

# Act on Marine Accident Inquiries

(Act No. 135 of November 19, 1947)

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## Chapter I General Provisions

### (Purpose)

Article 1 The purpose of this Act is to specify the proceedings of inquiries, etc., at the Japan Marine Accident Tribunal established in the Ministry of Land, Infrastructure, Transport and Tourism to take a disciplinary action against a marine technician, a boat operator, or a pilot who causes a marine accident intentionally or negligently in the course of their duties, thereby contributing to prevent marine accidents from occurring.

### (Definition)

Article 2 The term "marine accident" as used in this Act means the following marine accidents:

- (i) any damage to a vessel relating to the operation of the vessel or to facilities other than vessels
- (ii) death or injury of a person caused by the structure, facilities, or operation of a vessel
- (iii) impairment in safety or operation of a vessel

### (Disciplinary Actions)

Article 3 The Japan Marine Accident Tribunal must take a disciplinary action against a marine technician (including a person who obtained the approval

referred to in Article 23, paragraph 1 of the Act on Ships' Officers and Boats' Operators (Act No. 149 of 1951); the same applies in Article 8 and Article 28, paragraph 1) or a boat operator or a pilot by the administrative determination, if a marine accident is caused intentionally or negligently in the course of their duties.

(Types of Disciplinary Actions)

Article 4 (1) There are three types of disciplinary actions as prescribed below, and the application of disciplinary actions is determined based on the gravity of the offence:

(i) revocation of license (including the approval referred to in Article 23, paragraph 1 of the Act on Ships' Officers and Boats' Operators; the same applies in Article 49 and Article 51);

(ii) suspension of business operations;

(iii) admonitions.

(2) The suspension period of business operation is not less than one month and not more than three years.

(Exemption from Disciplinary Action)

Article 5 The Japan Marine Accident Tribunal may exceptionally exempt a person from a disciplinary action, when the tribunal finds it unnecessary to take a disciplinary action in light of the nature or situation of the marine accident, the person's background, and other circumstances.

(Validity of Administrative Determinations)

Article 6 The Japan Marine Accident Tribunal may not inquire a case on which administrative determination on the merits has become final and binding.

## **Chapter II Organization and Jurisdiction of the Japan Marine Accident Tribunal**

### **Section 1 Organization**

(Establishment)

Article 7 The Japan Marine Accident Tribunal is established in the Ministry of Land, Infrastructure, Transport and Tourism as a special organ.

(Mission)

Article 8 The mission of the Japan Marine Accident Tribunal is to investigate the marine accidents and conduct an inquiry to take a disciplinary action against a marine technician or a boat operator or a pilot.

(Functions under the Jurisdiction)

Article 9 In order to achieve the mission referred to in the preceding Article, the Japan Marine Accident Tribunal takes charge of the following functions:

- (i) to investigate a marine accident for which a request for examination is filed;
- (ii) to conduct an inquiry;
- (iii) to enforce administrative determinations;
- (iv) to supervise assistants for marine affairs; and
- (v) to handle matters concerning the marine accident inquiries, beyond what is set forth in the preceding items.

(Commissioner of the Japan Marine Accident Tribunal)

Article 10 The head of the Japan Marine Accident Tribunal is the Commissioner of the Japan Marine Accident Tribunal, who is appointed from among the judges.

(Local Marine Accident Tribunals)

Article 11 (1) The Local Marine Accident Tribunals are established in the predetermined region to have it handle part of the functions of the Japan Marine Accident Tribunal.

(2) The names, locations, jurisdiction, and organizational structures of the Local Marine Accident Tribunals are provided for in Order of the Ministry of Land, Infrastructure, Transport and Tourism.

(Judges and Investigators)

Article 12 (1) Judges and Investigators are appointed by the Japan Marine Accident Tribunal.

(2) An Investigator takes charge of matters concerning requests for examination, and the investigation of marine accidents and enforcement of administrative determinations related thereto.

