismissal of action for failure to prepay summons expenses**

1. Where the court has ordered the plaintiff to prepay, as required by the provisions of this Code, the expenses necessary for the summoning of the parties to appear on the court date, within an appropriate time period designated by the court, and such prepayment is not made; the court may, via the issuing of a ruling, dismiss the action if the defendant has no objection.
2. A *Chomtoah* appeal may be filed against the ruling described in Paragraph 1.

**83. Prohibition on the filing of overlapping actions**

With regard to a case pending before the court, neither party to the case may file another action.

**84. Amendment of action**

1. The plaintiff, unless there is a change to the basis for the action, may amend such action up until the conclusion of oral arguments. This shall not apply where such amendment would substantially delay court proceedings.
2. Any amendment of the action shall be made in writing.
3. The written materials set forth in Paragraph 2 shall be served on the counterparty.
4. Should the court find an amendment to the action to be improper, the court shall, upon motion or on its own authority, issue a ruling stating that such amendment shall be prohibited.

**85. Action for interlocutory declaration**

1. Where a decision sought in an action hinges on the existence or non-existence of a legal relationship which is in dispute under the action, the plaintiff may expand his/her claim or the defendant may file a cross-action in order to seek judgment on whether or not such legal relationship exists. This shall not apply where the claim seeking such declaration is, by law, subject to the exclusive jurisdiction of another court.
2. The provisions of paragraphs 2 and 3 of **Article 84 (Amendment of action)** shall apply *mutatis mutandis* to the expansion of claims set forth in Paragraph 1.

**86. Cross-action**

1. The defendant, for the purpose of making a claim relevant to the claim that is the subject of the principal action or to the

allegations and evidence comprising a defense, may file at any time prior to the conclusion of oral arguments a cross-action with the court with which the principal action is pending. This shall not apply to cases where the claim that is the subject of the cross-action is, by law, subject to the exclusive jurisdiction of another court, or where the filing of the cross-action would substantially delay the court proceedings.

2. The provisions relating to actions shall apply to a cross-action.

**87. Time of effecting interruption of prescription**

Any judicial claim necessary for the interruption of prescription or for the observance of a time period established by law, shall take effect when the action is filed, or when a document set forth in Paragraph 2 of **Article 84 (Amendment of action)** or in Paragraph 2 of **Article 84 Amendment of action**, which applies *mutatis mutandis* pursuant to Paragraph 2 of **Article 85 (Action for interlocutory declaration)**, has been submitted to the court.

**88. Transfer of disputed object**

1. While an action is pending, a party shall not be prohibited from assigning or transferring the object in dispute, or the right or obligation that is the subject of the action.
2. An assignment or transfer described in Paragraph 1 shall have no effect on the action. A party who has made such assignment or transfer shall not lose his/her status as a party to the action.
3. Where a person to whom an assignment or transfer described in Paragraph 1 was made becomes an assisting intervener, the provisions of **Article 48 (Special type of assisting intervention similar to joint suit)** shall apply.

## Chapter Two ORAL ARGUMENTS AND PREPARATION THEREFOR

### Section I. General Provisions

**89. Control of litigation by presiding judge**

1. Preparatory proceedings and oral arguments shall be directed by the presiding judge.
2. The presiding judge may permit a person to speak or prohibit a person failing to follow his/her direction from speaking.

**90. Authority to request explanation**

1. In order to clarify factual or legal matters related to the action, the court may, on the day of preparatory proceedings or the day of oral arguments, question the parties on such matters or prompt them to present allegations or evidence on such matters.
2. A party may, on the day of preparatory proceedings or the day of oral arguments, request the court to ask any necessary questions to the other party.
3. The court may, on any day other than a court date, inform a party of a matter for which an explanation is required, and order said party to prepare an explanation to be presented at the next scheduled court date.

**91. Objection to the direction of court proceedings**

Where a party has made an objection to the court's direction with regard



to preparatory proceedings or oral arguments, or to the measures taken by the court pursuant to the provision of Paragraph 1 of **Article 90 (Authority to request explanation)**, the court shall, via the issuing of a ruling, make a decision on such objection.

**92. Parties' duty of research**

A party shall, in order to present allegations and thoroughly present evidence in the action, conduct research, in advance and of factual relevance, concerning witnesses and other evidence.

**93. Time for advancing allegations and evidence**

Allegations and evidence shall be advanced at appropriate times in accordance with the progression of the action.

**94. Dismissal of allegations or evidence due to late advancement**

1. With regard to allegations or evidence that a party has advanced later than the proper time, intentionally or by gross negligence, the court may, upon motion or on its own authority, issue a ruling dismissing such allegations or evidence should it find that such allegations or evidence would delay the conclusion of the action.
2. Paragraph 1 shall also apply where a party does not provide necessary explanation with regard to his/her allegations or evidence whose aim is unclear, or does not appear on the date when such explanation is to be provided.

**95. Facts on which a judgment may rest**

The court may not base its judgment on any fact that has not been alleged by either party.

**96. Constructive Admission**

1. Where a party, during preparatory proceedings or oral arguments, does not make it clear that he/she denies the facts alleged by the counterparty, he/she shall be deemed to have admitted such facts. This shall not apply where the court finds, based on the progress and content of the trial, that the party has denied such facts.
2. Where a party states that he/she has no knowledge of the facts alleged by the counterparty, he/she shall be presumed to have denied such facts.

**97. Attempt at settlement**

The court may attempt to settle the case at any stage of the action.

**98. Loss of right of objection regarding court proceedings**

1. Where a counterparty or the court conducts an act concerning the action in violation of the provisions of the court proceedings, a party may raise an objection thereto with the court and seek to nullify such act.
2. Where a party knows or is able to know of the violation described in Paragraph 1 and fails to raise an objection thereto without delay, such party shall lose the right of objection. This shall not apply in cases where such right cannot be waived.

**99. Separation and consolidation of cases**

1. The court may order the separation or consolidation of cases via the issuance of a ruling, and may also revoke such ruling.

2. Where the court has ordered, during oral arguments, the consolidation of cases involving different parties; should a party request examination of a witness who has already been examined prior to the consolidation and for whom the party had no chance to examine, the court shall re-examine such witness.

**100. Attendance of interpreter**

1. Where a person participating in the proceedings of a civil action is unable to communicate in Khmer, or unable to hear or speak, the court shall ensure the attendance of a qualified interpreter. The court may permit the asking of questions in writing for those who cannot hear or speak, or allow them to make statements in writing.
2. The provisions regarding expert witnesses shall apply *mutatis mutandis* to interpreters so long as such provisions are not inconsistent with the nature of the interpreter's role.

## **Section II. Preparatory Documents for Oral arguments**

**101. Preparatory documents for oral arguments**

1. The court may require parties to submit preparatory documents for oral arguments during the preparatory proceedings or oral arguments.
2. Preparatory documents for oral arguments shall state the allegations and evidence as well as statements on the counterparty's allegations and evidence.
3. The preparatory document for oral arguments initially submitted by the defendant shall provide answers to the plaintiff's request for judgment set forth in the complaint, as well as an admission or denial of the facts alleged therein, facts that constitute an affirmative defense, or other relevant matters.

**102. Period for submission of preparatory documents**

The court may designate a time period for the submission of the defendant's initial preparatory documents for oral arguments or preparatory documents for oral arguments containing allegations regarding a particular matter, or a time period for offering evidence regarding a particular matter.

## **Section III. Preparatory Proceedings**

**103. Purpose of preparatory proceedings**

During preparatory proceedings the court shall organize the allegations of the parties and clarify points of issue in the case, as well as arrange evidence pertaining to the points at issue, in order to ensure that a concise trial takes place during oral arguments.

**104. Attempts at settlement during preparatory proceedings**

During preparatory proceedings the court shall first attempt to settle the case, unless the court determines that such attempt would be improper.

**105. Date for preparatory proceedings**

1. Preparatory proceedings shall be conducted on a day which both parties are able to attend.
2. Preparatory proceedings need not be open to the public, though the

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court may permit observation by a person whom the court considers to be appropriate.

**106. Acts concerning the action and other matters during preparatory proceedings**

The court, on the day of preparatory proceedings, may issue a ruling on an offer of evidence or any other ruling that may be issued on a day other than the day of oral arguments, and may examine documentary evidence to the extent necessary to arrange points of issue and evidence.

**107. Confirmation on facts to be proven**

Once the court has completed the arranging of points of issue and evidence, and concluded the preparatory proceedings, the court shall confirm with the parties the facts to be proven through the subsequent examination of evidence.

**108. Effect of conclusion of preparatory proceedings**

New allegations or evidence cannot be advanced after the conclusion of preparatory proceedings. This shall not apply where such allegations or evidence relates to matters to be examined on the court's authority, and where advancing such allegations or evidence would not cause a considerable delay in the court proceedings; or where the party has established *prima facie* showing that he/she was unable to advance such allegations or evidence prior to the conclusion of the proceedings in the absence of gross negligence by him/herself.

**109. Protocol for preparatory proceedings**

The court shall have the court clerk prepare a protocol for the preparatory proceedings for each day thereof.

**110. Formal matters to be stated in protocol for preparatory proceedings**

1. The following matters shall be provided in the protocol for preparatory proceedings:
  - (a) indication of the case;
  - (b) names of the judge(s) and the court clerk;
  - (c) names of the parties, agents, assistants in court, and interpreters who appeared; and
  - (d) date, time and place of the proceedings.
2. The presiding judge and the court clerk shall sign the protocol described in Paragraph 1.

**111. Substantial matters to be stated in protocol for preparatory proceedings**

A protocol for preparatory proceedings shall contain a summary statement of the matters occurring on the day of the proceedings, and shall also clarify the following matters:

- (a) the plaintiff's request for judgment and the defendant's answers thereto;
- (b) the summary of the alleged facts and the offering of evidence;
- (c) the admission or denial of the facts alleged by the counterparty, and the admission or denial of authenticity of the creation of documentary evidence;
- (d) discontinuance of the action, settlement, waiver of claims, or acknowledgement of claims;

- (e) matters which the court directs to be stated, and matters which the court permitted to be stated upon request by a party; and
- (f) decisions not rendered in writing on the day of the proceedings.

**112. Objections to statements in the protocol for preparatory proceedings**

- 1. Where a party or any other concerned person objects to the contents of the statements in the protocol for preparatory proceedings, such objection shall be stated in the protocol.
- 2. Compliance with provisions pertaining to the formalities of the preparatory proceedings may be proven only by means of the protocol. This shall not apply where the protocol has been lost or destroyed.

**Section IV. Oral arguments**

**113. Designation of day for oral arguments**

Once the court concludes preparatory proceedings, the court shall designate a day for oral arguments and summon the parties to appear on such day.

**114. Necessity of oral arguments**

- 1. The court shall convene oral arguments prior to rendering a judgment on the action. With regard to cases or matters to be decided via the issuance of a ruling, the court shall determine whether or not oral arguments should be convened.
- 2. Where oral arguments are not convened pursuant to the provisions of the second sentence of Paragraph 1, the court may question the parties.
- 3. The provisions of Paragraph 1 and Paragraph 2 shall not apply where special provisions of law exist.

**115. Oral arguments**

- 1. Oral arguments shall be held on a day for which both parties are able to attend.
- 2. Oral arguments shall be held in a court open to the public. This shall not apply in cases where opening oral arguments to the public would present a threat to public order or where special provisions of law exist.

**116. Declaration of outcomes of preparatory proceedings and oral arguments**

- 1. The parties shall, during oral arguments, declare the outcome of the preparatory proceedings.
- 2. The declaration described in Paragraph 1 shall clarify the facts to be proven through the subsequent examination of evidence during oral arguments.
- 3. The parties may further allege facts and submit evidence during oral arguments. This shall not apply in the event of a violation of **Article 108 (Effect of conclusion of preparatory proceedings)**.
- 4. The court may decide, via the issuance of a ruling, to resume preparatory proceedings should the court deem such proceedings especially necessary in consideration of the outcome of the examination of evidence and other relevant matters on the day of

oral arguments.

5. The court may allow the parties to present final arguments prior to the conclusion of oral arguments.

**117. Protocol of oral arguments**

1. The court shall have the court clerk prepare a protocol for oral arguments for each day therefor.
2. The provisions of **Article 112 (Objections to statements in the protocol for preparatory proceedings)** shall apply *mutatis mutandis* to a protocol for oral arguments.

**118. Formal matters to be stated in protocol for oral arguments**

1. The following formal matters shall be stated in the protocol for oral arguments:
  - (a) identification of the case;
  - (b) names of the judge(s) and the court clerk;
  - (c) name of the public prosecutor in attendance;
  - (d) names of the parties, agents, assistants in court, and interpreters who have appeared;
  - (e) date, time and place of the oral arguments; and
  - (f) the fact that the oral arguments were publicly held or, if it was not publicly held, such fact and the reasons therefor.
2. The presiding judge and the court clerk shall sign the protocol described in Paragraph 1.

**119. Substantial matters to be stated in the protocol for oral arguments**

1. A protocol for oral arguments shall contain a summary statement of the arguments, and also shall, in particular, clarify the following matters:
  - (a) discontinuance of the action, settlement, waiver of claims, acknowledgement of claims, or admissions;
  - (b) statements of witnesses, the parties themselves, and expert witnesses;
  - (c) whether or not witnesses, parties themselves, and/or expert witnesses swore under an oath, and the reasons for not having witnesses or expert witnesses swear under oath;
  - (d) results of observations;
  - (e) matters which the court directed to be stated, and matters which the court permitted to be stated upon the request of a party;
  - (f) decisions not rendered in writing; and
  - (g) rendering of decisions.
2. Notwithstanding the provisions of Paragraph 1, where an action has concluded by means other than a decision; statements of witnesses, the parties themselves and expert witnesses, and the results of observations may be omitted from the protocol for oral arguments with the permission of the court. This shall not apply where a party requests, within one week of the day the party became aware of the conclusion of the action, that such statements or results be stated in the protocol.

**120. Recording of audio tape and other electronic media in lieu of statements in protocol**

1. Notwithstanding the provisions of Paragraph 1 of **Article 119**

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**(Substantial matters to be stated in the protocol for oral arguments)**, the court clerk may, with the court's permission, record the statements of witnesses, the parties themselves or expert witnesses on audio or video tape in lieu of stating them in the protocol. In such case, the parties may state their opinions when the court gives such permission.

2. For cases set forth in Paragraph 1, a document containing the statements of witnesses, the parties themselves or expert witnesses shall be prepared if a party so requests prior to the conclusion of the action. The same shall apply where the action is pending before a higher court and the higher court finds such documents necessary.

**121. Citation and attachment of documents**

Documents, photographs, audio tapes, video tapes, or any other objects which the court finds appropriate, may be cited in the protocol of oral arguments, and be attached to the case record as a part of the protocol for oral arguments.

**122. Restrictions on the taking of photographs and other media renderings in the courtroom**

The taking of photographs, stenography, audio recording, video recording, or broadcasting within the courtroom shall not be allowed without the permission of the court.

## **Chapter Three EVIDENCE**

### **Section I. General Provisions**

**123. Principle of evidence based decisions**

1. The court shall determine facts based on evidence. The court may, however, consider all matters and circumstances that are revealed during oral arguments.
2. Facts admitted by a party in court, and facts for which existence is obvious to the court, need not be proven via evidence.
3. A party may retract an admission in the following circumstances:
  - (a) where the counterparty does not make an objection;
  - (b) where the admission is contrary to the truth and also made based upon error; or
  - (c) where the admission was made due to a criminal act of another party.

**124. Examination of evidence**

1. Examination of the evidence shall be carried out upon the offering of evidence by the parties.
2. The court may conduct an examination of the evidence on its own authority in cases where it finds that it cannot reach a conclusion on whether or not the factual allegations made by a party are true on the basis of the evidence offered by the parties, or in any other case where the court finds such examination necessary.

**125. Offering of evidence**

1. The party offering evidence shall specify the fact to be proven thereby.

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2. The party offering evidence shall make efforts to specifically and clearly indicate the facts to be proven thereby and the relationship between such facts and the evidence.
3. Evidence may be offered prior to the day of preparatory proceedings or the day of oral arguments.
4. An offer to examine witnesses or parties shall be made collectively and concurrently, to the extent that it is reasonably possible.

**126. Admission of evidence**

The court shall examine the evidence offered by the parties. This shall not apply to evidence which has no relevance to the facts to be proven thereby, or any other evidence which the court finds unnecessary.

**127. Intensive examination of evidence**

1. The court shall ensure that it can immediately conduct an examination of evidence on the first day of oral arguments after the completion of the arranging of points of issue and evidence.
2. Examination of witnesses and the parties shall be conducted as intensively as possible.
3. Documents to be used in the examination of witnesses, as well as other matters, shall be submitted to the court within a reasonable period of time prior to the commencement of such examination, except for documents that are to be used as evidence to challenge the credibility of the statements of a witness, and other such immediate matters.

**128. Parties' right to attend**

1. The court shall guarantee the parties an opportunity to attend the examination of the evidence.
2. Examination of the evidence may be conducted even where a party fails to appear on the scheduled day of the examination.

**129. Examination of evidence in foreign nations**

1. An examination of the evidence to be conducted in a foreign nation shall be entrusted by the court to a competent government agency of such nation or to an ambassador, minister or consul of the Kingdom of Cambodia stationed in such nation.
2. An examination of the evidence conducted in a foreign nation, even where it contravenes laws of such nation, shall be effective if it does not contravene this Code.

**130. Entrustment of examination**

The court may entrust a government agency or a foreign government agency to conduct any necessary examination.

**131. *Prima facie* showing**

A *prima facie* showing shall be made through evidence that can be examined forthwith.

## Section II. Examination of Witnesses

**132. Duty of witnesses**

1. The court, except as otherwise provided in this Code or other laws, may examine any person as a witness.
2. The court may, via the issuing of a ruling, order the subpoenaing

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- of a witness who fails to appear without justifiable grounds.
3. Should a witness fail to appear without justifiable grounds, the court may, via the issuing of a ruling, punish such witness with a civil fine of not more than 1,000,000 riel.
  4. A *Chomtoah Appeal* may be filed against the ruling described in Paragraph 2 and 3.

**133. Examination of public officers**

1. When examining, as a witness, a public officer, or a person who was a public officer, with regard to any secret in relation to his/her duties, the court shall obtain approval of his/her concerned supervisory government agency.
2. The supervisory government agency referred to in Paragraph 1 shall be: with regard to a current or former senator, the Senate; with regard to a current or former member of the National Assembly, the National Assembly; and with regard to a current or former member of the government, the Cabinet.
3. The supervisory government agency may not refuse to provide the approval referred to in Paragraph 1, except where such approval is likely to harm the public interest or significantly hinder the performance of public duties.

**134. Right of refusal to testify**

1. A witness may refuse to testify in cases where the witness's testimony relates to matters for which the witness him/herself, or a spouse or other relative of the witness is likely to be subject to criminal prosecution or conviction. The same shall apply where his/her testimony relates to matters that harm the reputation of such persons or cause significant harm to their domestic relationship.
2. A witness may refuse to testify in the following cases:
  - (a) cases described in Paragraph 1 of **Article 133 (Examination of public officers)**;
  - (b) cases where a doctor, dentist, birthing assistant, nurse, pharmacist, attorney at law, clergyman, or a person who was any of these professionals is examined with regard to any fact that such person has learned in the course of his/her professional duties and that should be kept confidential; or
  - (c) cases where the witness is examined with regard to matters concerning technological or professional secrets.
3. The provision of Paragraph 2 shall not apply where the witness has been released from his/her duty of confidentiality.

**135. Ruling on refusal to testify**

1. A witness shall make a prima facie showing of the reasons for his/her refusal to testify.
2. Except for the cases described in Paragraph 2, Item (a) of **Article 134 (Right of refusal to testify)**, with regard to whether or not a witness's refusal to testify is appropriate, the court in charge of the case shall make a decision via the issuance of a ruling after questioning the party(ies).
3. The parties and the witness may file a *Chomtoah* appeal against the ruling referred to in Paragraph 2.
4. The provision of Paragraph 3 of **Article 132 (Duty of witness)** shall apply *mutatis mutandis* where a witness, after a ruling finding that



his/her refusal to testify is groundless has become final and binding, refuses to testify without justifiable grounds.

**136. Examination of witnesses at location other than the courthouse**

1. The court may examine witnesses at locations other than the courthouse only in the following circumstances:
  - (a) where the witness has no duty to appear before the court in charge of the case, or where the witness is unable to appear before the court for justifiable reasons;
  - (b) where the witness would be required to spend undue expenses or time to appear before the court in charge of the case; or
  - (c) where neither party has any objection to such examination.
2. In any of the cases referred to in Paragraph 1, the court may have an authorized judge or commissioned judge examine a witness at a location other than the courthouse.
3. Where an authorized judge or commissioned judge examines a witness, such judge shall carry out the duties of the court and the presiding judge.

**137. Oaths**

1. The court, except as otherwise provided, shall have a witness swear under oath.
2. When examining a person under sixteen years of age or person who is unable to understand the purpose of an oath as a witness, the court may allow him/her to not swear under oath.
3. When examining a witness who falls under the provision of **Article 134 (Right of refusal to testify)** but does not exercise his/her right of refusal to testify, the court may choose not to have him/her swear under oath.
4. The court shall have a witness swear under oath prior to examination. The court may have a witness swear under oath after an examination where any special circumstances exist.
5. The formalities for swearing under oath shall be provided for in the Annex to this Code.
6. Prior to swearing under oath, the presiding judge shall explain the purpose of the oath and notify the witness of the penalties for perjury.

**138. Method for the examination of witness**

1. An offer to examine a witness shall be made by clearly designating the witness.
2. When an offer to examine a witness is made, a document stating the matters to be examined shall be submitted concurrently.
3. A witness shall receive a writ of summons two weeks prior to the examination.
4. A writ of summons for a witness shall contain statements providing the following information and shall have attached a document stating the matters to be examined:
  - (a) the names and addresses of the parties;
  - (b) the date, time and location for appearance; and
  - (c) the legal sanctions to be imposed upon failure to appear.
5. The witness shall be examined by the presiding judge, the party offering the witness examination, and the counterparty; in such order. An associate judge may examine a witness upon notifying the

- presiding judge such intent.
6. The court may, where the court finds it appropriate, change the order set forth in Paragraph 5.
  7. A witness may not give testimony based on documents. This shall not apply where the court permits such testimony.
  8. The court may, should the court find it necessary, permit a witness who has already testified or a witness who is to testify to be present in the courtroom.
  9. Where the court finds that a witness will be intimidated and be unable to make sufficient testimony in front of a specific observer, the court may have such observer leave the courtroom during the testimony of the witness.
  10. The court may, where the court finds it necessary, order a witness and another witness to be examined concurrently.

**139. Restrictions on questioning**

1. Questions shall be asked individually and specifically insofar as possible.
2. The following questions shall not be asked unless reasonable grounds exist:
  - (a) questions that insult or embarrass the witness;
  - (b) leading questions;
  - (c) questions that have been already asked;
  - (d) questions irrelevant to the issues;
  - (e) questions that seek the opinion of the witness; and
  - (f) questions that seek testimony on facts which the witness has no direct knowledge of.
3. Where the court finds that a party's question violates the provision of Paragraph 2, the court may, upon motion or on the court's own authority, limit such questions.
4. A party may make an objection to any limitations made by the court pursuant to the provision of Paragraph 3.

### Section III. Examination of Parties

**140. Examination of parties**

1. The court may examine a party. In such case, the court may have the party swear under oath.
2. Where a party is to be examined, if the party does not appear, or refuses to swear under oath or testify without justifiable grounds, the court may deem that the counterparty's allegations regarding the matters to be examined are true.
3. Where a party who has been sworn under oath makes a false statement, the court may, via the issuance of a ruling, impose a civil fine of no more than 2,000,000 riel.
4. A *Chomtoah* appeal may be filed against the ruling described in Paragraph 3.

**141. *Mutatis mutandis* application of provisions regarding the examination of witnesses**

1. The provisions of **Articles 136 (Examination of witnesses at location other than the courthouse), Article 137 (Oaths)** (except for Paragraphs 1 and 3), **Article 138 (Method for the examination of witness)** (except for Paragraphs 8 and 10), and **Article 139 (Restrictions on questioning)** shall apply *mutatis mutandis* to the

- examination of a party.
2. The court may, should the court find it necessary, order a party, and another party or a witness to be examined concurrently.

**142. Examination of statutory agent**

The provisions of this Code regarding the examination of a party shall apply *mutatis mutandis* to a statutory agent who represents the party in the action. This shall not preclude the examination of the party him/herself.

## Section IV. Expert Testimony

**143. Offer and matters of expert testimony**

1. The court may order expert testimony based on an offer thereof from a party.
2. When offering expert testimony, a party who makes such offer shall submit a document stating the matters for which the expert testimony is being sought. It shall be sufficient to submit such document within the period specified by the court if there are unavoidable grounds thereof.
3. The court shall hear the opinions of the counterparty regarding the offer described in Paragraph 2.
4. The court shall determine the matters for the expert testimony based on the document described in Paragraph 2 while also giving consideration to the opinions described in Paragraph 3. In such case, a document stating the matters for the expert testimony shall be sent to said expert witness.

**144. Designation of expert witness and duty to give expert testimony**

1. An expert witness shall be designated by the court.
2. A person having the knowledge and experience necessary to give expert testimony shall have a duty to give expert testimony.
3. A person may not serve as an expert witness in the following situations:
  - (a) when giving expert testimony, the expert witness him/herself, or a spouse or other relative of the expert witness is likely to be subject to criminal prosecution or conviction. The same shall apply where his/her expert testimony could harm the reputation of such persons or cause significant harm to their domestic relationship;
  - (b) the matters of the expert testimony are related to any secrets with regard to the duties of a public officer or a person who was a public officer. This shall not apply where the approval of his/her concerned supervisory government agency is obtained. The supervisory government agency may not refuse to give approval, except where such approval is likely to harm the public interest or significantly hinder the performance of public duties;
  - (c) where a doctor, dentist, birthing assistant, nurse, pharmacist, attorney at law, clergyman, or a person who was in any of these profession is examined and the matters for expert testimony are related to any fact that such person has learned in the course of his/her professional duties and that should be kept confidential; or
  - (d) the matters of the expert testimony are related to issues

concerning technological or professional secrets.

4. The supervisory government agency referred to in subparagraph (b) of Paragraph 3 shall be: with regard to a current or former senator, the Senate; with regard to a current or former member of the National Assembly, the National Assembly; and with regard to a current or former member of the government, the Cabinet.
5. The provisions of subparagraphs (b), (c) and (d) of Paragraph 3 shall not apply where the expert witness has been released from the duty of confidentiality.

**145. Challenging of expert witnesses**

1. Should there be any circumstances with regard to an expert witness that would hinder him/her from giving sincere expert testimony, a party may challenge such expert witness before such expert witness makes statements on the matters of expert testimony. The same shall apply where, after an expert witness has made statements, any grounds for challenging said testimony occur, or a party becomes aware of the existence of any grounds for such challenge.
2. A motion to challenge shall be made in writing, except in cases where it is made on the day of preparatory proceedings or oral arguments.
3. The party filing the motion of challenge shall make a *prima facie* showing of the grounds for such challenge.
4. No appeal may be filed against a ruling finding that the challenge is well-supported.
5. A *Chomtoah* appeal may be filed against a ruling finding that the challenge is groundless.

**146. Methods for expert witnesses to make statements and questioning by expert witnesses**

1. The court may have an expert witness state his/her opinions in writing or orally.
2. Where necessary for the providing of expert testimony, an expert witness may attend the trial, submit a request to examine a witness or a party to the court, or with the court's permission, ask questions of such persons directly.

**147. *Mutatis mutandis* application of provisions regarding the examination of witnesses and method of oath**

Except as otherwise provided, the provisions of **BOOK II, Chapter III, Section II (Examination of witnesses)** of this Code shall apply *mutatis mutandis* to expert testimony. This shall not apply to the provisions of **Article 132 (Duty of witness)**, Paragraph 2.

## Section V. Documentary Evidence

**148. Offering of documentary evidence**

1. Documentary evidence shall be offered through the submitting of a document in the possession of a party or by requesting the court to order the holder of a document to submit such document.
2. Notwithstanding the provisions of Paragraph 1, documentary evidence may be offered by requesting the court to entrust the holder of the document to send such document.
3. The court may, where the court finds it necessary, retain a document submitted or sent thereto.

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**149. Attachment of translation**

1. Should documentary evidence be offered by the submitting of a document written in a foreign language, the party making such offer shall attach a translation of the part of the document for which examination is sought.
2. Where the counterparty has opinions on the accuracy of the translation referred to in Paragraph 1, he/she shall submit written documentation stating such opinion to the court.

**150. Duty to submit documents**

1. Except as otherwise provided in this Code or other laws, submission of a document may not be refused by the holder thereof.
2. The holder of a document may refuse the submission thereof if the document falls under any of the following categories:
  - (a) a document that contains matters that would give rise to the possibility that the holder of the documents, or a spouse or other relative thereof could be prosecuted for or found guilty of a crime, or that would bring humiliation or disgrace on such person, or cause significant harm to his/her domestic relationships;
  - (b) a document that involves the official secrets of a public official, where submission of such document would significantly hinder the exercise of public duties; or
  - (c) a document involving facts learned by a current or former doctor, dentist, birthing assistant, nurse, pharmacist, attorney at law or clergyman in the course of his/her professional duties, or technological or business secrets where the holder of the facts or secrets has not been exempted from the duty of confidentiality.

**151. Motion for order to submit documents**

1. A motion for a ruling to submit documents must specify the following information in detail:
  - (a) the title of the document, and a basic description of its contents;
  - (b) the holder of the document; and
  - (c) the facts to be proven thereby.
2. A motion for a ruling to submit documents must be made in writing.
3. Where the counterparty has opinions regarding the motion described in Paragraph 2, such opinions shall be submitted in writing to the court.

**152. Ruling on the submission of documents**

1. Where the court finds that sufficient grounds for a ruling to submit documents exist, the court shall issue a ruling ordering the holder of the documents to submit such documents. In such case, where the documents contain parts that are deemed outside the scope of examination, or as to which no duty to submit is deemed to exist, the court may order that such parts be omitted from the documents to be submitted.
2. Where the court intends to order a third party to submit documents, the court shall examine the third party.
3. A *Chomtoah* appeal may be filed against a ruling on a motion to submit documents.

**153. Effect of party's failure to comply with ruling to submit documents**

1. Should a party fail to comply with a ruling to submit documents, the court may deem the counterparty's allegations regarding the contents of such documents to be true.
2. The provision set forth in Paragraph 1 shall also apply to cases where, in order to prevent its use by the counterparty, a party causes a document that the party was required to submit to be lost, or otherwise makes it impossible for the counterparty to use such document.
3. In the cases set forth in Paragraphs 1 and 2, where the counterparty has substantial difficulty in making specific allegations regarding the contents of a document and in proving by other means a fact that was to be proven by such document, the court may deem the counterparty's allegations regarding such facts to be true.

**154. Civil fines for failure of third party to comply with ruling to submit documents**

1. Where a third party fails to comply with a ruling to submit documents, the court may issue a ruling imposing on said third party a civil fine of no more than 2,000,000 riel.
2. A *Chomtoah* appeal may be filed against a ruling issued pursuant to Paragraph 1.

**155. Creation of documents**

1. A party offering documentary evidence shall prove that the document is authentic.
2. A document that is determined based on its form and content, to have been created by a public official in the course of official duties shall be presumed to be an authentic official document.
3. Where doubt exists as to the authenticity of an official document, the court may, on its own authority, inquire of the relevant government agency regarding such fact.
4. A private document signed by the principal or the principal's representative shall be presumed to be authentic.
5. The provisions of Paragraphs 2 and 3 shall apply *mutatis mutandis* to documents deemed to have been created by a foreign government agency.

**156. Proof by handwriting comparison**

1. The authenticity of a document may be proven through a handwriting comparison.
2. The provisions of **Article 148 (Offering of documentary evidence)**, **Article 152 (Ruling on the submission of documents)** and Paragraphs 1 and 2 of **Article 153 (Effect of party's failure to comply with ruling to submit documents)** shall apply *mutatis mutandis* to the submission or sending of documents and other items necessary to the performing of handwriting comparisons.
3. Should there be no suitable sample of the counterparty's handwriting for the purpose of a comparison, the court may order the counterparty to write a text to be used for comparison.
4. Should a party fail, without reasonable cause, to comply with a ruling issued pursuant to Paragraph 3, the court may deem to be true the allegations of the person offering the document as evidence of

the document's authenticity. This shall apply where the writing has been altered or disguised.

5. Should a third party fail, without reasonable cause, to comply with an order to submit documents issued pursuant to the provisions of Paragraph 1 of **Article 153 (Effect of party's failure to comply with ruling to submit documents)**, which apply *mutatis mutandis* under Paragraph 2, the court may issue a ruling imposing on the third party a civil fine of no more than 2,000,000 riel.
6. A *Chomtoah* appeal may be filed against a ruling made pursuant to Paragraph 5.

**157. Civil fine against person disputing the authenticity a document**

1. Where a party or the party's representative intentionally or through gross negligence falsely disputes the authenticity of a document, the court may issue a ruling imposing a civil fine of not more than 1,000,000 riel against the party or representative.
2. A *Chomtoah* appeal may be filed against a ruling made pursuant to Paragraph 1.
3. In cases referred to in Paragraph 1, where the party or representative that disputed the authenticity of the creation of a document thereafter recognizes the document's authenticity while the suit is still pending, the court may, depending on the circumstances, rescind its ruling referred to in that Paragraph.

**158. Application *mutatis mutandis* to objects equivalent to documents**

The provisions of this Section shall apply *mutatis mutandis* to objects, such as drawings, photographs, audio and video tapes, or other items that are not documents but were created in order to express information.

**159. Offer of documentary evidence comprised of a transcription of audio tapes or other media**

A party that offers documentary evidence comprised of a transcript of an audio tape, video tape or other object on which certain matters can be recorded using corresponding methods shall, in cases where the counterparty has requested delivery of a copy of such object, deliver a copy thereof to the counterparty.

**160. Submission of documents explaining the contents of tape recordings or other recording media**

1. A party offering examination of evidence on audio tape or any other object described in **Article 159 (Offer of documentary evidence comprised of a transcription of audio tapes or other media)** shall, when so requested by the court or the counterparty, submit a written transcript of those recordings of the object or a document that explains the contents thereof.
2. Where the counterparty has an opinion regarding the contents of the explanation provided in the document set forth in Paragraph 1, such opinions shall be submitted in writing to the court.

## Section VI. Observation

**161. Offer of observation**

An offer of observation shall indicate the object to be observed.

**162. Presentation of object to be observed**

1. The provisions of **Articles 148 (Offering of documentary evidence)**, **Article 152 (Ruling on the submission of documents)** and **Article 153 (Effect of party's failure to comply with ruling to submit documents)** shall apply *mutatis mutandis* to the presentation or sending of the object to be observed.
2. Should a third party fail, without reasonable cause, to comply with a ruling of presentation made pursuant to Paragraph 1 of **Article 152 (Ruling on the submission of documents)**, which applies *mutatis mutandis* under Paragraph 1, the court may issue a ruling imposing a civil fine on the third party of no more than 2,000,000 riel.
3. A *Chomtoah* appeal may be filed against a ruling made pursuant to Paragraph 2.

