

# Port and Harbor Transportation Business Act

(Act No. 161 of May 29, 1951)

## Chapter I General Provisions

(Purpose)

Article 1 The purpose of this Act is to promote public welfare by establishing order in regard to Port and Harbor Transportation and by providing for the sound development of Port and Harbor Transportation Businesses.

(Definitions)

Article 2 (1) The term "Port and Harbor Transportation" as used in this Act means the following acts, carried out to meet the needs of others:

- (i) Upon commission from the consignor or the vessel operator, the act of carrying out the acts listed in the following items (ii) to (v) inclusive in an integrated manner, either before or after receiving cargo from a vessel or delivering cargo to its consignor at the port or harbor to which said cargo was transported by vessel, or before or after delivering cargo to a vessel or receiving cargo from its consignor at the port or harbor from which said cargo will be transported by vessel;
- (ii) Loading or unloading a vessel at a port or harbor (excluding the acts listed in item (iv));
- (iii) Transporting cargo in a port or harbor using vessels or barges (excluding cargo transportation carried out using passenger vessels (vessels with a capacity of 13 or more passengers) operated on certain waterways by a person who runs a business whereby he/she causes passenger vessels to operate on said waterways for transporting passengers, or any other cargo transportation provided for by Ordinance of the Ministry of Land, Infrastructure, Transport and Tourism), of transporting cargo by barge in the areas between the ports and harbors provided for by Ordinance of the Ministry of Land, Infrastructure, Transport and Tourism and a port or harbor or other place (hereinafter simply referred to as "Designated Areas"), or of tugging barges or rafts using tugboats at a port and harbor or in a Designated Area;
- (iv) At a port or harbor, moving cargo that has been transported using a vessel or barge into a shed or other cargo handling yard (excluding timber yards on the water; hereinafter simply referred to as "Cargo Handling Yard"); moving cargo that will be transported by vessel or barge from the Cargo Handling Yard; handling or storing such cargo in the Cargo Handling Yard; or

- unloading cargo from a vessel (limited to those with less gross tonnage than that prescribed by Ordinance of the Ministry of Land, Infrastructure, Transport and Tourism; hereinafter the same shall apply in this item) or barge or loading cargo onto a vessel or barge (such unloading or loading vessels shall be limited to where such vessels are moored at a quay, pier, or wharf, and where unloading or loading is done without using the relevant vessel's cargo gear);
- (v) Transporting timber at a port or harbor or in a Designated Area by tying it together into rafts; moving, into a in-water log storage area, timber that has been transported by tying it together into rafts or transported using a vessel or barge; or moving, from a floating timber yard, timber that will be transported by tying it together into rafts or timber that will be transported using a vessel or barge, at a port or harbor or in a Designated Area; or handling or storing such timber in a floating timber yard;
  - (vi) Calculating the number of pieces of sea cargo or certifying deliveries (hereinafter referred to as "Tallying") at the time of loading or landing;
  - (vii) Performing certification, investigation, and surveying relevant to the stowage of sea cargo (hereinafter referred to as "Surveying"); and
  - (viii) Calculating or certificating the volume or weight of sea cargo (hereinafter referred to as "Measuring") at the time of loading or landing .
- (2) The term "Port and Harbor Transportation Business" as used in this Act means a for-profit or non-profit business that carries out Port and Harbor Transportation.
- (3) The term "Business Related to Port and Harbor Transportation" as used in this Act means a for-profit or non-profit business that carries out the following acts to meet the needs of others:
- (i) Fixing the position of cargo loaded onto vessels or partitioning loading areas, packing or repacking sea cargo, or cleaning the hold before or after loading or unloading a vessel, at a port or harbor; and
  - (ii) Guarding sea cargo at a port or harbor.
- (4) The term "port or harbor" as used in this Act means the ports and harbors designated by Cabinet Order (ports and harbors whose water areas are port districts pursuant to the Act on Port Regulations (Act No. 174 of 1948), and those designated by Cabinet Order).

