

Civil and Commercial Code

PRELIMINARY

Section 1

This law shall be called the Civil and Commercial Code.

Section 2

It shall come into force on the January 1, B.E. 2468 (1925)

Section 3

On and from the day of operation of this Code, all other laws, bye laws and regulations in so far as they deal with matters governed by this Code or are inconsistent with its provisions shall be repealed.

BOOK I

GENERAL PRINCIPLES

TITLE I

GENERAL PROVISIONS

Section 4

The law must be applied in all cases which come within the letter and spirit of any of its provisions.

Where no provision is applicable, the case shall be decided according to local custom.

If there is no such local custom, the case shall be decided by analogy to the provision most nearly applicable, and, in default of such provision, by the general principles of law.

Section 5

Every person must, in the exercise of his rights and in the performance of his obligations, act in good faith.

Section 6

Every person is presumed to be acting in good faith.

Section 7

Whenever interest is to be paid, and the rate is not fixed by a juristic act or by an express provision in the law, it shall be seven and a half per cent per year.

Section 8

"Force majeure" denotes any event the happening or pernicious result of which could not be prevented even though a person against whom it happened or threatened to happen were to take such appropriate care as might be expected from him in his situation and in such condition.

Section 9

Whenever writing is required by law, it is not necessary that it be written by the person from whom it is required, but it must bear his signature.

A finger print, cross, seal or other such mark affixed to a document is equivalent to a signature if it is certified by the signature of two witnesses.

The provisions of paragraph two shall not apply to a finger print, cross, seal or other such mark affixed to a document before the competent authorities.

Section 10

When a clause in a document can be interpreted in two senses, that sense is to be preferred this gives some effect rather than that which would give no effect.

Section 11

In case of doubt, the interpretation shall be in favor of the party who incurs the obligation.

Section 12

Whenever a sum or quantity is expressed in letters and in figures and the two expressions do not agree, and the real intention cannot be ascertained, the expression in letters shall be held good.

Section 13

Whenever a sum or quantity is expressed several times in letters or several times in figures and the several expressions do not agree, and the real intention cannot be ascertained, the lowest expression shall be held good.

Section 14

Whenever a document is executed in two versions, one in the Thai language, the other in another language, and there are discrepancies between the two versions, and it cannot be ascertained which version was intended to govern, the document executed in the Thai language shall govern.

**TITLE II
PERSONS**

**CHAPTER I
NATURAL PERSONS**

PART I
Personality

Section 15

Personality begins with the full completion of birth as a living child and ends with death.

A child *en ventre sa mere* is capable of rights provided that it is thereafter born alive.

Section 16

In calculating the age of a person, the birth day shall be counted. If only the month of birth is known, the first day of such month shall be counted as the birthday but if it is not possible to ascertain the date of birth of a person, his age is calculated from the first day of the official year during which such birth took place.

Section 17

When several persons have perished in a common peril, and it is not possible to determine which of them perished first, they will be presumed to have died simultaneously.

Section 18

If the right to use of a name by a person entitled to it is disputed by another, or if the interest of the person entitled is injured by the fact that another uses the same name without authority, then the person entitled may demand from the other abatement of the injury. If a continuance of the injury is to be apprehended, he may apply for an injunction.

PART II

Section 19

A person, on completion of twenty years of age ceases to be a minor and becomes *sui juris*.

Section 20

A minor becomes *sui juris* upon marriage, provided that the marriage is made in accordance with the provisions of Section 1448.

Section 21

For the doing of a juristic act, a minor must obtain the consent of his legal representative. All acts done by him without such consent are voidable unless otherwise provided.

Section 22

A minor can do all acts by which he merely acquires a right or is freed from a duty.

Section 23

A minor can do all acts which are strictly personal.

Section 24

A minor can do all acts which are suitable to his condition in life, and actually required for his reasonable needs.

Section 25

A minor, after completing fifteen years of age, can make a will.

Section 26

When the legal representative permits a minor to dispose of property for a purpose specified by him, the minor may, within the limits of such purpose, dispose of it at his pleasure. He may do the same as to property which he has been permitted to dispose of without any purpose being specified.

Section 27

The legal representative may permit a minor to carry on a commercial business or other business, or to enter into a hire of services contract as an employee. In case of refusal by the former without reasonable ground, the minor may apply in the court for granting permission.

The minor shall, in relation to the carrying on of business or the hire of services under paragraph one, have the same capacity as a person *sui juris*.

If the carrying on of a business of service so permitted under paragraph one causes a serious damage or injury to a minor, the legal representative may terminate the permission granted to the minor or may, in case of having been granted by the court; apply to the court for revocation of the permission granted.

If the permission is unreasonably terminated by the legal representative, the minor may apply to the court for revoking the termination of permission of the legal representative.

The termination of permission may by the legal representative or the revocation of permission by the court would make the minor's capacity of a person *sui juris* cease to exist, but does not affect any acts done by the minor before the termination or revocation of the permission.

Section 28

A person of unsound mind may be adjudged incompetent by the court on the application of any spouse, ascendants, descendants, guardian or curator, a person taking care of the person or the Public Prosecutor.

The person adjudged incompetent under paragraph one must be placed under guardianship. The appointment of guardian, power and duties of guardian and termination of guardianship shall be in accordance with provisions of Book V of this Code.

The order of the court under this Section shall be published in the Government Gazette.

Section 29

An act done by a person adjudged incompetent is voidable.

Section 30

An act done by a person of unsound mind but not adjudged incompetent is voidable only when the act was done at a time he was actually of unsound mind, and the other party had knowledge of such unsoundness.

Section 31

If the cause of the incompetence ceases to exist, the court shall, on the application of the person himself or of any of the persons mentioned in Section 28, revoke the adjudication.

The order of the court revoking the adjudication under the Section shall be published in the Government Gazette.

Section 32

A person, who has physical or mental infirmity, habitual prodigality or habitual intoxication or other similar causes that make him incapable of managing his own affairs, or whose management is likely to cause detriment to his own property or family, may be adjudged as quasi incompetent by the court upon application by any of the persons specified in Section 28.

The person adjudged quasi-incompetent under paragraph one must be placed under curatorship.

The appointment of curator shall be in accordance with the provisions of Book V of the Code.

The order of the court under the Section shall be published in the Government Gazette.

Section 33

If it is found by the court in trial of the case for a person to be adjudged incompetent on account of unsound mind that he is not a person of unsound mind but has mental infirmity, he may, if is deemed suitable by the court or upon the application of the party or the persons specified in Section 28, be adjudged as quasi-incompetent. The same shall be applied if it is found by the court in trial of the case for a person to be adjudged quasi-incompetent on account of mental infirmity that he is a person of unsound mind, he may, if it is deemed suitable by the court or upon the application of the party or the person specified in Section 28, be adjudged as incompetent.

Section 34

A quasi incompetent person must obtain the consent of his curator for doing the following acts:

- (1) Investing his property.
- (2) Accepting the return of the invested property, principal or other capital.
- (3) Contracting a loan or lending money, borrowing or leasing value movable.
- (4) Giving security by any means whatever that affects him to make a forced payment.
- (5) Hiring or letting property longer than six months if the property is movable or three years if the property is immovable.
- (6) Making a gift, except the gift made suitable for situation in his life, for philanthropy, social or moral obligations.
- (7) Accepting a gift encumbered with a charge or refusing a gift.
- (8) Doing any act, whose object is the acquiring of, or parting with, a right in an immovable or a valuable movable.
- (9) Constructing, modifying building or other structures, or making extensive repairs.
- (10) Entering an action in court or doing any legal proceedings except the application made under Section 35 and the application for removal of his curator.
- (11) Making a compromise or submitting a dispute to arbitration

For acts other than those mentioned in paragraph one, the conduct of which by a quasi-incompetent may detriment to his own property or family, the court is empowered, in giving and order effecting any person to be quasi-incompetent or upon the application made subsequently by the curator, to instruct the quasi-incompetent to obtain consent of the curator prior to conduct of such acts.

