

# National Public Service Act

(Act No. 120 of October 21, 1947)

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## **Chapter 1 General Provisions**

(Purpose and Effect of this Act)

- Article 1 (1) The purpose of this Act is to assure the people democratic and efficient administration of public service by establishing basic standards (including adequate measures to promote the welfare and interest of personnel) which shall be applicable to all personnel who are national public servants and by providing that personnel shall be selected and directed through democratic practices so as to promote maximum efficiency in the performance of public duties.
- (2) This Act shall provide solely for standards for the administration of the civil service referred to in Article 73 of the Constitution of Japan.
- (3) No person shall intentionally violate or attempt or conspire to violate this Act or orders thereunder. Furthermore, no person shall intentionally commit or attempt to commit any fraud concerning the enforcement of, or obstruct the enforcement of this Act or orders thereunder.
- (4) If any provision of this Act loses its effect or the application thereof is held invalid, the remainder of this Act or other applications of its provisions shall not be affected.
- (5) If any provision of this Act is inconsistent or in conflict with former laws or laws and regulations thereunder in force as of the effective date of this Act, the provisions of this Act shall take precedence.

(Regular and Special Service)

- Article 2 (1) National public servant positions shall be divided into those of regular service and special service.
- (2) Regular service shall comprise of all national public servant positions other than those belonging to special service.
- (3) Special service shall comprise of the positions listed below:
- (i) The Prime Minister;
  - (ii) Ministers of State;
  - (iii) Commissioners of the National Personnel Authority and Commissioners of the Board of Audit;
  - (iv) Director-General of the Cabinet Legislation Bureau;
  - (v) Deputy Chief Cabinet Secretary;
  - (v-ii) Deputy Chief Cabinet Secretary for Crisis Management;

- (v-iii) Assistant Chief Cabinet Secretary, Cabinet Public Relations Secretary and Director of Cabinet Intelligence;
  - (vi) Special Advisors to the Prime Minister;
  - (vii) Senior Vice-Ministers;
  - (vii-ii) Parliamentary Secretaries;
  - (viii) Private Secretaries to the Prime Minister and Private Secretaries to Ministers of State and those designated by rules of the National Personnel Authority from among Private Secretaries to the heads of organs included in special service;
  - (ix) Officials who hold positions whose assumption requires an election, or the resolution or consent of one or both Houses of the Diet;
  - (x) Grand Steward, Grand Chamberlain, Grand Master of the Crown Prince's Household, Grand Master of Ceremonies and Deputy Grand Chamberlain of the Imperial Household Agency, and other officials of the Imperial Household Agency designated by law or by rules of the National Personnel Authority;
  - (xi) Ambassadors Extraordinary and Plenipotentiary, Envoys Extraordinary and Ministers Plenipotentiary, Ambassadors on Special Mission, Representatives of the Government, Plenipotentiaries; Acting Representatives of the Government or Alternates of Plenipotentiaries; and Advisors and Members of the Suite of Ambassadors on Special Mission, Representatives of the Government or Plenipotentiaries;
  - (xi-ii) Members of the Japanese National Commission for UNESCO;
  - (xii) Members of the Japan Academy;
  - (xii-ii) Members of the Science Council of Japan;
  - (xiii) Judges and other officials of courts;
  - (xiv) Officials of the Diet;
  - (xv) Secretaries to Members of the Diet;
  - (xvi) Officials of the Ministry of Defense (excluding officials designated by rules of the National Personnel Authority from among the members of the council organizations established in the Ministry of Defense specified by the Cabinet Order prescribed under Article 39 of the Act for Establishment of the Ministry of Defense (Act No. 164 of 1954), and from among the officials specified by the Cabinet Order prescribed under the said Article from among those engaged in the affairs provided by item (xxiv) and (xxv) of Article 4 of the said Act );
  - (xvii) Officers of Specified Incorporated Administrative Agencies, designated in Article 2, paragraph (2) of the Act on General Rules for Incorporated Administrative Agency (Act No.103 of 1999) (hereinafter referred to as "Specified Incorporated Administrative Agencies").
- (4) The provisions of this Act shall apply to all positions belonging to regular service (hereinafter referred to as "government positions," and those holding

- such positions will be hereinafter referred to as "officials"). The National Personnel Authority shall have the authority to decide whether a certain position comes under the service of national public servants, and whether it comes under regular service or special service as provided for in this Article.
- (5) The provisions of this Act shall not apply to positions which come under special service unless otherwise provided for by an amendment of this Act.
  - (6) The government shall not pay salary, compensation, or other remuneration with respect to duties performed by persons other than persons in regular service or special service.
  - (7) The provisions of the preceding paragraph shall not apply to contracts between the government or a government organ and a foreign national concluded on an individual basis.

## **Chapter 2 Central Personnel Agencies**

(National Personnel Authority)

- Article 3 (1) The National Personnel Authority shall be established under the jurisdiction of the Cabinet. The Authority shall report to the Cabinet pursuant to the standards provided for in this Act.
- (2) The National Personnel Authority shall, in accordance with applicable laws, have authority over affairs concerning recommendations for improvement in personnel administration as well as in remuneration and other conditions of work; recruitment examination, appointment and dismissal (excluding particulars concerning the ability to perform standard duties and basic policy on initial appointment, promotion, etc.); remuneration; training; status; disciplinary action; processing of complaints; maintenance of ethics pertaining to the duties; and other particulars concerning maintaining fairness in personnel administration, the protection of the welfare of officials and the like.
  - (3) Within the sphere in which the National Personnel Authority is authorized to act by law, the decisions and dispositions of the Authority shall be subject to review only by the Authority.
  - (4) The provisions of the preceding paragraph shall not in any way affect the right to file an action in court on legal matters.

(National Public Service Ethics Board)

- Article 3-2 (1) The National Public Service Ethics Board shall be established within the National Personnel Authority in order to fulfill the maintenance of ethics pertaining to the duties as provided for in paragraph (2) of the preceding Article.
- (2) In addition to what is provided for in this Act, particulars concerning the National Public Service Ethics Board shall be governed by the provisions of the

National Public Service Ethics Act (Act No. 129 of 1999).

(Officials)

Article 4 (1) The National Personnel Authority shall be composed of 3 Commissioners.

- (2) One of the Commissioners shall be appointed as President.
- (3) The National Personnel Authority shall appoint a Secretary-General and other such officials as it deems necessary to properly and adequately execute its duties within the limitations of its budget.
- (4) The National Personnel Authority shall control its own internal organizational structure. The provisions of the National Government Organization Act (Act No. 120 of 1948) shall not apply to the Authority.

(Commissioners of the National Personnel Authority)

Article 5 (1) Commissioners of the National Personnel Authority shall be appointed, with the consent of both Houses of the Diet, by the Cabinet from among persons 35 years of age or older, who are of the highest moral character and integrity, in known sympathy with the democratic form of government and efficient administration therein based on merit principles, and possess a wide range of knowledge and sound judgment concerning personnel administration.

- (2) The appointment and dismissal of a Commissioner shall be certified by the Emperor.
- (3) No person falling under any of the following items may be appointed as a Commissioner:
  - (i) A person who has become bankrupt and has not yet had his/her rights restored;
  - (ii) A person who has been sentenced to imprisonment or severer punishment or who has been punished for committing a crime provided for in Chapter 4;
  - (iii) A person who falls under item (iii) or item (v) of Article 38.
- (4) No person may be appointed as a Commissioner if he/she is or has been, within five years previous to the proposed date of appointment, an officer, political advisor or other similarly politically influential member of a political party or who, within five years previous to the proposed date of appointment, has been a candidate for national or prefectural elective public office, pursuant to rules of the National Personnel Authority.
- (5) With respect to the appointment of Commissioners, no two persons among them shall be members of the same political party or graduates of the same department of the same university.

(Oath Taking and Service Discipline)

Article 6 (1) After appointment, a Commissioner shall not perform his/her duties

until he/she has signed a written oath before the Chief Justice of the Supreme Court, pursuant to rules of the National Personnel Authority.

(2) The provisions of Section 7 of Chapter III shall apply mutatis mutandis to Commissioners.

(Term of Office)

Article 7 (1) The term of office for a Commissioner shall be 4 years; provided, however, that a Commissioner who is appointed to act as a substitute shall remain in office for the remaining term of his/her predecessor.

(2) A Commissioner may be reappointed; provided, however, he/she may not remain in office continuously for a period exceeding 12 years.

(3) No person who has been a Commissioner may be appointed to a government position other than a position in the National Personnel Authority for a period of one year after leaving his/her position as commissioner.

(Retirement and Removal from Office)

Article 8 (1) A Commissioner shall not be removed from office against his/her will except in cases which fall under any of the following items:

(i) When the Commissioner falls under any of the items in Article 5, paragraph (3);

(ii) When the Commissioner's dismissal has been affirmed by public impeachment proceedings based on a prosecution filed by the Diet;

(iii) When the Commissioner has completed his/her term of office and has not been reappointed, or when he/she has been in office as a Commissioner continuously for a period of 12 years.

(2) Grounds for impeachment provided for in item (ii) of the preceding paragraph shall be the following:

(i) When the Commissioner is unable to perform official duties due to a mental or physical disorder;

(ii) When the Commissioner has violated his/her obligations in the course of his/her duties or is guilty of malfeasance unbecoming of a Commissioner.

(3) In cases where two or more Commissioners have come to belong to the same political party, all Commissioners except one shall be dismissed, with the consent of both Houses of the Diet, by the Cabinet.

(4) The provisions of the preceding paragraph shall not jeopardize the position of a Commissioner who has not changed his/her political status with regard to party affiliation.

(Impeachment of Commissioners)

Article 9 (1) Impeachment of a Commissioner shall be judged by the Supreme Court.

- (2) When the Diet intends to call for the impeachment of a Commissioner, the grounds for the said impeachment shall be submitted to the Supreme Court in writing.
- (3) In the case of the preceding paragraph, the Diet shall send a copy of the document prescribed in the said paragraph to the Commissioner pertaining to the prosecution.
- (4) The Supreme Court shall set a date for commencing the trial not less than 30 days and not more than 90 days after receipt of the document set forth in paragraph (2), and notify the Diet and the Commissioner pertaining to the impeachment 30 days prior to the said date.
- (5) The Supreme Court shall pronounce judgment within 100 days from the date of commencing the trial.
- (6) The judgment procedures for the impeachment of Commissioners shall be prescribed by the rules of court.
- (7) Costs of the trial shall be borne by the national treasury.

(Remuneration of Commissioners)

Article 10 The remuneration of Commissioners shall be specified separately by an Act.

(President of the National Personnel Authority)

- Article 11 (1) The President of the National Personnel Authority shall be appointed by the Cabinet from among the Commissioners.
- (2) The President of the National Personnel Authority shall preside over affairs of and represent the Authority.
  - (3) When the President of the National Personnel Authority is unable to attend to his/her duties or when his/her post is vacant, a senior Commissioner shall act on behalf of the President of the National Personnel Authority in the performance of his/her duties.

(Meetings of the National Personnel Authority)

- Article 12 (1) Regular meetings of the National Personnel Authority shall, as a rule, be held at least once a week at a fixed place, pursuant to rules of the National Personnel Authority.
- (2) The proceedings of the meetings of the National Personnel Authority shall be recorded in its minutes.
  - (3) The minutes set forth in the preceding paragraph shall be prepared by the Director.
  - (4) Important particulars concerning the proceedings of the administrative affairs of the National Personnel Authority shall be prescribed by rules of the Authority.

- (5) The Secretary-General shall be present at the meetings of the National Personnel Authority as Director.
- (6) When exercising the powers listed below, the National Personnel Authority shall require a resolution of the Authority:
- (i) Enactment, revision, or repeal of rules of the National Personnel Authority;
  - (ii) Deleted;
  - (iii) Recommendations to the relevant minister or head of another government organ concerned as provided for by Article 22;
  - (iv) Submission of opinions to the Diet and the Cabinet as provided for by Article 23;
  - (v) Report to the Diet and the Cabinet as provided for by Article 24;
  - (vi) Recommendations to the Diet and the Cabinet as provided for by Article 28;
  - (vii) Designation of examining bodies as provided for by Article 48;
  - (xviii) Approval of temporary appointments and renewals thereof, restriction of the number of officials subject to temporary appointment and decisions on their requisite qualifications, and rescission of temporary appointments as provided for by Article 60 (except where provided for by rules of the National Personnel Authority);
  - (ix) Preparation of revision proposals and recommendation to the Diet and the Cabinet on the particulars provided for in the Act on Remuneration as provided for by Article 67;
  - (x) Determination of cases as provided for by Article 87;
  - (xi) Determination of dispositions as provided for by Article 92;
  - (xii) Drafting of important particulars concerning compensation as provided for by Article 95;
  - (xiii) Decisions on filing of an objection as provided for by Article 103;
  - (xiv) Submission of opinions to the Diet and the Cabinet as provided for by Article 108;
  - (xv) Suspension of the effect of registration of an employee organization and rescission of its registration as provided for by Article 108-3, paragraph (6);
  - (xvi) Other particulars so decided by the National Personnel Authority as to require a resolution of the National Personnel Authority.

(General Secretariat and Budget)

- Article 13 (1) The National Personnel Authority shall have a General Secretariat and a legal advisor under its jurisdiction.
- (2) The organization of the General Secretariat and necessary particulars concerning the legal advisor shall be prescribed by rules of the National Personnel Authority.
- (3) The National Personnel Authority shall, prior to the beginning of each fiscal



year, submit to the Cabinet for inclusion in the national budget a written request for its expenses necessary for the ensuing fiscal year. Such requests shall cover purchase of land; construction of buildings; rental of offices; purchase of furniture, equipment and supplies; payment of salary and compensation; together with expenses for all other necessary goods and services.

- (4) In the event the Cabinet desires to revise the request of the National Personnel Authority for expenses so submitted, the request of the National Personnel Authority and the request as revised by the Cabinet shall be submitted to the Diet.
- (5) The National Personnel Authority may establish local offices as it deems necessary with the approval of the Diet.

(Secretary-General)

Article 14 The Secretary-General shall be the assistant to the President of the National Personnel Authority for the execution of his/her duties and, subject to general supervision of the President of the National Personnel Authority, shall direct and supervise all administrative and technical activities of the National Personnel Authority, and plan, recruit, assign and direct officials of the National Personnel Authority. The Secretary-General shall act as the Director at the meetings of the National Personnel Authority.

