

# Regulation for Enforcement of the Act against Unjustifiable Premiums and Misleading Representations

(Cabinet Office Order No. 6 of February 5, 2016)

## (Definitions)

Article 1 The terms used in this Cabinet Office Order are to be governed by the terms used in the Act against Unjustifiable Premiums and Misleading Representations (hereinafter referred to as "the Act") and the Order for Enforcement of the Act against Unjustifiable Premiums and Misleading Representations (Cabinet Order No. 218 of 2009; hereinafter referred to as "the Order").

## (Publication of Public Hearings)

Article 2 When seeking to hold a public hearing under the provisions of Article 3, paragraph (1) and Article 6, paragraph (1) of the Act, the Secretary General of the Consumer Affairs Agency must give public notice of the date and place of the public hearing, the details of the matter, and guidelines for filing opinions, by publishing these in the official gazette or in a daily newspaper that publish information about current events at least 14 days prior to the date of the hearing.

## (Selection of Speakers at a Public Hearing)

Article 3 (1) The Secretary General of the Consumer Affairs Agency selects and individually notifies persons who will be permitted to state an opinion at a public hearing from among those who have filed opinions pursuant to the provisions of the preceding Article.

(2) When making the selection referred to in the preceding paragraph, the Secretary General of the Consumer Affairs Agency must do so in a way that prevents a bias towards either side, if there are both persons in favor of and persons against the matter in question.

## (Requesting a Person to State an Opinion at a Public Hearing)

Article 4 On finding it to be necessary, the Secretary General of the Consumer Affairs Agency may ask a person with relevant expertise or an official from a relevant administrative organization to state an opinion at a public hearing.

## (Holding Public Hearings)

Article 5 (1) The Secretary General of the Consumer Affairs may have an official

of the Consumer Affairs Agency designated by the Secretary General preside over a public hearing.

- (2) An official who has presided over a public hearing pursuant to the provisions of the preceding paragraph is to prepare a report that includes the information set forth in the items of the following Article and submit it to the Secretary General of the Consumer Affairs Agency.

(Public Hearing Records)

Article 6 The Secretary General of the Consumer Affairs Agency is to prepare a record that includes the following information with regard to a public hearing:

- (i) the details of the matter;
- (ii) the date and place of the public hearing;
- (iii) the names, addresses, and occupations of persons who have stated opinions at the public hearing (for a corporation or other association, this means its name, the locality of its main office, and the name of its representative), and a summary of the opinions; and
- (iv) other necessary information.

(Procedures for Requesting Persons to Submit Data under the Provisions of Article 7, Paragraph (2), etc. of the Act)

Article 7 (1) When requesting a person to submit data as under the provisions of Article 7, paragraph (2) or Article 8, paragraph (3) of the Act, the Secretary General of the Consumer Affairs Agency is to do this through the delivery of a document that includes the following information:

- (i) the name of the entrepreneur;
- (ii) an indication requesting the submission of data; and
- (iii) the due date and place where the data is to be submitted.

- (2) The period prescribed in Article 7, paragraph (2) and Article 8, paragraph (3) of the Act is the period from the day when the document referred to in the preceding paragraph is delivered until 15 days after the day of its delivery; provided, however, that this does not apply if there is found to be a legitimate reason for the Entrepreneur's non-submission of the data within that period.

(Measures Prescribed by Cabinet Office Order Provided for in Article 8, Paragraph (2) of the Act)

Article 8 The measures prescribed by Cabinet Office Order that are provided for in Article 8, paragraph (2) of the Act are measures to make it common knowledge to general consumers that a representation involved in an Act Subject to Surcharge falls under one of the items of the proviso to paragraph (1) of that Article, through publication in a daily newspaper that publish information about current events or by any other appropriate means that

eliminates the risk of unjustly inducing customers and interfering with general consumers' voluntary and rational choice-making.