If the quasi-incompetent cannot do any act as mentioned in paragraph one or paragraph two by himself because of his physical or mental infirmity, the court may give an order empowering the curator to act on behalf of the quasi incompetent, and the provisions relating to guardian shall be applied *mutatis mutandis*.

The order of the court under this Section shall be published in the Government Gazette. Any act contrary to the provisions of this Section is voidable.

Section 35

If the curator does not give consent to the quasi-incompetent for doing any acts under Section 34 with unreasonable ground, the court may, upon the application of the quasi-incompetent, permit him to do the act without having to obtain consent of his curator, should the act will be beneficial to the quasi-incompetent.

Section 36

If the cause for the court adjustment of the quasi-incompetent ceases to exist, the provisions of Section 33 shall be applied *mutatis mutandis*.

PART III

Domicile

Section 37

The domicile of a natural person is the place where he has his principal residence.

Section 38

If a natural person has several residences where he lives alternately, or various centers of habitual occupation, either one shall be considered his domicile.

Section 39

If the domicile is not known, the place of residence is deemed to be his domicile.

Section 40

The domicile of a natural person who has no habitual residence, or employs his life in voyages without a central place of business shall be held to be the place where is found.

Section 41

The domicile is changed by transferring the residences with manifest intention of changing.

Section 42

If a person selects any place with manifest intention of making it a special domicile for any act, which is deemed to be the domicile in respect to such act.

Section 43

The domicile of husband and wife is the place where husband and wife cohabit as a couple unless either husband or wife expresses his/her intention to have a separate domicile.

Section 44

The domicile of a minor is that of his legal representative who is the person exercising parental power or the guardian.

In the case where the minor is under parental power of his parents and the parents have separate domiciles, the minor shall have domicile of his father or mother with whom he lives.

Section 45

The domicile of an incompetent person is that of his guardian.

Section 46

The domicile of a public official is the place where he exercises his function, provided that such function is not temporary, periodical or mere commission.

Section 47

The domicile of a convict by a final judgment of the court or by a lawful order is the prison or correctional institution where he is imprisoned until his release.

**PART IV
DISAPPEARANCE**

Section 48

If a person has left his domicile or residence without having appointed an agent with general authority and it is uncertain whether he is living or dead, the court may, on the application of any interested person or of the Public Prosecutor, order such provisional measures to be taken as may be necessary for the property management of such person.

The court may appoint a property manager after one year has elapsed from the day when he has left his domicile or residence if no news of him has ever been received, or from the day when has last been seen or heard of.

Section 49

If an agent with general authority had been appointed by the absent person, but his authority comes to an end, or it appears that his management is likely to cause injury to the absent person, the provisions of Section 48 shall be applied by *mutatis mutandis*.

Section 50

The court may, on the application of any interested person or of the public prosecutor, order an inventory of the property to be made by the agent with general authority, in compliance with an injunction to be given by the court.

Section 51

Subject to the provisions of Section 802, if it is necessary for the agent with general authority to do any act beyond the scope of his authority, he must apply for court's permission and may do so on obtaining such permission.

Section 52

The manager who appointed by the court must finish making the inventory of the property of the absent person within three months as from the day on which the appointment order of the court comes to his knowledge. However, the manager may apply to the court for the extension of the time.

Section 53

The inventory under Section 50 and Section 52 must be made in the presence of, and signed by two witnesses. Such two witnesses must be a spouse or a relative being of age of the absent person. If neither spouse nor relatives is found, or the spouses and relative refuse to be witnesses, other persons being of age may act as witnesses.

Section 54

The manager has such power of an agent with general authority as provided in Section 801 and Section 802. If the manager deems it necessary to do any acts beyond the scope of his authority, he must apply for the court's permission and may do so obtaining such permission.

Section 55

If the absent person has appointed an agent with special authority, the manager cannot interfere with such special agency, but he can apply to the court for an order removing the agent if it appears that his management is likely to cause injury to the absent person.

Section 56

The court may, on the application of any interested person or of the public prosecutor or of its own motion;

- (1) Require the manager to give proper management security and return of the property entrusted to him.
- (2) Require him to give information as to the property condition of the absent person.
- (3) Remove him and appoint another manager in his stead.

Section 57

The court may, in the order appointing the property manager, determine a remuneration to be paid to the manager out of the property of the absent person; in default of which the manager may afterwards apply to the court for determining such remuneration.

The court may, on the application of the manager or of an interested person or the public prosecutor, or of its own motion when it appears that circumstances on the property management have changed, give an order effecting the determination, suspension, decrease or increase of the remuneration, or anew remuneration payment to be made to the manager.

Section 58

The authority of the manager comes to an end upon:

- (1) The return of the absent person.
- (2) No return of the absent person but the property having been managed or an agent for managing his property having been appointed.
- (3) The death of the absent person or adjudication of disappearance having been given.
- (4) The resignation or the death of the manager.
- (5) The manager becoming an incompetent or quasi-incompetent person.

- (6) The manager becoming bankrupt.
- (7) Removal of the manager by the court.

Section 59

When the authority of the manager comes to an end under Section 58 (4) (5) or (6), the manager or his heir, administrator, guardian, curator, official receiver of the person charged with the duty to take care of the property manager, as the case may be, must inform the court without delay of such ending for the court will give an order concerning the property manager as it deems proper. During such period of time, the said person must take all reasonable steps compatible with circumstances to protect the interest of the absent person until the property of the absent person is delivered to any person as to be ordered by the court.

Section 60

The provisions concerning Agency of this Code shall be applied to the property management of the absent person *mutatis mutandis*.

Section 61

If a person has left his domicile or residence and it has been uncertain for five years whether he is living or dead, the court may, on the application of any interested person or of the public prosecutor, adjudge that such person has disappeared.

The period of time under paragraph one shall be reduced to two years.

- (1) As from the day when the battle or war comes to an end and the person who had been engaged in such battle or war has been disappeared therein;
- (2) As from the day when the vehicle on which the person had been traveling was lost or destroyed;
- (3) As from the day when any peril of his life other than those mentioned in (1) or (2) has passed and the person had been in such peril.

Section 62

A person against whom an adjudication of disappearance has been made is deemed to have died at the completion of the period specified in Section 61.

Section 63

If it is proved by the person adjudged disappearance, any interested person or of the public prosecutor that the person who disappeared is living, or that he died at a time different from that specified in Section 62, the court must, upon the application of the said person, revoke the adjudication; but this does not affect the validity of acts done in good faith between the adjudication and the revocation.

Section 64

The adjudication of disappearance and its revocation shall be published in the Government Gazette.

CHAPTER II **JURISTIC PERSONS**

PART I
General Provisions

Section 65

A juristic person can come into existence only by virtue of this Code or of other law.

Section 66

A juristic person has rights and duties conformity with the provisions of this Code or of other law within the scope of its power and duties, or its object as provided by or defined in the law, regulation or constitutive act.

Section 67

Subject to Section 66, a juristic person enjoys the same rights and is subject to the same duties as a natural person.

Section 68

The domicile of a juristic person is the place where it has its principal office or establishment, or which has been selected as a special domicile in its regulation or constitutive.

Section 69

In the case where a juristic person has several establishments or has its branch office, the place of its branch office may also be considered its domicile as to acts there performed.

Section 70

A juristic person must have one or several representatives as prescribed by the law, regulations or its constitutive act, decisions as to the affairs of juristic persons are made by a majority of the representatives.