(Prohibition of Officials of the National Personnel Authority from Holding Concurrent Positions)

Article 15 No Commissioner or Secretary-General shall concurrently hold any other government position.

(Rules and Directives of the National Personnel Authority)

Article 16 (1) In order to implement law, or as delegated by law, the National Personnel Authority shall enact rules of the National Personnel Authority, issue directives of the National Personnel Authority and establish procedures concerning affairs under its jurisdiction. The National Personnel Authority may revise or repeal its rules at any time at its own discretion.

- (2) Rules of the National Personnel Authority and their revision or repeal shall be promulgated in the Official Gazette.
- (3) The National Personnel Authority may issue directives of the National Personnel Authority to implement rules of the National Personnel Authority or take other measures under this Act.

(Investigation by the National Personnel Authority)

Article 17 (1) The National Personnel Authority, or any person designated by the

National Personnel Authority, may conduct investigations concerning matters relevant to personnel administration under its jurisdiction.

- (2) The National Personnel Authority, or persons designated pursuant to the provisions of the preceding paragraph, may, when necessary in conducting the investigations set forth therein, summon witnesses and demand the submission of documents, or copies thereof, found to be pertinent to the matters for investigation.
- (3) The National Personnel Authority, when it finds it necessary for the investigations set forth in paragraph (1) (limited to those conducted with regard to the maintenance of ethics pertaining to the duties of officials), may summon an official who is under investigation to appear and question him/her. The National Personnel Authority may also have the person who is designated pursuant to the provisions of the said paragraph, enter the place where the official under investigation works (including places where he/she has worked before as an official), inspect books and documents and other materials as necessary, and question the persons concerned.
- (4) A person who conducts an on-site inspection pursuant to the provisions of the preceding paragraph shall carry a certificate for identification, and show it to the persons concerned when requested.
- (5) Authority concerning on-site inspections as provided for in paragraph (3) shall not be construed as being the same as that authorized for criminal investigation.

(Delegation of Authority to the National Public Service Ethics Board)

Article 17-2 The National Personnel Authority shall delegate the authority provided for in the preceding Article (limited to those implemented with regard to the maintenance of ethics pertaining to the duties of officials, and excluding those for the appeals provided for in Article 90, paragraph (1)) to the National Public Service Ethics Board.

(Control of Payment of Remuneration)

- Article 18 (1) The National Personnel Authority shall control the payment of remuneration to officials.
- (2) No remuneration shall be paid to officials contrary to rules or directives of the National Personnel Authority.

(Prime Minister)

Article 18-2 (1) The Prime Minister shall, in accordance with applicable law, have authority over affairs concerning the ability to perform standard duties and basic policy on initial appointment and promotion, etc., personnel evaluation of officials (which means the evaluation of official's work

performance after understanding their abilities and achievements shown in the course of duty in order to form a basis for appointment, remuneration, status, and other personnel management; the same shall apply hereinafter), efficiency, welfare, service discipline, and retirement management, etc. of officials (except those particulars under the jurisdiction of the National Personnel Authority, pursuant to the provisions of Article 3, paragraph (2)).

- (2) In addition to those provided for in the preceding paragraph, the Prime Minister shall have authority over affairs concerning coordination and integration necessary for maintaining uniformity with regard to particulars such as policies and programs concerning personnel management which are applied by administrative organs with respect to their officials.

(Investigation by the Prime Minister)

Article 18-3 (1) The Prime Minister may conduct investigations concerning particulars relevant to the retirement management of officials (limited to those provided for from Article 106-2 to Article 106-4).

- (2) The provisions from paragraph (2) to paragraph (5) of Article 17 shall apply mutatis mutandis to the investigation provided for in the preceding paragraph. In this case, the phrase "The National Personnel Authority, or persons designated pursuant to the provisions of the preceding paragraph, may, when necessary in conducting the investigations set forth therein" in paragraph (2) of the said Article shall be deemed to be replaced with "The Prime Minister, may, when necessary in conducting the investigations set forth in Article 18-3, paragraph (1)," the phrase "for the investigation set forth in paragraph (1) (limited to that conducted with regard to the maintenance of ethics pertaining to the duties of officials)" in paragraph (3) of the said Article with "for the investigation set forth in Article 18-3, paragraph (1)," the phrase "an official who is under investigation" with "an official or a person that has been an official who is under investigation," the phrase "have the person who is designated pursuant to the provisions of the said paragraph, enter" with "enter."

(Delegation of Authority to the Reemployment Surveillance Commission)

Article 18-4 The Prime Minister shall delegate the authority provided for in the preceding Article to the Reemployment Surveillance Commission.

(Assistance by the Prime Minister, etc.)

Article 18-5 (1) The Prime Minister shall, upon separation of officials from service, provide assistance on new employment after the said separation from service.

- (2) The Prime Minister shall assist the smooth implementation of human

resource exchange between the government and the private sector (exchange through dispatch provided for in Article 2, paragraph (3) of the Act on Personnel Exchange between the Government Sector and Private Enterprise (Act No. 224 of 1999), or appointment pursuant to the proviso of Article 36 of persons who are currently employed or have been employed by private enterprises, and other exchanges specified by Cabinet Order as being equivalent thereto).

(Delegation of Affairs to the Center for Personnel Interchanges between the Government and Private Entities)

Article 18-6 The Prime Minister shall delegate affairs provided for in the preceding Article to the Center for Personnel Interchanges between the Government and Private Entities.

(The Center for Personnel Interchanges between the Government and Private Entities)

Article 18-7 (1) The Center for Personnel Interchanges between the Government and Private Entities shall be established within the Cabinet Office.

(2) The Center for Personnel Interchanges between the Government and Private Entities shall deal with the matters belonging to its authority pursuant to the provisions of this Act and other acts.

(3) The Chief Cabinet Secretary shall serve as Head of the Center for Personnel Interchanges between the Government and Private Entities.

(4) The Head of the Center for Personnel Interchanges between the Government and Private Entities shall superintend the affairs of the said Center for Personnel Interchanges between the Government and Private Entities.

(5) The Head of the Center for Personnel Interchanges between the Government and Private Entities may ask the heads of the relevant administrative organs for submission of materials, expression of opinions, explanations and other necessary cooperation, or state their own opinion when they find it necessary for performing affairs under the jurisdiction of the Center.

(6) The Center for Personnel Interchanges between the Government and Private Entities shall have a Deputy Head of the Center.

(7) The Deputy Head of the Center for Personnel Interchanges between the Government and Private Entities shall assist the duties of the Head of the Center.

(8) The Center for Personnel Interchanges between the Government and Private Entities shall have necessary officials.

(9) The Prime Minister may establish branch offices of the Center for Personnel Interchanges between the Government and Private Entities at necessary locations, in order to allot all or part of the affairs under the jurisdiction of the

Center.

- (10) In addition to what is provided for in paragraph (3) through the preceding paragraph, any important particulars concerning the organization of the Center for Personnel Interchanges between the Government and Private Entities shall be provided for by Cabinet Order.

(Personnel Records)

Article 19 (1) The Prime Minister shall administer matters concerning personnel records of the officials.

- (2) The Prime Minister shall prescribe that the Cabinet Office, ministries and other government organs prepare and retain personnel records inclusive of all particulars related to the personnel affairs of officials of such government organs.

- (3) The particulars to be entered in personnel records, the form thereof, and other necessary particulars concerning personnel records shall be provided for by Cabinet Orders.

- (4) Where it is found that the personnel records prepared and retained by the Cabinet Office or any ministry or other government organ contravene Cabinet Orders as provided for in the preceding paragraph, the Prime Minister may order revisions and take other necessary measures.

(Statistical Reports)

Article 20 (1) The Prime Minister shall, pursuant to the provisions of Cabinet Orders, provide for and implement a system of statistical reporting concerning the composition of officials.

- (2) When it is necessary in connection with the statistical reporting set forth in the preceding paragraph, the Prime Minister may require any government agency concerned to submit required reports on request or at specified times and in a specified format.

(Delegation of Authority)

Article 21 Of the authority granted pursuant to this Act, the National Personnel Authority or the Prime Minister may delegate certain authority to other government organs, pursuant respectively to the provisions of rules of the National Personnel Authority or Cabinet Orders. In such cases, the National Personnel Authority or the Prime Minister may direct and supervise the heads of those organs with regard to such affairs.

(Recommendations for Improvement of Personnel Administration)

Article 22 (1) The National Personnel Authority may make recommendations to the relevant minister or head of another government organ concerning

improvements in personnel administration.

(2) In the case referred to in the preceding paragraph, the National Personnel Authority shall report thereon to the Cabinet.

(Submission of Opinions on Enactment, Revision or Repeal of Laws and Regulations)

Article 23 The National Personnel Authority shall, when, for the realization of the purpose of this Act, it has opinions concerning the enactment or revision or repeal of laws and regulations, submit the said opinions to the Diet and to the Cabinet simultaneously.

(Report on Business)

Article 24 (1) The National Personnel Authority shall report annually to the Diet and the Cabinet on the state of its business.

(2) The Cabinet shall make public the report set forth in the preceding paragraph.

(Personnel Managers)

Article 25 (1) The Cabinet Office, the ministries and other such government organs as designated by Cabinet Orders, shall have a personnel manager.

(2) The personnel manager shall be the head of the bureau in charge of personnel affairs, and assist the head of the government organ set forth in the preceding paragraph by taking charge of matters pertaining to personnel affairs. In this case, the personnel manager shall maintain close liaison and cooperate with the Central Personnel Agencies.

Article 26 Deleted.

### **Chapter 3 Standards Applicable to Personnel**

#### **Section 1 General Rules**

(Principle of Equal Treatment)

Article 27 In the application of this Act, all citizens shall be accorded equal treatment and shall not be discriminated against due to race, creed, sex, social status, family origin; or due to political opinions or affiliations other than those provided for in item (v) of Article 38.

(Principle of Personnel Management)

Article 27-2 Appointment, remuneration and other personnel management of officials after initial appointment shall not be bound by the officials' seniority and the type of recruitment examination they passed, and shall be conducted appropriately based on personnel evaluation, except in cases provided for in

Article 58, paragraph (3).

(Principle of Meeting Changing Conditions)

Article 28 (1) The fundamental particulars concerning remuneration, working hours and other working conditions to be established pursuant to this Act may be changed at any time by the Diet to bring them into accord with general conditions in society as a whole. It shall be the duty of the National Personnel Authority to recommend such changes.

(2) The National Personnel Authority shall report to the Diet and the Cabinet simultaneously on the propriety of the current salary schedules not less than once each year. When it is found that changes in conditions affecting the determination of salaries requires an increase or decrease in salaries provided for in the salary schedules by 5 % or more, the National Personnel Authority, with such report thereon, shall make appropriate recommendations to the Diet and the Cabinet.

Article 29 Deleted.

Article 30 Deleted.

Article 31 Deleted.

Article 32 Deleted.

## **Section 2 Recruitment Examination, Appointment and Dismissal**

(Basic Standards for Appointment and Dismissal)

Article 33 (1) Appointment of an official shall, pursuant to the provisions of this Act, be made entirely based on his/her examination results, the results of his/her personnel evaluation or other demonstrated abilities.

(2) Dismissal of an official shall be based on grounds as provided for by law.

(3) In addition to those provided for in this Act, matters necessary for enforcing the basic standards provided for in the preceding two paragraphs shall be prescribed by rules of the National Personnel Authority.

### **Subsection 1 General Rules**

(Definitions)

Article 34 (1) In this Act, the meaning of the terms set forth in the following items shall be as prescribed respectively in those items:

(i) Initial Appointment: appointing a person other than an official to a

- government position (excluding temporary appointment).
- (ii) Promotion: appointing an official to a government position of a higher level of the classified job ladder than the one which the said official is currently appointed to.
  - (iii) Demotion: appointing an official to a government position of a lower level of the classified job ladder than the one which the said official is currently appointed to.
  - (iv) Transfer: appointing an official to a government position other than the government position which the said official is currently appointed to, and which does not fall under those provided for in the preceding two items.
  - (v) Ability to perform standard duties: ability specified by the Prime Minister as that is required to be shown in the course of carrying out duties of the standard government position of the classified job ladder.
- (2) The standard government positions set forth in item (v) of the preceding paragraph shall be officers, unit chiefs, assistant directors, directors and other government positions, and shall be specified by Cabinet Order in accordance with the classified job ladder and the types of official duties.

(Method of Filling Vacancies)

Article 35 When a government position becomes vacant, an appointer, except as otherwise provided for by law or by rules of the National Personnel Authority, may appoint an official by any one of the following methods: initial appointment, promotion, demotion or transfer; provided, however, that this shall not apply to cases where the National Personnel Authority finds special necessity to and designates the method of appointment.

(Method of Initial Appointment)

Article 36 Initial appointment of officials shall be made through competitive examinations; provided, however, that in cases where it is provided for by rules of the National Personnel Authority, this provision shall not preclude such appointment by means of examinations based on demonstrated abilities other than through competitive examinations (hereinafter referred to as "selection").

Article 37 Deleted.

(Provisions for Disqualification)

Article 38 No person falling under any of the following items shall be eligible to assume a government position except as provided for by rules of the National Personnel Authority:

- (i) An adult ward or a person under curatorship;
- (ii) A person who has been sentenced to imprisonment or severer punishment,



- and of whom the execution of the sentence has not been completed or who has not yet ceased to be amenable to the execution of the sentence;
- (iii) A person who was dismissed by a disciplinary action and for whom period of two years has not expired since the day of that disposition;
  - (iv) A person who has committed a crime provided for in Articles 109 to 112 inclusive when he/she served as a Commissioner or Secretary-General of the National Personnel Authority, and has been punished;
  - (v) A person who, on or after the date of the enforcement of the Constitution of Japan, formed or belonged to a political party or other organization which advocated the overthrow by force of the Constitution of Japan or the government established thereunder.

(Prohibition of Illegal Acts Concerning Personnel Affairs)

Article 39 No person shall, for the purpose of realizing any cases that fall under any of the following items, pay or receive, offer, demand, or promise to pay or receive money or other interest, use intimidation, compulsion or any other similar methods, directly or indirectly utilize or offer, demand or promise to utilize his/her public status, or in any way participate in such acts:

- (i) Retirement or temporary retirement, or failure to accept appointment;
- (ii) Revocation of his/her application for a competitive examination for initial appointment (hereinafter referred to as "recruitment examination") or appointment, or suspension of competition for appointment;
- (iii) Realizing or recommending appointment, salary increase, retention or other interest concerning a government position.

