

**From the “Draft Amendment to the Revised Civil Code of Japan” (2015)  
BOOK III. Claim**

< Responsibility of the debtor >

**Art. 412** **[Time for performance and responsibility for default]**

- (1) When there is a certain (definite) term for the performance of an obligation, the debtor is responsible for delay from the time when the term arrives.
- (2) When there is an uncertain (indefinite) term for the performance of an obligation, the debtor is responsible for delay from the time when he has received a demand for performance after the arrival of the term, or as soon as he has become aware of the arrival of the term.
- (3) When there is no fixed term for the performance of the obligation, the debtor is responsible for delay from the time when he has received a demand for performance.

< Impossibility of performance >

**Art. 412 a** **[Impossibility of performance]**

- (1) The creditor may not demand performance of the obligation when it has become impossible in consideration of [the contents and nature of] the contract or other types of cause of the obligation in question as well as in light of common wisdom.
- (2) The demand for compensation for damages under Art. 415 shall not be affected even though the performance of a contractual obligation has been already impossible at the time of the contract.

< Default of the creditor >

**Art. 413** **[Creditor's default in acceptance]**

- (1) When the creditor refuses to, or cannot, accept performance of the obligation, the debtor owes, if the subject of his obligation consists in delivery of a particular thing, only the duty to preserve the thing with the same care as for his own properties from the time of tender until the time of delivery.
- (2) When any extra expenses are caused due to the creditor's refusal or inability to accept performance of the obligation, the creditor shall bear the extra expenses.

**Art. 413 a** **[Impossibility during default of debtor or creditor]**

- (1) The debtor bears the responsibility for impossibility of the performance which has occurred during his default even when its cause is attributable neither to him nor to the creditor.
- (2) In case of the creditor's refusal or inability to accept the performance, he bears the responsibility for impossibility of the performance which has occurred after the time of tender of performance even when its cause is attributable neither to him nor to the debtor.

**Art. 414** **[Compulsory performance]**

When a debtor does not voluntarily perform the obligation, the creditor may make demand to the Court for direct enforcement, execution by substitute, or indirect enforcement according to the provisions of Civil Execution Act or other laws on enforcement in civil procedure.

**Art. 415** **[Compensation for damages]**

- (1) When the debtor does not perform the obligation in accordance with the true intent and purpose

of the same (in the proper way of the obligation) or when the performance has become impossible, the creditor may demand compensation for accruing damages unless the non-performance may not be attributable to the debtor in consideration of [the contents and nature of] the contract or other types of cause of the obligation in question as well as in light of common wisdom.

(2) In following cases, the creditor may demand compensation in lieu of performance:

1. when the performance has become impossible;
2. when the debtor has declared his clear intention to refuse to perform his obligation;
3. when the contract which originated the obligation in question has been rescinded or when the creditor has been entitled to rescind the contract for a reason of debtor's non-performance.

**Art. 416**

**[Scope of damages]**

- (1) The demand for damages has for its subject compensation for such damage as takes place under ordinary circumstances in consequence of the non-performance of the obligation.
- (2) The creditor may also demand the compensation even for such damage as arises under special circumstances, if the circumstances were to be foreseen by the party concerned.