**Section VII. Preservation of Evidence**

**163. Preservation of evidence**

1. Where the court finds that circumstances exist that make it difficult to use evidence unless the evidence is examined beforehand, the court may, upon a motion, examine the evidence in accordance with the provisions of this Section.
2. The results of an examination of evidence made pursuant to Paragraph 1 shall have effect in an action on the merits of a case.
3. The parties shall state, during the oral arguments of the action on the merits of a case, the results of the examination of evidence that took place pursuant to Paragraph 1.

**164. Court with jurisdiction**

1. A motion for preservation of evidence after an action has been filed shall be made to the court before which the evidence is to be used.
2. A motion for preservation of evidence before an action has been filed shall be made to the court of first instance having jurisdiction over either the residence of the person to be examined or the holder of the documents to be examined, or the location of the object of observation.
3. A motion for preservation of evidence may be filed with the court of first instance referred to in Paragraph 2 even after an action for which urgent circumstances exist has been filed.

**165. Method of filing motion for preservation of evidence**

1. A motion for the preservation of evidence shall be filed in writing.
2. The writing referred to in Paragraph 1 shall include the following information:
  - (a) the name and address of the counterparty;
  - (b) the facts to be proven;
  - (c) the evidence to be preserved; and
  - (d) the grounds for the preservation of the evidence.
3. The existence of the grounds for preservation of the evidence shall be established by a *prima facie* showing.

**166. Inability to specify the counterparty**

A motion for the preservation of evidence may be filed even if the counterparty cannot be specified. In such case, the court may appoint a special representative to represent on behalf of the person who is to be the counterparty.



**167. Preservation of evidence on court's own authority**

The court may, where it has deemed necessary, issue a ruling ordering the preservation of evidence while an action is pending.

**168. Appeal**

The moving party may file a *Chomtoah* appeal against a ruling dismissing a motion for the preservation of evidence.

**169. Summons for appearance date**

On the date for examination of evidence, the moving party and the counterparty shall be summoned. This shall not apply in cases of urgency.

**170. Costs of preservation of evidence**

Costs incurred in connection with the preservation of evidence shall be deemed to be part of the litigation costs.

**171. Re-examination during oral arguments**

Where a party during oral arguments offers to examine a witness who was already examined during the proceedings for the preservation of evidence, the court shall re-examine such witness.

**172. Delivery of records on preservation of evidence**

Where an examination of evidence for the purpose of preservation thereof has been conducted, the court that conducted the examination shall deliver a record of such examination to the court in which the case record for the action on the merits exists.

## Chapter Four INTERRUPTION AND SUSPENSION OF LITIGATION

**173. Interruption of and succession to litigation**

1. Where any of the following grounds exist, the litigation shall be interrupted:
  - (a) the death of a party;
  - (b) the extinction of a party through a merger of juristic persons;
  - (c) loss of a party's capacity to litigate, death of a statutory agent or extinction of the representative authority;
  - (d) loss of a qualification that has enabled a person to carry out a litigation under his/her name on behalf of others due to his/her death or any other reason; or
  - (e) loss of qualification due to the death of all parties appointed pursuant to the provisions of **Article 42 (Appointed party)**, or loss of qualification of such parties due to any other reason.
2. Where the case set forth in paragraph 1 exists, the person identified in the following subparagraphs shall succeed to the litigation:
  - (a) where the death of a party, the heir of the deceased party, or the person bound by law to maintain the action;
  - (b) where the extinction of a party through the merger of juristic persons, the juristic person that has succeeded to the rights and duties of the merged entity;
  - (c) where loss of a party's capacity to litigate, death of a statutory agent or extinction of the representative authority, the statutory agent or the party him/herself after obtaining the capacity to litigate;

- (d) where loss of qualification that has enabled a person to carry out the litigation under his/her name on behalf of others due to his/her death or any other reasons, a person having the same qualifications; and/or
  - (e) where loss of qualification due to the death of all parties appointed pursuant to the provisions of **Article 42 (Appointed party)**, or loss of qualification of such parties due to any other reason, all of the appointers under such provisions or persons newly appointed pursuant to such provisions.
- 3. The provisions of Paragraph 1 shall not apply while an appointed representative still exists. The appointed representative shall inform the court of the occurrence of any events provided in the Paragraph 1.
  - 4. Even in the case of the existence of grounds specified in subparagraph (a) of Paragraph 1, an heir may not succeed into the litigation during the period of time that such heir is entitled to renounce such succession.

**174. Natural termination of court proceedings**

Where a party's existence is terminated through death or merger, if there is no person that succeeds to the right or duty comprising the subject of the action, or if such right or duty devolves to the same person, the court proceedings shall be terminated. In such case, the court shall render a judgment declaring that the action has been terminated.

**175. Succession procedure**

- 1. A motion for succession to court proceedings may be filed by the potential successor or by the counterparty.
- 2. Where a motion for succession to court proceedings is filed, the court shall notify the counterparty to the motion for succession.
- 3. Where a motion for succession to court proceedings is filed, if the court, after conducting an investigation on its own authority, finds that sufficient grounds for the motion do not exist, the court shall dismiss the motion via the issuance of a ruling. A *Chomtoah* appeal may be filed against such ruling.
- 4. For cases set forth in Paragraph 3, if the court finds that sufficient grounds exist for the motion, the court shall permit such succession via the issuance of a ruling.
- 5. Where a motion for succession to court proceedings is filed when such proceedings have been interrupted after the service of judgment, the court that rendered the judgment shall rule on the motion.

**176. Order to continue action on court's authority**

Even when neither party files a motion for succession to court proceedings, the court may, on its own authority, order via the issuance of a ruling that the court proceedings be continued.

**177. Suspension of court proceedings**

- 1. Where the court is unable to perform its functions due to natural disaster or any other reason, the court proceedings shall be suspended until such reason ceases to exist.
- 2. Where a party is unable to continue court proceedings due to an impediment of indefinite duration, the court may, via the issuance of a ruling, order the suspension of the proceedings. In such case, the court may rescind said ruling in the event of the impediment

ceasing to exist.

3. The court may, via the issuance of a ruling, order the suspension of the court proceedings of a civil action during the pendency of a criminal action that involves facts on which one of the claims in the civil action is based. In such case, the court may rescind the ruling once the criminal action has been concluded.

**178. Effect of interruption and suspension**

1. Neither the parties nor the court may conduct an act concerning the action while the court proceedings are interrupted or suspended. Judgment may be rendered, however, even while the court proceedings are interrupted.
2. Any and all time periods cease to run while the court proceedings are interrupted or suspended. In such case, all time periods will begin anew upon notice of the succession to court proceedings or continuation of the action.

## **Chapter Five DECISIONS**

### **Section I. General Provisions Regarding Decisions<sup>4</sup>**

**179. Types of decisions**

1. Unless otherwise provided in this Code or by other provision of law, a judgment is a decision rendered by means of a written judgment issued by a court based on oral arguments and in compliance with the method provided by law, and such judgment shall take effect pursuant to a rendering based on such written judgment.
2. A ruling is a decision that may be issued by a court or judge without oral arguments, and which is not a judgment.

### **Section II. General Provisions Regarding Judgments**

**180. Final judgments**

1. The court shall conclude oral arguments and issue a final judgment once the court finds that the trial should be finished based on the results of the arguments and examination of evidence.
2. Where the court finds that a trial as to one claim among several claims joined into a single action should be finished, the court may render a final judgment on such claim.
3. Where it is deemed necessary for the rendering of a final judgment, the court may order the reopening of oral arguments, which have already been concluded.

**181. Interlocutory judgment**

In an action involving a dispute regarding any of the following matters, the court may first finish the trial on only such matter and render an interlocutory judgment thereupon:

- (a) the existence of a claim, when both the existence of the claim and the amount of such claim are in dispute;

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<sup>4</sup> "Decision" as used in this translation originally meant any forms of decisions issued by a court and includes both "ruling" and "judgment," although it in many articles it specifically means either "ruling" or "judgment" as the context requires.

- (b) allegations and evidence that can be independently adjudicated;
- (c) the existence or absence of the prerequisites for an action; or
- (d) matters pertaining to the conclusion of an action.

**182. Matters for judgment**

1. The court shall adjudicate all of the claims raised by the parties.
2. The court shall not adjudicate matters that were not raised by the parties.
3. The court shall adjudicate the apportionment of liability for litigation costs even absent a motion by either party.

**183. Omissions in judgment**

Where the court has failed to adjudicate part of a claim, said action remains pending in that court with respect to the omitted part of the claim.

**184. Principle of free determination**

When rendering a judgment, the court shall decide, after considering the results of the examination of evidence and the progress and contents of oral arguments, whether or not the assertions of fact are true on the basis of the principle of free will.

**185. Principle of direct trial**

1. A judgment shall be rendered only by a judge or judges who have participated in the oral arguments forming the basis for such judgment.
2. Where a judge has been replaced prior to the conclusion of oral arguments, the parties shall state the results of the previous oral arguments.
3. Where a single judge or a majority of judges on a panel of judges have been replaced, if a party offers reexamination of a witness who was previously examined, the court shall conduct such examination.

### Section III. Rendering of Judgment

**186. Effectiveness of judgment**

A judgment shall come into effect upon its rendering.

**187. Date of rendering of judgment**

A rendering of judgment shall be made within one month of the day on which oral arguments were concluded. This shall not apply where the case is complex or where other special circumstances exist.

**188. Method for rendering judgment**

1. A rendering of judgment shall be made in open court on the day of the rendering, based on the original written judgment with the main text of the judgment being read aloud by the presiding judge. Should circumstances prevent the presiding judge from making the rendering by him/herself, an associate judge may do so in his/her stead.
2. A rendering of judgment may be made even if the parties are not present in court.
3. When deemed appropriate, the presiding judge may read the grounds

for the judgment or verbally announce a summary of them.

**189. Written judgment**

1. A written judgment shall include the following information:
  - (a) the court;
  - (b) the day on which oral arguments were concluded;
  - (c) the names and addresses of the parties and of their statutory agents;
  - (d) the facts and the points at issue;
  - (e) the grounds for the judgment; and
  - (f) the main text of the judgment.
2. The description of the facts and the points at issue shall be based on the statements of the parties, and include a summary of such statements.
3. The written judgment shall be signed by the judge or judges that rendered the judgment.
4. If circumstances prevent a judge belonging to a panel of judges from signing the written judgment, other judges shall sign the judgment and indicate the reason for said inability of the judge.

**190. Service of written judgment**

1. The written judgment shall be served on the parties within two weeks of the date of the rendering of judgment.
2. The service described in Paragraph 1 shall be carried out using a true copy of the written judgment.

**Section IV. Effect of Judgment**

**191. Self-binding effect of judgment**

A court that has rendered a judgment may not revoke or change said judgment, except in accordance with the provisions of **Article 192 (Ruling of correction)**.

**192. Ruling of correction**

1. Where a judgment is found to contain miscalculations, clerical errors or any other similar obvious error, the court may, upon motion or on its own authority, render a ruling of correction at any time.
2. A *Chomtoah* appeal may be filed against a ruling of correction. This shall not apply where a lawful *Uttor* appeal has been filed against the judgment.
3. A ruling of correction shall be affixed to the original and authenticated copies of the written judgment. When it is deemed appropriate, the court may prepare a written ruling and serve true copies thereof on the parties in lieu of affixing the ruling to the original and true copies of the judgment.

**193. Date on which judgment becomes final and binding**

1. A judgment shall not become final and binding prior to the expiration of the period in which an appeal against the judgment or motion sets aside such judgment may be filed.
2. The finality of a judgment is stayed by the filing of an appeal against the judgment or a motion to set it aside within the period referred to in Paragraph 1.

**194. Finality of matters adjudicated in the judgment**

1. Once a judgment is final and binding, it shall have achieved conclusive and binding effect.
2. The finality described in Paragraph 1 shall determine the rights or legal relationships as of the day of the conclusion of oral arguments.
3. The scope of the finality referred to in Paragraph 1 shall be limited to the matters set forth in the main text of the judgment with regard to claims raised in the action or in any cross-action, and shall not extend to any findings contained in the grounds for the judgment.
4. Notwithstanding the provisions of Paragraph 3, where the defendant makes an argument for offset through a countervailing claim, a finding in the final and binding judgment that such countervailing claim was extinguished by the offset has finality to the extent of the amount of such offset.

**195. Date on which judgment becomes enforceable**

A judgment may be enforced once it becomes final and binding in accordance with the provisions of **Article 194 (Finality of matters adjudicated in the judgment)**, except as otherwise provided by law.

**196. Declaration of provisional execution**

1. With regard to a judgment concerning a claim over monetary or property rights, the court may, when finding it necessary, upon motion or on its own authority, declare that a provisional execution of judgment may be carried out with or without having the prevailing plaintiff provide security.
2. The court may, upon motion or on its own authority, declare that a provisional execution of the judgment be voided upon the provision of security
3. A declaration of provisional execution shall be set forth in the main text of the judgment. This shall also apply to the declaration set forth in Paragraph 2.
4. Where the court did not make any decision on a motion for declaration of provisional execution, or where the court failed to make such declaration in circumstances where the declaration should be made on the court's own authority, the court shall, upon motion or on its own authority, issue a supplemental ruling. This shall also apply where the court did not provide any decision on the motion described in Paragraph 2.

**197. Loss of effect of declaration of provisional execution and restitution**

1. A declaration of provisional execution shall lose its effect upon the rendering of a higher court's judgment changing either such declaration or the judgment on the merits of the action to the extent that it is altered by such higher court's judgment.
2. Within a judgment that alters the judgment on the merits of the action, the court shall, upon motion of the defendant, order the plaintiff to return the thing given by the defendant pursuant to the declaration of provisional execution and to make compensation for any damage sustained by the defendant either as a result of such execution or as a result of measures taken to avoid such execution.
3. Where only a declaration of provisional execution has been altered, the provisions of Paragraph 2 shall apply to the subsequent

judgment altering the judgment on the merits of the action.

**198. Scope of persons subject to effect of final and binding judgment**

A final and binding judgment shall be effective on the following persons:

- (a) the parties;
- (b) where a party became a plaintiff or defendant on behalf of another person, such other person;
- (c) persons succeeding to the rights or duties held by the persons set forth in the preceding two sub-paragraphs after the action came to be pending before the court; and
- (d) persons who possess the subject of the action for the benefit of any of the persons set forth in the preceding three subparagraphs.

**199. Effect of final and binding judgment of a foreign court**

A final and binding judgment of a foreign court shall be effective only where all of the following requirements have been fulfilled:

- (a) jurisdiction is properly conferred on the foreign court by law or by treaty which the Kingdom of Cambodia has concluded;
- (b) the non-prevailing defendant received service of a summons or any other order necessary to commence the action, or responded without receiving such summons or order;
- (c) the contents of the judgment and the court proceedings in the action do not violate the public order or good morals of Cambodia; and
- (d) there is a guarantee of reciprocity between Cambodia and the foreign country in which the court is based.

## **Section V. Default Judgment**

**200. Default judgment against plaintiff**

- 1. Should the plaintiff fail to appear on the first day set for preparatory proceedings, the court shall dismiss [with prejudice] the claims of the plaintiff via the issuing of a default judgment.
- 2. Should the plaintiff fail to appear on a day set for the continuation of preparatory proceedings, the court may immediately terminate such preparatory proceedings and set the first day for oral arguments.
- 3. Should the plaintiff fail to appear on the day set for oral arguments, the court shall dismiss [with prejudice] the claims of the plaintiff via the issuing of a default judgment.

**201. Default judgment against defendant**

- 1. Should the defendant fail to appear on the first day set for the preparatory proceedings, the court shall immediately terminate such preparatory proceedings and set the first day for oral arguments.
- 2. Should the defendant fail to appear on the day set for oral arguments, the court shall deem the defendant to have admitted the truth of the plaintiff's allegations pertaining to the facts, and if grounds for supporting the plaintiff's claims exist, the court shall grant the plaintiff's claims via the issuing of a default judgment; while if grounds to support the plaintiff's claims do not exist, the court shall deny the plaintiff's claims. This shall not apply where the defendant has contested the allegations of the plaintiff on the preceding day set for the preparatory proceedings or oral arguments.

**202. Prohibition of default judgment**

The court may not render a default judgment in any of the following circumstances:

- (a) where a party that failed to appear did not duly receive a summons;
- (b) where there are sufficient circumstances to conclude that a party that failed to appear could not appear due to natural disasters or other forces beyond their control;
- (c) where the action itself is unlawful; or
- (d) where the contents of the plaintiff's statements on the day of oral arguments for which the defendant failed to appear were not provided to the defendant prior to such date.

**203. Extension of date**

- 1. Where the court finds that the summons period was too short or that a party was unable to appear not due to any fault of his/her own, the court may postpone the day set for preparatory proceedings or for oral arguments.
- 2. Should the court postpone a day in accordance with Paragraph 1, the party who did not appear shall be summoned to appear on the new day.

**204. Motion to set aside default judgment**

- 1. Where a party failed to make a timely appearance on the court day due to an unforeseeable or unavoidable circumstance, and a default judgment has been rendered as a result, the party may file a motion to set aside such judgment.
- 2. The motion described in Paragraph 1 shall be made within two weeks of the date of receipt of service of the default judgment. This period may not be extended.
- 3. Where service of a default judgment is to be made by publication or in a foreign country, the court shall set in the default judgment the period within which a motion for the setting aside of the judgment may be filed.

**205. Method for filing motion to set aside default judgment**

- 1. A motion to set aside a default judgment shall be filed by submitting a written motion to the court that rendered the default judgment.
- 2. The written motion shall contain the following matters:
  - (a) the names and addresses of the parties and of their statutory agents;
  - (b) an indication of the default judgment comprising the subject of the motion to set aside;
  - (c) a description stating that a motion to set aside the default judgment set forth in Item (b) was filed; and
  - (d) the reason for the party being unable to appear in a timely manner on the court day.

**206. Examination and service of written motion to set aside judgment**

- 1. Where a written motion to set aside judgment fails to comply with the provisions of **Article 205 (Method for filing motion to set aside default judgment)**, the court shall order that any and all defects in the motion be corrected within a reasonable period of time specified by the court.
- 2. For cases set forth in Paragraph 1, if the party filing the motion



fails to correct the defects, the court shall dismiss [without prejudice] the written motion via the issuance of a ruling.

3. A *Chomtoah Appeal* may be filed against the ruling described in Paragraph 2.
4. Where there is no defect in the written motion to set aside judgment, the court shall serve the written motion on the counterparty, set a new date for trial on the motion, and summon the parties to appear on such day.

**207. Trial and decision on motion**

1. The court shall, on its own authority, investigate whether the motion was filed in the manner provided by law and within the period of time provided by law, as well as whether reasonable grounds for the motion exist.
2. Where the court finds that the motion was filed unlawfully, it shall dismiss the motion via the issuance of a ruling, and where the court finds that the motion lacks reasonable grounds, it shall deny the motion via the issuance of a ruling.

**208. Effect of motion to set aside judgment**

1. Where a motion is granted, the status of the action shall be returned to the status prior to the party failing to appear.
2. For cases set forth in Paragraph 1, the court shall re-commence preparatory proceedings or oral arguments, set a new date therefor, and notify the parties of such date.

**209. New judgment**

1. Where the judgment to be rendered for the trial taking place after the re-commencement is identical to the default judgment, the court shall render a judgment declaring the upholding of the default judgment.
2. Where the judgment to be rendered for the trial taking place after the re-commencement differs from the default judgment, the court shall reverse the default judgment with the newly rendered judgment.

**210. Costs incurred from failure to appear**

Where a default judgment is lawfully rendered, costs incurred as a result of the party's failure to appear shall be borne by the party failing to appear, even where the default judgment is reversed upon a motion to set aside such judgment, unless such costs were incurred due to a counterparty's improper act concerning the action.

**211. Rendering of a second default judgment**

1. Should a party who has filed a motion to set aside a default judgment fail to appear on the first court day after the re-commencement, the court shall deny the motion via a second default judgment, except for cases set forth in **Article 202 (Prohibition of default judgment)** and in Paragraph 2 of **Article 203 (Extension of date)**.
2. The second default judgment described in Paragraph 1 may not be challenged by a motion to set aside judgment.

**212. Mutatis mutandis application of provisions**

1. Provisions regarding the discontinuance of an *Uttor* appeal shall apply *mutatis mutandis* to the discontinuance of a motion to set aside judgment.

2. The provisions of this Section shall apply *mutatis mutandis* to cross-actions.

## Section VI. Rulings

### **213. Notice of ruling**

1. A ruling shall take effect once notice thereof is given in a manner deemed proper.
2. Where a ruling is issued in writing, such written ruling shall be signed by the judge(s) who issued it.
3. When notice of a ruling is given, the court clerk shall clearly indicate in the case record the providing of notice and the manner of provision for such notice.

### **214. Cancellation of ruling relating to court instructions**

A ruling relating to court instructions may be cancelled at any time.

### **215. Objection to dispositions taken by court clerk**

With regard to any objection against dispositions undertaken by the court clerk, the court to which such clerk belongs shall render a decision via the issuance of a ruling.

### **216. *Mutatis mutandis* application of provisions relating to judgments**

Provisions relating to judgments shall apply *mutatis mutandis* to rulings so long as such applications are not inconsistent with the nature of the rulings.

## Chapter Six CONCLUSION OF ACTION NOT BASED ON JUDGMENT

### **217. Discontinuance of action**

1. A plaintiff may discontinue all or part of an action up until the judgment thereto becomes final and binding.
2. After the defendant has, on the merits of the action, submitted a preparatory document, made statements in preparatory proceedings, or presented oral arguments, the discontinuance of the action shall be ineffective unless the defendant's agreement thereto is obtained. This shall not apply to the discontinuance of a cross-action where the principal action has been discontinued.
3. Discontinuance of an action shall be made in writing. It may, however, also be made orally on a day set for preparatory proceedings, oral arguments, or settlement.
4. For cases set forth in the first sentence of Paragraph 2, if the discontinuance of the action is made in writing, such writing shall be served on the defendant; if the discontinuance of the action is made orally on a date set for preparatory proceedings, oral arguments, or settlement, a certified copy of the protocol for that date shall be served on the defendant. This shall not apply to cases where the discontinuance of the action was made orally on a day set for preparatory proceedings, oral arguments, or settlement, and the defendant was present on such date.
5. Where the defendant does not make an objection within two weeks of the day of service of a written discontinuance of the action, the defendant shall be deemed to have consented thereto. The same shall apply to cases where the discontinuance of the action was made orally

on a day set for preparatory proceedings, oral arguments, or settlement, if the defendant does not make an objection within two weeks from the date on which the action was discontinued and on which the defendant appeared, or, should the defendant have not appeared on such date, from the day on which the certified copy of the protocol referred to in Paragraph 4 was served.

**218. Effect of discontinuance of action**

1. A discontinued action or part thereof is deemed to have never been pending before the court.
2. A party who discontinues an action after a final judgment is rendered on the merits may not thereafter file the same action.

**219. Structure of discontinuance of action**

Should both parties fail to appear on a day set for preparatory proceedings or oral arguments, and do not file a motion within one month to set a subsequent date therefor, the action shall be deemed to have been discontinued. The same shall apply to cases where both parties fail to appear on two consecutive days set for preparatory proceedings or oral arguments.

**220. Settlement of action in court**

1. The parties may settle the action on a day set for preparatory proceedings, oral arguments or settlement.
2. The settlement referred to in Paragraph 1 may be entered at a location other than the courtroom if the court finds such to be proper.

**221. Abandonment or acknowledgment of claim**

Abandonment of a claim or acknowledgment of a claim shall be made on a day set for preparatory proceedings, oral arguments or settlement.

**222. Effect of settlement protocol**

Where a settlement, abandonment of a claim or acknowledgment of a claim has been entered in the protocol of the case, such entry shall have the same effect as a final and binding judgment.

## **Chapter Seven SPECIAL PROVISIONS REGARDING SMALL CLAIM CASES**

**223. Purpose of procedures**

The purpose of procedures for small claim cases is to resolve a dispute promptly through summary procedures.

**224. Requirements for small claim cases**

1. A plaintiff is entitled to seek trial and decision based on a small claims action where the subject matter of the action is a claim for a monetary payment in an amount no greater than 1 million riel.
2. A statement requesting trial and decision based on a small claims action shall be made when the action is filed.

**225. Oral filing of action and matters to be clarified when upon filing**

1. A small claims action may be filed orally.
2. When a small claims action is filed, it is sufficient to clearly indicate the summary of the dispute, notwithstanding the provisions of Paragraph 2, Item (b) of **Article 75 (Method of filing action and**

**matters written in complaint).**

3. When a plaintiff files an action orally, the court clerk shall enter the statement of the plaintiff in the protocol. This protocol shall be deemed to be a complaint.

**226. Instruction regarding procedures**

1. At the time of summons to appear on the initial day for oral arguments in a small claims action, the court clerk shall deliver to the parties a document explaining the procedures regarding trial and decision in the small claims actions.
2. On the date referred to in Paragraph 1, the court shall first explain to the parties the following matters:
  - (a) in the absence of special circumstances, the court must conclude the trial on the initial date set for oral arguments;
  - (b) except for a motion to set aside a default judgment, no appeal may be filed against a final judgment in a small claims action;
  - (c) the examination of evidence can be conducted only with regard to evidence that can be examined immediately; and
  - (d) the defendant may make a statement that the action is to be transferred to ordinary proceedings, but this shall not apply after the defendant has presented arguments on the initial day set for oral arguments, nor after such day has passed.

**227. Prohibition of cross-actions**

A cross-action may not be filed in a small claims action.

**228. Designation of day for oral arguments**

1. When an action is filed, the court shall promptly designate a day for oral arguments and summon the parties thereto.
2. In the absence of special circumstances, the day set forth in Paragraph 1 shall fall within thirty (30) days of the day on which the action was filed.

**229. Principle of one-day trial**

1. In a small claims action, in the absence of special circumstances, the court shall conclude the trial on the initial day set for oral arguments.
2. The parties shall present all arguments and evidence before or on the day prescribed in Paragraph 1. This shall not apply where oral arguments have been continued.

**230. Order that parties appear in person**

The court may order that a party or his/her statutory agent appear in person even where an representative has been appointed.

**231. Restriction on the examination of evidence**

An examination of the evidence may be conducted only with regard to evidence that can be examined immediately.

**232. Offer for examination of witnesses and examination of witnesses**

1. When offering to examine a witness, a party need not submit a written description of the matters to be examined.
2. The court may examine a witness without a swearing under oath.

**233. Transfer to ordinary proceedings pursuant to defendant's**

**statement**

1. The defendant may make a statement indicating that the action is to be transferred to ordinary proceedings. This shall not apply after the defendant has presented arguments on the initial day set for oral arguments.
2. The statement referred to in Paragraph 1 shall be in writing unless it is made on the day of court.
3. Should the statement referred to in Paragraph 1 be made, the court clerk shall, without delay, notify the plaintiff that the action has been transferred to ordinary proceedings based on the defendant's statement. This shall not apply where the statement was made on a day on which the plaintiff was present in court.

**234. Transfer to ordinary proceedings pursuant to court ruling**

1. In the following cases, the court shall issue a ruling that the trial and decision on the action be conducted through ordinary proceedings:
  - (a) where the trial and decision based on a small claim action has been sought in contravention of the provisions of Paragraph 1 of **Article 224 (Requirements for small claim cases)**;
  - (b) where summons to appear on the initial day set for oral arguments cannot be made on the defendant by any means other than service by publication; or
  - (c) where the court finds it improper to conduct the trial and decision based on a small claims action.
2. Where a ruling is issued pursuant to Paragraph 1, the court clerk shall promptly notify the parties of such ruling.

**235. Timing of transfer to ordinary proceedings**

1. An action shall be transferred to ordinary proceedings when the statement set forth in **Article 233 (Transfer to ordinary proceedings pursuant to defendant's statement)**, Paragraph 1 is made or when the ruling set forth in **Article 234 (Transfer to ordinary proceedings pursuant to court ruling)**, Paragraph 1 is issued.
2. Where an action is transferred to ordinary proceedings, the date already set for the small claims action shall be deemed as the date set for preparatory proceedings of the ordinary proceedings.

**236. Judgment and rendering thereof**

1. Except where the court finds it improper, the court shall render a judgment immediately after the conclusion of oral arguments.
2. For cases set forth in Paragraph 1, the rendering of judgment need not be based on the original of the written judgment. In such case, the court shall pronounce the main text of the judgment and a summary of the grounds therefor.
3. Where the court has rendered a judgment pursuant to the provisions of Paragraph 2, the court shall instruct the court clerk to enter the information set forth below in the protocol of the day for oral arguments on which such judgment was rendered, in lieu of preparing a written judgment:
  - (a) the names and addresses of the parties and their statutory agents;
  - (b) the judgment sought by the plaintiff; and
  - (c) the main text of the judgment.
4. A written judgment or a protocol in lieu of a written judgment in

a small claims action shall be considered to be a judgment in a small claims action.

**237. Deferment of payment by judgment**

1. Where the court renders a judgment that grants a claim, with regard to a monetary payment in connection with such granted claim, the court may, upon finding it especially necessary in light of the defendant's financial state or other circumstances, order either of the provisions specified in Item (a) or (b) below, or the provisions specified in either of these items together with Item (c), within a period not to exceed three years from the date of rendering of the judgment:
  - (a) the provision of a time for payment;
  - (b) the provision of installment payments; or
  - (c) where payment has been made in accordance with Item (a), or where payment has been made in accordance with Item (b) without losing the benefit of time pursuant to Paragraph 2, the provision of an exemption from the duty to pay damages for the delay incurred after the action was filed.
2. In case of the provision of installment payments as described in Paragraph 1, Item (b), the court shall make provisions for the benefits lost as a result of the duration of time in which the defendant was in default of the payment.

**238. Prohibition of appeal**

No appeal may be filed for a final judgment in a small claims action. This shall not apply to a motion to set aside a default judgment.

**239. Exceptions for application**

The provisions of **Articles 103 (Purpose of preparatory proceedings)** through **Articles 112 (Objections to statements in the protocol for preparatory proceedings)** shall not apply to small claims proceedings as defined in this Chapter VII.

## **Chapter Eight DATES, PERIODS, AND SERVICE**

### **Section I. Dates and Periods**

**240. Setting of court dates**

1. The court shall set court dates upon motion or on its own authority. Dates for procedures to be carried out by an authorized judge or a commissioned judge shall be set by such judge.
2. Court dates may be set on Saturdays, Sundays and other holidays designated by law and/or regulation only in case of unavoidable circumstances.

**241. Changing of date**

1. Once a party files a motion to change a court date, the moving party shall clearly state the grounds on which the change of date is being sought.
2. The date set for preparatory proceedings or oral arguments may not be changed except for unavoidable circumstances.
3. The initial date set for preparatory proceedings may be changed based on the agreement of the parties.

This is an unofficial translation of the Law. It contains translation mistakes and incoherent wording, and could lack some information. It is provided for information purposes only and we are not responsible for any errors or ambiguities. Reliance may only be placed upon the official Khmer version.

**242. Summons regarding date**

A summons regarding a court date shall be made via service of a writ of summons or by notifying a person who has appeared before the court for the case.

**243. Calculation of time periods**

1. Time periods shall be calculated in accordance with the provisions pertaining to time periods under the Civil Code.
2. Where the first day is not designated in a decision in which a time periods is set, the time period shall be deemed to run from the date on which the decision became effective.
3. Where the last day of a time period falls on a Saturday, Sunday or other holidays designated by law and/or regulation, the period shall be deemed to expire on the following day.

**244. Extension of period**

1. The court may extend a time period fixed by law or a period fixed by the court itself only in unavoidable circumstances. This shall not apply where otherwise provided by law.
2. An authorized judge or a commissioned judge may extend a time period fixed by such judge only in unavoidable circumstances.

**245. Subsequent completion of act concerning the action**

1. Where a party is unable to comply with a time periods fixed pursuant to the second sentence of Paragraph 1 of **Article 244 (Extension of period)** for reasons for which such party is not at fault, an act concerning the action that was to have been completed within such period may be completed within a grace period of one week after such reason has ceased to exist. For a party located overseas, such grace period shall be two months.
2. The grace period referred to in Paragraph 1 may not be extended.

## **Section II. Service**

**246. Principle of service on court's authority**

1. Except where otherwise provided by law, service shall be effected on the court's authority.
2. The tasks related to service shall be handled by a court clerk.
3. Service shall be carried out by a post office clerk, a bailiff, or a court clerk.

**247. Principles of service by delivery**

1. Except as otherwise provided by law, service shall be effected through delivery of the document to be served to the person who is to receive service.
2. Except as otherwise provided by law, the document to be served shall comprise a true copy thereof.
3. Where the person to receive service is illiterate, the person responsible for effecting service shall make efforts to notify the recipient of a summary of the document when such document is delivered.

**248. Service on person lacking capacity to litigate**

1. Service on a person lacking the capacity to litigate shall be made

- on such person's statutory agent.
2. Where multiple persons have a joint right of representation, service need only be made on one of them.
  3. Service on a person detained in an institution shall be made on the warden of such institution.

**249. Location of service**

Service shall be effected at the domicile, residence, place of business or office of the person or entity to be served. Service on a statutory agent may also be effected at the place of business or office of the principal.

**250. Notice of location of service**

1. The party, statutory agent or appointed representative may notify the court in charge of the case of the location within Cambodia where service is to be received, or may give notice to the court regarding the person to receive service.
2. The party, statutory agent or appointed representative may give notice of a change to the location at which service is to be received, or the person to receive service, as opposed to that which had been previously notified.
3. The notice described in Paragraphs 1 and 2 shall be given in writing.
4. Where notice regarding the location at which service is to be received is given pursuant to Paragraph 1, the service shall be made at the newly noticed location, notwithstanding the provisions of **Article 249 (Location of service)**.

**251. Service at locations encountered**

Notwithstanding the provisions of **Articles 249 (Location of service)**, service on a recipient whose domicile, residence, place of business or office is not clearly identified within Cambodia, may be made where such person is encountered, except for persons who have given notice pursuant to the provisions of Paragraph 1 of **Article 250 (Notice of location of service)**. This shall also apply where a person whose domicile, residence, place of business or office is clearly identified within Cambodia, or a person, who has been given notice pursuant to the provisions of such Paragraph, does not refuse to receive such service.

**252. Supplemental service and service by leaving at the location**

1. Where the person to receive service is not encountered at the location where service is to be made, the person responsible for effecting service may deliver the document to a domestic servant or other employee, or a co-resident, provided such person possesses proper understanding regarding the receipt of documents.
2. Where the person to receive service or the person to receive delivery pursuant to the provisions of Paragraph 1 unreasonably refuses to receive it, the document may be left at the location where service is to be made.

**253. Service in foreign nations**

1. Service that is to be made in a foreign nation shall be entrusted by the court to a competent government agency of such state or to an ambassador, minister or consul of the Kingdom of Cambodia stationed in such nation.
2. Where service is to be made in a foreign nation in connection with



proceedings carried out by an authorized judge or a commissioned judge, such judge may also implement the entrustment described in Paragraph 1.

