

Act on the Protection of Specially Designated Secrets

(Act No. 108 of December 13, 2013)

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Chapter I General Provisions

(Purpose)

Article 1 In view of the fact that, under the situation where the increasingly complex international situation amplifies the significance of information related to securing the safety of Japan and its citizens and where the development of an advanced information and telecommunications network society gives rise to concern over the risk of unauthorized disclosure of such information, it is important to establish a system for properly protecting information, among information concerning Japan's national security (meaning ensuring that the State and its citizens are secure from outside aggression, etc. that could affect the nation's existence; the same shall apply hereinafter), which is particularly required to be kept secret, and then to collect, coordinate and utilize said information, this Act aims to prevent unauthorized disclosure of such information by providing for the designation of specially designated secrets, restrictions on the persons who handle them, and other necessary matters with regard to the protection of such information, and to thereby contribute to securing the safety of Japan and its citizens.

(Definitions)

Article 2 The term "Administrative Organ" as used in this Act means the following organs:

- (i) organs within the Cabinet (excluding the Cabinet Office) and organs under the jurisdiction of the Cabinet, that were established pursuant to the

- provisions of law;
- (ii) the Cabinet Office, the Imperial Household Agency and organs provided for in Article 49, paragraphs (1) and (2) of the Act for Establishment of the Cabinet Office (Act No. 89 of 1999) (among these organs, in the case of the National Public Safety Commission, excluding the National Police Agency, and in the case of organs within which organs specified by Cabinet Order which are referred to in item (iv) are established, excluding such organs specified by Cabinet Order);
 - (iii) organs provided for in Article 3, paragraph (2) of the National Government Organization Act (Act No. 120 of 1948) (in the case of organs within which organs specified by Cabinet Order which are referred to in item (v) are established, excluding such organs specified by Cabinet Order);
 - (iv) organs set forth in Articles 39 and 55 of the Act for Establishment of the Cabinet Office and organs set forth in Article 16, paragraph (2) of the Imperial Household Agency Act (Act No. 70 of 1947), as well as extraordinary organs set forth in Articles 40 and 56 of the Act for Establishment of the Cabinet Office (including the cases where applied *mutatis mutandis* pursuant to Article 18, paragraph (1) of the Imperial Household Agency Act), which are the National Police Agency and other organs specified by Cabinet Order;
 - (v) organs such as facilities set forth in Article 8-2 of the National Government Organization Act and extraordinary organs set forth in Article 8-3 of the same Act, which are specified by Cabinet Order; and
 - (vi) the Board of Audit.

Chapter II Designation of Specially Designated Secrets

(Designation of Specially Designated Secrets)

Article 3 (1) The Head of an Administrative Organ (if the Administrative Organ is an organ under the collegial system, this means the Administrative Organ itself; and if the Administrative Organ is an organ specified by Cabinet Order which is referred to in items (iv) and (v) of the preceding Article (excluding an organ under the collegial system), this means the person specified by Cabinet Order for each such organ; hereinafter the same shall apply except in Article 11, item (i)) shall designate, as a specially designated secret, information concerning the matters set forth in the Appended Table in connection with the affairs under the jurisdiction of the Administrative Organ, which is publicly undisclosed and which is particularly required to be kept secret due to the risk of causing severe damage to Japan's national security, if disclosed without authorization (excluding information which falls within the category of a special defense secret provided for in Article 1, paragraph (3) of the Act on

Protection of Secrets Incidental to the "Mutual Defense Assistance Agreement Between Japan and the United States of America" (Act No. 166 of 1954)); provided, however, that this shall not apply to the Heads of Administrative Organs specified by Cabinet Order after the Prime Minister hears the opinions from the persons provided for in Article 18, paragraph (2).

- (2) When making a designation under the preceding paragraph (hereinafter simply referred to as a "Designation" except in Article 5 of the Supplementary Provisions), the Head of the Administrative Organ shall prepare a record concerning the Designation as provided for by Cabinet Order, and in order to clarify the scope of the specially designated secret subject to said Designation, take any of the measures set forth in the following items with regard to the information that is a specially designated secret:
- (i) marking, as a specially designated secret, the document, picture, electromagnetic record (meaning a record made by an electronic method, a magnetic method, or any other method not recognizable to human senses; hereinafter the same shall apply in this item) or object which records the information that is a specially designated secret (in the case of an electromagnetic record, including a record of said marking) or any object which embodies said information, as provided for by Cabinet Order; or
 - (ii) if it is difficult to take the measure set forth in the preceding item due to the nature of the information that is a specially designated secret, giving notice to the person handling such information of the fact that the provisions of the preceding paragraph apply to such information, as provided for by Cabinet Order.
- (3) If, after the Head of an Administrative Organ takes the measure set forth in item (ii) of the preceding paragraph with regard to the information that is a specially designated secret, it becomes possible to take the measure set forth in item (i) of the same paragraph with regard to such information, the Head of the Administrative Organ shall take said measure immediately.

(Effective Period and Termination of Designation)

Article 4 (1) When making a Designation, the Head of an Administrative Organ shall specify its effective period not exceeding five years from the date of the Designation.

- (2) If, at the time the effective period of a Designation (including an effective period as extended pursuant to this paragraph) expires, the information for which said Designation has been made meets the requirements provided for in paragraph (1) of the preceding Article, the Head of an Administrative Organ shall extend the effective period for up to five years, as provided for by Cabinet Order.
- (3) The effective period of a Designation may not exceed 30 years in total.

