

Act on Ensuring Proper Transactions Involving Specified Entrusted Business Operators (Tentative translation)

(Act No. 25 of May 12, 2023)

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Chapter I General Provisions

(Purpose)

Article 1 The purpose of this Act is to ensure proper transactions involving specified entrusted business operators and to improve the working environment for specified persons engaged in entrusted business, by taking such measures as requiring an enterprise that entrusts business to a specified entrusted business operator to clearly indicate the details of the work by the specified entrusted business operator and other particulars, in order to develop an environment in which individuals can stably engage in services with which they have been entrusted as enterprises, in view of the progress in the diversification of ways of working in Japan, thereby contributing to the sound development of the national economy.

(Definitions)

Article 2 (1) The term "specified entrusted business operator" as used in this Act means an enterprise who is the other party to the business entrustment and who falls under any of the following items:

(i) an individual that does not employ any employees;

(ii) a corporation that has no other officers (meaning directors, executive officers, members who execute business, auditors or company auditors, or persons equivalent thereto; the same applies in paragraph (6), item (ii)) other than a single representative, and that does not employ any employees.

(2) The term "specified person engaged in entrusted business" as used in this Act

means an individual set forth in item (i) of the preceding paragraph who is a specified entrusted business operator and the representative of a corporation set forth in item (ii) of the same paragraph who is a specified entrusted business operator.

- (3) The term "business entrustment" as used in this Act means the following acts:
- (i) an enterprise entrusts the manufacture (including processing) of goods or the creation of an information-based product to another enterprise for its business;
 - (ii) an enterprise entrusts the provision of services to another enterprise for its business (including having another enterprise provide services to itself).
- (4) The term "information-based product" as used in item (i) of the preceding paragraph means the following:
- (i) programs (which mean those that are directives to a computer and arranged to achieve a single result);
 - (ii) films, broadcast programs, and other programs composed of images or voice or other sounds;
 - (iii) products composed from letters, figures or symbols or from their combination, or from a combination of them and colors;
 - (iv) beyond what are set forth in the preceding three items, those that are similar thereto and are specified by Cabinet Order.
- (5) The term "entrusting business operator " as used in this Act means an enterprise that entrusts business to a specified entrusted business operator.
- (6) The term "specified entrusting business operator" as used in this Act means an entrusting business operator who falls under any of the following items:
- (i) an individual that employs employees;
 - (ii) a corporation that has two or more officers or employs employees.
- (7) The term "remuneration" as used in this Act means the charges to be paid by the entrusting business operator for work performed by the specified entrusted business operator in cases where it entrusts its business (or for provision of services in the case of business entrustment that falls under paragraph (3), item (ii); the same applies hereinafter except in Article 5, paragraph (1), items (i) and (iii) and Article 8, paragraphs (3) and (4)).

Chapter II Ensuring Proper Transactions Involving Specified Entrusted Business Operators

(Clear Indication of the Details of Work by a Specified Entrusted Business Operator and Other Matters)

Article 3 (1) When an entrusting business operator has entrusted business to a specified entrusted business operator, the entrusting business operator must immediately and clearly indicate to the specified entrusted business operator,

in writing or by electronic or magnetic means (meaning information and communications technology means including electronic data processing system means provided by the Rules of the Fair Trade Commission; hereinafter the same applies in this Article), the details of work by the specified entrusted business operator, the amount of remuneration, the date of payment and other matters, pursuant to the provisions of the Rules of the Fair Trade Commission; provided, however, that if there are reasonable grounds not to determine the details of a matter, the matter does not have to be indicated. In that case, the entrusting business operator must clearly indicate the matter to the specified entrusted business operator in writing or by electronic or magnetic means immediately after the determination of the details.

- (2) If an entrusting business operator has clearly indicated the matters prescribed in the preceding paragraph by electronic or magnetic means pursuant to the provisions of the same paragraph and is requested by a specified entrusted business operator to deliver a document stating those matters, the entrusting business operator must deliver the document pursuant to the provisions of the Rules of the Fair Trade Commission without delay; provided, however, that this does not apply in cases specified by the Rules of the Fair Trade Commission as those in which the protection of specified entrusted business operators will not be hindered.