**254. Report of service**

1. The person responsible for effecting service shall, after service is made, prepare a report of such service and deliver it to the court.
2. The report described in Paragraph 1 shall contain the following information:
  - (a) an indication of the case and of the document(s) served;
  - (b) the person on whom service was to be made;
  - (c) the date and location of service;
  - (d) the method of service;
  - (e) where the person to receive service is illiterate, a description that performance was accomplished through methods as set forth in Paragraph 3 of **Article 247 (Principles of service by delivery)**;
  - (f) the signature or fingerprint of the person receiving the document;
  - (g) where receipt of a document has been refused by the person on whom service was to be made or the person to receive delivery thereof pursuant to Paragraph 1 of **Article 252 (Supplemental service and service by leaving at the location)**, the facts regarding such refusal;
  - (h) where service is made pursuant to **Article 252 (Supplemental service and service by leaving at the location)**, the facts regarding such service; and
  - (i) the signature of the person effecting service.
3. Where the person responsible for effecting service made an attempt to effect service but was unable to do so, such person shall prepare and submit to the court a report of this fact together with the information described in Items (a) through (d) and Item (i) of Paragraph 2.

**255. Requirements for service by publication**

1. Upon motion and with the court's approval, a court clerk may effect service through publication in any of the following situations:
  - (a) where the domicile, residence or other location to be served is unknown even after a reasonable attempt has been made to determine such;
  - (b) where service could not be made pursuant to the provisions of **Article 252 (Supplemental service and service by leaving at the location)**;
  - (c) where service in a foreign nation could not be made pursuant to the provisions of **Article 253 (Service in foreign nations)**, or where service is found to be impossible even pursuant to such provisions; or
  - (d) where six months have elapsed since service was entrusted to a competent government agency of a foreign nation pursuant to the provisions of **Article 253 (Service in foreign nations)** and the document establishing proof of service has not yet been delivered.
2. For cases set forth in Paragraph 1, where the court finds service by publication to be necessary in order to avoid delay in the action, the court may order a court clerk to effect service through

- publication even in the absence of a motion.
3. For cases set forth in Item (b) of Paragraph 1, the court clerk shall make efforts via an appropriate method to notify the party to be served that service by publication has been effected.
  4. Following the initial service by publication on a party, subsequent service by publication on the same party shall be conducted on the court's own authority. This shall not apply to cases described in Item (c) of Paragraph 1.

**256. Method for effecting service by publication**

1. Service by publication shall be made by posting on the notice board of the court a notice stating that the court clerk has custody of the documents to be served and is ready to deliver such documents at any time to the person on whom service is to be made. Service of a writ of summons by publication, however, shall be made by posting the writ of summons on the notice board of the court.
2. Where service by publication is made pursuant to the provisions of Item (b) of Paragraph 1 of **Article 255 (Requirements for service by publication)**, the posting described in Paragraph 1 may be performed at either the location described in Paragraph 1 or a location deemed proper by the court.
3. The court may publish in the Official Gazette or in newspapers the fact that service by publication has been carried out. Where service is to be made in a foreign nation, the court clerk may, in lieu of publication in the Official Gazette or newspapers, give notice of the fact that service by publication has been made.

**257. Effective date of service by publication**

1. Service by publication shall take effect two (2) weeks after the first day of the posting of notice pursuant to the provisions of **Article 256 (Method for effecting service by publication)**. Service by publication made pursuant to the provisions of Paragraph 4 of **Article 255 (Requirements for service by publication)** shall take effect on the day following the posting date.
2. Where service is to be made in a foreign nation, the period described in Paragraph 1 for service by publication shall be six (6) weeks.

## Chapter Nine VIEWING OF CASE RECORDS

**258. Request for viewing of case records**

1. A party or a third party who has established via a *prima facie* showing his/her interest in the case may request the court to allow a viewing or copying of the case records, or may request delivery of true copies, certified copies or excerpts thereof, or delivery of a certificate of matters related to the action, together with the payment of any fees. True copies, certified copies or excerpts of case records shall indicate thereon that they comprise true copies, certified copies or excerpts, and shall be signed by the court clerk.
2. The provisions of Paragraph 1 shall not apply to audio tapes, videotapes or other objects on which certain matters are recorded using an equivalent method, and which are contained in the case record. In such cases, where a party or a third party who has established via a *prima facie* showing his/her interest in the case makes a request with regard to those objects, the court shall permit

- a duplication thereof.
3. Where a request for viewing, copying or duplication would hinder maintenance of the case records or the court's operational performance, such request shall not be permitted.

## BOOK THREE APPEALS

### Chapter One GENERAL PROVISIONS

#### 259. Categories of appeals

1. A decision that has not yet become final and binding may be appealed to a higher court based on the following categories:
  - (a) *Uttor* appeal against a judgment rendered by a court of first instance, or *Satuk* appeal if the parties have agreed as set forth in Item (a), Paragraph 1 of **Article 260 (Judgments subject to Uttor appeal)**;
  - (b) *Satuk* appeal against a judgment rendered by the *Uttor* appellate court; or
  - (c) *Chomtoah Appeal* against a ruling.
2. A *Chomtoah Appeal* may be filed only where it is allowed by law.
3. A *Chomtoah Appeal* may not be brought against a ruling adjudicating a *Chomtoah Appeal*.

### Chapter Two UTTOR APPEAL

#### 260. Judgments subject to Uttor appeal

1. An *Uttor* appeal may be filed against a final judgment rendered by a court of first instance, except in the following situations:
  - (a) where, following the rendering of final judgment, the parties have agreed not to make an *Uttor* appeal and have agreed to reserve the right to file a *Satuk* appeal; or
  - (b) where a final judgment has been rendered in a civil or commercial case, and the amount of the subject of the action does not exceed 5,000,000 riel.
2. The agreement described in Item (a), Paragraph 1 is ineffective if not in writing.

#### 261. Restrictions on Uttor appeals against a decision regarding imposition of litigation costs

An independent *Uttor* appeal may not be filed against a decision regarding the imposition of litigation costs.

#### 262. Decisions subject to review by Uttor appellate court

Any and all decisions issued prior to a final judgment shall be subject to the review by the *Uttor* appellate court. This shall not apply to decisions against which no appeal may be filed, or to decisions against which a *Chomtoah Appeal* may be filed.

#### 263. Waiver of right of Uttor appeal

1. The parties may waive the right to file an *Uttor* appeal.
2. The statement in accordance with Paragraph 1 that is made after the *Uttor* appeal has been filed shall be made together with the discontinuance of the *Uttor* appeal.

#### 264. Period for filing Uttor appeal

1. An *Uttor* appeal shall be filed within one month from the day on which service of the written judgment was received or the day of

notification for a ruling denying or dismissing [without prejudice] a motion to set aside a default judgment. This shall not impair the validity of an *Uttor* appeal filed before the commencement of this period.

2. The period described in Paragraph 1 may not be extended.

**265. Method for filing *Uttor* appeal**

1. An *Uttor* appeal shall be filed via the submitting of a written *Uttor* appeal to the original court. In such case, the original court shall promptly send the written *Uttor* appeal and the record of the appealed case to the *Uttor* appellate court.
2. The written *Uttor* appeal shall contain the following information:
  - (a) the names and addresses of the parties and of their statutory agents; and
  - (b) an indication of the judgment of the court of first instance and a description stating that an *Uttor* appeal is being filed against such judgment.
3. If the written *Uttor* appeal does not include specific grounds for the reversal or amendment of the judgment of the court of first instance, the *Uttor* appellant must make efforts to submit to the *Uttor* appellate court a written document containing such grounds within thirty days of the filing of the *Uttor* appeal.

**266. *Uttor* appellate court's right to examine a written *Uttor* appeal**

1. Where a written *Uttor* appeal contravenes the provisions of Paragraph 2 of **Article 265 (Method for filing *Uttor* appeal)**, the *Uttor* appellate court shall specify a reasonable period and order that such defect be corrected within that period. This shall also apply where the fee for filing an *Uttor* appeal required by Paragraph 4 of **Article 61 (Filing fee)** is not paid.
2. For cases set forth in Paragraph 1, where the *Uttor* appellant fails to correct such defects, the court shall issue a ruling ordering that the written *Uttor* appeal be dismissed.
3. A *Chomtoah Appeal* may be filed against the ruling set forth in Paragraph 2.

**267. Service of *Uttor* appeal**

1. A written *Uttor* appeal must be served on the *Uttor* appellee.
2. The provisions of **Article 266 (*Uttor* appellate court's right to examine a written *Uttor* appeal)** shall apply *mutatis mutandis* to cases in which the written *Uttor* appeal cannot be served, including cases where the costs necessary for the service of the written *Uttor* appeal were not paid in advance.

**268. Dismissal of *Uttor* appeal without hearing oral arguments**

Where an *Uttor* appeal is unlawful and the defects cannot be corrected, the *Uttor* appellate court may dismiss the *Uttor* appeal via the issuing of a judgment without hearing oral arguments.

**269. Discontinuance of *Uttor* appeal**

1. An *Uttor* appeal may be discontinued at any time prior to the rendering of a final judgment by the *Uttor* appellate court.
2. The discontinuance of an *Uttor* appeal shall be made in writing. It may, however, be made orally on a day set for preparatory proceedings, oral arguments or settlement.

3. A discontinued *Uttor* appeal or part thereof is deemed to have never been pending before the *Uttor* appellate court.
4. The provision of **Article 219 (Structure of discontinuance of action)** shall apply *mutatis mutandis* to the structure of the discontinuance of an *Uttor* appeal.

**270. Incidental *Uttor* appeal**

1. An *Uttor* appellee may file an incidental *Uttor* appeal at any time prior to the conclusion of oral arguments; even should his/her right to file an *Uttor* appeal have been extinguished.
2. An incidental *Uttor* appeal shall lose its effect where the *Uttor* appeal is discontinued or dismissed on the grounds that it is unlawful. However, an incidental *Uttor* appeal that satisfies the requirements for an *Uttor* appeal shall be deemed an independent *Uttor* appeal.
3. Incidental *Uttor* appeals shall be governed by the provisions pertaining to *Uttor* appeals.

**271. Declaration of provisional execution by the *Uttor* appellate court**

1. The *Uttor* appellate court may, upon motion and via the issuance of a ruling, make a declaration of provisional execution with regard to part of the judgment of the court of first instance for which no appeal has been filed.
2. No appeal may be filed against the *Uttor* appellate court's decision on provisional execution.

**272. Scope of oral arguments**

1. Oral arguments shall be conducted only to the extent that the parties petition to amend the judgment of the court of first instance.
2. The parties shall state the results of oral arguments made at the court of first instance.

**273. *Mutatis mutandis* application of provisions regarding court proceedings at the court of first instance**

Except where otherwise provided by law, the provisions of **BOOK II (Proceedings at The Court of First Instance)** shall apply *mutatis mutandis* to court proceedings at the *Uttor* appellate court. This shall not apply to the provisions of **Articles 80 (Designation of initial day of preparatory proceedings for oral arguments)**, **Article 104 (Attempts at settlement during preparatory proceedings)**, **Section V (Default Judgment)**, **Chapter V, BOOK II**, and of **Chapter VII (Special Provisions Regarding Small Claim Cases)**, **BOOK II**.

**274. Effect of acts concerning action in court of first instance**

1. Acts concerning the action conducted in the court of first instance shall have effect within the *Uttor* appellate court.
2. Preparatory proceedings conducted at the court of first instance shall have effect within the *Uttor* appellate court.

**275. Restraint on assertion of lack of jurisdiction of the court of first instance**

The parties may not assert in the *Uttor* appellate court that the court of first instance lacked jurisdiction. This shall not apply to exclusive jurisdiction.

**276. Filing a cross-action**

1. A cross-action may be filed with an *Uttor* appeals court only when the counterparty consents thereto.
2. Where the counterparty presents arguments on the merits of a cross-action without raising an objection, the counterparty shall be deemed to have consented to the cross-action.

**277. Denial of *Uttor* appeal**

1. The *Uttor* appellate court may deny the *Uttor* appeal should it find that the judgment rendered by the court of first instance was appropriate.
2. Even where the grounds stated in the judgment of the court of first instance are found to be inappropriate, the *Uttor* appellate court may deny the *Uttor* appeal should it find that the main text of the judgment is appropriate for other reasons.

**278. Scope of amendment of judgment of the court of first instance**

The judgment of the court of first instance may be amended only to the extent sought by the *Uttor* appeal or the incidental *Uttor* appeal.

**279. Reversal of judgment of court of first instance**

1. The *Uttor* appellate court shall reverse the judgment of the court of first instance in the following cases:
  - (a) where the judgment was inappropriate; or
  - (b) where there was a serious violation of law in the proceedings of the court of first instance.
2. In cases described in Paragraph 1, the *Uttor* appellate court shall adjudicate the action, except where the provisions of **Article 280 (Remand of case)** and **Article 281 (Transfer due to errors involving exclusive jurisdiction in court of first instance)** apply.

**280. Remand of case**

1. The *Uttor* appellate court shall, in cases where it reverses the judgment of the court of first instance which dismissed the action due to non-conformity with law, remand the case to the court of first instance. This shall not apply to cases in which no further argument is required.
2. In addition to the cases set forth in the first sentence of Paragraph 1, the *Uttor* appellate court may, should it reverse the judgment of the court of first instance, remand the case to the court of first instance if further argument is required.
3. Where a case is remanded due to court proceedings in the court of first instance having violated the law, such court proceedings shall be deemed to be reversed.

**281. Transfer due to errors involving exclusive jurisdiction in court of first instance**

Where the judgment of the court of first instance is reversed due to an error involving exclusive jurisdiction, the *Uttor* appellate court shall transfer, via the issuing of a judgment, the case to the court having jurisdiction over said case.

**282. Declaration of provisional execution on judgment of *Uttor* appeal**

With regard to a judgment concerning a claim for monetary payment, the *Uttor* appellate court shall, upon motion, declare that a provisional

execution may be carried out without the provision of security, except where such a declaration is unnecessary. Where the *Uttor* appellate court finds it appropriate, the court may require that security be provided as a condition for the provisional execution.

## Chapter Three SATUK APPEAL

### 283. *Satuk* appellate court

1. A *Satuk* appeal may be filed with the Supreme Court against a final judgment of the *Uttor* appellate court. A *Satuk* appeal may also be filed against a final judgment of the *Uttor* appellate court acting as a court of first instance pursuant to the provisions of special law.
2. With regard to a final judgment of a court of first instance, where after the rendering of the judgment both parties agree that the right to file a *Satuk* appeal will be reserved and that no *Uttor* appeal shall be filed, a *Satuk* appeal may be filed immediately with the Supreme Court.

### 284. General grounds for *Satuk* appeal

A *Satuk* appeal may be filed on the grounds of a violation of the Constitution, laws, or regulations that influence the judgment.

### 285. Absolute grounds for *Satuk* appeal

1. Grounds for a *Satuk* appeal shall be deemed to exist in the following cases:
  - (a) the adjudicating court was not composed in accordance with law;
  - (b) a judge who was prohibited from taking part in the judgment by law took part in the judgment;
  - (c) provisions pertaining to exclusive jurisdiction were violated;
  - (d) there was a lack of authority by the statutory agent or appointed representative, or a lack of authority necessary for an agent to conduct an act concerning the action;
  - (e) provisions pertaining to public access to oral arguments were violated; or
  - (f) the judgment did not provide the grounds thereof, or the grounds provided are inconsistent.
2. The grounds provided in Item (d) of Paragraph 1 shall not apply if ratification occurs in accordance with the provisions of Paragraph 2 of **Article 35 (Measures for lack of capacity to file a suit or be subject to a suit)** or Paragraph 3 of **Article 57 (Measures for lack of authority of representation)**.

### 286. *Mutatis mutandis* application of provisions regarding *Uttor* appeal

Except as otherwise provided by law, the provisions of **Chapter II, Book III** shall apply *mutatis mutandis* to *Satuk* appeals and the proceedings in the *Satuk* appellate court.

### 287. Method for filing *Satuk* appeal

A *Satuk* appeal shall be filed by submitting a written *Satuk* appeal to the original court. In such case, the original court shall promptly send the written *Satuk* appeal and the case record to the *Satuk* appellate court.

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**288. Service of notification of receipt of Satuk appeal**

1. Where a *Satuk* appeal is filed, the *Satuk* appellate court shall serve a notification of receipt of the *Satuk* appeal on the parties, except where the *Satuk* appellate court will dismiss the *Satuk* appeal.
2. The *Satuk* appellate court shall serve the written *Satuk* appeal on the *Satuk* appellee at the same time as the service of the notification of receipt of the *Satuk* appeal pursuant to Paragraph 1.

**289. Statement of grounds for Satuk appeal**

1. Where the written *Satuk* appeal does not state the grounds for the *Satuk* appeal, the *Satuk* appellant shall submit a written statement of the grounds for the *Satuk* appeal within 30 days of he/she receiving service of the notification of receipt of the *Satuk* appeal.
2. In cases where a *Satuk* appeal is filed on the grounds set forth in **Article 284 (General grounds for Satuk appeal)**, the *Satuk* appellant shall state the grounds for the *Satuk* appeal indicating the provision of the Constitution, law or regulation claimed to be violated and the facts that give rise to such violation. In such case, if such grounds and facts are related to court proceedings, the facts involving the violation shall be described in the statement of grounds.
3. Where the *Satuk* appeal is filed on any of the grounds set forth in **Article 285 (Absolute grounds for Satuk appeal)**, the *Satuk* appellant shall state the grounds for the *Satuk* appeal by indicating the provision and relevant facts that fulfill the requirement.

**290. Dismissal of Satuk appeal**

In either of the cases below, the *Satuk* appellate court shall, via the issuance of a ruling, dismiss the *Satuk* appeal:

- (a) where the *Satuk* appeal is in contravention of law and such defect cannot be corrected; or
- (b) where a written statement of the grounds for the *Satuk* appeal has not been submitted in violation of the provisions of Paragraph 1 of **Article 289 (Statement of grounds for Satuk appeal)**, or the statement of grounds for the *Satuk* appeal violates the provisions of Paragraphs 2 and 3 of **Article 289 (Statement of grounds for Satuk appeal)**.

**291. Order to correct**

1. Where the entire statement of grounds contained in a written *Satuk* appeal or in a written statement of grounds for *Satuk* appeal submitted within the period of time set forth in Paragraph 1 of **Article 289 (Statement of grounds for Satuk appeal)** violates the provisions of Paragraphs 2 and 3 of **Article 289 (Statement of grounds for Satuk appeal)**, the *Satuk* appellate court shall, via the issuance of a ruling, specify a reasonable time period and order that such defect be corrected within that period.
2. A ruling of dismissal of *Satuk* appeal pursuant to Item (b) of **Article 290 (Dismissal of Satuk appeal)** shall be issued where the *Satuk* appellant fails to correct such defect within the time period established in accordance with Paragraph 1 of this Article.

**292. Service of copies of the statement of grounds for Satuk appeal**

Where the *Satuk* appellate court does not issue a ruling dismissing a

*Satuk* appeal pursuant to the provisions of **Article 290 (Dismissal of *Satuk* appeal)**, a copy of the written statement of grounds for *Satuk* appeal shall be served on the *Satuk* appellee. This shall not apply where the *Satuk* appellate court conducts a trial and renders judgment without oral arguments, and then finds such service unnecessary.

**293. Order to submit a preparatory document**

The *Satuk* appellate court may order the *Satuk* appellee to submit the initial preparatory document to the *Satuk* appeal within an appropriate period of time as specified by the court.

**294. Denial of *Satuk* appeal without oral arguments**

Where the *Satuk* appellate court finds from the written *Satuk* appeal, the written statement of grounds for the *Satuk* appeal, the initial preparatory document submitted by the *Satuk* appellee or any other document that the *Satuk* appeal is groundless, it may deny the *Satuk* appeal via the issuing of a judgment in the absence of oral arguments.

**295. Scope of review**

The *Satuk* appellate court shall review the *Satuk* appeal only within the scope of the appeal, according to the grounds for such *Satuk* appeal.

**296. Binding effect of facts determined in original judgment**

1. The facts lawfully determined in the original judgment shall be binding on the *Satuk* appellate court.
2. Where a *Satuk* appeal is filed pursuant to Paragraph 2 of **Article 283 (*Satuk* appellate court)**, the *Satuk* appellate court may not quash the original judgment on the grounds that the determination of facts in such judgment violated the Constitution, laws or regulations.

**297. Exclusion from application with regard to matters to be reviewed on court's own authority**

The provisions of **Articles 295 (Scope of review)** and **Article 296 (Binding effect of facts determined in original judgment)** shall not apply to matters to be reviewed on the court's own authority.

**298. Declaration of provisional execution**

The *Satuk* appellate court may, upon motion and via the issuance of a ruling, make a declaration of provisional execution with regard to part of the original judgment for which no appeal has been filed.

**299. Quashing and remanding**

1. Where the grounds set forth in **Articles 284 (General grounds for *Satuk* appeal)** and **Article 285 (Absolute grounds for *Satuk* appeal)** exist, the *Satuk* appellate court shall quash the original judgment and except in cases described in **Article 300 (Quashing and de novo adjudication)**, remand the case to the original court or transfer it to an equivalent court.
2. A court that receives the case via remand or transfer pursuant to Paragraph 1 shall make a decision based on new oral arguments. In such case, factual and legal determinations on which the *Satuk* appellate court based its quashing shall be binding on the court to which the case is remanded or transferred.
3. Any judge that participated in the original judgment may not participate in the decision described in Paragraph 2.

**300. Quashing and de novo adjudication**

The *Satuk* appellate court shall adjudicate the case *de novo* in the following cases:

- (a) Where the original judgment is quashed on the grounds that the Constitution, law or regulation was incorrectly applied to the facts determined by the original court, and the *Satuk* appellate court can adjudicate the case based on such facts; or
- (b) Where the original judgment is quashed on the grounds that the case does not fall within the jurisdiction of the court.

## **Chapter Four CHOMTOAH APPEAL**

**301. Method for filing Chomtoah Appeal**

1. A *Chomtoah Appeal* shall be filed through the submission of a written *Chomtoah Appeal* to the original court. Upon such submission, the original court shall promptly send the written *Chomtoah Appeal* and the case record to the *Chomtoah* appellate court.
2. Where a written *Chomtoah Appeal* does not set forth specific grounds for reversal or amendment of the original ruling, the *Chomtoah* appellant shall make an effort to submit a written document stating such grounds to the *Chomtoah* appellate court within two weeks of the filing of the *Chomtoah Appeal*.

**302. Appeal against rulings issued by an authorized judge or commissioned judge**

1. A party wishing to object to a ruling issued by an authorized judge or commissioned judge may file a motion for said objection with the court in charge of the case, provided that a *Chomtoah Appeal* against the ruling could possibly be filed if such ruling were a ruling issued by the court in charge of the case. Should the court in charge of the case be the Supreme Court or the *Uttor* appellate Court, the objection may be filed with such court only if the filing of the *Chomtoah Appeal* for the ruling would have been possible if that ruling had been issued by a court of first instance.
2. A *Chomtoah Appeal* may be filed against a ruling on the motion described in Paragraph 1.

**303. Period for Chomtoah Appeal**

1. A *Chomtoah Appeal* must be filed within one week of the day of receipt of the notice of the ruling.
2. The period described in Paragraph 1 may not be extended.

**304. Mutatis mutandis application of provisions pertaining to Uttor appeal or Satuk appeal**

1. The provisions pertaining to *Uttor* appeals and the proceedings of the *Uttor* appellate court shall apply *mutatis mutandis* to a *Chomtoah Appeal* of a ruling issued by a court of first instance and to the proceedings of a *Chomtoah* appellate court, to the extent that such provisions are consistent with the nature of such appeal or proceedings.
2. Provisions pertaining to *Satuk* appeals and the proceedings of the *Satuk* appellate court shall apply *mutatis mutandis* to a *Chomtoah Appeal* of a ruling issued by the *Uttor* appellate court acting as the

court of first instance as well as to proceedings in connection therewith to the extent that such provisions are consistent with nature of such appeal or proceedings.

**305. Stay of effect of original ruling**

1. A *Chomtoah Appeal* shall stay the effect of the original ruling.
2. The *Chomtoah* appellate court, or the court of issuance for the original ruling, may order a temporary stay on the compulsory execution of the original ruling, or otherwise order any other necessary disposition, up to the issuance of the ruling on the *Chomtoah Appeal*.

**306. Optional oral arguments; interrogation in lieu of oral arguments**

1. A decision on a *Chomtoah Appeal* may be issued without oral arguments.
2. In cases where no oral arguments are to be conducted, the *Chomtoah* appellate court may question the *Chomtoah* appellant or any other interested person.

## BOOK FOUR RETRIAL

### Chapter One retrial

#### 307. Grounds for retrial (1)

1. Should any of the grounds set forth below exist, a motion for retrial may be filed for a final and binding judgment. This shall not apply should the party have already asserted such grounds in the course of an *Uttor* or *Satuk* appeal, or when the party was aware of such grounds and did not assert them:
  - (a) the adjudicating court was not composed in accordance with the law;
  - (b) a judge prohibited by law from taking part in the judgment took part in said judgment;
  - (c) the statutory agent lacks the authority or lacks any other authority necessary to conduct an act concerning the action, or the appointed representative lacks authority;
  - (d) a judge who participated in the judgment committed a crime in connection with the judge's duties in the case;
  - (e) the party was led to make an admission, or was hindered from presenting arguments and evidence that would have affected the judgment, as a result of a criminal act of another party;
  - (f) a document or other item used as evidence to support the judgment was forged or fraudulently altered;
  - (g) a false statement of a witness, expert witness or interpreter, or a false statement of a sworn party or statutory agent, was used as evidence to support the judgment;
  - (h) a civil or criminal judgment, or any other decision or administrative disposition on which the judgment was based, has been changed by a subsequent decision or administrative disposition;
  - (i) significant matters that would have affected the judgment were left unadjudicated; or
  - (j) the judgment against which the action for retrial was filed conflicts with a judgment that had previously become final and binding.
2. Where any of the grounds described in Items (d) through (g) of Paragraph 1 exist, an action for retrial may be filed only if either of the following circumstances applies:
  - (a) the judgment of conviction or the decision imposing a civil fine has become final and binding with regard to a punishable act; or
  - (b) a final and binding judgment of conviction or a final and binding decision imposing a civil fine cannot be obtained due to reasons other than lack of evidence.
3. An action for retrial against the judgment of the court of first instance may not be filed once a judgment on the merits has been rendered by the *Uttor* appellate court.

#### 308. Grounds for retrial (2)

Where any of the grounds set forth in Paragraph 1 of **Article 307 (Grounds for retrial (1))** exists with regard to a decision forming the basis of a judgment, such grounds may serve as grounds for retrial against such

judgment even if filing an appeal independently for the case against the decision is provided for.

**309. Retrial court**

1. A motion for retrial shall come under the exclusive jurisdiction of the court that rendered the judgment for which the retrial is being sought.
2. Motions for retrial against judgments rendered by multiple courts of differing levels in regard to the same case shall be collectively subject to the jurisdiction of the highest level court among such courts.
3. A judge who participated in the judgment against which the action for retrial was filed may not participate in a trial or decision regarding the action for retrial.

**310. Court proceedings at retrial**

Provisions pertaining to court proceedings for each court level shall apply *mutatis mutandis* to the court proceedings at retrial to the extent that they are consistent with the nature of the court proceedings at retrial.

**311. Period for retrial**

1. A motion for retrial shall be filed within thirty days of the date the party learned of the grounds for retrial after the judgment became final and binding. This shall not apply where the grounds for retrial are the grounds provided in Item (c) or Item (j) of Paragraph 1 of **Article 307 (Grounds for retrial (1))**.
2. The period described in Paragraph 1 may not be extended.
3. A motion for retrial may not be filed once five years have elapsed from either: (i) the date on which the judgment became final and binding; or (ii) should the grounds for retrial have occurred after the judgment became final and binding, the date on which such grounds occurred. This shall not apply when the grounds for retrial are the grounds provided in Item (c) or Item (j) of Paragraph 1 of **Article 307 (Grounds for retrial (1))**.

**312. Matters to be stated in motion for retrial**

1. A motion for retrial shall contain the following information:
  - (a) the names and addresses of the parties, and the names and address of the statutory agents;
  - (b) an indication of the judgment for which the retrial is being sought, and a statement noting that a retrial is being sought in reference to such judgment; and
  - (c) the facts comprising the grounds for retrial.
2. A copy of the judgment for which the retrial is being sought shall be attached to the motion for retrial.

**313. Change of grounds for retrial**

A party who files a motion for retrial may change the grounds for retrial.

**314. Dismissal of motion for retrial and denial of retrial claim**

1. Where a motion for retrial does not conform to the law, the court shall dismiss the motion via the issuance of a ruling.
2. Where there are no grounds for retrial, the court shall reject a motion for retrial via the issuance of a ruling.

3. Once a ruling described in Paragraph 2 has become final and binding, a subsequent motion for retrial based on the same grounds may not be filed.
4. A *Chomtoah Appeal* may be filed against a ruling issued pursuant to Paragraphs 1 or 2.

**315. Ruling ordering the commencement of a retrial**

1. Should grounds for retrial exist, the court shall issue a ruling ordering the commencement of a retrial.
2. The court shall question the counterparty before issuing the ruling set forth in Paragraph 1.
3. A *Chomtoah Appeal* may be filed against the ruling set forth in Paragraph 1.

**316. Trial and decision on the merits**

1. Once a ruling ordering the commencement of a retrial has become final and binding, the court shall proceed with the trial and provide a decision on the merits within the scope of the motion for retrial.
2. For cases described in Paragraph 1, the court shall, upon finding the judgment to be proper, deny the motion for retrial.
3. For all other cases aside from those described in Paragraph 2, the court shall reverse the judgment and render a new decision.

**317. Motion for retrial concerning a ruling**

1. A motion for retrial may be filed against a ruling that is subject to *Chomtoah Appeal* and has become final and binding.
2. The provisions set forth from **Article 307 (Grounds for retrial (1))** through **Article 316 (Trial and decision on the merits)** shall apply *mutatis mutandis* to the motion described in Paragraph 1.

**318. Motion for retrial by third-party**

1. Where the plaintiff and defendant collude in order to obtain a judgment encroaching on the rights or interests of a third party, said third party may file a motion for retrial concerning that judgment once it has become final and binding.
2. In the motion for retrial described in Paragraph 1, the plaintiff and defendant of the original judgment shall be the co-respondents under such motion.
3. The provisions of **Article 41 (Rules regarding proceedings in mandatory joint suit)** shall apply *mutatis mutandis* to the persons deemed co-respondents pursuant to Paragraph 2 and to third parties filing motions for retrial pursuant to Paragraph 1.

## BOOK FIVE DEMAND PROCEDURE

### Chapter One DEMAND PROCEDURE

#### **319. Requirements for a demand ruling**

With regard to a claim for a monetary payment, the court may, upon a motion by the obligee, issue a demand ruling. This shall apply only where such demand ruling can be served in Cambodia in a manner other than service by publication.

#### **320. Motion seeking issuance of a demand ruling**

1. A motion seeking the issuance of a demand ruling against each category of obligor described below shall be filed with the court of first instance having jurisdiction over the corresponding location for each category provided below:
  - (a) a natural person:
    - the person's domicile, or should there be no domicile in Cambodia or such domicile is unknown, the location of the person's residence;
  - (b) a domestic juristic person:
    - the juristic person's main office or place of business, or should there be no such office or place of business, the domicile of the entity's representative or other principal person in charge of the operations of said entity; or
  - (c) a foreign juristic person:
    - the juristic person's main office or place of business within Cambodia, or should there be no such office or place of business within Cambodia, the domicile within Cambodia of the entity's representative or other principal person in charge of the operations of the entity.
2. A motion seeking the issuance of a demand ruling with regard to the following types of claims may also be filed with the court of first instance having jurisdiction over the corresponding location for each type provided below.
  - (a) a claim against a person having an office or place of business and pertaining to business transacted therein:
    - the place in which such office or place of business is located;
  - (b) a claim for a monetary payment based on a bill or check, and any claim ancillary thereto:
    - The payment location of said bill or check.
3. Jurisdictions described in Paragraphs 1 and 2 shall be exclusive.

#### **321. *Mutatis mutandis* application of provisions pertaining to an action**

Provisions pertaining to an action shall apply *mutatis mutandis* to a motion seeking issuance of a demand ruling except where such provisions are inconsistent with the nature of such motion.

#### **322. Dismissal of motion**

Where a motion seeking the issuance of a demand ruling violates the



provisions of **Article 319 (Requirements for a demand ruling or Article 320 Motion seeking issuance of a demand ruling)**, or where it is clear from the purport of the motion that there are no grounds for the claim, the court shall dismiss the motion via the issuance of a ruling. Where a demand ruling cannot be issued for any part of the claim, this rule shall apply to such part.

**323. Issuance of demand ruling**

1. A demand ruling shall be issued without the questioning of the obligor.
2. The obligor may file an objection to a demand ruling with the court that issued it.

**324. Matters to be contained in a demand ruling**

1. A demand ruling shall contain the following information:
  - (a) the names and addresses of the parties and the name and address of the statutory agent;
  - (b) the contents of the ruling sought and the facts necessary to specify the claim; and
  - (c) a demand for payment of a certain sum of money.
2. The demand ruling described in Paragraph 1 shall contain the statement that if no objection thereto is filed within two (2) weeks of the date that the obligor receives service thereof, the court shall, on its own authority, issue a declaration of provisional execution.

**325. Service of demand ruling**

1. The court shall notify the obligee of the demand ruling and serve the demand ruling on the obligor.
2. The demand ruling shall take effect once service thereof is made on the obligor.
3. Where the demand ruling cannot be served due to the obligor's domicile, location of residence, place of business or office, or the domicile of the obligor's representative or other principal person in charge of its operation not existing at the location provided by the obligee, the court shall notify the obligee of this fact. In such case, if the obligee fails to provide an alternative location at which service can be made within two (2) months of the obligee receiving such notification, the motion seeking the issuance of a demand ruling shall be deemed to have been dismissed.
4. The period specified in the latter sentence of Paragraph 3 may not be extended.

**326. Dismissal of an objection to a demand ruling made prior to the declaration of provisional execution**

1. Should the court find that an objection to a demand ruling that was filed prior to a declaration of provisional execution to be unlawful, the court shall dismiss said objection via the issuance of a ruling.
2. A *Chomtoah Appeal* may be filed against the ruling described in Paragraph 1.

**327. Effect of objection to demand ruling made prior to declaration of provisional execution**

1. Where a valid objection to a demand ruling is filed prior to a declaration of provisional execution, the demand ruling shall lose

its effect to the extent of the objection raised in reference thereto.

2. In the case set forth in Paragraph 1, an action shall be deemed to have been filed with the court described in **Article 320 (Motion seeking issuance of a demand ruling)** at the time of filing for the motion seeking the issuance of a demand ruling regarding the claim for which the objection to the demand ruling had been filed. In such case, the costs incurred for the demand procedure shall be deemed to be part of the litigation costs.