(Business Types)

Article 3 The types of Port and Harbor Transportation Business shall be as listed below:

- (i) General Port and Harbor Transportation Business (a business that carries out the acts listed in item (i) of paragraph (1) of the preceding Article);
- (ii) Port and Harbor Cargo Handling Business (a business that carries out the

- acts listed in items (ii) and (iv) of paragraph (1) of the preceding Article);
- (iii) Barge Transportation Business (a business that carries out the acts listed in item (iii) of paragraph (1) of the preceding Article);
- (iv) Raft Transportation Business (a business that carries out the acts listed in item (v) of paragraph (1) of the preceding Article);
- (v) Tallying Business (a business that carries out the acts listed in item (vi) of paragraph (1) of the preceding Article);
- (vi) Surveying Business (a business that carries out the acts listed in item (vii) of paragraph (1) of the preceding Article); and
- (vii) Measuring Business (a business that carries out the acts listed in item (viii) of paragraph (1) of the preceding Article).

## **Chapter II The Port and Harbor Transportation Business, etc.**

(Permits)

Article 4 A person who wishes to operate a Port and Harbor Transportation Business as listed in items (i) to (iv) of the preceding Article (hereinafter referred to as "General Port and Harbor Transportation Business, etc.") shall obtain a permit for each type of Port and Harbor Transportation Business and for each port or harbor from the Minister of Land, Infrastructure, Transport and Tourism, and a person who wishes to operate a Port and Harbor Transportation Business as listed in items (v) to (vii) of the same Article (hereinafter referred to as "Tallying Business, etc.") shall obtain a permit for each type of Port and Harbor Transportation Business. In this case, a person who has received a permit for the General Port and Harbor Transportation Business, Barge Transportation Business, or Raft Transportation Business may operate a General Port and Harbor Transportation Business, etc., under said permit within the Designated Area that begins or ends at the port or harbor for said permit.

(Permit Application)

Article 5 (1) A person who wishes to obtain a permit for a Port and Harbor Transportation Business shall submit a written application to the Minister of Land, Infrastructure, Transport and Tourism, stating the following:

- (i) The name and the address of the applicant, as well as the name of the representative if the applicant is a juridical person;
- (ii) The type of Port and Harbor Transportation Business;
- (iii) The port or harbor (excluding cases pertaining to the Tallying Business, etc.); and
- (iv) The business plans specified by an Ordinance of the Ministry of Land, Infrastructure, Transport and Tourism.

- (2) The written application set forth in the preceding paragraph shall be accompanied by documents, including financial plans and other matters specified by an Ordinance of the Ministry of Land, Infrastructure, Transport and Tourism.
- (3) The Minister of Land, Infrastructure, Transport and Tourism may request the applicant to submit his/her certificate of registered matters and other necessary documents in addition to what is provided for in the preceding two paragraphs.

(Permit Standards)

Article 6 (1) When the Minister of Land, Infrastructure, Transport and Tourism wishes to grant a permit for the Port and Harbor Transportation Business, he/she shall examine whether such business satisfies the following standards before granting the permit:

- (i) For the General Port and Harbor Transportation Business, etc., the applicant has, at least, the facilities and workers specified by an Ordinance of the Ministry of Land, Infrastructure, Transport and Tourism, for each type of Port and Harbor Transportation Business and each port or harbor;
  - (ii) For the Tallying Business, etc., the applicant maintains the necessary system for securing the fair and proper operation of the Tallying Business, etc.;
  - (iii) The applicant has an appropriate plan from the perspective of the administration of the relevant business;
  - (iv) The applicant has a management structure in which the scope of responsibilities of the person operating the relevant business is clear; and
  - (v) The relevant business has a reliable financial basis.
- (2) The Minister of Land, Infrastructure, Transport and Tourism shall grant a permit for the Port and Harbor Transportation Business, when he/she finds that the application satisfies the standards set forth in the preceding paragraph as a result of an examination pursuant to the provisions of the preceding paragraph, except when the applicant falls under any of the following items:
- (i) A person who was sentenced to imprisonment without work or a greater punishment, and for whom five (5) years have not elapsed since the date on which the execution of his/her sentence was completed or on which such person ceased to be subject to execution of the sentence;
  - (ii) A person who was sentenced to a fine for the violation of the provisions of this Act, laws and regulations on the use of workers engaged in the Port and Harbor Transportation Business as set forth by Cabinet Order, or the Act on Prevention of Unjust Acts by Organized Crime Group Members (Act No. 77 of 1991; excluding paragraph (7) of Article 32-3 and paragraph (1) of Article 32-

- 11), and for whom five (5) years have not elapsed since the date on which the execution of his/her sentence was completed or on which such person ceased to be subject to execution of the sentence;
- (iii) A person whose permit for the Port and Harbor Transportation Business was rescinded, and for whom five (5) years have not elapsed since the date of such rescission (for a juridical person, this shall include a person who held office at such juridical person as an executive officer (including a person who had authority or control equivalent to or greater than that of an executive officer, irrespective of his/her title; the same shall apply hereinafter) when the event that caused the juridical person to be subject to the rescission occurred, and for whom five (5) years have not elapsed since the date of said rescission);
  - (iv) A minor or adult ward who does not have the same legal capacity as an adult with regard to business, and whose statutory agent falls under any of the preceding three items or the following item; or
  - (v) A juridical person, any of whose officials fall under any of the preceding items.