Section 71

In the case where a juristic person has several representatives, if it is not otherwise provided by the law, or defined in regulations or constitutive act, decisions as to the affairs of juristic person are made by a majority of representatives.

Section 72

The change of representatives of juristic person or of any restriction, or modification of the power of representatives shall be effective after having complied with the law, regulations or its constitutive act, but cannot be set up against third person acting in good faith.

Section 73

If a vacancy occurs among the representatives of juristic person, and there is reason to believe that damage might ensue from delay, the court may, on the application of any interested person or of the Public Prosecutor, appoint a temporary representative.

Section 74

In a matter in which the interested of a juristic person conflict with those of the representative of juristic person, the latter has no representative power.

Section 75

If, in the case under Section 74, it causes a non-existence of the representatives of juristic person, or number of the remaining representatives cannot constitute quorum of the meeting or is sufficient to execute such matter, if it is not otherwise provided by the law, or defined in its regulations or constitutive act, the provisions of Section 73 shall be applied to the appointment of special representatives, *mutatis mutandis*.

Section 76

A juristic person is bound to make compensation for any damage done to other persons by its representatives or the person empowered to act on behalf of the juristic person in the exercise of their functions, saving its right of recourse against the causers of the damage.

If damage is done to other persons by an act which is not within the scope of the object or power and duties of the juristic person, all the persons as mentioned in paragraph one who agreed such act or executed it, are jointly liable to make compensation.

Section 77

The provisions on Agency of this Code shall be applied to the relationship between the juristic persons and its representatives, and between the juristic person or its representative and third persons *mutatis mutandis*.

PART II

Association

Section 78

An association created for conducting any activity which, according to its nature, is to be done continuously and collectively by persons other than that of sharing profits or incomes earned, must have its regulations and must be registered according to the provisions of this Code

Section 79

The regulations must at least have the following particulars:

- (1) The name of the association.
- (2) Its object.
- (3) Address of its principal office and all its branches.
- (4) Rules for admission of its members and conclusion of membership.
- (5) Rates and member-fee.
- (6) Rules for the Committee of association, i.e. number of the directors, appointment of the directors, term of office of the directors, retirement of office of the directors and meetings of the Committee.
- (7) Rules for the management of the association, the keeping of accounts and the property of the association.
- (8) The association must have the word "association" incorporated with its name.

Section 81

The application for registration of an association must be filed jointly in writing by at least three of the would-be members of the association with the Registrar of the area where the principal office of the association is situated, and regulations of the association, list of names, addresses and occupations of at least ten would-be members of the association are to be attached to the application.

Section 82

When the application for registration together with the regulations are received by the Registrar and the application is found correct under Section 81 and the regulations are correct under Section 79, the object of the association is not contrary to the law or good moral or endangering public order or national security and all particulars contained in the application or in the regulations conform the object of the association, or the would-be directors of the association have status or conduct suitable for implementing the object of the association, the Registrar shall make registration and issue a certificate of registration to the association. The registration shall be published in the Government Gazette.

It is found that the application or the regulations are not in conformity with Section 81 or Section 79, the particulars contained in the application or in the regulations do not conform to the object of the association, or would-be directors of the association do not have the status and conduct suitable for implementing the object of the association, the Registrar shall instruct the applicant to make correction or alteration, and shall, after the correction or alteration having been made, make registration and issue a certificate of registration to the association.

If it is considered by the Registrar that the registration cannot be made because the object of the association is contrary to the law or good moral or likely to endanger public order or national security, or the applicant fails to make correction or alteration as such within thirty days from the day of which the instruction of the Registrar came to his knowledge, the Registrar shall give an order refusing the registration and inform the applicant without delay of reasons for such refusal.

The applicant is entitled to appeal in writing against the order of refusal for registration to the Minister of Interior through the Registrar within thirty days from the date of receipt of the refusal order.

The Minister of Interior shall decide the appeal and inform the appellant of the decision within thirty days from the date of receipt of the written appeal by the Registrar. The decision of the Minister of Interior shall be final.

Section 83

The association so registered is a juristic person.

Section 84

No alterations of and additions to the regulations of an association may be made, except by a resolution of the general meeting. Such alterations and additions must be deposited for registration at the Registrar Office where the principal office of the association is situated within fourteen days from the date of the resolution, and the provisions of Section 82 shall be applied, mutatis mutandis. It shall become effective after the registration thereof by the Registrar.

Section 85

The appointment of new directors of the association or the alteration thereof shall be made in accordance with the regulations of the association and must be registered by the Registrar at

the Registrar Office where the principal office of the association is situated within thirty days from the date of such appointment or alteration of the directors of the association.

If it is considered by the Registrar that any of the directors under paragraph one does not have status or conduct suitable for implementing the object of the association, the Registrar may refuse the registration of that director of the association. In case of refusal, the Registrar shall notify the association of reason for such refusal within sixty days counting from the date of application, and the provisions of Section 82 paragraph four and paragraph five shall be applied *mutatis mutandis*.

If the registration of new directors of the association has not yet been made, the old directors of the association shall further perform the functions of the directors of the association until the registration of the new directors of the association is made, unless otherwise provided in the regulations of the association.

Section 86

The directors of the association are to carry on the activities of the association under the law and the regulations of the association, and under supervision of the general meetings.

Section 87

An association is represented in its relations with third persons by its committee.

Section 88

All activities performed by the Committee of the association are valid even though it appears afterwards that there is any fault concerning the appointment or qualification of the directors of the association.

Section 89

A member of an association is entitled during working hours of the association inspect the business and property of the association.

Section 90

A member of the association has to pay total subscription on the day when he applies for being member or at the beginning of the period for payment of subscription, unless otherwise provided in the regulations.

Section 91

A member of the association is entitled to withdraw at any time from the association, unless otherwise provided in the regulations.

Section 92

Each member of an association is liable to the debt of the association for not more than the amount of the subscription due by him.

Section 93

A general meeting shall be called by the directors of the association at least once a year.

Section 94

The Committee of the association may summon extraordinary meetings as they think fit.

A requisition for summoning an extraordinary meeting may be made in writing by members of not less than one-fifth of the whole members of the association, or of not less than one hundred, or of not less than the number set forth in the regulations to the Committee of the

association. The requisition must specify the object for which the meeting is required to be summoned.

When the Committee of the association has received the requisition for the summoning of an extraordinary meeting under paragraph two, they shall summon such meeting within thirty days from the date of receipt of the requisition.

If the meeting is not summoned within the period of time under paragraph three, the members who have made the requisition for summoning such extraordinary meeting or other members of not less than the number set forth in paragraph two may summon the meeting by themselves.

Section 95

In summoning a general meeting, a notice for the meeting shall be sent not later than seven days before the date fixed for the meeting to every member whose name appears in the register of the association, or may be published at least twice in a prevailing local paper, not less than seven days before the date of the meeting.

The notice must specify the place, the day and the hour of the meeting as well as its agenda, and closely relevant details and documents shall also be sent. As for a summoning of the extraordinary meeting through a publication, the said details and documents must be provided and ready for distributing to the member who request therefore at the place fixed by the person summoning such meeting.

Section 96

In a general meeting of the association, members present at the meeting of not less than one-half of the total number of members shall constitute a quorum, unless provisions on a quorum of the meeting in the regulations of the association are otherwise provided.

If the quorum so provided is not present, the general meeting, if summoned upon requisition of members, shall be dissolved. But if the general meeting had not been summoned upon the requisition of members, another general meeting shall be summoned by the Committee within fourteen days from the date of the first summoned meeting and at such later meeting no quorum shall be necessary.