(Prohibition of Fraud Concerning Personnel Affairs)

Article 40 No person shall make any false or wrongful statement, entry, certification, scoring, appraisal or report with regard to recruitment examination, selection, appointment or personnel records.

(Prohibition Against Impeding the Right to Examination or Appointment or Providing Information)

Article 41 No person belonging to any examining body or other official shall impede the taking of an examination, or appointment, or provide any special or confidential information for the purpose of exerting unjust influence on the taking of examinations or appointment.

## **Subsection 2 Recruitment Examination**

(Holding Recruitment Examinations)

Article 42 Recruitment examinations shall be held pursuant to rules of the

National Personnel Authority.

(Disqualification for Taking Examinations)

Article 43 Persons who are ineligible due to lack of qualifications provided for in Article 44 or who otherwise are ineligible to assume a government position may not compete in examinations.

(Eligibility Requirements for Taking Examinations)

Article 44 The National Personnel Authority may, by rules of the National Personnel Authority, provide for the minimum objective and uniform requirements indispensable to the performance of duties in accordance with government positions as the necessary qualifications for examinees.

(Content of Recruitment Examinations)

Article 45 The purpose of recruitment examinations shall be to determine whether the examinee has the ability to perform standard duties of the standard government position of the classified job ladder for which the said recruitment examination is being held, and aptitude required for the position for which the said recruitment examination is being held.

(Recruitment Examinations to be Open and Equal)

Article 46 Recruitment examinations shall be open to and have equal conditions for any citizen who possesses the qualifications for taking them, which are provided for by rules of the National Personnel Authority.

(Announcement of Recruitment Examinations)

Article 47 (1) Announcement of recruitment examinations shall be by public notice.

(2) The announcement set forth in the preceding paragraph shall state the outline of the duties and responsibilities and the remuneration of the government positions pertaining to the recruitment examination, the requisite qualifications for taking the examination, the time and place of the recruitment examination, where, when and how application forms may be secured and submitted, and other qualifying procedures which are observed, and other related information which the National Personnel Authority finds necessary to provide.

(3) The public notice provided for in paragraph (1) shall, pursuant to rules of the National Personnel Authority, be given publicity in such a way that all details necessary for taking the examination may become widely known to all persons qualified for taking such examination.

(4) The National Personnel Authority shall endeavor at all times to secure the

participation of persons deemed qualified to take examinations.

(5) Recruitment examinations announced or in progress may be rescinded or changed by the National Personnel Authority.

(Examining Bodies)

Article 48 Recruitment examinations shall, pursuant to rules of the National Personnel Authority, be conducted by examining bodies designated by the National Personnel Authority.

(Time and Place of Recruitment Examinations)

Article 49 The time and place of recruitment examinations shall be decided on so that they are accessible within reason for any person qualified to take them within Japan.

### **Subsection 3 Lists of Candidates for Initial Appointment**

(Preparation of Lists)

Article 50 With regard to initial appointment of officials by recruitment examinations, a list of candidates for initial appointment shall be prepared pursuant to rules of the National Personnel Authority.

(Persons to be Entered into the List of Candidates for Initial Appointment)

Article 51 The names and examination scores of persons who have achieved a passing score or better in recruitment examinations shall be entered into the list of candidates for initial appointment as eligible to be appointed for the government positions concerned.

(Inspection of Lists)

Article 52 The list of candidates for initial appointment shall be available for inspection at all times upon request by the examinees, appointers, and other persons concerned.

(Invalidation of Lists)

Article 53 The National Personnel Authority may, at its discretion, invalidate lists of candidates for initial appointment when one year or more has passed since the said lists were prepared, or at any time due to one of the reasons specified by the National Personnel Authority.

### **Subsection 4 Appointment**

(Basic Policy on Initial Appointment, Promotion, etc.)

- Article 54 (1) The Prime Minister shall, from the viewpoint of securing the efficient performance of public duties, prepare a proposal of a basic policy to secure appropriate and effective operation of the system that governs initial appointment, promotion, demotion and transfer of officials (hereinafter referred to as the "Basic Policy on Initial Appointment, Promotion, etc.") through consultation in advance with appointers provided for in paragraph (1) of the following Article or provided for in other Acts, and request a Cabinet decision.
- (2) The Basic Policy on Initial Appointment, Promotion, etc. shall prescribe the following particulars:
- (i) Basic guidelines for appropriate and effective operation of the system that governs initial appointment, promotion, demotion and transfer of officials;
  - (ii) Guidelines for initial appointment from the list of candidates for initial appointment set forth in Article 56 and initial appointment by means of selection set forth in Article 57;
  - (iii) Guidelines for promotion and transfer set forth in Article 58;
  - (iv) In addition to what is listed in the preceding three items, necessary particulars to secure the appropriate and effective operation of the system that governs initial appointment, promotion, demotion and transfer of officials.
- (3) When a Cabinet decision is made under paragraph (1), the Prime Minister shall make public the Basic Policy on Initial Appointment, Promotion, etc. without delay.
- (4) The provisions of paragraph (1) and the preceding paragraph shall apply *mutatis mutandis* to amendments to the Basic Policy on Initial Appointment, Promotion, etc.
- (5) An appointer shall initially appoint, promote, demote, and transfer officials in accordance with the Basic Policy on Initial Appointment, Promotion, etc.

(Appointers)

Article 55 (1) Unless otherwise provided for by laws, appointive power shall be vested in the Cabinet, each Minister (this refers to the Prime Minister and Ministers of each Ministry; the same shall apply hereinafter), the President of the Board of Audit, the President of the National Personnel Authority, the Grand Steward of the Imperial Household Agency, and the heads of each external bureau. The appointive power held by the head of these organs shall be restricted to government positions within their organizational structure, while the appointive power of the Cabinet shall be restricted to government positions within the organizations directly attached to it (excluding the Cabinet Office); provided, however, that the power to appoint heads of external bureaus shall be vested in each Minister.

- (2) The appointer who is the head of an administrative organ provided for in the preceding paragraph may delegate such appointive power only to a high-ranking official within such organ. All such delegations shall be presented to the National Personnel Authority in writing in advance of the effective date.
- (3) No person shall be appointed, employed, promoted or transferred or assigned to any government position who has not met the requirements provided for in this Act, rules and directives of the National Personnel Authority.

(Initial Appointment from the List of Candidates for Initial Appointment)

Article 56 The initial appointment of an official from a list of candidates for initial appointment shall be made by an appointer, taking into consideration the result of an interview conducted by an appointer for a person on the said list.

(Initial Appointment by Means of Selection)

Article 57 The initial appointment of an official by means of selection shall be made by an appointer from among persons who are found to have the ability to perform standard duties of the standard government position of the classified job ladder pertaining to the position to be filled, and aptitude required for the position to be filled.

(Promotion, Demotion and Transfer)

Article 58 (1) The promotion and transfer of an official shall be made by an appointer, based on the personnel evaluation, from among persons who are found to have the ability to perform standard duties of the standard government position of the classified job ladder pertaining to the position to be filled and aptitude required for the position to be filled.

(2) In cases where an appointer demotes an official, he/she shall appoint the official, based on the personnel evaluation of the said official, to a government position which the said official is found to have the ability to perform standard duties of the standard government position of the classified job ladder pertaining to the position to be filled and aptitude required for the position to be filled.

(3) With regard to the promotion, demotion and transfer of an official who has not had personnel evaluation due to circumstances such as having been dispatched to an international organization or a private enterprise, etc., notwithstanding the provisions of the preceding two paragraphs, an appointer may promote, demote or transfer the said official, based on demonstrated abilities other than those demonstrated by personnel evaluation, to a government position in consideration of the ability of the said official to perform standard duties of the standard government position of the classified

job ladder pertaining to the position to be filled and aptitude required for the position to be filled.

(Conditional Period of Appointment)

Article 59 (1) The initial appointment or promotion of officials to every government position in the regular service shall be considered conditional and shall become regular only after the appointee has served in the government position concerned for a period of not less than 6 months during which he/she had performed satisfactorily the duties of that position.

(2) Necessary particulars concerning conditional initial appointment or the establishment of a conditional period of initial appointment exceeding 6 months shall be prescribed by rules of the National Personnel Authority.

(Temporary Appointment)

Article 60 (1) An appointer, pursuant to rules of the National Personnel Authority, may effect, with the approval of the National Personnel Authority, temporary appointment with a term of office not exceeding 6 months, in emergencies, in temporary government positions or in instances when a list of candidates for initial appointment does not exist. In such cases, such appointment may, with the approval of the National Personnel Authority pursuant to rules of the National Personnel Authority, be renewed for a period of 6 months, but may not be renewed a second time.

(2) The National Personnel Authority may, with respect to temporary appointments, limit the number of persons so appointed or specify qualifications of persons to be so appointed.

(3) The National Personnel Authority may rescind any temporary appointment which violates the provisions of the preceding two paragraphs or rules of the National Personnel Authority.

(4) Temporary appointment shall not in any way confer priority for permanent appointment.

(5) In addition to what is provided for in the preceding paragraphs, this Act and rules of the National Personnel Authority shall be applied to temporary appointees.

**Subsection 5 Temporary Retirement, Reinstatement, Retirement and Dismissal**

(Temporary Retirement, Reinstatement, Retirement and Dismissal)

Article 61 The temporary retirement, reinstatement, retirement, and dismissal of officials shall be effected by the appointer, subject to this Act and rules of the National Personnel Authority.

### **Section 3 Remuneration**

(Basic Standard for Remuneration)

Article 62 Remuneration to officials shall be paid on the basis of the duties and responsibilities of their government positions.

#### **Subsection 1 General Rules**

(Payment of Remuneration under Law)

Article 63 Remuneration to officials shall be paid under law provided for separately, and, unless provided for therein, no money or valuables of any kind may be given as payment.

(Salary Schedules)

Article 64 (1) Salary schedules shall be provided for in the law set forth in the preceding article (hereinafter referred to as "the Act on Remuneration").

(2) Salary schedules, which shall be determined after taking into consideration the cost of living, prevailing wage rates of the private sector and other appropriate circumstances determined by the National Personnel Authority, shall include a clearly specified range for the amount of salary for each grade.

(Particulars to be Provided for in the Act on Remuneration)

Article 65 (1) In addition to the salary schedules set forth in the preceding Article, the following items shall be provided for in the Act on Remuneration:

- (i) Particulars concerning standards for the determination of salary, such as initial salary, and salary increase;
- (ii) Particulars concerning remuneration to be paid after taking into consideration the peculiarities of the government positions or duties;
- (iii) Particulars concerning remuneration to be paid after taking into consideration the supporting of relatives and other circumstances related to the livelihood of the officials;
- (iv) Particulars concerning remuneration to be paid after taking into consideration the circumstances of the area where the officials work;
- (v) Particulars concerning remuneration for overtime, night and holiday work;
- (vi) Particulars concerning remuneration to be paid specially at the end of the year, etc., after taking into consideration the state of performance over a certain period of time;
- (vii) Particulars concerning remuneration of officials who hold government positions not requiring full-time service.

(2) The standards set forth in item (1) of the preceding paragraph shall be

determined after taking into consideration length of service, efficiency of service and other service-related requirements.

Article 66 Deleted.

(Revision of Particulars Provided for in the Act on Remuneration)

Article 67 The National Personnel Authority, in addition to what is provided for in Article 28, paragraph (2) shall regularly conduct necessary investigations and research concerning the particulars as provided for in the Act on Remuneration and shall, when it finds it necessary to revise them, prepare revision proposals without delay and make recommendations to the Diet and the Cabinet.

### **Subsection 2 Payment of Remuneration**

(Payrolls)

Article 68 (1) A person who pays remuneration to officials shall first prepare a payroll with regard to recipients.

(2) Payrolls shall be kept available for audit by officials of the National Personnel Authority at all times.

(3) Except for those provided for in the preceding two paragraphs, necessary particulars concerning payrolls shall be provided for by rules of the National Personnel Authority.

(Auditing of Payrolls)

Article 69 When it is necessary to ensure that payment of remuneration is made to officials in compliance with laws and regulations, rules of the National Personnel Authority or directives of the National Personnel Authority, the National Personnel Authority may audit payrolls and order rectifications when it finds it necessary to do so.

(Measures Against Illegal Payment)

Article 70 In cases where it is discovered that payment of remuneration has been made in violation of laws and regulations, rules of the National Personnel Authority or directives of the National Personnel Authority, the National Personnel Authority, in addition to taking appropriate measures on the matters under its own jurisdiction shall, when it finds it necessary to do so and according to the nature of the case, report this to the Board of Audit or notify a public prosecutor of this.

### **Section 4 Personnel Evaluation**



(Basic Standards for Personnel Evaluation)

Article 70-2 Personnel evaluation of officials shall be conducted impartially.

(Implementation of Personnel Evaluation)

Article 70-3 (1) Personnel evaluation of officials shall be periodically conducted by the head of the government agency appointing those officials.

(2) Particulars concerning standards and methods for personnel evaluation and other necessary particulars concerning personnel evaluation shall be prescribed by Cabinet Order, after hearing the opinions of the National Personnel Authority.

(Measures Based on Personnel Evaluation)

Article 70-4 (1) The head of the government agency appointing officials shall take appropriate measures as may be called for by the findings of the personnel evaluation set forth in paragraph (1) of the preceding Article.

(2) The Prime Minister shall plan particulars concerning commendation of persons with excellent work performance and corrective measures for those with extremely poor performance, and take appropriate measures thereon.

## **Section 5 Efficiency**

(Basic Standards for Efficiency)

Article 71 (1) Effort shall be made to fully develop and improve the efficiency of officials.

(2) Except for those provided for in this Act, particulars necessary for enforcing the basic standards set forth in the preceding paragraph shall be prescribed by rules of the National Personnel Authority.

(3) The Prime Minister (the National Personnel Authority, in the case of Article 73, paragraph (1), item (i)) shall conduct research and studies concerning development and improvement of the efficiency of officials and take appropriate steps to assure the attainment of this objective.

Article 72 Deleted.