(Date of Payment of Remuneration)

Article 4 (1) The date of payment of remuneration in cases where a specified entrusting business operator has entrusted business to a specified entrusted business operator must be fixed within 60 days, and moreover within as short a period as possible, from the day on which the specified entrusting business operator receives the work from the specified entrusted business operator (in the case of business entrustment that falls under Article 2, paragraph (3), item (ii), the day on which the service was provided by the specified entrusted business operator; the same applies in the following paragraph), regardless of whether or not the specified entrusting business operator inspects the work by the specified entrusted business operator in detail.

- (2) In the case referred to in the preceding paragraph, if the date of payment of remuneration was not fixed, the day on which the specified entrusting business operator receives the work from the specified entrusted business operator is deemed to be the date of payment of remuneration, and if the date of payment of remuneration was fixed in violation of the provisions of the same paragraph, the day on which 60 days have elapsed from the day on which the specified entrusting business operator receives the work from the specified entrusted business operator is deemed to be the date of payment of remuneration.
- (3) Notwithstanding the provisions of the preceding two paragraphs, in cases

where a specified entrusting business operator that has been entrusted with business by another enterprise (hereinafter referred to as the "principal entrusting business operator" in this paragraph and paragraph (6)) re-entrusts all or part of the business associated with the business entrustment (hereinafter referred to as the "original entrusted business" in this paragraph and paragraph (6)) to a specified entrusted business operator (limited to cases in which the specified entrusting business operator has clearly indicated to the specified entrusted business operator that the business is being re-entrusted, the name of the principal entrusting business operator, the date of payment for the consideration for the original entrusted business (hereinafter referred to as the "date of payment of the original entrustment" in this paragraph and the following paragraph), and other matters specified by the Rules of the Fair Trade Commission pursuant to the provisions of paragraph (1) of the preceding Article), the date of payment of remuneration associated with the re-entrustment must be fixed within 30 days, and moreover within as short a period as possible, from the date of payment of the original entrustment.

- (4) In the case referred to in the preceding paragraph, if the date of payment of remuneration is not fixed, the date of payment of the original entrustment is deemed to have been fixed, and if the date of payment of remuneration is fixed in violation of the provisions of that paragraph, the day on which 30 days have elapsed from the date of payment of the original entrustment is deemed to have been fixed as the date of payment of remuneration.
- (5) A specified entrusting business operator must pay remuneration by the date of payment specified pursuant to the provisions of paragraph (1) or paragraph (3) or by the date of payment referred to in paragraph (2) or the preceding paragraph; provided, however, that if the specified entrusting business operator was unable to pay the remuneration due to grounds attributable to the specified entrusted business operator, it must pay the remuneration within 60 days (or within 30 days, in the case referred to in paragraph (3)) from the day on which the grounds cease to exist.
- (6) In the case referred to in paragraph (3), if a specified entrusting business operator receives an advance payment from the principal entrusting business operator, the specified entrusting business operator must give due consideration to the specified entrusted business operator that has re-entrusted all or part of the original entrusted business, so as to pay the necessary costs for the procurement of materials and the commencement of other services associated with the business entrustment as an advance payment.

(Matters to be Observed by Specified Entrusting Business Operators)

Article 5 (1) In cases where a specified entrusting business operator has

entrusted business to a specified entrusted business operator (limited to business entrusted for a period longer than the period specified by Cabinet Order (including business to be entrusted continuously for a period longer than the period specified by Cabinet Order by the renewal of the contract for the business entrustment); hereinafter the same applies in this Article), the specified entrusting business operator must not conduct any one of the acts listed in the following items (excluding items (i) and (iii) in the case of business entrustment that falls under Article 2, paragraph (3), item (ii)):

- (i) refusing to receive the work from a specified entrusted business operator without grounds attributable to the specified entrusted business operator;
- (ii) reducing the amount of remuneration without grounds attributable to the specified entrusted business operator;
- (iii) causing a specified entrusted business operator to take back the goods relating to its work after receiving the work from the specified entrusted business operator without grounds attributable to the specified entrusted business operator;
- (iv) unjustly setting an amount of remuneration at a level conspicuously lower than the price ordinarily paid for the same or similar content of work;
- (v) coercing a specified entrusted business operator to purchase goods designated by the specified entrusted business operator or to use services designated by the specified entrusted business operator, except in such cases where it is necessary to standardize or improve the content of the work by the specified entrusted business operator or where there are other reasonable grounds.

