

Act on the Prevention of Adverse Ecological Impacts Caused by Designated Invasive Alien Species

(Act No. 78 of June 2, 2004)

Table of Contents

- Chapter I General Provisions (Article 1 to Article 3)
- Chapter II Regulations on Handling of Designated Invasive Alien Species (Article 4 to Article 10)
- Chapter III Control of Designated Invasive Alien Species (Article 11 to Article 20)
- Chapter IV Unevaluated Alien Species (Article 21 to Article 24)
- Chapter IV-2 Inspection of Imported Goods (Article 24-2 to Article 24-4)
- Chapter V Miscellaneous Provisions (Article 25 to Article 31)
- Chapter VI Penal Provisions (Article 32 to Article 36)
- Supplementary Provisions

Chapter I General Provisions

(Purpose)

Article 1 The purpose of this Act is to prevent adverse ecological impacts caused by designated invasive alien species through regulating raising, growing, storing, carrying (hereinafter "raise"), importing, and other handling of designated invasive alien species and through taking measures such as the control of designated invasive alien species by the national government and other entities, and, doing so, to help stabilize and improve lives of the citizenry through contributions to conservation of biodiversity, human safety and sound development of agriculture, forestry and fisheries.

(Definition)

Article 2 (1) In this Act, "designated invasive alien species" means individual organisms (including eggs, seeds and others designated by Cabinet Order; limited to living ones) and the respective organs (limited to those which require measures such as regulations on raising for preventing adverse ecological impacts to be taken under this Act and which are designated by Cabinet Order; limited to living ones) of living organisms designated by Cabinet Order as ones existing outside their original habitats as a result of introduction from overseas into our country (including those generated as the result of hybridization of such living organisms; hereinafter "alien species") that are to cause or likely to cause adverse ecological impacts because of their different

nature from organisms having original habitats in Japan (hereinafter "native species").

- (2) In this Act "adverse ecological impacts" means adverse impacts on ecosystem, human life or body, or agriculture, forestry and fisheries.
- (3) When the competent minister makes a plan in enacting, amending or abolishing a Cabinet Order under paragraph (1), the minister must consult persons with relevant expertise on the nature of the living organisms.

(Basic Policy for Preventing Adverse Ecological Impacts Caused by Designated Invasive Alien Species)

Article 3 (1) The competent minister must prepare a draft of a basic policy for preventing adverse ecological impacts caused by designated invasive alien species upon consultation with the Central Environment Council and ask for a cabinet decision on it.

- (2) The basic policy in the preceding paragraph (hereinafter "basic policy") is to specify the following matters:
 - (i) the basic framework concerning the prevention of adverse ecological impacts caused by designated invasive alien species;
 - (ii) basic matters concerning the selection of designated invasive alien species;
 - (iii) basic matters concerning the handling of designated invasive alien species;
 - (iv) basic matters concerning the control of designated invasive alien species by the national government and other entities;
 - (v) beyond the matters in the preceding items, important matters concerning the prevention of adverse ecological impacts caused by designated invasive alien species.
- (3) The competent minister must make it public without delay, if a cabinet decision on the basic policy under paragraph (1) is made.
- (4) The provisions of paragraph (1) and the preceding paragraph apply mutatis mutandis to changes in the basic policy.

Chapter II Regulations on Handling of Designated Invasive Alien Species

(Prohibition of Raising)

- Article 4 Designated invasive alien species must not be raised; provided, however, that this does not apply to the following cases:
- (i) in the case of raising in accordance to a permission of the following Article, paragraph (1), after obtaining the permission;
 - (ii) in case of capture and other treatment for control under the following Chapter, or in the other cases of having a compelling reason as specified by order of the competent ministry.