- (4) Notwithstanding the provisions of the preceding paragraph, the Head of an Administrative Organ may extend the effective period of a Designation for more than 30 years in total if the Head of the Administrative Organ obtains approval of the Cabinet (excluding the case where the Administrative Organ is the Board of Audit) of the fact that, even when viewed from the perspective of the accountability of the government to the citizens for its various activities, it is unavoidable to keep the information subject to the Designation publicly undisclosed in order to actually ensure the safety of Japan and its citizens, by indicating the reasons therefor; provided, however, that the effective period of the Designation shall not exceed 60 years in total, except with regard to the information concerning the matters set forth in the following items:
- (i) weapons, ammunition, aircraft and any other objects used for defense (including vessels; the same shall apply in item (i) of the Appended Table);
 - (ii) information likely to be detrimental to negotiations actually being conducted with a government of a foreign country (meaning a country or region outside the territory of Japan; the same shall apply hereinafter) or an international organization;
 - (iii) methods or capabilities of information collecting activities;
 - (iv) information concerning human intelligence sources;
 - (v) cryptology;
 - (vi) information provided by a government of a foreign country or an international organization on the condition that it be subject to a Designation for more than 60 years; and
 - (vii) material information specified by Cabinet Order, which is equivalent to information concerning the matters set forth in the preceding items.
- (5) When seeking approval of the Cabinet referred to in the preceding paragraph, the Head of an Administrative Organ may provide the Cabinet with the specially designated secret subject to the relevant Designation after taking the measures specified by Cabinet Order as being necessary for the protection of said specially designated secret.
- (6) Notwithstanding the provisions of Article 8, paragraph (1) of the Public Records and Archives Management Act (Act No. 66 of 2009), if the Head of an Administrative Organ fails to obtain approval of the Cabinet referred to in paragraph (4), the Head of the Administrative Organ must transfer the administrative document files, etc. (meaning Administrative Document Files, etc. provided for in Article 5, paragraph (5) of the same Act) in which the information subject to the Designation has been recorded to the National Archives of Japan, etc. (meaning a National Archives of Japan, etc. provided for in Article 2, paragraph (3) of the same Act), upon the expiration of their retention period.
- (7) The Head of an Administrative Organ shall terminate a Designation promptly

as provided for by Cabinet Order even before the expiration of the effective period if the information for which the Head of the Administrative Organ made the Designation no longer meets the requirements provided for in paragraph (1) of the preceding Article.

(Protective Measures for Specially Designated Secrets)

- Article 5 (1) Upon making a Designation, the Head of the Administrative Organ, in addition to the measures provided for in Article 3, paragraph (2), shall determine the scope of officials at the Administrative Organ who are assigned to perform the duty of handling the specially designated secret subject to said Designation, among persons who are qualified to perform the duty of handling specially designated secrets pursuant to Article 11, and take any other measures specified by Cabinet Order as being necessary for the protection of said specially designated secret.
- (2) If the Commissioner General of the National Police Agency makes a Designation and the specially designated secret subject to said Designation (excluding one provided pursuant to Article 7, paragraph (1)) is held by a Prefectural Police, the Commissioner General of the National Police Agency shall give notice to the Prefectural Police of the fact that said Designation has been made.
- (3) In the case referred to in the preceding paragraph, the Commissioner General of the National Police Agency shall give instructions to the Prefectural Police with regard to the scope of officials who are assigned to the duty of handling the specially designated secret held by the Prefectural Police and other measures specified by Cabinet Order as being necessary for the protection of the specially designated secret by the Prefectural Police. In this case, the Superintendent General or the Chief of the Prefectural Police Headquarters (hereinafter referred to as the "Chief of Police") shall take the necessary measures for the appropriate protection of said specially designated secret and assign its officials to perform the duty of handling the specially designated secret, in accordance with said instructions.
- (4) Upon making a Designation, if the Head of an Administrative Organ finds it particularly necessary in order to execute the affairs under the jurisdiction of the Administrative Organ which pertain to the matters set forth in the Appended Table, the Head of the Administrative Organ may, based on a contract with a person that is engaged in the business of manufacturing goods or providing services and that has in place necessary facilities and equipment for protecting specially designated secrets and conforms to other criteria specified by Cabinet Order (hereinafter referred to as an "Eligible Contractor"), have said Eligible Contractor hold the specially designated secret subject to said Designation (excluding secrets to be provided pursuant to Article 8,

paragraph (1)) after giving notice to Said Eligible Contractor of the fact that said Designation has been made.

- (5) The contract referred to in the preceding paragraph shall provide for the scope of the representatives, agents, employees and other workers (hereinafter simply referred to as "Workers") whom an Eligible Contractor holding a specially designated secret pursuant to the same paragraph nominates and assigns to perform the duty of handling the specially designated secret, from among persons who are qualified to perform the duty of handling specially designated secrets pursuant to Article 11, and other matters specified by Cabinet Order as being necessary for the protection of the specially designated secret by said Eligible Contractor.
- (6) The Eligible Contractor holding a specially designated secret pursuant to paragraph (4) shall take the necessary measures for the appropriate protection of the specially designated secret and assign its Workers to perform the duty of handling the specially designated secret, in accordance with the contract referred to in the same paragraph.

Chapter III Provision of Specially Designated Secrets

(Provision of Specially Designated Secrets based on Japan's National Security Needs)

- Article 6 (1) If the Head of an Administrative Organ holding a specially designated secret finds it necessary for another Administrative Organ to use the specially designated secret in order to execute the affairs concerning Japan's national security which pertain to the matters set forth in the Appended Table, the Head of the Administrative Organ may provide said Administrative Organ with the specially designated secret; provided, however, that if the Head of an Administrative Organ other than the Administrative Organ holding the specially designated secret has made the Designation with regard to the specially designated secret (excluding the case where the specially designated secret has been provided pursuant to this paragraph by the Head of the Administrative Organ holding it), the Head of the Administrative Organ holding the specially designated secret must obtain the consent of the Head of the Administrative Organ making said designation to do so.
- (2) The Head of the Administrative Organ who provides another Administrative Organ with a specially designated secret pursuant to the preceding paragraph shall consult with the Head of said Administrative Organ in advance with regard to the scope of officials who are assigned to perform the duty of handling the specially designated secret and other matters specified by Cabinet Order as being necessary for the protection of the specially designated secret

by said Administrative Organ.

- (3) The Head of another Administrative Organ that is provided with a specially designated secret pursuant to paragraph (1) shall take the necessary measures for the protection of the specially designated secret and assign its officials to perform the duty of handling the specially designated secret in accordance with the consultation under the preceding paragraph.

Article 7 (1) The Commissioner General of the National Police Agency may provide a specially designated secret that the National Police Agency holds to the Prefectural Police if the Commissioner General of the National Police Agency finds it necessary to have the Prefectural Police use the specially designated secret in order to execute the affairs under the jurisdiction of the National Police Agency which pertain to the matters set forth in the Appended Table.