(Programs for Improving Efficiency)

Article 73 (1) For the purpose of developing and improving the work efficiency of officials, the Prime Minister (the National Personnel Authority, in the case of item (i)) and the head of the relevant agency shall formulate programs and exercise diligence in administering them in the following areas:

(i) Training of officials;

- (ii) Health of officials;
  - (iii) Recreation for officials;
  - (iv) Maintaining the safety of officials;
  - (v) Welfare of officials.
- (2) With regard to formulation and administration of the programs set forth in the preceding paragraph, the Prime Minister (the National Personnel Authority, in the case of item (i) of the said paragraph) shall be responsible for their comprehensive planning, coordination with relevant agencies, and oversight of such agencies.

## **Section 6 Status, Disciplinary Action and Guarantee**

(Basic Standard for Status, Disciplinary Action and Guarantee)

- Article 74 (1) With regard to their status, disciplinary action and guarantee, officials shall be treated equitably.
- (2) Except for those provided for in this Act, particulars necessary for enforcing the basic standard provided for in the preceding paragraph shall be prescribed by rules of the National Personnel Authority.

### **Subsection 1 Status**

#### **Division 1 Demotion, Temporary Retirement, Dismissal, etc.**

(Guarantee of Status)

- Article 75 (1) Officials shall not be demoted, temporarily retired or dismissed against their will, unless there are grounds to do so provided for by law or rules of the National Personnel Authority.
- (2) Officials shall suffer a reduction in pay when there are grounds for such a reduction provided for by rules of the National Personnel Authority.

(Forfeiture of Position Due to Disqualification)

- Article 76 When officials come to fall under any of the items of Article 38, they shall automatically forfeit their position, except in cases provided for by rules of the National Personnel Authority.

(Separation from Service)

- Article 77 Provisions for separation of officials from service shall be provided for by this Act and rules of the National Personnel Authority.

(Demotion and Dismissal against an Official's Will)

- Article 78 In cases where an official falls under any of the following items, he/she may be demoted or dismissed against his/her will, pursuant to rules of

the National Personnel Authority:

- (i) When his/her work performance is deemed not satisfactory in light of personnel evaluation or facts that show the state of his/her performance;
- (ii) When due to a mental or physical disorder, he/she has difficulty or is incompetent in performing his/her duties;
- (iii) When he/she otherwise lacks the qualifications required for his/her government position;
- (iv) When his/her position is abolished or he/she becomes redundant due to a revision or repeal of the laws and regulations concerning the administrative organization or of the ceiling of the number of officials, or as a result of a reduction in budget.

(Temporary Retirement against an Official's Will)

Article 79 In cases where an official falls under any of the following items, or in other cases established by rules of the National Personnel Authority, he/she may be temporarily retired against his/her will:

- (i) When he/she requires a prolonged period of rest due to a mental or physical disorder;
- (ii) When he/she is prosecuted with respect to a criminal case.

(Effect of Temporary Retirement)

Article 80 (1) The period of temporary retirement as prescribed in item (i) of the preceding Article shall be provided for by rules of the National Personnel Authority. If a disorder abates during the period of temporary retirement, the temporary retirement shall be deemed to have automatically terminated and reinstatement shall be ordered promptly.

- (2) The period of temporary retirement prescribed in item (ii) of the preceding Article shall be the period of time that such case is pending in court.
- (3) Any temporary retirement shall be deemed to have automatically terminated when the reason for such temporary retirement is extinguished.
- (4) Although an official on temporary retirement still retains his/her status as an official, he/she does not attend to his/her duties during this time. He/she shall not receive remuneration of any kind during the period of his/her temporary retirement unless specifically provided for in the Act on Remuneration.

(Exclusion from Application)

Article 81 (1) With regard to the status (excluding particulars pertaining to the mandatory retirement age, the same shall apply for the next paragraph) of officials listed below, the provisions of Article 75, and Article 78 to the preceding Article inclusive, and Article 89, and the provisions of the Administrative Appeal Act (Act No. 160 of 1962) shall not apply:

- (i) Temporary officials;
  - (ii) Officials currently serving during a period of conditional initial appointment.
- (2) With regard to the status of officials listed in the items of the preceding paragraph, necessary particulars may be provided for by rules of the National Personnel Authority.

## **Division 2 Mandatory Retirement Age**

### (Retirement at the Mandatory Age)

Article 81-2 (1) Unless otherwise prescribed by laws, when an official reaches the mandatory retirement age, he/she shall retire on whichever day comes earlier (hereinafter referred to as the "mandatory retirement day"); the first March 31 after he/she reaches the mandatory retirement age (or March 31, in cases where March 31 is the actual day he/she reaches the mandatory retirement age) or the day which is designated in advance by an appointer, provided for in Article 55, paragraph (1) or provided for in other laws.

(2) The mandatory retirement age set forth in the preceding paragraph shall be 60 years of age; provided, however, that the mandatory retirement age for officials listed in each of the following items shall be as provided for in each respective item:

(i) Doctors and dentists working at hospitals, sanatoriums, clinics, etc. which shall be provided for by rules of the National Personnel Authority: 65 years of age;

(ii) Those provided for by rules of the National Personnel Authority, who engage in the guarding or other maintenance of government buildings and equivalent businesses: 63 years of age;

(iii) In addition to those officials listed in the preceding two items, officials provided for by rules of the National Personnel Authority, who hold positions for which the mandatory retirement age of 60 is found to be extremely inappropriate because their duties and responsibilities have peculiarities or it is difficult to fill vacancies in those positions: age provided for respectively by rules of the National Personnel Authority, which shall be over 60 but not more than 65.

(3) The provisions in the preceding two paragraphs shall not apply to temporary officials or other officials appointed with a term of office which is provided for by law, and officials who hold government positions not requiring full-time service.

### (Special Provisions for Retirement at the Mandatory Age)

Article 81-3 (1) If an official who has reached the mandatory retirement age is

about to retire pursuant to the provisions of paragraph (1) of the preceding Article, an appointer may keep him/her in his/her present position, notwithstanding the provisions of the said paragraph, setting a term within the limit of not more than one year from the day following the date of his/her mandatory retirement day, in order to let him/her continue to perform his/her duties, when there are sufficient reasons for concluding that his/her retirement may cause extreme difficulty in administering public duties in view of the peculiarities of his/her duties or special circumstances of the performance of his/her duties.

- (2) In cases where the term set forth in the preceding paragraph or the term extended pursuant to the provisions of this paragraph is about to expire, an appointer may extend the term within the limit of not exceeding one year, with the approval of the National Personnel Authority, if there are sufficient reasons for concluding that there are still grounds set forth in the preceding paragraph; provided, however, that the extended term shall not exceed 3 years from the day following the date of the mandatory retirement day pertaining to the official concerned.

(Reappointment of a Person who Mandatorily Retired, etc.)

Article 81-4 (1) An appointer may appoint a person, who retired pursuant to the provisions of Article 81-2, paragraph (1), who retired after completing his/her service pursuant to the provisions of the preceding Article, or who is specified by rules of the National Personnel Authority from among the persons who retired before the mandatory retirement age and who shall, after considering particulars such as the length of service, etc., be dealt with in the same manner as those who retired at the mandatory retirement age (hereinafter referred to as "a person who mandatorily retired, etc."), or who is specified by rules of the National Personnel Authority from among persons who retired pursuant to the provisions of the Self-Defense Forces Act (Act No. 165 of 1954) and shall be dealt with in the same manner as those who retired at the mandatory retirement age, etc. (referred to as "a person who mandatorily retired, etc. under the Self-Defense Forces Act" in the following Article), by means of selection based on his/her previous work performance, etc., to a position requiring full-time service, with a term of office not exceeding one year ; provided, however, that this shall not apply to a person who has not reached the mandatory retirement age pertaining to the government position concerned.

- (2) The term of office set forth in the preceding paragraph, or the term of office renewed pursuant to the provisions of this paragraph, may be renewed within a limit not exceeding one year.
- (3) The last day of the term of office set pursuant to the provisions of the

preceding two paragraphs shall be the day no later than the first March 31 after he/she reaches 65 years of age (or March 31, in cases where March 31 is the actual day he/she reaches 65 years of age).

Article 81-5 (1) An appointer may appoint a person who mandatorily retired, etc. or a person who mandatorily retired, etc. under the Self-Defense Forces Act, by means of selection based on his/her previous work performance, etc. to a short-time government position (which means a government position where the normal working hours per week of an official who holds such position is shorter than that of an official who holds a full-time position with similar duties; the same shall apply in paragraph (3)), with the term of office not exceeding one year.

(2) For the term of office of the official appointed pursuant to the provisions of the preceding paragraph, the provisions of paragraphs (2) and (3) in the preceding Article shall be applied mutatis mutandis.

(3) With regard to short-time government positions, a person from among those who mandatorily retired, etc. and those who mandatorily retired, etc. under the Self-Defense Forces Act may be appointed, only if he/she has reached the mandatory retirement age pertaining to the said government position in the case where the provisions of paragraphs (1) and (2) of Article 81-2 shall be deemed applicable.

(Adjustment of Affairs Concerning the Mandatory Retirement Age)

Article 81-6 In order to ensure the proper administration of affairs concerning the mandatory retirement age of officials, the Prime Minister shall initiate coordination as may be required with regard to the administration of such affairs by administrative organs, conduct research and study of measures concerning enforcement of the mandatory retirement age system for officials, and take appropriate measures for matters within his/her jurisdiction.

## **Subsection 2 Disciplinary Action**

(Instances of Disciplinary Action)

Article 82 (1) When an official falls under any of the following items, he/she may, as disciplinary action, be dismissed, suspended from duty, suffer a reduction in pay or be reprimanded :

(i) When he/she has violated this Act, the National Public Service Ethics Act or orders issued pursuant to these laws (including the official directives pursuant to the provisions of Article 5, paragraph (3) of the National Public Service Ethics Act, and the codes pursuant to the provisions of paragraph (4) of the same Article);

- (ii) When he/she has breached his/her obligations in the course of his/her duties or has neglected his/her duties;
  - (iii) When he/she is guilty of malfeasance rendering him/herself unfit to fulfill his/her role as a servant of all citizens.
- (2) In cases where an official who retired, upon request of an appointer to become a national public servant in the special service, a local public servant, or an employee of the Okinawa Development Finance Corporation or any other corporation designated by rules of the National Personnel Authority from among corporations whose business is closely related to that of the national government (hereinafter referred to as "a national public servant in the special service, etc." in this paragraph), was continuously appointed as a national public servant in the special service, etc., and then was continuously appointed as an official on the premise of the said retirement (including cases where an official who held the position of a national public servant in the special service, etc., continuously held one or more government positions in the special service, etc., and was continuously appointed as an official on the premise of the said retirement) falls under any of the items in the preceding paragraph during the continuous period of holding office as an official up to the said retirement (in cases of an official who, before the said retirement, had a similar retirement (hereinafter referred to as "the previous retirement" in this paragraph), had held office as a national public servant in the special service, etc., and had held office as an official, the period up to the previous retirement is included, hereinafter referred to as "the period of holding office as an official up to the previous retirement responding to the request" in this paragraph), any of the disciplinary actions prescribed in the said paragraph may be taken. In cases where an official who is appointed pursuant to the provisions of Article 81-4, paragraph (1) or of Article 81-5, paragraph (1) falls under any of the items of the preceding paragraph during the continuous period of holding office as an official up to the day when he/she mandatorily retired, etc. (including the period of holding office as an official up to the previous retirement responding to the request), or the period that he/she had held office as an official after the appointment pursuant to the provisions of Article 81-4, paragraph (1) or of Article 81-5, paragraph (1), the same also shall apply.

(Effect of Disciplinary Action)

- Article 83 (1) The period of suspension from duty shall be provided for by rules of the National Personnel Authority within the limit of not exceeding one year.
- (2) Although an official suspended from duty still retains his/her status as an official, he/she does not attend to his/her duties during this time. He/she may not receive remuneration of any kind during the period of suspension except under the provisions of Article 92.

(Administrator of Disciplinary Action)

Article 84 (1) Disciplinary action shall be administered by an appointer.

(2) The National Personnel Authority may initiate disciplinary proceedings against officials through investigation as provided for in this Act.

(Delegation of Authority to the National Public Service Ethics Board)

Article 84-2 The National Personnel Authority shall delegate the authority provided for in paragraph (2) of the preceding Article (limited to those implemented with regard to the acts violating the National Public Service Ethics Act or orders issued thereunder (including the official directives pursuant to the provisions of Article 5, paragraph (3) and codes pursuant to the provisions of paragraph (4) of the same Article of the said Act)) to the National Public Service Ethics Board.

(Relation with Criminal Court)

Article 85 Even while a case which is to be subject to disciplinary action is pending in the criminal court, disciplinary proceedings may be taken for the same case at the discretion of the National Personnel Authority or the appointer with the approval of the National Personnel Authority. Any disciplinary action under this Act shall not preclude the official involved from being subjected to criminal prosecution for the same or related cases.

### **Subsection 3 Guarantee**

#### **Division 1 Request for Administrative Action on Working Conditions**

(Request for Administrative Action on Working Conditions)

Article 86 Officials may make requests to the National Personnel Authority that appropriate administrative action be accorded by the National Personnel Authority, the Prime Minister, or the head of the government agency appointing that official, relative to salary, compensation, or any other working conditions.

(Review and Determination of Cases)

Article 87 When a request provided for in the preceding Article is received, the National Personnel Authority shall conduct investigations, hearings or other fact-finding reviews as it finds necessary, and reach a determination on the case with due regard to equity to the general public and the persons concerned and in terms of developing and improving the efficiency of officials.

(Measures to be Taken as a Result of Determinations)



Article 88 When the National Personnel Authority finds it necessary to take certain measures with regard to working conditions based on the determinations provided for in the preceding Article, it shall implement its own measures on the matters under its jurisdiction, and recommend the Prime Minister or the head of the government agency appointing that official to take measures on other matters.

### **Division 2 Review of Disadvantageous Dispositions Made against the Will of Officials**

(Delivery of Written Explanations Concerning Dispositions such as Reduction in Pay, etc., Made against Official's Will)

Article 89 (1) When an official, against his/her will, has his/her pay reduced, or is demoted, temporarily retired, dismissed or otherwise subjected to a significantly disadvantageous disposition, or is about to be administered disciplinary action, the person making such disposition shall deliver a written explanation setting forth the reasons for the said disposition to the official at the time of such disposition.