Article 7 Deleted

Article 8 Deleted

(Freightage and Charges)

- Article 9 (1) A person who has been granted a permit for the Port and Harbor Transportation Business (hereinafter referred to as "Port and Harbor Transportation Business Operator") shall set freightage and charges, and shall notify the Minister of Land, Infrastructure, Transport and Tourism thereof in advance, pursuant to the provisions of an Ordinance of the Ministry of Land, Infrastructure, Transport and Tourism. The same shall apply when the Port and Harbor Transportation Business Operator wishes to change these.
- (2) When the Minister of Land, Infrastructure, Transport and Tourism finds that the freightage or charges in the preceding paragraph fall under any of the following items, he/she may specify a time limit and order the relevant Port and Harbor Transportation Business Operator to change the freightage or charges thereby:
- (i) When freightage or charges unjustifiably discriminate against specific users;  
or
  - (ii) When there is a risk of freightage or charges causing unfair competition with other Port and Harbor Transportation Business Operators.

(Prohibition on Freightage and Charge Rebates)

Article 10 No Port and Harbor Transportation Business Operator shall give a user a rebate of freightage and charges already received.

(Port and Harbor Transportation Agreement)

Article 11 (1) A person who has obtained a permit for the General Port and Harbor Transportation Business (hereinafter referred to as "General Port and Harbor Transportation Business Operator") shall establish a Port and Harbor Transportation Agreement pursuant to the provisions of an Ordinance of the Ministry of Land, Infrastructure, Transport and Tourism, and shall obtain the approval of the Minister of Land, Infrastructure, Transport and Tourism therefor. The same shall apply if the General Port and Harbor Transportation Business Operator wishes to change the contents of the agreement.

(2) When the Minister of Land, Infrastructure, Transport and Tourism wishes to give his/her approval under the preceding paragraph, he/she shall do so in accordance with the following standards:

(i) The agreement poses no risk of harming the users' legitimate interests; and

(ii) The agreement clearly specifies, at minimum, matters related to the receipt and delivery of cargo and the responsibilities of the General Port and Harbor Transportation Business Operator.

(Posting of Freightage, Charges, and the Port and Harbor Transportation Agreement)

Article 12 The Port and Harbor Transportation Business Operator shall post the freightage and charges of which it has given notification pursuant to the provisions of paragraph (1) of Article 9 (excluding those set only for specific consignors or vessel operators), and the Port and Harbor Transportation Contract Agreement pursuant to the provisions of paragraph (1) of the preceding Article, in a place at its business office that is conspicuous to the user.

(Deposit of Undeliverable Cargo)

Article 13 (1) Where the General Port and Harbor Transportation Business Operator fails to deliver cargo due to a cause not attributable thereto, such Transportation Business Operator may deposit said cargo with a warehouse operator at the cost of the consignee.

(2) When depositing cargo pursuant to the provisions of the preceding paragraph, the General Port and Harbor Transportation Business Operator shall notify the consignee thereof without delay.

(Prohibition on Name Use)

Article 14 No Port and Harbor Transportation Business Operator shall allow

others to utilize its name for a Port and Harbor Transportation Business.

(Prohibition on Discriminatory Treatment, etc.)

Article 15 No Port and Harbor Transportation Business Operator shall unjustly subject a specific user to discriminatory treatment due to the quantity of cargo or for any other reason.

(Restrictions on Subcontracts)

Article 16 (1) With regard to the Port and Harbor Transportation it undertakes each month, a General Port and Harbor Transportation Business Operator shall, for each type of act listed in items (ii) to (v) of paragraph (1) of Article 2, carry out said acts in relation to its cargo by itself, for at least the cargo volumes obtained by multiplying the cargo volume for the relevant act from out of the Port and Harbor Transportation that it undertakes in the relevant month by the rate specified by an Ordinance of the Ministry of Land, Infrastructure, Transport and Tourism.