- (2) When a specially designated secret is provided to the Prefectural Police pursuant to the preceding paragraph, Article 5, paragraph (3) shall apply *mutatis mutandis*.
- (3) The Commissioner General of the National Police Agency may request the Chief of Police to provide a specially designated secret which said Prefectural Police holds and which is subject to the notice under Article 5, paragraph (2).

Article 8 (1) If the Head of an Administrative Organ holding a specially designated secret finds it particularly necessary to have an Eligible Contractor use the specially designated secret in order to execute the affairs under the jurisdiction of the Administrative Organ which pertain to the matters set forth in the Appended Table, the Head of the Administrative Organ may provide the Eligible Contractor with the specially designated secret based on a contract with the Eligible Contractor; provided, however, that when the Head of an Administrative Organ other than the Administrative Organ that holds the specially designated secret has made the Designation with regard to the specially designated secret (excluding the case where the specially designated secret has been provided pursuant to Article 6, paragraph (1) by the Head of the Administrative Organ holding it), the Head of the Administrative Organ that holds the specially designated secret must obtain the consent of the Head of the Administrative Organ making said Designation to do so.

- (2) Article 5, paragraph (5) shall apply *mutatis mutandis* to the contract referred to in the preceding paragraph, and paragraph (6) of the same Article shall apply *mutatis mutandis* to an Eligible Contractor that is provided with a specially designated secret pursuant to the preceding paragraph. In this case, the term "the preceding paragraph" in paragraph (5) of the same Article shall be deemed to be replaced with "Article 8, paragraph (1)" and the term "holding"

in that paragraph shall be deemed to be replaced with "that is provided with".
(3) The Head of an Administrative Organ who has an Eligible Contractor hold a specially designated secret pursuant to Article 5, paragraph (4) may request the Eligible Contractor to provide the specially designated secret based on the contract referred to in the same paragraph.

Article 9 If the Head of an Administrative Organ holding a specially designated secret finds it necessary in order to execute the affairs under the jurisdiction of the Administrative Organ which pertain to the matters set forth in the Appended Table, the Head of the Administrative Organ may provide the specially designated secret to a government of a foreign country or an international organization taking measures equivalent to the measures that an Administrative Organ is supposed to take in order to protect said specially designated secret pursuant to this Act; provided, however, that when the Head of an Administrative Organ other than the Administrative Organ holding the specially designated secret has made the Designation with regard to the specially designated secret (excluding the case where the specially designated secret has been provided pursuant to Article 6, paragraph (1) by the Head of the Administrative Organ holding it), the Head of the Administrative Organ holding the specially designated secret must obtain the consent of the Head of the Administrative Organ making said designation to do so.

(Provision of Specially Designated Secrets based on Other Public Interest Needs)

Article 10 (1) In addition to the cases provided for in Article 4, paragraph (5), Article 6 through the preceding Article, and the second sentence of Article 18, paragraph (4), the Head of an Administrative Organ shall provide a specially designated secret only in the following cases:

(i) if the person who is provided with a specially designated secret uses the specially designated secret for any of the following duties or equivalent duties which are found to be particularly necessary for the public interest (excluding the cases set forth in the following item through item (iv)), and such person limits the scope of persons who are to use or know the specially designated secret, disallows the use of the specially designated secret for purposes other than said duties, and takes other measures specified by the Diet pursuant to Article 10 of the Supplementary Provisions, with regard to the duties set forth in (a), or measures specified by Cabinet Order with regard to duties other than those set forth in (a), as measures which need to be taken in order for the persons who use or know the specially designated secret to protect it, and if the Head of the Administrative Organ finds that the provision of the specially designated secret has no risk of causing severe

damage to Japan's national security:

- (a) an examination or research conducted by each House or by a committee of each House or research committee of the House of Councillors pursuant to Article 104, paragraph (1) of the Diet Act (Act No. 79 of 1947) (including the cases where applied mutatis mutandis pursuant to Article 54-4, paragraph (1) of the same Act) or Article 1 of the Act on Witnesses' Oath, Testimony, etc. Before Both Houses of the Diet (Act No. 225 of 1947), and which, pursuant to Article 52, paragraph (2) of the Diet Act (including the cases where applied mutatis mutandis pursuant to Article 54-4, paragraph (1) of the same Act) or Article 62 of the same Act, has been decided not to make public; and
 - (b) the investigation of a criminal case or maintenance of prosecution, when it is found that the specially designated secret will not be provided to persons other than those who are engaged in the duties necessary for said investigation or maintenance of prosecution, in addition to the case where the specially designated secret is presented to the court pursuant to Article 316-27, paragraph (1) of the Code of Criminal Procedure (Act No. 131 of 1948) (including the cases where applied mutatis mutandis pursuant to paragraph (3) of the same Article and Article 316-28, paragraph (2) of the same Code);
 - (ii) when presenting the specially designated secret to the court pursuant to Article 223, paragraph (6) of the Code of Civil Procedure (Act No. 109 of 1996);
 - (iii) when presenting the specially designated secret to the Information Disclosure and Personal Information Protection Review Board pursuant to Article 9, paragraph (1) of the Act for Establishment of the Information Disclosure and Personal Information Protection Review Board (Act No. 60 of 2003); and
 - (iv) when presenting the specially designated secret to the Information Disclosure and Personal Information Protection Review Board of the Board of Audit pursuant to Article 9, paragraph (1) of the Act for Establishment of the Information Disclosure and Personal Information Protection Review Board as applied mutatis mutandis through a replacement of terms pursuant to Article 19-4 of the Board of Audit Act (Act No. 73 of 1947).
- (2) In addition to the case of providing a specially designated secret to the National Police Agency at its request under Article 7, paragraph (3), the Chief of Police may provide a specially designated secret only in the case set forth in item (i) of the preceding paragraph (in cases other than the case where the specially designated secret which the Chief of Police is to provide is one provided for use in the duties set forth in (b) of the same item, the Chief of Police may provide the specially designated secret only after obtaining the

consent of the Commissioner General of the National Police Agency for the Chief of Police to find that the provision of the specially designated secret has no risk of causing severe damage to Japan's national security as provided for in the same item); in the case set forth in item (ii) of the same paragraph; or the case where, pursuant to the provisions equivalent to Article 9, paragraph (1) of the Act for Establishment of the Information Disclosure and Personal Information Protection Review Board in an ordinance of a prefecture providing for the right of residents, etc. to request the disclosure of information held by said prefecture (including a prefectural ordinance providing for the establishment of a prefectural organization to conduct deliberations in response to the consultation under said prefectural ordinance), the specially designated secret is presented to such organization.

