

Heat Supply Business Act

(Act No. 88 of June 22, 1972)

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Chapter I General Provisions

(Purpose)

Article 1 The purpose of this Act is to protect the interests of persons who receive heat supply and to achieve the sound development of heat supply business by realizing appropriate and reasonable operation of heat supply business, and to assure public safety by regulating the construction, maintenance and operation of heat supply facilities.

(Definitions)

Article 2 (1) The term "heat supply" as used in this Act means supplying heated or cooled water or steam through pipelines.

(2) The term "heat supply business" as used in this Act means the business of supplying heat to meet general demand (limited to such business that uses boilers and other facilities specified by Cabinet Order with a capacity larger than the standards specified by Cabinet Order, and excluding such business exclusively for supplying heat to meet the demand in a single building.

(3) The term "heat supply operator" as used in this Act means the person who has obtained a license under the following Article.

(4) The term "heat supply facilities" as used in this Act means boilers, refrigeration facilities, circulating pumps, governors, pipelines and any other facilities used for heat supply business, which are under control of a person who conducts a heat supply business.

Chapter II Business License

(Business License)

Article 3 A person who intends to conduct a heat supply business must obtain a

license from the Minister of Economy, Trade and Industry for each service area.

(Application for License)

Article 4 (1) A person who intends to obtain a license under the preceding Article must submit a written application to the Minister of Economy, Trade and Industry, stating the following matters:

(i) the name and address of the applicant, as well as the name and address of the representative if the applicant is a juridical person.

(ii) the service area

(iii) the following matters concerning heat supply facilities:

(a) Regarding boilers, refrigeration facilities and other facilities specified by Cabinet Order, the site where they are to be installed, and the type and capacity thereof

(b) Regarding pipelines specified by Order of the Ministry of Economy, Trade and Industry, the site where they are to be installed and the inside diameter thereof, as well as the temperature and pressure of heat or steam within the pipelines.

(2) The written application set forth in the preceding paragraph must be accompanied by a business plan, and other documents specified by Order of the Ministry of Economy, Trade and Industry.

(Standards for License)

Article 5 The Minister of Economy, Trade and Industry must not grant a license under Article 3 unless the Minister finds that the application for the license under that Article conforms to the following items (or, if the application is filed by a local public entity, item (i), item (iv) and item (v)).

(i) the commencement of the heat supply business corresponds to general demand.

(ii) the heat supply facilities for the heat supply business are capable of meeting demand for heat supply in the service area.

(iii) the applicant has sufficient accounting basis and technical capability to perform the heat supply business properly.

(iv) the heat supply business is based on a reliable and reasonable plan.

(v) the commencement of the heat supply business is necessary and appropriate for improving the convenience in daily life or business activities in the service area.

(Obligation to Install Heat Supply Facilities and Commence Business)

Article 6 (1) A heat supply operator other than a local public entity must install heat supply facilities and commence its business within the period designated by the Minister of Economy, Trade and Industry, but not to exceed three years

(or if heat supply facilities are to be installed along with the implementation of a New Housing and Urban Development Project under the New Housing and Urban Development Act (Act No. 134 of 1963) and it is determined that a particularly long period of time will be required for installation, then within the period designated by Order of the Ministry of Economy, Trade and Industry).

- (2) The Minister of Economy, Trade and Industry may, when the Minister finds it particularly necessary, designate the period set forth in the preceding paragraph by category of service area or heat supply facility.
- (3) Where the Minister of Economy, Trade and Industry has received an application from a heat supply operator other than a local public entity, the Minister may, when finding legitimate grounds, extend the period designated under paragraph (1).
- (4) A heat supply operator must, when having commenced its business (in the cases where the designation set forth in paragraph (1) has been made by category of service area pursuant to paragraph (2), the business corresponding to that category), notify the Minister of Economy, Trade and Industry to that effect without delay.

(Change of Service Area)

Article 7 (1) A heat supply operator must, when intending to change the matters listed in Article 4, paragraph (1), item (ii) or item (iii), obtain permission from the Minister of Economy, Trade and Industry; provided, however, that this does not apply to a change to the matter listed in item (iii) of that paragraph if the matter is a minor one specified by Order of the Ministry of Economy, Trade and Industry.