(2) In cases where an official considers that he/she has been subjected to a significantly disadvantageous disposition provided for in the preceding paragraph, he/she may request delivery of the written explanation set forth in the said paragraph.

(3) The written explanation referred to in paragraph (1) shall contain a statement to the effect that an appeal to the said disposition may be filed to the National Personnel Authority, and the period of time for filing such appeal.

(Appeals)

Article 90 (1) Officials subject to the disposition provided for in paragraph (1) of the preceding Article may file an appeal under the Administrative Appeal Act (request for examination or filing of objection) only to the National Personnel Authority.

(2) In addition to those dispositions provided for in paragraph (1) of the preceding Article or dispositions otherwise provided for by law, officials may not file an appeal under the Administrative Appeal Act with regard to the dispositions made against them. The same shall apply to any inaction with regard to the applications filed by officials.

(3) The provisions of Sections 1 to 3 inclusive of Chapter II of the Administrative Appeal Act shall not apply to the appeals provided for in paragraph (1) of this Article.

(Period for Appeals)

Article 90-2 An appeal provided for in paragraph (1) of the preceding Article shall be filed within 60 days from the day following the date when the official concerned received the written explanation of the disposition, and may not be filed after a period of one year has passed since the day following the date when the disposition was made.

(Investigation)

Article 91 (1) On receipt of the appeal provided for in Article 90, paragraph (1), the National Personnel Authority, or any organ designated by the National Personnel Authority, shall immediately investigate the case.

(2) In the cases provided for in the preceding paragraph, a hearing shall be accorded if so requested by the official subject to the disposition. If so requested by the official concerned, the hearing shall be open to the public.

(3) The person who made the disposition or his/her deputy, and the official subject to the disposition may appear at all the hearings, appoint legal counsel as his/her representative, make statements, present witnesses, and submit documents, records and any other pertinent facts and data.

(4) Persons other than those listed in the preceding paragraph may submit to the National Personnel Authority any facts and data concerning the case.

(Measures to be Taken as a Result of Investigation)

Article 92 (1) If, as a result of the investigation provided for in the preceding Article, it is found that there are grounds for the disposition to be made, the National Personnel Authority shall approve or at its discretion revise the disposition.

(2) If, as a result of the investigation provided for in the preceding Article, it is found that there are no grounds for the disposition to be made against the official, the National Personnel Authority shall rescind the disposition and take such action as may be necessary and advisable to restore the official's rights and rectify any injustice that may have been done to him/her due to such disposition. The National Personnel Authority shall instruct that the official be paid any salary lost due to such disposition.

(3) Determinations set forth in the preceding two paragraphs shall be final and subject to review only by the National Personnel Authority pursuant to its rules.

(Relation Between Appeals and Lawsuits)

Article 92-2 With regard to any of the dispositions which are provided for in Article 89, paragraph (1) of which officials may file a request for examination, or against which officials may file an objection to the National Personnel Authority, no lawsuit may be filed for the rescission of such dispositions until

after the National Personnel Authority has rendered a judgment or a decision on the said request or objection.

### **Division 3 Compensation for Injury and Disease Incurred in the Line of Public Duty**

(Compensation for Injury and Disease Incurred in the Line of Public Duty)

Article 93 (1) A system of compensating the official him/herself and his/her immediate dependents for damage due to the death, injury or disease of the official incurred in the line of public duty or the death of the official resulting from injury or disease incurred in the line of public duty shall be established and enforced.

(2) The compensation system provided for in the preceding paragraph shall be provided for by law.

(Particulars to be Provided for in Act)

Article 94 In the compensation system set forth in the preceding Article, the following particulars shall be provided for:

(i) Particulars concerning protection of the official against economic poverty during periods of incapacity resulting from injury or disease incurred in the line of public duty;

(ii) Particulars concerning compensation to the official for damage due to permanent or prolonged harm to his/her earning capacity resulting from injury or disease incurred in the line of public duty;

(iii) Particulars concerning compensation to the bereaved family of the official or those who depended on the income of the official at the time of his/her death, for damage due to the death of the official resulting from injury or disease incurred in the line of public duty.

(Responsibility for Drafting and Administering the Compensation System)

Article 95 The National Personnel Authority shall conduct studies on the compensation system, submit the results thereof to the Diet and the Cabinet and administer such a program as promptly as possible.

### **Section 7 Service Discipline**

(Basic Standards for Service Discipline)

Article 96 (1) Every official, as a servant of all citizens, shall serve the public interest, and devote his/her utmost effort in the performance of his/her duties.

(2) Except for those specified by this Act or the National Public Service Ethics Act, particulars necessary for enforcing the basic standards prescribed in the

preceding paragraph shall be provided for by rules of the National Personnel Authority.

(Oath of Service)

Article 97 Officials shall take an oath of service, as provided for by Cabinet Order.

(Obligation to Obey Laws and Regulations and Orders of Superiors; Prohibition of Acts of Dispute, etc.)

Article 98 (1) Officials shall, in the performance of their duties, comply with laws and regulations and faithfully observe the orders of their superiors in the course of duties.

(2) Officials shall not strike or engage in slowdown or other acts of dispute against the public represented by the government as their employer, or resort to slowdown which reduce the efficiency of government operations, nor shall any person attempt, or conspire to effect, instigate or incite such illegal acts.

(3) Any official who resorts to a strike or other acts violating the provisions of the preceding paragraph may not, with the commencement of such acts, be asserted against the national government with the rights to appointment or employment possessed by him/herself under laws and regulations.

(Prohibition of Acts Causing Discredit)

Article 99 No official shall act in such a way as to discredit his/her government position or bring dishonor upon all the government positions.

(Obligation to Preserve Secrecy)

Article 100 (1) An official shall not divulge any secret which may have come to his/her knowledge in the course of his/her duties. This shall also apply after he/she has left his/her position.

(2) In order for an official to make a statement concerning any secret in the course of his/her duties as a witness, an expert witness or in other capacities provided for by laws and regulations, he/she shall require the permission of the head of the government agency appointing him/her (in the case of a person who has retired, the head of the government agency having jurisdiction over the government position he/she held at the time of his/her retirement or any government position equivalent thereto).

(3) The permission set forth in the preceding paragraph shall not be refused, except in cases pertaining to the conditions and procedures provided for by law or by Cabinet Orders.

(4) The provisions of the preceding three paragraphs shall not apply where information is requested by the National Personnel Authority during an

investigation or hearing conducted by the National Personnel Authority. It shall not be necessary for any person to secure permission from anyone to make a statement or testify on any confidential or restricted information when so requested by the National Personnel Authority during or as part of such investigations or hearings conducted under the jurisdiction of the National Personnel Authority. Failure to make a statement or testify before the National Personnel Authority on such information upon its official request shall make the individual liable to the penal provisions of this Act.

- (5) The provisions of the preceding paragraph shall apply mutatis mutandis to the investigation conducted by the Reemployment Surveillance Commission, to which the authority is delegated pursuant to the provisions of Article 18-4. In this case, the term "National Personnel Authority" in the said paragraph shall be deemed to be replaced with "Reemployment Surveillance Commission," and the term "investigation or hearing" with "investigation."

(Obligation to Give Undivided Attention to Duty)

Article 101 (1) Officials, except in cases provided for by laws or orders, shall spend their full working hours and give all of their occupational attention to the performance of their duties, and engage only in those duties which the government shall assume the responsibility to perform. Officials, except in cases specified by laws or orders, may not hold concurrently two or more government positions. Even when officials hold additional government positions they shall not be paid for them.

- (2) The provisions of the preceding paragraph shall not preclude the assignment, by relevant government agency, of officials to duties other than their regular duties in the event of an earthquake, fire, flood or other serious disasters.

(Restriction on Political Acts)

Article 102 (1) An official shall not solicit, or receive, or be in any manner involved in soliciting or receiving any donation or other benefit for any political party or political purpose, or engage in any political acts as provided for by rules of the National Personnel Authority other than to exercise his/her right to vote.

- (2) No official may be a candidate for elective public office.  
(3) No official may be an officer, a political adviser, or another member with a similar role of any political party or political organization.

(Exclusion from Private Enterprises)

Article 103 (1) No official shall concurrently hold the position of an officer, advisor or councilor in a company or any other organization established for the purpose of operating a commercial, industrial, financial or other for-profit

private enterprise (hereinafter referred to as a "for-profit enterprise"), nor shall he/she operate, on his/her own account, any for-profit enterprise.

- (2) The provisions of the preceding paragraph shall not apply to cases wherein approval is given by the National Personnel Authority on the recommendation of the head of the government agency appointing that official, pursuant to the provisions of rules of the National Personnel Authority.
- (3) With respect to a for-profit enterprise, when an official is in a position in which he/she is able to participate in the management of the said enterprise because of his/her holding of shares therein or because of some other relationships with it, the National Personnel Authority may call upon such an official to submit a report regarding his/her holding of shares and other relationships, pursuant to the provisions of rules of the National Personnel Authority.
- (4) When the National Personnel Authority, based on the report set forth in the preceding paragraph, finds that the continuance of the official's relationship with the enterprise, in its entirety or in part, is inappropriate with respect to the performance of his/her duties, it may notify the said official to that effect, pursuant to the provisions of rules of the National Personnel Authority.
- (5) If, upon receipt of the notice set forth in the preceding paragraph, the said official has an objection to the content thereof, he/she may file an objection to the National Personnel Authority, under the Administrative Appeal Act, within 60 days from the day following the date when he/she has received such notice.
- (6) The provisions of paragraph (3) of Article 90, and paragraphs (2) and (3) of Article 91 shall apply mutatis mutandis to cases where the objection set forth in the preceding paragraph has been filed, and the provisions of Article 92-2 shall apply mutatis mutandis to lawsuits filed for rescission of the notice set forth in paragraph (4) of this Article.
- (7) Officials who have not filed an objection set forth in paragraph (5) and officials who have received a determination as a result of an investigation by the National Personnel Authority of the objection filed stating that the content of the notice was justifiable shall, pursuant to the provisions of rules of the National Personnel Authority, divest themselves of the relationships with that enterprise entirely or in part, or relinquish their government position within the period provided for by rules of the National Personnel Authority.

(Restrictions on Participation in Other Undertakings or Business)

Article 104 If an official is to concurrently hold the position of an officer, advisor or councilor in any organization other than a for-profit enterprise, or to engage in any undertaking or to carry out business, by receiving remuneration, he/she shall require the permission of the Prime Minister and the head of the government agency appointing that official.

(Scope of Duties of Officials)

Article 105 Officials shall bear no other obligations apart from taking charge of those duties provided for by laws, orders, rules or directives.

(Working Conditions)

Article 106 (1) Working conditions of officials and other necessary particulars pertinent to service discipline may be provided for by rules of the National Personnel Authority.

(2) Rules of the National Personnel Authority set forth in the preceding paragraph shall be consistent with the purpose of the provisions of this Act.

## **Section 8 Retirement Management**

### **Subsection 1 Restriction on Employment after Separation from Service**

(Restriction on Requests, etc. Regarding Another Officer or Official)

Article 106-2 (1) An official, for the purpose of having another official or officer of a Specified Incorporated Administrative Agency (hereinafter referred to an "officer or official") after separation from service, or a person that has been an officer or official assume a position in a for-profit enterprise, etc. (which means a for-profit enterprise and a corporation other than for-profit enterprise (excluding the national government, international organizations, local governments, Specified Incorporated Administrative Agencies and specified local incorporated administrative agencies provided for in Article 2, paragraph (2) of the Local Incorporated Administrative Agency Act (Act No.118 of 2003)); the same shall apply hereinafter) or its subsidiary corporation (which means a corporation specified by Cabinet Order as having institutions that make decisions on financial or operational, or business policies (which means shareholders meetings and other equivalent institutions) controlled by the said for-profit enterprise, etc. ; the same shall apply hereinafter), shall not, to the for-profit enterprise, etc., provide information on the said officer or official, or former officer or official, request to provide information on the said position, or demand or request that the said officer or official after separation from service, or former officer or official assume a position in the said for-profit enterprise, etc. or its subsidiary corporation.

(2) The provisions of the preceding paragraph shall not apply in the following cases:

(i) When an official conducts what is prescribed in the preceding paragraph as affairs concerning security of employment as provided for in the Employment Security Act (Act No. 141 of 1947), the Mariners Employment Security Act (Act No. 130 of 1948) and other laws and regulations.

- (ii) When an official conducts what is prescribed in the preceding paragraph for the purpose of having an official scheduled to receive an aggregate retirement allowance assume a position in an aggregate retirement allowance corporation (including cases where the purpose is to have an officer scheduled to receive an aggregate retirement allowance provided for in paragraph (4) as applied mutatis mutandis by replacing the terms under Article 54-2, paragraph (1) of the Act on General Rules for Incorporated Administrative Agency, assume a position in the aggregate retirement allowance corporation provided for in the following paragraph as applied mutatis mutandis pursuant to the provisions of paragraph (1) of the same Article).
- (iii) When an official of the Center for Personnel Interchanges between the Government and Private Entities (hereinafter referred to as "the Center") conducts what is prescribed in the preceding paragraph as their duties.
- (3) An "aggregate retirement allowance corporation" in item (ii) of the preceding paragraph means a corporation specified by Cabinet Order from among incorporated administrative agencies (which means incorporated administrative agencies provided for in Article 2, paragraph (1) of the Act on General Rules for Incorporated Administrative Agency; the same shall apply hereinafter) and corporations established pursuant to other special Acts, whose business is closely related to the administration or business of the national government (limited to corporations which prescribe in their rules concerning retirement allowance (including equivalent payments) that in case an official becomes an officer or becomes employed by the said corporation without interruption upon the request of an appointer or a person who has been delegated by the appointer, the length of service as an official shall be aggregated to the length of service as an officer of the said corporation or as a person employed by the said corporation).
- (4) An "official scheduled to receive an aggregate retirement allowance" in paragraph (2), item (ii) means an official specified by Cabinet Order from among officials who, upon the request of an appointer or a person who has been delegated by the appointer, have come to retire to become officers of the aggregate retirement allowance corporation (which means the aggregate retirement allowance corporation prescribed in the preceding paragraph; the same shall apply hereinafter) or to become employed by the aggregate retirement allowance corporation without interruption, and are expected to be appointed by means of selection without interruption, unless there are special circumstances, after employment in the said aggregate retirement allowance corporation.