(2) With regard to the application of the provisions of the preceding paragraph, any act related to subcontracting out the Port and Harbor Transportation undertaken by the General Port and Harbor Transportation Business Operator to other Port and Harbor Transportation Business Operators (limited to those whose business activities are controlled by said General Port and Harbor Transportation Business Operator due to its holding of more than half of the total number of issued shares, and those who have equivalently close relationships to said General Port and Harbor Transportation Business Operator, as specified by an Ordinance of the Ministry of Land, Infrastructure, Transport and Tourism) shall be deemed to be conducted by the General Port and Harbor Transportation Business Operator by itself; provided, however, that this shall apply only in the following cases:

(i) When, in accordance with the provisions of the preceding paragraph, from among the Port and Harbor Transportation undertaken by the General Port and Harbor Transportation Business Operator in the relevant month that is related to the acts listed in items (ii) to (v) of paragraph (1) of Article 2, said General Port and Harbor Transportation Business Operator has carried out any of said types of act by itself; or

(ii) When either of the acts listed in item (ii) or (iv) of paragraph (1) of Article 2 were carried out under its own control and administration, as specified by an Ordinance of the Ministry of Land, Infrastructure, Transport and Tourism, at a container berth or other facility specified by an Ordinance of the Ministry of Land, Infrastructure, Transport and Tourism, for a volume of cargo that is at least the cargo volume obtained by multiplying the cargo volume that the General Port and Harbor Transportation Business Operator

has undertaken in the relevant month for the Port and Harbor Transportation by the rate specified by an Ordinance of the Ministry of Land, Infrastructure, Transport and Tourism.

- (3) With regard to Port and Harbor Transportation undertaken in each month (excluding the Port and Harbor Transportation taken on from other Port and Harbor Transportation Business Operators), a person who has been granted a permit for a Port and Harbor Transportation Business listed in items (ii) to (iv) of Article 3 (hereinafter referred to as "Port and Harbor Cargo Handling Business, etc.") shall carry out Port and Harbor Transportation in relation to its cargo by itself, at least for the cargo volume obtained by multiplying the cargo volume that it undertakes in the relevant month for Port and Harbor Transportation by the rate in paragraph (1) as specified by an Ordinance of the Ministry of Land, Infrastructure, Transport and Tourism.
- (4) A person who has been granted a permit for the Port and Harbor Cargo Handling Business, etc., shall carry out the whole of the Port and Harbor Transportation that it takes on from other Port and Harbor Transportation Business Operators by itself.
- (5) The method for calculating the cargo volume set forth in paragraphs (1) to (3) shall be specified by an Ordinance of the Ministry of Land, Infrastructure, Transport and Tourism.
- (6) When the Minister of Land, Infrastructure, Transport and Tourism finds that a Port and Harbor Transportation Business Operator is in violation of the provisions set forth in paragraph (1), (3), or (4) of this Article, he/she may order said Port and Harbor Transportation Business Operator to take measures to improve its business facilities and other measures required to rectify such violation.

(Ensuring Impartiality in the Tallying Business, etc.)

Article 16-2 A person who has been granted a permit for the Tallying Business, etc., shall perform the tallying, surveying, or measuring in an impartial manner.

(Revision of Business Plans)

Article 17 (1) A Port and Harbor Transportation Business Operator shall, when it wishes to revise a business plan, obtain the approval of the Minister of Land, Infrastructure, Transport and Tourism therefor; provided, however, that this shall not apply to a revision of the minor matters specified by an Ordinance of the Ministry of Land, Infrastructure, Transport and Tourism.

- (2) The provisions set forth in Article 6 shall apply mutatis mutandis to the approval under the preceding paragraph.
- (3) When revising its business plan in regard to a matter prescribed in the



proviso to paragraph (1), a Port and Harbor Transportation Business Operator shall notify the Minister of Land, Infrastructure, Transport and Tourism thereof, without delay.

(Ensuring the Operations Specified in the Business Plan)

Article 17-2 (1) A Port and Harbor Transportation Business Operator shall operate in accordance with its business plan, except in the event of a natural disaster or due to other unavoidable grounds.

(2) When the Minister of Land, Infrastructure, Transport and Tourism finds a Port and Harbor Transportation Business Operator to be in violation of the provisions of the preceding paragraph, he/she may order said Port and Harbor Transportation Business Operator to operate in accordance with the business plan.