(3) The Minister of Land, Infrastructure, Transport and Tourism appoints judges and investigators from among those who are provided for in Cabinet Order as those having knowledge and experience in the necessary laws and maritime affairs to carry out investigations and inquiries of marine accidents.

(4) The fixed numbers of judges and investigators are provided for in Cabinet Order.

(Exercise of Authority)

Article 13 A judge independently exercises their authority.

(Constituent Members)

Article 14 (1) The Japan Marine Accident Tribunal conducts an inquiry by a

panel consisting of three judges. However, one judge conducts an inquiry at a Local Marine Accident Tribunal.

- (2) When a judge finds it inappropriate to conduct an inquiry of a case by one judge at a Local Marine Accident Tribunal, the judge may make a decision that the inquiry is conducted by a panel consisting of three judges notwithstanding the provisions of the preceding paragraph.
- (3) One among the three judges is a chief administrative judge, if an inquiry is conducted by a panel.

(Provisions Governed by Order of the Ministry of Land, Infrastructure, Transport and Tourism)

Article 15 Beyond what is set forth in this Section, the location and organizational structure of the Japan Marine Accident Tribunal is provided for in Order of the Ministry of Land, Infrastructure, Transport and Tourism.

## **Section 2 Jurisdiction**

(Jurisdiction over Cases)

- Article 16 (1) A Local Marine Accident Tribunal having jurisdiction over a location where a marine accident occurred has jurisdiction over cases of marine accidents other than marine accidents involving death of passengers and other serious marine accidents provided for in Order of the Ministry of Land, Infrastructure, Transport and Tourism among the cases of marine accidents that must be inquired (a Local Marine Accident Tribunal having jurisdiction over the port of registry of a vessel relating to the marine accident, if a location where the marine accident occurred is unknown).
- (2) When a case is pending at two or more Local Marine Accident Tribunals, the case is inquired by the Local Marine Accident Tribunal with which a petition to commence an inquiry is filed first.
  - (3) The jurisdiction over a case that occurs outside the Japanese territorial waters is provided for in Order of the Ministry of Land, Infrastructure, Transport and Tourism.

(Transfer of Cases)

- Article 17 (1) A Local Marine Accident Tribunal, when it finds that a case does not fall under its jurisdiction, it must transfer the case by a decision to a competent Local Marine Accident Tribunal.
- (2) The Local Marine Accident Tribunal to which the case is transferred pursuant to the provisions of the preceding paragraph may not transfer the case to any other Local Marine Accident Tribunal further.
  - (3) In the case referred to in paragraph (1), the case is deemed to have been

pending before the Local Marine Accident Tribunal to which the case has been transferred from the beginning.

(Change of Jurisdiction)

Article 18 (1) An Investigator or an examinee may request the Commissioner of the Japan Marine Accident Tribunal to change the jurisdiction over a case, as provided for in Order of the Ministry of Land, Infrastructure, Transport and Tourism.

(2) In the case where the request under the provisions of the preceding paragraph is filed, if the Commissioner of the Japan Marine Accident Tribunal finds it more convenient to conduct an inquiry, the commissioner may change the jurisdiction over the case.

### **Chapter III Assistants in Court**

(Appointment of Assistants in Court)

Article 19 An examinee may appoint an assistant in court pursuant to the provisions of Order of the Ministry of Land, Infrastructure, Transport and Tourism.

(Authority of Assistants in Court)

Article 20 In addition to what is provided for in this Act, an assistant in court may engage in conduct independently to the extent of conduct prescribed in Order of the Ministry of Land, Infrastructure, Transport and Tourism.

(Requirements for Assistant in Court)

Article 21 (1) An assistant in court must be appointed from among those registered as an assistant for maritime affairs with the Japan Marine Accident Tribunal; provided, however, that this does not apply to the case where the assistant in court is authorized by the Japan Marine Accident Tribunal.