(Permission for Raising)

- Article 5 (1) A person that intends to raise designated invasive alien species for the purpose of academic research or the purposes specified by order of the competent ministry must obtain permission from the competent minister.
- (2) A person that intends to obtain the permission under the preceding paragraph must apply for permission with the competent minister as specified by order of the competent ministry.
- (3) The competent minister must not grant the permission under paragraph (1) if there is a reason that falls under any of the following items regarding the raising related to the application of the preceding paragraph:
- (i) the purpose of the raising does not conform to a purpose provided for in paragraph (1);
 - (ii) the person intending to raise the invasive alien species is found to be unable to properly handle the designated invasive alien species related to the raising because the person does not have a raising facility which meets standards specified by order of the competent ministry according to the nature of the relevant designated invasive alien species (hereinafter "specified raising facility") or for some other reason.
- (4) If the competent minister intends to grant the permission under paragraph (1), and finds it necessary so as to prevent adverse ecological impacts due to designated invasive alien species, the minister may attach conditions to the permission, to the necessary extent.
- (5) A person that obtains the permission under paragraph (1), in raising a designated invasive alien species related to the permission, must periodically conduct inspection of the specified raising facility related to the relevant designated invasive alien species, make it clear that the person has the permission for the relevant designated invasive alien species, and employ other methods provided for by order of the competent ministry.

Article 6 Deleted

(Prohibition of Import)

- Article 7 Designated invasive alien species must not be imported; provided, however, that this does not apply if a permittee under Article 5, paragraph (1) imports a designated invasive alien species related to that permission.

(Prohibition of Transferring)

- Article 8 Designated invasive alien species must not be transferred or received by transfer, or, delivered or received by delivery (hereinafter "transfer"); provided, however, that this does not apply to the case in which persons that raise or intend to raise a designated invasive alien species falling under Article

4, item (i) transfer the designated invasive alien species related to the raising between them, and to other cases provided by order of the competent ministry.

(Prohibition of Releasing)

Article 9 Designated invasive alien species related to the raising, importing, or transferring must not be released, planted, or sowed (hereinafter "release") outside the specified raising facility related to the relevant designated invasive alien species; provided, however, that this does not apply in the following cases:

- (i) if releasing in accordance to a permission of the following Article, paragraph (1), after obtaining the permission;
- (ii) if releasing for control under the following Chapter.

(Permission for Releasing)

- Article 9-2 (1) A person that intends to release a designated invasive alien species for the purpose of academic research to promote control under the following Chapter must obtain permission from the competent minister.
- (2) A person that intends to obtain the permission under the preceding paragraph must apply for the permission with the competent ministers as specified by order of the competent ministry.
 - (3) The competent minister must not grant the permission under the preceding paragraph unless the minister finds that the purpose of the releasing related to the application under the preceding paragraph is consistent with the purpose provided for in paragraph (1); and that the releasing complies with the standards specified by order of the competent ministry, such as the releasing being unlikely to expand the habitat area of the relevant designated invasive alien species.
 - (4) When the competent minister grants the permission under paragraph (1), the minister must issue a permit, as designated by order of the competent ministry.
 - (5) A permittee under paragraph (1) must carry the permit referred to in the preceding paragraph when undertaking the releasing related to that permission.
 - (6) The provisions of Article 5, paragraph (4) apply mutatis mutandis to permission under paragraph (1).

(Order for Measures)

Article 9-3 (1) If the competent minister finds it necessary so as to prevent adverse ecological impacts due to designated invasive alien species, the minister may order to the necessary extent for such prevention, the person in violation of the conditions attached pursuant to the provisions of Article 4, Article 5, paragraph (5), Article 8 or Article 9, or the provisions of Article 5,

paragraph (4) (including when applied mutatis mutandis in paragraph (6) of the preceding Article) to take necessary measures, such as suspending the raising of the relevant designated invasive alien species, improving the method of raising of the relevant designated invasive alien species, or collecting the relevant designated invasive alien species which were released.

- (2) If a permittee under Article 5, paragraph (1) or paragraph (1) of the preceding Article violates the provisions of this Act or an order under this Act, or a disposition under this Act, and adverse ecological impacts due to designated invasive alien species occur or are likely to occur, the competent minister may revoke such permission.

(Collection of Reports and On-site Inspection)

Article 10 (1) To the necessary extent for the enforcement of this Act, the competent minister may request a permittee under Article 5, paragraph (1) or Article 9-2, paragraph (1) to submit reports on conditions of handling designated invasive alien species or on necessary matters.