(Approval for the Transfer and Acquisition of Business, etc.)

Article 18 (1) The transfer or acquisition of Port and Harbor Transportation Business shall not become effective unless approved by the Minister of Land, Infrastructure, Transport and Tourism.

(2) The merger or split of a juridical person that operates a Port and Harbor Transportation Business shall not become effective unless approved by the Minister of Land, Infrastructure, Transport and Tourism; provided, however, that this shall not apply where a juridical person that operates a Port and Harbor Transportation Business merges with a juridical person that does not operate a Port and Harbor Transportation Business or does not allow a succession of the Port and Harbor Transportation Business due to a split.

(3) A person who has acquired a Port and Harbor Transportation Business with approval he/she has obtained pursuant to the provisions of paragraph (1), or a juridical person who survives after a merger in the case of a merger or split for which approval has been obtained pursuant to the provisions of the preceding paragraph, who is established by the merger, or who succeeds to the Port and Harbor Transportation Business in the split shall succeed to the rights and obligations under the permit therefor.

(4) In the event that the Port and Harbor Transportation Business Operator dies, when an heir wishes to continue to operate the Port and Harbor Transportation Business that was operated by the decedent, the heir shall obtain the approval of the Minister of Land, Infrastructure, Transport and Tourism.

(5) Notwithstanding the provisions of Article 4, where the heir applies for the approval under the preceding paragraph within sixty (60) days of the death of the decedent, such heir may operate said business until the day that he/she receives notice of the approval or disapproval of his/her application.

(6) The provisions set forth in Article 6 shall apply mutatis mutandis to the

approval under paragraph (1), (2), or (4) of this Article.

(Orders for the Public Interest)

Article 18-2 (1) Notwithstanding the provisions of Article 15, only in the event that Port and Harbor Transportation is necessary for disaster relief or for otherwise maintaining public safety, and no one is available to voluntarily perform said operations or they are in remarkably short supply, the Minister of Land, Infrastructure, Transport and Tourism may designate and order a Port and Harbor Transportation Business Operator to perform the operations listed in the following:

- (i) To handle or transport cargo designated by the Minister of Land, Infrastructure, Transport and Tourism; and
- (ii) To change the method or order in which cargo is handled or transported.

(2) Compensation for the losses set forth in the following Article that are caused by an order issued pursuant to the provisions of the preceding paragraph shall be made to the extent that the total amount of compensation required does not exceed the amount under the budget passed through the Diet.

(Compensation for Losses)

Article 18-3 (1) A person who has received an order pursuant to the provisions of paragraph (1) of the preceding Article shall be compensated for the losses that would generally be caused by the receipt of that order (including losses of profits that would usually have been obtained if said person had not received that order).

- (2) The amount of compensation under the preceding paragraph shall be decided by the Minister of Land, Infrastructure, Transport and Tourism.
- (3) A person who is dissatisfied with the decision under the preceding paragraph may demand an increase in the amount of compensation by filing an action within six (6) months of the day that he/she learned of such decision.
- (4) In any action under the preceding paragraph, the State shall be the defendant.
- (5) In addition to what is provided for in the preceding four paragraphs, any necessary matter related to compensation for losses shall be specified by an Ordinance of the Ministry of Land, Infrastructure, Transport and Tourism.

Article 19 Deleted

(Notification of the Suspension or Discontinuance of Business)

Article 20 A Port and Harbor Transportation Business Operator shall, when it wishes to suspend or discontinue its business, notify the Minister of Land, Infrastructure, Transport and Tourism to that effect through the procedures specified by an Ordinance of the Ministry of Land, Infrastructure, Transport

and Tourism, at least thirty (30) days prior to the day of such suspension or discontinuance.

(Business Improvement Order)

Article 21 When the Minister of Land, Infrastructure, Transport and Tourism finds there to be a fact in relation to the business activities of the Port and Harbor Transportation Business Operator that is an impediment to the convenience of users or to other public interests, he/she may order said Port and Harbor Transportation Business Operator to revise its business plans or take other measures necessary to improve its business operations.