- (3) In addition to the case of providing an Administrative Organ with a specially designated secret at its request under Article 8, paragraph (3), an Eligible Contractor may provide a specially designated secret only in the case set forth in paragraph (1), item (i) (limited to cases where the Eligible Contractor has obtained the consent of the Head of the Administrative Organ who has made the Designation with regard to the specially designated secret to find, as provided for in the same item, that the provision of the specially designated secret has no risk of causing severe damage to Japan's national security) or the cases set forth in item (ii) or item (iii) of the same paragraph.

Chapter IV Restrictions on Persons Who Handle Specially Designated Secrets

Article 11 No person may perform the duty of handling a specially designated secret unless the person has been found to have no risk of unauthorized disclosure of a specially designated secret if the person performs the duty of handling a specially designated secret (excluding a person to whom notification has been made under paragraph (3) of the following Article as applied directly or as applied mutatis mutandis through a replacement of terms pursuant to Article 15, paragraph (2), as the person set forth in paragraph (1), item (iii) of the following Article or Article 15, paragraph (1), item (iii)) in the security clearance assessment referred to in paragraph (1) of the following Article or Article 15, paragraph (1) which was conducted most recently for the person by the Head of the Administrative Organ who assigns said duty to the person, the Head of the Administrative Organ who has an Eligible Contractor that assigns said duty to the person hold the specially designated secret or provides such an Eligible Contractor with the specially designated secret, or the Chief of Police who assigns said duty to the person (limited to such security clearance Assessment for which five years have not yet elapsed since the day on which

the notice under Article 13, paragraph (1) (including the cases where applied mutatis mutandis pursuant to Article 15, paragraph (2)) was given to the person); provided, however, that the following persons shall not be required to undergo the Security Clearance Assessment referred to in paragraph (1) of the following Article or Article 15, paragraph (1):

- (i) Heads of Administrative Organs;
- (ii) Ministers of State (excluding those set forth in the preceding item);
- (iii) Deputy Chief Cabinet Secretaries;
- (iv) Special Advisors to the Prime Minister;
- (v) Parliamentary Senior Vice-Ministers;
- (vi) Parliamentary Vice-Ministers; and
- (vii) in addition to persons set forth in the preceding items, a person specified by Cabinet Order as a person who may perform the duty of handling a specially designated secret without undergoing the security clearance assessment referred to in paragraph (1) of the following Article or Article 15, paragraph (1), in consideration of the nature of such person's duties and other circumstances concerned.

Chapter V Security Clearance Assessment

(Conduct of Security Clearance Assessment by Head of Administrative Organ)
Article 12 (1) The Head of an Administrative Organ shall conduct an assessment of each of the following persons as provided for by Cabinet Order to verify that the person has no risk of unauthorized disclosure of a specially designated secret if the person performs the duty of handling a specially designated secret (such an assessment shall hereinafter be referred to as the "Security Clearance Assessment"):

- (i) a person who is expected to be newly assigned to perform the duty of handling a specially designated secret as an official of said Administrative Organ (if said Administrative Organ is the National Police Agency, including as a Chief of Police; the same shall apply in the following item) or as a Worker of an Eligible Contractor that holds a specially designated secret or is provided with a specially designated secret based on a contract referred to in Article 5, paragraph (4) or Article 8, paragraph (1) (simply referred to as a "Contract" in the following item) with said Administrative Organ (excluding a person who has been found to have no risk of unauthorized disclosure of any specially designated secret if the person performs the duty of handling a specially designated secret in the Security Clearance Assessment which the Head of the Administrative Organ conducted most recently for said person and for which five years have not yet elapsed since the day on which the Head of the Administrative Organ gave the notice under paragraph (1) of the

- following Article to the person, and is found to continue to be free from the risk of unauthorized disclosure);
- (ii) a person who is currently engaged in performing the duty of handling a specially designated secret as an official of said Administrative Organ or as a Worker of an Eligible Contractor that holds a specially designated secret or is provided with a specially designated secret based on a Contract with said Administrative Organ, and who is expected to continue to be engaged in performing the duty of handling a specially designated secret as such an official or a Worker on and after the day on which five years have elapsed from the day on which the notice under paragraph (1) of the following Article was given to the person in connection with the Security Clearance Assessment which the Head of the Administrative Organ conducted most recently for said person; and
 - (iii) a person who has been found to have no risk of unauthorized disclosure of any specially designated secret if the person performs the duty of handling specially designated secrets in the Security Clearance Assessment which the Head of said Administrative Organ conducted most recently for said person, but whose circumstances raise doubts as to whether it would be found that said person will continue to be free from the risk of unauthorized disclosure.
- (2) The Security Clearance Assessment shall be conducted based on the results of an examination with regard to the following matters for the person to be assessed through the Security Clearance Assessment (hereinafter referred to as a "Person subject to Assessment"):
- (i) matters concerning the relationship of the Person subject to Assessment with any specified harmful activities (meaning activities intended to obtain publicly undisclosed information whose unauthorized disclosure has a risk of causing damage to Japan's national security; activities intended to import or export nuclear weapons, military chemical warfare agents or bacterial agents or devices for spraying such agents, rockets or unmanned aerial vehicles capable of transporting these, or objects which are found highly likely to be used for developing, manufacturing, using, or storing any of these; and any other activity that is carried out for the purpose of promoting the interests of a foreign country and which is or is likely to be extremely harmful to the safety of Japan and its citizens; the same shall apply in item (iii) of the Appended Table) and with any terrorist activities (meaning activities intended to kill or injure people or destroy important facilities or other objects for the purpose of forcing a political or other principle or belief upon the State or other persons or causing fear or terror in society based on such principle or opinion; the same shall apply in item (iv) of the same table) (including the names, dates of birth, nationalities (including any former nationality) and addresses of family members of the Person subject to