**328. Declaration of provisional execution**

1. Where an obligor fails to file an objection to a demand ruling within two (2) weeks of the date of receipt of service thereof, or where a ruling dismissing an objection to a demand ruling filed prior to a declaration of provisional execution becomes final and binding, the court shall add to the demand ruling a statement regarding the amount of costs incurred for the demand procedure, and shall make a declaration of provisional execution thereof.
2. The declaration of provisional execution shall be stated in the demand ruling that is to be served on the parties.
3. The provisions of **Article 197 (Loss of effect of declaration of provisional execution and restitution)** and of Paragraph 2 of **Article 325 (Service of demand ruling)** shall apply *mutatis mutandis* to any declaration of provisional execution made pursuant to Paragraph 1.

**329. Objection to demand ruling filed after declaration of provisional execution**

1. An objection to a demand ruling subsequent to a declaration of provisional execution pursuant to Paragraph 2 of **Article 323 (Issuance of demand ruling)** shall be filed within two (2) weeks of the date that service thereof was received.
2. The period specified in Paragraph 1 may not be extended.

**330. Dismissal of objection to demand ruling filed after declaration of provisional execution**

1. Should the court find that an objection to a demand ruling that was filed after a declaration of provisional execution is unlawful, the court shall dismiss such objection via the issuance of a ruling.
2. A *Chomtoah Appeal* may be filed against the ruling described in Paragraph 1.

**331. Transfer to an action upon objection to demand ruling filed after declaration of provisional execution**

Where a valid objection to a demand ruling has been filed subsequent to a declaration of provisional execution, a motion shall be deemed to have been filed with the court issuing the demand ruling at the time that said motion seeking the issuance of a demand ruling was filed regarding the claim for which the objection to the demand ruling had been filed. In this case, the costs incurred from the demand procedure shall be deemed to be part of the litigation costs.

**332. Judgment for an action transferred after declaration of provisional execution**

1. Where a judgment rendered in an action that has been transferred pursuant to the provisions of **Article 331 (Transfer to an action**

**upon objection to demand ruling filed after declaration of provisional execution)** conforms to the demand ruling, the court shall uphold such demand ruling with a declaration of provisional execution. This shall not apply where the demand procedure was conducted in violation of law.

2. Except where a demand ruling with a declaration of provisional execution is upheld pursuant to the provisions of Paragraph 1, a judgment rendered for the action that was transferred pursuant to the provisions of **Article 331 (Transfer to an action upon objection to demand ruling filed after declaration of provisional execution)** shall nullify the demand ruling with the issuing of provisional execution.

### **333. Effect of demand ruling**

Where no objection is filed to a demand ruling with a declaration of provisional execution, or where a ruling dismissing an objection to a demand ruling with a declaration of provisional execution becomes final and binding, such demand ruling shall have the same effect as a final and binding judgment.

# BOOK SIX COMPULSORY EXECUTION

## Chapter One GENERAL PROVISIONS

### Section I. Purpose

#### **334. Purpose**

Except as otherwise provided in other laws, persons holding claims or security rights under the Civil Code or other laws shall be entitled to seek enforcement of such claims or rights through compulsory execution in accordance with the provisions of this Book.

#### **335. *Mutatis mutandis* application of provisions of Book II through IV**

Except as otherwise provided, the provisions of Book II through Book IV shall apply *mutatis mutandis* to proceedings for compulsory execution.

### Section II. Execution Organs

#### **336. Execution organs**

1. Execution shall be carried out by the execution organs through motion by a party.
2. The execution organ shall be either an Execution Court or a bailiff.
3. The court of first instance charged with compulsory execution in accordance with the provisions of this Book shall be the Execution Court.
4. A decision on an objection to any execution disposition conducted by a bailiff shall be rendered by the court of first instance to which such bailiff belongs.

#### **337. Decisions of Execution Courts**

1. Decisions by the Execution Court shall be made via the issuance of a ruling.
2. When issuing execution dispositions, the Execution Court may question any interested person or other informant should the court find it necessary.
3. Paragraphs 1 and 2 shall also apply to cases where the court of first instance renders a decision on an objection to any execution dispositions conducted by a bailiff.

#### **338. Ensuring performance of duties by bailiffs**

1. Bailiffs who encounter resistance to the performance of their duties may use force, or request the assistance of police or other national organs responsible for the maintenance of public order in order to overcome such resistance.
2. Persons other than a bailiff who are performing duties relating to compulsory execution by order of an Execution Court, when encountering resistance to the performance of such duties, may request the assistance of a bailiff.

**339. Attendants**

Bailiffs or other persons performing duties relating to compulsory execution by order of an Execution Court shall have a commune official, police officer or other person deemed suitable as a witness accompany them at such residence if said bailiffs or other persons upon entering a person's residence in the performance of their duties are unable to locate the householder, his/her agent, cohabiting relative, employee, or other dependent of reasonable discernment.

This requirement shall likewise apply for cases wherein a bailiff uses force, or receives assistance from a police officer or other national organ responsible for the maintenance of public order in accordance with **Article 338 (Ensuring performance of duties by bailiffs)** paragraph 1.

**340. Execution on holidays or at night**

1. Bailiffs or other persons performing duties relating to compulsory execution by order of an Execution Court shall obtain permission from the court of first instance to which they belong, or the Execution Court issuing the order, if they will enter the residence of a person and execute their duties on a Sunday or other holiday as defined by law or regulation, or between the hours of 6:00 p.m. of that day and 6:00 a.m. the following morning.
2. Bailiffs or other persons performing duties relating to compulsory execution by order of an Execution Court shall, upon performing their duties, present documents proving that they have obtained the permission set forth in paragraph 1.

**341. Carrying of identification**

Bailiffs or other persons performing duties relating to compulsory execution by order of an Execution Court shall, in performing their duties, carry a document proving their identity or status, and shall present such document upon request by any interested person.

**342. Request for assistance from government agencies**

When necessary for compulsory execution, the Execution Court may request the assistance of competent government agencies.

**343. Special rules governing *Chomtoah Appeals* in compulsory execution proceedings**

1. Notwithstanding the provisions of **Article 305 (Stay of effect of original ruling)**, a *Chomtoah Appeal* under the provisions of this Book shall not stay the effect of the original ruling.
2. Prior to a decision on the *Chomtoah Appeal* taking effect, the *Chomtoah Appeal* court may render the following rulings:
  - (a) ordering a stay of the original ruling's effect with or without the posting of security; or
  - (b) ordering a stay of the proceedings of compulsory execution, in whole or part, with or without the posting of security.

**344. Objections to execution**

1. An objection may be filed with the Execution Court against an execution disposition of the Execution Court for which a *Chomtoah Appeal* cannot be filed.
2. An objection to an execution disposition conducted by a bailiff, or his/her delay or neglect relating thereto, may be filed with the court of first instance to which such bailiff belongs.

3. The provisions of Paragraph 2 of **Article 343 (Special rules governing Chomtoah Appeals in compulsory execution proceedings)** shall apply *mutatis mutandis* to cases where an objection to the execution has been filed.

**345. Chomtoah Appeal against cancellation ruling**

1. A *Chomtoah Appeal* may be filed against the rulings set forth below:
  - (a) a ruling by an Execution Court to cancel compulsory execution proceedings;
  - (b) a ruling by a court of first instance ordering a bailiff to cancel compulsory execution proceedings; and
  - (c) a ruling by a court of first instance dismissing an objection to a disposition for a bailiff to cancel the compulsory execution proceedings.
2. Rulings against which a *Chomtoah Appeals* may be filed under Paragraph 1 shall only come into effect when said rulings become final and binding.

**346. Exclusive jurisdiction**

Court jurisdictions set forth in this Book shall be exclusive.

### Section III. Executing Parties and Agents

**347. Naming of parties**

In this Book, the party filing a motion for compulsory execution shall be referred to as the "Creditor in Execution" and the counterparty named in such motion shall be referred to as the "Debtor-in-Execution".

**348. Appointed representative for compulsory execution proceedings**

1. Matters relating to the appointed representatives for the compulsory execution proceedings shall be governed by the following guidelines:
  - (a) Paragraph 1 of **Article 53 (Qualifications of appointed representative)** shall govern procedures relating to actions or appeals provided in Book VI;
  - (b) except for cases provided in Item (a), persons not otherwise qualified to be appointed representatives pursuant to Paragraph 1 of **Article 53 (Qualifications of appointed representative)** shall be qualified to be appointed representatives through permission of the Execution Court or court of first instance for the purposes of the compulsory execution proceedings carried out by such court; and
  - (c) any person whosoever may become an appointed representative in the course of procedures carried out by a bailiff.
2. An Execution Court or court of first instance may cancel the permission granted under Item (b) of Paragraph 1 at any time.

### Section IV. Requirements for Compulsory Execution

**349. Method for motions for compulsory execution**

1. A motion for compulsory execution shall be in writing.
2. A written motion for compulsory execution shall contain the following information, and shall be accompanied by a true copy of

This is an unofficial translation of the Law. It contains translation mistakes and incoherent wording, and could lack some information. It is provided for information purposes only and we are not responsible for any errors or ambiguities. Reliance may only be placed upon the official Khmer version.

an enforceable Title of Execution:

- (a) the name and address of the Creditor-in-Execution and Debtor-in-Execution as well as the name and address of the statutory agent;
  - (b) an indication of the Title of Execution;
  - (c) specification as to whether direct enforcement, substituted execution or indirect enforcement is being sought;
  - (d) in the case of direct enforcement, a description of the property that will be subject to the compulsory execution and the method of compulsory execution that is being sought by the Creditor-in-Execution; and
  - (e) in the case of substituted execution or indirect enforcement, the contents of the decision that is being sought by the Creditor-in-Execution.
3. If the Creditor-in-Execution is seeking compulsory execution of only part of the claim that is noted in the Title of Execution ordering the payment of money, this fact and the scope therefor shall be stated in the written motion for compulsory execution.

### **350. Title of Execution**

1. Compulsory execution shall be carried out on the basis of the Title of Execution.
2. A title of execution refers to the following:
  - (a) a final and binding<sup>5</sup> performance judgment<sup>6</sup>;
  - (b) a performance judgment with a declaration of provisional execution;
  - (c) a ruling ordering performance. This is limited to a final and binding ruling in cases where such ruling only takes effect upon becoming final and binding;
  - (d) a demand ruling with a declaration of provisional execution;
  - (e) a disposition by a court clerk as described in Paragraph 1 of **Article 66 (Procedures to determine amount of litigation costs)**;
  - (f) a notarized document prepared by a notary concerning a claim for a fixed amount of money. This shall only apply to a notarized document that contains a statement that the debtor shall be immediately subject to compulsory execution;
  - (g) a judgment of a foreign court in respect to which an execution judgment that has become final and binding under **Article 352 (Execution judgment of foreign court judgment)** has been rendered;
  - (h) an arbitration award in respect to which an execution ruling that has become final and binding under **Article 353 (Execution ruling of arbitration awards)** has been rendered; and
  - (i) a protocol having the same effect as a final and binding judgment such as the protocol described in **Article 222 (Effect of settlement protocol)**.

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<sup>5</sup> *kakutei (hanketsu)* – i.e. a judgment that is conclusive in the sense that the period for normal appeal has expired, and therefore binding.

<sup>6</sup> *kyufu hanketsu* i.e. a judgment ordering an action (often payment) to be taken or not taken, as opposed to a declaratory judgment or a formative judgment.

**351. Scope of persons who can be parties to compulsory execution**

1. Compulsory execution may be carried out with the following persons as Creditor-in-Execution or Debtor-in-Execution:
  - (a) parties stated in the Title of Execution;
  - (b) if a party set forth in the Title of Execution has become a party on behalf of another person, such other person;
  - (c) successors in rights and/or duties of parties described in Items (a) and (b) after the establishment of the Title of Execution. This shall mean successors in rights and duties after an action has come to be pending in the case of a Title of Executions described in Items (a), (b), (g) or (h) of Paragraph 2 of **Article 350 (Title of Execution)**.
2. Compulsory execution by the Title of Execution described in Items (a) to (c), and (g) to (i) of Paragraph 2 of **Article 350 (Title of Execution)** may also be carried out against persons holding the property that is subject to the claim on behalf of persons listed in any Item of Paragraph 1.

**352. Execution judgment of foreign court judgment**

1. An execution judgment must be obtained from a Cambodian court in order to execute a judgment of a foreign court.
2. An motion seeking an execution judgment with regard to the judgment of a foreign court shall fall within the jurisdiction of the court having a jurisdiction over the location of the Debtor-in-Execution in accordance with **Article 8 (Jurisdiction determined by domicile)**, or if no such court is able to be determined under said Article, the court of first instance having jurisdiction over the place in which the property subject to the claim, or property that can be attached, is located.
3. A motion under Paragraph 2 shall be dismissed if the foreign court judgment is not proven to have become final and binding or does not fulfill each of the requirements set forth in **Article 199 (Effect of final and binding judgment of a foreign court)**.
4. The court shall render an execution judgment without examining whether or not the foreign court judgment is appropriate.
5. The execution judgment shall declare the compulsory execution of the foreign court judgment to be permitted.

**353. Execution ruling of arbitration awards**

1. An execution ruling issued by a court must be obtained in order to execute an arbitration award; whether domestic or foreign.
2. The party filing a motion for an execution ruling of an arbitration award shall submit the following documents:
  - (a) a duly authenticated original arbitration award or true copy thereof; and
  - (b) the original arbitration agreement or a true copy thereof.
3. The court may refuse to execute an arbitration award if the party against whom it is invoked has proved that:
  - (a) a party to the arbitration agreement was incapable, or said agreement is not valid under the governing law chosen by the parties or, in the absence of a choice of law, under the law of the country where the award was made;
  - (b) the party against whom the award is invoked was not given proper notice of the appointment of an arbitrator or of the arbitral



- proceedings, or was otherwise unable to present his case;
  - (c) the award deals with a dispute not contemplated under or not falling within the terms of the submission to arbitration, or contains decisions on matters beyond the scope of the submission to arbitration;
  - (d) the composition of the arbitral tribunal or the arbitral proceedings were not in accordance with the agreement of the parties or, in the absence of such agreement, was not in accordance with the law of the country where the arbitration took place; or
  - (e) the award has not yet become binding on the parties, or has been canceled or suspended by a court of the country in which such award was made or the country to which the law or regulation forming the basis of such award belongs.
4. A court may refuse to execute an award if the court finds that:
    - (a) the subject-matter of the dispute cannot be resolved through arbitration; or
    - (b) the recognition or execution of the award would be contrary to public order.
  5. A motion seeking an execution ruling with regard to a domestic arbitration award shall fall within the jurisdiction of the court having jurisdiction over the domicile/residence of the Debtor-in-Execution in accordance with **Article 8 (Jurisdiction determined by domicile)**, and if no such court can be determined through said Article, then the court of first instance having jurisdiction over the location of the property that is subject to the claim or of the property that can be attached.
  6. The appellate courts shall have jurisdiction over a motion seeking an execution ruling with regard to a foreign arbitration award.
  7. Except for cases described in Paragraphs 3 and 4, the court shall issue an execution ruling without examining whether or not the arbitration award is appropriate.
  8. The execution ruling shall declare the compulsory execution of the arbitration award as permitted.
  9. A *Chomtoah Appeal* may be filed against a ruling on a motion for an execution ruling.
  10. An execution ruling shall come into effect only when it has become final and binding.

**354. Requirements for execution clause and organs granting such clause**

1. Compulsory execution shall be carried out based on a true copy of the Title of Execution with an execution clause. Compulsory execution shall only be carried out based on a true copy in cases of compulsory execution whose Creditor-in-Execution and Debtor-in-Execution are named in the following Title of Executions:
  - (a) a final and binding judgments of a small claims case;
  - (b) a small claims case judgment with a declaration of provisional execution; and
  - (c) a demand ruling with a declaration of provisional execution.
2. The clerk of the court where the case record is kept shall, upon motion, grant the execution clause. Should there be a Title of Execution as described in Item (f) of Paragraph 2 of Article 350 Title of Execution, the notary who has custody over the original thereof shall grant the execution clause.

### **355. Motion for granting of execution clause**

1. A motion for the granting of an execution clause shall be in writing and shall include the following information:
  - (a) the name and address of the Creditor-in-Execution and the Debtor-in-Execution, and the name and address of the statutory agent;
  - (b) an indication of the Title of Execution; and
  - (c) if granting an execution clause under **Article 356 (Special execution clause)** or **Article 358 (Multiple granting of execution clauses)** is being sought, a statement to this effect and the reason for such.
2. Should the Title of Execution be a decision which comes into effect only upon becoming final and binding, the Creditor-in-Execution shall, upon filing a motion for the granting of the execution clause, attach to such written motion a document proving that the decision has become final and binding. This shall not be required if the fact that the decision has become final and binding is clear from the records.
3. Paragraph 1 of this Article shall apply *mutatis mutandis* to cases where the Creditor-in-Execution requests further issuance of true copy(s) of the Title of Execution set forth in the second sentence of Paragraph 1 of **Article 354 (Requirements for execution clause and organs granting such clause)**.

### **356. Special execution clause**

1. Should the claim right<sup>7</sup> stated in the Title of Execution be subject to a condition precedent or to a specified event<sup>8</sup>, the court clerk or notary may grant an execution clause only if the Creditor-in-Execution proves that such condition has been fulfilled or such event has occurred.
2. In order to carry out a compulsory execution with a person other than a party noted in the Title of Execution as the Creditor-in-Execution or the Debtor-in-Execution, the Creditor-in-Execution must obtain an execution clause that states such.
3. A court clerk or notary may grant the execution clause described in Paragraph 2 if it is clear that compulsory execution can be carried out with a person other than a party noted in the Title of Execution as the Creditor-in-Execution or Debtor-in-Execution, or if the Creditor-in-Execution provides documentary proof thereof.
4. A court clerk shall obtain the permission of the court to which he/she belongs for the granting of an execution clause under Paragraph 1 or Paragraph 3 of this Article.

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<sup>7</sup> *seikyuken* - i.e. a legal term which could also be translated as "cause of action."

<sup>8</sup> *fukakuteikigen* - i.e. a time (limit) that is certain to be arrived at but at an uncertain time, such as the time of somebody's death

**357. (Matters to be stated in an execution clause)**

1. An execution clause is granted by inscribing the following items at the end of a true copy of the Title of Execution:
  - (a) the person who is entitled to seek implementation of the compulsory execution on the basis of the Title of Execution and the counterparty;
  - (b) if the execution clause has been granted under **Article 356 (Special execution clause)**, a stipulation to this fact;
  - (c) if the execution clause is granted in respect to a part of the claim right, the scope of compulsory execution that is permitted; and
  - (d) if the execution clause is granted in accordance with the provisions of Paragraph 1 of **Article 358 (Multiple granting of execution clauses)**, a stipulation to this fact.
2. The court clerk or notary shall date and sign the execution clause.

**358. Multiple granting of execution clauses**

1. Further granting of an execution clause may be allowed only in cases where more than one true copy of the Title of Execution with the execution clause is required in order to fully satisfy the claim right, or if the true copy has been destroyed.
2. Where a court clerk or notary has granted an execution clause pursuant to Paragraph 1, he/she shall notify the Debtor-in-Execution of this fact as well as the reasons for such and the number of authenticated copies of the Title of Execution bearing the execution clause.
3. Paragraphs 1 and 2 shall apply *mutatis mutandis* to cases where the further issuance of the true copy(s) of the Title of Execution described in the second sentence of Paragraph 1 of **Article 354 (Requirements for execution clause and organs granting such clause)** is made.

**359. Recording on original Title of Execution**

1. The court clerk or notary shall record the items set forth below on the original Title of Execution after granting the execution clause:
  - (a) the fact that the execution clause has been granted, the date of granting, and the number of authenticated copies with the execution clause;
  - (b) if the grant has been made in respect to part of the claim right, the scope of compulsory execution that is permitted; and
  - (c) where an execution clause has been granted under Paragraph 2 of **Article 356 (Special execution clause)**, this fact together with the names of the Creditor-in-Execution and the Debtor-in-Execution.
2. Where a court clerk has issued a further true copy of a Title of Execution described in the second sentence of Paragraph 1 of **Article 354 (Requirements for execution clause and organs granting such clause)**, he/she shall record this fact, the date of issuance and the number of issued true copies of the original of such judgment or demand ruling.

**360. Service of Title of Execution**

Compulsory execution may commence only once a true copy or certified copy of the Title of Execution, or the decision that is to become the Title of Execution upon becoming final and binding, has been served on the Debtor-in-Execution. Where the execution clause has been granted in accordance with **Article 356 (Special execution clause)**, the true copies of the execution clause and documents submitted by the Creditor-in-Execution under said Article shall be served on the Debtor-in-Execution in advance.

**361. Requirements for commencement of execution to be examined by execution organ**

1. Where there is a set time period<sup>9</sup> for performance of the claim right noted in the Title of Execution, the execution organ may commence compulsory execution only after such time has elapsed.
2. With regard to compulsory execution based on a Title of Execution that requires the posting of security as a condition for the implementation of the compulsory execution, the execution organ may commence compulsory execution only once the Creditor-in-Execution submits documentary proof of the posting of such security.
3. If performance by the Debtor-in-Execution is to be given in exchange for counter performance by the Creditor-in-Execution, the execution organ may commence compulsory execution only once the Creditor-in-Execution has proven that such counter performance has been carried out or tendered.

**362. Filing of an objection to the granting of execution clause**

1. An objection may be filed against a disposition taken in respect to a motion for the granting of an execution clause with the court to which the court clerk belongs in cases where such disposition was made by a court clerk, or with the court of first instance that has jurisdiction over the location of the notary's office in the cases where such disposition was made by a notary.
2. A decision on an objection under Paragraph 1 shall be made by via the issuance of a ruling.
3. Paragraphs 1 and 2 shall apply *mutatis mutandis* to cases where the further issuance of true copy(s) of the Title of Execution described in the second sentence of Paragraph 1 of **Article 354 (Requirements for execution clause and organs granting such clause)** is requested.

**Section V. Actions Relating to Execution**

**363. Motion objecting to claim**

1. A Debtor-in-Execution who objects to the existence or contents of a claim right noted in a Title of Execution may file a motion objecting to the claim and seeking prohibition of the compulsory execution based on said Title of Execution. This shall not apply to titles of execution listed in Item (b) or Item (d) of Paragraph

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<sup>9</sup> *kakutei kigen*, literally "a time certain (for performance)", as opposed to "*fukakutei kigen*" – see footnote to Paragraph 1 of Article 7 (Special Execution Clause).

2 of **Article 350 (Title of Execution)** that has yet to become final and binding.

2. The grounds for an objection to a final and binding judgment shall be limited to grounds arising after the conclusion of oral arguments.
3. Motions under Paragraph 1 shall be subject to the jurisdiction of the court described for each of the following Items in accordance with the corresponding type of Title of Execution, as set forth below:

A.	A Title of Execution listed in Items (a) to (d), or (g) to (i) of Paragraph 2 of <b>Article 350 (Title of Execution)</b>	The court of first instance for the proceedings in question
B.	A Title of Execution listed in Item (e) of Paragraph 2 of <b>Article 350 (Title of Execution)</b>	The court to which the court clerk who made the disposition described in said Item belongs
C.	A Title of Execution listed in Items (f) of Paragraph 2 of <b>Article 350 (Title of Execution)</b>	The court having jurisdiction over the domicile/residence of the defendant in accordance with <b>Article 8 (Jurisdiction determined by domicile)</b> , and if no such court can be determined through said Article, then the court of first instance having jurisdiction over the location of the property that is subject to the claim or a property that can be attached

#### **364. Motion objecting to grant of execution clause**

1. Where a special execution clause has been granted under **Article 356 (Special execution clause)**, a Debtor-in-Execution, having an objection as to whether a condition precedent has been fulfilled, whether a certain event has occurred, or whether a compulsory execution can take place with a person other than a party named in the Title of Execution as Creditor-in-Execution or Debtor-in-Execution, may file an action objecting to the granting of such execution clause in order to seek a prohibition of compulsory execution based on a true copy of the Title of Execution bearing such an execution clause.
2. The provisions of Paragraph 3 of **Article 363 (Motion objecting to claim)** shall apply *mutatis mutandis* to the actions described in Paragraph 1 of this Article.

#### **365. A third party objection action**

1. A third party having ownership over property that is subject to compulsory execution, or having other rights to prevent the transfer or delivery of said property, may file a third party objection motion seeking prohibition of the compulsory execution.
2. A motion under Paragraph 1 shall fall within the jurisdiction of the Execution Court in cases where the execution court is to be the

execution organ, or the jurisdiction of the court of first instance to which the bailiff belongs if the bailiff is to be the execution organ.

## Section VI. Stay and Cancellation of Execution

### **366. Decision of stay of execution upon filing of an action for retrial**

1. For the following cases the court may, upon motion, order a temporary stay of compulsory execution with or without the posting of security:
  - (a) where a motion for retrial has been filed, the circumstances asserted as grounds for the retrial appear to have legal merit and there is a *prima facie* showing of the factual issues;
  - (b) where a *Satuk* appeal has been filed against a judgment with a declaration of provisional execution, there is a *prima facie* showing of circumstances that should be grounds for quashing the original judgment;
  - (c) where an *Uttor* appeal has been filed against a judgment with a declaration of provisional execution or where an objection to a demand ruling has been filed against a demand ruling with a declaration of provisional execution, there is a *prima facie* showing of circumstances that should be grounds for reversal or amendment of the original judgment or demand ruling; or
  - (d) where a motion to set aside a judgment has been filed against a default judgment with a declaration of provisional execution, there is a *prima facie* showing of circumstances that should be grounds for reversal or amendment of the default judgment.
2. For the cases described in the Items of Paragraph 1, the court may, upon motion, order a temporary stay of compulsory execution as well as order a cancellation of any execution disposition already taken with the posting of security.
3. Where a *Satuk* appeal or *Uttor* appeal has been filed against a judgment with a declaration of provisional execution, if the case records still exist at the original court, such court shall decide on the motions set forth in Paragraphs 1 and 2.

### **367. Decision of stay of execution upon the filing of a motion objecting to a claim**

1. Where a motion objecting to a claim, a motion objecting to the granting of an execution clause or a third party objection motion has been filed and the asserted grounds of objection have a *prima facie* showing, the court in charge of such motion may, upon motion, order a temporary stay of compulsory execution with or without the posting of security until the decision under **Article 368 (Decision of stay of execution in final judgment)** has been reached through a final judgment<sup>10</sup>.
2. For cases described in Paragraph 1, the court in charge of the action may, upon motion, order a temporary stay of compulsory execution as well as order the cancellation of any execution disposition already undertaken through the posting of security.

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<sup>10</sup>*shuukyoku hanketsu* - final, as opposed to interim, at a certain level - i.e. final in every sense except that it is still subject to appeal, as opposed to an interim judgment (*chuukan hanketsu*)

3. Should a motion objecting to a claim or a motion objecting to the granting of an execution clause be filed, if the grounds for the objection have a *prima facie* showing without an existing urgent circumstances, the Execution Court or the court of first instance to which the bailiff belongs may, upon motion, issue a ruling as set forth in Paragraphs 1 or 2 setting a time period for the submission of an true copy of the decision described in Paragraph 1. This decision may also be made prior to the filing of a motion described in Paragraph 1.
4. Should the time period set forth under Paragraph 3 expire or a decision described in Paragraphs 1 or 2 be submitted to the Execution Court or to the bailiff, the ruling under Paragraph 3 shall lose its effect.

**368. Decision of stay of execution in final judgment**

In rendering a final judgment concerning a motion objecting to a claim, a motion objecting to the granting of an execution clause, or a third party objection motion; the court in charge of the motion may issue an order for the disposition described in Paragraphs 1 or 2 of **Article 367 (Decision of stay of execution upon the filing of a motion objecting to a claim)** or may reverse, amend or grant the decision already made under said Paragraphs. This decision shall come into effect with the rendering of final judgment concerning any motions described in this Article.

**369. Decision for stay of execution upon filing of an objection to the granting of an execution clause**

Where an objection to the granting of an execution clause, among others, has been filed, the court may, should it deem it necessary and upon motion, order a stay of compulsory execution with or without the posting of security until a decision on the objection has been rendered.

**370. Stay and cancellation of compulsory execution**

1. Upon the submission of any of the documents listed below, the Execution Court or bailiff shall stay the compulsory execution and shall nullify any execution dispositions that has already been executed:
  - (a) a true copy of the decision that evidences an order canceling a Title of Execution other than a notarized document described in Item (f) of Paragraph 2 of **Article 350 (Title of Execution)** or a true copy of a decision that evidences an order nullifying a declaration of provisional execution;
  - (b) a true copy of a decision that evidences an order prohibiting compulsory execution;
  - (c) a true copy of a final and binding judgment declaring that a settlement or acknowledgment in connection with a Title of Execution has no effect;
  - (d) a true copy of a protocol or other document prepared by a court clerk certifying that the Title of Execution noted in Items (b) through (e) of Paragraph 2 of **Article 350 (Title of Execution)** has lost its effect on account of a discontinuance of the motion or for other reasons;
  - (e) a true copy of a protocol for settlement in court that states

- that compulsory execution will not be carried out or that a motion thereof will be withdrawn;
- (f) a document evidencing the posting of security for the purpose of exemption from compulsory execution; or
  - (g) a true copy of a decision that issues an order for a stay of compulsory execution and cancellation of the execution disposition.
2. Upon submission of any of the documents set forth below, the Execution Court or bailiff shall stay the compulsory execution. In the case of Item (b), the effect of the stay shall be limited to a 2-month duration.
- (a) a true copy of a decision that evidences an order for a temporary stay of compulsory execution; or
  - (b) a document stating that the Creditor-in-Execution has received payment or has consented to deferral of payment subsequent to the establishment of the Title of Execution.
3. **Article 345 (Chomtoah Appeal against cancellation ruling)** shall not apply for cases of nullification of an execution disposition under Paragraph 1 of this Article.

## Section VII. Execution Costs and Viewing of Execution Record

### 371. Definition of Execution Costs and Procedural Costs

The following terms shall bear the following meanings respectively set forth for each term:

- (a) "Execution Costs": filing fees described in **Article 372 (Filing fees)**, costs other than filing fees described in **Article 373 (Costs other than filing fees)** and the party's costs described in **Article 374 (Party's Costs)**; and
- (b) "Procedural Costs": among Execution Costs described in Item (a), those that are of common benefit.

### 372. Filing fees

- 1. Upon filing a motion for compulsory execution with the Execution Court, the Creditor-in-Execution shall pay a fee of 10,000 riel to the court.
- 2. Upon filing a motion for compulsory execution with the bailiff, the Creditor-in-Execution shall pay fees of the amount set forth in other laws or regulations.

### 373. Costs other than filing fees

The Creditor-in-Execution shall pay as costs any such amounts that are determined by the court to be necessary for procedural actions in the course of the compulsory execution, such as the serving of documents.

### 374. Party's Costs

Costs that the court finds to be necessary for implementation of compulsory execution apart from those described in **Article 372 (Filing fees)** and **Article 373 (Costs other than filing fees)** shall be referred hereto as "Party's Costs".



**375. Advance payment**

1. Upon filing a motion for compulsory execution, the moving party shall pay in advance the amount set by the court as the necessary costs for the compulsory execution proceedings. This shall also apply to cases in which the advance payment was insufficient and the Execution Court orders additional advance payment to fill said deficiency.
2. Should the moving party fail to pay such costs in advance, the Execution Court may dismiss the motion for compulsory execution or cancel the proceedings for compulsory execution.
3. A *Chomtoah Appeal* may be filed for a ruling to dismiss a motion under Paragraph 2.

**376. Allocation of Execution Costs**

1. Execution Costs shall be borne by the Debtor-in-Execution.
2. In the case of compulsory execution for a claim whose subject matter is a monetary payment, Execution Costs may be collected simultaneous with such execution proceedings in the absence of a Title of Execution.

**377. Posting of security**

In order to post security in accordance with the provisions of the Book, a party shall make a deposit to the court that ordered such posting, or the Execution Court, comprised of monies or negotiable instruments that have been deemed to be appropriate by said court.

**378. Viewing of records of compulsory execution case**

1. A person who has established via a *prima facie* showing his/her interest in the compulsory execution conducted by the Execution Court may request the court to permit a viewing or copying of the case records; may request delivery of true copies, certified copies or excerpts thereof; or delivery of a certificate of matters related to the case, together with the payment of any fees.
2. A person who has established via a *prima facie* showing his/her interest in the compulsory execution conducted by a bailiff may request the bailiff to permit a viewing or copying of the case records; request delivery of true copies, certified copies or excerpts thereof; or delivery of a certificate of matters related to the case, together with the payment of any fees.

**Chapter Two Compulsory Execution of Claims Having the Subject Matter Being  
a Monetary Payment**

**Section I. Property Liable to Attachment**

**379. Principles**

Except where otherwise provided in this or any other laws, attachment may be carried out against any tangible or intangible property belonging to the Debtor-in-Execution.

### 380. Movables immune from attachment

The following Movables may not be attached:

- (a) clothing, bedding, furniture, kitchen appliances and house fixtures those are indispensable to the daily living of the Debtor-in-Execution, and his/her dependents and cohabitating relatives;<sup>11</sup>
- (b) foodstuff and fuel necessary for two-months livelihood of the Debtor-in-Execution and his/her dependents and cohabitating relatives;
- (c) money or objects granted to the Debtor-in-Execution from the central or local government as livelihood support, educational support, medical support or other support to protect his/her life;
- (d) apart from the money described in Item (c), money up to 1,000,000 riel;
- (e) tools, fertilizer, domestic livestock and their feed that are necessary for a person engaging in agriculture to work predominantly by their own labor, together with seed and other agricultural products indispensable to the continuing of such work until the next harvest;
- (f) nets and other fishing equipment, feed, young fish, and other fishery products that are necessary for a person engaged in fisheries to catch or raise fish predominantly by their own labor;
- (g) tools and other objects that are necessary for the work of technicians, artisans, laborers, and other persons engaged in an occupation or business predominantly using their own intellectual or physical abilities excluding objects that are possessed for the purpose of sale or lease;
- (h) images of Buddha, sacred books, and other indispensable objects directly used in worship or religious ceremonies;
- (i) genealogical records, diaries, trade books and similar objects indispensable to the Debtor-in-Execution;
- (j) objects commemorating awards, or other honors granted to the Debtor-in-Execution or his/her relatives;
- (k) books, documents, and other equipment necessary for the Debtor-in-Execution or his/her cohabiting relatives to study at a school or other educational institution;
- (l) an invention or work that has not yet been revealed to the public;
- (m) an artificial hand, leg, ear, eye, or other prosthetic body part of the Debtor-in-Execution or his/her cohabitating relatives, and objects necessary for the care of any sickness of the Debtor-in-Execution or his/her cohabitating relatives; and
- (n) firefighting equipment, apparatus, escape apparatus and other equipment required to be installed by law or regulation for the prevention of disasters, and the security of buildings and other structures.

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<sup>11</sup> Literally "the debtor and any cohabiting relative having a common livelihood with the debtor"

**381. Change of scope of Movables immune from attachment**

1. The court of first instance to which the bailiff belongs may, upon motion, order the cancellation, in whole or a part, of an attachment carried out by a bailiff or permit the attachment of any Movables listed in **Article 380 (Movables immune from attachment)** taking into account the living conditions and other circumstances of the Debtor-in-Execution and the Creditor-in-Execution.
2. Where there has been a change of the circumstances, the court of first instance to which the bailiff belongs may, upon motion, permit the attachment of Movables for which attachment has been cancelled under Paragraph 1, or order the cancellation, in whole or part, of the attachment under said Paragraph.
3. Where a motion has been filed seeking a ruling of cancellation for an attachment under Paragraphs 1 or 2, the court of first instance to which the bailiff belongs may order a stay of compulsory execution with or without the posting of security until such ruling comes into effect.
4. A *Chomtoah Appeal* may be filed for rulings dismissing motions under Paragraphs 1 or 2, or rulings permitting attachment under said provisions.