(Restrictions on Job-Seeking while Holding Office)



Article 106-3 (1) An official shall not provide information concerning him/herself, request the provision of information on a position, or demand or promise to assume a position to an interested enterprise, etc. (which means an organization specified by Cabinet Order from among for-profit enterprises, etc. that have an interest in the duties of the official; the same shall apply hereinafter), for the purpose of assuming the said position in the said interested enterprise, etc. or its subsidiary corporation after separation from service.

(2) The provisions of the preceding paragraph shall not apply in the following cases:

(i) When the official scheduled to receive an aggregate retirement allowance (which means the official scheduled to receive an aggregate retirement allowance as provided for in paragraph (4) of the preceding Article; the same shall apply hereinafter) conducts what is prescribed in the preceding paragraph against the aggregate retirement allowance corporation.

(ii) When an official, who is in a government position specified by Cabinet Order as having no substantial authority on decision making in the organization such as a bureau, etc. where he/she holds office (which means a secretariat or bureau provided for in Article 7, paragraph (1) of the National Government Organization Act, an organization specified by Cabinet Order as facilities and other organs, etc. provided for in Article 8-2 of the said Act, other national government bureau or organ equivalent to these, an organization specified by Cabinet Order as an organization of a Specified Incorporated Administrative Agency equivalent to these or prefectural police; the same shall apply hereinafter) conducts what is prescribed in the preceding paragraph.

(iii) When an official conducts what is prescribed in the preceding paragraph with interested enterprises, etc. which have been introduced by the Center, and with regard to assuming a position in the said interested enterprises, etc. or their subsidiary corporations.

(iv) When an official who has obtained the approval of the Prime Minister through procedures provided for by Cabinet Order conducts what is prescribed in the preceding paragraph against the interested enterprises, etc. pertaining to the said approval under the circumstances that are specified by Cabinet Order as the case that, for the purpose of assuming a position in the interested enterprises, etc. or their subsidiary corporations, the official providing information concerning him/herself, requesting to provide information on the said position, or demanding or promising to assume the said position in the said interested enterprises, etc. is found not to pose any impediment to ensuring fairness in public duties.

(3) The authority of approval by the Prime Minister provided for in item (iv) of the

preceding paragraph shall be delegated to the Reemployment Surveillance Commission.

- (4) The authority delegated to the Reemployment Surveillance Commission as set forth in the preceding paragraph, may be delegated to the reemployment surveillance inspector pursuant to the provisions of Cabinet Order.
- (5) With respect to the approval made by the Reemployment Surveillance Commission based on the authority delegated pursuant to the provisions of paragraph (3) (including approvals made by the reemployment surveillance inspector based on the authority delegated pursuant to the provisions of the preceding paragraph), an appeal under the Administrative Appeal Act may be filed to the Reemployment Surveillance Commission.

(Restrictions on Requests by Reemployed Officials)

Article 106-4 (1) A former official who holds a position in for-profit enterprise, etc. after separation from service (excluding a person that has been an official scheduled to receive an aggregate retirement allowance and holds a position at the aggregate retirement allowance corporation (hereinafter referred to as an "official separated from service with an aggregate retirement allowance"); hereinafter referred to as a "reemployed official") shall not demand or request to perform or not to perform acts in the course of duties during the period of 2 years after separation from service, to an officer or official belonging to an organization such as bureau where he/she had held office during the period of 5 years prior to his/her separation from service, or to a person specified by Cabinet Order as being similar to the officer or official, concerning sales, leases, contracts for work and other contracts concluded between the national government, Specified Incorporated Administrative Agencies or prefectures and the said for-profit enterprise, etc. or its subsidiary corporation, or affairs concerning dispositions provided for in item (ii) of Article 2 of the Administrative Procedure Act (Act No. 88 of 1993) against the said for-profit enterprise, etc. or its subsidiary corporation (hereinafter referred to as "contract affairs, etc."), which has belonged to his/her duties during the period of 5 years prior to separation from service.

- (2) In addition to what is prescribed in the preceding paragraph, a reemployed official who held the position of director-general of the department or director of the division as provided for in Article 21, paragraph (1) of the National Government Organization Act or an equivalent position specified by Cabinet Order prior to the day which is 5 years previous to the day of separation from service, shall not demand or request to perform or not to perform acts in the course of duties, during the period of 2 years after separation from service, to an officer or official belonging to an organization such as the bureau where the reemployed official has been holding the said position, or to a person specified

by Cabinet Order as being similar to the officer or official, concerning contract affairs, etc. that has been the said official's duties prior to the day which is 5 years previous to the day of separation from service (limited to duties while in the said position).

- (3) In addition to what is prescribed in the preceding two paragraphs, a reemployed official who held the position of director-general provided for in Article 6 of the National Government Organization Act, administrative vice-minister provided for in Article 18, paragraph (1) of the same Act or director of the executive office or director-general of the bureau provided for in Article 21, paragraph (1) of the same Act, or an equivalent position specified by Cabinet Order, shall not demand or request to perform or not to perform acts in the course of duties, during the period of 2 years after separation from service, to an officer or official belonging to the Cabinet Office and Ministries and other national organs specified by Cabinet Order, Specified Incorporated Administrative Agencies or prefectural police where the said reemployed official had held the said position (hereinafter referred to as an "organ for which he/she served as director-general of the bureau, etc.") or to a person specified by Cabinet Order as being similar to the officer or official, concerning contract affairs, etc. that are under the jurisdiction of the organ for which he/she served as director-general of the bureau, etc.
- (4) In addition to what is prescribed in the preceding three paragraphs, a reemployed official shall not demand or request to perform or not to perform acts in the course of duties, to an officer or official belonging to the Cabinet Office and Ministries where the said reemployed official had held office, and other national organs specified by Cabinet Order, Specified Incorporated Administrative Agencies or prefectural police (hereinafter referred to as "administrative organ, etc." in this paragraph) or to a person specified by Cabinet Order as being similar to the officer or official, concerning contracts concluded between the national government, Specified Incorporated Administrative Agency or prefecture and for-profit enterprise, etc. (limited to which the said reemployed official is currently holding a position) or its subsidiary corporation which the reemployed official him/herself has made decisions on the conclusion at the said administrative organ, etc., or has made decisions on dispositions provided for in item (ii) of Article 2 of the Administrative Procedure Act against the said for-profit enterprise, etc. or its subsidiary corporation by the said administrative organ, etc.
- (5) The provisions of the preceding paragraphs shall not apply in the following cases:
- (i) When it is necessary for a person who received designations, registrations or other dispositions by administrative agencies pursuant to the provisions of Acts (hereinafter referred to as "designations, etc.") to carry out

- examinations, inspections, certifications and other affairs of administration pertaining to the said designations, etc., or for a person who received entrustment from administrative agencies to carry out affairs of administration pertaining to the said entrustment, or when it is necessary to conduct business specified by Cabinet Order as being closely related to the administration or business of the national government;
- (ii) When exercising rights or performing obligations, pursuant to the provisions of laws and regulations that define the rights or obligations to administrative agencies, or pursuant to contracts concluded between the national government, Specified Incorporated Administrative Agencies or prefectures, or when performing obligations imposed by disposition of administrative agencies, or when it is specified by Cabinet Order as being similar to these cases;
  - (iii) When making applications provided for in Article 2, item (iii) of the Administrative Procedure Act, or notifications provided for in item (vii) of the same Article;
  - (iv) When it is necessary to conclude sales, leases, contracts for work and other contracts, in accordance with procedures of competition as provided for in Article 29-3, paragraph (1) of the Public Accounting Act (Act No.35 of 1947), procedures of competition by having Specified Incorporated Administrative Agencies issuing public notices and requesting applications, or procedures for open competitive bidding or auction sale as provided for in Article 234, paragraph (1) of the Local Autonomy Act (Act No. 67 of 1947);
  - (v) When requesting to provide information that is made public or that is scheduled to be made public pursuant to the provisions of laws and regulations or by custom (excluding cases of requesting to disclose information before the date when it is scheduled to be made public);
  - (vi) When the reemployed official who has obtained the approval of the Prime Minister through a procedure provided for by Cabinet Order demands or requests to perform or not to perform acts in the course of duties to an officer or official (including persons thereto; the same shall apply for this item hereinafter), concerning contract affairs, etc. pertaining to the said approval under the circumstances that are specified by Cabinet Order that the reemployed official demanding or requesting to an officer or official to perform or not to perform acts in the course of duties regarding contract affairs, etc. is found not to pose any impediment to ensuring fairness in public duties.
- (6) The authority of approval by the Prime Minister provided for in item (vi) of the preceding paragraph shall be delegated to the Reemployment Surveillance Commission.
- (7) The authority delegated to the Reemployment Surveillance Commission

pursuant to the provisions of the preceding paragraph may be delegated to the reemployment surveillance inspector, pursuant to the provisions of Cabinet Order.

- (8) With respect to the approval made by the Reemployment Surveillance Commission based on the authority delegated pursuant to the provisions of paragraph (6) (including approvals made by the reemployment surveillance inspector based on the authority delegated pursuant to the provisions of the preceding paragraph), an appeal under the Administrative Appeal Act may be filed to the Reemployment Surveillance Commission.
- (9) When an official receives a demand or request from a reemployed official that is prohibited pursuant to the provisions from paragraph (1) through paragraph (4), except for the cases listed in each item of paragraph (5) (including a demand or request that is prohibited pursuant to the provisions from paragraph (1) through paragraph (4) as applied mutatis mutandis pursuant to Article 54-2, paragraph (1) of the Act on General Rules for Incorporated Administrative Agency), he/she shall notify the reemployment surveillance inspector to that effect, pursuant to the provisions of Cabinet Order.

### **Subsection 2 Reemployment Surveillance Commission**

#### **(Establishment)**

- Article 106-5 (1) The Reemployment Surveillance Commission (hereinafter referred to as the "Commission") shall be established in the Cabinet Office.
- (2) The Commission shall take charge of the following affairs:
    - (i) Conducting investigations based on the authority delegated pursuant to the provisions of Article 18-4;
    - (ii) Giving approvals based on the authority delegated pursuant to the provisions of paragraph (3) of Article 106-3, and paragraph (6) of the preceding Article;
    - (iii) In addition to what is listed in the preceding two items, dealing with the matters belonging to its authority by this Act or other Acts.

#### **(Exercise of Authority)**

Article 106-6 The Chairperson and Commission members shall independently exercise their authority.

#### **(Organization)**

- Article 106-7 (1) The Commission shall be composed of the Chairperson and four Commission members.
- (2) Commission members shall be of part-time service.
  - (3) The Chairperson shall preside over the affairs of the Commission and shall

represent it.

- (4) If the Chairperson is unable to attend to his/her duties, a member designated in advance by the Chairperson shall perform the duties of the Chairperson.

(Appointment of the Chairperson and Commission Members)

Article 106-8 (1) The Chairperson and Commission members shall be appointed, with the consent of both Houses of the Diet, by the Prime Minister from among persons who are of the highest moral character and integrity, can make fair judgment on retirement management of officials, have relevant knowledge and experience concerning law or society, and do not have previous experience as officers or officials (excluding public prosecutors and other persons specified by Cabinet Order by taking the peculiarities of their duties into consideration).

- (2) The Prime Minister may appoint the Chairperson or a Commission member notwithstanding the provisions of the preceding paragraph, if the consent of both Houses of the Diet cannot be obtained due to the closing of the Diet or dissolution of the House of Representatives, in cases where the term of office of the Chairperson or a Commission member has expired or a vacancy occurs.

- (3) In the case referred to in the preceding paragraph, ex post facto consent by both Houses of the Diet shall be obtained in the first Diet session after appointment. In this case, if the ex post facto consent cannot be obtained by both Houses of the Diet, the Prime Minister shall immediately dismiss the said Chairperson or Commission member.

(Term of Office of the Chairperson and Commission Members)

Article 106-9 (1) The term of office of the Chairperson and Commission members shall be 3 years; provided, however, that the term of office of the Chairperson and Commission members appointed to fill a vacancy shall be the remaining term of their predecessor.

- (2) The Chairperson and Commission members may be reappointed.

- (3) When the term of office of the Chairperson and a Commission member expires, the said Chairperson and Commission member shall continuously execute their duties until their successor is appointed.

(Guarantee of Status)

Article 106-10 The Chairperson and Commission members shall not be dismissed against their will while they are in office, except in cases where they fall under any of the following items:

- (i) When they are given the decision of commencement of bankruptcy proceedings.
- (ii) When they are sentenced to imprisonment or severer punishment.
- (iii) When they become an officer or an official (excluding those specified by

Cabinet Order provided for in Article 106-8, paragraph (1)).

- (iv) When they are found by the Commission to be incapable of performing their duties due to a mental or physical disorder or are found to be guilty of violating their obligations in the course of carrying out their duties and other malfeasance that renders themselves unfit to be the Chairperson or a Commission member.

(Dismissal)

Article 106-11 The Prime Minister shall dismiss the Chairperson or any Commission member if the Chairperson or the Commission member falls under any of the items of the preceding Article.

(Service Discipline)

Article 106-12 (1) The Chairperson and Commission members shall not divulge any secret which may have come to their knowledge in the course of their duties. This shall also be applied after they have left their position.

(2) The Chairperson or a Commission member shall neither be an officer of any political party or political organization nor engage in political movements actively while in office.

(3) The Chairperson, while in office, shall not engage in other jobs with remuneration, operate any for-profit enterprise, or conduct any business for the purpose of profit, except when they are permitted to do so by the Prime Minister.

(Remuneration)

Article 106-13 The remuneration of the Chairperson and Commission members shall be specified separately by an Act.

(The Reemployment Surveillance Inspector)

Article 106-14 (1) The Commission shall have reemployment surveillance inspectors (hereinafter called "inspectors").

(2) Inspectors shall carry out the following affairs, as provided for by the Commission:

(i) Giving approvals based on the authority delegated pursuant to the provisions of Article 106-3, paragraph (4) and Article 106-4, paragraph (7);

(ii) Receiving notifications provided for in Article 106-4, paragraph (9);

(iii) Conducting investigations provided for in Article 106-19 and Article 106-20, paragraph (1);

(iv) In addition to what is listed in the preceding three items, dealing with the matters belonging to their authority by this Act or other Acts.