- Assessment (meaning the spouse (including a person who is in a de facto marital relationship although the marriage notification has not been made; hereinafter the same shall apply in this item), parents, children and siblings of the Person subject to Assessment, as well as the spouse's parents and children other than these persons; hereinafter the same shall apply in this item) and any person living with the Person subject to Assessment (excluding a family member));
- (ii) matters concerning criminal and disciplinary records;
 - (iii) matters concerning records of improper conduct in connection with the handling of information;
 - (iv) matters concerning abuse and the influence of drugs;
 - (v) matters concerning mental disorders;
 - (vi) matters concerning moderation in drinking alcohol; and
 - (vii) matters concerning credit status and other financial situation.
- (3) The Security Clearance Assessment shall be conducted after notifying the Person subject to Assessment of the following matters and obtaining the consent of the person in advance, as provided by Cabinet Order:
- (i) that an examination will be conducted with regard to the matters set forth in the items of the preceding paragraph;
 - (ii) that the Head of the Administration Organ, pursuant to the following paragraph, may have persons questioned, may have requests made for the person to submit materials, and may make inquiries and request reports, to the extent that doing so is necessary for conducting the examination referred to in the preceding paragraph; and
 - (iii) if the Person subject to Assessment is the person set forth in paragraph (1), item (iii), a statement to that effect.
- (4) The Head of an Administrative Organ may have officials of the Administrative Organ question the Person subject to Assessment or acquaintances of the Person subject to Assessment or other persons concerned or may have such officials request the Person subject to Assessment to submit materials, or may make inquiries to public offices or public or private organizations and request reports on the necessary matters from them, to the extent that doing so is necessary for conducting the examination referred to in paragraph (2).

(Notice of Results of Security Clearance Assessment)

Article 13 (1) After conducting a Security Clearance Assessment, the Head of the Administrative Organ shall give notice of the results to the Person subject to Assessment.

(2) After conducting a Security Clearance Assessment of a Worker of an Eligible Contractor, the Head of the Administrative Organ shall give notice of the

results to the Eligible Contractor, and if a Security Clearance Assessment of said Worker is not conducted due to the Worker's refusal to give the consent referred to in paragraph (3) of the preceding Article, the Head of the Administrative Organ shall notify the Eligible Contractor of this.

- (3) An Eligible Contractor which has received notice under the preceding paragraph shall give notice of the content of the notice to the business operator employing the Person subject to Assessment if said Person subject to Assessment is a dispatched worker (meaning a dispatched worker provided for in Article 2, item (ii) of the Act for Securing the Proper Operation of Worker Dispatching Undertakings and Protection of Dispatched Workers (Act No. 88 of 1985); the same shall apply in Article 16, paragraph (2)) working under the instruction of the Eligible Contractor.
- (4) When giving notice to a Person subject to Assessment, pursuant to paragraph (1), that the person has not been found to have no risk of unauthorized disclosure of a specially designated secret if the person performs the duty of handling a specially designated secret, the Head of the Administrative Organ shall give notice to the Person subject to Assessment of the reasons for not finding that such risk does not exist, to the extent that this does not interfere with ensuring the smooth conduct of the Security Clearance Assessment; provided, however, that this shall not apply if the Person subject to Assessment notifies in advance that the person does not wish to receive notice of said reasons.

(Filing Complaints with Heads of Administrative Organs)

- Article 14 (1) A Person subject to Assessment may file a complaint with the Head of the Administrative Organ in writing, with regard to the results of the Security Clearance Assessment of which notice has been given to the person pursuant to paragraph (1) of the preceding Article or with regard to the Security Clearance Assessment conducted for the Person subject to Assessment.
- (2) When receiving a complaint referred to in the preceding paragraph, the Head of the Administrative Organ shall process the complaint sincerely and give notice of the results to the person filing the complaint.
- (3) No Person subject to Assessment shall be subjected to adverse treatment on the grounds having filed a complaint referred to in paragraph (1).

(Conduct of Security Clearance Assessment by the Chief of Police)

- Article 15 (1) The Chief of Police shall conduct a Security Clearance Assessment of each of the following persons, as provided for by Cabinet Order:
- (i) a person who is expected to be newly assigned to perform the duty of handling a specially designated secret as an official of the Prefectural Police (excluding the Chief of Police; the same shall apply in the following item)

- (excluding a person who has been found to have no risk of unauthorized disclosure of a specially designated secret if the person performs the duty of handling a specially designated secret, in the Security Clearance Assessment which the Chief of Police conducted most recently for said person and for which five years have not elapsed since the day on which the Chief of Police gave the notice under Article 13, paragraph (1) as applied mutatis mutandis pursuant to the following paragraph to the person, and is found to continue to be free from the risk of unauthorized disclosure);
- (ii) a person who is currently engaged in performing the duty of handling a specially designated secret as an official of the Prefectural Police, and who is expected to continue to be engaged in performing the duty of handling a specially designated secret as such an official on and after the day on which five years have elapsed from the day on which the notice under Article 13, paragraph (1) as applied mutatis mutandis pursuant to the following paragraph was given to the person in connection with the Security Clearance Assessment which the Chief of Police conducted most recently for said person; and
 - (iii) a person who has been found to have no risk of unauthorized disclosure of a specially designated secret if the person performs the duty of handling specially designated secrets in the Security Clearance Assessment which said Chief of Police conducted most recently for said person, but whose circumstances raise doubts as to whether it would be found that said person will continue to be free from the risk of unauthorized disclosure.
- (2) The preceding three Articles (excluding Article 12, paragraph (1) and Article 13, paragraphs (2) and (3)) shall apply mutatis mutandis to the Security Clearance Assessment conducted by the Chief of Police pursuant to the preceding paragraph. In this case, the phrase "paragraph (1), item (iii)" in Article 12, paragraph (3), item (iii) shall be deemed to be replaced with "Article 15, paragraph (1), item (iii)".

