

Private Schools Act

(Act No. 270 of December 15, 1949)

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Chapter I General Provisions

(Purpose of This Act)

Article 1 The purpose of this Act is to promote the sound development of Private Schools by taking account of their characteristic features, putting a high value on their autonomy, and enhancing their public nature.

(Definitions)

Article 2 (1) The term "School" as used in this Act means a school as prescribed in Article 1 of the School Education Act (Act No. 26 of 1947).

(2) The term "Specialized Training College" as used in this Act means a specialized training college as prescribed in Article 124 of the School Education Act, and the term "Miscellaneous School" as used in this Act means a miscellaneous school prescribed in Article 134, paragraph (1) of that Act.

(3) The term "Private School" as used in this Act means a School established by an incorporated educational institution.

Article 3 The term "Incorporated Educational Institution" as used in this Act means a corporation formed for the purpose of establishing a Private School pursuant to the provisions of this Act.

(Competent Authority)

Article 4 The term "Competent Authority" as used in this Act means the

Minister of Education, Culture, Sports, Science and Technology in respect to the entities listed in items (i), (iii), and (v), and the prefectural governor in respect to the entities listed in items (ii) and (iv):

- (i) private universities and private colleges of technology;
- (ii) Private Schools other than the Private Schools listed in the preceding item, and private specialized training colleges and private Miscellaneous Schools;
- (iii) Incorporated Educational Institutions that establish the Private Schools set forth in item (i);
- (iv) Incorporated Educational Institutions that establish the Private Schools set forth in item (ii), and the corporations set forth in Article 64, paragraph (4); and
- (v) Incorporated Educational Institutions that establish both Private Schools set forth in item (i) and Private Schools, private Specialized Training Colleges or private Miscellaneous Schools set forth in item (ii).

Chapter II Educational Administration Concerning Private Schools

(Exceptions to the School Education Act)

Article 5 The provisions of Article 14 of the School Education Act do not apply to Private Schools.

(Submission of Written Reports)

Article 6 The competent authorities may request a Private School to submit any necessary written report concerning educational surveys, statistics and other matters.

Article 7 Deleted

(Consultation with Private School Councils)

Article 8 (1) Where a prefectural governor carries out the particulars prescribed in Article 4, paragraph (1) or Article 13 of the School Education Act with regard to a Private School other than a private university and private college of technology, that governor must in advance hear the opinion of the Private School council.

(2) Where the Minister of Education, Culture, Sports, Science and Technology carries out the particulars prescribed in Article 4, paragraph (1) or Article 13 of the School Education Act (excluding the particulars which are subject to consultation pursuant to the provisions of Article 95 of that Act) with regard to a private university or private college of technology, that minister must in advance hear the opinion of the council, etc. prescribed in Article 95 of that Act.

(Private School Councils)

Article 9 (1) Each prefecture has in place a Private School council for deliberating on the matters placed under the authority of the council pursuant to the provisions of this Act.

(2) A Private School council may make proposals to the prefectural governor with regard to important matters concerning Private Schools other than private universities and private colleges of technology, as well as private Specialized Training Colleges and private Miscellaneous Schools.

(Council Members)

Article 10 (1) A Private School council is composed of members in a number which is specified by the prefectural governor between no less than 10 and no more than 20 members.

(2) Council members are appointed by the prefectural governor from among persons with relevant expertise in education.

Article 11 Deleted

(Term of Office of Council Members)

Article 12 (1) The term of office of a Private School council's members is four years; provided, however, that, if a position in that council becomes vacant, the term of office of a council member appointed to fill that vacancy is the remaining term of the appointee's predecessor.

(2) Council members may be reappointed.

(Chairperson)

Article 13 (1) A Private School council has a chairperson.

(2) The prefectural governor appoints a chair person that the council members has voted for from among themselves.

(3) The chairperson presides over the affairs of the Private School council.

(Dismissal of Council Members)

Article 14 When the prefectural governor finds that a member of the Private School council is incapable of performing duties due to mental or physical disorder, or that a member no longer meets the qualification required of a council member, the governor may dismiss that member, following deliberations at the Private School council.

(Restriction on Participation in Voting for Decisions)

Article 15 Members of Private School councils may not participate in voting for resolutions on cases relating to their own personal affairs, or those of their

spouse or a relative within the third degree of kinship, or cases relating to the Schools, Specialized Training Colleges, Miscellaneous Schools or Incorporated Educational Institutions or the corporations set forth in Article 64, paragraph (4), in which they have an interest; provided, however, that this does not preclude those members from attending meetings on those cases and making statements there.

(Reimbursement of Expenses to Council Members)

Article 16 (1) Members of Private School councils may receive reimbursement for expenses required in performing their duties.

(2) The expenses set forth in the preceding paragraph are paid by the prefecture.

(3) The amount of reimbursement for expenses and the means of payment thereof must be specified by prefectural ordinance.

(Details of Operations)

Article 17 Except what is provided for in this Act, a Private School council specifies the proceedings in the Private School council meetings and other necessary particulars concerning the operation of the council, upon obtaining approval from the prefectural governor.

Article 18 Deleted

Article 19 Deleted

Article 20 Deleted

Article 21 Deleted

Article 22 Deleted

Article 23 Deleted

Article 24 Deleted

Chapter III Incorporated Educational Institutions

Section 1 General Rules

(Assets)

Article 25 (1) Incorporated educational institutions must own the facilities and equipment which the Private Schools that it establishes require, or the funds required therefor, as well as the assets necessary for managing the Private

Schools that it establishes.

- (2) The standards for the facilities and equipment required for Private Schools as prescribed in the preceding paragraph are specified separately by law.

(For-Profit Business)

Article 26 (1) Incorporated educational institutions may conduct business for profit in order to appropriate the profit arising therefrom to the management of the Private School that it establishes, as long as this does not impede on education at the Private School.