(2) Particulars concerning qualifications and registration of an assistant for maritime affairs are provided for in Order of the Ministry of Land, Infrastructure, Transport and Tourism.

(Obligations of Assistant for Maritime Affairs)

Article 22 (1) An assistant for maritime affairs must perform their duties sincerely.

(2) An assistant for maritime affairs must not divulge confidential information they came to know in the course of their duties.

(Supervision of Assistants for Maritime Affairs)

Article 23 A assistant for maritime affairs is under the supervision of the Commissioner of the Japan Marine Accident Tribunal.

#### **Chapter IV Proceedings Prior to Inquiry**

(Reporting of Marine Accident Occurrence)

Article 24 (1) When the Minister of Land, Infrastructure, Transport and Tourism (the relevant Japanese consular officer in case a Japanese consular officer handles the functions in place of the Minister of Land, Infrastructure, Transport and Tourism, pursuant to the provisions of Article 103, paragraph 1 of the Mariners Act (Act No. 100 of 1947)) receives a report on a marine accident pursuant to the provisions of Article 19 of that Act or comes to know the occurrence of a marine accident, the minister must immediately report it to an investigator of the Japan Marine Accident Tribunal having jurisdiction over the marine accident.

(2) When a coast guard officer, police officer, or mayor of a municipality comes to know the occurrence of a marine accident, they must immediately report it to the investigator of a Marine Accident Tribunal having jurisdiction over the marine accident.

(Investigation by Investigators)

Article 25 When an investigator recognizes a fact that need to be inquired under this Act, the investigator must immediately investigate the fact and collect evidence thereof.

(Obligations of Investigators)

Article 26 In investigating facts and collecting evidences, an investigator must keep confidential information and be cautious not to defame persons concerned.

(Disposition for Investigation)

Article 27 (1) An Investigator may take any of the following measures if necessary to perform their duties:

- (i) to have the persons involved in a marine accident appear in court or question them;
- (ii) to inspect vessel(s) or other place(s);
- (iii) to make person(s) involved in a marine accident report, or to order them to submit books and documents or other items;
- (iv) to request the Minister of Land, Infrastructure, Transport and Tourism, Japan Transport Safety Board, the Commissioner of the Japan Meteorological Agency, the Commissioner of the Japan Coast Guard, and other relevant administrative organs to submit reports or materials;

- (v) to have expert witnesses, interpreters or translators appear in court, and have them give expert opinion or interpret or translate.
- (2) For disposition referred to in item (ii) of the preceding paragraph, an investigator must carry an identification card.

(Petition to Commence Inquiry)

Article 28 (1) When an investigator recognizes that a marine accident occurred due to intentional or negligent conduct in which a maritime technician, boat operator or pilot engages in the course of their duties, the investigator must file a petition for commencement of inquiry to the Japan Marine Accident Tribunal, designating the person as an examinee; provided, however, that the investigator may not file a petition for commencement for inquiry regarding any case for which five years have already elapsed since the occurrence of the marine accident.

- (2) The petition referred to in the preceding paragraph must be filed in writing describing the facts of the marine accident and the details of the intentional or negligent conduct in which the examinee engaged in the course of their duties.

(Notification)

Article 29 An investigator must notify the examinee that a petition for commencement of inquiry is filed pursuant to the provisions of Order of the Ministry of land, Infrastructure, Transport and Tourism.

## **Chapter V Inquiries**

(Commencement of Inquiry)

Article 30 The Japan Marine Accident Tribunal commences an inquiry when the petition for commencement of inquiry is filed by the investigator.

(Inquiries Open to the Public)

Article 31 An inquiry is conducted and administrative determination is made at a tribunal open to the public.

(Authority of Chief Administrative Judge)

Article 32 (1) The chief administrative judge or one judge who has commenced an inquiry preside the inquiry and maintain the order at the tribunal during the inquiry.

- (2) The chief administrative judge or one judge who has commenced an inquiry may order any person who disturbs the inquiry to leave the tribunal room, or may take any other necessary measures to maintain the order at the tribunal.