(Restriction on the Use and Provision of Personal Information Concerning Security Clearance Assessment)

Article 16 (1) The Head of an Administrative Organ and the Chief of Police shall not personally use or provide others with, for purposes other than the protection of specially designated secrets, information as to the fact that a Person subject to Assessment did not give the consent referred to in Article 12, paragraph (3) (including the cases where applied mutatis mutandis through a replacement of terms pursuant to paragraph (2) of the preceding Article), the results of the Security Clearance Assessment of a Person subject to Assessment, or any personal information (meaning information about a living individual, which can identify the specific individual by name, date of birth and other

description contained in such information (including information that can be compared with other information and thereby identify the specific individual); hereinafter the same shall apply in this paragraph) acquired in conducting the Security Clearance Assessment; provided, however, that this shall not apply if the Security Clearance Assessment raises doubts as to whether the specific individual to whom the said personal information pertains falls under any of the following: the items of Article 38 of the National Public Service Act (Act No. 120 of 1947), the clauses provided for by rules of the National Personnel Authority as provided for in Article 75, paragraph (2) of the same Act, the items of Article 78 of the same Act, the items of Article 79 of the same Act or the items of Article 82, paragraph (1) of the same Act; the items of Article 20 of the Public Prosecutor's Office Act (Act No. 61 of 1947); the category of persons provided for in Article 7, paragraph (1) of the Diplomats Act (Act No. 41 of 1952); the items of Article 38, paragraph (1), the items of Article 42, the items of Article 43 or the items of Article 46, paragraph (1) of the Self-Defense Forces Act (Act No. 165 of 1954), the cases provided for in Article 48, paragraph (1) of the same Act, or the items of paragraph (2) or paragraph (3) of the same Article; the items of Article 16, the items of Article 28, paragraph (1) or the items of paragraph (2) of the same Article, or the items of Article 29, paragraph (1) of the Local Public Service Act (Act No. 261 of 1950); or the grounds specified by Cabinet Order as equivalent to these.

- (2) An Eligible Contractor and a business operator employing a dispatched worker working under the instruction of an Eligible Contractor shall not personally use or provide others with, for purposes other than the protection of specially designated secrets, information as to the content of the notice given pursuant to Article 13, paragraph (2) or paragraph (3).

(Delegation of Authority or Affairs)

Article 17 The Head of an Administrative Organ may delegate the authority or affairs provided for in this Chapter to the officials of the Administrative Organ, as provided for by Cabinet Order (in the case of an organ under the jurisdiction of the Cabinet and in the case of the Board of Audit, as provided for by order of said organ or the Board of Audit).

Chapter VI Miscellaneous Provisions

(Implementation Standards for the Designation of Specially Designated Secrets)

Article 18 (1) The government shall formulate standards to ensure uniform implementation in connection with the Designation of specially designated secrets and the termination of the Designation as well as the conduct of the

Security Clearance Assessment.

- (2) When intending to formulate or revise the standards referred to in the preceding paragraph, the Prime Minister must prepare a draft of the standards after hearing the opinions of persons with distinguished insight into matters such as the protection of information concerning Japan's national security, the disclosure of information held by Administrative Organs, etc., and the management of public records, etc., and must seek a Cabinet decision on the draft.
- (3) The Prime Minister must report each year the state of the Designation of specially designated secrets and the termination of the Designation as well as the conduct of the Security Clearance Assessment based on the standards referred to in paragraph (1) to the persons provided for in the preceding paragraph and must hear the opinions of such persons.
- (4) With regard to the state of the Designation of specially designated secrets and the termination of the Designation as well as the conduct of the Security Clearance, in order to ensure that these affairs are implemented properly, the Prime Minister shall represent the Cabinet in exercising control and supervision over the administrative branches, based on the standards referred to in paragraph (1). In this case, if the Prime Minister finds it necessary in order to ensure that the Designation of specially designated secrets and the termination of the Designation as well as the conduct of the Security Clearance Assessment comply with said standards, the Prime Minister may request the Head of an Administrative Organ (excluding the Board of Audit) to submit and explain materials that contain the information that is a specially designated secret, and may give instructions to the Head of the Administrative Organ that improvement needs to be made with regard to the Designation of specially designated secrets and the termination of the Designation as well as the conduct of the Security Clearance Assessment.

(Report to the Diet)

Article 19 The government shall report each year the state of the Designation of specially designated secrets and the termination of the Designation as well as the conduct of the Security Clearance Assessment with the opinions referred to in paragraph (3) of the preceding Article to the Diet and publicize the report.

(Cooperation of Related Administrative Organs)

Article 20 The Heads of related Administrative Organs shall cooperate with one another in connection with the Designation of specially designated secrets, the conduct of the Security Clearance Assessment and other measures to be taken pursuant to this Act, in order to prevent the unauthorized disclosure of information, among information involved in Japan's national security, which is

particularly required to be kept secret.

(Delegation to Cabinet Order)

Article 21 In addition to what is provided for in this Act, procedures for implementing this Act and other necessary matters in connection with the enforcement of this Act shall be provided for by Cabinet Order.

(Interpretation and Application of This Act)

Article 22 (1) When this Act is applied, its interpretation must not be expanded to unfairly violate the fundamental human rights of the citizens, and due consideration must be paid to the freedom of news reporting or news coverage, which contributes to guaranteeing the citizens' right to know.

(2) The act of news coverage by persons engaged in publishing or news reporting shall be treated as an act in the pursuit of lawful business as long as it has the sole aim of furthering the public interest and is not found to have been done in violation of laws or regulations or through the use of extremely unjustifiable means.

Chapter VII Penal Provisions

Article 23 (1) If a person engaged in the duty of handling a specially designated secret discloses, without authorization, the specially designated secret which the person has come to know in the course of duty, the person shall be punished by imprisonment with work for not more than ten years or, in light of the circumstances, shall be punished by imprisonment with work for not more than ten years and a fine of not more than ten million yen. The same shall apply when the person is no longer engaged in the duty of handling a specially designated secret.

(2) With regard to the specially designated secret provided pursuant to Article 4, paragraph (5), Article 9, Article 10 or the second sentence of Article 18, paragraph (4), if a person who has come to know said specially designated secret in the course of the duty for which the secret was provided, discloses said specially designated secret without authorization, the person shall be punished by imprisonment with work for not more than five years or, in light of the circumstances, shall be punished by imprisonment with work for not more than five years and a fine of not more than five million yen. The same shall apply if a person who has been presented with a specially designated secret in the case provided for in Article 10, paragraph (1), item (i), (b), discloses said specially designated secret without authorization.