(How to Report a Fact Constituting an Act Subject to Surcharge)

- Article 9 (1) A person who intends to make a report under the provisions of Article 9 of the Act must submit the report by using Form No. 1 to the Secretary General of the Consumer Affairs Agency by one of the following methods:
- (i) bring the report in person;
  - (ii) send the report by registered mail, or services of correspondence delivery prescribed in Article 2, paragraph (2) of the Act on Correspondence Delivery by Private Business Operators (Act No. 99 of 2002, referred to as the "Correspondence Delivery Act" in paragraph (3)) that are provided by a general correspondence delivery operator prescribed in paragraph (6) of said Article or a specified correspondence delivery operator prescribed in paragraph (9) of said Article in which acceptance and delivery recorded by said general correspondence delivery operator or specified correspondence delivery operator or a method equivalent thereto; or
  - (iii) transmit the report by using a facsimile machine.
- (2) A written report as referred to in the preceding paragraph (excluding one submitted in the way prescribed in item (iii)) is to be accompanied by materials indicating the details of the fact constituting the Act Subject to Surcharge.
- (3) If a written report as prescribed in paragraph (1) is submitted in a way set forth in item (ii) of that paragraph, it is deemed to have been submitted to the Secretary General of the Consumer Affairs Agency at the date and time that it is handed over to an office of Japan Post Co., Ltd. (including postal agencies prescribed in Article 7, paragraph (1) of the Postal Agency Act (Act No. 213 of 1949), and limited to those that conduct postal services), if the mailing receipt evidences that date and time; at the date and time shown on the postmark for the postal mail or correspondence mail as prescribed in Article 2, paragraph (3) of the Correspondence Delivery Act (hereinafter referred to as the "correspondence mail" in this paragraph), if that date and time are clearly legible; at noon on the day shown on the postmark for that piece of mail or correspondence mail, if only the date is clearly legible and the time is not; and at noon on the day that is found to correspond to the day that would have been shown on the postmark for that piece of mail or correspondence mail based on the number of days normally needed to send it, if there is no date shown on the postmark or if the date shown on the postmark is not clearly legible.
- (4) If a written report as prescribed in paragraph (1) is submitted in the way referred to in item (iii) of that paragraph, it is deemed to have been submitted to the Secretary General of the Consumer Affairs Agency when the Secretary

General of the Consumer Affairs Agency receives the transmission of the written report.

- (5) A person submitting a written report as prescribed in paragraph (1) in the way referred to in item (iii) of that paragraph must immediately submit the original copy of the report and the materials prescribed in paragraph (2) to the Secretary General of the Consumer Affairs Agency.

(How to Apply for Approval of a Plan for Implementing Refund Policies)

Article 10 (1) A person seeking approval for an Implementation Plan for Refund Policy pursuant to the provisions of Article 10, paragraph (1) of the Act (referred to as the "applicant" in paragraph (1), item (ii) and item (iv) of the following Article) must submit a written application using Form No. 2 to the Secretary General of the Consumer Affairs Agency.

- (2) The written application referred to in the preceding paragraph is to be accompanied by the documents set forth in each of the following items:
- (i) documents giving information about making the details of the Planned Refund Policy common knowledge to the persons to whom and to which they are applicable in order for those persons to understand them;
  - (ii) documents evidencing the means of procuring the necessary funds to implement the Planned Refund Policy; and
  - (iii) other documents giving information that should be referred to for the approval referred to in Article 10, paragraph (1) of the Act.

(Matters Prescribed by Cabinet Office Order Provided for in Article 10, Paragraph (3) of the Act)

Article 11 (1) The matters prescribed by Cabinet Office Order that are provided for in Article 10, paragraph (3) of the Act are the following pieces of information:

- (i) the names of persons to whom and to which the Refund Policy have already been applied before the applicant applies for the approval referred to in Article 10, paragraph (1) of the Act (referred to as the "Refund Policy from before the application for approval" in the following paragraph);
- (ii) the days on which persons as prescribed in the preceding item were delivered goods or provided with services associated with an act subject to surcharge (if the provisions of Article 2, paragraph (1) of the Order apply with regard to the method for calculating the proceeds from sales as prescribed in Article 8, paragraph (1) of the Act for that applicant, this means the days on which persons as prescribed in the preceding item entered into agreements for the purchase of goods or provision of services associated with an Act Subject to Surcharge);
- (iii) the fact that there have been an offer as prescribed in Article 10,

- paragraph (1) of the Act from persons as prescribed in item (i);
  - (iv) the purchase price of goods or services associated with the transactions made by persons as prescribed in item (i), calculated by the method prescribed in Article 4 of the Order (if the provisions of Article 2, paragraph (1) of the Order apply with regard to the method for calculating the proceeds from sales as prescribed in Article 8, paragraph (1) of the Act for that applicant, this means the purchase price calculated by the method prescribed in Article 5 of the Order), and the amount equivalent to three percent of the purchase price;
  - (v) the days on which money was delivered to persons as prescribed in item (i);
  - (vi) the amounts of money delivered to persons as prescribed in item (i) and the way of calculating these;
  - (vii) the ways of delivering money to persons as prescribed in item (i); and
  - (viii) other information of reference.
- (2) If information as set forth in each item of the preceding paragraph is included in the written application referred to in paragraph (1) of the preceding Article, the written application is to be accompanied by materials evidencing that Refund Policy from before the application for approval have been implemented.