**382. Claims immune from attachment**

1. Salaries, wages, and other claims in the nature of compensation for work may be attachable only within the limits set forth below in respect to the balance remaining after deduction of taxes and social insurance premiums from the amount receivable by the Debtor-in-Execution on the date of payment of such compensation:
  - (a) an initial amount of up to 200,000 riel per month shall be immune from attachment;
  - (b) no more than one quarter of the amount from 200,000 riel to 600,000 riel per month may be attached;
  - (c) no more than one third of the amount from 600,000 riel to 2,000,000 riel per month may be attached;
  - (d) no more than one half of the amount from 2,000,000 riel to 4,00,000 riel per month may be attached;
  - (e) no more than two thirds of the amount from 4,000,000 riel to 6,00,000 riel per month may be attached; and
  - (f) the entirety of the amount exceeding 6,000,000 riel per month may be attached.
2. Claims to receive livelihood support, educational support, medical support or other support having the objective of protecting the life of the Debtor-in-Execution may not be attached.

**383. Change of scope of claims immune from attachment**

1. The Execution Court may, upon motion, cancel in whole or a part the attachment ruling, or issue an attachment ruling for the claims prohibited from attachment under **Article 380 (Movables immune from attachment)**, in whole or part, taking into account the living conditions and other circumstances of the Debtor-in-Execution and the Creditor-in-Execution.
2. Where there has been a change in circumstances, the Execution Court may, upon motion, attach the claims over which the attachment ruling had been cancelled under Paragraph 1, or cancel the attachment ruling under said Paragraph in whole or part.

3. Where a motion is filed under Paragraphs 1 or 2, the Execution Court may order a prohibition on the payment or other performance by a third party debtor described in **Article 402 (Meaning of Execution of Claims and Execution Court)**, with or without the posting of security, until such ruling comes into effect.
4. A *Chomtoah Appeal* may be filed against a ruling dismissing the motion for cancellation of the attachment ruling under Paragraphs 1 or 2.

## Section II. Execution Against Movable

### **384. Commencement of execution against Movable**

1. A motion for compulsory execution against Movable shall be filed with a bailiff belonging to the court of first instance with jurisdiction over the location of the property subject to the execution.
2. In addition to the information listed in Paragraph 2 of **Article 349 (Method for motions for compulsory execution)**, the location(s) of the Movable to be attached shall be stated in the written motion for execution against the Movable.
3. Compulsory execution against Movable shall commence with the bailiff's attaching the property that is subject to the execution.
4. "Movable" as set forth in this Book include natural fruits that have not yet been separated from the land if it is certain that said fruits can be harvested within one month of the execution.
5. Should the bailiff meet the Debtor-in-Execution at the site of attachment, he shall request such debtor to make a voluntary payment prior to the commencing of the attachment.
6. In the course of carrying out execution against the Movable, the bailiff may receive payment of the claim and Execution Costs on behalf of the Creditor-in-Execution.

### **385. Attachment of Movable in the possession of the Debtor-in-Execution**

1. Attachment of Movable in the possession of the Debtor-in-Execution shall be executed through the bailiff's taking possession of the Movable thereof.
2. At the time of attachment under Paragraph 1, the bailiff may enter the residence or other locations occupied by the Debtor-in-Execution and search for the Movable to be attached. In such case the bailiff may take necessary actions to open locked doors, safes, and/or other containers.
3. In selecting Movable for attachment, the bailiff shall take into account the interests of the Debtor-in-Execution to the extent that this does not harm the interests of the Creditor-in-Execution.
4. A bailiff may have a Debtor-in-Execution maintain the Movable that the bailiff has attached should the bailiff find it appropriate. In such case, the attachment shall be valid provided that a seal or other indication of attachment has been affixed to the attached Movable.
5. Where a bailiff allows the Debtor-in-Execution to maintain the attached Movable under Paragraph 4, the bailiff may permit the Debtor-in-Execution to use such attached Movable if the bailiff

finds it appropriate.

6. Should the bailiff find it necessary, he/she may take custody of the Movables that the Debtor-in-Execution was allowed to maintain under the provisions of Paragraph 4, or may cancel the permission under the provisions of Paragraph 5. The provisions of Paragraph 2 shall apply *mutatis mutandis* to cases wherein the bailiff takes custody of the Movables that the Debtor-in-Execution was allowed to maintain.

**386. Attachment of Movables in the possession of persons other than the Debtor-in-Execution**

The provisions of Paragraphs 1, 3, 4, 5, and 6 of **Article 385 (Attachment of Movables in the possession of the Debtor-in-Execution)** shall apply *mutatis mutandis* to cases where the Movables are in the possession of the Creditor-in-Execution, or where the Movables are in the possession of a third party with such third party not refusing to present the Movables.

**387. Special rules relating to registered automobiles and other vehicles**

1. Where the attached automobile or motorcycle has been entered into a register, the bailiff shall entrust the relevant government agency to enter the facts of said attachment into such register.
2. The attachment of automobiles or motorcycles described in Paragraph 1 shall come into effect upon the entry of such attachment in said register.
3. The provisions of Paragraph 1 and 2 shall apply in the same manner to Movables other than automobiles and motorcycles that are required to be registered.

**388. Consolidation of cases**

1. Should a further motion for execution against the Movables be filed against a Debtor-in-Execution, for whom attachment has already been carried out at the same location, the bailiff shall attach the Movables which have not yet been attached, and should there be no remaining Movables to be attached, shall declare such fact and shall consolidate any later Movables execution cases with the previous Movables execution case. The same shall apply if a motion for execution against the Movables is filed against a Debtor-in-Execution towards whom provisional execution has already been carried out at the same location.
2. Should two Movable execution cases be consolidated in accordance with the first sentence of Paragraph 1, the Movables attached in the latter case shall be deemed to have been attached in the previous case at the time of consolidation of the cases, and the motion in the latter case shall come into effect as a demand for distribution. Should the creditor in the previous case withdraw the motion for execution against the Movables or if the proceedings commenced by that motion be stayed or cancelled, the Movables attached in the previous case shall be deemed to have been attached in the latter case at the time of the consolidation of the cases.
3. Should a provisional attachment execution case and a case of execution against Movables be consolidated in accordance with the

second sentence of Paragraph 1, the Movables attached provisionally in the provisional attachment case shall be deemed to have been attached in the case of execution against Movables at the time of consolidation, and the motion in the provisional attachment execution case shall have the effect of a demand for distribution. Should the creditor in the case for execution against Movables withdraw the motion for execution against the Movables, or should the proceedings commenced by that motion be cancelled, the Movables attached in the case for execution against Movables shall be deemed to have been attached in the provisional attachment execution case at the time of the consolidation of the cases.

4. Upon the consolidation of the cases, the bailiff shall notify the Creditor-in-Execution, the creditor in the provisional attachment execution, and the Debtor-in-Execution of the details of such consolidation.

### **389. Effect scope of attachment**

The effects of attachment shall extend to all natural products coming from the attached Movables.

### **390. Ruling ordering the delivery of attached Movables**

1. Where the attached Movables have come into the possession of a third party, the court of first instance to which the bailiff belongs may, upon motion by the Creditor-in-Execution and via the issuing of a ruling, order that such third party deliver the Movables to the bailiff.
2. The motion referred to in Paragraph 1 shall be filed no later than one week after the Creditor-in-Execution becomes aware of the attached Movables being in the possession of a third party.
3. A *Chomtoah Appeal* may be filed against a ruling on the motion referred to in Paragraph 1.
4. A ruling pursuant to the provisions of Paragraph 1 shall not be enforced once two weeks have passed since the moving party was notified of the ruling.
5. A ruling pursuant to the provisions of Paragraph 1 may be enforced prior to service upon the third party who is in possession of the attached Movables.
6. The costs arising from the ruling pursuant to the provisions of Paragraph 1 shall be deemed to be costs of common benefit of the proceedings for compulsory execution against such Movables.

### **391. Prohibition of excessive attachment**

1. Attachment of Movables shall not be carried out in excess of that which is necessary for payment of the claims of the Creditor-in-Execution and the Execution Costs.
2. Should it become clear after attachment that the limit described in Paragraph 1 was exceeded, the bailiff shall cancel the attachment to the extent of such excess.

### **392. Prohibition of attachments with no prospects for producing a surplus**

1. The bailiff shall not carry out an attachment if there is no prospect of achieving a surplus after payment of the Procedural Costs from

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- the proceeds of the sale of the Movables to be attached.
2. The bailiff shall cancel the attachment if there are no prospects for achieving a surplus after paying any claims that have priority over the claim of the Creditor-in-Execution and the Procedural Costs from the proceeds of sale of the attached Movables.

**393. Cancellation of attachment where there are no prospects for sale**

In cases where the bailiff has attempted by appropriate methods to sell the attached Movables but was unable to sell said property and there are no prospects for sale in the future, the bailiff may void the attachment over such Movables.

**394. Demand for distribution by holder of statutory lien**

A person holding a statutory lien or pledge may demand distribution by submitting a document evidencing such right.

**395. Method of sale**

1. The bailiff shall carry out the sale of the attached Movables via auction or tender.
2. Notwithstanding the provisions of Paragraph 1, the bailiff may, with permission obtained from the court of first instance to which he/she belongs, sell the attached Movables by a method other than auction or tender, or have a person other than the bailiff sell said property should the bailiff find it appropriate in consideration of the type, quantity or other characteristic of the Movables.
3. The bailiff shall post notice of the Movables to be sold and the method of sale on the notice board.
4. The Debtor-in-Execution may not offer to purchase the Movables.
5. Once the bailiff approves a purchase, the purchaser shall pay the price forthwith.
6. Should the Movables be resold due to a purchaser's failure to pay the purchase price, said previous purchaser may not make any further offers to purchase the Movables.
7. Where the bailiff has attached Movables of high value, the bailiff shall select a valuator and have the Movables valued.

**396. Maintenance of order on the sale premises**

Where a person engages in or causes others to engage in activities preventing other people from offering to purchase, colluding to reduce the sales price improperly or otherwise preventing the proper implementation of the sale, the bailiff may restrict such person's entry onto the sale premises, eject such person therefrom, or disallow such person from making an offer for purchase.

**397. Sale during stay of execution**

1. Should a document listed in Item (a) or (b) of Paragraph 2 of **Article 370 (Stay and cancellation of compulsory execution)** have been submitted, the bailiff may sell the attached Movables only if there is a risk of severe depreciation of the price of the attached Movables, or if an incommensurate cost is required to store such Movables.
2. The bailiff shall deposit the proceeds of the sale of the attached Movables with the court of first instance to which he/she belongs in accordance with Paragraph 1.

**398. Scope of creditors entitled to distribution**

The creditors listed below shall be entitled to distribution:

- (a) the Creditor-in-Execution;
- (b) with regard to the proceeds of sale, the creditors who have made a demand for distribution prior to the bailiff receiving such proceeds; and
- (c) with regard to attached money, the creditors who have a demand for distribution prior to the attachment of such money.

**399. Execution of distribution by the bailiff**

- 1. Should there be only one creditor, or two or more creditors with the proceeds of the sale and attached money being sufficient to pay all the claims of each creditor and the Execution Costs, the bailiff shall execute the distribution of such to the creditors and shall deliver any residuals to the Debtor-in-Execution.
- 2. Except for cases described in Paragraph 1, if the bailiff has received the proceeds of the sale or has attached money, the bailiff shall set a date for a meeting concerning the distribution of the proceeds of the sale or the attached money within two weeks thereof, and shall notify each of the creditors of the date, time and place of said meeting. If consensus is reached among the creditors, the bailiff shall then execute the distribution of said proceeds pursuant to said consensus.
- 3. Where a document listed in Items (a) through (g) of Paragraph 1 of **Article 370 (Stay and cancellation of compulsory execution)** is submitted after the purchaser has paid the sales price, the bailiff shall, if there are creditors entitled to distribution other than the Creditor-in-Execution, execute the distribution on behalf of said creditors.
- 4. Even if a document listed in Items (a) or (b) of Paragraph 2 of **Article 370 (Stay and cancellation of compulsory execution)** has been submitted subsequent to the purchaser having paid the sales price, the bailiff shall execute the distribution.
- 5. Claims with a definite duration that has yet to come due shall be deemed to have come due for the purpose of the distribution.

**400. Deposit by bailiff with the court**

- 1. Where the claim of a creditor entitled to distribution carried out under Paragraphs 1 or 2 of **Article 399 (Execution of distribution by the bailiff)** is found to have any of the following characteristics, the bailiff shall make a deposit with the court of first instance to which he/she belongs in the amount of the distribution for such claim, and shall draft a report of such circumstances:
  - (a) the claim is subject to a condition precedent or specific event;
  - (b) the claim is a claim of a provisional attachment by a creditor;
  - (c) a document listed in Item (a) of Paragraph 2 of **Article 370 (Stay and cancellation of compulsory execution)** has been submitted; or
  - (d) a true copy of a decision that temporarily prohibits the execution of a statutory lien or pledge relating to the claim has been submitted.
- 2. The bailiff shall make a deposit with the court of first instance to which he/she belongs in the amount of the distribution to the



creditor not present to receive said distribution.

**401. Report to court of first instance**

If a consensus is not reached under Paragraph 2 of **Article 399 (Execution of distribution by the bailiff)**, the bailiff shall report such circumstances to the court of first instance to which he/she belongs.

**Section III. Execution Of Claims and Other Property Rights**

**402. Meaning of Execution of Claims and Execution Court**

1. An "Execution of Claim" refers to an execution of a claim for which the subject matter is a monetary payment or the delivery of Movableables.
2. The debtor of the claim to be attached is referred to as the "Third Party Debtor".
3. The court of first instance having jurisdiction over the domicile/residence of the Debtor-in-Execution described in **Article 8 (Jurisdiction determined by domicile)**, or should there be no such location, the court of first instance having jurisdiction over the place of the Third Party Debtor as set forth in **Article 8 (Jurisdiction determined by domicile)** shall be the Execution Court having jurisdiction over the execution of the claim.
4. Should a further attachment ruling be issued with respect to an attached claim, the Execution Court may transfer the case to the other Execution Court if that other Execution Court issued the attachment ruling.

**403. Attachment ruling**

1. A motion for the Execution of Claim shall be filed at the Execution Court.
2. In addition to the matters listed in each Item of Paragraph 2 of **Article 349 (Method for motions for compulsory execution)**, the written motion for the Execution of Claim shall specify the Third Party Debtor.
3. Where the motion is seeking execution for only part of the claim, the Creditor-in-Execution shall clearly specify the scope of said execution in the written motion thereto.
4. Execution of Claim commences via the attachment ruling issued by the Execution Court.
5. In the attachment ruling the Execution Court shall enjoin the Debtor-in-Execution from collecting or otherwise disposing of the claim, and shall enjoin the Third Party Debtor from making payment to the Debtor-in-Execution.
6. The attachment ruling shall be issued without a questioning of the Debtor-in-Execution or the Third Party Debtor.
7. The attachment ruling shall be served on the Debtor-in-Execution and the Third Party Debtor.
8. Attachment shall come into effect upon service of the attachment ruling on the Third Party Debtor.
9. Once the attachment ruling has been served on the Debtor-in-Execution and the Third Party Debtor, the bailiff shall notify the Creditor-in-Execution of said fact and of the date of service.
10. Once an attachment ruling over a claim secured through a registered

hypothec or other security right has come into effect, the court clerk shall, upon motion by the Creditor-in-Execution, entrust the relevant government agency with performing a registration which states that such claim has been attached.

11. A *Chomtoah Appeal* may be filed for the decision on a motion for an attachment ruling.

#### **404. Scope of attachment**

1. The Execution Court may issue an attachment ruling in respect to the entirety of the claim to be attached.
2. Should the value of the attached claim(s) exceed the total amount of the Creditor-in-Execution's claim and the Execution Costs, the Execution Court shall not attach any other claims.
3. Should a portion of a claim have been attached or should provisional attachment have been executed against a portion of a claim, if an attachment ruling that exceeds the remaining portion of the claim has been issued, the effect of each attachment or provisional attachment shall extend to the whole of the claim. The same shall apply if the whole of a claim has been attached or subjected to provisional attachment execution with another subsequent attachment ruling being issued in respect to a portion of such claim.

#### **405. Notice to Third Party Debtor to give statement**

1. Upon motion by the Creditor-in-Execution, the Execution Court shall notify and demand, at the time of service of the attachment ruling, that the Third Party Debtor provide a statement within two weeks of the date of service as to the following matters:
  - (a) whether the attached claim exists or not, and if so, the type, amount and details thereof;
  - (b) whether the Third Party Debtor intends to make payment or not, the scope of payment, or the reasons for not paying;
  - (c) if there are any persons having rights with priority over those of the Creditor-in-Execution in respect to the claim in question, an indication of such person and of the type and scope of such priority rights; and/or
  - (d) whether there has been any attachment or provisional attachment execution by other creditors.
2. Should the Third Party Debtor intentionally or negligently fail to make a statement or make a false statement, he/she will be liable to compensate for any damages suffered thereby.

#### **406. (Delivery of claim certificate)**

1. Should a certificate exist for the attached claim, the Debtor-in-Execution shall deliver such certificate to the Creditor-in-Execution.
2. Based on an attachment ruling, the Creditor-in-Execution may have the certificate referred to in paragraph 1 delivered by using the method of compulsory execution for delivery of Movables as described in **Article 525 (Compulsory execution of delivery of Movables)**.

#### **407. Attachment of continuing payments**

The effect of attachment over salaries or other claims to be paid continuously shall extend to payments to be received after the attachment

and up to the total amount of the Creditor-in-Execution's claim and Execution Costs.

**408. Notice of withdrawal of motion**

1. If a motion for execution of a claim has been withdrawn, the court clerk shall give notice of this fact to the Third Party Debtor who has been served with the attachment ruling.
2. If a ruling to cancel the proceedings for the execution of a claim has been issued, the court clerk shall give notice of this fact to the Third Party Debtor who has been served with the attachment rulings.

**409. Demand for distribution**

1. Any creditor who holds a true copy of an enforceable Title of Execution or who has evidenced, through documentation, that he/she holds a statutory lien may demand distribution.
2. Upon a demand for distribution described in Paragraph 1, the Execution Court shall serve written notice thereof on the Third Party Debtors.
3. A *Chomtoah Appeal* may be filed against a ruling to dismiss a demand for distribution.

**410. Collection of claims for which the subject matter is a monetary payment**

1. Once a creditor has attached a claim whose subject is a monetary payment, such creditor may collect said claim after a week has passed from the day on which the attachment ruling was served on the Debtor-in-Execution. Payment in excess of the total amount of the Creditor-in-Execution's claim and the execution costs may not be collected.
2. Once the Creditor-in-Execution has received payment from the Third Party Debtor, the claim and execution costs shall be deemed to have been paid to the extent of such payments being received.
3. Where the Creditor-in-Execution receives payment under Paragraph 2, it shall report this fact immediately to the Execution Court.
4. The Creditor-in-Execution shall be liable to compensate the Debtor-in-Execution for any damages arising from the failure of the Creditor-in-Execution to exercise the attached claim.

**411. Court deposit by Third Party Debtor**

1. The Third Party Debtor may make a deposit with the Execution Court of money in the attached amount or the whole amount of the claim for a claim whose subject is a monetary payment.
2. For the below situations, the Third Party Debtor shall make a court deposit of money, in the amount described below, with the Execution Court:

(a)	If an attachment ruling or provisional attachment ruling has been issued in excess of the portion of the claim that has not been attached, and this ruling has been served by the time that the Third Party	The whole amount of the claim
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	Debtor receives the written complaint of a motion set forth in <b>Article 412 (Collection actions)</b> Paragraph. 1 ; or	
(b)	If the Third Party Debtor has been served with a written notice that a demand for distribution has been made	The portion of the claim that has been attached

3. If the Third Party Debtor has made a court deposit as set forth in Paragraphs 1 or 2, the Third Party Debtor shall give notice of the circumstances of such to the Execution Court.

#### **412. Collection actions**

1. Where a Creditor-in-Execution has filed an action against a Third Party Debtor demanding payment under an attached claim, the court in charge of such action may, upon motion by the Third Party Debtor and by the issuing of a ruling, order the other creditors that had attached such claim at the time of service of the complaint to participate in such action as co-plaintiffs.
2. The effect of the judgment in the action described in Paragraph 1 shall extend to Creditors-in-Execution who have been ordered to participate in the action under that Paragraph even should they have not actually have participated as such.
3. For actions under Paragraph 1 against a Third Party Debtor who is subject to a court deposit duty under Paragraph 2 of **Article 411 (Court deposit by Third Party Debtor)**, should the plaintiff's claim be granted, the court in charge of the action shall issue an order within the main text of its judgment stating that monetary payment of the claimed amount shall be made by way of court deposit.

#### **413. Ruling ordering sale**

1. Where the attached claim is subject to a condition precedent or specific event, where the attached claim is difficult to collect due to such claim being subject to counter-performance, or for any other reason, the Execution Court, upon motion by the Creditor-in-Execution, may issue a ruling ordering the bailiff to sell the claim in the manner prescribed by the court and to submit the proceeds of such sale to the Execution Court.
2. In issuing a ruling under Paragraph 1, the Execution Court shall question the Debtor-in-Execution. This shall not apply where the Debtor-in-Execution is out of the country or his/her address is unknown.
3. The Execution Court shall not issue an order described in Paragraph 1 if there are no prospects for a residual after applying the proceeds of sale to payment of the claim having priority over the claim of the Creditor-in-Execution and the procedural costs.
4. A *Chomtoah Appeal* may be filed for a ruling on a motion under Paragraph 1.
5. A ruling on a motion under Paragraph 1 shall have no effect unless it has become final and binding.
6. When issuing a ruling under Paragraph 1, the Execution Court may, should the court find it necessary, select a valuator and order the valuation of the claim.
7. The bailiff shall not sell the claim unless the sales price is of

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sufficient value to leave a residual after satisfying the claim having priority over the claim of the Creditor-in-Execution and the procedural costs.

8. The Debtor-in-Execution is not permitted to make an offer for purchase in the sale under Paragraph 1.
9. When the attached claim is sold, the bailiff shall, in lieu of the Debtor-in-Execution, notify the Third Party Debtor of the claim assignment by delivering an instrument bearing a certification date.
10. When the sale of a claim described in Paragraph 10 of **Article 403 (Attachment ruling)** has been completed under Paragraph 1 of this Article, the court shall, on motion by the purchaser who acquired said claim, entrust the authorized government agent with registering the transfer of the hypothec or other security right for the benefit of the purchaser, and entrust the authorized government agency to expunge the registration entry that had been carried out under Paragraph 10 of **Article 403 (Attachment ruling)**.

#### **414. Execution of attachment ruling over the claim right to demand delivery of Movables**

1. Upon one week having passed from the serving of the attachment ruling on the Debtor-in-Execution, the creditor who has attached the claim right to demand delivery of Movables may demand the Third Party Debtor to deliver such Movables to the bailiff who has received the motion from the Creditor-in-Execution.
2. Once the bailiff has received the Movables, he/she shall sell them in accordance with the sales proceedings set forth in the Movables execution and submit the sales proceeds to the Execution Court.

#### **415. Scope of creditors entitled to distribution**

Creditors entitled to distribution shall be those who have carried out attachment or provisional attachment execution or made a demand for distribution no later than any events set forth below:

- (a) the time at which the Third Party Debtor made the court deposit under Paragraph 1 or 2 of **Article 411 (Court deposit by Third Party Debtor)**;
- (b) the time at which the petition for collection action has been served on the Third Party Debtor;
- (c) the time at which the proceeds of the sale pursuant to a ruling ordering sale are delivered to the bailiff; or
- (d) the time at which Movables are delivered to the bailiff in the case of attachment over a claim right to demand delivery of Movables.

#### **416. Compulsory execution against other property rights**

Except where specifically provided otherwise, compulsory execution against rights of property other than immovables, Vessels, movables and claims shall follow the example of execution against claims.

### **Section IV. Execution against Immovables**

#### **Sub-section I. Subject matter of execution against Immovables, execution organs,**

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method of execution, method of attachment, means of public notice, and  
preservative dispositions

**417. Subject matter and method of compulsory execution against  
immovables**

1. In this section, the term "Immovable" refers to land, registered buildings, jointly held shares of such, registered perpetual leases and usufructs, and jointly held shares in those foregoing rights.
2. Execution against immovables shall be effected using the compulsory sale method.
3. A written motion for execution against the immovables shall be attached to a true copy of an enforceable Title of Execution, together with:
  - (a) a certified copy of the register in the case of a registered Immovable, and if a person other than the Debtor-in-Execution is documented as an owner in the register, a document proving the Immovable is owned by the Debtor-in-Execution; or
  - (b) in the case of land that is unregistered, a document proving that the land is owned by the Debtor-in-Execution.

**418. Execution Court**

The courts described below shall have jurisdiction as the Execution Court in respect to compulsory execution against immovables:

- (a) where the subject matter of the execution is land or a registered building, the court of first instance having jurisdiction over the location of such Immovable; and
- (b) where the subject matter of the execution is a jointly held share of land or a registered building, a registered perpetual lease or usufruct, or a jointly held share in the foregoing rights, the court having jurisdiction over the place of registration of such rights.

**419. Ruling for commencement of compulsory sale**

1. In order to commence compulsory sale proceedings, the Execution Court shall issue a ruling for the commencement of compulsory sale and declare in such ruling that the Immovable be attached for the benefit of the Creditor-in-Execution.
2. The ruling for commencement under Paragraph 1 shall be served on the Debtor-in-Execution.
3. A *Chomtoah Appeal* may be filed against a ruling dismissing the motion for compulsory execution against immovables.

**420. Entrustment for registration of attachment**

1. Upon the issuance of a ruling for commencement of compulsory sale, the court clerk shall immediately entrust the competent government agency to register the attachment under such ruling.
2. Upon registration of the attachment pursuant to entrustment under paragraph 1, the competent government agency shall send a certified copy of the register to the court clerk.

**421. Effect of attachment**

1. The effect of attachment over immovables shall extend to objects that are attached to the immovables and form a single entity with the Immovable as well as any accessories and accessory rights thereof.
2. The effect of the attachment shall arise from the serving of the ruling for commencement of compulsory sale on the Debtor-in-Execution. Should registration of the attachment be carried out prior to service of the ruling for commencement of compulsory sale, said effect shall arise at the time of such registration.
3. Attachment shall not preclude the Debtor-in-Execution from using the property in a normal manner and profiting from the Immovable. This shall not apply where a claim whose subject matter is payment of rents for the Immovable is attached pursuant to **Article 516 (Attachment of claim for rents of Immovable)**, or where preservative disposition has been ordered pursuant to **Article 429 (Preservative dispositions)**.

**422. Final date for demands for distribution and its alteration**

1. For cases where attachment has come into effect through a ruling for commencement of compulsory sale, except in cases where a double ruling for commencement of compulsory sale has been issued under **Article 424 (Double ruling for commencement)** Paragraph 1, the Execution Court shall determine the final date for demands for distribution, taking into consideration the period required to prepare the specifications of the property.
2. Once the final date for demands for distribution has been set, the Execution Court shall give public notice of the fact that a ruling for commencement has been issued and of the final date for demands for distribution, and shall demand the following persons to report to the Execution Court by said final date concerning whether they have a claim, the grounds of such claim and the amount thereof:
  - (a) creditors who have made provisional attachments registered prior to the registration of the attachment based on the first ruling for commencement of compulsory sale concerning the Immovable;
  - (b) creditors holding a real security right that was registered prior to the registration of the attachment based on the first ruling for commencement of compulsory sale concerning the Immovable; and
  - (c) government agencies having jurisdiction over taxes or other public imposts.
3. For cases provided in Paragraph 2, the Execution Court shall demand the persons stated in Paragraph 2 to complete the following actions:
  - (a) to report whether or not the person has an intention to enforce the real security right by the final date for demands for distribution; and
  - (b) in cases where the person has an intention to enforce such real security rights, to file a motion to enforce such real security right by the final date for demands for distribution.
4. If no ruling permitting sale has been issued within 3 months of the final date for demands for distribution, the Execution Court may change such final date.

5. Should the final date for demands for distribution have been changed in accordance with Paragraph 4, the Execution Court shall give public notice of such change.

**423. Duty to report the claim by the person demanded**

1. Persons listed in Items (a), (b) or (c) of Paragraph 2 of **Article 422 (Final date for demands for distribution and its alteration)** who have been thus demanded under said paragraph or Paragraph 3 of said article, shall report the matters specified in such demand prior to the final date for demands for distribution.
2. Should there be a change in the principal amount of the claim reported under Paragraph 1, the person who made such report shall also report said change.
3. Should a person required to report under Paragraphs 1 or 2 intentionally or negligently fail to make such report or make a false report, he/she shall be liable for any damages suffered thereby.

**424. Double ruling for commencement**

1. Where an additional motion for compulsory execution is filed in respect to an Immovable over which a ruling for commencement of compulsory sale has been issued, the Execution Court shall, if such motion is granted, issue another ruling for commencement of compulsory sale. In such case, the court shall send a notice of this fact to the Creditor-in-Execution under the earlier ruling for commencement.
2. Should the motion for compulsory sale in the earlier ruling for commencement be withdrawn or the proceedings based on the earlier ruling for commencement be cancelled, the Execution Court shall continue the proceedings on the basis of the later ruling for commencement of compulsory sale.
3. In the case set forth in paragraph 2, should the later ruling for commencement of compulsory sale be based on a motion that was filed after the final date for demands for distribution, the Execution Court shall determine a new final date for demands for distribution. In such case, the demand described in the provisions of Paragraph 2 of **Article 422 (Final date for demands for distribution and its alteration)** shall not be necessary for persons who have already made the report under Paragraph 1 of **Article 423 (Duty to report the claim by the person demanded)**.
4. Should the compulsory sale proceedings based on the earlier ruling for commencement be stayed, the Execution Court shall give notice of this fact to the Creditor-in-Execution under the later ruling for commencement. For such case, the Execution Court may, upon motion, issue a ruling that the proceedings continue based on the later ruling for commencement for which a motion was filed by the final date for demands for distribution. This shall not apply in cases for which there would be a change in a matter described in Paragraphs 1 to 3 of **Article 431 (Rights that remain in existence and rights that are extinguished upon sale)** if the compulsory sale under the earlier ruling for commencement were cancelled.
5. Should a ruling be issued in accordance with Paragraph 4, the Execution Court shall give notice of this fact to the Debtor-in-Execution.
6. A *Chomtoah Appeal* may be filed against a ruling dismissing a motion



under Paragraph 4.

**425. Double ruling for commencement in the enforcement of real security right and execution against an Immovable**

Paragraphs 1 to 3 of **Article 424 (Double ruling for commencement)** shall apply *mutatis mutandis* to cases where a motion for compulsory execution is filed in respect to an Immovable over which a ruling for commencement of compulsory sale has already been issued as an enforcement of a real security right.

**426. Demand for distribution**

1. Persons listed below are entitled to make a demand for distribution:
  - (a) creditors holding a true copy of a Title of Execution that is enforceable by compulsory execution in accordance with Paragraph 1 of **Article 354 (Requirements for execution clause and organs granting such clause)**. This shall not apply to creditors holding real security rights that will remain in existence even after the sale of the Immovable pursuant to Paragraph 1 of **Article 431 (Rights that remain in existence and rights that are extinguished upon sale)**;
  - (b) creditors who have registered provisional attachment after the registration of attachment based on a ruling for commencement of compulsory sale; and
  - (c) creditors who prove through documentation that they hold a general statutory lien.
2. A demand for distribution shall be in writing and state the grounds and the amount of the claim, including interest and other ancillary claims.
3. Should a demand for distribution be made, the Execution Court shall notify the Creditor-in-Execution and the Debtor-in-Execution of this fact.
4. A *Chomtoah Appeal* may be filed against a ruling dismissing a demand for distribution.

**427. Cancellation of compulsory sale proceedings for reasons such as destruction or loss of the Immovable**

The Execution Court shall cancel the compulsory sale proceedings in the event of destruction or loss of the Immovable, or other circumstances that prevent the transfer of the Immovable via sale are found.

**428. Entrustment for striking out of registration of attachment**

1. Should a motion for compulsory sale be withdrawn, or a ruling canceling compulsory sale proceedings come into effect, the court clerk shall entrust the authorized government agency with expunging the registration entry of the attachment based on the ruling for commencement.
2. The expenses arising from the entrustment under Paragraph 1 shall be borne by the Creditor-in-Execution who withdraws the motion or by the Creditor-in-Execution who receives the ruling of cancellation.

#### **429. Preservative dispositions**

1. Should the debtor or a possessor of an Immovable be committing or be likely to commit an act that will severely reduce the value of the Immovable or render the sale or delivery of the Immovable difficult, then upon motion by the Creditor-in-Execution, or the highest bidder or purchaser, the Execution Court may, via the issuing of a ruling, prohibit such person who is committing or is likely to commit such act from committing such act, order such person to carry out a certain act, or order the possession of the Immovable to be transferred to the custody of the bailiff with or without the posting of security. Such order of the custody by the bailiff may only be allowed should the possessor of the Immovable be unable to assert his/her right to possession against the purchaser.
2. Should the Execution Court wish to issue a ruling under Paragraph 1 against a possessor other than the Debtor-in-Execution, the Execution Court shall question such possessor. This shall not apply for urgent cases.
3. Should circumstances change, the Execution Court may, upon motion, cancel or amend the ruling under Paragraph 1.
4. A *Chomtoah Appeal* may be filed against a ruling on the motion filed under Paragraphs 1 or 3.
5. A ruling issued under Paragraph 1 may be enforced even before it is served on the counterparty.
6. The costs incurred from the motion or ruling under Paragraph 1 shall be deemed to be a common benefit cost in the compulsory sale proceedings for such Immovable.

### **Sub-section II. Conditions of sale**

#### **430. Valuation**

1. The Execution Court shall appoint a valuator and order a valuation of the Immovable based on an examination of its configuration, possession, and other existing characteristics.
2. The valuator shall obtain the permission of the Execution Court in order to request the assistance of the bailiff pursuant to Paragraph 2 of **Article 338 (Ensuring performance of duties by bailiffs)**.
3. When carrying out an examination for the purpose of valuation, the valuator may enter the Immovable, question the Debtor-in-Execution or other third party in possession thereof, and request such persons to present documents.
4. A bailiff whose assistance has been requested by a valuator under Paragraph 2 of **Article 338 (Ensuring performance of duties by bailiffs)** may take actions necessary to open locked doors in situations where the valuator enters the Immovable pursuant to Paragraph 3.
5. The valuator shall report in writing to the Execution Court the results of examination of the Immovable and its valuation.