- (2) A heat supply operator must, when having made a change specified by Order of the Ministry of Economy, Trade and Industry set forth in the proviso of the preceding paragraph, notify the Minister of Economy, Trade and Industry to that effect without delay.
- (3) The provisions of Article 5 apply mutatis mutandis to the permission set forth in paragraph (1).
- (4) The provisions of the preceding Article apply mutatis mutandis to the case referred to in paragraph (1) (excluding, however, the cases of reducing the service area.)

(Change of Name)

Article 8 A heat supply operator other than a local public entity must, where there has been a change to the name or address thereof, notify the Minister of Economy, Trade and Industry to that effect without delay.

(Transfer and Acceptance of Business, and Merger and Split of Juridical Person)

- Article 9 (1) An assignment and acceptance of the whole of a heat supply business must not be effective unless approved by the Minister of Economy, Trade and Industry.
- (2) A merger and split of a juridical person as a heat supply operator (excluding a local public entity) (limited to merger or split resulting in the succession of the whole of a heat supply business; hereinafter the same applies in paragraph (1) of the following Article) is not effective unless approved by the Minister of Economy, Trade and Industry; provided, however, that this does not apply where a juridical person as a heat supply operator merges a juridical person that is not a heat supply operator.
- (3) The provisions of Article 5, item (iii) apply mutatis mutandis to the approval set forth in the preceding two paragraphs.

(Succession)

- Article 10 (1) In the event of an assignment of the whole of a heat supply business, or inheritance, merger or demerger of a heat supply operator, the assignee of the whole of the heat supply business, the heir, the juridical person surviving after the merger or the juridical person newly established upon the merger, or the juridical person who has taken over the whole of the heat supply business upon the demerger succeeds to the status of the heat supply operator.
- (2) The heir who has succeeded to the status of a heat supply operator pursuant to the provisions of the preceding paragraph must notify the Minister of Economy, Trade and Industry to that effect without delay.

(Suspension and Abolition of Business, and Dissolution of Juridical Person)

- Article 11 (1) A heat supply operator must not suspend or abolish the whole or a part of the heat supply business without obtaining permission from the Minister of Economy, Trade and Industry.
- (2) A resolution for the dissolution of a juridical person acting as a heat supply operator or consent thereto by all its members is not be effective unless approved by the Minister of Economy, Trade and Industry.
- (3) The Minister of Economy, Trade and Industry must not grant permission under paragraph (1) or approval under the preceding paragraph if the Minister finds that the suspension or abolition of the heat supply business or dissolution of the juridical person as a heat supply operator harms or is likely to harm significantly the convenience in daily life or business activities in the service area.

(Rescission of Business License)

- Article 12 (1) Where a heat supply operator does not install heat supply facilities or commence its business within the period designated under Article 6, paragraph (1) (if the period has been extended under paragraph (3) of that Article, within the extended period), the Minister of Economy, Trade and Industry may rescind the license granted under Article 3.
- (2) Where a heat supply operator that has obtained permission under Article 7, paragraph (1) does not commence its business within the period designated under Article 6, paragraph (1), as applied mutatis mutandis pursuant to Article 7, paragraph (4) (or, if the period has been extended under Article 6, paragraph (3), as applied mutatis mutandis pursuant to Article 7, paragraph (4), the extended period) in the new service area, or make a change to the matter listed in Article 4, paragraph (1), item (iii) within the relevant period, the Minister of Economy, Trade and Industry may rescind the permission.
- (3) In addition to the cases prescribed in the preceding two paragraphs, where a heat supply operator has violated any provisions of this Act or any disposition issued under this Act or any condition attached pursuant to Article 25, paragraph (1), the Minister of Economy, Trade and Industry may, when the Minister finds that such violation significantly harms the convenience in daily life or business activities in the service area, rescind the license granted under Article 3 or permission granted under Article 7, paragraph (1).
- (4) The Minister of Economy, Trade and Industry must, when having rescinded the license or permission pursuant to any of the preceding three paragraphs, provide a written explanation of the reasons for the rescission to the heat supply operator.