(Examination of Examinees)

Article 33 The Japan Marine Accident Tribunal may summon the examinee on the inquiry date and examine the examinee.

(Oral Arguments)

Article 34 The administrative determination must be rendered based on oral arguments; provided, however, that the administrative determination may be made without hearing the statements of the examinee, if the examinee fails to appear on the inquiry date without reasonable grounds.

(Examination of Evidence)

Article 35 (1) The Japan Marine Accident Tribunal may examine the necessary evidence either by filing a petition or by its authority.

(2) Prior to the first inquiry date, the Marine Accident Tribunal may not examine evidence by a method other than the following methods:

(i) to inspect vessel(s) or other place(s);

(ii) to issue an order to submit books and documents or other items;

(iii) to request the Minister of Land, Infrastructure, Transport and Tourism, the Japan Safety Transport Board, the Commissioner of the Japan Meteorological Agency, the Commissioner of the Japan Coast Guard, and other relevant administrative organs to submit reports or materials.

(3) The Marine Accident Tribunal may not carry out physical escort, seizure, search, or take any other compulsory measures against a person, thing or place, or make any decision on a civil fine.

(Oaths)

Article 36 In the case the Japan Maritime Accident Tribunal requests a witness to testify, an expert witness to give an expert opinion, an interpreter to interpret or a translator to translate in examining evidence referred to in paragraph (1) of the preceding Article, it must have the person take an oath in accordance with the proceedings provided for in Order of the Ministry of Land, Infrastructure, Transport and Tourism; provided, however, that persons provided for in Order of the Ministry of Land, Infrastructure, Transport and Tourism may be exempted from taking an oath.

(Fact Findings Based on Evidence)

Article 37 Finding of facts must be based on the evidence examined on the inquiry date.

(Principle of Free Determination)

Article 38 The probative value of evidence is determined at the discretion of the



judges.

(Dismissal of Petition for Commencement of Inquiry)

Article 39 The Japan Marine Accident Tribunal must dismiss a petition for commencement of inquiry by an administrative determination in the following cases:

- (i) the tribunal does not have jurisdiction over a case;
- (ii) the petition for the commencement of inquiry is filed violating the rules; or
- (iii) the inquiry must not be conducted pursuant to the provisions of Article 6 or paragraph 2 of Article 16.

(Method of Making Administrative Determinations)

Article 40 An administrative determination must be accompanied by a statement of reasons.

Article 41 The administrative determination on the merits must clarify the facts of a marine accident and the details of intentional or negligent conduct in which the examinee engaged in the course of their duties, and also state the reason for the finding of facts based on evidence; provided, however, that when it is evident that a marine accident did not occur, it simply needs to declare to that effect.

(Announcement of Administrative Determinations)

Article 42 The announcement of an administrative determination is made, when it is rendered by the tribunal.

(Provisions Governed by Order of the Ministry of Land, Infrastructure, Transport and Tourism)

Article 43 In addition to what is set forth in this Act, necessary matters for the inquiry procedure are provided for in Order of the Ministry of Land, Infrastructure, Transport and Tourism.

## **Chapter VI Action for Revocation of Administrative Determination on Appeals**

(Action for Revocation of Administrative Determination on Appeals)

Article 44 (1) An action for revocation of the administrative determination is under the exclusive jurisdiction of the Tokyo High Court.

(2) The action referred to in the preceding paragraph must be filed within thirty 30 days from the date on which the administrative determination is rendered.

(3) The period referred to in the preceding paragraph is the unextendable period.

(Standing to be Sued)

Article 45 In the action referred to in paragraph (1) in the preceding Article, the Commissioner of the Japan Marine Accident Tribunal is the defendant.

(Revocation of Administrative Determinations)

Article 46 (1) The court must revoke the administrative determination if it finds that the action has reasonable grounds.