#### **431. Rights that remain in existence and rights that are extinguished upon sale**

1. Real security rights, usufructuary real rights, and leases on the Immovables that can be asserted against attachment by the

- Creditor-in-Execution, shall remain in existence after sale.
2. Rights over the Immovable other than those described in Paragraph 1 shall be extinguished upon sale.
  3. Attachment over Immovables, execution of provisional attachment over Immovables, or execution of provisional disposition over Immovables that cannot be asserted against the Creditor-in-Execution or the provisional attachment creditor, will lapse upon sale.
  4. Should an interested person gives notice by the time of the fixing of the minimum sale price that an agreement deviating from the provisions of Paragraphs 1 and 2 has been made, such agreement shall govern the change of such right for the Immovable through sale.

#### **432. Determination of minimum sale price**

1. The Execution Court shall fix the minimum sales price on the basis of the valuation of the valuator.
2. The Execution Court may, if it finds necessary, change the minimum sales price.

#### **433. Sale of Immovables collectively**

The Execution Court may decide to conduct a sale of a number of Immovables collectively should the court find it reasonable to have one purchaser purchase them together in light of the mutual use of such immovables, even if such Immovables have different Creditors-in-Execution or Debtors-in-Execution. Should the all of the claims of the Creditors-in-Execution and Execution Costs be likely to be satisfied by the minimum sale price of a portion of the immovables against which a ruling for commencement of compulsory sale has been issued on the basis of a single motion, this provision shall apply assuming the receiving of consent from the Debtor-in-Execution.

#### **434. Specifications of property**

1. The Execution Court shall prepare the specifications of the property and maintain a copy of such specifications together with the valuator's valuation report and make such available for public viewing at the court. The specifications of property shall state the following information:
  - (a) a description of the Immovable; and
  - (b) the rights pertaining to the Immovable that will remain in existence after sale in accordance with **Article 431 (Rights that remain in existence and rights that are extinguished upon sale)** Paragraph 1 and the execution of provisional disposition that will not lapse upon sale.
2. The Execution Court may, if it finds necessary in order to prepare the specifications provided in the Paragraph 1, order a bailiff to examine the configuration, possession, structure of a building should the building exist on the land or should the subject of execution be a building, or any other existing circumstances, and order the bailiff to report the results of said examination in writing.
3. A bailiff shall possess the same authority as that of a valuator provided in Paragraph 3 of **Article 430 (Valuation)** when examining the existing circumstances of the Immovable according to the order provided in Paragraph 2. The bailiff may take necessary actions to

open locked doors.

**435. Measures to be taken if a surplus are unlikely**

1. Should the Execution Court find that a residual is unlikely to exist after paying the Procedural Costs out of the minimum sale price of the Immovable, the court shall notify the Creditor-in-Execution of this fact.
2. The Execution Court shall cancel any compulsory sale proceedings that have arisen from a motion filed by the Creditor-in-Execution when the Creditor-in-Execution fails to perform the following actions:
  - (a) make an offer to purchase the property by him/herself in a fixed amount should there be no other offers for purchase that reach said fixed amount. The offer shall be made within a week of receiving the notice described in Paragraph 1, and said fixed amount shall be in excess of the estimated amount for Procedural Costs; and
  - (b) to provide a money guarantee in the amount offered under Item (a).

**Sub-section III. Method of sale**

**436. (Method of sale)**

1. The sale of the Immovable shall be carried out by tender or auction.
2. If, and only if, the sale cannot be carried out by tender or auction, the sale may be carried out by methods other than tender or auction as prescribed by the Execution Court.
3. In the case of sale by tender or auction, the Execution Court shall set the date, time and place of sale, and have the bailiff carry out said sale.
4. In the case of sale under Paragraph 3, the court clerk shall provide a description of the Immovable to be sold, the minimum sale price, and the date, time and place of sale through public notice.
5. For sale under Paragraph 3, **Article 396 (Maintenance of order on the sale premises)** shall apply *mutatis mutandis*.

**437. Guarantee of offer to purchase**

1. Any person wishing to offer to purchase an Immovable shall provide a money guarantee in the amount of 10 percent of the minimum sale price. The Execution Court may, if it finds appropriate, set an amount for the money guarantee in excess of this amount.
2. On request by a person other than the highest bidder, the Execution Court shall promptly return the money guarantee provided in accordance with Paragraph 1 to such person after the sale has been completed pursuant to **Article 436 ((Method of sale))**.

**438. Prohibitions on offers to purchase by Debtor-in-Execution**

No Debtor-in-Execution shall be entitled to make an offer to purchase.

**439. Determination of highest bidder**

1. After the completion of the tender or auction, the bailiff shall determine the highest bidder, and after announcing the name of said bidder and the amount tendered, shall declare in which the date of tender or auction was closed.
2. In cases where two or more bidders tendered the highest price, the bailiff shall have these bidders propose tender once more in order to determine the highest bidder. In such case, the bidders may not tender a purchase price less than the amount he/she previously tendered.
3. If none of the bidders provided in the Paragraph 2 tenders, the highest bidder shall be determined by lot. The same shall apply in cases where two or more bidders tendered the same highest price in the tender provided in the Paragraph 2.
4. After carrying out the tender or auction, the bailiff shall without delay prepare a tender protocol or auction protocol that states the following matters and submit it to the Execution Court:
  - (a) a description of the Immovable;
  - (b) the date and time of tender or auction;
  - (c) a description of the highest bidder and his/her agent;
  - (d) the price of purchase by the highest bidder;
  - (e) if the highest bidder could not be determined, this fact and the circumstances; and
  - (f) if measures described in **Article 396 (Maintenance of order on the sale premises)** have been taken, the reasons and the measures taken.
5. The bailiff shall have the highest bidder or his/her representative or agent sign the tender protocol or auction protocol.

**440. Date for ruling on sale**

1. The Execution Court shall hold a date for a ruling on the sale and shall issue a declaration as to whether it will or will not permit the sale.
2. If the Execution Court sets a date for ruling on the sale, it shall give notice of this fact to the interested persons.

**441. Statements of opinion concerning permission or non-permission of sale**

Persons having an interest in the permitting or prohibiting of the sale of the Immovable may, on the date for the ruling on the sale, state their opinions concerning any grounds listed in Paragraph 2 of **Article 442 (Permission or non-permission of sale)** that affect their rights.

**442. Permission or non-permission of sale**

1. Except for cases described in Paragraph 2, the Execution Court shall issue a ruling permitting the sale.
2. Where any of following grounds are found, the Execution Court shall issue a ruling prohibiting the sale:
  - (a) the compulsory sale proceedings should not be commenced or continued;
  - (b) the highest bidder is not qualified or incapable of purchasing

the Immovable, or his/her agent is not authorized to purchase the Immovable;

- (c) a motion to prohibit the sale is filed in accordance with Paragraph 1 of **Article 445 (Motion to prohibit sale where the Immovable has been damaged)**;
- (d) there is a serious error in the proceedings in the determination of the minimum sale price; or
- (e) there is a serious error in the sales proceedings.

**443. Measures in case of excessive sale**

- 1. Where more than one Immovable is to be sold, and the whole of the creditors' claims and Execution Costs are likely to be satisfied by the sales price offered for one or a combination of such immovables, the Execution Court shall place a hold on the ruling permitting the sale of the rest of the immovables.
- 2. For cases described in Paragraph 1, if there is more than one combination of Immovables for which the total amount of the offered sales price is likely to satisfy all of the claims of the creditors and Execution Costs, the Execution Court shall, in advance, hear the opinion of the Debtor-in-Execution as to which Immovable(s) should be permitted to be sold.
- 3. The highest bidder for the Immovable, over which a ruling permitting sale has been reserved under Paragraph 1, may cancel his/her offer to purchase at the Execution Court.
- 4. If the price has been paid for the Immovable over which a ruling permitting sale has been issued, the Execution Court shall cancel the compulsory sale proceedings for the immovables coming under Paragraph 3.

**444. (*Chomtoah Appeal* against a ruling permitting or prohibiting sale)**

- 1. An interested party may file a *Chomtoah Appeal* against a ruling permitting or prohibiting sale only in cases where such party's rights would be infringed upon by such ruling.
- 2. A *Chomtoah Appeal* against a ruling permitting sale shall be based on the grounds listed in Paragraph 2 of **Article 442 (Permission or non-permission of sale)** or on the grounds that there is a serious error in the proceedings for the ruling permitting sale.
- 3. The *Chomtoah* appellate court may, if it finds necessary, designate a counterparty to the *Chomtoah* appellant.
- 4. A ruling permitting or forbidding sale shall come into effect only after it becomes final and binding.

**445. Motion to prohibit sale where the Immovable has been damaged**

- 1. In cases where the Immovable is seriously damaged due to a force majeure or other cause not attributable to fault on the part of the highest bidder or purchaser after they had made a purchase offer, such highest bidder or purchaser may file a motion with the Execution Court for the prohibition of sale if a ruling permitting sale has not yet been issued, or may file a motion for cancellation of the ruling permitting sale, if it has already been issued, up until the time of payment of the sales price.
- 2. A *Chomtoah Appeal* may be filed against a ruling on a motion for

- cancellation of a ruling permitting sale under Paragraph 1.
3. The ruling canceling a ruling permitting sale based upon a motion under Paragraph 1 shall not come into effect until it becomes final and binding.

**446. Withdrawal of motion for compulsory sale after making of purchase offers**

In order to withdraw a motion for compulsory sale after an offer to purchase has been made, a Creditor-in-Execution must obtain the consent of the highest bidder or purchaser.

**Sub-section IV. Effect of sale**

**447. Payment of the price**

1. Once the ruling permitting sale becomes final and binding, the purchaser shall pay the sales price to the Execution Court within the period stipulated by the Execution Court. Such period shall be no longer than one month counting from the day on which the ruling permitting sale became final and binding.
2. The money paid by the purchaser as a guarantee of his/her offer to purchase shall be applied to the payment of the price.
3. Should the purchaser be a creditor who is entitled to distribution from the sales price, such purchaser may, upon request to the Execution Court prior to the conclusion of the date for the ruling on sale, make payment of the sale price less the amount of distribution to which he/she is entitled on the distribution date. In such case, should there be any statement of objection to the amount of distribution to which the purchaser is entitled, the purchaser shall immediately pay the amount subject to such objection.
4. The purchaser shall receive ownership of the Immovable at the time of the payment of the price.

**448. Entrustment for registration based on payment of price**

1. Upon the payment of the price by the purchaser, the court clerk shall entrust the authorized government agency with entering and expunging the following registrations:
  - (a) the registration of the transfer of the rights acquired by the purchaser;
  - (b) the striking out of the registration of the acquisition of any rights extinguished by the sale or of any rights that have lapsed due to the sale;
  - (c) the striking out of any registration of provisional disposition that has lapsed due to the sale; and
  - (d) the striking out of any registration of attachment or provisional attachment.
2. When making the entrustment under Paragraph 1, the court clerk shall attach a true copy of the ruling permitting sale to the written entrustment.
3. The costs incurred for the entrustment under Paragraph 1 shall be borne by the purchaser.

**449. Responsibility of the purchaser**

1. If the Debtor-in-Execution is the debtor of a claim secured by a real security right that remains in existence after the sale pursuant to Paragraph 1 of **Article 431 (Rights that remain in existence and rights that are extinguished upon sale)**, the purchaser shall be responsible for satisfying such secured claims.
2. For cases stipulated in Paragraph 1, should the real security right that remains in existence after the sale be a revolving hypothec for which the principle has been finalized, the purchaser shall be responsible for satisfying the claim secured by the revolving hypothec to the extent of the amount of the maximum credit limit.

**450. Ruling ordering delivery of immovables**

1. Upon a motion by the purchaser who has paid the price, the Execution Court may issue a ruling ordering the Debtor-in-Execution or the person in possession of the Immovable to deliver the Immovable to the purchaser. This shall not apply to a person who the court finds is in possession of the Immovable on the basis of a right that can be asserted against the purchaser according to the case record.
2. The purchaser may not file a motion under Paragraph 1 after the lapse of 6 months from the date of the payment of the price.
3. Where the Execution Court is to issue the ruling under Paragraph 1 against a possessor other than the Debtor-in-Execution, the Execution Court shall question said possessor.
4. A *Chomtoah Appeal* may be filed against a ruling on a motion under Paragraph 1.
5. A ruling under Paragraph 1 shall not come into effect until it has become final and binding.

**451. Effect of non-payment of price**

1. Should the purchaser not pay the price, the ruling permitting sale shall become void. In such case, the purchaser shall have no right to demand the return of the money provided as a guarantee for the purchase offer.
2. For the circumstance described in Paragraph 1, the Execution Court shall once again conduct a compulsory sale.
3. The purchaser set forth in Paragraph 1 may not make an offer to purchase under the compulsory sale set forth in Paragraph 2.

**452. Sales price**

1. The sales proceeds to be applied to the distribution shall consist of the following:
  - (a) the price of the Immovable; and
  - (b) the money for which the purchaser may not demand a return pursuant to the second sentence of Paragraph 1 of **Article 451 (Effect of non-payment of price)**.
2. In cases where more than one immovable has been sold collectively in accordance with **Article 433 (Sale of Immovables collectively)**, should it be necessary to determine the amount for the sales price of each Immovable, such amount shall be calculated by dividing the total amount of the sale price into portions according to the minimum sale price of each Immovable. The same shall apply to the allocation



of Execution Costs for each Immovable.

**453. Scope of creditors entitled to distribution**

The creditors listed below shall be entitled to distribution of the sale price:

- (a) creditors who have filed a motion for compulsory sale or a motion for compulsory sale in the enforcement of general statutory lien no later than the final date for demands for distribution;
- (b) creditors who have made a demand for distribution no later than the final date for demands for distribution; and
- (c) creditors who have registered provisional attachment prior to the registration of attachment which was the basis of the initial ruling for the commencement of compulsory sale.

**Section V. Execution against Vessels**

**454. Meaning of Vessels**

1. In this Book and Book VII, the term "Vessel(s)" refers to vessels having a gross tonnage of 20 tons or more and vessels having a gross tonnage of less than 20 tons, having been registered in Cambodia.
2. In this Book and Book VII, "Certificate of Registry of Vessels" refers to the document evidencing of the vessel's nationality and other documents necessary for the vessel to lawfully sail.

**455. Motion for and method of compulsory execution against Vessels**

1. Compulsory execution against a Vessel shall be carried out by means of compulsory sale through the Execution Court.
2. In addition to the matters described in each Item of Paragraph 2 of **Article 349 (Determination of highest bidder)**, the Creditor-in-Execution shall state the location of the vessel, and the name and current location of the captain in a written motion for compulsory execution against a vessel.
3. The written motion under Paragraph 2 shall be attached to a true copy of the enforceable Title of Execution, together with:
  - (a) a certified copy of the register in the case of a registered Cambodian vessel; and
  - (b) a document proving that the vessel is a Vessel as provided in Paragraph 1 of **Article 454 (Meaning of Vessels)** and that the vessel is owned by the Debtor-in-Execution in the case of non-registered Cambodian vessel or a non-Cambodian vessel.

**456. Execution Court**

The court of first instance having jurisdiction over the place in which the vessel is located at the time of the ruling for the commencement of compulsory sale shall be the Execution Court for compulsory execution against the Vessel.

**457. Ruling for commencement**

1. In order to commence the compulsory sale proceedings, the Execution Court shall issue a ruling for commencement of compulsory sale, and shall order the bailiff to confiscate the certificate of registry

of the vessel as well as other matters, and to submit the same to the Execution Court.

2. The ruling for commencement under Paragraph 1 shall include a declaration of attachment over the vessel on behalf of the Creditor-in-Execution, together with a prohibition against the Debtor-in-Execution from leaving port.
3. The ruling for commencement under Paragraph 1 shall be served on the Debtor-in-Execution.
4. Upon the issuance of a ruling for commencement under Paragraph 1 in respect to a registered Cambodian vessel, the court clerk shall immediately entrust the authorized government agency to enter the registration of attachment based on such ruling.
5. The effect of the attachment shall arise upon service under Paragraph 3. If registration of the attachment is carried out prior to the service of the ruling for commencement of compulsory sale, said effect shall arise at the time of such registration.
6. Should the bailiff confiscate the certificate of registry of the vessel and other matters prior to serving of the ruling for commencement of compulsory execution or the registration of the attachment, the effect of the attachment shall arise at the time of such confiscation.
7. A *Chomtoah Appeal* may be filed against a ruling dismissing a motion for compulsory execution.

#### **458. Final date for demands for distribution and its alteration**

1. Should attachment based on a ruling for commencement of compulsory execution come into effect, the Execution Court shall determine the final date for demands for distribution.
2. Should no ruling permitting sale have been issued within 3 months of the final date for demands for distribution, the Execution Court may alter such final date.

#### **459. Ruling ordering delivery of certificate of registry and other matters prior to motion**

1. If it is likely that compulsory execution over a vessel will be extremely difficult should the certificate of registry of the vessel and other matters not be confiscated prior to the motion for compulsory execution against such vessel, the court of first instance having jurisdiction over the place where the registration of the vessel was made, may, upon motion, issue a ruling ordering the Debtor-in-Execution to deliver the certificate of registry of the vessel and other matters to the bailiff. In cases where the vessel has not been registered or in case of urgency, the court having jurisdiction over the location of the vessel may issue such a ruling.
2. When filing a motion under Paragraph 1, a true copy of the enforceable Title of Execution shall be presented and the grounds described in said Paragraph shall be established via *prima facie* showing.
3. A ruling under Paragraph 1 shall be served on the Debtor-in-Execution.
4. A *Chomtoah Appeal* may be filed against a ruling under Paragraph 1.
5. A ruling under Paragraph 1 may be enforced prior to its being served on the Debtor-in-Execution. The costs incurred for such enforcement shall be deemed as common benefit costs of the compulsory sale

proceedings.

6. A ruling under Paragraph 1 ordering the delivery of the Certificate of Registry of Vessels to the bailiff shall not be enforced once two weeks have passed from the date of notice thereof was given to the Creditor-in-Execution.
7. Unless the Creditor-in-Execution submits documents proving that a motion for compulsory execution against the vessel has been filed within 5 days of delivery to the bailiff of the Certificate of Registry of Vessels, the bailiff shall return the Certificate of Registry of Vessels to the Debtor-in-Execution.

#### **460. Appointment of custodian**

1. Upon motion by the Creditor-in-Execution, the Execution Court may, should it deem necessary, appoint a custodian for the vessel for which a ruling for commencement of compulsory sale has been issued, and may have such custodian retain possession of the vessel.
2. The Execution Court shall supervise the custodian. The custodian shall perform his/her duties with the care of a good manager. Once the custodian completes his/her mandate, he/she shall submit a report of account to the Execution Court without delay.
3. The custodian may receive an advanced payment for costs required for the custodianship of the vessel, and payment of remuneration as determined via a ruling of the Execution Court. The costs required by the custodian for custodianship of the vessel and his/her remuneration shall be deemed as procedural costs.
4. A *Chomtoah Appeal* may be filed against a ruling on a motion under Paragraph 1 and a ruling under Paragraph 3.

#### **461. Cancellation of compulsory sale proceedings for reason concerning the provision of money guarantee**

1. Should any document listed in Paragraph 2 of **Article 370 (Stay and cancellation of compulsory execution)** be submitted in connection to the claim of the Creditor-in-Execution and the Debtor-in-Execution provides a money guarantee equivalent to the total amount of the claims of the Creditor-in-Execution, the claims of the creditors who have made demands for distribution, and the execution costs, the Execution Court shall, upon motion and prior to the making of any offer for purchase, cancel all of the compulsory execution proceedings except for the distribution proceedings. Should the money guarantee be provided prior to the final date for demands for distribution, the amount of the money guarantee provided by the Debtor-in-Execution shall be equivalent to the total amount of the claims of the Creditor-in-Execution, the claims of the creditors who have made demands for distribution by that time, and the execution costs.
2. Should a stay of execution resulting from the submission of a document described in Paragraph 1 losing its effect, the Execution Court shall implement a distribution of the money guarantee provided under said Paragraph to the creditors described therein.
3. A *Chomtoah Appeal* may be filed against a ruling dismissing a motion under Paragraph 1.
4. The provisions of **Article 71 (Method of providing security and substitution of security)** and **Article 72 (Rights of person receiving**

**provision of security)** shall apply *mutatis mutandis* to the provision of the money guarantee under Paragraph 1.

**462. Permission to sail**

1. The Execution Court may, upon a motion by the Debtor-in-Execution, grant permission for the vessel to sail if the Execution Court finds that business necessity or other good grounds exist, and if the consents of each creditor, and the highest bidder or the purchaser have been obtained.
2. A *Chomtoah Appeal* may be filed against a ruling on a motion under Paragraph 1.
3. A ruling under Paragraph 1 shall have no effect until it becomes final and binding.

**463. Transfer of case**

Should a vessel for which a ruling for commencement of compulsory sale has been issued be moved to a location outside the jurisdiction of the Execution Court, the Execution Court may transfer the case to the court of first instance with jurisdiction over the location of the vessel.

**464. Cancellation of compulsory sale proceedings where certificate of registry of the vessel and other matters cannot be confiscated**

Should the bailiff be unable to confiscate the Certificate of Registry of Vessel within 2 weeks of the issuance of the ruling for commencement of compulsory sale, the Execution Court shall cancel the compulsory execution proceedings.

**465. Cancellation of compulsory execution proceedings due to destruction or loss of vessel**

The Execution Court shall cancel the compulsory sales proceedings should the destruction or loss of the vessel, or other circumstances that prevent the transfer of the vessel by sale, be found to have occurred.

**466. Entrustment for the striking out of the attachment registration**

1. Should a motion for compulsory sale be withdrawn, or a ruling suspending compulsory sale proceedings come into effect, the court clerk shall entrust the relevant government agency with expunging the registration of the attachment from the register based on the commencement ruling.
2. Expenses arising from the entrustment under Paragraph 1 shall be borne by the Creditor-in-Execution who withdraws the motion or by the Creditor-in-Execution who receives the ruling of cancellation.

**467. Valuation**

1. The Execution Court may appoint a valuator and order a valuation of the vessel.
2. The valuator shall obtain the permission of the Execution Court in order to request the assistance of a bailiff pursuant to Paragraph 2 of **Article 338 (Ensuring performance of duties by bailiffs)**.
3. When carrying out an examination for the purpose of valuation, the valuator may enter the vessel, question the Debtor-in-Execution or

other third party in possession thereof, and request such persons to present documents.

4. A bailiff whose assistance has been requested by a valuator under Paragraph 2 of **Article 338 (Ensuring performance of duties by bailiffs)** may take necessary actions to open locked doors in cases where the valuator enters the vessel pursuant to Paragraph 3.

**468. Determination of minimum sale price**

1. The Execution Court shall fix the minimum sale price on the basis of the valuation of the valuator, if any.
2. The Execution Court may, if it finds necessary, change the minimum sale price.
3. The provisions of **Article 435 (Measures to be taken if a surplus are unlikely)** shall apply *mutatis mutandis* to execution against the Vessel.

**469. Method of sale**

1. Sale of the Vessel shall be carried out by tender, auction, or other method prescribed by the Execution Court.
2. In the case of sale by tender or auction, the Execution Court shall set the date, time and place of sale, and have the bailiff carry out such sale.
3. In the case of sale under Paragraph 2, the court clerk shall provide a description of the Vessel to be sold, the minimum sale price, and the date, time and place of sale via public notice.
4. In the case of sale under Paragraph 2, **Article 396 (Maintenance of order on the sale premises)** shall apply *mutatis mutandis*.

**470. Guarantee of offer to purchase**

1. Any person wishing to offer to purchase the vessel shall provide a money guarantee in the amount of 10 percent of the minimum sale price. The Execution Court may, if it deems appropriate, set an amount for the money guarantee that exceeds this percentage.
2. On request by a person other than the highest bidder, the Execution Court shall promptly return the money guarantee provided in accordance with Paragraph 1 to such person after the sale has been completed pursuant to **Article 469 (Method of sale)**.

**471. Prohibition of offer to purchase by Debtor-in-Execution**

No Debtor-in-Execution shall be entitled to make an offer for purchase.

**472. Date for ruling on sale**

1. The Execution Court shall provide a date for the ruling on sale and shall declare whether or not the sale is permitted.
2. Should the Execution Court set a date for a ruling on sale, it shall give notice of this fact to the interested persons.

**473. Statements of opinion concerning permission or prohibition of sale**

Persons having an interest in the permission or prohibition of sale of the vessel may, on the date for the ruling on the sale, state their

opinions concerning any grounds listed in Paragraph 2 of **Article 474 (Permission or non-permission of sale)** that affect their rights.

**474. Permission or prohibition of sale**

1. Except for cases described in Paragraph 2, the Execution Court shall issue a ruling permitting sale.
2. Where any of following grounds are found, the Execution Court shall issue a ruling prohibiting sale:
  - (a) the compulsory sale proceedings should not be commenced or continued;
  - (b) the highest bidder is not qualified or incapable of purchasing the vessel, or his/her agent is not authorized to purchase the vessel;
  - (c) a motion to prohibit sale is filed in accordance with Paragraph 1 of **Article 476 (Motion to prohibit sale where the Immovable has been damaged)**;
  - (d) there is a serious error in the proceedings for determining the minimum sale price; or
  - (e) there is a serious error in the sale proceedings.

**475. Chomtoah Appeal against ruling permitting or prohibiting sale**

1. An interested party may file a *Chomtoah Appeal* against a ruling permitting or prohibiting sale only in cases where such party's rights would be infringed upon by such ruling.
2. A *Chomtoah Appeal* against a ruling permitting sale shall be based on the grounds listed in Paragraph 2 of **Article 474 (Permission or non-permission of sale)** or on the grounds that there is a serious error in the proceedings of the ruling permitting sale.
3. The *Chomtoah* appellate court may, if it deems necessary, designate a counterparty for the *Chomtoah* appellant.
4. A ruling permitting or prohibiting sale shall come into effect only after it becomes final and binding.

**476. Motion prohibiting sale where the vessel has been damaged**

1. Should the Vessel be seriously damaged due to force majeure or other cause not attributable to fault on the part of the highest bidder or purchaser after they have made an offer to purchase, such highest bidder or purchaser may file a motion with the Execution Court for prohibition of sale if a ruling permitting sale has not yet been issued, or may file a motion, up until the time of payment of the sales price, for cancellation of the ruling permitting sale if it has already been issued.
2. A *Chomtoah Appeal* may be filed against a ruling on a motion for cancellation of a ruling permitting sale under Paragraph 1.
3. The ruling canceling a ruling permitting sale based upon a motion under Paragraph 1 shall not come into effect until it becomes final and binding.

**477. Withdrawal of motion for compulsory sale after the making of offers to purchase**

In order to withdraw a motion for compulsory sale after an offer to purchase has been made, a Creditor-in-Execution shall obtain the consent of the highest bidder or purchaser.

This is an unofficial translation of the Law. It contains translation mistakes and incoherent wording, and could lack some information. It is provided for information purposes only and we are not responsible for any errors or ambiguities. Reliance may only be placed upon the official Khmer version.

**478. Deadline for Payment of Price**

Once the ruling permitting sale becomes final and binding, the Execution Court shall promptly stipulate a deadline for payment of the price and notify the purchaser thereof.

**479. Payment of the price**

1. The purchaser shall pay the sales price to the Execution Court by the deadline stipulated by the Execution Court pursuant to **Article 478 (Deadline for Payment of Price)**.
2. The money paid by the purchaser as a guarantee of his/her offer to purchase shall be applied to payment of the price.

**480. Time of acquisition of vessel**

The purchaser shall acquire the vessel at the time of payment of the price.

**481. Effect of non-payment of price**

1. Should the purchaser not pay the price, the ruling permitting sale shall lose its effect. In such case, the purchaser shall have no right to demand the return of the money provided pursuant to the provisions of **Article 470 (Guarantee of offer to purchase)**.
2. For the circumstances described under Paragraph 1, the Execution Court shall once more conduct a compulsory sale.
3. The purchaser set forth in Paragraph 1 may not make any further offers to purchase for the compulsory sale described in Paragraph 2.

**482. Entrustment for registration based on payment of price**

1. Upon the payment of the price by the purchaser, the court clerk shall entrust the relevant government agency with entering and expunging the following registrations:
  - (a) the registration of the transfer of the ownership acquired by the purchaser; and
  - (b) the expunging of any registration of attachment or provisional attachment.
2. When making the entrustment under Paragraph 1, the court clerk shall attach a true copy of the ruling permitting sale to the written entrustment.
3. The costs incurred for the entrustment under Paragraph 1 shall be borne by the purchaser.

**483. Ruling ordering delivery of Vessel**

1. Upon motion by a purchaser who has paid the price, the Execution Court may issue a ruling ordering the Debtor-in-Execution or a person in possession of the Vessel to deliver the Vessel to the purchaser. This shall not apply to a person who the court finds is in possession of the Immovable on the basis of a right that can be asserted against the purchaser according to the case record.
2. The purchaser may not file a motion under Paragraph 1 after the lapse of 6 months from the date of payment of the price.
3. Where the Execution Court is to issue a ruling under Paragraph 1 against a possessor other than the Debtor-in-Execution, the

Execution Court shall questions such possessor.

4. A *Chomtoah Appeal* may be filed against a ruling on a motion under Paragraph 1.
5. A ruling under Paragraph 1 shall not come into effect until it becomes final and binding.

#### **484. Sales price**

The sales proceeds to be applied to distribution shall be comprised of the following:

- (a) the price of the vessel; and
- (b) the money that the purchaser may not demand the return of pursuant to the second sentence of Paragraph 1 of **Article 481 (Effect of non-payment of price)**.

#### **485. Demand for distribution**

1. The persons listed below are entitled to make a demand for distribution:
  - (a) creditors holding a true copy of a Title of Execution that is enforceable by compulsory execution in accordance with Paragraph 1 of **Article 354 (Requirements for execution clause and organs granting such clause)**;
  - (b) creditors who have registered provisional attachments after the registration of attachment based on a ruling for commencement of compulsory sale;
  - (c) creditors who have executed provisional attachment by the method of confiscation of the Certificate of Registry of Vessels; and
  - (d) creditors who prove by document that they hold general statutory lien or statutory lien over the vessel.
2. A *Chomtoah Appeal* may be filed against a ruling dismissing a demand for distribution.

#### **486. Scope of creditors entitled to distribution**

The creditors listed below shall be entitled to distribution of the sale price:

- (a) the Creditor-in-Execution;
- (b) creditors who have made a demand for distribution no later than the final date for demands for distribution; and
- (c) creditors who have registered provisional attachment prior to the registration of attachment based on the ruling for commencement of compulsory sale.

### **Section VI. Proceedings for Distribution by Court**

#### **487. Court to implementing distribution**

The court implementing the distribution shall be the court of first instance to which the bailiff belongs in the case of compulsory execution against Movables, or the Execution Court for all other cases.

#### **488. Preparations for distribution**

1. Should any of the grounds described below arise, the court implementing the distribution shall set a day of distribution and

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send notice of such date, time and place thereof to the creditors entitled to distribution and to the Debtor-in-Execution:

- (a) for cases of compulsory execution against Movables, the grounds for court deposit is extinguished once there has been a report under Paragraph 1 of **Article 400 (Deposit by bailiff with the court)**, or there has been a report under **Article 401 (Report to court of first instance)**;
  - (b) for cases of compulsory execution of a claim or other property rights, there has been a court deposit under **Article 412 (Collection actions)**, a sale has been carried out pursuant to a ruling ordering sale under **Article 413 (Ruling ordering sale)**, or the proceeds of sale have been submitted under Paragraph 2 of **Article 414 (Execution of attachment ruling over the claim right to demand delivery of Movables)**;
  - (c) for cases of compulsory execution against an Immovable, there has been a payment of the sales price under Paragraph 1 of **Article 447 (Payment of the price)**, or a ruling permitting sale has become final and binding when a request under the first sentence of Paragraph 3 of **Article 447 (Payment of the price)** has been made; or
  - (d) for cases of compulsory execution against a Vessel, there has been payment of the sale price under **Article 479 (Payment of the price)**.
2. Once the day of distribution has been fixed, the court clerk shall send a notice demanding that each creditor submit, within one week to the court that is to carry out the distribution, a statement of accounts indicating the amounts of the principal claim, the interest up until the day of distribution, and Execution Costs.

#### **489. Implementation of distribution**

1. The court implementing the distribution shall implement said distribution in accordance with the distribution schedule in cases described in Paragraph 1 of **Article 488 (Preparations for distribution)**. It shall not be necessary to follow such distribution schedule for cases set forth in Paragraph 2 below.
2. Where there is only one creditor or where there are two or more creditors with the amount of money to be applied to distribution being sufficient to satisfy the claims of each creditor and the whole of the Execution Costs, the court implementing the distribution shall effect distribution to the creditor(s) and deliver any surplus to the Debtor-in-Execution.
3. If, after the distribution is to be implemented, a document listed in Items (a) to (g) of Paragraph 1 of **Article 370 (Stay and cancellation of compulsory execution)** is submitted, and there are creditors entitled to distribution other than the Creditor-in-Execution, the court implementing the distribution shall effect distribution to such creditors.
4. Even if, after the distribution is to be implemented, a document listed in Items (a) or (b) of Paragraph 2 of **Article 370 (Stay and cancellation of compulsory execution)** is submitted, the court implementing the distribution shall implement said distribution.

#### **490. Preparation of distribution schedule**

1. The court implementing the distribution shall prepare a

distribution schedule on the day of distribution except as provided in Paragraph 2 of **Article 489 (Implementation of distribution)**.

2. On the day of distribution, the court shall summon the creditors set forth below, together with the Debtor-in-Execution:

(a)	Compulsory execution against Movables	Creditors described in <b>Article 398 (Scope of creditors entitled to distribution)</b>
(b)	Compulsory execution against claims and other property rights	Creditors described in <b>Article 415 (Scope of creditors entitled to distribution)</b>
(c)	Compulsory execution against Immovables	Creditors described in <b>Article 453 (Scope of creditors entitled to distribution)</b>
(d)	Compulsory execution against Vessel	Creditors described in <b>Article 486 (Scope of creditors entitled to distribution)</b>

3. For the purpose of preparing the distribution schedule, the court may question the Creditors- and Debtor-in-Execution who appear before court on the day of distribution, and may examine any documentary evidence that can be examined on the spot.
4. The distribution schedule shall state the amount of the principal claim, the interest and other ancillary claims, and Execution Costs for each creditor, and shall also state the priority and amount of distribution for each creditor, together with the amounts listed below:

(a)	Compulsory execution against Movables	Amount of proceeds of sale of attached Movables and amount of money attached
(b)	Compulsory execution against claims and other property rights	Amount to be distributed
(c)	Compulsory execution against Immovables	Amount of sales price
(d)	Compulsory execution against Vessel	Amount of sales price

5. The priority and amount of distribution described in Paragraph 4 shall be entered in accordance with the agreement of all the creditors if such agreement is reached on the date of distribution, or for other cases, in accordance with the provisions of the Civil Code, Commercial Code or other relevant law.
6. For the purpose of distribution, claims subject to a specific event that has yet to occur shall be deemed to have had such event occur.

#### **491. Objection to entry in distribution schedule**

1. A Creditor- or Debtor-in-Execution who is dissatisfied with the amount of the claims of the creditors or the amounts for distribution stated in the distribution schedule may make an objection on the day of distribution.