Chapter III Services

(Obligation to Supply)

- Article 13 (1) A heat supply operator must not refuse to supply heat to any person in its service area without legitimate grounds.
- (2) A heat supply operator must not supply heat through pipelines to meet general demand in any area other than its service area using the heat supply facilities installed for its service area.

(General Supply Rules)

- Article 14 (1) A heat supply operator other than a local public entity must provide for general supply rules with regard to rates and other supply conditions for heat supply, and obtain approval of the relevant conditions from the Minister of Economy, Trade and Industry. The same applies if the relevant heat supply operator is to revise the relevant conditions.
- (2) The Minister of Economy, Trade and Industry must, when the Minister finds

that the application for the approval under the preceding paragraph conforms to the following items, grant approval under that paragraph.

- (i) the rates are equitable and reasonable in light of fair costs incurred as a result of efficient management
 - (ii) the method for calculating the amount of rates is provided for appropriately and clearly.
 - (iii) matters on the responsibilities of the heat supply operator and persons who receive heat supply, as well as the method of sharing expenses between them for pipelines, calorimeters and other facilities, are provided for appropriately and clearly.
 - (iv) the application does not treat a certain persons in an unjust discriminatory manner.
- (3) A heat supply operator that is a local public entity must provide for supply rules with regard to rates and other supply conditions for heat supply, and notify the Minister of Economy, Trade and Industry of the relevant conditions in advance. The same applies if the relevant heat supply operator is to revise the provisions.
- (4) The general supply rules set forth in the preceding paragraph must conform to the items of paragraph (2).
- (5) A heat supply operator must take measures to have known the general supply rules approved under paragraph (1) (or, if revision has been made pursuant to Article 16, paragraph (2), the revised general supply rules) or general supply rules notified pursuant to paragraph (3), among persons who receive heat supply, no later than the date of implementation of the provisions.

(Obligation Regarding Supply Conditions)

- Article 15 (1) A heat supply operator other than a local public entity must not supply heat under general supply rules other than those approved under paragraph (1) of the immediate preceding Article (or, if revision has been made pursuant to paragraph (2) of the following Article, the revised general supply rules); provided, however, that this does not apply where there are special circumstances that make it difficult to comply with the general supply conditions and the relevant heat supply operator supplies heat under such rates and other supply conditions as approved by the Minister of Economy, Trade and Industry.
- (2) The provisions of the preceding paragraph apply mutatis mutandis to a heat supply operator that is a local public entity. In this case, the words "approved by the Minister of Economy, Trade and Industry" in the proviso of that paragraph are deemed to be replaced with "for which notification was given to the Minister of Economy, Trade and Industry in advance."

(Order and Disposition on General Supply Rules)

Article 16 (1) The Minister of Economy, Trade and Industry may, when the Minister finds that the heat supply rates and/or other supply conditions have become significantly inappropriate as a result of changes in social and economic circumstances to the extent that they hinder the convenience in daily life or business activities in the service area, order a heat supply operator other than a local public entity to apply for approval to revise the general supply rules approved under Article 14, paragraph (1) (or if revision has been made pursuant to the following paragraph, the revised general supply rules), within a reasonable time limit set by the Minister of Economy, Trade and Industry.

(2) Where the Minister of Economy, Trade and Industry has issued an order pursuant to the preceding paragraph, the Minister may, if no application for approval has been filed within the time limit set forth in that paragraph, revise the general supply rules.

(Obligation to Measure Temperature)

Article 17 A heat supply operator must, pursuant to the provisions of Order of the Ministry of Economy, Trade and Industry, measure the temperature and pressure of the water or steam supplied thereby, and record the values measured.

(Order for Improvement of Operational Procedure)

Article 18 The Minister of Economy, Trade and Industry may, where the Minister finds that an inappropriate measure taken by a heat supply operator to publicize the general supply rules pursuant to Article 14, paragraph (5) or any other inappropriate operational procedure implemented by the relevant heat supply operator other than local governments hinders the improvement of the convenience in daily life or business activities in the service area, order the heat supply operator to improve its operational procedures.

(Keeping of Accounts)

Article 19 A heat supply operator must keep accounts pursuant to the provisions of Order of the Ministry of Economy, Trade and Industry with regard to the classification of accounting titles and other accounting procedures.