(2) In cases where a specified entrusting business operator has entrusted business to a specified entrusted business operator, it must not unjustly injure the interests of the specified entrusted business operator by conducting any one of the acts listed in the following items:

- (i) causing a specified entrusted business operator to provide cash, services, or other economic gains for oneself;
- (ii) causing a specified entrusted business operator to change the content of the work, or to re-work after the receipt of the work from the specified entrusted business operator (after the provision of the services from the specified entrusted business operator in the case of the business entrustment that falls under Article 2, paragraph (3), item (ii)), without any grounds attributable to the specified entrusted business operator.

(Reports)

Article 6 (1) A specified entrusted business operator that receives business entrustment from an entrusting business operator may, if there is a fact in violation of the provisions of this Chapter, report it to the Fair Trade

Commission or the Commissioner of the Small and Medium-Sized Enterprise Agency and ask for appropriate measures be taken.

- (2) When a report under the provisions of the preceding paragraph has been made, the Fair Trade Commission or the Commissioner of the Small and Medium-Sized Enterprise Agency must conduct the necessary investigation, and if the Fair Trade Commission or the Commissioner finds the content of the report to be true, the Fair Trade Commission or the Commissioner must take measures based on this Act or any other appropriate measures.
- (3) An entrusting business operator must not reduce the volume of transactions, suspend transactions, or otherwise treat a specified entrusted business operator disadvantageously on the grounds that the specified entrusted business operator has made a report under the provisions of paragraph (1).

(Request of the Commissioner of the Small and Medium-Sized Enterprise Agency)

Article 7 (1) The Commissioner of the Small and Medium-Sized Enterprise Agency may investigate whether or not an entrusting business operator has violated the provisions of Article 3 or violates the provisions of paragraph (3) of the preceding Article, and when the Commissioner finds that such facts exist, the Commissioner may request the Fair Trade Commission to take appropriate measures in accordance with the provisions of this Act.

- (2) The Commissioner of the Small and Medium-Sized Enterprise Agency may investigate whether or not a specified entrusting business operator has violated the provisions of Article 4, paragraph (5), Article 5, paragraph (1) (excluding the part regarding item (i)), or paragraph (2), or violates the provisions of paragraph (1) of the same Article (limited to the part regarding the same item), and when the Commissioner finds that such facts exist, the Commissioner may request the Fair Trade Commission to take appropriate measures in accordance with the provisions of this Act.

(Recommendation)

Article 8 (1) When the Fair Trade Commission finds that an entrusting business operator has violated the provisions of Article 3, the Commission may recommend to the entrusting business operator that it promptly make a clear indication under the provisions of paragraph (1) of the same Article or deliver a document under the provisions of paragraph (2) of the same Article, or take other necessary measures.

- (2) When the Fair Trade Commission finds that a specified entrusting business operator has violated the provisions of Article 4, paragraph (5), the Commission may recommend to the entrusting business operator that it promptly pay remuneration or take other necessary measures.

- (3) When the Fair Trade Commission finds that a specified entrusting business operator violates the provisions of Article 5, paragraph (1) (limited to the part regarding item (i)), the Commission may recommend to the entrusting business operator that it promptly receive the work from the specified entrusted business operator and take other necessary measures.
- (4) When the Fair Trade Commission finds that a specified entrusting business operator has violated the provisions of Article 5, paragraph (1) (excluding the part regarding item (i)), the Commission may recommend to the entrusting business operator that it promptly pay the amount deducted from the amount of remuneration, accept the goods pertaining to the work of the specified entrusted business operator, increase the amount of remuneration, take back the goods that the specified entrusted business operator was forced to purchase, or take other necessary measures.
- (5) When the Fair Trade Commission finds that a specified entrusting business operator has violated the provisions of Article 5, paragraph (2), the Commission may recommend to the entrusting business operator that it promptly take the measures necessary to protect the interests of the specified entrusted business operator.
- (6) When the Fair Trade Commission finds that an entrusting business operator violates the provisions of Article 6, paragraph (3), the Commission may recommend to the entrusting business operator that it promptly cease any disadvantageous treatment and take other necessary measures.