- (2) The competent authorities specify the types of the business set forth in the preceding paragraph, after hearing the opinion of the Private School council or the council, etc. prescribed in Article 95 of the School Education Act (hereinafter referred to as the "Private School Council, etc."). The competent authorities must give public notice of those types of business.
- (3) Accounting for the business set forth in paragraph (1) must be separated from accounting for the management of any Private School that the Incorporated Educational Institution establishes, and the account of that business must be managed as a special account.

(Address)

Article 27 The domicile of an Incorporated Educational Institution is to be at the location of its principal office.

(Registration)

Article 28 (1) Incorporated Educational Institutions must be registered pursuant to a Cabinet Order.

- (2) The particulars that must be registered pursuant to the provisions of the preceding paragraph may not be duly asserted against a third party until after they are registered.

(Application, Mutatis Mutandis)

Article 29 The provisions of Article 78 of the Act on General Incorporated Associations and General Incorporated Foundations (Act No. 48 of 2006) apply mutatis mutandis to Incorporated Educational Institutions.

Section 2 Establishment

(Application)

Article 30 (1) A person that intends to establish an Incorporated Educational Institution must at least specify the following particulars in the articles of endowment, the purpose of which is to establish that institution, and apply for

authorization from the Competent Authority with regard to the articles of endowment, in accordance with the procedure specified by Order of the Ministry of Education, Culture, Sports, Science and Technology:

- (i) the purpose;
 - (ii) the name;
 - (iii) the name of the Private School established by the institution, and if the Private School will have courses, university faculties, graduate Schools, graduate School departments, university departments or divisions, the names or types thereof (in cases where a Private High School (including the second half of a course of study at a Private School for secondary education) will have in place a regional correspondence course (meaning the regional correspondence course prescribed in Article 54, paragraph (3) of the School Education Act (including as applied mutatis mutandis pursuant to Article 70, paragraph (1) of that Act)), including a statement to that effect);
 - (iv) the location of its office(s);
 - (v) the number of, term of office, and means of appointment and dismissal of officers, and other provisions concerning officers;
 - (vi) the provisions concerning the board of directors;
 - (vii) the provisions concerning councilors and the board of councilors;
 - (viii) the provisions concerning assets and accounting;
 - (ix) if it carries out business for profit, the type of business and other provisions concerning that business;
 - (x) the provisions concerning dissolution;
 - (xi) the provisions concerning amendments to the articles of endowment; and
 - (xii) the means of giving public notice.
- (2) Officers of an Incorporated Educational Institution at the time of its establishment must be designated in the articles of endowment.
- (3) If provisions are included in the particulars set forth in paragraph (1), item (x), concerning a person to whom residual assets belong, the provisions must be made so that the person is to be appointed from among Incorporated Educational Institutions or other persons engaged in educational business.

(Authorization)

Article 31 (1) Where an application is filed pursuant to the provisions of paragraph (1) of the preceding Article, the Competent Authority must decide whether or not to authorize the articles of endowment, after examining particulars such as whether or not the assets of the Incorporated Educational Institution that has filed the application satisfy the requirements set forth in Article 25, and whether or not the contents of the articles of endowment contravene the provisions of laws and regulations.

(2) Before the Competent Authority authorizes the articles of endowment

pursuant to the provisions of the preceding paragraph, that authority must hear the opinion of the Private Schools Council, etc.

(Supplementation of Articles of Endowment)

Article 32 (1) Where a person who intends to form an Incorporated Educational Institution dies without specifying the particulars listed in the items of Article 30, paragraph (1) except for its purpose and the particulars concerning its assets, the Competent Authority must specify these particulars at the request of any interested person.

(2) The provisions of paragraph (2) of the preceding Article apply mutatis mutandis to the case referred to in the preceding paragraph.

(Time of Establishment)

Article 33 An Incorporated Educational Institution is established by making a registration of incorporation at the location of its principal office as provided for by Cabinet Order.

(Preparation and Holding of an Inventory of Assets)

Article 33-2 Incorporated Educational Institutions must prepare an inventory of assets at the time of its establishment, and always keep that inventory at its principal office.

(Application, Mutatis Mutandis)

Article 34 The provisions of Articles 158 and 164 of the Act on General Incorporated Associations and General Incorporated Foundations apply mutatis mutandis to the establishment of an Incorporated Educational Institution. In this case, the term "contribution of property" in these Articles is deemed to be replaced with "articles of endowment," and the term "the property" in Article 164 of that Act is deemed to be replaced with "the endowed property."

Section 3 Management

(Officers)

Article 35 (1) Incorporated Educational Institutions must have five or more directors and two or more auditors as its officers.

(2) One of the directors is the president, as provided for in the articles of endowment.

(Board of Directors)

Article 36 (1) Incorporated Educational Institutions have in place a board of

directors comprising of its directors.

- (2) The board of directors decide on the business of the Incorporated Educational Institution and supervise the directors' execution of their duties.
- (3) A meeting of the board of directors is convened by the president. When a director (excluding the president) requests a meeting of the board of directors to be convened as provided for in the articles of endowment, the president must convene that meeting.
- (4) The board of directors has a chairperson, and the president serves in this capacity.
- (5) The board of directors may not hold meetings or make any resolutions unless a majority of the directors are present.
- (6) Unless otherwise provided for in the articles of endowment, resolutions of the board of directors are effected by a majority vote of the directors present, and in case of a tie in votes, the chairperson makes the decision.

(Duties of Officers)

Article 37 (1) The president represents the Incorporated Educational Institution and presides over its business.