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2. The court implementing the distribution shall implement said distribution to the extent that there are no objections to the entries of the distribution schedule.
3. Should the Creditor-in-Execution or a creditor who has made a demand for distribution based on a true copy of the enforceable Title of Execution receive payment of the whole of his/her claim as a result of the distribution, the Debtor-in-Execution may demand that the court clerk deliver to him/her a true copy of the enforceable Title of Execution submitted by such creditor.
4. Where the case has been concluded, except for cases described in Paragraph 3, the creditor described in said Paragraph may demand that the court clerk deliver to him/her a true copy of enforceable Title of Execution. Should such creditor receive partial payment of his/her claim, the court clerk shall note the amount of such payment on said true copy of the enforceable Title of Execution, and shall deliver it.

**492. Motion of objection by creditor objecting to entries in distribution schedule**

1. A creditor objecting to an entry in the distribution schedule shall file a motion of objection to an entry in the distribution schedule in which the counterparty shall be the creditor who opposes such objection.
2. The court implementing the distribution shall have jurisdiction over the motion described in Paragraph 1.
3. Unless the creditor objecting to the entry in the distribution schedule proves, no later than one week following the day of distribution, that he/she has filed the motion described in Paragraph 1, the objection to the entry in the distribution schedule shall be deemed to have been withdrawn.
4. In the judgment for the motion described in Paragraph 1, if the court finds that the objection is well grounded, the court shall amend the distribution schedule or void it in order to prepare a new distribution schedule.

**493. Motion of objection by Debtor-in-Execution who has made an objection to an entry in the distribution schedule**

1. The Debtor-in-Execution objecting to an entry in the distribution schedule against a creditor holding a true copy of the enforceable Title of Execution shall file a motion objecting to the claim in which the counterparty shall be the creditor who is opposed to such objection.
2. The Debtor-in-Execution objecting to entry in the distribution schedule against a creditor not holding a true copy of an enforceable Title of Execution shall file a motion of objection to an entry in the distribution schedule in which the counterparty shall be the creditor opposed to such objection.
3. The court implementing the distribution shall have jurisdiction over the motion described in Paragraph 2.
4. Unless the Debtor-in-Execution objecting to the entry in the distribution schedule proves, no later than one week following the day of distribution, that he/she has filed the motion described in Paragraph 1 by submitting a true copy of a decision staying execution

based on such motion, or proves that he/she has filed the motion described in Paragraph 2, the objection to the entry in the distribution schedule shall be deemed to have been withdrawn.

5. In the judgment of the action described in Paragraph 2, should the court implementing the distribution find that the objection is well grounded, such court shall amend the distribution schedule, or void it in order to prepare a new distribution schedule.

#### **494. Retention of amount of distribution**

1. Should any of the following grounds exist with regard to a claims of a creditor entitled to distribution, the court implementing the distribution shall retain money in the amount of such distribution:
  - (a) the claim is subject to a condition precedent or specific event;
  - (b) the claim is a claim of a provisional attachment creditor;
  - (c) a document listed in Paragraph 2, Item (a) of **Article 370 (Stay and cancellation of compulsory execution)** has been submitted;
  - (d) a true copy of a decision temporarily enjoining the enforcement of a statutory lien, pledge or hypothec relating to the claim has been submitted; and
  - (e) a motion of objection to an entry in the distribution schedule has been filed under Paragraph 1 of **Article 492 (Motion of objection by creditor objecting to entries in distribution schedule)** or Paragraph 2 of **Article 493 (Motion of objection by Debtor-in-Execution who has made an objection to an entry in the distribution schedule)**.
2. The court implementing the distribution shall retain the money in the amount of distribution for any creditor who fails to appear before the court to receive such distribution.

#### **495. Implementation of distribution upon confirmation of right)**

1. In the case of retention under Paragraph 1 of **Article 494 (Retention of amount of distribution)**, if the grounds for retention are resolved, the court implementing the distribution shall distribute the retained money.
2. Should distribution be implemented under Paragraph 1, the court implementing the distribution shall amend the distribution schedule for the benefit of the creditors who have not made an objection to entry in the distribution schedule for the situations listed below:
  - (a) where it is no longer possible to make a distribution to a creditor whose distribution has been retained for reasons described in Items (a) through (d) of Paragraph 1 of **Article 494 (Retention of amount of distribution)**; or
  - (b) where a creditor whose distribution has been retained for grounds set forth in Item (e) of Paragraph 1 of **Article 494 (Retention of amount of distribution)** does not prevail in a motion of objection to an entry in the distribution schedule filed by the Debtor-in-Execution under Paragraph 2 of **Article 493 (Motion of objection by Debtor-in-Execution who has made an objection to an entry in the distribution schedule)**.

### **Chapter Three SPECIFIC RULES GOVERNING ENFORCEMENT OF REAL SECURITY RIGHTS**

## Section I. General Provisions

### **496. Title of Execution for enforcement of real security rights**

Notwithstanding the provisions of **Article 350 (Title of Execution)**, the enforcement of a real security right shall be based on one of the following titles of execution:

- (a) a final and binding judgment proving the existence of the real security right or a document having the same effect; or
- (b) a notarized document prepared by a notary, proving the existence of the real security rights.

### **497. Special rules on jurisdiction of motions objecting to claims and motions objecting to the granting of execution clauses relating to Title of Execution for the enforcement of real security rights**

1. Notwithstanding the provisions of **Article 363 (Motion objecting to claim)**, motions objecting to a claim relating to a Title of Execution for the enforcement of a real security right shall be subject to the jurisdiction of the court noted next to the respective type of Title of Execution of each Item below:
  - (a) for titles of execution noted in Item (a) of **Article 496 (Title of Execution for enforcement of real security rights)**: the court of first instance in the proceedings for such case; and
  - (b) for titles of execution noted in Item (b) of **Article 496 (Title of Execution for enforcement of real security rights)**: the court having jurisdiction over the location of the defendant as set forth in **Article 8 (Jurisdiction determined by domicile)**. Should there be no court having jurisdiction under said Article, the court of first instance having jurisdiction over the location in which the subject matter of the real security right is located. Should the subject matter of the real security right be a claim, the court having jurisdiction over the location of the Third Party Debtor as set forth in **Article 8 (Jurisdiction determined by domicile)**.
2. The provisions of Paragraph 1 shall apply *mutatis mutandis* to motions objecting to the granting of an execution clause.

### **498. Stay and cancellation of enforcement of real security rights**

1. Upon submission of any of the documents listed below, the Execution Court or bailiff shall stay the proceedings for the enforcement of real security rights, and shall void any execution disposition that has already been carried out:
  - (a) a true copy of a decision that contains an order canceling the Title of Execution set forth in Item (a) of **Article 496 (Title of Execution for enforcement of real security rights)**;
  - (b) a true copy of a decision that contains an order stating that the enforcement of the real security right is not permitted;
  - (c) a true copy of a final and binding judgment declaring that a settlement or acknowledgment in connection with the Title of Execution listed in **Article 496 (Rights)** has no effect;
  - (d) a true copy of a protocol of settlement in court that states that the enforcement of a real security right will not be carried

- out or that a motion thereof will be withdrawn;
- (f) a true copy of a decision that contains an order for the staying of the enforcement of a real security right and cancellation of the execution disposition.
2. Upon submission of any of the documents listed below, the Execution Court or bailiff shall stay the proceedings for enforcement of a real security right. In the case of Item (b), the effect of the stay shall be limited to 2 months.
- (a) a true copy of a decision that contains an order for temporary stay of the enforcement of a real security right; or
- (b) a document stating that the creditor has received payment of the claim that is secured by the real security right, or has consented to a deferral of such payment, after the establishment of the Title of Execution listed in **Article 496 (Title of Execution for enforcement of real security rights)**.
3. **Article 370 (Stay and cancellation of compulsory execution)** shall not apply to the enforcement of real security rights.
4. **Article 345 (Chomtoah Appeal against cancellation ruling)** shall not apply to cases of cancellation of an execution disposition under Paragraph 1 of this Article.

**499. Compulsory sale based on a right of retention and compulsory sale for realization**

Compulsory sale based on a right of retention and compulsory sale for the purpose of realization in accordance with the provisions of the Civil Code and other laws shall be carried out in accordance with the provisions of this law for the governing of compulsory sales as an enforcement of real security rights.

**Section II. Enforcement of Real Security Rights against Movables**

**500. Requirements for the enforcement of real security rights against Movables**

Even absent the submission of a Title of Execution described in **Article 496 (Title of Execution for enforcement of real security rights)**, enforcement of a real security right against a movable may be commenced once the Creditor-in-Execution submits to the bailiff the movable that is subject to the real security right or a document proving that the possessor of the movable has consented to the attachment.

**501. Execution objection to attachment over Movables**

Should enforcement of a real security right against a movable be commenced under **Article 500 (Requirements for the enforcement of real security rights against Movables)**, the owner of the movable or the debtor of the secured claim may file an execution objection to the attachment over the movable on the grounds of the non-existence or extinguishment of such real security right.

**502. Matters to be stated in written motion for enforcement of real**

### **security rights against Movables**

The moving party shall state the following matters in the written motion for the enforcement of a real security right against a movable:

- (a) a description of the Creditor-in-Execution, the owner of the movable who is the Debtor-in-Execution, the debtor of the secured claim, and their agents;
- (b) a description of the real security right and the secured claim;
- (c) a description of the movable that is subject to the enforcement of the real security right and the location thereof; and
- (d) if the real security right is to be enforced against only a portion of the secured claim, a statement to this fact and a statement of the scope thereof.

### **503. Exclusion from application of provisions relating to execution against Movables**

The provisions of **Article 380 (Movables immune from attachment)**, **Article 381 (Change of scope of Movables immune from attachment)** and **Article 391 (Prohibition of excessive attachment)** shall not apply to the proceedings for the enforcement of real security rights against Movables.

### **504. Proceedings for summary enforcement of pledge**

1. In accordance with the provisions of the summary enforcement of pledge in the Civil Code, a pledgee of the Movables may file a motion with the court of first instance having jurisdiction over the location of the performance of the obligation for a ruling permitting the pledged movables to be immediately applied to the payment of the obligation.
2. When issuing a ruling on the motion under Paragraph 1, the court shall question the pledgee, the owner of the pledged Movables, and the debtor of the secured claim.
3. Prior to issuing a ruling under Paragraph 1, the court shall appoint a valuator and have such valuator value the pledged Movables in accordance with the provisions of summary enforcement of pledge under the Civil Code. This shall not apply to cases where the pledgee him/herself has set a valuation amount in his/her motion under Paragraph 1 and the owner of the pledged Movables consents to such amount.
4. Once the court has issued the ruling set forth under Paragraph 1, the Procedural Costs for such ruling shall be borne by the owner of the pledged Movables.
5. In the ruling set forth under Paragraph 1, the court shall declare that the pledged Movables be permitted to be applied to the payment to the extent of the valuation amount of the valuator, and also shall order that, if the valuation amount exceeds the total amount of the obligation to be paid and the Procedural Costs, such surplus amount shall be returned to the owner of the pledged Movables.
6. A Chomtoah Appeal may be filed against a ruling on a motion under Paragraph 1.
7. A ruling under Paragraph 5 shall come into effect only upon becoming final and binding.

### Section III. Enforcement of Real Security Rights against Claims and Other Property Rights

#### **505. Matters to be stated in written motion for enforcement of real security rights against claims**

1. Notwithstanding the provisions of Paragraphs 2 and 3 of **Article 403 (Meaning of Execution of Claims and Execution Court)**, the Creditor-in-Execution shall state the following information in the written motion for enforcement of real security rights against a claim set forth in Paragraph 1 of **Article 402 (Meaning of Execution of Claims and Execution Court)**:
  - (a) a description of the Creditor-in-Execution, the Debtor-in-Execution, the debtor of the secured claim, the Third Party Debtor, and their agents;
  - (b) a description of the real security right and the secured claim;
  - (c) a description of the claim that is subject to the enforcement of the real security right; and
  - (d) if the real security right is to be enforced against only a portion of the secured claim, a statement to this fact and a statement of the scope thereof.
2. A true copy of the Title of Execution listed in **Article 496 (Title of Execution for enforcement of real security rights)** shall be attached to the written motion under Paragraph 1.

#### **506. Attachment of claims on the basis of real subrogation**

1. Where a real security right holder exercises such right pursuant to the provisions of the Civil Code or other law against money or other property which the Debtor-in-Execution can receive by virtue of sale, lease, loss, damage of the subject property or creation of a real right on the subject property, said exercise of such right shall be governed by **Article 505 (Matters to be stated in written motion for enforcement of real security rights against claims)** in addition to this Article.
2. In case of the exercising of the right under Paragraph 1, in addition to the matters listed in each Item of Paragraph 1 of **Article 505 (Matters to be stated in written motion for enforcement of real security rights against claims)**, a written motion shall state the relationship between the secured claim and the claim to be attached.
3. Notwithstanding the provisions of Paragraph 2 of **Article 505 (Matters to be stated in written motion for enforcement of real security rights against claims)**, where a person holding a real security right against a movable exercises the right under Paragraph 1, the Creditor-in-Execution may attach a true copy of a document proving the existence of the real security right in lieu of the true copy of the Title of Execution described in **Article 496 (Title of Execution for enforcement of real security rights)**.

#### **507. Enforcement of real security rights against other property rights**

Except where otherwise specifically provided, enforcement of real security rights against property rights described in **Article 416 (Compulsory execution against other property rights)** shall follow the



example of execution against claims described in Book VI, Chapter II, **Section III (Compulsory execution against other property rights)**.

**508. Exclusions from application**

The provisions of **Article 382 (Claims immune from attachment)**, **Article 383 (Change of scope of claims immune from attachment)**, and Paragraph 2 of **Article 404 (Scope of attachment)** shall not apply to this Section.

**Section IV. Enforcement of Real Security Rights against Immovables**

**509. Matters to be stated via written motion for enforcement of real security rights against immovables**

1. The moving party shall state the following information in the written motion for enforcement of a real security right against an Immovable:
  - (a) a description of the Creditor-in-Execution, the owner of the Immovable who is the Debtor-in-Execution, the debtor of the secured claim, and their agents;
  - (b) a description of the real security right and the secured claim;
  - (c) a description of the Immovable that is subject to the enforcement of the real security right; and
  - (d) if the real security right is to be enforced against only a portion of the secured claim, a statement to this fact and a statement of the scope thereof.
2. The documents listed below as well as a true copy of the Title of Execution listed in **Article 496 (Title of Execution for enforcement of real security rights)**, shall be attached to the written motion for enforcement of real security rights:
  - (a) a certified copy of the register in cases of enforcement of a real security rights other than a general statutory lien; or
  - (b) in the case of enforcement of a general statutory lien, a certified copy of the register for a registered Immovable, and if a person other than the Debtor-in-Execution is noted as an owner in the register, a document proving the Immovable is owned by the Debtor-in-Execution; or in the case of land that is not registered, a document proving that the land is owned by the Debtor-in-Execution.

**510. Rights that remain in existence and rights that are extinguished after compulsory sale for enforcement of real security rights**

1. Real security rights, usufructuary real rights and leases on the Immovable that can be asserted against a real security right of the Creditor-in-Execution, shall remain in existence after a compulsory sale for the enforcement of the real security right.
2. Rights on the Immovable other than those described in Paragraph 1 shall be extinguished upon sale.
3. Attachments over Immovables, execution of provisional attachment over Immovables, or execution of provisional disposition over Immovables that cannot be asserted against the Creditor-in-Execution or the provisional attachment creditor will

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lapse upon sale.

4. Should an interested person give notice by the time of the fixing of the minimum sale price that an agreement deviating from the provisions of Paragraphs 1 and 2 has been made, such agreement shall govern the changes in such right on the Immovable upon sale.

**511. Dual ruling for commencement of execution against immovables and enforcement of real security rights**

1. Where a motion for the enforcement of a real security right is filed in respect to an Immovable over which a ruling for commencement of compulsory sale has been issued in accordance with **Article 419 (Ruling for commencement of compulsory sale )**, the Execution Court shall, if such motion is to be granted, issue another ruling for the commencement of compulsory sale. In such case, the court shall send a notice of this fact to the Creditor-in-Execution of the earlier ruling for commencement.
2. Should the motion for compulsory sale in the earlier ruling for commencement be withdrawn, or the proceedings based on the earlier ruling for commencement be suspended, the Execution Court shall continue the proceedings on the basis of the later ruling for the commencement of compulsory sale.
3. For cases under paragraph 2, should the later ruling for commencement of compulsory sale be based on a motion that was filed after the final date for the demand for distribution, the Execution Court shall determine a new final date for demand for distribution. The demand described in the provisions of Paragraph 2 of Article **422 (Final date for demands for distribution and its alteration)** shall not be necessary for persons who have already made a report under Paragraph 1 of **Article 423 (Duty to report the claim by the person demanded)**.
4. Should the compulsory sale proceedings based on the earlier ruling for commencement have been stayed, the Execution Court shall give notice of this fact to the Creditor-in-Execution under the later ruling for commencement. In such case, if the real security right held by such Creditor-in-Execution can be asserted against the attachment by the creditor in earlier execution, the Execution Court may, upon motion, issue a ruling that the proceedings shall continue based on the later ruling for commencement.
5. Should a ruling be issued in accordance with Paragraph 4, the Execution Court shall give notice of this fact to the Debtor-in-Execution.
6. A *Chomtoah Appeal* may be filed against a ruling dismissing a motion under Paragraph 4.

**512. Double ruling for commencement of enforcement of real security rights and enforcement of real security rights**

1. Where an additional motion for the enforcement of a real security right is filed in respect to an Immovable over which a ruling for commencement of enforcement of a real security right already exists, the Execution Court shall, if such motion is to be granted, issue another ruling for the commencement of compulsory sale. In such case, the court shall send a notice of this fact to the Creditor-in-Execution of the earlier ruling for commencement.

2. Should the motion for compulsory sale in the earlier ruling for commencement be withdrawn, or the proceedings based on the earlier ruling for commencement be cancelled, the Execution Court shall continue the proceedings on the basis of the later ruling for commencement of compulsory sale.
3. For cases under paragraph 2, if the later ruling for commencement of compulsory sale is based on a motion that was filed after the final date for demands for distribution, the Execution Court shall determine a new final date for the demands for distribution. The demand described in the provisions of Paragraph 2 of **Article 422 (Final date for demands for distribution and its alteration)** is not necessary for persons who have already made a report under Paragraph 1 of **Article 423 (Duty to report the claim by the person demanded)**.
4. Should the compulsory sale proceedings based on the earlier ruling for commencement have been stayed, the Execution Court shall give notice of this fact to the Creditor-in-Execution under the later ruling for commencement. In such case, if the real security right held by the Creditor-in-Execution who filed the motion for the latter ruling for commencement can be asserted against the real security right held by the creditor in earlier execution, the Execution Court may, upon motion, issue a ruling that the proceedings shall continue based on the later ruling for commencement.
5. Should a ruling be issued in accordance with Paragraph 4, the Execution Court shall give notice of this fact to the Debtor-in-Execution.
6. A *Chomtoah Appeal* may be filed against a ruling dismissing a motion under Paragraph 4.

**513. Rights extinguished after the earlier execution against Immovable or compulsory sale as enforcement of real security rights**

1. For cases under Paragraph 1 of **Article 511 (Dual ruling for commencement of execution against immovables and enforcement of real security rights)**, if the later motion for compulsory sale as enforcement of a real security right is based on a real security right that can be asserted against attachment by the creditor in the earlier execution, the real security right of the Creditor-in-Execution who filed the later motion and any other real security rights, usufructuary real rights or lease that cannot be asserted against said real security right shall be extinguished upon sale.
2. For cases under Paragraph 1 of **Article 512 (Double ruling for commencement of enforcement of real security rights and enforcement of real security rights)**, if the later motion for compulsory sale is based on a real security right that can be asserted against the real security right of the creditor in the earlier execution, the real security right of the Creditor-in-Execution who filed the later motion and any other real security rights, usufructuary real rights or lease that cannot be asserted against said real security right shall be extinguished upon sale.
3. The provisions of Paragraph 1 and 2 shall not apply for case where the later motion is filed after the commencement of tender or auction in proceedings based on the earlier motion.

**514. Preparation of specifications of property in case of dual rulings for commencement**

1. When the Execution Court determining the minimum sale price and preparing specifications of property in the cases under Paragraph 1 or 2 of **Article 513 (Rights extinguished after the earlier execution against Immovable or compulsory sale as enforcement of real security rights)**, the Execution Court shall take into account the real security right of the Creditor-in-Execution who filed the later motion and any other real security rights, usufructuary real rights or lease that cannot be asserted against said real security right that shall be extinguished upon sale.
2. In case of Paragraph 1, the Execution Court shall, if necessary, re-determine the minimum sale price or re-prepare the specifications of property.

**515. Arrangement of cases where motion for enforcement of real security right is filed after commencement of date of tender or auction in proceedings for compulsory sale of immovables**

1. For cases described in Paragraph 1 of **Article 511 (Dual ruling for commencement of execution against immovables and enforcement of real security rights)**, should a motion for compulsory sale for the enforcement of a real security right be filed after the commencement of tender or auction in the proceedings for the earlier compulsory sale, the Execution Court shall issue a ruling for the commencement of its compulsory sale, and at the same time stay the proceedings for the later compulsory sale. This shall not apply if the real security right cannot be asserted against the attachment by the creditor in the earlier execution.
2. For cases described in Paragraph 1 of **Article 512 (Double ruling for commencement of enforcement of real security rights and enforcement of real security rights)**, should a motion for compulsory sale for the enforcement of a real security right be filed after the commencement of tender or auction in the proceedings for the earlier compulsory sale, the Execution Court shall issue a ruling for the commencement of its compulsory sale, and at the same time stay the proceedings for the later compulsory sale. This shall not apply if the real security right of the Creditor-in-Execution who filed the later motion for compulsory sale be unable to assert his/her rights against the real security right of the creditor in the earlier execution.
3. Where a price is paid in the earlier compulsory sale proceedings after the stay of the later compulsory sale proceedings described in Paragraph 1 or 2, the Execution Court shall cancel the ruling for commencement of the later compulsory sale proceedings.

**516. Attachment of claim for rents of Immovable**

1. In cases where the attachment over an Immovable based on a ruling for commencement of compulsory sale has come into effect, if the Creditor-in-Execution files a motion to attach a claim for rents of the attached Immovable, the Execution Court may issue a ruling for such attachment over the claim. Such ruling shall be issued

without questioning the Debtor-in-Execution or the person obliged to pay the rent.

2. In the ruling under Paragraph 1, the Execution Court shall forbid the Debtor-in-Execution from collecting or disposing of claims for the purpose of receiving rents, and shall forbid the person obliged to pay the rent from paying it to the Debtor-in-Execution and order him/her to make a court deposit of money equivalent to the whole amount of the attached claim.
3. A ruling under Paragraph 1 shall be served on the Debtor-in-Execution and on the person obliged to pay rent.
4. Attachment shall come into effect upon service of the ruling under Paragraph 1 on the person obliged to pay rent.

#### **517. Effect of attachment over claim for rents**

1. After the lapse of one week from the date on which the ruling described in Paragraph 1 of **Article 516 (Attachment of claim for rents of Immovable)** is served on the Debtor-in-Execution, the Creditor-in-Execution who has attached the claim for rents of the Immovable in accordance with said Paragraph may demand the person obliged to pay the rent to make a court deposit of money equivalent to the whole amount of the attached claim.
2. The effect of attachment pursuant to Paragraph 1 of **Article 516 (Attachment of claim for rents of Immovable)** shall extend to rents that the Debtor-in-Execution is entitled to receive after the attachment until the purchaser makes payment equivalent to the price of the Immovable.
3. Any rents deposited to the court by the person obliged to pay the rent shall be deemed to be payment towards the sales price.

#### **518. Relationship between attachment of claim for rents of Immovable and the proceedings for execution against claims**

1. In the event that a ruling of attachment under **Article 403 (Attachment ruling)** over a claim for rents of Immovable is served on the lessee of the Immovable before a ruling of attachment under Paragraph 1 of **Article 516 (Attachment of claim for rents of Immovable)** comes into effect, the ruling of attachment under said **Article 516 (Attachment of claim for rents of Immovable)** shall not come into effect, except in cases where the real security right of the Creditor-in-Execution who obtained the ruling of attachment under **Article 516 (Attachment of claim for rents of Immovable)** had been registered prior to said service of the ruling of attachment.
2. After a ruling of attachment under Paragraph 1 of **Article 516 (Attachment of claim for rents of Immovable)** over a claim for rents of Immovable comes into effect, attachment of said claim cannot be carried out pursuant to **Article 403 (Attachment ruling)**.

#### **519. Scope of creditors entitled to distribution**

Creditors who are entitled to distribution of the sales proceeds of a compulsory sale as enforcement of a real security right shall be the creditors holding a real security right that will be extinguished by the sale in addition to the persons described in **Article 453 (Scope of creditors entitled to distribution)**. This shall not apply to creditors

holding a real security right that has been registered after the attachment came into effect.

**520. Exclusion from application of provisions relating to execution against immovables**

Paragraphs 2 and 3 of **Article 349 (Method for motions for compulsory execution)**, Paragraph 3 of **Article 417 (Subject matter and method of compulsory execution against immovables)**, Paragraph 1 of **Article 431 (Rights that remain in existence and rights that are extinguished upon sale)**, and **Article 453 (Scope of creditors entitled to distribution)** shall not apply to the enforcement of a real security right against immovables.

**Section V. Enforcement of Real Security Rights against Vessels**

**521. Matters to be stated in written motion for enforcement of real security rights against Vessels**

1. Notwithstanding the provisions of Paragraph 2 of **Article 455 (Motion for and method of compulsory execution against Vessels)**, the Creditor-in-Execution shall state the following information in the written motion for enforcement of a real security right against a Vessel:
  - (a) a description of the Creditor-in-Execution, the owner of the vessel who is the Debtor-in-Execution, the debtor of the secured claim, and their agents;
  - (b) a description of the real security right and the secured claim;
  - (c) a description of the Vessel that is the subject to the enforcement of the real security right;
  - (d) the location of the vessel, and the name and current location of the captain; and
  - (e) if the real security right is to be enforced against only a portion of the secured claim, a statement to this fact and a statement of the scope thereof.
2. Notwithstanding the provisions of Paragraph 3 of **Article 455 (Motion for and method of compulsory execution against Vessels)**, the documents listed below as well as a true copy of the Title of Execution listed in **Article 496 (Title of Execution for enforcement of real security rights)** shall be attached to the written motion for enforcement of real security rights:
  - (a) a certified copy of the register in the case of enforcement of a real security right other than a general statutory lien; or
  - (b) in the case of enforcement of a general statutory lien, a certified copy of the register of a registered vessel, and if a person other than the Debtor-in-Execution is noted as an owner in the register, a document proving the vessel is owned by the Debtor-in-Execution; or in the case of a vessel that is not registered, a document proving that the vessel is owned by the Debtor-in-Execution.
3. Upon a motion by the Creditor-in-Execution, the Execution Court may, via the issuing of a ruling, order the possessor of the vessel to

deliver the certificate of registry of the vessel and other matters to the bailiff. This shall not apply to a person found to be possessing the vessel based on a right that can be asserted against the Creditor-in-Execution.

4. A *Chomtoah Appeal* may be filed against a ruling on a motion under Paragraph 3.
5. A ruling under Paragraph 3 may be enforced even before it is served on the counterparty.

**522. *Mutatis mutandis* application of provisions governing enforcement of real security rights against immovables**

In addition to any specific provisions, if any, the provisions of Book VI, Chapter III, **Section IV (Enforcement of real security rights against Immovables)** shall apply *mutatis mutandis* to compulsory sale for the enforcement of a real security right against a Vessel.

**523. Replacement provision**

The words "a true copy of the enforceable Title of Execution" in Paragraph 2 of **Article 459 (Ruling ordering delivery of certificate of registry and other matters prior to motion)** shall be deemed to be replaced with "the document described in **Article 496 (Title of Execution for enforcement of real security rights)**".

**Chapter Four COMPULSORY EXECUTION OF RIGHT OF CLAIM WHOSE SUBJECT MATTER IS NOT MONETARY**

**524. Compulsory execution of delivery of immovables**

1. Compulsory execution of the delivery of an Immovable, or a ship or other thing in which a person dwells, shall be carried out by the method wherein a bailiff who belongs to the court of first instance having jurisdiction over the location of such subject matter takes possession thereof from the Debtor-in-Execution, and has the Creditor-in-Execution obtain the possession therefrom.
2. Compulsory execution described in Paragraph 1 may be carried out only when the Creditor-in-Execution or his/her agent appears at the place of execution.
3. When carrying out compulsory execution under Paragraph 1, the bailiff may enter the Immovable, ship or other thing in the possession of the Debtor-in-Execution, and may take necessary action in order to open any locked doors.
4. In carrying out the compulsory execution under Paragraph 1, the bailiff shall remove all Movable that are not subject to the execution and deliver such to the Debtor-in-Execution, his/her agent, or a cohabiting relative, servant or other employee who possesses proper faculties. In such case, if the bailiff is unable to deliver the Movable to such person, the bailiff shall retain custody thereof.
5. The costs for the custodianship described in Paragraph 4 shall be deemed as Execution Costs.
6. If the bailiff cannot deliver the Movable to a person described in Paragraph 4, the bailiff may sell the Movable in accordance with

- the sales proceedings for execution against Movables.
7. When Movables are sold in accordance with Paragraph 6, the bailiff shall make a court deposit of the surplus of the proceeds of sale, after deducting the costs incurred for sale and custodianship, with the court of first instance to which the bailiff belongs.
  8. When compulsory execution under Paragraph 1 and Paragraph 4 has been concluded, the bailiff shall give notice of this fact to the Debtor-in-Execution.

**525. Compulsory execution of delivery of Movables**

1. Compulsory execution of delivery of Movables other than Movables described in **Article 524 (Compulsory execution of delivery of immovables)** shall be carried out through a bailiff who belongs to the court of first instance having jurisdiction over the location of such Movables taking said Movables from the Debtor-in-Execution and delivering them to the Creditor-in-Execution.
2. Should neither the Creditor-in-Execution nor his/her agent appear at the place where compulsory execution under Paragraph 1 is being carried out, the bailiff may defer the implementation of the compulsory execution if the bailiff finds it unavoidable in taking into account the type, volume, and other characteristics of such Movables.
3. In cases where neither the Creditor-in-Execution nor his/her agent appears at the place for the compulsory execution for the delivery of Movables, once the bailiff has taken the Movables from the Debtor-in-Execution he/she shall retain custody of said the Movables.
4. The provisions of Paragraph 6 of **Article 384 (Commencement of execution against Movables)**, Paragraph 2 of **Article 385 (Attachment of Movables in the possession of the Debtor-in-Execution)**, and Paragraph 4 through 8 of **Article 524 (Compulsory execution of delivery of immovables)** shall apply *mutatis mutandis* to compulsory execution under Paragraph 1 of this Article.

**526. Compulsory execution of delivery in cases where a third party is in possession of the subject property**

1. Should a third party be in possession of the subject matter of the compulsory execution and owe a duty to deliver the same to the Debtor-in-Execution, execution of the delivery of the subject matter shall be carried out by the Execution Court, via the issuance of a ruling, attaching the Debtor-in-Execution's claim right to the demand delivery against the third party and permit the Creditor-in-Execution to exercise said claim right.
2. The provisions of Paragraphs 3 and 4 of **Article 402 (Meaning of Execution of Claims and Execution Court)**, **Article 403 (Attachment ruling)**, **Article 405 (Notice to Third Party Debtor to give statement)**, **Article 406 (Delivery of claim certificate)** and Paragraphs 1, 2 and 4 of **Article 410 (Collection of claims for which the subject matter is a monetary payment)** shall apply *mutatis mutandis* to compulsory execution under Paragraph 1 of this Article.

**527. Execution by substitute**

1. Where the obligation is an obligation for actions that can be performed by a third party in lieu of the debtor, compulsory execution of such



- obligation shall, upon motion by the Creditor-in-Execution, be carried out by the Execution Court issuing a ruling permitting the Creditor-in-Execution to have the action performed by a third party in lieu of the Debtor-in-Execution at the expense of said debtor.
2. The Execution Court described in Paragraph 1 shall be the court set forth in **Article 363 (Motion objecting to claim)**, Paragraph 3, Items (a) or (c) corresponding to the respective type of Title of Execution listed in each Item.
  3. When issuing a ruling under Paragraph 1, the Execution Court shall question the Debtor-in-Execution.
  4. When issuing a ruling under Paragraph 1, the Execution Court may, upon motion, order the Debtor-in-Execution to make payment in advance to the Creditor-in-Execution for the costs necessary for performing the action prescribed in the ruling.
  5. A *Chomtoah Appeal* may be filed against a decision on a motion for compulsory execution under Paragraph 1 or a motion under Paragraph 4.
  6. The provisions of Paragraph 2 of **Article 338 (Ensuring performance of duties by bailiffs)** shall apply *mutatis mutandis* to cases of execution of a ruling under Paragraph 1.
  7. The provisions of Paragraphs 1 through 6 of this Article shall apply *mutatis mutandis* to cases where the obligation is an obligation of inaction, and the Creditor-in-Execution requests the removal of the results of the breach of the duty of inaction in order to establish material facility for the purpose of preventing said breach, or to take other appropriate measures at the expense of the Debtor-in-Execution.

#### **528. Indirect enforcement**

1. Compulsory Execution of an obligation of action or inaction may also be carried out through the Execution Court issuing a ruling ordering the Debtor-in-Execution to pay to the Creditor-in-Execution a specified amount of money found reasonable to secure the performance of the obligation, either in compliance with a period of delinquency, or immediately if the obligation is not performed within a specified period that is found reasonable.
2. The Execution Court described in Paragraph 1 shall be the court set forth in **Article 363 (Motion objecting to claim)**, Paragraph 3, Items (a) or (c) corresponding to the type of Title of Execution listed in each Item.
3. Should circumstances have changed, the Execution Court may, upon motion by the Creditor-in-Execution or the Debtor-in-Execution, amend the ruling issued under Paragraph 1.
4. When issuing a ruling under Paragraph 1 or Paragraph 3, the Execution Court shall question the counterparty to the motion.
5. Where payment of the money ordered to be paid under Paragraph 1 was made, if the amount of damages arising from non-performance of the obligation exceeds the amount so paid, the Creditor-in-Execution may demand compensation of the damages in the amount of said excess.
6. A *Chomtoah Appeal* may be filed against a decision on a motion for compulsory execution under Paragraph 1 or a motion under Paragraph 3.

**529. Constructive declaration of intention**

1. Should a judgment or ruling ordering a Debtor-in-Execution to make a declaration of intention become final and binding, or a Title of Execution based on a settlement or acknowledgment which states that the Debtor-in-Execution shall declare an intention be issued, the Debtor-in-Execution shall be deemed to have made such declaration of intention at the time that the said judgment or order becomes final and binding, or the said Title of Execution is issued. If the claim right to demand the declaration of intention is subject to a condition precedent or specific event, the declaration of intention shall be deemed to have been made at the time of the granting of the execution clause pursuant to Paragraph 1 of **Article 356 Special execution clause**. Should the declaration of intention by the Debtor-in-Execution be effected in exchange for counter-performance by the Creditor-in-Execution, the declaration of intention shall be deemed to have been made at the time of the granting of the execution clause under Paragraph 2 of this Article.
2. Should the declaration of intention by the Debtor-in-Execution be effected in exchange for counter-performance by the Creditor-in-Execution, the execution clause may be granted only once the Creditor-in-Execution has submitted documentation proving that the Creditor-in-Execution has affected the counter-performance or tendered the same.