Section 97

Decision of the meeting shall be by majority of votes, except in the case where a particular majority of votes is specially provided in the regulations of the association.

Each member shall have one vote. In case of an equality of votes, the chairman of the meeting shall have an additional vote as casting vote.

Section 98

Any member may vote by proxy, unless otherwise provided in the regulations of the association.

Section 99

Any director or any member of an association who has in a resolution an interest in conflict with an interest of the association cannot vote in such resolution.

Section 100

If any general meeting has been summoned or held or a resolution passed contrary to the regulations of the association or the provisions of this Title, any such member or the public Prosecutor may apply to the Court for cancellation of the resolution of such general meeting, provided that the application is entered within one month after the date of the resolution.

Section 101

An association is dissolve:

- (1) In the cases provided in its regulations, or
- (2) If formed for a definite period of time, by the expiration of such period, or
- (3) If formed for any undertaking, by the termination of such undertaking, or
- (4) By a resolution to dissolve passed in a general meeting, or
- (5) By the association becoming bankrupt, or
- (6) By having its name struck of the register by the Registrar under Section 102, or
- (7) By an order of the Court under Section 104.

Section 102

The Registrar shall have the power to give an order to have the name of an association struck off the register in the following cases:

- (1) If appears after registration that the object of the association is contrary to the law or public moral or is likely to endanger the public peace or national security and an order for alteration of such object has been given by the Registrar, but the association fails to comply therewith within period of time fixed by the Registrar.
- (2) If appears that any activity conducted by the association is contrary to the law or public moral or is likely to endanger the public peace or national security.
- (3) The association has stopped doing business for more than two consecutive years.
- (4) It appears that the association allows or let other persons who are not members of the association to execute business of the association.
- (5) The number of members of the association has been less than ten for more than two consecutive years.

Section 103

After the name of any association has been struck off the register by the order of the Registrar under Section 102, the Registrar shall send to order together with its reason to the association without delay, and shall publish such dissolution in the Government Gazette.

Any director or member of the association of not less than three in number are entitled to appeal against the order of the Registrar given under paragraph one to the Minister of Interior. The appeal must be in writing and sent to the Registrar within thirty days from the date of being informed of the order, and provisions of Section 82 paragraph five shall be applied, *mutatis mutandis*.

Section 104

When a case under Section 102 happens, an interested person may request the Registrar to have the name of the association struck off the register. If the Registrar fails to comply with the request and does not inform the person who made the request of the reasons within a reasonable period of time, or the reason given by the Registrar are not satisfied by the person having made the request, he may apply to the Court for dissolution of the association.

Section 105

When an association is to be dissolved under Section 101 (1) (2) (3) or (4), the Committee of the association that holds the office at the time of dissolution of the association shall inform the Registrar of the dissolution within fourteen days from the date of such dissolution.

In case where an association is declared bankrupt by a final judgment or order of the Court under Section 101 (5), or is dissolved by a final order under Section 104, the Court shall notify the Registrar of the said judgment or order.

The Registrar shall publish such dissolution in the Government Gazette.

Section 106

Upon dissolution of an association, the liquidation of the association shall be made, and the provisions in Book III, Title 22 on Liquidation of Registered Partnerships, Limited Partnerships and Limited Companies shall be applied to the liquidation of the association, *mutatis mutandis*.

Section 107

After liquidation, the remaining assets, if any, cannot be distributed among the members of the association. They shall be transferred to such other association or foundation, or any juristic person whose object is of charity purposes as may be designated in the regulations, by the resolution of the association in general meeting. If no transferee of the said assets has been designated by the regulations, or by the resolution of association in general meeting, or if designated, but it is unable to comply therewith, the remaining assets shall belong to the State.

Section 108

Any person may, on application to the Registrar, inspect the documents relating to an association kept by the Registrar or request for certified copies of the said documents to be delivered to him by the Registrar, and Registrar, and the Registrar shall comply therewith after payment of such fee as may be prescribed by the Ministerial Regulations has been made.

Section 109

The Minister of Interior shall take charge and control of the execution of the provisions of this Part and have the power to appoint the Registrar and to issue Ministerial Regulations on:

- (1) The application for registration and the making of registration.
- (2) Fees for the registered, the inspection of documents and the copying of documents as well as the fee for any activities concerning the foundation to be performed by the Registrar, including the exemption of the said fees.
- (3) The conduct of business of the association and its register.
- (4) Any other matters for carrying out the provisions of this Title.

Such Ministerial Regulations shall become effective upon their publication in the Government Gazette.

PART III

Foundation

Section 110

A foundation consists of property specially appropriated to public charity, religious, art, scientific, education or other purpose for the public benefit and not for sharing profit, and has been registered under the provisions of this Code.

The property of a foundation must be managed for implementing the objects of that foundation, and not for seeking interest for any person.

Section 111

A foundation must have its regulations and must have a Committee, consisting of at least three persons, to conduct business of the foundation according to the law and regulations of the foundation.

Section 112

The regulations must have at least the following particulars:

- (1) The name of the association
- (2) Its objects
- (3) Addresses of its principal office and all its branch offices.
- (4) Its property at the time of creation.
- (5) Rules for the Committee of the foundation, i.e. number of the directors, appointment of the directors, term of office of the directors, retirement of office of the directors and meetings of the Committee.
- (6) Rules for management of the foundation, the management of the property and keeping of accounts of the foundation.

Section 113

The foundation must have a word 'foundation' incorporated with its name.

Section 114

The application for registration of a foundation must be filed in writing with the Registrar of the area where the principal office of the foundation is situated, and it must at least specify the owner of the property and the list of the property appropriated for the foundation together with the list of names, addresses and occupation of all the would-be directors of the foundation, including the regulations of the foundation.

Section 115

When the application for registration together with the regulations are received by the registrar, and the application is found correct under Section 114 and the regulations correct under Section 112, the objects of the foundation are not contrary to the law or good moral or endangering public order or national security and all particulars contained in the application or in the regulations conform to the objects of the foundation, or the would-be directors of the foundation have status or conduct suitable for implementing the objects of the foundation, the registrar shall make registration and issue a certificate of registration to the foundation. The registration shall be published in the Government Gazette.

If it is found that the application or the regulations are not in conformity with Section 114 or Section 112, the particulars contained in the application or in the regulations do not conform to the object of the foundation, or the would-be directors of the foundation do not have status and conduct suitable for implementing the object of the foundation, the registrar shall instruct the applicant to make correction or alteration, and shall, after the correction or alteration having been made, make registration and issue a certificate of registration to the foundation.

If it is considered by the registrar that the registration cannot be made because the objects of the foundation are contrary to the law or good moral or likely to endanger public order or national security, or the applicant fails to make correction or alteration as such within thirty

days counting from the day on which the instruction of the registrar came to his knowledge, the registrar shall give an order refusing the registration and inform the applicant without delay of reasons for such refusal.

The applicant is entitled to appeal in writing against the order of refusal for registration to the Minister of Interior through the registrar within thirty days from the date of receipt of the refusal order.

The Minister of Interior shall decide the appeal and inform the appellant of the decision within thirty days from the date of receipt of the written appeal by the registrar. The decision of the Minister of Interior shall be final.

Section 116

Before the registration of the foundation being made by the registrar, the applicant for creating a foundation is entitled to withdraw the application by submitting a written notice to the registrar. The right to withdraw the application does not devolve on the heirs.

In the case where the application for establishment of the foundation is made by many persons, if it is withdrawn by any applicant, it shall become extinguished.