(2) In the case referred to in the preceding paragraph, the Japan Marine Accident Tribunal must conduct an inquiry further.

(3) The decision made based on the grounds to revoke an administrative determination by a court is binding on the Japan Marine Accident Tribunal with regard to the case.

## **Chapter VII Enforcement of Administrative Determinations**

(Enforcement Period for Administrative Determinations)

Article 47 An administrative determination is enforced after it becomes final and binding.

(Enforcer of Administrative Determinations)

Article 48 An investigator enforces the administrative determination of the Japan Marine Accident Tribunal.

(Enforcement of Administrative Determination to Revoke License)

Article 49 When an administrative determination to revoke a license is rendered, an investigator must confiscate the seamen's certificate of competency (including the approval certificate referred to in Article 7, paragraph 1 of the Act on Ships' Officers and Boats' Operators, as applied *mutatis mutandis* pursuant to the provisions of Article 23, paragraph 7 of that Act following the deemed replacement of terms; the same applies in the following Article and Article 51) or the seaman's certificates of competency, boat operator license or pilot certificate, and forward these licenses or certificates to the Minister of Land, Infrastructure, Transport and Tourism.

(Enforcement of Administrative Determination to Suspend Business Operation)

Article 50 When an administrative determination to suspend business operation is rendered, an investigator must confiscate the seaman's certificate of competency, the boat operator license or the pilot certificate and return these to the holder thereof after the expiration of the suspension period.

(Public Notice of Invalidation of Seaman's Certificates of Competency)

Article 51 When a person to whom the revocation of license or suspension of business operation is rendered fails to return their seaman's certificate of competency or the boat operator license or pilot certificate, the investigator must pronounce the invalidation of their seaman's certificate of competency or the boat operator license or pilot certificate and give a public notice on the invalidation in the Official Gazette.

## **Chapter VIII Miscellaneous Provisions**

(Expenses of Witnesses)

Article 52 (1) Travel expenses, daily allowances and accommodation charges as provided for in Order of the Ministry of Land, Infrastructure, Transport and Tourism are paid to expert witnesses, experts, interpreters, and translators who appear before the tribunal pursuant to the provisions of this Act.

(2) Expert witnesses, interpreters or translators may charge a fee for expert opinion, interpretation or translation fee, as provided for respectively in Cabinet Order.

(Exemption from the Application of Administrative Procedure Act)

Article 53 The provisions of Chapters II through IV of the Administrative Procedure Act (Act No.88 of 1993) do not apply to dispositions and administrative guidance under this Act.

(Administrative Appeals under the Administrative Complaint Review Act)

Article 54 An administrative appeal under the Administrative Complaint Review Act (Act No. 160 of 1962) may not be filed with regard to any disposition under this Act.

(Provisions Governed by Order of the Ministry of land, Infrastructure, Transport and Tourism)

Article 55 In addition to what is set forth in this Act, functions handled by the Japan Marine Accident Tribunal and other matters required for the enforcement of this Act are provided for in Order of the Ministry of land, Infrastructure, Transport and Tourism.

(Civil Fines)

Article 56 Any person who falls under any of the following items is punished by a civil fine of not more than three hundred thousand (300,000) yen:

(i) a person who has been summoned again as an examinee by the Japan Marine Accident Tribunal and fails to appear in tribunal without reasonable

grounds;

- (ii) a person who has been summoned as a witness, expert witness, interpreter or translator by the Japan Marine Accident Tribunal and fails to appear in tribunal or perform duties without reasonable grounds;
- (iii) a person who refuses, prevents or evades the inspection of the Japan Marine Accident Tribunal; or
- (iv) a person who fails to submit books and documents, or other items ordered by the Japan Marine Accident Tribunal, or submits the books and documents with false accounting entries.

Article 57 Any person who has failed to follow an order of the chief administrative judge or one judge that commences an inquiry under the provisions of Article 37, paragraph 2 is punished by a civil fine of not more than one hundred thousand (100,000) yen.