- (2) The directors (excluding the president), as provided for in the articles of endowment, represent the Incorporated Educational Institution, administer the business of the Incorporated Educational Institution by assisting the president, perform the duties of the president when the president is unable to attend to personal duties, and perform the duties of the president when that post is vacant.
- (3) The duties of auditors are as follows:
 - (i) to audit the business of the Incorporated Educational Institution;
 - (ii) to audit the status of the property of the Incorporated Educational Institution;
 - (iii) to prepare an audit report on the status of the business or property of the Incorporated Educational Institution every fiscal year, and to submit the report to the board of directors and the board of councilors within two months from the end of the fiscal year;
 - (iv) to report to the Competent Authority or report to the board of directors and the board of councilors on any misconduct or any material fact in violation of laws and regulations or the articles of endowment in connection with the business or property of the Incorporated Educational Institution, which is found as a result of the audit under the provisions of item (i) or item (ii);
 - (v) to request the president to convene a meeting of the board of councilors, if it is necessary in order to make a report as set forth in the preceding item; and
 - (vi) to attend the meetings of the board of directors and state their opinion on the status of the business or property of the Incorporated Educational

Institution.

(Appointment of Officers)

Article 38 (1) The persons who may be directors are those listed in the following items:

- (i) the principal of a Private School (including the head of a private university or a private kindergarten; the same applies hereinafter) established by the Incorporated Educational Institution;
 - (ii) persons appointed, as provided for in the articles of endowment, from among the councilors of the Incorporated Educational Institution (including those designated in the articles of endowment; the same applies in the following item and Article 44, paragraph (1)); and
 - (iii) in addition to the persons prescribed in the preceding two items, persons appointed as provided for in the articles of endowment.
- (2) Notwithstanding the provisions of item (i) of the preceding paragraph, in cases where the Incorporated Educational Institution establishes two or more Private Schools, one or more of the principals thereof may be appointed as a director, as provided for in the articles of endowment.
- (3) The directors prescribed in paragraph (1), items (i) and (ii) are to lose their position as a director when they leave their position as the principal or a councilor.
- (4) The president appoints a person as an auditor, upon obtaining the consent of the board of councilors.
- (5) The directors and the auditors must respectively include a person who is not an officer or employee of the Incorporated Educational Institution (including the principal, teacher or any other employee of a Private School established by the Incorporated Educational Institution; the same applies hereinafter) at the time of being appointed.
- (6) In the case of reappointment of an officer, for the purpose of applying the provisions of the preceding paragraph on condition that the officer was not an officer or employee of the Incorporated Educational Institution at the time of being appointed for the first time, the officer is deemed to be a person who is not an officer or employee of the Incorporated Educational Institution at the time of being reappointed.
- (7) The officers must not include the spouse of any officer or more than one relative within the third degree of kinship of any officer.
- (8) The provisions of Article 9 of the School Education Act (Reasons for Disqualification of Principals and Teachers) apply mutatis mutandis to officers.

(Prohibition of Concurrent the Holding of Positions by Officers)

Article 39 An auditor must not concurrently hold the position of a director,

councilor or employee of the Incorporated Educational Institution.

(Filling of Vacancies in Officer Positions)

Article 40 If the positions of more than one-fifth of the number of directors or auditors becomes vacant, they must be filled within one month.

(Delegation of Director's Authority)

Article 40-2 Directors may delegate their authority on a specified act to another person unless the delegation is prohibited by the articles of endowment.

(Provisional Directors)

Article 40-3 Where there is any vacancy in a position as a director, and if any damage is likely to occur due to a delay in affairs, the Competent Authority must appoint a provisional director at the request of any interested person or by that Competent Authority's own authority.

(Acts in Conflict of Interest)

Article 40-4 With regard to matters for which the interests of an Incorporated Educational Institution and its director conflict with each other, that director must not have the authority of representation. In this case, the Competent Authority must appoint a special agent at the request of any interested person or by the Competent Authority's own authority.

(Board of Councilors)

- Article 41 (1) Incorporated Educational Institutions have in place a board of councilors.
- (2) The board of councilors are composed of councilors, the number of which is more than double the number of directors.
 - (3) Meetings of the board of councilors are convened by the president.
 - (4) The board of councilors have a chairperson.
 - (5) If one-third or more of the total number of councilors indicate the items to be placed on the agenda to the president, and request the president to convene a meeting of the board of councilors, the president must convene the meeting within 20 days from the day on which the request is made.
 - (6) The board of councilors may not hold meetings or make any resolutions unless a majority of the councilors are present.
 - (7) Resolutions of the board of councilors are effected by a majority vote of the councilors present, and in case of a voting tie, the chairperson makes the decision.
 - (8) In the case referred to in the preceding paragraph, the chairperson may not participate in the vote as a councilor.

Article 42 (1) With regard to the following particulars, the president must hear the opinion of the board of councilors in advance:

- (i) particulars concerning budgets, borrowings (excluding temporary borrowings to be repaid out of the income earned with the relevant fiscal year), and disposition of important assets;
 - (ii) business plans;
 - (iii) amendments to the articles of endowment;
 - (iv) mergers;
 - (v) dissolution for any of the causes listed in Article 50, paragraph (1), item (i) (excluding cases where a resolution of the board of councilors is required) and item (iii) of that paragraph;
 - (vi) important particulars concerning for-profit business; and
 - (vii) other important particulars concerning the business of the Incorporated Educational Institution, specified in the articles of endowment.
- (2) The particulars listed in the items of the preceding paragraphs may be designated in the articles of endowment as particulars that may require a resolution of the board of councilors.

Article 43 The board of councilors may state its opinion to officers, give advice in response to their consultation, or require reports from officers with regard to the status of the business or property of the Incorporated Educational Institution or the status of the officers' execution of their duties.

(Appointment of Councilors)

- Article 44 (1) The persons who may be councilors are those listed in the following items:
- (i) persons appointed, as provided for in the articles of endowment, from among the officials of the Incorporated Educational Institution;
 - (ii) persons appointed, as provided for in the articles of endowment, from among graduates from a Private School established by the Incorporated Educational Institution, aged 25 or over; and
 - (iii) in addition to the persons prescribed in the items of the preceding paragraph, persons appointed as provided for in the articles of endowment.
- (2) The councilors prescribed in item (i) of the preceding paragraph are to lose their position as councilors when they leave their position as employees.

