

# Subversive Activities Prevention Act

(Act No. 240 of July 21, 1952)

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## Chapter I General Provisions

(Purpose of this Act)

Article 1 The purpose of this Act is to prescribe necessary control measures on an organization which has conducted a terroristic subversive activity as an organizational activity, and to supplement penalties for terroristic subversive activities, thereby contributing to ensuring public security.

(Interpretation and Application of this Act)

Article 2 Since this Act has a grave bearing upon the fundamental human rights of the citizens, it must be applied only to the minimum extent necessary to ensure public security, and its interpretation must not be expanded under any circumstances.

(Criteria for Controlling Organizations)

Article 3 (1) Controls and investigations for controls under this Act must be conducted only to the minimum extent necessary to achieve the purpose prescribed in Article 1, and must not, under any circumstances, be conducted beyond the prescribed authority, to unreasonably restrict freedom of thought, freedom of religion, freedom of assembly and association, freedom of expression, academic freedom, the right of workers to organize and act collectively, or any other freedom or right of the citizens which is guaranteed by the Constitution of Japan.

(2) Controls and investigations for controls under this Act must not, under any circumstances, be abused to restrict or interfere with any legitimate activities conducted by labor unions or other organizations.

(Definitions)

Article 4 (1) The term "terroristic subversive activity" as used in this Act means any of the following acts:

- (i) (a) committing an act prescribed in Article 77 (Insurrection), Article 78 (Preparations; Plots), Article 79 (Accessoryship to Insurrection), Article 81 (Instigation of Foreign Aggression), Article 82 (Assistance to the Enemy), Article 87 (Attempts) or Article 88 (Preparations; Plots) of the Penal Code (Act No. 45 of 1907);
- (b) inducing an act prescribed in (a) of this item;
- (c) inciting an act prescribed in Article 77, 81 or 82 of the Penal Code with the intent to cause someone to commit the act;
- (d) printing, distributing any document or picture asserting the propriety or necessity of the commitment of an act prescribed in Article 77, 81 or 82 of the Penal Code or posting it in public places, with the intent to cause someone to commit the act ; or
- (e) communicating any assertion of the propriety or necessity to commit an act prescribed in Article 77, 81 or 82 of the Penal Code via wireless communications or cable broadcasting, with the intent to cause someone to commit the act .
- (ii) with the intent to promote, support or oppose any political doctrine or policy, performing any of the following acts:
  - (a) an act prescribed in Article 106 of the Penal Code (Disturbance);
  - (b) an act prescribed in Article 108 (Arson of Inhabited Buildings) or Article 109, paragraph (1) (Arson of Uninhabited Buildings) of the Penal Code;
  - (c) an act prescribed in the first sentence of Article 117, paragraph (1) of the Penal Code (Detonation of Explosives);
  - (d) an act prescribed in Article 125 of the Penal Code (Traffic Hazards);
  - (e) an act prescribed in Article 126, paragraph (1) or (2) of the Penal Code (Overturning Trains);
  - (f) an act prescribed in Article 199 of the Penal Code (Homicide);
  - (g) an act prescribed in Article 236, paragraph (1) of the Penal Code (Robbery);
  - (h) an act prescribed in Article 1 of the Penal Provisions for Explosives Control (Cabinet Ordinance No. 32 of 1884) (Use of Explosives);
  - (i) an act prescribed in Article 95 of the Penal Code (Obstructing or Compelling Performance of a Public Duty) and committed collectively by carrying any weapon or poisonous or deleterious substance, against any person engaged in prosecutorial or police duties, or assisting such official, or any person who guards or escorts a person detained or confined in accordance with laws and regulations, or any person engaged in an

- investigation pursuant to the provisions of this Act; or
- (j) preparing for, plotting or inducing any of the acts prescribed in (a) through (i) of this item, or inciting any of the acts prescribed in (a) through (i) of this item with the intent to cause someone to commit the act.
- (2) The term "incitement" as used in this Act means stimulating a person, with the intent to cause someone to commit a specific act, by means of any document, picture, speech or action, to make the decision to commit the act or to strengthen such decision that has already been made.
- (3) The term "organization" as used in this Act means a continuous association of persons, or a federation of such associations, organized to achieve any particular common purpose. Any branch, chapter or subsidiary body of an organization may be subject to control under this Act if it meets this requirement.

## **Chapter II Controls on Subversive Organizations**

(Restrictions on Organizations' Activities)

Article 5 (1) When the Public Security Examination Commission has sufficient reasons to believe that an organization which has conducted a terroristic subversive activity as an organizational activity will obviously conduct a further terroristic subversive activity, continuously or repeatedly, as an organizational activity, the Public Security Examination Commission may implement any of the following dispositions against the organization; provided, however, that the disposition must not go beyond the extent necessary and appropriate to eliminate the threat of such activity:

- (i) in case the terroristic subversive activity has been conducted at a mass demonstration, procession or public assembly, prohibiting the organization from performing any mass demonstration, procession or public assembly by specifying an area and setting a period of time not exceeding six months;
- (ii) in case the terroristic subversive activity has been conducted by means of any periodical publication issued by the organization (meaning any publication continuously issued by the organization to advocate, inform or propagate the objectives, doctrine or policy of the organization), prohibiting the organization from continually printing and distributing the publication by setting a period of time not exceeding six months; or
- (iii) prohibiting the organization from allowing a specific officer or personnel (meaning a representative, chief officer or any other person engaged in the functions of the organization, regardless of the title; the same applies hereinafter), or member of the organization who has participated in the terroristic subversive activity to perform any act in the interest of the organization, by setting a period of time not exceeding six months.