(3) An attempt of the crimes referred to in the preceding two paragraphs shall be punished.

- (4) A person who commits the crime referred to in paragraph (1) by negligence shall be punished by imprisonment without work for not more than two years or by a fine of not more than 500,000 yen.
- (5) A person who commits the crime referred to in paragraph (2) by negligence shall be punished by imprisonment without work for not more than one year or a fine of not more than 300,000 yen.

Article 24 (1) A person who acquires a specially designated secret by an act of deceiving, assaulting or intimidating a person, or by theft or destruction of property, trespassing on a facility, interception of wired communications, an act of unauthorized computer access (meaning an act of unauthorized computer access provided for in Article 2, paragraph (4) of the Act on Prohibition of Unauthorized Computer Access (Act No. 128 of 1999)) or any other act that undermines the control of a person holding a specially designated secret, for the purpose of using the secret to promote the interests of a foreign country or acquire an illicit personal gain or to cause harm to Japan's safety or to the lives or bodies of its citizens, shall be punished by imprisonment with work for not more than ten years, or in light of the circumstances, shall be punished by imprisonment with work for not more than ten years and a fine of not more than ten million yen.

- (2) An attempt of the crime referred to in the preceding paragraph shall be punished.
- (3) The provisions of the preceding two paragraphs do not preclude the application of the Penal Code (Act No. 45 of 1907) or any other penal provisions.

Article 25 (1) A person who conspires with, induces or incites another person to commit any of the acts provided for in Article 23, paragraph (1) or paragraph (1) of the preceding Article shall be punished by imprisonment with work for not more than five years.

- (2) A person who conspires with, induces or incites another person to commit the act provided for in Article 23, paragraph (2) shall be punished by imprisonment with work for not more than three years.

Article 26 If a person who has committed the crime referred to in Article 23, paragraph (3) or Article 24, paragraph (2), or a person who, among those who have committed the crime referred to in the preceding Article, has conspired with another person to commit the act provided for in Article 23, paragraph (1) or paragraph (2) or Article 24, paragraph (1) surrenders, the punishment for the person shall be reduced or the person shall be exempted from the punishment.

Article 27 (1) The crime referred to in Article 23 shall apply to a person who commits the crime referred to in the same Article outside Japan.
(2) The crimes referred to in Articles 24 and 25 shall be governed by Article 2 of the Penal Code.

Supplementary Provisions

(Effective Date)

Article 1 This Act shall come into effect as of the day specified by Cabinet Order within a period not exceeding one year from the date of promulgation; provided, however, that Article 18, paragraphs (1) and (2) (excluding the part concerning the revision), and Articles 9 and 10 of the Supplementary Provisions shall come into effect as of the date of promulgation.

(Transitional Measures)

Article 2 Until the day preceding the day specified by Cabinet Order within a period not exceeding two years from the date of promulgation of this Act, with regard to the application of Article 5, paragraph (1), and paragraph (5) of the same Article (including the cases where applied mutatis mutandis through a replacement of terms pursuant to Article 8, paragraph (2); hereinafter the same shall apply in this Article), the phrase "at the Administrative Organ who are assigned to perform the duty of handling the specially designated secret subject to said Designation, among persons who are qualified to perform the duty of handling specially designated secrets pursuant to Article 11" in Article 5, paragraph (1) shall be deemed to be replaced with "at the Administrative Organ who are assigned to perform the duty of handling the specially designated secret subject to said Designation" and the phrase "pursuant to the same paragraph nominates and assigns to perform the duty of handling the specially designated secret, from among persons who are qualified to perform the duty of handling specially designated secrets pursuant to Article 11" in paragraph (5) of the same Article shall be deemed to be replaced with "pursuant to the same paragraph nominates and assigns to perform the duty of handling the specially designated secret", and Article 11 shall not apply.

(Administrative Organs On and After the Day Following the Date of Lapse of Five-Year Period from Day of Coming into Effect)

Article 3 With regard to the application of Article 2 on and after the day following the day on which five years have elapsed from the day on which this Act comes into effect (hereinafter referred to as the "Effective Date"), the phrase "the following organs" in the same Article shall be deemed to be replaced with "the following organs (excluding those specified by Cabinet Order

as organs which have never held any specially designated secrets designated pursuant to paragraph (1) of the following Article (including a defense secret consisting of the matters that shall be deemed to be the information which is designated by the Minister of Defense as a specially designated secret, pursuant to Article 5 of the Supplementary Provisions; hereinafter simply referred to as a "Specially Designated Secret" in this Article) during the period from the day on which this Act comes into effect until five years have elapsed from that day (excluding those specified by Cabinet Order as organs which come to need to hold a Specially Designated Secret after the day on which that period has passed, after the Prime Minister hears opinions from the persons provided for in Article 18, paragraph (2) at the request of said organs)."

(Partial Revision of the Self-Defense Forces Act)

Article 4 The Self-Defense Forces Act shall be partially revised as follows:

In the table of contents, "Authority of Self-Defense Forces, etc. (Articles 87 to 96-2)" shall be revised as "Authority of Self-Defense Forces (Articles 87 to 96)," and "Article 126" shall be revised as "Article 125".

The title of Chapter VII shall be revised as follows:

Chapter VII Authority of Self-Defense Forces

Article 96-2 shall be deleted.

Article 122 shall be deleted.

Article 123 shall be moved to Article 122.

Article 124 shall be moved to Article 123, Article 125 shall be moved to Article 124, and Article 126 shall be moved to Article 125.

Appended Table 4 shall be deleted.