(Authorization of Amendments to Articles of Endowment)

Article 45 (1) Amendments to articles of endowment (excluding those relating to the particulars specified by Order of the Ministry of Education, Culture, Sports, Science and Technology) do not take effect unless authorized by the Competent

Authority.

- (2) When an Incorporated Educational Institution has amended its articles of endowment with respect to any of the particulars specified by Order of the Ministry of Education, Culture, Sports, Science and Technology set forth in the preceding paragraph, it must notify the Competent Authority to the effect without delay.

(Reports of Settlement of Accounts to Board of Councilors)

Article 46 The president must report on the settlement of accounts and business results to the board of councilors and seek its opinion within two months from the end of every fiscal year.

(The Holding and Inspection of an Inventory of Assets, etc.)

Article 47 (1) Incorporated educational institutions must prepare an inventory of assets, balance sheets, income and expenditure account statements, and business reports within two months from the end of every fiscal year.

- (2) Incorporated educational institutions must keep the documents set forth in the preceding paragraph and the audit report set forth in Article 37, paragraph (3), item (iii) (referred to as "inventory of assets, etc." in Article 66, item (iv)) at each office, and must provide them for inspection at the request of a person enrolled at a Private School established by the Incorporated Educational Institution or any other interested person, except where there are reasonable grounds not to do so.

(Fiscal Year)

Article 48 The fiscal year of an Incorporated Educational Institution is to commence on April 1 each year, and end on March 31 of the following year.

Article 49 Deleted

Section 4 Dissolution

(Causes for Dissolution)

Article 50 (1) An Incorporated Educational Institution is dissolved through any of the following:

- (i) consent of two-thirds or more of the directors, and in addition, a resolution of the board of councilors if that resolution is required in the articles of endowment;
- (ii) the occurrence of any of the causes of dissolution provided for in the articles of endowment;
- (iii) the impossibility of achieving the business which is the objective of the

- institution;
- (iv) a merger with an Incorporated Educational Institution or a corporation set forth in Article 64, paragraph (4);
 - (v) an order of commencement of bankruptcy proceedings; or
 - (vi) a dissolution order issued by the Competent Authority under the provisions of Article 62, paragraph (1).
- (2) The dissolution for the causes listed in items (i) and (iii) of the preceding paragraph does not take effect unless authorized or certified by the Competent Authority.
- (3) The provisions of Article 31, paragraph (2) apply mutatis mutandis to cases of authorizing or certifying dissolution as set forth in the preceding paragraph.
- (4) In the case of dissolution for the causes set forth in paragraph (1), item (ii) or item (v), the liquidator must notify the Competent Authority to the effect.

(Commencement of Bankruptcy Proceedings against Incorporated Educational Institutions)

- Article 50-2 (1) Where an Incorporated Educational Institution is unable to pay its debts in full out of its property, the court, upon the petition of one of its directors or creditors or by the court's own authority, issues an order of commencement of bankruptcy proceedings.
- (2) In the case prescribed in the preceding paragraph, a director must file a petition for commencement of bankruptcy proceedings immediately.

(Capacity of Incorporated Educational Institutions in Liquidation)

- Article 50-3 A dissolved Incorporated Educational Institution is deemed to continue to exist inasmuch as the task of liquidation is concerned, until the completion of the liquidation.

(Liquidators)

- Article 50-4 When an Incorporated Educational Institution is dissolved, its director becomes the liquidator, except in the case of dissolution based on an order of commencement of bankruptcy proceedings; provided, however, that this does not apply if the articles of endowment provide otherwise.

(Appointment of Liquidators by Court)

- Article 50-5 If there is no person who is to be a liquidator pursuant to the provisions of the preceding Article, or if any damage is likely to occur due to the vacancy in the position of a liquidator, the court may appoint a liquidator at the request of any interested person or public prosecutor, or by its own authority.

(Dismissal of Liquidators)

Article 50-6 The court may dismiss a liquidator at the request of any interested person or public prosecutor, or by its own authority if there are material grounds to do so.

(Notification of Liquidators)

Article 50-7 A liquidator who assumes office during the course of liquidation must notify the Competent Authority of that liquidator's name and address.

(Duties and the Authority of Liquidators)

Article 50-8 (1) The duties of a liquidator are as follows:

- (i) conclusion of the current business;
- (ii) collection of claims and payment of debts; and
- (iii) delivery of residual assets.

(2) A liquidator may perform any act in order to perform the duties listed in the items of the preceding paragraph.

(Demand of Filing of Claims)

Article 50-9 (1) Liquidators must, within two months from the day of assuming office and by giving public notice on at least three occasions, demand that the creditors file their claims within a stated period. In this case, that stated period may not be shorter than two months.

(2) The public notice set forth in the preceding paragraph must include a supplementary note that any claim of a creditor is to be excluded from the liquidation process unless that creditor files the claim within the stated period; provided, however, that the liquidator may not exclude any known creditor.

(3) Liquidators must make an individual demand to each known creditor regarding the filing of claims.

(4) The public notice set forth in paragraph (1) is effected by publication in the Official Gazette.

(Filing of Claims after the Lapsing of the Stated Period)

Article 50-10 Any creditor who files a claim after the passage of the period set forth in paragraph (1) of the preceding Article is entitled to make a claim only with regard to the assets which, after all of the debts of the Incorporated Educational Institution have been paid in full, are not yet delivered to the persons with vested rights.

(Commencement of Bankruptcy Proceedings against Incorporated Educational Institution in Liquidation)

Article 50-11 (1) When it has become apparent during the liquidation process

that the assets of an Incorporated Educational Institution are not sufficient to pay all of its debts in full, a liquidator must immediately file a petition for commencement of bankruptcy proceedings and give public notice to the effect.