(3) The fixed number of inspectors who should be in full-time service shall be

provided for by Cabinet Order.

- (4) Inspectors other than those provided for in the preceding paragraph shall be in part-time service.
- (5) Inspectors shall be appointed, with the resolution of the Commission, by the Prime Minister from among persons who do not have previous experience as officers or officials (excluding public prosecutors and other persons specified by Cabinet Order by taking the peculiarities of their duties into consideration).

(Secretariat)

- Article 106-15 (1) A Secretariat shall be established in the Commission to deal with the administrative affairs of the Commission.
- (2) The Secretariat shall have a Secretary General and other necessary officials.
  - (3) The Secretary General shall take control of the affairs of the Secretariat in accordance with orders of the Chairperson.

(Report of Appointer on Suspected Acts of Violation)

Article 106-16 When an appointer considers it suspicious for an official or a former official to have committed an act that violates restrictions on reemployment, etc. (which means an act that is in violation of the provisions from Article 106-2 through Article 106-4; the same shall apply hereinafter), the appointer shall report thereon to the Commission.

(Investigation by Appointers)

- Article 106-17 (1) When an appointer considers it suspicious for an official or a former official to have committed an act that violates restrictions on reemployment, etc. and intends to investigate the said act that violates restrictions on reemployment, etc., the appointer shall notify thereon to the Commission.
- (2) The Commission may request the appointer to report the progress of the investigation set forth in the preceding paragraph or state its opinion.
  - (3) When the appointer concludes the investigation set forth in paragraph (1), the appointer shall report the results of the said investigation to the Commission without delay.

(Request for Investigation by Appointers, etc.)

Article 106-18 (1) When the Commission considers it suspicious for an official or a former official to have committed an act that violates restrictions on reemployment, etc. due to a notification under Article 106-4, paragraph (9), a report under Article 106-16, or other causes, the Commission may request the appointer to investigate the said act that violates restrictions on reemployment, etc.



(2) The provisions of paragraph (2) and paragraph (3) of the preceding Article shall apply mutatis mutandis to the investigation conducted pursuant to the preceding paragraph.

(Joint Investigations)

Article 106-19 The Commission may have an inspector investigate jointly with the appointer an act that violates restrictions on reemployment, etc., when the Commission finds it necessary to do so in cases where it receives a report pursuant to the provisions of Article 106-17, paragraph (2) (including cases where it is applied mutatis mutandis pursuant to paragraph (2) of the preceding Article).

(Investigation by the Commission)

Article 106-20 (1) When the Commission considers it suspicious for an official or a former official to have committed an act that violates restrictions on reemployment, etc. due to a notification under Article 106-4, paragraph (9), a report under Article 106-16, or other causes, and finds it particularly necessary, the Commission may decide to start investigating the said act that violates restrictions on reemployment, etc., and may have an inspector conduct the said investigation.

(2) The appointer shall cooperate in the investigation set forth in the preceding paragraph.

(3) When the Commission concludes the investigation set forth in paragraph (1), it shall notify the results of the said investigation to the appointer without delay.

(Recommendations)

Article 106-21 (1) When the Commission finds it appropriate for the appointer to take disciplinary action or other measures, in light of a report on the results of the investigation provided for in Article 106-17, paragraph (3) (including cases where it is applied mutatis mutandis pursuant to Article 106-18, paragraph (2)), or as a result of an investigation conducted by the inspector as provided for in Article 106-19 or paragraph (1) of the preceding Article, the Commission may recommend that the appointer should take the said measures.

(2) The appointer shall report measures pertaining to the recommendation set forth in the preceding paragraph to the Commission.

(3) The Commission may make a recommendation to the Prime Minister concerning the measures which it finds necessary to assure appropriate application of the provisions of this Section.

(Delegation to Cabinet Order)

Article 106-22 In addition to what is provided for in Article 106-5 to the preceding Article, necessary particulars concerning the Commission shall be prescribed by Cabinet Order.

### **Subsection 3 Miscellaneous Provisions**

(Notification to Appointers)

Article 106-23 (1) When an official (excluding an official scheduled to receive an aggregate retirement allowance) promises to assume a position in a for-profit enterprise, etc. after separation from service, he/she shall promptly notify, pursuant to the provisions of Cabinet Order, the particulars specified by Cabinet Order to the appointer.

(2) The appointer who received the notification set forth in the preceding paragraph shall appoint the official who submitted the said notification by taking the purpose of the provisions of Article 106-3, paragraph (1) into consideration.

(3) The appointer who received the notification set forth in paragraph (1) shall promptly notify the particulars pertaining to the said notification to the Prime Minister, when the official who submitted the said notification is an official holding a managerial or supervisory government position (hereinafter referred to as a "managerial official") specified by Cabinet Order.

(Notification to the Prime Minister)

Article 106-24 (1) When a former managerial official (excluding an official separated from service with an aggregate retirement allowance; the same shall apply for the next paragraph) seeks to assume a position of an officer or another position specified by Cabinet Order in the corporations listed in the following items (excluding cases where he/she gave notification of the particulars specified by Cabinet Order pursuant to paragraph (1) of the preceding Article), during the period of 2 years after separation from service, he/she shall, pursuant to the provisions of Cabinet Order, notify the Prime Minister of the particulars specified by Cabinet Order in advance:

(i) Incorporated administrative agencies other than Specified Incorporated Administrative Agencies;

(ii) Special corporations (which means corporations specified by Cabinet Order from among those directly incorporated by Acts and those incorporated through a special act for establishment under a special Act (excluding those falling under the category of incorporated administrative agencies));

(iii) Authorized corporations (which means corporations specified by Cabinet Order from among those incorporated under special Acts and where approval from administrative agencies is required for their incorporation);

- (iv) Public interest incorporated associations or public interest incorporated foundations (limited to those specified by Cabinet Order as having an especially close relationship with the national government).
- (2) When a former managerial official assumes a position in any undertaking other than a for-profit enterprise, or engages in any undertaking or carries out business (limited to cases where he/she receives remuneration), or assumes a position in a for-profit enterprise (excluding the corporations listed in item (ii) or item (iii) of the preceding paragraph) during the period of 2 years after separation from service, he/she shall promptly notify the Prime Minister of the particulars specified by Cabinet Order pursuant to the provisions of Cabinet Order, except when he/she submits the notification provided for in paragraph (1) of the preceding Article or the preceding paragraph, or becomes an employee employed on a daily basis, or in other cases specified by Cabinet Order.

(Reports and Publication by the Prime Minister)

- Article 106-25 (1) The Prime Minister shall report on notices provided for in Article 106-23, paragraph (3) and notifications provided for in the preceding Article to the Cabinet without delay, pursuant to the provisions of Cabinet Order.
- (2) Each fiscal year, the Cabinet shall compile the reports set forth in the preceding paragraph, and make public the particulars specified by Cabinet Order.

(Basic Policy on Retirement Management)

- Article 106-26 (1) The Prime Minister shall prepare a proposal of the basic policy regarding the retirement management of officials (hereinafter referred to as the "Basic Policy on Retirement Management") in an advance consultation with appointers provided for in Article 55, paragraph (1) or provided for in other Acts, and ask for a Cabinet decision.
- (2) When a Cabinet decision is made under the preceding paragraph, the Prime Minister shall make public the Basic Policy on Retirement Management without delay.
- (3) The provisions in the preceding two paragraphs shall apply mutatis mutandis to the revision of the Basic Policy on Retirement Management.
- (4) An appointer shall conduct retirement management of officials in accordance with the Basic Policy on Retirement Management.

(Publication after Reemployment)

- Article 106-27 When a managerial official who obtained the approval provided for in Article 106-3, paragraph (2), item (iv) while in office assumes a position

in a for-profit enterprise, etc. pertaining to the said approval after separation from service, the Cabinet Office and Ministries or other national organs specified by Cabinet Order, Specified Incorporated Administrative Agencies or prefectural police where the said managerial official held office at the time of separation from service (hereinafter referred to as "organ for which he/she served" in this Article), pursuant to the provisions of Cabinet Order, shall make public the following particulars during the period of 2 years after separation of the said person from service (limited to the period while the said person is holding a position in the said for-profit enterprise, etc.):

- (i) The name of the said person;
- (ii) The total amount of subsidies, etc. (which means subsidy, etc. provided for in Article 2, paragraph (1) of the Act on Rationalization of Budgetary pending on Subsidies (Act No. 179 of 1955)) that the organ for which he/she served granted to the said for-profit enterprise, etc;
- (iii) The total amount of sales, leases, contracts for work or other contracts between the organ for which he/she served and the said for-profit enterprise, etc;
- (iv) Other particulars specified by Cabinet Order.

### **Section 9 Retirement Pension System**

(Retirement Pension System)

Article 107 (1) A system that governs the pension issuable to officials or to their bereaved families when such officials have retired after having faithfully served for a reasonable number of years or as the result of injury or disease incurred in the line of public duty or when they have died in the line of public duty shall be established and administered.

(2) The pension system set forth in the preceding paragraph shall have as its purpose the provision of an income necessary to enable the person concerned and his/her immediate dependents at the time of his/her retirement or death to maintain thereafter a standard of living appropriate to the conditions prevailing at the time of the said retirement or death.

(3) The pension system set forth in paragraph (1) shall be provided for on a sound actuarial basis.

(4) The pension system provided for in the preceding three paragraphs shall be provided for by law.

(Submission of Opinions)

Article 108 The National Personnel Authority may conduct research and studies with regard to the pension system set forth in the preceding Article and submit opinions as it may consider necessary to the Diet and the Cabinet.

## Section 10 Employee Organizations

### (Employee Organizations)

- Article 108-2 (1) The term "employee organization" as used in this Act shall mean an organization which is formed by officials for the purpose of maintaining and improving their working conditions, or a federation of such organizations.
- (2) The term "officials" set forth in the preceding paragraph shall mean all officials other than those provided for in paragraph (5).
- (3) Officials may organize or refrain from organizing, or may join or refrain from joining an employee organization; provided, however, that officials making important administrative decisions, holding managerial positions who participate in making the aforementioned decisions, holding supervisory positions with direct authority on the appointment and dismissal of officials, or those holding supervisory positions with access to confidential details related to plans and policies of the proper authorities on appointment and dismissal, status, disciplinary action or service discipline, remuneration and other working conditions of officials, or on their relations with employee organizations, whose obligations and responsibilities in the course of duties are thus found to directly conflict with sincerity and responsibilities as members of employee organizations, and other officials taking charge of duties which, in their relations with employee organizations, should be performed from the standpoint of the proper authorities (hereinafter referred to collectively as "managerial personnel, etc.") shall not form the same employee organization as officials other than managerial personnel, etc., and furthermore, an organization formed jointly by managerial personnel, etc. and by the officials other than managerial personnel, etc., is not the employee organization referred to in this Act.
- (4) The scope of managerial personnel, etc. provided for in the proviso of the preceding paragraph shall be provided for by rules of the National Personnel Authority.
- (5) Police officials and officials working in the Japan Coast Guard or in penal facilities shall not organize or join an organization whose purpose is the maintenance and improvement of their working conditions and which conducts negotiations thereon with the proper authorities.

### (Registration of Employee Organizations)

- Article 108-3 (1) Employee organizations may, pursuant to the provisions of rules of the National Personnel Authority, apply for registration to the National Personnel Authority by submitting a written application setting forth

the particulars provided for by rules of the National Personnel Authority, including the names of its directors and other officers, together with its constitution.

- (2) The constitution of an employee organization shall include at least the following particulars:
  - (i) Name;
  - (ii) Purpose and business;
  - (iii) Location of its principal office;
  - (iv) Provisions governing the scope of membership and the acquisition and loss of membership;
  - (v) Provisions governing its directors and other officers;
  - (vi) Provisions governing management, meetings and voting, including the particulars provided for in the next paragraph;
  - (vii) Provisions governing expenses and accounts;
  - (viii) Provisions governing association with other employee organizations;
  - (ix) Provisions governing revision of the constitution;
  - (x) Provisions governing dissolution.
- (3) In order to qualify for and maintain registration, an employee organization is required to provide procedures whereby the adoption or revision of its constitution, election of officers, and other equivalently important acts are decided by a majority of all its members (by a majority of those who voted, in the case of the election of officers) by direct secret vote in which every member is given an equal opportunity to participate, and is required to ensure that these important acts are actually decided in accordance with such procedures ; provided, however, that in the case of an employee organization which is a federation or is national in scope, it shall suffice to establish and to actually observe the procedures by which delegates are elected by a majority vote by direct secret vote held for each constituent organization or each geographical area or occupational area which every member is given an equal opportunity to participate in, and furthermore, that the foregoing important acts be decided by a majority of all the delegates (by a majority of the delegates who voted, in the case of the election of officers) by direct secret vote in which each delegate is given an equal opportunity to participate.
- (4) In addition to the provisions of the preceding paragraph, it is required that an employee organization, in order to qualify for and maintain its registration, be formed exclusively by officials other than those provided for in paragraph (5) of the preceding Article ; provided, however, that this shall not preclude an employee organization from retaining in its membership those that have been officials other than those provided for in the said paragraph and who have been dismissed against their will or subject to dismissal in a disciplinary action, and for whom a period of one year has not elapsed since the day following the date

of their dismissal, or who have filed an appeal or filed a lawsuit against such disposition, in accordance with applicable law, within the said one-year period but the judgment or decision, or court judgment thereon is still pending, nor shall it preclude an employee organization from having in its membership those who are currently its officers.