(Suspension of Business and Rescission of Permit)

Article 22 Where a Port and Harbor Transportation Business Operator falls under any of the following items, the Minister of Land, Infrastructure, Transport and Tourism may set a period of up to three (3) months and order said business to be suspended, or may rescind the permit of said Port and Harbor Transportation Business:

- (i) When the Port and Harbor Transportation Business Operator has violated this Act or any disposition based on this Act;
- (ii) When the Port and Harbor Transportation Business Operator does not implement a matter for which it has received approval, without justifiable grounds; or
- (iii) When the Port and Harbor Transportation Business Operator comes to fall under any of the provisions of item (i), (ii), (iv), or (v) in paragraph (2) of Article 6.

(Notification by a Business Related to Port and Harbor Transportation)

Article 22-2 (1) A person who wishes to operate a Business Related to Port and Harbor Transportation shall, in advance, notify the Minister of Land, Infrastructure, Transport and Tourism of the matters specified by an Ordinance of the Ministry of Land, Infrastructure, Transport and Tourism for each port and harbor. The same shall apply if a person who submitted such notification (hereinafter referred to as "Operator of a Business Related to Port and Harbor Transportation") wishes to change any of the matters contained in said notification.

(2) The Operator of a Business Related to Port and Harbor Transportation shall, when suspending or discontinuing its business, notify the Minister of Land, Infrastructure, Transport and Tourism to that effect within thirty (30) days of the day of such suspension or discontinuance.

(Charges)

Article 22-3 (1) The Operator of a Business Related to Port and Harbor

Transportation shall set charges for each port and harbor, and shall notify the Minister of Land, Infrastructure, Transport and Tourism thereof prior to their implementation, pursuant to the provisions set forth by an Ordinance of the Ministry of Land, Infrastructure, Transport and Tourism. The same shall apply if the operator wishes to change them.

(2) The provisions set forth in paragraph (2) of Article 9 shall apply mutatis mutandis to the charges of which the Operator of a Business Related to Port and Harbor Transportation has given notification pursuant to the provisions of the preceding paragraph.

(Prohibition on Charge Rebates and the Posting of Charges)

Article 22-4 The provisions of Article 10 shall apply mutatis mutandis to the charges collected by the Operator of a Business Related to Port and Harbor Transportation, and the provisions of Article 12 shall apply mutatis mutandis to the charges of which the Operator of a Business Related to Port and Harbor Transportation has given notice pursuant to the provision set forth in paragraph (1) of the preceding Article.

### **Chapter III Port and Harbor Transportation Business Mortgages**

(Establishment of a Port and Harbor Transportation Business Foundation)

Article 23 A person who has been granted a permit for General Port and Harbor Transportation Business, etc. (hereinafter referred to as "General Port and Harbor Transportation Business Operators, etc." in this Chapter), may establish a Port and Harbor Transportation Business foundation for mortgages.

(Foundation Composition)

Article 24 A Port and Harbor Transportation Business foundation may be composed of the whole or part of the things set forth in the following that belong to a single General Port and Harbor Transportation Business Operator, etc., and that are related to its General Port and Harbor Transportation Business, etc.:

(i) Sheds, cargo handling machinery, and other cargo handling facilities, as well as their sites;

(ii) Barges, tugboats, and other vessels;

(iii) Offices and other buildings, and the sites that are necessary for the General Port and Harbor Transportation Business, etc.;

(iv) Superficies rights existing on the real property of another person for the use of a structure listed in item (i) or the preceding item, registered rights of lease, and servitudes existing on a piece of land listed in item (i) or the

- preceding item; and
- (v) The equipment and machinery that are necessary for the operation of the General Port and Harbor Transportation Business, etc.

(Restrictions on the Establishment of Foundations)

Article 25 When none of the real properties listed in item (i) or (iii) of the preceding Article exist, the General Port and Harbor Transportation Business Operator, etc., may not establish a Port and Harbor Transportation Business foundation.

(Mutatis Mutandis Application of the Factory Mortgage Act)

Article 26 In addition to the provisions of this Act, the provisions concerning factory foundations in the Factory Mortgage Act (Act No. 54 of 1905) shall apply mutatis mutandis to a Port and Harbor Transportation Business foundation. In this case, the term "factory location" in Articles 17 and 45 of the same Act shall be deemed to be replaced with "location of real properties listed in item (i) or (iii) of Article 24 of the Port Transportation Business Act."

Article 27 Deleted

(Duration of a Foundation)

Article 28 A Port and Harbor Transportation Business foundation shall not dissolve on the grounds that it is not owned by a General Port and Harbor Transportation Business Operator, etc.

#### **Chapter IV Miscellaneous Provisions**

(Conditions for and Term of a Permit, etc.)