- (2) To the necessary extent for the enforcement of this Act, the competent minister may have employees enter facilities for the raising of designated invasive alien species or areas related to a releasing, inspect items such as designated invasive alien species or documents,, or question relevant persons.
- (3) The employees in the preceding paragraph must carry certificate and present it to relevant persons.
- (4) The authority under paragraph (2) must not be construed as being granted for the purpose of criminal investigation.

Chapter III Control of Designated Invasive Alien Species

(Control by the Competent Ministers)

Article 11 (1) If adverse ecological impacts due to designated invasive alien species occur or are likely to occur, and it is necessary so as to prevent the occurrence, the competent minister and heads of the pertinent administrative organs of the national government (hereinafter "competent ministers and others") are to conduct control pursuant to the provisions of this Chapter.

- (2) To implement the control under the preceding paragraph, the competent ministers and others must, as designated by order of the competent ministry, specify the following items and make them public after hearing the opinions of the prefectures concerned.
- (i) the type of designated invasive alien species to be subjected to the control;
 - (ii) an area and a period for implementing the control;
 - (iii) methods of control such as capturing, collecting, or killing (hereinafter "capturing, collecting, or killing") of the relevant designated invasive alien

species or releasing of sterilized designated invasive alien species for the purpose of control of them;

(iv) beyond the preceding items, items specified by Order of the competent ministry.

(Exception from the Wildlife Protection, Control, and Hunting Management Act)

Article 12 To the capturing, collecting, or killing of designated invasive alien species subjected to control implemented by the competent ministers and others under paragraph (1) of the preceding Article, the provisions of the Wildlife Protection, Control, and Hunting Management Act (Act No. 88 of 2002) do not apply.

(Entry into Land and other measures)

Article 13 (1) To the necessary extent for control under Article 11, paragraph (1), the competent ministers and others may have employees enter other persons' lands or water surfaces, engage in capturing, collecting, or killing, or releasing of designated invasive alien species, or cut down trees and bamboo which interfere with the capturing, collecting, or killing of designated invasive alien species.

(2) If the competent ministers and others have employees engage in conduct pursuant the preceding paragraph, the relevant competent ministers and others, in advance, must notify the possessor of the land or the water surface, or owners of the trees or bamboo to that effect, and give them an opportunity to express their opinions.

(3) The employees in paragraph (1) must carry certificate and present it to relevant persons.

(4) If the competent ministers and others make the notification under paragraph (2), and the other party is unknown or the address of the other party is not clear, the relevant competent ministers and others must post the notification at the place of notification for the office of the municipality to which the location of the land, water surface, or trees or bamboo regarding the notification belongs, and publish the summary of the notification and the fact that it has been posted, in the official gazette. In these cases, the notification is deemed to have reached the other party 14 days from whichever comes later, the date on which the notification was first posted, or the date of publication in the official gazette,.

(Compensation of Loss)

Article 14 (1) The national government compensates the normally expected losses incurred to a person due to an act under paragraph (1) of the preceding

Article.

- (2) A person that intends to receive compensation under the preceding paragraph must request it to the competent ministers and others.
- (3) If the competent ministers and others receive a request under the preceding paragraph, they must decide the amount of compensation and inform it to the relevant requester.

(Filing of a Suit)

- Article 15 (1) A person that is dissatisfied with a decision made under paragraph (3) of the preceding Article may claim an increase of the amount of compensation within six months from the date of the receipt of the notice.
- (2) With regard to the claim under the preceding paragraph, the national government is the defendant.

(Dues of a Causer)

Article 16 If the control under Article 11, paragraph (1) needs to be implemented, and there is a person that has performed an act which causing it, the national government may make the person bear the whole or part of expenses within to the necessary extent for implementing the control.

(Method of Collecting Dues)

- Article 17 (1) If the competent ministers and others intend to make a person bear expenses pursuant to the provisions of the preceding Article, the relevant competent ministers and others must fix the amount of expenses that they intend to make the person bear (hereinafter "dues" in this Article) and the due date for the payment, and order the payment, as provided for by order of the competent ministry.
- (2) If a person fails to pay the dues by the due date for the payment under the preceding paragraph, the competent ministers and others must fix a due date for payment and demand the payment by a demand letter as provided for by order of the competent ministry.
 - (3) If the competent ministers and others demand payment pursuant to the preceding paragraph, they may collect arrearages in an amount calculated by multiplying the dues by a rate not exceeding 14.5% per annum based on the number of days from the date following the due date for payment in paragraph (1) to the date of completion of the payment of the dues or to the date preceding the attachment of property for collecting the dues, as provided for by order of the competent ministry.
 - (4) If a person that is demanded to pay pursuant to paragraph (2) does not pay the dues and the arrearages of the dues in the preceding paragraph (hereinafter "arrearages" in this Article) by the due date fixed by the