- (5) When an employee organization that has applied for registration conforms to the provisions set forth in the preceding three paragraphs, the National Personnel Authority shall, pursuant to the provisions of rules of the National Personnel Authority, register its constitution and the particulars given in the written application as provided for in paragraph (1), and shall notify the said employee organization to this effect. In this case, an employee organization that allows persons other than officials to hold positions as officers shall not be construed to be disqualified for registration merely on that account.
- (6) When a registered employee organization ceases to be an employee organization, when it has been found that a registered employee organization no longer conforms to the provisions set forth in paragraphs (2) to (4) inclusive, or when a registered employee organization has failed to submit the notification as provided for in paragraph (9), the National Personnel Authority may suspend the effect of its registration for a period not exceeding 60 days or may rescind its registration, pursuant to the provisions of rules of the National Personnel Authority.
- (7) The proceedings on the date of hearing pertaining to the rescission of registration as provided for in the preceding paragraph shall be open to the public, if such employee organization so requests.
- (8) The rescission of registration as provided for in paragraph (6) does not come into effect during the periods when a lawsuit for the rescission of such disposition can be filed, and while such lawsuit is pending in court in cases where a lawsuit has actually been filed.
- (9) When a registered employee organization has made any changes to its constitution or to the particulars set forth in the written application as provided for in paragraph (1), it shall notify the National Personnel Authority to that effect, pursuant to the provisions of rules of the National Personnel Authority. In this case, the provisions of paragraph (5) shall apply *mutatis mutandis*.
- (10) When a registered employee organization has been dissolved, it shall notify the National Personnel Authority to that effect, pursuant to the provisions of rules of the National Personnel Authority.

Article 108-4 Deleted.

(Negotiations)

Article 108-5 (1) When a registered employee organization proposes lawfully to negotiate with the proper authorities on an officials' remuneration, working hours or other conditions of work or, in connection therewith, on matters pertaining to lawful activities including social and welfare activities, the proper authorities shall place themselves in the position to respond to such proposal.

- (2) The negotiation between the employee organization and the proper authorities shall not include the right to conclude a collective agreement.
- (3) Matters concerning the administration and operation of the national government business may not be the subject of negotiation.
- (4) The proper authorities with whom the employee organization may negotiate shall be those who may lawfully administer the matters to be negotiated or make decisions thereon.
- (5) The negotiation shall be conducted between the persons designated by the employee organization from among its officers and the persons designated by the proper authorities, within the number of such representatives as agreed upon in advance between the two parties concerned. In conducting the negotiation, the employee organization and the proper authorities shall agree in advance upon the agenda, time and place of the meeting and other necessary details concerning the negotiation.
- (6) In the case referred to in the preceding paragraph, the employee organization may, if special circumstances exist, designate persons other than its officers; provided, however, that the persons so designated shall be the ones who are able to prove by documents that they have been lawfully authorized by the executive organ of the said employee organization to negotiate on specific matters that are the subject of the said negotiation.
- (7) The negotiation may be terminated when it has failed to conform to the provisions of the preceding two paragraphs or has obstructed the performance of duties by other officials, or has impeded the normal operation of the national government business.
- (8) The lawful negotiation provided for in this Article may take place during working hours.
- (9) No official shall be denied the freedom to express dissatisfaction or submit his/her opinion on any of the matters provided for in paragraph (1) on the grounds of his/her non-membership in an employee organization.

(Restriction on Officials' Actions on Behalf of Employee Organizations)

Article 108-6 (1) No official may engage exclusively in any business of an employee organization; provided, however, that this shall not apply to cases where an official, with permission of the head of the government agency appointing the said official, engages exclusively in such business as an officer



of a registered employee organization.

- (2) When the head of the government agency finds it appropriate, he/she may grant the permission set forth in the proviso of the preceding paragraph, and in such a case, he/she shall specify the period for which such permission is effective.
- (3) The period for which an official engages exclusively in the business of a registered employee organization as its officer pursuant to the proviso of paragraph (1), may not exceed 5 years throughout the period of his/her service as an official (in the case of an official who has formerly engaged exclusively in the business of a trade union pursuant to the proviso of Article 7, paragraph (1) of the Act on Labor Relations of Specified Incorporated Administrative Agency (Act No. 257 of 1948) as the employee set forth in item (ii) of Article 2 of the said Act, this 5-year period shall be reduced by subtracting the period during which he/she has formerly engaged exclusively in such business).
- (4) The permission set forth in the proviso of paragraph (1) shall be rescinded if the official who has been granted the said permission no longer engages exclusively as an officer of the registered employee organization in the business of the said employee organization.
- (5) The official who has been granted the permission set forth in the proviso of paragraph (1) shall be deemed to be a person who is temporarily retired during the period the permission is effective for.
- (6) No official shall carry out the business of or act on behalf of an employee organization while receiving remuneration, except for cases where it is otherwise provided for by rules of the National Personnel Authority.

(Prohibition of Adverse Treatment)

Article 108-7 No official shall be subjected to adverse treatment on the grounds that he/she is a member of an employee organization, or that he/she has attempted to organize or join an employee organization, or that he/she has performed a justifiable act in an employee organization.

#### **Chapter 4 Penal Provisions**

Article 109 Any person who falls under any of the following items shall be punished by imprisonment with work for not more than one year or a fine of not more than 500,000 yen:

- (i) Any person who has accepted an appointment in violation of Article 7, paragraph (3);
- (ii) Any Cabinet member who has intentionally failed to dismiss a Commissioner in violation of Article 8, paragraph (3);
- (iii) Any Cabinet member who has failed to appoint a Commissioner within 60

- days after a vacancy among the Commissioners occurs (This shall not apply to cases where the consent of both Houses of the Diet has not been obtained during the said period.);
- (iv) Any person who has concurrently held more than one government position in violation of Article 15;
  - (v) Any person who has intentionally withheld publication of rules of the National Personnel Authority and its revision or repeal in the Official Gazette in violation of Article 16, paragraph (2);
  - (vi) Any person who has intentionally failed to prepare, retain or revise personnel records in violation of Article 19;
  - (vii) Any person who has intentionally failed to report in violation of Article 20;
  - (viii) Any person who has discriminated in violation of Article 27;
  - (ix) Any official who has withheld or restrained public notice of recruitment examinations in violation of Article 47, paragraph (3);
  - (x) Any person who has ordered a suspension from duty in violation of Article 83, paragraph (1);
  - (xi) Any person who has intentionally failed to comply with determination, action or instruction of the National Personnel Authority pursuant to the provisions of Article 92;
  - (xii) Any person who has divulged secrets in violation of paragraphs (1) or (2) of Article 100 or paragraph (1) of Article 106-12;
  - (xiii) Any person who has assumed a position in any for-profit enterprise in violation of Article 103;
  - (xiv) Any reemployed official who demanded or requested to act unlawfully or refrain from acting in the course of his/her duties during the period of 2 years after separation from service, to an officer or official belonging to an organization such as bureau where the reemployed official had held office during the period of 5 years prior to separation from service, or to a person specified by Cabinet Order as being similar to the officer or official, concerning contract affairs, etc. that has belonged to his/her duties during the period of 5 years prior to separation from service;
  - (xv) Any reemployed official who had held the position of director-general of the department or director of the division provided for in Article 21, paragraph (1) of the National Government Organization Act or an equivalent position specified by Cabinet Order prior to the day which is 5 years previous to the day of separation from service, and who demanded or requested to act unlawfully or refrain from acting in the course of his/her duties during the period of 2 years after separation from service, to an officer or official belonging to an organization such as the bureau where the reemployed official had been holding the said position, or to a person specified by Cabinet Order as being similar to the officer or official, concerning contract affairs,

etc. that had been the said official's duties prior to the day which is 5 years previous to the day of separation from service (limited to duties while in the said position);

- (xvi) Any reemployed official who had held the position of director-general provided for in Article 6 of the National Government Organization Act, administrative vice-minister provided for in Article 18, paragraph (1) of the said Act, director of the executive office or director-general of the bureau provided for in Article 21, paragraph (1) of the said Act, or an equivalent position specified by Cabinet Order, and who demanded or requested to act unlawfully or refrain from acting in the course of his/her duties during the period of 2 years after separation from service, to an officer or official belonging to the organ for which he/she served as director-general, etc. or to a person specified by Cabinet Order as being similar to the officer or official, concerning contract affairs, etc. belonging to the jurisdiction of the organ for which he/she served as director-general, etc.;
- (xvii) Any reemployed official who demanded or requested to act unlawfully or refrain from acting in the course of their duties, to an officer or official belonging to the Cabinet Office and Ministries, other national organs specified by Cabinet Order, Specified Incorporated Administrative Agencies or prefectural police (hereinafter referred to as "administrative organs, etc." in this item) where the said reemployed official had held office, or to a person specified by Cabinet Order as being similar to the officer or official, concerning contracts concluded between the national government, Specified Incorporated Administrative Agencies or prefectures and the for-profit enterprise, etc. (limited to which the said reemployed official currently holds a position) or its subsidiary corporation which the reemployed official him/herself has made decisions on their conclusions at the said administrative organs, etc., or concerning dispositions provided for in item (ii) of Article 2 of the Administrative Procedure Act against the said for-profit enterprise, etc. or its subsidiary corporation by the said administrative organs, etc. on which the reemployed official him/herself has made decisions;
- (xviii) Any official who has received a demand or request (including a demand or request listed in item (xiv) through the preceding item, as applied mutatis mutandis pursuant to Article 54-2, paragraph (1) of the Act on General Rules for Incorporated Administrative Agency) from reemployed officials listed in item (xiv) through the preceding item, and has acted unlawfully or refrained from acting in the course of his/her duties for the reason of receiving the said demand or request.

Article 110 (1) 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 one million yen:

- (i) Any person who has violated Article 2, paragraph (6);
- (ii) Deleted;
- (iii) Any person who has been summoned as a witness pursuant to the provisions of Article 17, paragraph (2) (including cases where it is applied mutatis mutandis pursuant to Article 18-3, paragraph (2)); the same shall apply in the next item and item (v)) and has made a false statement;
- (iv) Any person who has been summoned as a witness pursuant to the provisions of Article 17, paragraph (2) and has not responded without any justifiable reason for not doing so, or one who, pursuant to the provisions of the said paragraph, has been ordered to submit documents or copies thereof, and has not complied with such order without any justifiable reason for not doing so;
- (v) Any person who has been ordered to submit documents or copies thereof pursuant to the provisions of Article 17, paragraph (2) and has submitted documents with false entries or copies thereof;
- (v-ii) Any person who has refused, obstructed or evaded the investigation conducted pursuant to the provisions of Article 17, paragraph (3) (including cases where it is applied mutatis mutandis pursuant to Article 18-3, paragraph (2)), or has not made a statement or has made a false statement to the questions (excluding an official who is subject to the investigation set forth in Article 17, paragraph (1) (in cases where it is applied mutatis mutandis pursuant to Article 18-3, paragraph (2), any official or former official who is subject to the investigation set forth in paragraph (1) of the said Article));
- (vi) Any person who has paid remuneration in violation of Article 18;
- (vii) Any person who has made an appointment in violation of Article 33, paragraph (1);
- (viii) Any person who has violated the prohibition provided for in Article 39;
- (ix) Any person who has committed a fraud in violation of Article 40;
- (x) Any person who has impeded the taking of an examination or appointment or the provision of information in violation of Article 41;
- (xi) Any person who has paid remuneration in violation of Article 63;
- (xii) Any person who has paid remuneration in violation of Article 68;
- (xiii) Any Commissioner who has intentionally failed to take appropriate measures with regard to payment of remuneration in violation of Article 70;
- (xiv) Any person who has paid salary to a person suspended from duty in violation of Article 83, paragraph (2);
- (xv) Any person who has intentionally prevented from making a request for administrative action on working conditions in violation of Article 86;
- (xvi) Deleted;

- (xvii) Any person who has conspired to effect, instigated or incited an illegal act provided for in the first sentence of Article 98, paragraph (2), or has attempted any such act;
  - (xviii) Any person who has failed to make a statement or testify in violation of Article 100, paragraph (4) (including cases where it is applied mutatis mutandis pursuant to paragraph (5) of the said Article);
  - (xix) Any person who has violated the restrictions on political acts provided for in Article 102, paragraph (1);
  - (xx) Any person who has formed an organization in violation of Article 108-2, paragraph (5).
- (2) Money or other benefit received by a person who falls under item (viii) of the preceding paragraph shall be confiscated. When it is not possible to confiscate such an amount, either in whole or in part, the value thereof shall be collected.

Article 111 Any person who has attempted, ordered, intentionally permitted, instigated, or has been an accessory to the accomplishment of any of the acts listed in items (ii), (iii), (iv) and (xii) of Article 109, or item (i) and items (iii) to (vii) inclusive, items (ix) to (xv) inclusive, and items (xviii) and (xx) of paragraph (1) of the preceding Article shall be punished by the penalty prescribed in the respective Articles.

Article 112 Any person who falls under any of the following items shall be punished by imprisonment with work for not more than three years; provided, however, that the Penal Code (Act No.145 of 1907) shall apply when there are applicable provisions in the said Code.

- (i) Any official who demanded or promised to a for-profit enterprise, etc., in connection with engaging or having engaged in unlawful acts (excluding acts in violation of the provisions of Article 106-2, paragraph (1) or Article 106-3, paragraph (1); the same shall apply in the next item) or refraining or having refrained from acting in the course of his/her duties, in order to assume a position in the said for-profit enterprise, etc. or its subsidiary corporation after separation from service, or to have another officer or official after separation from service, or a former officer or official assume a position in the said for-profit enterprise, etc. or its subsidiary corporation.
- (ii) Any official who demanded or promised: a) to demand, request, or instigate another officer or official to act unlawfully or refrain from acting in the course of their duties, or b) in connection with having demanded, requested, or instigated a for-profit enterprise, etc. to assume a position in the said for-profit enterprise, etc. or its subsidiary corporation after separation from service, or to have another officer or official after separation from service, or a former officer or official assume a position in the said for-profit enterprise,

etc. or its subsidiary corporation.

- (iii) Any official who is the counterparty to the person who demanded, requested, or instigated to act unlawfully or refrain from acting as set forth in the preceding item (including cases where it is applied mutatis mutandis by Article 54-2, paragraph (1) of the Act on General Rules for Incorporated Administrative Agency), and acted unlawfully or refrained from acting in the course of his/her duties knowing that there was a demand or promise set forth in the said item (including cases where it is applied mutatis mutandis pursuant to the said paragraph).

Article 113 Any person who falls under any of the following items shall be punished by a non-criminal fine of not more than 100,000 yen.

- (i) Any person who, in violation of the provisions from paragraphs (1) to (4) of Article 106-4, demanded or requested an officer or official, or a person specified by Cabinet Order as being similar to the officer and official prescribed in these provisions, to act duly or refrain from acting duly in the course of his/her duties concerning contract affairs, etc. (excluding any person who demanded or requested to act unlawfully or refrain from acting);
- (ii) Any person who has failed to make a notification pursuant to paragraph (1) or paragraph (2) of Article 106-24, or has made a false notification.