Section 117

If the applicant for creating the foundation dies before the registration by the registrar, and the deceased does not make a will revoking the application for creation of such foundation, the application shall be effective and be proceeded on with the creation of such foundation by the heirs or administrator, or the person entrusted by the deceased. If the said person fails to proceed with the matter within one hundred and twenty days from the death of the applicant for creation of the foundation, any interested person or the public prosecutor may proceed with the matter in the capacity of the applicant.

If the foundation cannot be created in accordance with the objects set by the deceased and no testamentary disposition is provided otherwise, the provisions of Section 1679 paragraph two shall be applied *mutatis mutandis*. If proceeding under Section 1679 paragraph two cannot be made or the foundation cannot be created under Section 115, the appropriated property shall be vested in the estate of the deceased.

Section 118

If there is a testamentary disposition to create a foundation under Section 1676, the person charged with the duty to create the foundation under Section 1677 paragraph one shall precede with the matter under Section 114 and under provisions of this Section.

If the person charged with the duty to create the foundation under paragraph one fails to apply for registration to effect the creation of the foundation within one hundred and twenty days from the date that the testamentary disposition to create the foundation came to or should have come to knowledge of the said person, any interested person or the public prosecutor may apply for such registration.

If the applicant for registration of the foundation fails to make modifications or alterations in compliance with the instruction, any interested person or the public prosecutor may apply for such registration again.

If a protest is made to the registrar on the ground that the will does not provide for creating the foundation, the registrar shall notify the protestor to make a request to the court within sixty days counting from the date he has been notified by the registrar, and the registrar shall not consider the registration but wait for the judgment or order of the court and comply therewith. If the protestor fails to make the request to the court within the time limit, the registrar shall further consider the registration of the foundation.

Section 119

If the will that contains the testamentary disposition does not have such particulars as provided in Section 112 (1) (3) (5) or (6), the applicant under Section 118 can stipulate the said particulars. If any interested person makes a protest against the applicant, the registrar shall give an order as he thinks fit and notify the applicant and the protestor of the order, he can file a protest with the court within sixty days counting from the date of receipt of the notification from the registrar. The registrar shall not consider the registration but wait for the judgment or order of the court and comply therewith. If no protest is filed within the time limit, the registrar shall consider the registration according to the order given.

Section 120

If there are many applicants for registration of the foundation under the will of the same de cujus, and the applications contradict each other, the registrar shall summon the applicants for making an agreement. If the applicants do not show up or cannot come to an agreement within a period of time fixed by the registrar, the registrar shall give an order as he thinks fit, and the provisions of Section 119 shall be applied *mutatis mutandis*.

Section 121

After registration of the foundation, if the applicant for creating the foundation is still alive, the property appropriated therefore shall vest in the foundation from the date of registration of the foundation by the registrar.

If the applicant for creating a foundation dies before the registration of the foundation by the registrar, the property appropriated therefore shall vest in the foundation from the death of the applicant after the registration.

Section 122

The foundation so registered is a juristic person.

Section 123

A foundation is represented in its relations with third persons by its committee.

Section 124

All activities performed by the committee of the foundation are valid even though it appears afterwards that there is any fault concerning the appointment or qualification of directors of the foundation.

Section 125

The appointment of new directors of the foundation or the alteration thereof shall be made in accordance with the regulations of the foundation and must be registered within thirty days counting from the date of such appointment or alteration of the directors of the foundation.

If it is considered by the registrar that any of the directors under paragraph one does not have status or conduct suitable for implementing the objects of the foundation, the registrar may refuse the registration of the director. In case of refusal, the registrar shall notify reasons of the foundation for such refusal within sixty days counting from the date of application, and the provisions of Section 115 paragraph four and paragraph five shall be applied *mutatis mutandis*.

In the case where the directors of the foundation vacate their office and no director is remaining or the remaining directors are unable to perform their function, the director who has vacated his office shall, if no regulations of the foundation provides, perform further the

function of director until the foundation is notified by the registrar of the registration of the new director.

The director who has vacated his office on dismissing account by the order of the court under Section 129 cannot perform his function under paragraph three.

Section 126

Subject to Section 127, the committee of the foundation is empowered to amend the regulations of the foundation. If the rules and manners for the amendment have been provided in the regulations of the foundations, the amendment must be made according to those provided in the regulations and it shall be deposited for registration at the registrar office within thirty days counting from the date of amendment by the committee of the foundation, and the provision of Section 115 shall be applied *mutatis mutandis*.

Section 127

The amendment of any particulars in the regulations of the foundation under Section 112 (2) can be made only for the following purposes:

- (1) To make the implementation of the object of the foundation possible; or
- (2) The change of circumstance makes the object of the foundation become less benefit or makes it unable to carry on the activities to fulfill the object of the foundation, and the object of the foundation so amended are close to the original objects.

Section 128

The registrar shall has the power to inspect, control and supervise the carrying on of activities of the foundation t be in conformity with the law and the regulations of the foundation. For this purpose, the registrar or any competent officials entrusted by the registrar in writing shall have power;

- (1) To give and order in writing to a director, officer, employee or agent of the foundation for giving explanation and presenting facts concerning the business of the foundation, or to summon the said person for enquiry or to instruct him to send or produce accounting books and other documents of the foundation for inspection.
- (2) To enter the office of the foundation between sunrise and sunset for inspecting the business of the foundation.

In performing the duty under paragraph one, the registrar shall produce his identity card while the entrusted competent officials have to produce to any concerned person their identity cards and a letter of power of the registrar.

Section 129

Any director who causes an injury to the foundation through his wrongful performance of activities or performs the activities contrary to the law or the regulations of the foundation, may application of the registrar, the public prosecutor or of any interested person, be dismissed from being director of the foundation by the court.

If the performance of activities under paragraph one is of the committee of the foundation or the objects of the foundation are not implement without reasonable causes by the committee, the court may, on application of the registrar, the public prosecutor or of any interested person, give an order dismissing the committee from the office.

In case of dismissal of any director or of the committee of the foundation by the court under paragraph one or paragraph two, the court may appoint order or a committee in place of a

director or the committee of the foundation so dismissed and registrar shall make registration of the person who has been appointed as director of the foundation by the court.

Section 130

A foundation is dissolved;

- (1) Upon such cause as provided in the regulations, or
- (2) If formed for definite period of time, by the expiration of such period, or
- (3) If formed for any object, upon its object being fulfilled or becoming impossible, or
- (4) Upon the foundation becoming bankrupt, or
- (5) By an order of the court to dissolve the foundation under Section 131.

Section 131

On the application of the registrar, the public prosecutors or of any interested person, the court may order a foundation to be dissolved in the following cases;

- (1) It appears that the objects of the foundation are contrary to the law.
- (2) It appears that the foundation has done the business contrary to the law and good moral, or may endanger the public peace or national security.
- (3) It appears that the foundation cannot proceed on its activities by any cause whatsoever or has stopped doing business for more than two years.

Section 132

When a case under Section 130 (1) (2) or (3) happens, the committee of the foundation that holds the office at the time of dissolution of the foundation shall notify the registrar of the dissolution within forty days counting from the date of its dissolution.

If the court passes a final judgment or gives a final order to effect to foundation to become bankrupt under Section 130 (4), or gives a final order to dissolve the foundation under Section 131, the court shall also notify the registrar of the said judgment or order.

The registrar shall publish the dissolution of the foundation in the Government Gazette.

Section 133

Upon dissolution of the foundation, the liquidation of the foundation shall be made, and the provisions in Book III, Title 22 on Liquidation of Registered Partnerships, Limited Partnerships and Limited Companies shall be applied to the liquidation of the foundation *mutatis mutandis*. To this effect, the report on the liquidation shall be submitted to the registrar by the liquidator and it shall be approved by the registrar.