competent ministers and others on the demand letter in paragraph (2), the relevant competent ministers and others may collect the dues and the arrearages in accordance with cases of disposition of delinquency for national taxes. In this case, the order of the statutory lien of the dues and the arrearages comes next after national taxes and local taxes.

(5) The arrearages come prior to the dues.

(Control by Others than the Competent Ministers)

Article 18 (1) In regards with the control of designated invasive alien species that a local government implements in conformity with the items made public pursuant to the provisions of Article 11, paragraph (2), the local government may obtain confirmation to that effect from the competent minister, as provided for by order of the competent ministry.

(2) In regards with the control of designated invasive alien species that a person other than the national government or a local government implements, the person may, as provided for by order of the competent ministry, obtain the certification of the competent minister that the person is capable of performing it properly and reliably and that the control is in conformity with the items made public pursuant to the provisions of Article 11, paragraph (2).

(3) If the competent minister makes the confirmation under paragraph (1) or gives the certification under the preceding paragraph, the minister must make it public as provided for by order of the competent ministry. The same applies if the minister revokes the confirmation or certification pursuant to the provisions of Article 20, paragraph (2) or (4).

(4) The provisions of Article 12 apply *mutatis mutandis* to the control implemented by a local government with the confirmation in paragraph (1) and to the control implemented by a person other than the national government or a local government with the certification in paragraph (2), and the provisions of Article 13 to the preceding Article apply *mutatis mutandis* to a local government that has jurisdiction over affairs related to the control with the confirmation in paragraph (1). In these cases, "official gazette" in Article 13, paragraph (4) is replaced by "bulletin of the local government."

Article 19 The competent minister may request a person that has obtained the certification in paragraph (2) of the preceding Article and that implements the control to submit reports on the status of implementation or on other necessary matters.

Article 20 (1) If a person that has obtained the confirmation under Article 18, paragraph (1), or the certification in the same Article, paragraph (2) suspends the control or becomes unable to perform the control in conformity with the

items made public pursuant to the provisions of Article 11, paragraph (2), the person must notify the competent minister thereof.

- (2) If the competent minister receives a notification under the preceding paragraph, the minister is to revoke the confirmation under Article 18, paragraph (1) or the certification under the same Article, paragraph (2) related to the notification.
- (3) If the competent minister finds that, in a control with the certification under Article 18, paragraph (2), the releasing of sterilized designated alien species for the purpose of the control fails to comply with items made public pursuant to the provisions of Article 11, paragraph (2), the minister may order the person engaged in the control to collect relevant designated invasive alien species which has been released and to take other necessary measures.
- (4) If the competent minister finds that the control with certification under Article 18, paragraph (2) is not implemented in conformity with items made public pursuant to the provisions of Article 11, paragraph (2) or, if the relevant competent minister finds that the person, implementing the control, has become unable to carry out the control properly and reliably or if the relevant person failed to submit the report specified by the preceding Article or submitted a false report, the relevant minister may revoke the certification.

Chapter IV Unevaluated Alien Species

(Notification of Import)

Article 21 As provided for by order of the competent ministry, a person that intends to import unevaluated alien species (alien species specified by order of the competent ministry as likely to cause adverse ecological impacts because of their different nature from that of native species, limited to living ones; the same applies hereinafter.) must previously notify the competent minister of the type of the unevaluated alien species and other matters specified by order of the competent ministry.

(Determination)

Article 22 If the competent minister receives a notification under the preceding Article, the minister must determine whether or not the unevaluated alien species in the notification is likely to cause adverse ecological impacts because of their different nature from that of native species, and inform the result to the person that has submitted the notification within six months from the date of the receipt of the notice.