(How to Report as under the Provisions of Article 10, Paragraph (4) of the Act)  
Article 12 (1) A person seeking to file a report under the provisions of Article 10, paragraph (4) of the Act (referred to as the "person filing a report after application but before approval" in items (ii) and (iv) of the following paragraph) must submit a written report using Form No. 3 to the Secretary General of the Consumer Affairs Agency.

- (2) The matters prescribed by Cabinet Office Order that are provided for in Article 10, paragraph (4) of the Act are the following pieces of information:
- (i) the names of persons subject to the Refund Policy implemented after applying for approval as referred to in Article 10, paragraph (1) of the Act, but before becoming subject to a disposition on that application (referred to as the "Refund Policy from after application but before approval" in item (8) and the following paragraph);
  - (ii) the day on which persons as prescribed in the preceding item are delivered goods or provided with services associated with an Act Subject to Surcharge (if the provisions of Article 2, paragraph (1) of the Order apply with regard to the method for calculating the proceeds from sales prescribed in Article 8, paragraph (1) of the act for the person filing a report after application but before approval, this means the days on which persons as prescribed in the preceding item entered into agreements for the purchase of goods or provision of services associated with an Act Subject to Surcharge);
  - (iii) the fact that there have been offers as prescribed in Article 10, paragraph

- (1) of the Act from persons as prescribed in item (i);
  - (iv) the purchase price of goods or services associated with the transactions made by persons as prescribed in item (i), calculated by the method prescribed in Article 4 of the Order (if the provisions of Article 2, paragraph (1) of the Order apply with regard to the method for calculating the proceeds from sales as prescribed in Article 8, paragraph (1) of the Act for that person filing a report after application but before approval, this means the purchase price calculated by the method prescribed in Article 5 of the Order), and the amount equivalent to three percent of the purchase price;
  - (v) the days on which money is delivered to persons as prescribed in item (i);
  - (vi) the amounts of money delivered to persons as prescribed in item (i) and the way of calculating these;
  - (vii) the ways of delivering money to persons as prescribed in item (i); and
  - (viii) the amount of funds needed for the Refund Policy from after application but before approval and how these were procured; and
  - (ix) other information of reference.
- (3) The written report referred to in paragraph (1) is to be accompanied by materials evidencing that the Refund Policy from after application but before approval have been implemented and by a document evidencing how the funds needed to implement the Refund Policy were procured.

(Period Prescribed by Cabinet Office Order Provided for in Article 10, Paragraph (5), Item (iii) of the Act)

Article 13 The period prescribed by Cabinet Office Order that is provided for in Article 10, paragraph (5), item (iii) of the Act is the period from the day on which the person who has received a notice under the provisions of Article 15, paragraph (1) of the Act submits a written application as referred to in Article 10, paragraph (1) to the Secretary General of the Consumer Affairs Agency until the last day in the four-month period after its submission (if the relevant provisions apply mutatis mutandis pursuant to Article 10, paragraph (7) of the Act, this period is from the last day of the implementation period for the Implementation Plan for Refund Policy given in the written application referred to in Article 10, paragraph (1) until the last day in the one-month period after that day).

(How to Apply for Approval to Amend the Approved Implementation Plan for Refund Policy)

Article 14 (1) An Approved Entrepreneur seeking approval to amend its Approved Implementation Plan for Refund Policy pursuant to the provisions of Article 10, paragraph (6) of the Act must submit a written application using Form No. 4 to the Secretary General of the Consumer Affairs Agency.

(2) The written application referred to in the preceding paragraph is to be accompanied by a copy of a document concerning notice of approval under the provisions of Article 10, paragraph (9) of the Act, and other documents giving information that should be referred to for the approval referred to in the paragraph (6) of that Article.

(How to Report the Results of Having Implemented an Approved Plan for Implementing Refund Policies)

Article 15 (1) A person seeking to file a report under the provisions of Article 11, paragraph (1) of the Act must submit a written report using Form No. 5 to the Secretary General of the Consumer Affairs Agency.