(Transitional Measures upon Partial Revision of the Self-Defense Forces Act)

Article 5 Except in the case provided for in the second sentence of the following

Article, a matter which is designated as a defense secret as of the day preceding the Effective Date, pursuant to Article 96-2, paragraph (1) of the Self-Defense Forces Act prior to its revision under the preceding Article (hereinafter referred to as the "Former Self-Defense Forces Act" in this Article and the following Article), shall be deemed to be the information which is designated by the Minister of Defense as a specially designated secret as of the Effective Date, pursuant to Article 3, paragraph (1), and a marking affixed pursuant to Article 96-2, paragraph (2), item (i) of the Former Self-Defense Forces Act or the notice given pursuant to item (ii) of the same paragraph by the Minister of Defense with regard to the matter which has been designated as said defense secret prior to the Effective Date shall be deemed to be the marking affixed pursuant to Article 3, paragraph (2), item (i) or the notice given pursuant to item (ii) of the same paragraph by the Minister of Defense

with regard to the specially designated secret as of the Effective Date. In this case, the phrase "When making a Designation, the Head of an Administrative Organ shall specify its effective period not exceeding five years from the date of the Designation" in Article 4, paragraph (1) shall be deemed to be replaced with "Without delay on and after the day on which this Act comes into effect, the Head of an Administrative Organ shall specify its effective period not exceeding five years from said day."

Article 6 With regard to the application of penal provisions to acts committed prior to the Effective Date, the provisions then in force shall remain applicable. The same shall apply to an act committed after the Effective Date by a person who has been engaged in the duty of handling a defense secret provided for in Article 122, paragraph (1) of the Former Self-Defense Forces Act and has come to no longer be engaged in the duty of handling the defense secret by the Effective Date, if such act is committed after the Effective Date with regard to the defense secret which the person has come to know in the course of performing the duty.

(Partial Revision of the Cabinet Act)

Article 7 The Cabinet Act (Act No. 5 of 1947) shall be partially revised as follows.

The phrase "and the Cabinet Public Relations Secretary" in Article 17, paragraph (2), item (i) shall be revised as ", the Cabinet Public Relations Secretary and the Director of Cabinet Intelligence".

In Article 20, paragraph (2), the phrase "the affairs set forth in Article 12, paragraph (2), items (ii) through (v) which pertain to the protection of specially designated secrets (meaning the specially designated secrets provided for in Article 3, paragraph (1) of the Act on the Protection of Specially Designated Secrets (Act No. 108 of 2013)) (excluding those under the jurisdiction of the Cabinet Public Relations Secretary) and" shall be inserted after the term "administer".

(Delegation to Cabinet Order)

Article 8 In addition to what is provided for in Articles 2, 3, 5 and 6 of the Supplementary Provisions, the necessary transitional measures for the enforcement of this Act shall be provided by Cabinet Order.

(Ensuring Proper Designation and Termination)

Article 9 The government shall consider the establishment of a new organ that is capable of verifying and overseeing, from an independent and impartial standpoint, whether the standards, etc. concerning the Designation of specially designated secrets and the termination of the Designation by the Heads of

Administrative Organs are truly conducive to national security, and other necessary steps to ensure proper Designation of specially designated secrets and the termination of the Designation, and shall take required measures based on the results of the consideration.

(Policy for Provision of Specially Designated Secrets to the Diet and Protective Measures for Those Secrets at the Diet)

Article 10 With regard to the provision of specially designated secrets to the Diet, the government shall implement this Act in accordance with the spirit of the Constitution of Japan, which provides that the Diet shall be the highest organ of state power and that each House has the power to establish its rules pertaining to meetings, proceedings and internal discipline, and of the Diet Act, etc. enacted under the Constitution, and the steps to protect the specially designated secrets with which the Diet is provided shall be considered at the Diet, and the Diet shall take the necessary measures based on the results of the consideration.

Appended Table (Re.: Articles 3 and 5 to 9) Appended Table (Re.: Articles 3 and 5 to 9)

(i) Matters concerning defense:

- (a) operation of the Self-Defense Forces or assessments, plans or studies relevant thereto;
- (b) signal information, image information and other important information collected in connection with defense;
- (c) collection and coordination of the information set forth in (b) or the capacity thereof;
- (d) assessments, plans or studies relevant to the development of defense capabilities build-up;
- (e) type or quantity of weapons, ammunition, aircraft and other objects used for defense;
- (f) structure of communications networks or means of communications used for defense;
- (g) cryptology used for defense;
- (h) specifications, performance or method of use of weapons, ammunition, aircraft and other objects used for defense or of those in the research and development stage;
- (i) methods of production, inspection, repair or test of weapons, ammunition, aircraft and other objects used for defense or of those in the research and development stage;
- (j) design, performance or internal use of facilities used for defense (excluding those set forth in (f)).

- (ii) Matters concerning diplomacy:
 - (a) policies for or contents of negotiations or cooperation with a government of a foreign country or an international organization which are important to national security, such as the protection of the lives and bodies of the citizens or maintaining territorial integrity;
 - (b) prohibition on the import or export of goods or other measures that Japan implements for national security or the policies thereof (excluding those set forth in item (i), (a) or (d), item (iii), (a), or item (iv), (a));
 - (c) important information pertaining to the protection of the lives and bodies of the citizens, maintaining territorial integrity or the peace and security of the international community or information that requires protection based on a treaty or other international agreement, which has been collected in connection with national security (excluding those set forth in item (i), (b), item (iii), (b), or item (iv), (b));
 - (d) collection and coordination of the information set forth in (c) or the capacity thereof;
 - (e) cryptology used in communications between the Ministry of Foreign Affairs and overseas diplomatic establishments and for other diplomatic purposes.
- (iii) Matters concerning prevention of specified harmful activities:
 - (a) measures to prevent the occurrence or spread of damage that is caused by specified harmful activities (hereinafter referred to as "Prevention of Specified Harmful Activities" in this item) or plans or studies relevant thereto;
 - (b) important information concerning the protection of the lives and bodies of the citizens or information from a government of a foreign country or an international organization, which has been collected in connection with the Prevention of Specified Harmful Activities;
 - (c) collection and coordination of the information set forth in (b) or the capacity thereof;
 - (d) cryptology used in the Prevention of Specified Harmful Activities.
- (iv) Matters concerning the prevention of terrorist activities:
 - (a) measures to prevent the occurrence or spread of damage that is caused by terrorist activities (hereinafter referred to as "Prevention of Terrorist Activities" in this item) or plans or studies relevant thereto;
 - (b) important information pertaining to the protection of the lives and bodies of the citizens or information from a government of a foreign country or an international organization, which has been collected in connection with the Prevention of Terrorist Activities;
 - (c) collection and coordination of the information set forth in (b) or the capacity thereof;

(d) cryptology used in the Prevention of Terrorist Activities.