- Article 29 (1) A permit or approval may be given with conditions or a term attached thereto, and these may be changed.
- (2) The conditions or term under the preceding paragraph shall not exceed the minimum necessary to promote the public interest or to ensure the implementation of matters related to the permit or approval, and shall not impose an undue obligation on the relevant Port and Harbor Transportation Business Operator.

(Delegation of Authority)

Article 30 (1) Part of the authority of the Minister of Land, Infrastructure, Transport and Tourism provided for in this Act and specified by Cabinet Order shall be exercised by the Director-Generals of the District Transport Bureaus (including the Director of Transport Administration; the same shall apply in

the following paragraph).

- (2) The provisions of the following Article shall not apply where the Director-General of the District Transport Bureau has been entrusted with the authority of the Minister of Land, Infrastructure, Transport and Tourism, pursuant to the provisions of the preceding paragraph.

(Consultation with the Transportation Council)

Article 31 The Minister of Land, Infrastructure, Transport and Tourism shall consult with the Transportation Council with regard to the rescission of a permit for Port and Harbor Transportation Business, a suspension of business, or an order to change the freightage and charges at a Port and Harbor Transportation Business.

(Notices to the Administrator of a Port or Harbor, etc.)

Article 32 (1) The Minister of Land, Infrastructure, Transport and Tourism shall, when it wishes to issue an order to change the freightage and charges, or the Port and Harbor Transportation Agreement (excluding an order pertaining to the Tallying Business, etc.) pursuant to the provisions set forth in paragraph (2) of Article 9 or Article 21, hear the opinions of the relevant administrator of the port or harbor.

- (2) Where the Minister of Land, Infrastructure, Transport and Tourism has granted a permit, accepted a notification of the discontinuance of business, or rescinded a permit for General Port and Harbor Transportation Business, etc., he/she shall notify the relevant administrator of the port or harbor to that effect.

(Displays on Barges, etc.)

Article 32-2 The Port and Harbor Transportation Business Operator shall display its name and other matters specified by an Ordinance of the Ministry of Land, Infrastructure, Transport and Tourism in a conspicuous location on the barges and vessels it uses for Port and Harbor Transportation or for transportation as set forth in paragraph (1) of Article 33-2.

(Collection of Reports, etc.)

Article 33 (1) The Minister of Land, Infrastructure, Transport and Tourism may, when he/she finds it to be necessary in order to ensure the enforcement of this Act, have a Port and Harbor Transportation Business Operator or the Operator of a Business Related to Port and Harbor Transportation report on the use of barges and other matters related to business.

- (2) The Minister of Land, Infrastructure, Transport and Tourism may, when he/she finds it to be necessary in order to ensure the enforcement of this Act,

have his/her officials enter the offices or workplaces of a Port and Harbor Transportation Business Operator or the Operator of a Business Related to Port and Harbor Transportation, or board barges, tugboats, or other vessels to inspect the books, documents, and other items.

- (3) Such officials shall, when conducting an inspection pursuant to the provisions of the preceding paragraph, carry a certificate of identification and present it to the relevant parties.
- (4) The authority to inspect in paragraph (2) shall not be construed as having been granted for criminal investigations.

(Special Provisions on Coastal Cargo Transportation Carried Out in a Designated Area)

Article 33-2 (1) The provisions of the Coastal Shipping Act (Act No. 151 of 1952) and the Freight Forwarding Business Act (Act No. 82 of 1989) shall not apply to the transportation of goods carried out by a General Port and Harbor Transportation Business Operator or a person who was granted a permit for Barge Transportation Business (hereinafter referred to as "Barge Transportation Business Operator") using wooden vessels other than barges in the Designated Area that begins or ends at the port or harbor for which said Transportation Business Operator has received a permit to conduct said business (including where the transportation undertaken by a Transportation Business Operator is subcontracted to another person, but for General Port and Harbor Transportation Business Operators, limited to where it carries out transportation as part of a business equivalent to the General Port and Harbor Transportation Business). In the event that the General Port and Harbor Transportation Business Operator or the Barge Transportation Business Operator dies, the same shall apply to the person who succeeds to the business pursuant to paragraph (5) of Article 18.

- (2) The provisions set forth in Articles 9 to 12, Article 14, Article 15, Article 18-2, and Article 18-3 shall apply mutatis mutandis to transportation under the preceding paragraph. In this case, the term "Port and Harbor Transportation Business" in Article 14 shall be deemed to be replaced with "transportation under paragraph (1) of Article 33-2."