(Restrictions on Import)

Article 23 A person that intends to import unevaluated alien species must not

import the unevaluated alien species before receiving the notification under the preceding Article to the effect that the unevaluated alien species is not likely to cause adverse ecological impacts because of their different nature from that of native species.

(Unevaluated Alien Species relevant to Exporters Abroad)

Article 24 (1) A person that intends to export unevaluated alien species to Japan may previously notify the competent minister of the type of the unevaluated alien species and other matters specified by order of the competent ministry, as provided for by order of the competent ministry.

(2) The provisions of Article 22 apply mutatis mutandis to the notification provided for in the preceding paragraph.

Chapter IV-2 Inspection of Imported Goods

(Inspection of Imported Goods)

Article 24-2 (1) If the competent minister finds that imported goods or their containers or packages (hereinafter "imported goods or their containers or packages ") have designated invasive alien species or unevaluated alien species attached or contained, the minister may have employees enter the lands, warehouses, vessels or aircrafts where the relevant imported goods or their containers or packages are located, inspect the relevant imported goods or their containers or packages, question the relevant persons, or collect the relevant imported goods or their containers or packages within the minimum amount required for inspection without charge.

(2) If, the result of the inspection under the preceding paragraph indicates that a designated invasive alien species or unevaluated alien species is attached onto or contained into the imported goods or their containers or packages, the competent minister may disinfect or dispose imported goods or their containers or packages, or order a person that owns or manages imported goods or their containers or packages to disinfect or to dispose them.

(3) The authority under paragraph (1) must not be construed as being granted for the purpose of criminal investigation.

(Delegation Provision)

Article 24-3 (1) Procedures and criteria for orders under paragraph (2) of the preceding article are provided for by order of the competent ministry.

(2) If the competent minister intends to provide for the criteria of the preceding paragraph, the minister must consult persons with relevant expertise on the nature of the living organisms and persons with relevant expertise on other matters.

(Request for Administrative Review)

Article 24-4 No request for administrative review may be made against an order under Article 24-2, paragraph (2).

Chapter V Miscellaneous Provisions

(Attachment of a Certificate for Import)

Article 25 (1) Other organisms (limited to living ones) than those specified by order of the competent ministry for being easily identified as not falling under designated invasive alien species nor unevaluated alien species must not be imported unless a certificate issued by a foreign government agency proving the types of the relevant organisms or other certificates provided for by order of the competent ministry are attached.

(2) An organism requiring the attachment of a certificate in the preceding paragraph must not be imported through any other place than ports or airports specified by order of the competent ministry.

(Employee Engaging in Regulation)

Article 26 (1) The competent minister may have employees that meet requirements provided for by Cabinet Order exercise part of the powers under Article 9-3, paragraph (1), or Article 10, paragraph (1) or (2), or Article 24-2, paragraph (1) or (2).

(2) Employees who exercise part of the powers of the competent minister pursuant to the provisions of the preceding paragraph (in the next paragraph, "agent of regulation for designated invasive alien species' adverse effects prevention") must carry certification and present it to relevant persons when the powers are to be exercised.

(3) Beyond what is provided for in the preceding two paragraphs, matters necessary in relation to agents of regulation for designated invasive alien species' adverse effects prevention are provided for by Cabinet Order.

(Measures to enrich Scientific Knowledge)

Article 27 To enrich scientific knowledge of adverse ecological impacts caused by alien species and the prevention thereof, the government must endeavor to collect, arrange and analyze information, and, to promote study and take other necessary measures relevant to the knowledge.

(Improvement of Public Understanding)

Article 28 The government must endeavor to deepen public understanding on the control or other activities of designated invasive alien species through

measures such as educational activities and public relation activities.

(The Competent Ministers)

Article 29 (1) The competent minister in this Act is the Minister of the Environment ; provided, however, that with regard to matters related to prevention of adverse effects on agriculture, forestry and fisheries, the competent ministers are the Minister of the Environment and the Minister of Agriculture, Forestry and Fisheries.

(2) Order of the competent ministry in this Act is an order issued by the competent minister.

(Delegation of Authority)

Article 29-2 The authority of the competent minister under this act may be delegated to the head of local branch bureaus and departments as provided for by order of the competent ministry.