Chapter IV Safety Measures

(Maintenance of Heat Supply Facilities)

Article 20 (1) A heat supply operator must maintain heat supply facilities to ensure that they conform to the technical standards established by Order of

the Ministry of Economy, Trade and Industry.

- (2) The Minister of Economy, Trade and Industry may, when the Minister finds that heat supply facilities do not conform to the technical standards set forth in the preceding paragraph, order the heat supply operator to repair or renovate the heat supply facilities to ensure conformity to the technical standards, or order the heat supply operator to relocate the heat supply facilities or suspend the use of them, or restrict the heat supply operator from using them.

(Construction Plan for Pipelines)

Article 21 (1) A heat supply operator must, when the operator is to implement such a construction project to install or renovate pipelines to be used for the heat supply business as specified by Order of the Ministry of Economy, Trade and Industry, notify the Minister of Economy, Trade and Industry of the plans for the relevant construction project; provided, however, that this does not apply to any unavoidable work for short period to be implemented in the event of loss of or damage to the pipelines or in the event of a disaster or other emergency.

- (2) The provisions of the preceding paragraph apply mutatis mutandis where a heat supply operator intends to change the construction plan for which notification was given pursuant to that paragraph (excluding, however, any minor change specified by Order of the Ministry of Economy, Trade and Industry).

- (3) A person who has given a notification pursuant to paragraph (1) (including as applied mutatis mutandis pursuant to the preceding paragraph) must not commence the construction work to which the notification pertained until 30 days have elapsed from the day when the notification was received.

- (4) The Minister of Economy, Trade and Industry may, when the Minister finds that the construction plan for which notification was given pursuant to paragraph (1) (including as applied mutatis mutandis pursuant to paragraph (2)) conforms to the items of the following paragraph, shorten the period prescribed in the preceding paragraph.

- (5) When the Minister of Economy, Trade and Industry finds that the construction plan for which notification was given pursuant to paragraph (1) (including as applied mutatis mutandis pursuant to paragraph (2)) fails to conform to the following items, the Minister may, within 30 days from the day when the notification is received, order the heat supply operator to revise or abolish the construction plan.

- (i) the construction plan conforms to the licenses or permissions obtained in accordance with Article 3 or Article 7, paragraph (1) (including any such minor change as specified by Order of the Ministry of Economy, Trade and

- Industry under the proviso of that paragraph)
- (ii) the pipelines conform to the technical standards established by Order of the Ministry of Economy, Trade and Industry under paragraph (1) of the preceding Article.

(Pre-use Self-Inspection of Pipelines)

- Article 22 (1) A heat supply operator must, with regard to the pipelines to be installed or renovated according to the construction plan for which notification was given pursuant to paragraph (1) of the preceding Article (including as applied mutatis mutandis pursuant to paragraph (2) of that Article) (in the case where an order has been issued with respect to the construction plan relating to pipelines pursuant to paragraph (5) of that Article, but notification has not yet been given pursuant to paragraph (1) of that Article, as applied mutatis mutandis pursuant to paragraph (2) of that Article, such pipelines are excluded), conduct a self-inspection of the pipelines before commencing the use thereof and record the inspection results, pursuant to the provisions of Order of the Ministry of Economy, Trade and Industry.
- (2) In the self-inspection set forth in the preceding paragraph, it must be confirmed that the pipelines conform to all of the following items.
- (i) the construction project for the pipelines has been implemented according to the construction plan for which notification was given pursuant to paragraph (1) of the preceding Article (including as applied mutatis mutandis pursuant to paragraph (2) of that Article) (including such plan following any minor revision specified by Order of the Ministry of Economy, Trade and Industry under paragraph (2) of that Article).
 - (ii) the pipelines conform to the technical standards established by an Order of the Ministry of Economy, Trade and Industry under Article 20, paragraph (1).