Section 134

After liquidation, the remaining assets shall be transferred to such foundation or juristic person whose object is in conformity with Section 110 as specified in the regulations, the public prosecutor, the liquidator or any interested person may apply to the court for appropriating the assets to other foundation or juristic person whose object is closely similar to that of such foundation.

If the foundation is dissolved by the order of the court under Section 131 (1) or (2) or the appropriation of the assets under paragraph one cannot be made, the assets of the foundation shall vest in the State.

Section 135

On the application to the registrar, any person may access to the documents relating to a foundation kept by the registrar or request for certified copies of the said documents and the registrar shall comply therewith after payment of such fee as prescribed by the Ministerial Regulations.

Section 136

The Minister of Interior shall take charge and control of the execution of the provisions of this Part and have the power to appoint the registrar and issue Ministerial Regulations on;

- (1) The application for registration and the making of registration.
- (2) Fees for the registration, the inspection of documents and the copying of documents as well as the fee for any activities concerning the foundation to be performed by the registrar including the exemption of the said fees.
- (3) Forms of the identity cards of the registrar and of a competent official.
- (4) The conduct of business of the foundation and its register.
- (5) Any other matters for carrying out the provisions of this Title.

Such Ministerial Regulations shall become effective upon their publication in the Government Gazette.

TITLE III

THINGS

Section 137

Things are corporeal objects.

Section 138

Property includes things as well as incorporeal objects, susceptible of having a value and of being appropriated.

Section 139

Immovable property denotes land and things fixed permanently to land or forming a body therewith. It includes real rights connected with the land or things fixed to or forming a body with land.

Section 140

Movable property denotes things other than immovable property. It includes rights connected therewith.

Section 141

Divisible things are those which can be separated into real and distinct portions, each forming a perfect whole.

Section 142

Indivisible things are those which cannot be separated without alteration in its substance as well as those which are considered indivisible by law.

Section 143

Things outside of commerce are things incapable of appropriation, and those legally inalienable.

Section 144

A component part of a thing is that which, according to its nature or local custom, is essential to its existence and cannot be separated without destroying, damaging or altering its form or nature.

The owner of a thing has ownership in all its component parts.

Section 145

Trees when planted for an unlimited period of time are deemed to be component parts of the land on which they stand.

Trees which grow only for a limited period of time and crops which may be harvested one or more times a year are not component parts of the land.

Section 146

Things temporarily fixed to land or to a building do not become component parts of the land or building. The same rule applies to a building or other structure which, in the exercise of a right over another person's land, has been fixed to the land by the person who has such right.

Section 147

Accessories are movable things, which are, according to the usual local conception or clear intention of the owner of the principal thing, attached to such thing permanently for its management, use or preservation, and, by connection, adjustment or otherwise, brought by the owner into the relation with the principal thing, in which it must serve the principal thing.

Even though an accessory is temporarily severed from the principal thing, it does not cease to be an accessory.

Saving special disposition to the contrary, the accessory follows the principal thing.

Section 148

By fruit of a thing is a natural fruit and legal fruit.

Natural fruit denotes that which is a natural offspring of and is obtained from a thing in the normal possession or in the use thereof; and it is capable of acquisition at the time when it is severed from the thing.

Legal fruit denotes a thing or other interest obtained periodically by the owner from another person for the use of the thing; it is calculated and may be acquired day by day or according to a period of time fixed.

TITLE VI

JURISTIC ACTS

CHAPTER I

GENERAL PROVISIONS

Section 149

Juristic act are voluntary lawful acts, the immediate purpose of which is to establish between persons relations, to create, modify, transfer, preserve or extinguish rights.

Section 150

An act is void if its object is expressly prohibited by law or is impossible, or is contrary to public order or good morals.

Section 151

An act is not void on account of its differing from a provision of any law if such law does not relate to public order or good moral.

Section 152

An act which is not in the form prescribed by law is void.

Section 153

An act which does not comply with the requirements concerning capacity of person is voidable.

**CHAPTER II
DECLARATION OF INTENTION**

Section 154

A declaration of intention is not void on the ground that the declaring in the recesses of his mind does not intended to be bound by his expressed intention, unless this hidden intention was known to the other party.

Section 155

A declaration of intention made with the connivance of the other party which is fictitious is void; but its invalidity cannot be set up against third persons injured by the fictitious declaration of intention and acting in good faith.

If a declaration of fictitious intention under paragraph one is made to conceal another juristic act, the provisions of law relating to the concealed act shall be applied.

Section 156

A declaration of intention is void if made under a mistake as to an essential element of the juristic act.

The mistake as to an essential element of the juristic act under paragraph one are for instance a mistake as to a character of the juristic act, a mistake as to a person to be a partner of the juristic act and a mistake as to a property being an object of the juristic act.

Section 157

A declaration of intention is voidable if made under a mistake as to a quality of the person.

Mistake under paragraph one must be a mistake as to the quality of the person which is considered as essential in the ordinary dealings, and without which such juristic act would have not been made.

Section 158

If the mistake under Section 156 or Section 157 was due to the gross negligence of the person making such declaration, he cannot avail himself of such invalidity.

Section 159

A declaration of intention produced by fraud is voidable.

An act under paragraph one is voidable on account of fraud only when it is such that without which such juristic act would not have been made.

When a party has made a declaration of intention owing to a fraud committed by a third person, the act is voidable only if the other party knew or ought to have known of the fraud.

Section 160

The avoidance of a declaration of intention produced by fraud cannot be set up against a third person acting in good faith.

Section 161

If the fraud is only incidental that is to say it has merely induced a party to accept more onerous terms than would otherwise have done, such party can only claim compensation for damage resulting from such fraud.

Section 162

In bilateral juristic acts, the intentional silence of one of the parties in respect to a fact or quality of which the other party is ignorant, is deemed to be a fraud if it is proved that, without it, the act would not have been made.

Section 163

If both parties acted with fraud, neither of them can allege it to void the act or to claim compensation.

Section 164

A declaration of intention is voidable if made under duress.

Duress, in order to make an act voidable, must be imminent and so severe that makes him fear and without it, the act would not have been made.

Section 165

The threat of the normal exercise of a right is not considered duress. Any act made owing to reverential fear is not considered an act made under duress.

Section 166

Duress vitiates the juristic act, even when it is exercised by a third person.

Section 167

In determining a case of mistake, fraud or duress, the sex, age, position health, temperament of the person made the intention and all other circumstances and environment which may relate to that act shall be taken into consideration.

Section 168

A declaration of intention made to a person in his presence takes effect from the time when it becomes known to the receiver of the intention. This also apply to the declaration of intention made by one person to the other through telephone, other communication devices, or other means through which similar communication can be made.

Section 169

A declaration of intention made to a person not in his presence takes effect from the time when it reached the receiver of the intention. If does not become effective if a revocation reaches him previously or simultaneously.

Even though the person, who made a declaration of intention dies, becomes incompetent or quasi-incompetent by an order of the Court after it has been sent, the validity of declaration is not impaired thereby.

Section 170

If the declaration of intention is made to a minor or a person adjudged incompetent or quasi-incompetent, it cannot be set up against him unless his legal representative, guardian or curator, as the case may be, has knowledge of it or has given prior consent to it.

The provisions of paragraph one do not apply to the declaration of intention concerning any matter that the minor or the incompetent is required by law to make by himself.

Section 171

In the interpretation of a declaration of intention, the true intention is to be sought rather than the literal meaning of the words or expressions.

**CHAPTER III
VOID AND VOIDABLE ACTS**

Section 172

A void act cannot be ratified, and its nullity may be alleged at any time by any interested person.

The return of a property arising from a void act shall be governed by the provisions on Undue Enrichment of the Code.