(Transitional Measures)

Article 30 When establishing, amending or abolishing an order under the provisions of this Act, transitional measures (including transitional measures on penal provisions) may be stipulated by the order to the extent deemed reasonably necessary for the establishment, amendment or abolition thereof.

(Delegation to the Order of Competent Ministry)

Article 31 Other than those provided in this Act, procedures for the implementation of this Act and other matters necessary for the enforcement of this Act are provided for by order of the competent ministry.

Chapter VI Penal Provisions

Article 32 A person that falls under any of the following items is punished by imprisonment for any period not more than three years or a fine not exceeding three million yen, or both.

(i) a person that raises a designated invasive alien species for the purpose of sale or distribution in violation of the provisions of Article 4;

(ii) a person that obtains the permission under Article 5, paragraph (1) or Article 9-2, paragraph (1) by deceit or other wrongful means;

(iii) a person that violates the provisions of Article 7 or Article 9;

(iv) a person that has sold or distributed designated invasive alien species in violation of the provisions of Article 8;

(v) a person that has violated an order under Article 9-3, paragraph (1) or Article 24-2, paragraph (2).

Article 33 A person that falls under any of the following items is punished by imprisonment for a period no longer than one year or a fine not exceeding one million yen, or both.

- (i) a person that violates the provisions of Article 4 or Article 8 (excluding those that fall under item (i) or item (iv) of the preceding Article);
- (ii) a person that has raises a designated invasive alien species in violation of the conditions attached pursuant to the provisions of Article 5, paragraph (4);
- (iii) a person that engages in the releasing of designated invasive alien species in violation of the conditions attached pursuant to the provisions of Article 5, paragraph (4) as applied mutatis mutandis pursuant to Article 9-2, paragraph (6);
- (iv) a person that violates an order under Article 20, paragraph (3);
- (v) a person that violates the provisions of Article 23.

Article 34 A person that violates the provisions of Article 25, paragraph (1) or paragraph (2) is punished by a fine not exceeding five hundred thousand yen.

Article 35 A person that falls under any of the following items is punished by a fine not exceeding three hundred thousand yen:

- (i) a person that fails to make reports, or makes false reports under Article 10, paragraph (1);
- (ii) a person that refuses, interferes or evades on-site inspection under Article 10, paragraph (2), or gives no statement or false statement in reply to questions asked at on-site inspection;
- (iii) a person that refuses, interferes or evades on-site inspection or collection under Article 24-2, paragraph (1), or gives no statement or false statement in reply to questions.

Article 36 When a representative of a corporation or an agent, an employee or any other worker of a corporation or an individual commits a violation set forth in Article 32 to the preceding Article with regard to the business of the corporation or individual, not only the individual offender but also the corporation is subject to a fine prescribed in the following items and the individual is subject to the fine referred to in the relevant Articles.

- (i) Article 32: a fine not exceeding one hundred million yen;
- (ii) Article 33: a fine not exceeding fifty million yen;
- (iii) preceding two Articles: the fine prescribed in the respective Articles.

Supplementary Provisions

(Effective Date)

Article 1 This Act comes into effect as of the date (Cabinet Order No. 168 of June 1, 2005) provided by Cabinet Order within a period not exceeding one year from the date of promulgation (June 2, 2004); provided, however, that the provisions of the Article 4 of supplementary provisions come into effect as of the date of promulgation.

(Transitional Measures)

Article 2 (1) Even before this Act comes into effect, the competent minister may prepare a basic policy for preventing adverse ecological impacts caused by designated invasive alien species in accordance with the provisions of Article 3, paragraph (1) and paragraph (2) and ask for a cabinet decision.

(2) If a cabinet decision on the basic policy in the preceding paragraph is made, the competent minister must make it public without delay.

(3) The basic policy provided for pursuant to the provisions of paragraph (1) is deemed to be the basic policy provided for pursuant to the provisions of Article 3, paragraph (1) and paragraph (2) on the date this Act comes into effect.

(Delegation to Cabinet Order)

Article 3 Beyond what is provided for in the preceding Article, any necessary transitional measures concerning the enforcement of this Act are provided for by Cabinet Order.

(Review)

Article 4 After five years have passed since this Act has come into effect, the government is to review the state of enforcement of this Act and, if the government finds it necessary, take the required measures based on the results thereof.