(Order)

- Article 9 (1) If the operator who received the recommendation under the provisions of the preceding Article does not take measures regarding the recommendation without justifiable grounds, the Fair Trade Commission may order the operator who received the recommendation to take measures regarding the recommendation.
- (2) When the Fair Trade Commission has issued an order under the provisions of the preceding paragraph, it may publicize to that effect.

(Application Mutatis Mutandis of the Act on Prohibition of Private Monopolization and Maintenance of Fair Trade)

Article 10 The provisions of Article 61, Article 65, paragraphs (1) and (2), Article 66, Article 70-3, paragraphs (3) and (4), Articles 70-6 to 70-9, Article 70-12, Article 76, Article 77, Article 85 (limited to the part regarding item (i)), Article 86, Article 87 and Article 88 of the Act on Prohibition of Private Monopolization and Maintenance of Fair Trade (Act No. 54 of 1947) apply mutatis mutandis to cases where an order is issued under the provisions of paragraph (1) of the preceding Article.

(Collection of Reports and Inspection)

- Article 11 (1) The Commissioner of the Small and Medium-sized Enterprise Agency may, to the extent necessary for the enforcement of the provisions of Article 7, cause an entrusting business operator, a specified entrusting business operator, a specified entrusted business operator, or any other person concerned to submit a report on the business entrustment, or may cause its officials to enter their offices or any other workplace and to inspect books and documents and other objects.
- (2) The Fair Trade Commission may, to the extent necessary for the enforcement of the provisions of Article 8 and Article 9, paragraph (1), cause an entrusting business operator, a specified entrusting business operator, a specified entrusted business operator, or any other person concerned to submit a report on the business entrustment, or may cause its officials to enter their offices or any other workplace and to inspect books and documents and other objects.
- (3) The officials who enter the offices pursuant to the provisions of the preceding two paragraphs must carry their identification cards and produce them to relevant persons.
- (4) The authority to enter and inspect under the provisions of paragraphs (1) to (2) may not be construed as granted for criminal investigation.

Chapter III Improvement of the Working Environment for Specified Persons Engaged in Entrusted Business

(Accurate Presentation of Recruitment Information)

- Article 12 (1) When a specified entrusting business operator provides information (limited to information on the content of business and other particulars specified by Cabinet Order as work-related particulars) concerning the recruitment of specified entrusted business operators concerning the business entrustment by the specified entrusting business operator, by means of placing advertisements in newspapers, magazines, or any other publications, by posting or distributing documents, or by any other means specified by Order of the Ministry of Health, Labour and Welfare (referred to as "advertisements, etc." in the following paragraph), the specified entrusting business operator must not make false or misleading representations with regard to the information.
- (2) When a specified entrusting business operator provides the information referred to in the preceding paragraph through advertisements, etc., it must keep the information accurate and up-to-date.

(Consideration for Pregnancy, Childbirth, Childcare, or Nursing Care)

Article 13 (1) In response to a request from a specified entrusted business operator that is the other party to its business entrustment (limited to business entrusted for a period longer than the period specified by Cabinet Order (including business to be entrusted continuously for a period longer than the period specified by Cabinet Order by the renewal of the contract for the business entrustment); hereinafter referred to as " continued business entrustment " in this Article and Article 16, paragraph (1)), a specified entrusting business operator must give necessary consideration in accordance with the circumstances of the specified entrusted business operator (if the specified entrusted business operator is a corporation listed in Article 2, paragraph (1), item (ii), its representative) so that the specified entrusted business operator can engage in the business concerning the continued business entrustment while maintaining a balance with pregnancy, childbirth, childcare, or nursing care (hereinafter referred to as "childcare and nursing care, etc." in this Article).