Section 173

If any part of an act is void the whole act is void, unless it may be assumed under the circumstances of the case that the parties intended the valid part of the act to be severable from the invalid part.

Section 174

If a void act complies with the requirements of another act which is not void, it is valid as the other act, if it may be assumed that such validity would have been intended by the parties, had they known of the invalidity of the intended act.

Section 175

A voidable act may be avoided by:

- (1) The legal representative or the minor after becoming sui juris, but the avoidance can be made by the minor before his becoming sui juris if a consent has been given by his legal representative, or
- (2) The person adjudged incompetent or quasi-incompetent after he has recovered his capacity, or by the guardian or curator, as the case may be, but the avoidance can be made by the quasi-incompetent before recovery of his capacity if a consent thereto has been given by his curator, or
- (3) The person who has made the declaration of intention owing to mistake, fraud or duress, or
- (4) The person of unsound mind who did the voidable juristic act under Section 30 after he has recovered his capacity.

If the person who did the voidable juristic act dies before making the avoidance, it may be avoided by his heir.

Section 176

When a voidable act is avoided, it is deemed to have been void from the beginning; and the parties shall be restored to the condition in which they were previously, and if it is not possible to so restore them, they be indemnified with an equivalent.

If any person knew or ought to have known that an act is voidable, he, after making the avoidance, is deemed to have known that the act is void since the voidable act became known or ought to become known to him.

The claim resulting from restoring them to the previous condition under paragraph one cannot be exercised later than one year from the date of avoidance of the voidable act.

Section 177

If any person entitled to avoid a voidable act under Section 175 ratifies a voidable act, it is deemed to have been valid from the beginning; but the right of third persons cannot be affected thereby.

Section 178

The avoidance of or ratification to a voidable act could be made by a declaration of intention made to the other party who is a determinate person.

Section 179

Ratification is valid only if it is made after the state of facts forming the ground of voidability has ceased to exist.

When a person adjudged incompetent or quasi-incompetent or a person of unsound mind who did a voidable juristic act under Section 30 acquires knowledge of such act after he has recovered his capacity, he can ratify it only after acquiring knowledge.

The heir of the person having done the voidable juristic act can ratify such act after the death of such person unless the right to avoid the voidable juristic act of the deceased has extinguished.

The provisions of paragraph one and paragraph two shall not apply to ratification to the voidable juristic act made by the legal representative, guardian or curator.

Section 180

If after the time when ratification according to Section 179 could be made, any of the following facts takes place in regard to a voidable act by an act of the person entitled to avoid the voidable act under Section 175, it is deemed to be ratified, unless a reservation is expressed, such as:

- (1) The obligation has been fully or partially performed.
- (2) The performance of the obligation has been demanded.
- (3) A novation of the obligation has been affected.
- (4) Security has been given for the obligation.
- (5) The whole or part of the right or liability has been transferred.
- (6) Any other acts done which indicate the ratification.

Section 181

A voidable act cannot be avoided later than one year from the time when ratification could have been made or later than ten years since the act was done.

CHAPTER IV CONDITIONS AND TIME

Section 182

A clause which subordinates the effect or the end of the effect of a juristic act to a future and uncertain event is considered a condition.

Section 183

A juristic act subject to a condition precedent takes effect when the condition is fulfilled.

A juristic act subject to a condition subsequent ceases to have effect when the condition is fulfilled.

If the parties to the act have declared an intention that the effect of the fulfillment of a condition shall relate back to a time before it is fulfilled, such intention is to govern.

Section 184

Any party to a juristic act subject to a condition must not, while the condition is pending, do any thing by which the benefit which the other party might derive from the fulfillment of the condition is impaired.

Section 185

The rights and duties which the parties have, while the condition is pending, may be disposed of, inherited, protected or secured according to law.

Section 186

If the fulfillment of a condition is prevented not in good faith by the party to whose disadvantage it would operate, the condition is deemed to have been fulfilled.

If the fulfillment of a condition is brought about in bad faith by the party to whose advantage it would operate, the condition is deemed not to have been fulfilled.

Section 187

When the condition is already fulfilled at the time of the juristic act, the latter is unconditionally valid, if the condition is precedent, and is void, if the condition is subsequent.

When it is already certain at the time of the juristic act that the condition cannot be fulfilled, the act is void, if the condition is precedent, and unconditional valid, if the condition is subsequent.

The parties still have rights and duties according to Section 184 and Section 185 so long as they do not know whether the condition is fulfilled under paragraph one or cannot be fulfilled under paragraph two.

Section 188

A juristic act is void if it is subject to an unlawful condition, or a condition contrary to public order or good morals.

Section 189

A juristic act upon a condition precedent which is impossible is void.

A juristic act upon a condition subsequent which is impossible is unconditionally valid.

Section 190

A juristic act upon a condition precedent which depends upon the will of the debtor is void

Section 191

If a time of commencement is annexed to a juristic act, its performance cannot demand before such time arrives.

If a time of ending is annexed to a juristic act, its effect ceases when such time arrives.

Section 192

It is presumed that a time of commencement or ending is fixed for the benefit of the debtor, unless it appears from the tenor of the instrument or from the circumstances of the case that it was intended for the benefit of the creditor, or of both parties.

The benefit of such a time may be waived, but this will not affect any benefit which would accrue there from to the other party.

Section 193

In the following cases the debtor cannot take advantage of a time of commencement or ending:

- (1) If he has been ordered by the Court to place his assets under final custody and control according to the law on bankruptcy.
- (2) If he has not given security when he was bound to give it.
- (3) If he has destroyed or diminished any security given.
- (4) If the debtor has produced as security a property of other person without the latter's consent.

TITLE V
PERIODS OF TIME

Section 193/1

The manner of computing all periods of time is governed by the provisions of this Title, unless it is otherwise provided by law, by juridical order, by rules and regulations or by a juristic act.

Section 193/2

A period of time is calculated by day. But if it is determined shorter than a day, it shall be calculated as such.

Section 193/3

If the period of time is determined shorter than a day, it begins to run at once.

When a period of time is determined days, weeks, months or years, the first day of the period is not included in the calculation, unless the period begins to run on that day from the time which is customary to commence business.

Section 193/4

As far as the legal proceedings, official business or commercial and industrial business are concerned, a day means working hours determined by law, by a judicial order or by rules and regulations, or usual working hours of that business, as the case may be.

Section 193/5

The period determined in weeks, months or year are calculated according to the calendar.

If the period is not computed from the beginning of a week, month or year , it ends on the day preceding that day of the last week, month or year which corresponds to that on which it began. If a period measured in months or years there is no corresponding day in the last month, the last day of such month shall be the day of ending.

Section 193/6

If a period of time is determined in months and days, or in months and a part of a month, a full month shall be first measured and then a number of days or a part of a month measured in days.

If a period of time is determined in a part of a year, the part of a year shall be first measured in months and a part of a month, if any, shall be measured in days.

In calculating a part of a month under paragraph one and paragraph two, thirty days is regarded one month.

Section 193/7

If a period of time is extended and no beginning day of the extension is determined, the first day of the extension is the day following the last day of the original period.

Section 193/8

If the last day of a period is a holiday according to an official notification or a custom on which no business is done, the period includes the next working day.

TITLE VI
PRESCRIPTION

CHAPTER I
GENERAL PROVISIONS

Section 193/9

A claim is barred by prescription if it has not been enforced within the period of time fixed by law.

Section 193/10

After the lapse of the period of prescription for claims, the debtor is entitled to refuse performance.

Section 193/11

The periods for prescription fixed by law cannot be extended or reduced.

Section 193/12

Prescription begins and run from the moment when the claim can be enforced. If the claim is to forbearance, prescription begins to run from the moment when the right is first infringed.