- (2) The written report referred to in the preceding paragraph is to be accompanied by the materials set forth in each of the following items:
- (i) materials evidencing that the Refund Policy implemented after the approval referred to in Article 10, item (1) of the Act have been implemented in conformity with the Approved Implementation Plan for Refund Policy (if amendments under the provisions of paragraph (6) of that Article have been approved, the Approved Implementation Plan for Refund Policy after its amendment; the same applies in the following item and the following Article);
  - (ii) documents evidencing the status of implementation for making the details of the Planned Refund Policy that fall under the Approved Implementation Plan for Refund Policy common knowledge to the persons to whom and to which they are applicable in order for those persons to understand them; and
  - (iii) documents evidencing the way of procuring the funds needed for the Refund Policy that were implemented after the approval referred to in Article 10, paragraph (1) of the Act.

(Calculation of the Amount of Money Prescribed by Cabinet Office Order Provided for in Article 11, Paragraph (2) of the Act)

Article 16 (1) Except in cases as prescribed in the following paragraph, the amount calculated pursuant to Cabinet Office Order that is provided for in Article 11, paragraph (2) of the Act is the aggregate of the amounts set forth in the following items:

- (i) if the amount of money delivered as per the Refund Policy that fall under the Approved Implementation Plan for Refund Policy that the Approved Entrepreneur has implemented (if the Approved Implementation Plan for Refund Policy includes the matters prescribed in Article 10, paragraph (3) of the Act or if a report under the provisions of paragraph (4) of that Article has been filed, this includes any Refund Policy connected with the inclusion of those matters or with that report; the same applies in the following item and

- following paragraph) exceeds an amount equal to the purchase price for goods or services associated with the transactions made by persons to whom and to which the Refund Policy are applicable, calculated by the method prescribed by Article 4 of the Order (if the provisions of Article 2, paragraph (1) of the Order apply with regard to the method for calculating the proceeds from sales as prescribed in Article 8, paragraph (1) of the Act for a person filing a report under the provisions of Article 11, paragraph (1) of the Act, this means the amount of purchases calculated by the method prescribed in Article 5 of the Order; hereinafter referred to as the "specified purchase price"): an amount equal to the specified purchase price; and
- (ii) if the amount of money delivered as per Refund Policy that fall under the Approved Implementation Plan for Refund Policy that the Approved Entrepreneur has implemented is equal to or less than an amount equal to the specified amount of purchases: the amount of money that is delivered as per those Refund Policy.
- (2) In a case as referred to in Article 12, paragraph (4) of the Act, if there are two or more Subsidiaries, etc. Succeeding to Specified Business that report the results of Refund Policy that fall under an Approved Implementation Plan for Refund Policy pursuant to the provisions of Article 11, paragraph (1) of the Act (hereinafter referred to as "refund policies implemented by two or more subsidiaries, etc." in this paragraph), and the Secretary General of the Consumer Affairs Agency finds that the refund policies implemented by two or more subsidiaries, etc. has been implemented in conformity with the Approved Implementation Plan for Refund Policy associated with those two or more Subsidiaries, etc. Succeeding to Specified Business pursuant to the provisions of paragraph (2) of that Article, the amount calculated pursuant to Cabinet Office Order that is provided for in that paragraph for those two or more Subsidiaries, etc. Succeeding to Specified Business is the aggregate of the amounts set forth in the following items:
- (i) if the refund policies implemented by those two or more subsidiaries, etc. are applicable to the same persons, the amount prescribed in the relevant sub-item (a) or (b) below for the category set forth in that sub-item:
- (a) if the amount arrived at when the amount of money delivered as per the Refund Policies that the Subsidiaries, etc. Succeeding to Specified Business are deemed to have implemented pursuant to the provisions of Article 13 of the Order (or zero, if there is no such Refund Policy) is added to the total amount of money delivered as per the refund policies implemented by the two or more subsidiaries, etc. (excluding those that the Subsidiaries, etc. Succeeding to Specified Business are deemed to have implemented pursuant to the provisions of that Article) (referred to as the "specified amount delivered" in (b)) exceeds an amount equal to the specified



- purchase price: an amount equal to the specified purchase price; or
- (b) if (a) does not apply: an amount equal to the specified amount delivered.
- (ii) if the preceding item does not apply, the amount the relevant sub-item (a) or (b) below for the category set forth in that sub-item:
  - (a) if the amount of money delivered as per the refund policies implemented by the two or more subsidiaries, etc. exceeds an amount equal to the specified purchase price: an amount equal to the specified purchase price; or
  - (b) if (a) does not apply, the amount of money delivered as per the refund policies implemented by the two or more subsidiaries, etc.