- (2) Where an Incorporated Educational Institution in liquidation was given an order of commencement of bankruptcy proceedings, if the liquidator has transferred the administration of the relevant procedure to a bankruptcy trustee, the liquidator is deemed to have completed the liquidator's duties.
- (3) In the case prescribed in the preceding paragraph, if the Incorporated Educational Institution in liquidation has already paid any money to the creditors or delivered any assets to the persons with vested rights, a bankruptcy trustee may retrieve that money or those assets.
- (4) The public notice under the provisions of paragraph (1) is effected by publication in the Official Gazette.

(Remuneration for Liquidators Appointed by Court)

Article 50-12 Where the court has appointed a liquidator pursuant to the provisions of Article 50-5, the court may determine the amount of remuneration to be paid by the Incorporated Educational Institution to the liquidator. In this case, the court must hear the statement of the liquidator and the auditors.

(Supervision by Court)

- Article 50-13 (1) The dissolution and liquidation of an Incorporated Educational Institution is subject to supervision by the court.
- (2) The court may, by its own authority, conduct any inspection necessary for the supervision set forth in the preceding paragraph at any time.
 - (3) The court may appoint an inspector to conduct any investigation necessary for the supervision set forth in paragraph (1).
 - (4) The provisions of the preceding Article apply mutatis mutandis to cases where the court appoints an inspector pursuant to the provisions of the preceding paragraph. In this case, the phrase "liquidator and the auditors" in that Article is deemed to be replaced with "Incorporated Educational Institution and the inspector."
 - (5) The court supervising the dissolution and liquidation of an Incorporated Educational Institution may seek the opinion of, or commission investigations from the Competent Authority.
 - (6) The Competent Authority may state opinions to the court prescribed in the preceding paragraph.

(Notification of Completion of Liquidation)

Article 50-14 When liquidation is completed, the liquidator must notify the

Competent Authority to the effect.

(Jurisdiction over Cases Relating to Supervision of Dissolution and Liquidation)

Article 50-15 Cases relating to the supervision of dissolution and liquidation of an Incorporated Educational Institution and to the liquidator are subject to the jurisdiction of the district court that has jurisdiction over the location of the principal office of the Incorporated Educational Institution.

(Immediate Appeals)

Article 50-16 An immediate appeal may be filed against a judicial decision on the dismissal of a liquidator or inspector and a judicial decision made under the provisions of Article 50-12 (including as applied mutatis mutandis pursuant to Article 50-13, paragraph (4)).

(Restriction on Appeals)

Article 50-17 No appeal may be entered against a judicial decision on the appointment of a liquidator or inspector.

(Ownership of Residual Assets)

Article 51 (1) Except in cases of dissolution as a result of a merger or based on an order of commencement of bankruptcy proceedings, the residual assets of a dissolved Incorporated Educational Institution are vested in the person to whom they should belong, as provided for in the articles of endowment, at the time of notification of the completion of liquidation to the Competent Authority.

- (2) Any assets that are not disposed of pursuant to the provisions of the preceding paragraph are vested in the national treasury.
- (3) The State is to assign or lend without charge any assets (excluding money) that have been vested in the national treasury pursuant to the provisions of the preceding paragraph to Incorporated Educational Institutions for the purpose of assisting Private School education; provided, however, that the State may also disburse money equivalent to the value of those assets as subsidies instead of doing so.
- (4) With regard to the assistance set forth in the preceding paragraph, the provisions of Articles 11 through 13 of the Act on Subsidies for Private Schools (Act No. 61 of 1975) apply.
- (5) Where the assets that have been vested in the national treasury pursuant to the provisions of paragraph (2) are money, the State is to take the measure as set forth in the proviso to paragraph (3) with regard to the amount of those assets.
- (6) The assets (excluding money) that have been vested in the national treasury

pursuant to the provisions of paragraph (2) are under the administrative jurisdiction of the Minister of Education, Culture, Sports, Science and Technology, and the disposition set forth in the main clause of paragraph (3) is made by the Minister of Education, Culture, Sports, Science and Technology; provided, however, that when the measure set forth in the proviso to paragraph (3) has been taken, the Minister of Education, Culture, Sports, Science and Technology must hand over the assets to the Minister of Finance.

(Merger Procedures)

Article 52 (1) When an Incorporated Educational Institution intends to implement a merger, the merger must have the consent of two-thirds or more of the directors; provided, however, that the merger must also have a resolution of the board of councilors if that resolution is required in the articles of endowment.

(2) A merger does not take effect unless authorized by the Competent Authority.

Article 53 (1) When authorization of the Competent Authority has been granted as prescribed in paragraph (2) of the preceding Article, the Incorporated Educational Institution must prepare an inventory of assets and balance sheets within two weeks from the date of notice of that authorization.

(2) The Incorporated Educational Institution must, within the period set forth in the preceding paragraph, give public notice to its creditors that they should make an objection within a stated period if they have any objection, and must give an individual notice to that effect to each known creditor; provided, however, that the stated period may not be shorter than two months.

Article 54 (1) If no creditors have made any objection to a merger within the stated period set forth in paragraph (2) of the preceding Article, they are deemed to have approved the merger.

(2) If any creditor has stated an objection, the Incorporated Educational Institution must pay its debt or provide suitable security to the creditor, or deposit suitable property with a trust company or a financial institution engaged in the trust business for the purpose of allowing that creditor to receive payment for the debt; provided, however, that this does not apply if the merger is unlikely to be detrimental to the creditor.

Article 55 When forming an Incorporated Educational Institution through a merger, the articles of endowment and other affairs concerning the establishment of the Incorporated Educational Institution must be performed jointly by the persons appointed by the respective Incorporated Educational Institutions or the corporations set forth in Article 64, paragraph (4).

(Effect of Mergers)

Article 56 An Incorporated Educational Institution surviving a merger or an Incorporated Educational Institution formed as a result of a merger succeeds to the rights and obligations of the Incorporated Educational Institution or the corporation set forth in Article 64, paragraph (4), which ceases to exist as a result of the merger (including the rights and obligations held by that Incorporated Educational Institution or corporation set forth in Article 64, paragraph (4) in connection with its business and based on the authorization or any other disposition by the Competent Authority).