(Delegation to Cabinet Order)

Article 33-3 Where a Cabinet Order based on the provisions of this Act is established, revised, or abolished, the necessary transitional measures (including those concerning penal provisions) may be specified by Cabinet Order to the extent judged reasonably necessary for such establishment, revision, or abolition.

## Chapter V Penal Provisions

Article 34 Any person who falls under any of the following items shall be punished by imprisonment with work for not more than three (3) years, a fine of not more than three million (3,000,000) yen, or both:

- (i) A person who operates a Port and Harbor Transportation Business without obtaining the permit set forth in the provisions of Article 4; or
- (ii) A person who violates the provision of Article 14 (including where this is applied mutatis mutandis pursuant to paragraph (2) of Article 33-2).

Article 35 Any person who violates an order to suspend business pursuant to the provisions of Article 22 shall be punished by imprisonment with work for not more than one (1) year, a fine of not more than one million five hundred thousand (1,500,000) yen, or both.

Article 36 Deleted

Article 37 Any person who violates an order under the provisions of paragraph (1) of Article 18-2 (including where this is applied mutatis mutandis pursuant to paragraph (2) of Article 33-2) shall be punished by imprisonment with work for not more than six (6) months, a fine of not more than one million (1,000,000) yen, or both.

Article 38 Any person who falls under any of the following items shall be punished by a fine of not more than one million (1,000,000) yen:

- (i) A person who has collected freightage or charges without having made the notification pursuant to the provisions of paragraph (1) of Article 9 (including where this is applied mutatis mutandis pursuant to paragraph (2) of Article 33-2) or paragraph (1) of Article 22-3, or who has collected freightage or charges that are not in accordance with those for which the notification was made;
- (ii) A person who has collected freightage or charges in violation of an order pursuant to the provisions of paragraph (2) of Article 9 (including where this is applied mutatis mutandis pursuant to paragraph (2) of Article 22-3 and paragraph (2) of Article 33-2);
- (iii) A person who has given a rebate of freightage or charges, in violation of the provisions of Article 10 (including where this is applied mutatis mutandis pursuant to Article 22-4 and paragraph (2) of Article 33-2);
- (iv) A person who has concluded a transportation contract without obtaining the approval set forth in the provisions of paragraph (1) of Article 11 (including where this is applied mutatis mutandis pursuant to paragraph (2)



- of Article 33-2) or who has concluded a transportation contract that is not in accordance with the approved Port and Harbor Transportation Agreement;
- (v) A person who has violated the provisions of Article 15 (including where this is applied mutatis mutandis pursuant to paragraph (2) of Article 33-2);
  - (vi) A person who has violated an order pursuant to the provisions of paragraph (6) of Article 16, paragraph (2) of Article 17-2, or Article 21;
  - (vii) A person who has revised a business plan without obtaining the approval pursuant to the provisions of paragraph (1) of Article 17;
  - (viii) A person who has failed to make a report pursuant to the provisions of paragraph (1) of Article 33 or who has made a false report; or
  - (ix) A person who has refused, interfered with, or evaded an inspection pursuant to the provisions of paragraph (2) of Article 33.

Article 39 When the representative of a juridical person, or the agent, employee or any other worker of a juridical person or of an individual commits a violation of Article 34, Article 35, or the preceding two Articles, in addition to the offender being punished, such juridical person or individual shall be punished by the fine prescribed in each of those Articles.

Article 40 Any person who falls under any of the following items shall be subject to a non-criminal fine of not more than five hundred thousand (500,000) yen:

- (i) A person who has failed to post or display as set forth in the provisions of Article 12 (including where this is applied mutatis mutandis pursuant to Article 22-4 and paragraph (2) of Article 33-2) or Article 32-2, or who has posted or displayed falsely;
- (ii) A person who has failed to make a notification pursuant to the provisions of paragraph (3) of Article 17 or paragraph (2) of Article 22-2 or who has made a false notification;
- (iii) A person who has suspended or discontinued business without making a notification pursuant to the provisions of Article 20 or who has suspended or discontinued business by making a false notification; or
- (iv) A person who has operated a Business Related to Port and Harbor Transportation without making a notification pursuant to the provisions of paragraph (1) of Article 22-2 or who has operated a Business Related to Port and Harbor Transportation by making a false notification.