Section 193/13

If the creditor may not demand performance until he has given notice to the debtor, prescription begins to run from the moment when notice can be first given. If the debtor is not bound to perform until a given period has elapsed since the notice, prescription begins to run from the expiration of this period.

Section 193/14

Prescription is interrupted if:

- (1) The debtor has acknowledged the claim towards the creditor by written acknowledgement, by part payment, payment of interest, giving security, or by any unequivocal act which implies the acknowledgment of the claim.
- (2) The creditor enters an action for the establishment of the claim or for requiring performance.
- (3) The creditor applies for receiving a debt to arbitration.
- (4) The creditor submits the dispute to arbitration.
- (5) The creditor does any act which brings an effect equivalent to entering an action.

Section 193/15

When prescription is interrupted, the period of time which has elapsed before interruption does not count for prescription.

A fresh period of prescription begins to run from the time when the interruption ceases.

Section 193/16

The creditor of an obligation for the payment of money periodically is entitled to require from the debtor, at any time before the completion of the period of prescription, a written acknowledgment of the obligation in order to obtain evidence of the interruption of prescription.

Section 193/17

In the case where prescription is interrupted due to the case under Section 193/14 (2), if the court has passed a final judgment to dismiss the action, or the action has terminated and has been disposed of on the ground of being withdrawn or abandoned, the prescription shall be deemed to have never been interrupted.

In the case where the court refuses to accept, return or dismisses the action on the ground of want of jurisdiction, or the action is dismissed with the right to re-enter the action in court and the period of prescription expired pending proceedings, or would have expired within sixty days from the date of final judgment or order, the creditor shall be entitled to enter an action in court for establishing his claim or for requiring performance of the obligation within sixty days from the date of final judgment or order.

Section 193/18

The provisions of Section 193/17 shall be applied *mutatis mutandis*, to interruption of prescription due to the case under Section 193/14 (3), (4) and (5).

Section 193/19

If at any time when the prescription would end, the creditor is prevented by *force majeure* from effecting interruption, the prescription is not completed until thirty days after the time when such force majeure has ceased to exist.

Section 193/20

If prescription of claim of a minor, or a person of unsound mind whether adjudged incompetent or not, would have expired while the said person does not acquire full capacity, or within one year from the day when the said person is without a legal representative or a guardian, if is not completed until the expiration of one year after he has acquired full capacity or has a legal representative or guardian, as the case may be. If the period of prescription of the claim is shorter than one year, the shorter period of time shall be applied in place of the said period of one year.

Section 193/21

If prescription of claim of a minor, an incompetent or a quasi-incompetent against his legal representative, guardian or curator would have expired while the said person does not acquire full capacity, or within one year from the day when the said person is without legal representative, guardian or curator, if is not completed until the expiration of one year after he has acquired full capacity or has a legal representative, guardian or curator, as the case may be. If the period of prescription of the claim is shorter than one year, the shorter period of time shall be applied in place of the said period of one year.

Section 193/22

If prescription of claims between spouses would have expired before within one year after dissolution of marriage, it is not completed until the expiration of one year after dissolution of marriage.

Section 193/23

If prescription of a claim existing in favor of or against a deceased would have expired within one year after the date of the death, the period of prescription is not completed until the expiration of one year after death.

Section 193/24

The benefit of prescription can be waived only after it has been completed, but such waiver does not prejudice the right of third persons, or the surety.

Section 193/25

When prescription is completed, its effect relates back to the day when it began to run.

Section 193/26

With the principal claim the claims for accessory acts of performance dependent upon it are also barred by prescription, even if the particular prescription applying to the accessory claim is not yet complete.

Section 193/27

The barring of the principal claim by prescription does not prevent a mortgagee, a pledge, holder of a right of retention or a creditor who has preferential right on property of the debtor detained by him, to enforce his right out of the mortgaged, pledged or detained property. But in exercising the right the creditor cannot obtain more than five years for arrears of interest.

Section 193/28

If any act of performance is done in satisfaction of a claim barred by prescription, the value of such performance may not be demanded back, even if the performance has been affected in ignorance of the prescription.

The provisions of paragraph one shall be applied to a contractual acknowledgment of liability in writing and to the giving of security by the debtor, but it cannot be referred against the former surety.

Section 193/29

When prescription has not been set up as a defense, the Court cannot dismiss the claim on the ground of prescription.

CHAPTER II

PERIOD OF PRESCRIPTION



Section 193/30

The period of prescription for which no other period is provided by law is ten years.

Section 193/31

The period of prescription for claims of the Government for taxes and rates is ten years. As to other claims of the Government relating to obligations, the provisions of this title shall be applied.

Section 193/32

The period of prescription for a claim established by a final judgment, or by a contract of compromise is ten years, even if the claim itself is subject to any period of prescription.

Section 193/33

The period of prescription is five years for the following claims:

- (1) Arrears of interest
- (2) Sums payable for the purpose of paying off the principal by installments.
- (3) Arrears of rent or hire of property except the rent of movables under Section 193/34 (6).
- (4) Arrears of salaries, annuities, pensions, allowances for maintenance and all other periodical payments.
- (5) Claims under Section 193/34 (1) (2) and (5), so far as they are not subject to the period of two years.

Section 193/34

The period of prescription is two years for the following claims:

- (1) Claims of merchants, industrial manufactures, artisans and those who practice industrial arts, for delivery of goods, performance of work and care of others' affairs, including disbursements, unless the service was rendered for the business of the debtor.
- (2) Claims of those who engage to agriculture or forestry, for delivery of agricultural or forest products, so far as the delivery is for the domestic use of the debtor
- (3) Claims of carriers for passengers or goods, or if messengers, for fare, freight, hire and fees, including disbursements.
- (4) Claims of innkeepers or hostel keepers and those who make a business of providing food and drink, or those who make a business of rendering entertainment service according to the law on places of entertainment services, for supplying lodging and food or other services rendered to the guests, including disbursements.
- (5) Claims of those who sell lottery tickets, racket or similar tickets for the sale of the tickets, unless the tickets are delivered for further sale.
- (6) Claims of those who make a business of letting movables, for the rent.
- (7) Claims of those who, without belonging to the classes specified in (1), make business of the care of others' affairs or the rendering of service, for the remuneration due to them from the business, including disbursements.
- (8) Claims of those who are in private service, for the wages, or other remuneration for services, including disbursements; also claims of the employers for advances made upon such claims.
- (9) Claims of employees, whether they be permanent, temporary or day laborers, and apprentices, for the wages or other remuneration, including disbursements, or claims of the employers for advances made upon such claims.
- (10) Claims of masters of apprentices, for the premium and other expenses agreed upon in the contract of apprenticeship and disbursements.

- (11) Claims of owners of educational institutions or nursing home, for instruction fees and other fees, or medical fees and other expenses, including disbursements.
- (12) Claims of those who receive persons to be maintained or educated, for services including disbursements.
- (13) Claims of those who receive animals to be maintained or trained, for services, including disbursements.
- (14) Claims of teachers, for their fees.
- (15) Claims of practitioners in medicine, dentist, nurses, midwives, veterinary surgeons or those who practice in other related fields of medicine, for their services, including disbursements.
- (16) Claims of lawyers or those engaged in legal profession including expert witnesses for their services, including disbursements, or claims of the parties for advances made upon such claims.
- (17) Claims of engineers, architects, auditors or those engaged in other independent professions, for services including disbursements, or claims of the employers for advances made upon such claims.

Section 193/35

Subject to Section 193/27, prescription of claims arising from the acknowledgment of liabilities by the debtor in writing or in giving of security under Section 193/28 paragraph two is two year from the date of acknowledgment of liabilities or of giving of security.