(Time of Mergers)

Article 57 A merger of an Incorporated Educational Institution becomes effective when it is registered, as provided for by Cabinet Order, at the location of the principal office of the Incorporated Educational Institution surviving the merger or the Incorporated Educational Institution formed as a result of the merger.

Article 58 Deleted

Section 5 Assistance and Supervision

(Assistance)

Article 59 Where the State or a local public entity finds it necessary for the promotion of education, it may provide Incorporated Educational Institutions with the necessary assistance concerning Private School education, as separately provided for by law.

Article 60 Deleted

(Suspension of For-Profit Business)

Article 61 (1) When the Competent Authority finds that an Incorporated Educational Institution which conducts for-profit business pursuant to the provisions of Article 26, paragraph (1), falls under any of the grounds listed in the following items, that authority may order the Incorporated Educational Institution to suspend that business:

- (i) the Incorporated Educational Institution conducts any business other than the business specified by the articles of endowment;
- (ii) the Incorporated Educational Institution uses profit arising from the for-profit business for any purpose other than the purpose of managing a Private School that it establishes; or

- (iii) the continuation of the for-profit business impedes education at a Private School established by the Incorporated Educational Institution.
- (2) Where the Competent Authority intends to issue a suspension order under the provisions of the preceding paragraph, that authority must hear the opinion of the Private Schools Council, etc. in advance.
- (3) Where the Competent Authority intends to issue a suspension order under the provisions of paragraph (1), that authority must, by the means of notice under the provisions of Article 30 of the Administrative Procedure Act (Act No. 88 of 1993), give notice to the effect that the granting of the opportunity for explanation may be requested from the Private Schools Council, etc. instead of from the Competent Authority, as well as notice of the date and place of the meeting of the Private Schools Council, etc. to be attended to offer the explanation, and the place and deadline for submitting a written explanation under the provisions of paragraph (5) when submitting the written explanation.
- (4) When the Incorporated Educational Institution has requested the opportunity for explanation to be granted by the Private Schools Council, etc., the Private Schools Council, etc. must grant the opportunity for explanation on behalf of the Competent Authority.
- (5) The Incorporated Educational Institution is to offer the explanation under the provisions of the preceding paragraph by attending a meeting of the Private Schools Council, etc., except where it has sought to offer it by submitting a written explanation.
- (6) The provisions of Article 29, paragraph (2) of the Administrative Procedure Act and Article 31 of that Act (limited to the part concerning the application, *mutatis mutandis*, of Article 16 of that Act) apply *mutatis mutandis* to the opportunity for explanation to be granted by the Private Schools Council, etc. pursuant to the provisions of paragraph (4). In this case, the term "administrative agency" in Article 16, paragraph (4) of that Act as applied *mutatis mutandis* pursuant to Article 31 of that Act is deemed to be replaced with "Private Schools Council, etc. set forth in Article 26, paragraph (2) of the Private Schools Act."
- (7) Where the Private Schools Council, etc. grants the opportunity for explanation pursuant to the provisions of paragraph (4), the provisions of Chapter III of the Administrative Procedure Act (excluding Articles 12 and 14) do not apply.
- (8) No appeal may be entered under the Administrative Complaint Review Act (Act No. 160 of 1962) against a suspension order under the provisions of paragraph (1).

(Orders for Dissolution)

Article 62 (1) Where an Incorporated Educational Institution has violated any

provisions of laws and regulations or any disposition rendered by the Competent Authority under provisions of laws and regulations, the Competent Authority may order the dissolution of the Incorporated Educational Institution, only if that authority is unable to achieve the purpose of supervision by any other means.

- (2) Where the Competent Authority intends to issue a dissolution order under the provisions of the preceding paragraph, that authority must hear the opinion of the Private Schools Council, etc. in advance.
- (3) Where the Competent Authority intends to issue a dissolution order under the provisions of paragraph (1), that authority must, by the means of notice under the provisions of Article 15, paragraph (1) of the Administrative Procedure Act, give notice to the effect that a hearing of opinions by the Private Schools Council, etc. may be requested in lieu of requesting a hearing by the Competent Authority, as well as notice of the date and place of the hearing of opinions, and the name and location of the organ that has jurisdiction over the affairs concerning the hearing of opinions. In this case, the Competent Authority must inform the Incorporated Educational Institution of the following particulars:
 - (i) that the Incorporated Educational Institution may attend a meeting of the Private Schools Council, etc. on the date of the hearing of opinions, and state its opinions and submit any articles of evidence, or submit a written statement and documentary evidence or articles of evidence in lieu of attending a meeting of the Private Schools Council, etc. on the date of the hearing of opinions; and
 - (ii) that the Incorporated Educational Institution may request a Competent Authority to provide for inspection the materials that prove the fact constituting the grounds for the dissolution order under the provisions of paragraph (1), until the hearing of opinions is concluded.
- (4) When the Incorporated Educational Institution requests the hearing of opinions by the Private Schools Council, etc., the Private Schools Council, etc. must conduct the hearing of opinions on behalf of the Competent Authority.
- (5) The provisions of Chapter III, Section 2 of the Administrative Procedure Act (excluding Articles 15, 19, 26, and 28) apply mutatis mutandis to the hearing of opinions conducted by the Private Schools Council, etc. pursuant to the provisions of the preceding paragraph. In this case: the term "administrative agencies" in Article 16, paragraph (4) of that Act (including as applied mutatis mutandis pursuant to Article 17, paragraph (3) of that Act), in Article 20, paragraph (6) of that Act, and in Article 15, paragraph (3) of that Act, as applied mutatis mutandis pursuant to Article 22, paragraph (3) of that Act (including as applied mutatis mutandis pursuant to Article 25 of that Act), the phrase "Persons who preside over hearings pursuant to the provisions of

Article 19 (hereinafter referred to as "presiding officials")" in Article 17, paragraph (1) of that Act, and the term "presiding official" in Articles 20 through 25 of that Act and in Article 27, paragraph (1) of that Act are deemed to be replaced with "Private Schools Council, etc. set forth in Article 26, paragraph (2) of the Private Schools Act"; and the phrase "may order" and the phrase "this case" in Article 25 of that Act are deemed to be replaced with "may request" and "the case where the Private Schools Council, etc. set forth in Article 26, paragraph (2) of the Private Schools Act reopens a hearing of opinions," respectively .

