

# Act Regulating the Receipt of Contributions, Receipt of Deposits and Interest Rates

(Act No. 195 of June 23, 1954)

(Restrictions on the receipt of contributions)

Article 1 No person shall receive a contribution, indicating or implying to numerous, unspecified persons that the entire amount of the contribution or money equivalent to an amount exceeding the contribution will be refunded, as reimbursement, at a later date.

(Prohibition of receipt of deposits of money)

Article 2 (1) No person (except those permitted by special provisions in other Acts) shall, on a regular basis, receive deposits of money.

(2) The term "receive deposits of money" as used set forth in the preceding paragraph means the receipt of money from numerous, unspecified persons as prescribed in the following items:

- (i) Receipt of deposits, savings or time installment savings.
- (ii) Company bonds, borrowings or other things under any other name that have the same economic nature as the things prescribed in the preceding item.

(Prohibition of the loan of money utilizing a position)

Article 3 No officer, employee or any other person working for a financial institution (bank, trust company, insurance company, credit union, association of credit unions, labor bank, association of labor banks, the agricultural and forestry central bank, the commerce and industrial association central bank, the credit cooperative association bank, agricultural cooperative association bank, fishery cooperative association bank or other associations that accept savings) shall lend money to other persons, mediate in loans or guarantee obligations utilizing his/her position for the purpose of promoting his/her own interest or the interest of a third party other than the financial institution concerned.

(Restrictions on commission charges for the mediation of money loans)

Article 4 (1) A person who mediates for money loans must not form a contract to receive a commission charge or accept a commission charge exceeding five percent of the amount of the money lent in the mediation.

(2) With regard to application of the provision set forth in the preceding paragraph, the money, whether named a reward, inspection fee or any other

name that the person mediating in the money loan receives in connection with the mediation, shall be deemed to be a commission charge.

(Punishment of high interest rates)

- Article 5 (1) When a person lending money forms a contract to receive annual interest (including the amount of liquidated damages with respect to failure to perform the obligation, the same shall apply hereinafter) exceeding 109.5 percent (109.8 percent provided that the year includes 29 February, daily interest exceeding 0.3 percent), he or she shall be punished by imprisonment with work for not more than five years or a fine of not more than 10,000,000 yen, or both. The same shall apply to a person who receives or demands such interest.
- (2) When a person lending money on a regular basis forms a contract to receive annual interest exceeding 29.2 percent (29.28 percent provided that the year includes 29 February, daily interest exceeding 0.08 percent), he or she shall be punished by imprisonment with work for not more than five years or a fine of not more than 10,000,000 yen, or both, notwithstanding the preceding paragraph. The same shall apply when he/she receives or demands such interest in connection with the loan.
- (3) When a person lending money on a regular basis forms a contract to receive annual interest exceeding 109.5 percent (109.8 percent provided that the year includes 29 February, daily interest exceeding 0.3 percent), he or she shall be punished by imprisonment with work for not more than 10 years or a fine of not more than 30,000,000 yen, or both, notwithstanding the two preceding paragraphs. The same shall apply when he/she receives or demands such interest in connection with the loan.
- (4) With regard to application of the provisions of the three preceding paragraphs, when the term of the loan or guarantee is less than 15 days, the interest rate shall be calculated as 15 days.
- (5) With regard to the application of the provisions of paragraphs (1) to (3), when a person lends money deducting interest, the interest shall be calculated deeming the amount the borrower actually received as the principal.
- (6) With regard to the application of the provisions of paragraphs (1) to (3), in cases where a person forms a contract incorporating interest of less than one year into the principal, out of the total principal and interest, the amount exceeding the original principal shall be deemed to be the interest.
- (7) With regard to the application of the provisions of the respective first sentences of paragraphs (1) to (3), the money, whether named a reward, a discount charge, commission charge or inspection fee or any other name that a person loaning money receives in connection with the loan shall be deemed to be interest. With regard to the application of the provisions of the respective

second sentences of paragraphs (1) to (3), the money (except the principal) which a person accepting or demanding for payment of the loan receives in connection with the acceptance or demand shall also be deemed to be interest.

(Relation to the Price Control Imperial Ordinance)

Article 6 Concerning the interest rate of money loans or the commission charge for the mediation of money loans, the provision of Article 9-2 of the Price Control Imperial Ordinance (Imperial Ordinance No. 118 of 1946) is not applicable.

(Cases where the delivery or receipt of money shall be deemed to be a loan of money)

Article 7 With regard to the application of the provisions of Article 3 to Article 6, the delivery or receipt of money in connection with discounts for notes, mortgages by transfer or any other similar contracts shall be deemed to be the loan of money.

(Other penal provisions)

Article 8 (1) A person who avoids, through any name or way, the prohibitions prescribed in any provision of Article 5 (1) or (2) shall be punished by imprisonment with work for not more than five years or a fine of not more than 10,000,000 yen, or both.

(2) A person who avoids, through any name or way, the prohibition prescribed in the provision of Article 5 (3) shall be punished by imprisonment with work for not more than 10 years or a fine of not more than 30,000,000 yen, or both.

(3) Any person who falls under any of the following items shall be punished by imprisonment with work for not more than three years or a fine of not more than 3,000,000 yen, or both:

(i) A person who violates any provision of Article 1, Article 2 (1), Article 3 or Article 4 (1); or

(ii) A person who avoids, through any name or way, the prohibitions prescribed in any of the provisions listed in the preceding item.

(4) The parts pertaining to Article 1 or Article 3 in the provisions set forth in the preceding paragraph shall not apply when there are applicable provisions in the Penal Code (Act No. 45 of 1907).

Article 9 (1) In cases where the representative of a juridical person (including an association or foundation that is not a juridical person, that has rules concerning the representative or administrator, hereinafter the same shall apply in this paragraph and the following paragraph), the agent of a juridical person or an individual, the employee of a juridical person or an individual, or

any other person working for a juridical person or an individual has committed any of the crimes set forth in any of the provisions of the following items with regard to the business of said juridical person or said individual, not only the offender shall be punished, but also said juridical person shall be punished by the fine specified by the respective items, or the individual shall be punished by the fine prescribed in the relevant Articles:

(i) Article 5 (1) or (2) or Article 8 (1): a fine of not more than 30,000,000 yen.

(ii) Article 5 (3) or Article 8 (2): a fine of not more than 100,000,000 yen.

(iii) Article 8 (3) (except the part pertaining to Article 3): the fine prescribed in said paragraph.

(2) The statute of limitations in cases where a fine is imposed on a juridical person or an individual for an act of violation under Article 5 (1) to (3) or Article 8 (1) or (2) pursuant to the provision of the preceding paragraph shall be the statute of limitations for the crimes in these provisions.

(3) In the case of punishment of an association or foundation that is not a juridical person pursuant to the provision of paragraph (1), the representative or administrator thereof shall represent the organization for the procedural act, and the provisions of the act on criminal procedure suits in cases where a juridical person is the accused shall apply *mutatis mutandis*.