(Safety Regulations)

- Article 23 (1) A heat supply operator must, in order to ensure safety of the construction, maintenance and operation of the heat supply facilities, establish safety regulations pursuant to the provisions of Order of the Ministry of Economy, Trade and Industry, and notify the Minister of Economy, Trade and Industry of the regulations before the commencement of the business (in the case of facilities requiring construction prescribed in Article 21, paragraph (1), before the commencement of the construction of the facilities).
- (2) A heat supply operator must, when having revised the safety regulations, notify the Minister of Economy, Trade and Industry of the revised matters without delay.
- (3) The Minister of Economy, Trade and Industry may, when the Minister finds it necessary in order to ensure safety of the construction, maintenance, and

operation of heat supply facilities, order the heat supply operator to revise the safety regulations.

(4) A heat supply operator and its employees must observe the safety regulations.

(Safety Measures for Facilities Equivalent to Heat Supply Facilities)

Article 24 The provisions of Article 20 and Article 21 apply mutatis mutandis to a person who has installed such pipelines to be used for supplying heat as specified by Order of the Ministry of Economy, Trade and Industry (excluding those that belong to heat supply facilities) under roads or any other places specified by Order of the Ministry of Economy, Trade and Industry (including a person who intends to install such pipelines). In this case, the term "heat supply facilities" in Article 20 and the phrase "pipelines to be used for the heat supply business" in Article 21, paragraph (1) are deemed to be replaced with "pipelines prescribed in Article 24 to be installed at places specified by Order of the Ministry of Economy, Trade and Industry under that Article," the phrase "the items of the following paragraph" in Article 21, paragraph (4) is deemed to be replaced with "item (ii) of the following paragraph," and the phrase "the following items" in Article 21, paragraph (5) is deemed to be replaced with "item (ii)."

Chapter V Miscellaneous Provisions

(Conditions Attached to License)

Article 25 (1) Conditions may be attached to a license/permission or approval, and such conditions may be changed.

(2) The conditions set forth in the preceding paragraph are limited to the minimum required for ensuring successful implementation of the matters concerning the license/permission or approval, and must not impose any unreasonable obligation on the person who is to obtain the license/permission or approval.

Article 26 Deleted

(Collection of Reports)

Article 27 The Minister of Economy, Trade and Industry may, to the extent necessary for the enforcement of this Act, pursuant to the provisions of Cabinet Order, have a heat supply operator report on the services, and have a person prescribed in Article 24 report on the safety measures for the pipelines prescribed in that Article to be installed at places specified by Order of the Ministry of Economy, Trade and Industry under the relevant Article, respectively.

(On-site Inspection)

Article 28 (1) The Minister of Economy, Trade and Industry may, to the extent necessary for the enforcement of this Act, cause officials of the Ministry of Economy, Trade and Industry to enter the business office or other office or other workplace of a heat supply operator or a person prescribed in Article 24, and inspect heat supply facilities, books, documents, and any other items of the heat supply operator or the relevant person.

(2) The officials who conduct an on-site inspection pursuant to the provisions of the preceding paragraph must carry a certificate of identification and show it to any person concerned.

(3) The authority of on-site inspection under paragraph (1) must not be construed as being vested for criminal investigation.

(Special Provision for the Method for Hearing)

Article 29 (1) Proceedings on the date of a hearing with respect to a disposition under Article 12, paragraphs (1) to (3) must be open to the public.

(2) The person chairing the hearing set forth in the preceding paragraph must, upon request of any person interested in the disposition under Article 17, paragraph (1) of the Administrative Procedure Act (Act No. 88 of 1993), permit such a person to participate in the proceedings for the hearing.

(Hearing of Opinions in Appeal Procedure)

Article 30 (1) An administrative determination or decision on a request for administrative review or an objection with respect to a disposition made pursuant to this Act must be made after giving advance notice of a reasonable period to the person concerning the disposition and after holding a public hearing.

(2) The advance notice set forth in the preceding paragraph must specify the date and place of the hearing and the content of the case concerned.

(3) When holding a public hearing as set forth in paragraph (1), the person concerning the disposition and any interested persons must be given the opportunity to present evidence and state their opinions.

(Filing of Complaints)

Article 31 (1) Any person who has complaints about the heat supply from a heat supply operator may submit such complaints to the Minister of Economy, Trade and Industry, with a written explanation of the reasons attached thereto.

(2) The Minister of Economy, Trade and Industry must, when having received the complaints under the preceding paragraph, handle them in good faith and notify the complainant of the results of the handling.