- (6) The Private Schools Council, etc. must state its opinion as prescribed in paragraph (2) after giving due consideration to the contents of the record set forth in Article 24, paragraph (1) of the Administrative Procedure Act as applied mutatis mutandis pursuant to the preceding paragraph and the written report set forth in paragraph (3) of that Article.
- (7) Where the Private Schools Council, etc. conducts a hearing of opinions pursuant to the provisions of paragraph (4), the provisions of Chapter III of the Administrative Procedure Act (excluding Articles 12 and 14) do not apply.
- (8) No appeal may be entered under the Administrative Complaint Review Act against a dissolution order under the provisions of paragraph (1).

Article 63 Deleted

Chapter IV Miscellaneous Provisions

(Private Specialized Training Colleges)

- Article 64 (1) The provisions of Article 5, Article 6, and Article 8, paragraph (1) apply mutatis mutandis to private Specialized Training Colleges and private Miscellaneous Schools. In this case, the phrase "the matters prescribed in Article 4, paragraph (1) or Article 13 of the School Education Act " in Article 8, paragraph (1) as applied mutatis mutandis to private Specialized Training Colleges is deemed to be replaced with "the authority of the prefectural governor set forth in Article 130, paragraph (1) of the School Education Act or the authority of the prefectural governor set forth in Article 13 of that Act as applied mutatis mutandis pursuant to Article 133, paragraph (1) of that Act following the deemed replacement of terms," and the phrase "Article 4, paragraph (1) of the School Education Act" as applied mutatis mutandis to private Miscellaneous Schools is deemed to be replaced with "Article 4, paragraph (1) of the School Education Act as applied mutatis mutandis to Article 134, paragraph (2) of that Act following the deemed replacement of terms."
- (2) An Incorporated Educational Institution may establish a Specialized Training

- Colleges or Miscellaneous School in addition to an ordinary School.
- (3) When applying the provisions of Chapter III to an Incorporated Educational Institution that establishes a Specialized Training Colleges or Miscellaneous School pursuant to the provisions of the preceding paragraph, Private Schools as set forth in the provisions of that Chapter are to include private Specialized Training Colleges or private Miscellaneous School.
 - (4) A person who intends to establish a Specialized Training Colleges or Miscellaneous School may form a corporation whose purpose is limited to establishing a Specialized Training College or Miscellaneous School.
 - (5) The provisions of Chapter III (including the penal provisions concerning that Chapter) apply mutatis mutandis to the corporation set forth in the preceding paragraph. In this case, the term "Private School" in the provisions of that Chapter is deemed to be replaced with "private Specialized Training Colleges or private Miscellaneous School."
 - (6) Where an Incorporated Educational Institution or a corporation set forth in paragraph (4) has made the necessary amendments to its articles of endowment as provided for in the articles of endowment and obtained authorization from the Competent Authority for those amendments, the former may become a corporation set forth in paragraph (4) or the latter may become an Incorporated Educational Institution, respectively.
 - (7) The provisions of Articles 31 and 33 (including as applied mutatis mutandis pursuant to paragraph (5)) apply mutatis mutandis to the case referred to in the preceding paragraph.

(Prohibition of the Use of Misleading Names)

Article 65 A person other than an Incorporated Educational Institution must not use the phrase "Incorporated Educational Institution" in that person's name; provided, however, that this does not apply to the corporation set forth in Article 64, paragraph (4).

(Provisions for Enforcement)

Article 65-2 Except what is provided for in this Act, any necessary matters concerning the enforcement of this Act that should be handled by the prefectural governor are specified by Cabinet Order, and other matters are specified by Order of the Ministry of Education, Culture, Sports, Science and Technology.

(Category of Affairs)

Article 65-3 The affairs that are to be handled by the prefectural governor pursuant to the provisions of Article 26, paragraph (2) (including as applied mutatis mutandis pursuant to Article 64, paragraph (5)), Article 31, paragraph

(1) (including as applied mutatis mutandis pursuant to Article 64, paragraphs (5) and (7)) and paragraph (2) (including as applied mutatis mutandis pursuant to Article 32, paragraph (2), Article 50, paragraph (3), and Article 64, paragraphs (5) and (7)), Article 32, paragraph (1) (including as applied mutatis mutandis pursuant to Article 64, paragraph (5)), Article 37, paragraph (3) (excluding items (i) through (iii), and items (v) and (vi), and including as applied mutatis mutandis pursuant to Article 64, paragraph (5)), Article 40-3 (including as applied mutatis mutandis pursuant to Article 64, paragraph (5)), Article 40-4 (including as applied mutatis mutandis pursuant to Article 64, paragraph (5)), Article 45 (including as applied mutatis mutandis pursuant to Article 64, paragraph (5)), Article 50, paragraph (2) (including as applied mutatis mutandis pursuant to Article 64, paragraph (5)) and paragraph (4) (including as applied mutatis mutandis pursuant to Article 64, paragraph (5)), Article 50-7 (including as applied mutatis mutandis pursuant to Article 64, paragraph (5)), Article 50-13, paragraph (5) (including as applied mutatis mutandis pursuant to Article 64, paragraph (5)) and paragraph (6) (including as applied mutatis mutandis pursuant to Article 64, paragraph (5)), Article 50-14 (including as applied mutatis mutandis pursuant to Article 64, paragraph (5)), Article 52, paragraph (2) (including as applied mutatis mutandis pursuant to Article 64, paragraph (5)), Article 61, paragraphs (1) through (3) (including as applied mutatis mutandis pursuant to Article 64, paragraph (5)), and Article 62, paragraphs (1) through (3) (including as applied mutatis mutandis pursuant to Article 64, paragraph (5)), are Item (i) statutory entrusted functions prescribed in Article 2, paragraph (9), item (i) of the Local Autonomy Act (Act No. 67 of 1947).