(2) In response to a request from a specified entrusted business operator who is the other party to its business entrustment other than continued business entrustment, a specified entrusting business operator must endeavor to give necessary consideration in accordance with the circumstances of childcare and nursing care, etc. for the specified entrusted business operator (if the specified entrusted business operator is a corporation listed in Article 2, paragraph (1), item (ii), its representative) so that the specified entrusted business operator can engage in the business concerning the business entrustment while balancing childcare and nursing care, etc.

(Measures to be Taken in Connection with Problems Arising from Behavior in Relation to Business Entrustment)

Article 14 (1) A specified entrusting business operator must establish the necessary system for responding appropriately to consultations from a specified person engaged in entrusted business and take other necessary measures to ensure that the circumstances set forth in the following items are not brought about as a result of the conduct prescribed in those items that the specified person engaged in entrusted business engages in in connection with the business entrustment to the specified person engaged in entrusted business:

(i) causing disadvantages with regard to the conditions for the business entrustment to a specified person engaged in entrusted business (if the person is the representative of a corporation set forth in Article 2, paragraph (1), item (ii), the corporation) due to responses of the specified person engaged in entrusted business to sexual harassment, or damaging the working environment of a specified person engaged in entrusted business through sexual harassment;

- (ii) damaging the working environment of a specified person engaged in entrusted business by speaking or behaving in connection with a cause specified by Order of the Ministry of Health, Labour and Welfare which is related to pregnancy or childbirth;
 - (iii) damaging the working environment of a specified person engaged in entrusted business by acting or behaving in a superior business relationship to an extent that exceeds the scope necessary and reasonable for the performance of services concerning the business entrustment.
- (2) A specified entrusting business operator must not subject a specified person engaged in entrusted business (or, if the person is the representative of a corporation set forth in Article 2, paragraph (1), item (ii), the corporation) to the cancellation of a contract involving the business entrustment or any other disadvantageous treatment on the grounds that the person has consulted with the specified entrusting business operator as referred to in the preceding paragraph or that the person has stated a fact when cooperating in the specified entrusting business operator's handling of the consultation.

(Guidelines)

Article 15 The Minister of Health, Labour and Welfare is to publicize the guidelines necessary for a specified entrusting business operator to appropriately handle the matters specified in the preceding three Articles.

(Advance Notice of Cancellation)

Article 16 (1) When a specified entrusting business operator seeks to cancel a contract involving the continued business entrustment (including if the contract term is not renewed after it expires; the same applies in the following paragraph), it must give advance notice of this at least 30 days in advance to the specified entrusted business operator that is the other party to the contract, pursuant to the provisions of Order of the Ministry of Health, Labour and Welfare; provided, however, that this does not apply if it is difficult to give advance notice due to a natural disaster or any other compelling reasons, or in any other case specified by Order of the Ministry of Health, Labour and Welfare.

(2) If a specified entrusted business operator has requested a specified entrusting business operator to disclose the reasons for cancelling the contract during the period from the day on which the advance notice set forth in the preceding paragraph was given until the day on which the contract set forth in the same paragraph expires, the specified entrusting business operator must disclose the reasons without delay to the specified entrusted business operator pursuant to the provisions of Order of the Ministry of Health, Labour and Welfare; provided, however, that this does not apply if there is a risk of harming the

interests of third parties or in other cases specified by Order of the Ministry of Health, Labour and Welfare.

(Requests)

- Article 17 (1) A specified entrusted business operator that has received or intends to receive business entrustment from a specified entrusting business operator may, if there is a fact in violation of the provisions of this Chapter, report it to the Minister of Health, Labour and Welfare and ask for appropriate measures be taken.
- (2) When a request under the provisions of the preceding paragraph has been made, the Minister of Health, Labour and Welfare must conduct the necessary investigation, and if the Minister finds the content of the request to be true, the Minister must take measures based on this Act or any other appropriate measures.
- (3) The provisions of Article 6, paragraph (3) apply mutatis mutandis to the case referred to in paragraph (1).