(Transitional Measures)

Article 32 When enacting, revising or abolishing an order pursuant to this Act, necessary transitional measures (including transitional measures concerning penal provisions) may be provided for by that order to the extent considered reasonably necessary for the enactment, revision or abolition.

(Affairs Administered by Prefectural Governments)

Article 33 Part of the affairs within the authority of the Minister of Economy, Trade and Industry prescribed in this Act may be administered by prefectural governors pursuant to the provisions of Cabinet Order.

(Delegation of Authority)

Article 33-2 The matters belonging to the authority of the Minister of Economy, Trade and Industry under this Act may be delegated to the Director of a Regional Bureau of Economy, Trade and Industry or the Director of a Regional Industrial Safety and Inspection Department pursuant to the provisions of Cabinet Order.

Chapter VI Penal Provisions

- Article 34 (1) A person who has damaged heat supply facilities or caused interference with the functioning of heat supply facilities, thereby obstructing heat supply, is punished by imprisonment with work for not more than five years or a fine of not more than one million yen.
- (2) A person who has, without due cause, operated heat supply facilities, thereby obstructing heat supply, is punished by imprisonment with work for not more than two years or a fine of not more than 500,000 yen.
- (3) The same punishment as in the preceding Article is imposed if a person engaged in a heat supply business has not performed, without justifiable grounds, the services to maintain or operate heat supply facilities, thereby causing interference with heat supply.
- (4) Attempt of the offenses prescribed in paragraph (1) and paragraph (2) is punished.

Article 35 A person who has, in violation of Article 3, conducted heat supply business is punished by imprisonment with work for not more than three years or a fine of not more than three million yen, or both.

Article 36 A person who falls under any of the following items is punished by imprisonment with work for not more than two years or a fine of not more than

three million yen, or both.

- (i) a person who has, in violation of Article 11, paragraph (1), suspended or abolished the whole or a part of the heat supply business.
- (ii) a person who has, in violation of Article 13, paragraph (1), refused to supply heat.
- (iii) a person who has, in violation of Article 13, paragraph (2), supplied heat.

Article 37 A person who falls under any of the following items is punished by a fine of not more than three million yen.

- (i) a person who has, in violation of Article 7, paragraph (1), renovated heat supply facilities.
- (ii) a person who has, in violation of Article 15, paragraph (1), supplied heat.
- (iii) a person who has violated an order issued under Article 18.

Article 38 A person who falls under any of the following items is punished by a fine of not more than one million yen.

- (i) a person who has violated an order issued under Article 20, paragraph (2) (including as applied *mutatis mutandis* pursuant to Article 24).
- (ii) a person who has, in violation of an order issued under Article 21, paragraph (5) (including as applied *mutatis mutandis* pursuant to Article 24), implemented a construction project to install or renovate pipelines.

Article 39 A person who falls under any of the following items is punished by a fine of not more than 300,000 yen.

- (i) a person who has failed to notify under Article 6, paragraph (4) (including as applied *mutatis mutandis* pursuant to Article 7, paragraph (4)), Article 10, paragraph (2) or Article 23, paragraph (1) or paragraph (2), or has given a false notice.
- (ii) a person who has failed to make records under Article 17 or Article 22, paragraph (1), or has made false records.
- (iii) a person who has, in violation of Article 21, paragraph (1) (including as applied *mutatis mutandis* pursuant to paragraph (2) of that Article or Article 24) or paragraph (3) (including as applied *mutatis mutandis* pursuant to Article 24), implemented a construction project to install or modify pipelines.
- (iv) a person who has violated an order issued under Article 23, paragraph (3).
- (v) a person who has failed to submit reports under Article 27, or has submitted false reports.
- (vi) a person who has refused, obstructed or avoided an inspection under Article 28, paragraph (1).

Article 40 Where the representative of a juridical person or an agent, employee

or other worker of a juridical person or an individual has, with regard to the business of the juridical person or individual, committed the violations of Article 35 to the preceding Article, not only the offender is punished but also the juridical person or the individual is punished by the fine prescribed in the respective Articles.

Article 41 A person who has failed to notify under Article 7, paragraph (2) or Article 8, or has given a false notice is punished by a civil fine of not more than 200,000 yen.