(Transitional Measures)

Article 65-4 When enacting, amending or abolishing an order under the provisions of this Act, any required transitional measures (including the transitional measures concerning penal provisions) may be specified by that order to the extent that is judged to be reasonably necessary for the enactment, amendment or abolishment.

Chapter V Penal Provisions

Article 66 In any of the cases listed in the following items, the director, auditor or liquidator of an Incorporated Educational Institution is punished by a civil fine of up to 200,000 yen:

- (i) when failing to register pursuant to the provisions of Cabinet Order under this Act;
- (ii) when failing to keep an inventory of assets under the provisions of Article

- 33-2, or failing to enter the particulars that should be entered or making a false entry therein;
- (iii) when failing to make a notification or making a false notification, in violation of the provisions of Article 45, paragraph (2);
 - (iv) when failing to keep an inventory of assets, etc. or failing to enter the particulars that should be stated or making a false entry in an inventory of assets, etc., in violation of the provisions of Article 47, paragraph (2);
 - (v) when failing to file a petition for commencement of bankruptcy proceedings under the provisions of Article 50-2, paragraph (2) or Article 50-11, paragraph (1);
 - (vi) when failing to give public notice under the provisions of Article 50-9, paragraph (1) or Article 50-11, paragraph (1) or giving a false public notice;
 - (vii) when violating the provisions of Article 53 or Article 54, paragraph (2); or
 - (viii) when conducting the business in violation of the order issued under the provisions of Article 61, paragraph (1).

Article 67 A person who violates the provisions of Article 65 is punished by a civil fine of up to 100,000 yen.

Supplementary Provisions [Extract]

- (1) This Act comes into effect as of the day on which three months have elapsed from the date of promulgation.
- (2) An incorporated foundation under the Civil Code that has in place, at the time when this Act comes into effect, a Private School (including a Private School that continues to exist pursuant to the provisions of Article 3 of the Supplementary Provisions of the School Education Act), and a Private School that continues to exist pursuant to the provisions of Article 3 of the Supplementary Provisions of the School Education Act at that time and is categorized as an incorporated foundation under the Civil Code (hereinafter collectively referred to as an "Incorporated Foundation") may become an Incorporated Educational Institution through entity conversion within one year from the date on which this Act comes into effect.
- (3) In order for an Incorporated Foundation to become an Incorporated Educational Institution through entity conversion pursuant to the provisions of the preceding paragraph, it must make amendments necessary for entity conversion to the articles of endowment of the Incorporated Foundation as provided for in the articles of endowment, and obtain authorization from the Competent Authority for those amendments. In this case, even if the articles of endowment of the Incorporated Foundation do not include any provisions concerning an amendment to the articles of endowment, the Incorporated

Foundation may amend the articles of endowment in accordance with the procedure specified by the directors, with approval from the Competent Authority.

- (4) The entity conversion set forth in the preceding paragraph takes effect when it is registered at the location of the principal office of the Incorporated Educational Institution.
- (5) The necessary particulars concerning the registration under the provisions of the preceding paragraph are specified by Cabinet Order.
- (6) An Incorporated Foundation under the Civil Code that exists at the time when this Act comes into effect and has in place only a Miscellaneous School may become a corporation set forth in Article 64, paragraph (49) through entity conversion within the period set forth in paragraph (2).
- (7) The provisions of paragraphs (3) through (5) apply *mutatis mutandis* to the case referred to in the preceding paragraph.
- (8) Private Schools, private Junior High Schools, as well as private universities (including preparatory courses for universities), private High Schools and professional training colleges that continue to exist pursuant to the provisions of Article 3 of the Supplementary Provisions of the School Education Act, are to come under what constitutes private Schools, private upper secondary Schools, and private universities as set forth in the provisions of Article 4 and Article 9, paragraph (2).
- (9) Where an Incorporated Foundation has become an Incorporated Educational Institution through entity conversion pursuant to the provisions of paragraph (2), and if the Incorporated Foundation previously had in place a Private School that continues to exist pursuant to the provisions of Article 3 of the Supplementary Provisions of the School Education Act, or previously existed as a Private School that continues to exist pursuant to the provisions of that Article, the Incorporated Educational Institution may continue to have the School in place.
- (10) When applying the provisions of Chapter III to an Incorporated Educational Institution that has in place a School set forth in the preceding paragraph pursuant to the provisions of that paragraph, the School set forth in the preceding paragraph is to come under what constitutes Private Schools as set forth in the provisions of that Chapter.
- (11) With regard to the facilities and equipment that an Incorporated Educational Institution and a corporation set forth in Article 64, paragraph (4) must have, until a law separately providing for the standards for the facilities and equipment of Schools is enacted and put into force, the provisions in force remain applicable, notwithstanding the provisions of Article 25, paragraph (2) (including as applied *mutatis mutandis* pursuant to Article 64, paragraph (5)).
- (12) Private Schools established by a person other than an Incorporated

Educational Institution pursuant to the provisions of Article 6 of the Supplementary Provisions of the School Education Act (hereinafter referred to as a "Private School other than that Established by an Incorporated Educational Institution") are to be included in the range of Private Schools as set forth in the provisions of Article 4, item (ii), Article 5, Article 6, Article 8, paragraph (1), Article 9, paragraph (2), and Article 59, until otherwise provided for by law, and a person that establishes a Private School other than that Established by an Incorporated Educational Institution is to be included in the range of Incorporated Educational Institutions as set forth in the provisions of Article 59, until otherwise provided for by law.