(Recommendations)

Article 18 When the Minister of Health, Labour and Welfare finds that a specified entrusting business operator has violated the provisions of Article 12, Article 14, Article 16, or Article 6, paragraph (3) as applied mutatis mutandis pursuant to paragraph (3) of the preceding Article, the Minister may recommend that the specified entrusting business operator take necessary measures to rectify or prevent the violation.

(Orders)

- Article 19 (1) If the operator who has received the recommendation under the provisions of the preceding Article (excluding those regarding Article 14) does not take measures regarding the recommendation without justifiable grounds, the Minister of Health, Labour and Welfare may order the operator who received the recommendation to take measures regarding the recommendation.
- (2) When the Minister of Health, Labour and Welfare has issued an order under the provisions of the preceding paragraph, the Minister may publicize to that effect.
- (3) When the operator who has received the recommendation under the provisions of the preceding Article (limited to those regarding Article 14) has failed to take measures regarding the recommendation without justifiable grounds, the Minister of Health, Labour and Welfare may publicize to that effect.

(Collection of Reports and Inspection)

- Article 20 (1) The Minister of Health, Labour and Welfare may, to the extent necessary for the enforcement of the provisions of Article 18 (excluding the part concerning Article 14) and paragraph (1) of the preceding Article, cause a specified entrusting business operator, a specified entrusted business operator, or any other person concerned to submit a report on the business entrustment, or cause its officials enter their offices or any other workplace and inspect books and documents or any other objects.
- (2) The Minister of Health, Labour and Welfare may, to the extent necessary for the enforcement of the provisions of Article 18 (limited to the part regarding Article 14) and paragraph (3) of the preceding Article, request a specified entrusting business operator to submit a report concerning the business entrustment.
- (3) The provisions of Article 11, paragraphs (3) and (4) apply mutatis mutandis to enter and inspect under paragraph (1).

Chapter IV Miscellaneous Provisions

(Development of a System for Consultation Responses from Specified Entrusted Business Operators)

Article 21 In order to contribute to ensuring proper transactions involving a specified entrusted business operator and to improving the working environment for a specified person engaged in entrusted business, the national government is to respond to consultations from specified entrusted business operators and develop the necessary system for appropriately handling them and take other necessary measures.

(Guidance and Advice)

Article 22 If the Fair Trade Commission, the Commissioner of the Small and Medium-Sized Enterprise Agency, and the Minister of Health, Labour and Welfare find it to be necessary in connection with the enforcement of this Act, they may provide guidance and advice to entrusting business operators.

(Delegation of Authority of the Minister of Health, Labour and Welfare)

Article 23 Part of the authority of the Minister of Health, Labour and Welfare prescribed in this Act may be delegated to the directors of the Prefectural Labor Bureau, pursuant to the provisions of Order of the Ministry of Health, Labour and Welfare.

Chapter V Penal Provisions

Article 24 A person who has committed a violation that falls under any of the

following items is punished by a fine not more than 500000 yen:

- (i) in cases where a person violates an order under the provisions of Article 9, paragraph (1) or Article 19, paragraph (1);
- (ii) in cases where a person has failed to submit a report under the provisions of Article 11, paragraph (1) or (2) or Article 20, paragraph (1), or submitted a false report, or refused, disturbed, or evaded inspection under these provisions.

Article 25 When a representative of a corporation, or an agent, employee or any other worker in the service of a corporation or of an individual, has, with regard to the business of the corporation or individuals, committed a violation under the preceding Article, not only the offender is punished but also the corporation or the individual is punished by the fines as described in that Article.

Article 26 A person who has failed to make a report under the provisions of Article 20, paragraph (2) or has submitted a false report is punished by a non-criminal fine of not more than 200000 yen.

Supplementary Provisions

(Effective Date)

- (1) This Act comes into effect as of the day specified by Cabinet Order within a period not exceeding one year and six months from the date of promulgation.

(Review)

- (2) Approximately three years after the enforcement of this Act, the government is to review the provisions of this Act by taking into account the status of enforcement of the provisions of this Act, and take necessary measures based on the results of the review.