# BOOK SEVEN PRESERVATIVE DISPOSITIONS

## Chapter One GENERAL PROVISIONS

### 530. Purpose

Should there be a risk that the compulsory execution will become impossible or extremely difficult due to alteration of the state of the property by the Debtor-in-Execution, or that significant damages or imminent risk will arise affecting the status of one of the parties in respect to the rights in dispute, a person wishing to preserve his/her rights may apply for preservative dispositions pursuant to the provisions of this Book as well as special provisions of other laws.

### 531. Types of preservative dispositions

Preservative dispositions consist of the following as set forth in each Item below and the contents as defined in the corresponding column:

(i)	Provisional attachment	Disposition restricting the disposition of property of the debtor in order to preserve compulsory execution for a claim whose subject matter is a monetary payment
(ii)	Provisional disposition of subject of dispute	Disposition for the maintenance of the status quo of the subject property of the dispute in cases where there is a risk that alteration of the status thereof would render it impossible, or extremely difficult, for the creditor to enforce his/her rights
(iii)	Provisional disposition establishing a provisional status	Disposition establishing a provisional situation until a judgment becomes final and binding where this is necessary in order to avoid significant damages or imminent risk arising to the creditor with regard to the legal relations in dispute

### 532. Organs granting preservative disposition

1. A ruling for preservative disposition shall, upon motion, be issued by the court.
2. Execution of preservative disposition shall, upon motion, be carried out by the court or the bailiff.
3. The court that is to carry out the execution of the preservative disposition pursuant to the provisions of this Book shall be the Preservative Disposition Execution Court.
4. The provisions of Paragraph 4 of **Article 336 (Execution organs)** shall apply *mutatis mutandis* to the execution of preservative disposition carried out by a bailiff.

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**533. Exclusive jurisdiction**

The jurisdiction of the court described in this Book shall be exclusive.

**534. Method for filing motions**

The motions listed below shall be filed in writing:

- (a) a motion for a ruling of preservative disposition;
- (b) a *Chomtoah Appeal* of a ruling dismissing a motion for preservative disposition;
- (c) a motion of objection to preservative disposition;
- (d) a motion to cancel a ruling of preservative disposition;
- (e) a *Chomtoah Appeal* stipulated in **Article 561 (Chomtoah Appeals)**;  
and
- (f) a motion for the execution of a preservative disposition.

**535. Decision on proceedings for preservative disposition**

1. Decisions concerning the proceedings for a ruling of preservative disposition or the court proceedings for the execution of a preservative disposition shall be made via the issuing of a ruling.
2. When carrying out an execution disposition, the Preservative Disposition Execution Court may, if it finds necessary, question any interested person or other persons concerned.
3. Paragraphs 1 and 2 shall apply to cases where a court of first instance renders a decision on an objection to an execution disposition carried out by a bailiff.

**536. Provision of security**

In order to post security in accordance with the provisions of this Book, the party shall make a court deposit of money or negotiable instruments, as deemed appropriate by the court, to the court that ordered such posting or the Preservative Disposition Execution Court.

**537. Costs for preservative disposition**

1. Where a motion for a ruling of preservative disposition is filed, the moving party shall pay a fee in the amount of 5,000 riel to the court.
2. Where a motion for execution of preservative disposition is filed with the Preservative Disposition Execution Court, the moving party shall pay in advance the amount set by the Preservative Disposition Execution Court as the costs required for the execution proceedings for preservative disposition.
3. Should the moving party not pay such costs in advance, the Preservative Disposition Execution Court may dismiss the motion for execution of the preservative disposition or suspend the proceedings for the execution of the preservative disposition.
4. A *Chomtoah Appeal* may be filed against a ruling to dismiss a motion under Paragraph 3.
5. When a motion for execution of preservative disposition is filed with a bailiff, the moving party shall pay a fee as provided separately.

**538. Viewing the record of preservative disposition cases**

1. A person who has established via a *prima facie* showing his/her interest in the proceedings relating to a ruling of preservative disposition

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or the court proceedings relating to execution thereof may request the court to allow the viewing or copying of the case records, or may request delivery of authenticated copies, certified copies or excerpts thereof, or the delivery of a certificate of matters related to the case, together with a payment of fees.

2. A person who has established via a *prima facie* showing his/her interest in the execution of the preservative disposition conducted by a bailiff, may request the bailiff to allow a viewing or copying of the case records, or may request delivery of authenticated copies, certified copies or excerpts thereof, or delivery of a certificate of matters related to the case, together with a payment of fees.

**539. *Mutatis mutandis* application of provisions of Book II through IV**

Except where specifically provided, the provisions of Book II through IV shall apply *mutatis mutandis* to proceedings of preservative disposition.

## **Chapter Two RULINGS OF PRESERVATIVE DISPOSITIONS**

### **Section I. General Provisions**

**540. Court having jurisdiction**

1. The court having jurisdiction over the motion on the merits, or the court of first instance having jurisdiction over the place where the object to be provisionally attached or the subject matter of the dispute is located shall have jurisdiction over the case for a ruling of preservative disposition.
2. The court having jurisdiction over the motion on the merits shall be the court of first instance. Where the motion on the merits is pending in an appellate court, it shall be said appellate court.
3. Where the object to be provisionally attached or the subject of the dispute is a claim, the claim shall be deemed to be located in the location of the Third Party Debtor as set forth in **Article 8 (Jurisdiction determined by domicile)**. Where the subject matter of a claim is the delivery of a vessel or movable, the claim shall be deemed to be located at the place of such object.
4. The first sentence of Paragraph 3 shall apply *mutatis mutandis* to cases where the object to be provisionally attached or the subject matter of the dispute are property rights set forth in **Article 416 (Compulsory execution against other property rights)** and there exists a Third Party Debtor or analogous person.

**541. Matters to be stated in written motions and *prima facie* showing**

1. A written motion to a ruling of preservative disposition shall contain the following information:
  - (a) the names and addresses of the parties, and the name and address of their agent;
  - (b) the contents of the ruling of preservative disposition that is sought;
  - (c) the rights or legal relationship that are to be preserved; and
  - (d) the necessity of the preservative disposition.

2. The moving party shall make efforts to state specific details for Items (c) and (d) under Paragraph 1, and state evidence for each fact and the grounds required to be proven.
3. A *prima facie* showing shall be established concerning items (c) and (d) of paragraph 1.

**542. Security for rulings of preservative disposition**

A ruling of preservative disposition may be issued with or without requiring the provision of security.

**543. Service**

The court shall serve the ruling of preservative disposition on the parties.

**544. Chomtoah Appeal against decision to dismiss**

1. A creditor may file a *Chomtoah Appeal* against a decision to dismiss a motion for preservative disposition within two weeks of receiving notice thereof.
2. The period described in Paragraph 1 may not be extended.

## Section II. Ruling of Provisional Attachment

**545. Necessity of ruling of provisional attachment**

1. A ruling of provisional attachment may be issued where there is a risk that compulsory execution will become impossible or extremely difficult with respect to a claim whose subject matter is a monetary payment.
2. A ruling of provisional attachment may be issued even in cases where the claim described in Paragraph 1 is subject to a condition or specific event.

**546. Subject matters of ruling of provisional attachment**

The court shall issue a ruling of provisional attachment specifying the subject matter thereof. However, a ruling of provisional attachment over Movables may be issued without specifying the subject matter thereof.

**547. Money for release from provisional attachment**

1. The court shall stipulate in a ruling of provisional attachment the monetary amount the debtor is required to place as a court deposit in order to have the execution of the provisional attachment rescinded.
2. A court deposit of the monetary amount described in Paragraph 1 shall be made with the court that issued the ruling of provisional attachment or the Preservative Disposition Execution Court.

## Section III. Ruling of Provisional Disposition

**548. Necessity of ruling of provisional disposition**

1. The court may issue a ruling of provisional disposition for the subject of the dispute should there be a risk that alteration of the status of such subject matter would render it impossible, or extremely

- difficult, for the creditor to enforce his/her rights.
2. The court may issue a ruling of provisional disposition establishing a provisional status where it is necessary in order to avoid significant damage or imminent risk arising to the creditor with regard to the legal relations in dispute.
  3. The provisions of Paragraph 2 of **Article 545 (Necessity of ruling of provisional attachment)** shall apply *mutatis mutandis* to rulings of provisional disposition.
  4. The court may not issue a ruling of provisional disposition described in Paragraph 2 without holding a court date for either oral arguments or questioning for which the debtor is able to attend. This shall not apply where there are extraordinary circumstances that would prevent the attainment of the purpose of the motion for a ruling of provisional disposition if such court date were held.

#### **549. Method of provisional disposition**

The court may order any disposition necessary to attain the purpose of the motion for a ruling of provisional disposition, such as ordering the debtor to perform specific acts, enjoining the debtor from performing specific acts, ordering the debtor to effect performance or ordering a custodian to take custody of the subject property.

### **Section IV. Objection to a Ruling of Preservative Disposition**

#### **550. Motion of objection to a ruling of preservative disposition**

A debtor may file a motion of objection to a ruling of preservative disposition at the court that issued such ruling.

#### **551. Decision to stay execution of preservative disposition**

1. Where a motion of objection to a ruling of preservative disposition has been filed, the court may, upon motion, order a stay of execution of preservative disposition or a cancellation of execution disposition with the requirement of providing security, until a decision under Paragraph 3 is rendered in the ruling on the motion of objection to a ruling of preservative disposition, only if it is established by a *prima facie* showing that clear circumstances constituting grounds for canceling the ruling of preservative disposition exist and that there is a risk that execution of preservative disposition would cause irreparable damage.
2. In cases where a *Chomtoah Appeal* court issued the ruling of preservative disposition and the record of the case is kept in the original court, that court may also render a decision under Paragraph 1.
3. In the ruling on the motion of objection to a ruling of preservative disposition, the court shall cancel, amend or grant the decision already rendered in accordance with Paragraph 1.

#### **552. Trial for objection to a ruling of preservative disposition**

The court may not issue a ruling on the motion of objection to a ruling of preservative disposition without holding a court date for either oral arguments or questioning, which both parties are able to attend.

**553. Conclusion of trial**

Where the court is to conclude the trial for the objection to a ruling of preservative disposition, the court shall set up such conclusion date with a grace period as it finds appropriate. The court may declare that the trial be concluded immediately on the court date of either oral arguments or questioning that both parties were able to attend.

**554. Ruling on motion of objection to a ruling of preservative disposition**

1. In the ruling on a motion of objection to a ruling of preservative disposition, the court shall grant, amend or cancel the ruling of preservative disposition.
2. In the ruling canceling a ruling of preservative disposition under Paragraph 1 the court may impose the condition that the debtor provide security.
3. The provisions of **Article 543 (Service)** shall apply *mutatis mutandis* to rulings under Paragraph 1.

**555. Ruling ordering restitution**

Where the creditor has, based on a ruling of provisional disposition, received delivery of an object or payment of money or used or taken custody of an object, the court may, upon motion of the debtor, order the creditor to return the object delivered or money paid by the debtor, or to return the object which the creditor uses or holds in custody, through a ruling of cancellation of the ruling of provisional disposition under Paragraph 1 of **Article 554 (Ruling on motion of objection to a ruling of preservative disposition)**.

**556. Effect of ruling of cancellation of ruling of preservative disposition**

A ruling of cancellation of a ruling of preservative disposition under Paragraph 1 of **Article 554 (Ruling on motion of objection to a ruling of preservative disposition)** shall come into effect only when it becomes final and binding. The court may, if it finds particularly necessary, declare that the ruling shall come into effect immediately.

**Section V. Cancellation of Ruling of Preservative Disposition**

**557. Cancellation of ruling of preservative disposition due to failure to file a motion on the merits**

1. The court that issued the ruling of preservative disposition shall, upon motion of the debtor, order the creditor to file an motion on the merits and submit documents proving such filing within a period deemed reasonable by the court.
2. The period described in Paragraph 1 shall not be less than two weeks.
3. Should the creditor fail to submit the document described in Paragraph 1 within the period described thereunder, the court shall, upon motion of the debtor, cancel the ruling of preservative disposition.
4. Where the document described in Paragraph 1 had been submitted after the motion on the merits was discontinued or dismissed, such document shall be deemed to have not been submitted.

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5. In the application of Paragraphs 1 and 3, if there is an arbitration agreement relating to the merits of the case, the procedure for the commencement of arbitration proceedings shall be deemed to be the filing of an motion on the merits.
6. Should the arbitration proceedings described in Paragraph 5 conclude without an arbitration award, the creditor shall file an motion on the merits within the same period as that stipulated under Paragraph 1, counting from the day of the conclusion of the arbitration proceedings.
7. The provisions of Paragraph 3 shall apply *mutatis mutandis* to cases where a creditor fails to file an motion on the merits in accordance with Paragraph 6, and the provisions of Paragraph 4 shall apply *mutatis mutandis* to cases where the motion on the merits described in Paragraph 6 had been filed after discontinuance or dismissal. The provisions of Article 543 Service shall apply *mutatis mutandis* to rulings under Paragraph 3 and Paragraph 7.

**558. Cancellation of a ruling of preservative disposition due to a change of circumstances**

1. Where the rights or legal relationship to be preserved, or the necessity of preservative disposition, have been extinguished or where the circumstances have otherwise changed, the court that issued the ruling of preservative disposition or the court hearing the merits case may, upon motion by the debtor, cancel such ruling.
2. The debtor shall establish a *prima facie* showing of the change of circumstances described in Paragraph 1.
3. The provisions of **Article 543 (Service)** and Paragraph 2 of **Article 554 (Ruling on motion of objection to a ruling of preservative disposition)** shall apply *mutatis mutandis* to rulings on motions under Paragraph 1.

**559. Cancellation of ruling of provisional disposition due to special circumstances**

1. Where there exist special circumstances such as the risk that the ruling of provisional disposition would cause irreparable damage, the court that issued the ruling of provisional disposition or the court hearing the merits case may, upon motion of the debtor, cancel such ruling subject to the condition of posting security.
2. The debtor shall establish a *prima facie* showing of the special circumstances described in Paragraph 1.
3. The provisions of **Article 543 (Service)** shall apply *mutatis mutandis* to rulings on motions under Paragraph 1.

**560. *Mutatis mutandis* application of provisions concerning objection to a ruling of preservative disposition**

1. The provisions of **Articles 551 (Decision to stay execution of preservative disposition)** through **Article 553 (Conclusion of trial, Articles 555 Ruling ordering restitution)**, and **Article 556 (Effect of ruling of cancellation of ruling of preservative disposition)** shall apply *mutatis mutandis* to decisions on the cancellation of rulings of preservative disposition. This shall not apply to decisions under Paragraph 1 of **Article 557 (Cancellation of ruling**

of preservative disposition due to failure to file a motion on the merit).

2. Where a motion for cancellation of preservative disposition has been filed with the court of the merits motion, which is not the court that issued the ruling of preservative disposition, and the case record is kept in the court that issued the ruling of preservative disposition, that court may also render a decision under Paragraph 1 of **Article 551 (Decision to stay execution of preservative disposition)**, which is applied *mutatis mutandis* by Paragraph 1 of this Article.

## Section VI. Chomtoah Appeals

### 561. **Chomtoah Appeals**

1. A *Chomtoah Appeal* may be filed against any of the following rulings, within two weeks from the date of service thereof. This shall not apply to a decision on a motion of objection to a ruling of preservative disposition issued by a *Chomtoah Appeal* court:
  - (a) a ruling concerning a motion of objection to a ruling for preservative disposition, or a motion to cancel a ruling of preservative disposition;
  - (b) a ruling pursuant to **Article 555 (Ruling ordering restitution)**; or
  - (c) a ruling pursuant to **Article 555 (Ruling ordering restitution)** that is applied *mutatis mutandis* through **Article 560 (Mutatis mutandis application of provisions concerning objection to a ruling of preservative disposition)**.
2. The period described in Paragraph 1 may not be extended.
3. The provisions of **Article 543 (Service)** and Paragraph 2 of **Article 554 (Ruling on motion of objection to a ruling of preservative disposition)** shall apply *mutatis mutandis* to a ruling on a *Chomtoah Appeal*, the provisions of Paragraph 1 **Article 551 (Decision to stay execution of preservative disposition)**, **Article 552 (Trial for objection to a ruling of preservative disposition)**, **Article 553 (Conclusion of trial)** and **Article 555 (Ruling ordering restitution)** shall apply *mutatis mutandis* to decisions in *Chomtoah Appeals*, and the provisions of **Article 317 (Motion for retrial concerning a ruling)** shall apply *mutatis mutandis* to cases where a decision against which a *Chomtoah Appeal* could have been filed has becomes final and binding.
4. Decisions under Paragraph 1 of **Article 551 (Decision to stay execution of preservative disposition)**, which is applied *mutatis mutandis* by Paragraph 3 of this Article, may also be made by the original court if it holds the case record.

## Chapter Three EXECUTION OF PRESERVATIVE DISPOSITION

### 562. **Requirements for execution of preservative disposition**

1. Execution of preservative disposition shall be implemented on the basis of a true copy of the ruling of preservative disposition. Preservative disposition execution against or for persons other than the parties indicated in the ruling of preservative disposition shall be implemented on the basis of a true copy of the ruling of preservative disposition bearing an execution clause.

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2. Execution of preservative disposition shall not be carried out once 2 weeks have passed since the date the ruling of preservative disposition was served on the creditor.
3. Execution of preservative disposition may be carried out before the ruling of preservative disposition is served on the debtor.

**563. Special rules for courts with jurisdiction over third party objection actions**

A third party objection motion against preservative disposition execution implemented by an appellate court as the Preservative Disposition Execution Court shall be subject to the jurisdiction of the court of first instance having jurisdiction over the place in which the object to be provisionally attached or the property in dispute is located, notwithstanding Paragraph 2 of **Article 365 (A third party objection action)**.

**564. *Mutatis mutandis* application of provisions of Book VI**

Except where specially provided in this Chapter, the following provisions shall apply *mutatis mutandis* to the execution of preservative disposition:

**Article 338 (Ensuring performance of duties by bailiffs)** through **Article 345 (Chomtoah Appeal against cancellation ruling)**, **Article 348 (Appointed representative for compulsory execution proceedings)**, Paragraphs 2 and 3 of **Article 349 (Method for motions for compulsory execution)**, Paragraphs 1 of **Article 351 (Scope of persons who can be parties to compulsory execution)**, Paragraph 2 of **Article 354 (Requirements for execution clause and organs granting such clause)**, Paragraph 1 and 3 of **Article 355 (Motion for granting of execution clause)**, Paragraphs 2 through 4 of **Article 356 (Special execution clause)**, **Article 357 (Matters to be stated in an execution clause)** through **Article 359 (Recording on original Title of Execution)**, **Article 362 (Filing of an objection to the granting of execution clause)**, **Article 364 (Motion objecting to grant of execution clause)**, **Article 365 (A third party objection action)**, and **Article 367 (Decision of stay of execution upon the filing of a motion objecting to a claim)** through **Article 370 (Stay and cancellation of compulsory execution)**.

**565. Execution of provisional attachment over Movables**

1. Execution of provisional attachment over Movables shall be carried out through the bailiff who belongs to the court of the first instance having jurisdiction over the location of the subject matter taking possession of such subject property.
2. The bailiff shall make a court deposit of the provisionally attached money with the court to which he/she belongs.
3. Where there is a risk of a severe reduction in the price of the provisionally attached Movables, or where incommensurate costs are required for the storage of such Movables, the bailiff shall, upon motion of the provisional attachment creditor or the debtor, sell such Movables in accordance with the sales proceedings for execution against Movables as stipulated in the provisions of **BOOK VI, Chapter II, Section II** of this Code, and make a court deposit of the sales proceeds with the court to which he/she belongs.
4. The provisions of Paragraph 2 of **Article 384 (Commencement of**

execution against Movables), and **Article 385 (Attachment of Movables in the possession of the Debtor-in-Execution)** through **Article 392 (Prohibition of attachments with no prospects for producing a surplus)** shall apply *mutatis mutandis* to the execution of provisional attachment over Movables.

**566. Execution of provisional attachment over claims and other property rights**

1. Execution of provisional attachment over claims as stipulated in **Article 402 (Meaning of Execution of Claims and Execution Court)** shall be carried out by the Preservative Disposition Execution Court issuing a ruling enjoining the Third Party Debtor from paying the debtor.
2. The court that issued the provisional attachment ruling shall have jurisdiction as the Preservative Disposition Execution Court over the execution of the provisional attachment described in Paragraph 1.
3. In cases where provisional attachment has been executed against a claim whose subject matter is a monetary payment, should the Third Party Debtor have made a court deposit of the amount of such claim with the court, such deposited money shall be deemed as having been deposited by the debtor with the court as the money amount described in **Article 547 (Money for release from provisional attachment)**. This shall not apply to the portion of the money paid by the Third Party Debtor that exceeds such amount.
4. The provisions of Paragraphs 1 and 2 shall apply *mutatis mutandis* to the execution of provisional attachment over other property rights.
5. The provisions of Paragraphs 2 and 3, Paragraphs 6, 7 and 8, and Paragraphs 10 and 11 of **Article 403 (Attachment ruling)**, **Articles 404 (Attachment)** through **Article 408 (Notice of withdrawal of motion)**, **Article 411 (Court deposit by Third Party Debtor)** and **Article 416 (Compulsory execution against other property rights)** shall apply *mutatis mutandis* to the execution of provisional attachment over claims described in Paragraph 1 and other property rights.

**567. Execution of provisional attachment over immovables**

1. Execution of provisional attachment over immovables as stipulated in Paragraph 1 of **Article 417 (Subject matter and method of compulsory execution against immovables)** shall be carried out through the method for registering the provisional attachment.
2. The court that issued the provisional attachment ruling shall have jurisdiction as the Preservative Disposition Execution Court over the execution of the provisional attachment.
3. The court clerk shall be entrusted with the registration of the provisional attachment.
4. The provisions of Paragraph 2 of **Article 420 (Entrustment for registration of attachment)**, the first sentence of Paragraph 3 of **Article 421 (Effect of attachment)**, Paragraphs 1 of **Articles 424 (Double ruling for commencement)**, **Article 425 (Double ruling for commencement in the enforcement of real security right and execution against an Immovable)**, **Article 427 (Cancellation of compulsory sale proceedings for reasons such as destruction or loss of the Immovable)** and **Article 428 (Entrustment for striking out of registration of**

**attachment)**, shall apply *mutatis mutandis* to the execution of provisional attachment over immovables.

**568. Execution of provisional attachment over Vessels**

1. Execution of provisional attachment over Vessels shall be carried out through the method of registration for provisional attachment, or by the method ordering the bailiff to confiscate the Certificate of Registry of Vessels and submitting such to the Preservative Disposition Execution Court. These two methods may be used concurrently.
2. When provisional attachment is executed by means of registration of provisional attachment, the court that issued the ruling of provisional attachment shall have jurisdiction as the Preservative Disposition Execution Court; on the other hand, when provisional attachment is executed by means of ordering the confiscation of the Certificate of Registry of Vessels, the court of first instance having jurisdiction over the location of the vessel shall have jurisdiction as the Preservative Disposition Execution Court.
3. The court clerk shall entrust the authorized government agency to register the provisional attachment.
4. The provisions of Paragraphs 2 and 3 of **Article 455 (Motion for and method of compulsory execution against Vessels)**, **Article 465 (Cancellation of compulsory execution proceedings due to destruction or loss of vessel)**, and **Article 466 (Entrustment for the striking out of the attachment registration)** shall apply *mutatis mutandis* to the execution of provisional attachment carried out by means of the registration of provisional attachment, and the provisions of Paragraph 3 of **Article 455 (Motion for and method of compulsory execution against Vessels)**, Paragraph 7 of **Article 457 (Ruling for commencement)**, **Article 460 (Appointment of custodian and Article 462 (Permission to sail)** shall apply *mutatis mutandis* to the execution of provisional attachment carried out by means of ordering the confiscation of the Certificate of Registry of Vessels.

**569. Cancellation of execution of provisional attachment via deposit to court of money for release from provisional attachment**

1. Once the debtor has made a court deposit of money in the amount described in **Article 547 (Attachment with the court)**, the Preservative Disposition Execution Court or the court of first instance to which the bailiff belongs shall cancel the execution of the provisional attachment.
2. The ruling issued in accordance with the provisions of Paragraph 1 shall come into effect immediately, notwithstanding Paragraph 2 of **Article 345 (Chomtoah Appeal against cancellation ruling)** as applied *mutatis mutandis* by **Article 564 (Mutatis mutandis application of provisions of Book VI)**.

**570. Execution of provisional disposition**

Execution of provisional disposition shall be implemented following the example for execution of provisional attachment or compulsory execution.

**571. Effect of provisional disposition prohibiting transfer of**

### **possession**

1. Where, in order to preserve a claim right for the delivery of an object, a ruling of provisional disposition has been issued that prohibits the debtor from transferring possession of the object and orders the debtor to relinquish such possession and deliver the object to the bailiff who shall take the object into custody, the bailiff shall give public notice of the fact that the debtor is prohibited from transferring possession and that the bailiff has custody over the object by posting said notice on a public notice board from which it cannot be easily removed, or by other appropriate means.
2. Where execution of the provisional disposition described in Paragraph 1 has been carried out, the creditor may effect compulsory execution of the delivery of the object based on the Title of Execution of the merits action. Such compulsory execution may be allowed only against a person who took possession of the object with the knowledge that the provisional disposition had been executed.
3. A person who takes possession of such object after the provisional disposition described in Paragraph 1 has been executed shall be presumed to have done so with knowledge of said execution of provisional disposition.

## **BOOK EIGHT TRANSITIONAL PROVISIONS**

### **Chapter One TRANSITIONAL PROVISIONS**

#### **572. Principle of transitional measures**

With regard to an action filed before the application of this Code, the proceedings for such action after the application of this Code shall be completed in accordance with this Code, except where specifically provided by this **Book VIII (Transitional provisions)**. In such case, the effect of the proceedings arising before the application of this Code shall not be hindered by this provision.

#### **573. Transitional measures with regard to jurisdiction**

The jurisdiction and transfer of actions currently pending at the time of application of this Code shall be determined heretofore.

#### **574. Transitional measures with regard to distribution of cases**

- 1 After the filing of an action, should this Code come into effect prior to the appointment of the judge in charge of investigation or settlement proceedings for the action (hereinafter referred to as the "Investigating Judge"), such action shall be deemed to have been filed at the time this Code came into effect, and the provisions of **Article 26 (Distribution of cases)** shall apply.
- 2 After the appointment of the Investigating Judge, if this Code comes into effect prior to the appointment of the presiding judge or other judges for the principal hearing, the Investigating Judge shall be deemed to have received the case as assigned under the provision of **Article 26 (Distribution of cases)** of this Code.
- 3 With regard to cases under Paragraph 2 above, if the case is a case

- set forth in Paragraph 2 of **Article 23 (Single judge systems and panel systems in the court of first instance)**, such case shall, notwithstanding the provisions of Paragraph 2 of this Article, be deemed to be filed at the time that this Code came into effect and the provisions of **Article 26 (Distribution of cases)** shall apply.
- 4 After the *Uttor* appellate court has received the case, if this Code comes into effect prior to the appointment of the judges of the principal hearing, the case shall be deemed to have been received at the time of the application of this Code and the provisions of **Article 26 (Distribution of cases)** shall apply.
  - 5 The provisions of Paragraph 4 shall apply *mutatis mutandis* to the distribution of cases in the *Satuk* appellate court.

**575. Transitional measures with regard to decision on disqualification or challenge**

Where a court of first instance has an insufficient number of judges to hear and decide by a panel a motion for disqualification or challenge, the provision of paragraph 1 of **Article 30 (Judicial decision of disqualification or challenge)** shall apply for the time being by changing the phrase "the panel of the court to which the judge belongs" to "the other judge of the court to which the judge belongs".

**576. Transitional measures on investigating procedure or procedure subsequent to investigating procedure**

- 1 Should this Code come into effect during the investigation procedure, the court shall immediately terminate such procedure and promptly set a date for preparatory proceedings and summon the parties.
- 2 After the conclusion of the investigating procedure, where this Code comes into effect prior to the date for the principal hearing, the court shall promptly set a date for preparatory proceedings and summon the parties. This shall not apply where preparatory proceedings are to be conducted in accordance with the provisions of paragraph 2 of **Article 578 (Transitional measures on the date for the principal hearing)**.
- 3 With regard to cases under paragraph 1 and paragraph 2 above, acts concerning actions conducted during the investigating procedure shall be deemed to have been conducted in the preparatory proceedings within the court's authority described in **Article 106 (Acts concerning the action and other matters at preparatory proceedings)**.
- 4 Where this Code comes into effect after the date for the principal hearing was held, should a party request to examine witnesses or parties in oral arguments who have been examined during the investigating procedure but not examined during the principal hearing, the court shall examine such witnesses or parties.

**577. Transitional measures with regard to litigation costs**

- 1 The fees and other costs for civil actions to be borne by the parties or other interested persons with regard to the case filed before this Code came into effect shall be determined heretofore.
- 2 The provisions with regard to the security for litigation costs shall apply to cases that were filed prior to this Code coming into effect.

**578. Transitional measures with regard to the date for the principal hearing**

- 1 The date for the principal hearing that was already designated at the time when this Code came into effect shall be deemed to have been designated as a date for oral arguments according to the provisions of this Code.
- 2 In cases described in Paragraph 1, should the principal hearing date be the first date after the conclusion of the investigating procedure, the court may conduct the preparatory proceedings before commencing the oral arguments.
- 3 For cases described in Paragraph 2, should the court be unable to complete the preparatory proceedings, the court shall designate another date for preparatory proceedings and cancel or delay the oral arguments.

**579. Transitional measures with regard to sanctions in examination of evidence**

- 1 The provisions regarding the civil fine stated in **Chapter 3 (Evidence)** of Book II shall apply to cases where the examination of evidence is determined in accordance with the provisions of this Code, or where a party or the party's agent denies the authenticity of a document after this Code comes into effect.
- 2 The previous paragraph shall equally apply to provisions regarding the civil fine stated in **Chapter 3 (Evidence)** of Book II, which are applied *mutatis mutandis* by **Article 273 (Mutatis mutandis application of provisions regarding court proceedings at the court of first instance)** and **Article 286 (Mutatis mutandis application of provisions regarding Uttor appeal)**.

**580. Transitional measures with regard to default judgment**

The procedure, should the plaintiff or defendant fail to appear on the date for which they were summoned prior to the application of this Code, shall be determined heretofore.

**581. Transitional measures with regard to possibility of appeal and the period for appeal**

- 1 The possibility of appeal and the period for the appeal against a judgment based on a trial concluded prior to the application of this Code shall be determined as heretofore.
- 2 The possibility of a *Satuk* appeal and the period of *Satuk* appeal against the judgment re-rendered by the *Uttor* appellate court with regard to a case that the Supreme Court remanded before the application of this Code, shall be determined as heretofore.
- 3 With regard to cases where the Supreme Court reversed the judgment that the *Uttor* appellate court had rendered based on the trial concluded before the application of this Code, and remanded the case to the *Uttor* appellate court, the possibility of a *Satuk* appeal and the period for a *Satuk* appeal against the judgment re-rendered by the *Uttor* appellate court shall be determined heretofore.
- 4 With regard to decisions other than judgments that have been notified

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prior to this Code coming into effect, the possibility for appeal and the period of appeal shall be determined heretofore.

**582. Transitional measures with regard to *Satuk* appeals and the court proceedings for the *Satuk* appeal**

- 1 The *Satuk* appeals and the court proceedings for the *Satuk* appeal against the judgment of the *Uttor* appellate court based on the trial concluded prior to this Code coming into effect, shall be determined heretofore.
- 2 The *Satuk* appeals and the court proceedings for the *Satuk* appeal against a judgment re-rendered by the *Uttor* appellate court with regard to a case that the Supreme Court remanded before this Code came into effect shall be applied heretofore.
- 3 With regard to cases where the Supreme Court reversed the judgment that the *Uttor* appellate court had rendered based on the trial concluded before this Code came into effect, and remanded the case to the *Uttor* appellate court, the *Satuk* appeal and the court proceedings for the *Satuk* appeal against the judgment re-rendered by the *Uttor* appellate court shall be determined heretofore.

**583. Transitional measures with regard to the binding effect of reverse judgment**

Where the *Satuk* appeals and the court proceedings for the *Satuk* appeal is determined heretofore in accordance with the provisions of **Article 582(Transitional measures with regard to *Satuk* appeals and the court proceedings for the *Satuk* appeal)**, should the Supreme Court render a judgment that reverses the original judgment and remands the case to the *Uttor* appellate court or transfers it to another court, the provisions of Paragraph 2 of **Article 299(Quashing and remand)** shall not apply to such judgment.

**584. Transitional measures with regard to retrial**

The provisions of **Book IV (Retrial)** shall apply only to judgments that become final and binding after this Law comes into effect.

**585. Transitional measures with regard to compulsory execution**

- 1 Cases with regard to compulsory execution filed before this Code comes into effect shall be determined heretofore. This shall not apply to the provisions of **Chapter 3 (Detention by imprisonment)** of the **Law on Procedure for Execution of Civil Judgments**.
- 2 The decision ordering detention by imprisonment that was issued pursuant to the provisions of **Chapter 3 (Detention by imprisonment)** of the **Law on Procedure for Execution of Civil Judgments** in court proceedings prior to this Code coming into effect shall lose its effect from the date of this Code becoming effective.
- 3 Once this Code comes into effect, should the debtor have been detained under the provisions of **Chapter 3 (Detention by imprisonment)** of the **Law on Procedure for Execution of Civil Judgments**, the presiding judge who ordered such detention or the President of the court shall immediately order the release of such debtor.

**586. Transitional measures with regard to preservative**

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**disposition**

- 1 With regard to provisional disposition cases filed prior to this Code coming into effect, if this Code comes into effect before a decision on the motion for preservative disposition is rendered, the remaining proceedings shall be completed in accordance with this Code. In such case, the effect of the proceedings arising before the application of this Code shall not be hindered by this provision.
- 2 For cases described in the previous paragraph, should this Code come into effect after a decision on the motion for preservative disposition has been rendered, the remaining proceedings shall be determined heretofore.

## **BOOK NINE FINAL PROVISIONS**

### **Chapter One FINAL PROVISIONS**

**587. Application of this Code**

This Code shall come into effect one-year following one year after its promulgation.

**588. Abrogation of other laws**

- 1 The Laws set forth as follows shall become null and void from the day of application of this Code:
  - a) Law on Procedure for Execution of Civil Judgments promulgated by Decree No. 51 KR dated May 2, 1992; and
  - b) Law on Litigation Costs promulgated by Decree No. 07 KR dated February 8, 1993.
- 2 The provisions of any other laws that are in effect at the time of the application of this Code but which are inconsistent with the provisions of this Code shall become invalid to the extent of inconsistency from the date of the application of this Code.