(Special Exceptions Such as the Reduction of Surcharges If There are Two or More Subsidiaries, etc. Succeeding to Specified Business in a Case as Referred to in Article 12, Paragraph (4) of the Act)

Article 17 (1) In a case as referred to in Article 12, paragraph (4) of the Act, if there are two or more Subsidiaries, etc. Succeeding to Specified Business, and if the amount of the surcharge is reduced for one or more of them pursuant to the provisions of Article 11, paragraph (2) of the Act by an amount calculated pursuant to the provisions of the preceding Article, the amount of the surcharge calculated pursuant to the provisions of Article 8, paragraph (1) and Article 9 of the Act for Subsidiaries, etc. Succeeding to Specified Business other than those for which the surcharge is reduced (referred to as "Subsidiaries, etc. Succeeding to Specified Business that are subject to a special exception" in the following paragraph) is to be reduced by the amount calculated pursuant to the provisions of the preceding Article. In such a case, if the amount of the surcharge after the reduction is less than zero, the amount of the surcharge is zero.

(2) Notwithstanding the provisions of Article 8, paragraph (1) of the Act, the Secretary General of the Consumer Affairs Agency is not to order Subsidiaries, etc. Succeeding to Specified Business that are subject to a special exception to pay a surcharge if the amount of the surcharge for the Subsidiaries, etc. Succeeding to Specified Business that are subject to the special exception as calculated pursuant to the provisions of the preceding paragraph is less than ten thousand yen. In such a case, the Secretary General of the Consumer Affairs Agency is to promptly notify the Subsidiaries, etc. Succeeding to Specified Business that are subject to the special exception to that effect in writing.

(Demanding Payment of Surcharges)

Article 18 A written demand as referred to in Article 18, paragraph (1) of the Act must be served on the person subject to the demand to pay the surcharge.

(Order of Allocation When a Person Is Required to Pay Both a Surcharge and Penal Interest)

Article 19 If penal interest is to be collected together with the surcharge pursuant to the provisions of Article 18, paragraph (2) of the Act, then the amount paid by the entrepreneur is first allocated to the surcharge that serves as the basis for calculation of the penal interest, until the full amount of the surcharge serving as the basis for that calculation is paid.

(Formalities of an Order to Execute a Payment Order for a Surcharge)

Article 20 (1) An order to execute a Payment Order for a Surcharge under the provisions of Article 19, paragraph (1) of the Act must be issued in writing.  
(2) A certified copy of the written order referred to in the preceding paragraph must be served on the person subject to the execution of the Payment Order for a Surcharge.

(Identification Cards)

Article 21 The identification cards referred to in Article 29, paragraph (2) of the Act are to be based on Form No. 6.

(Applying for Approval of Agreements and Rules)

Article 22 A person seeking approval for an agreement or rule pursuant to the provisions of Article 31, paragraph (1) of the Act must submit one original copy and one duplicate copy of an Agreement/Rule Approval Application Form based on Form No. 7, and two copies of the agreement or rules to either the Fair Trade Commission or the Secretary General of the Consumer Affairs Agency.

(Issuing Public Notice of Dispositions Relating to Agreements and Rules)

Article 23 (1) Public notice of the approval of an agreement or a rule under the provisions of Article 31, paragraph (4) of the Act is to be issued through the publication of the following information in the official gazette:

- (i) an indication that approval has been granted;
- (ii) the type of business to which the agreement or rule pertains;
- (iii) the substance of the agreement or rule; and
- (iv) the grounds for approval.

(2) Public notice of the revocation of approval of an agreement or rule under the provisions of Article 31, paragraph (4) of the Act is to be issued through the publication of the following information in the official gazette:

- (i) an indication that an approval has been revoked;
- (ii) the type of business to which the agreement or rule pertains; and
- (iii) the grounds for the revocation.

(Filing Notification of Which Person to Notify)

Article 24 A person that has received an approval for an agreement or rule must file a notification of the name and address of the person that should be notified of anything that concerns the approval with either the Fair Trade Commission or the Secretary General of the Consumer Affairs Agency.

(Preparing Documents for Submission to the Fair Trade Commission or the Secretary General of the Consumer Affairs Agency)

Article 25 Documents that will be submitted to the Fair Trade Commission or the Secretary General of the Consumer Affairs Agency pursuant to the provisions of this Cabinet Office Order are to be prepared in Japanese.