(2) After a disposition referred to in the preceding paragraph becomes effective, no person may act against the purport of the disposition as an officer or personnel, or member of the organization; provided, however, that this does not apply to the case where an officer or personnel, or member take an action which is deemed to be usually required for litigation regarding the validity of the disposition, in case where the disposition referred to in item (iii) of that paragraph has become effective.

(Prohibition of Evasion of Law)

Article 6 No officer or personnel, or member of an organization which was subject to a disposition referred to in paragraph (1) of the preceding Article may, under any name, perform any act of evading the prohibition under paragraph (2) of that Article.

(Designation of Dissolution of Organization)

Article 7 When the Public Security Examination Commission has sufficient reasons to believe that there is an obvious risk that an organization falling under any of the following categories may conduct further terroristic subversive activity, continuously or repeatedly, as an organizational activity and finds that a threat of such activity may not be effectively eliminated by a disposition referred to in Article 5, paragraph (1), the Commission may designate the dissolution against the organization :

- (i) an organization which has conducted a terroristic subversive activity set forth in Article 4, paragraph (1), item (i) as an organizational activity;
- (ii) an organization which has conducted a terroristic subversive activity set forth in Article 4, paragraph (1), item (ii), (a) through (i) as an organizational activity or has commenced the activity but failed to complete it, or, has induced a person to conduct the activity or induced a person with the intent to cause the person to conduct the activity; or
- (iii) an organization which was subject to a disposition referred to in Article 5, paragraph (1), and has further conducted an additional terroristic subversive activity as an organizational activity.

(Prohibition of Engaging in Acts in the Interest of the Organizations)

Article 8 After the disposition referred to in the preceding Article becomes effective, no person who was an officer or personnel, or member of the organization, on or after the date on which the terroristic subversive activity that was the cause of the disposition was conducted, may perform any act in the interest of the organization; provided, however, that this does not apply to any act which is deemed to be usually required for litigation regarding the validity of the disposition or for the liquidation of property or winding up of the

functions.

(Prohibition of Evasion of the Law)

Article 9 No person prescribed in the preceding Article, under any name, may perform any act of evading the prohibition under that Article.

(Liquidation of Property)

Article 10 (1) When a disposition referred to in Article 7 against a juridical person becomes final and binding and litigation proceedings seeking to revoke the disposition are not possible, the juridical person dissolves itself.

(2) When a disposition referred to in Article 7 becomes final and binding and litigations proceedings seeking to revoke the disposition are not possible, the organization must promptly liquidate its property.

(3) When the liquidation of property referred to in the preceding paragraph is completed, a person who has been an officer or personnel of the organization must make a report to the Director-General of the Public Security Intelligence Agency.

### **Chapter III Procedures for Controlling Subversive Organizations**

(Requests for the Dispositions)

Article 11 Dispositions referred to in Article 5, paragraph (1) and Article 7 are implemented only at the request of the Director-General of the Public Security Intelligence Agency.

(Notices)

Article 12 (1) When the Director-General of the Public Security Intelligence Agency intends to make a request referred to in the preceding Article, the Director-General must in advance determine the date and place where the organization gives an explanation with regard to the case, and must notify the organization of the date and place as well as the summary of the grounds for filing the request for disposition at least seven days before that date.

(2) The notice referred to in the preceding paragraph is given to the public in the official gazette. In this case, the organization is deemed to have been notified when seven days have elapsed from the date of public notice.

(3) When the address or residence of the representative or chief officer of the organization is known, a written notice must be sent to such person in addition to the public notice in the official gazette under the preceding paragraph.

(Agents)

Article 13 An organization which has received a notice referred to in paragraph

(1) of the preceding Article may appoint an attorney or any other person as an agent for the case.

(Statement of Opinions and Production of Evidence)

Article 14 Up to five officers or personnel, or members, or agents of the organization may appear on a designated date to provide an explanation, and state their opinions on the facts and evidence, and produce favorable evidence to the official of the Public Security Intelligence Agency who is designated by the Director-General of the Agency (hereinafter referred to as a " commissioned official").

(Observation)

Article 15 (1) The organization may appoint up to five persons as observers.

(2) When the organization appoints the observers, the organization must notify the Director-General of the Public Security Intelligence Agency of their names.

(3) On the date of explanation, observers and persons engaged in news gathering activity for any newspaper, newswire or broadcasting services may attend the proceedings.

(4) When a person prescribed in the preceding paragraph commits an act that prevents the hearing of the explanation, the commissioned official may order such person to leave.

(Unnecessary Evidence)

Article 16 The evidence produced pursuant to the provisions of Article 14 need not to be examined if it is unnecessary; provided, however, that the commissioned official officer must not unfairly restrict the right of the organization to have its explanation heard in a fair and detailed manner.

(Records of Explanation)

Article 17 (1) The commissioned official must prepare the records on the detailed account of the explanation session.

(2) Regarding the record of the explanation referred to in the preceding paragraph, a person who appeared pursuant to the provisions of Article 14 must be given an opportunity to state opinion, and whether the person has any opinion or not, and the summary of their opinion if any, must be added in the record.

(Issuance of Copies of Records of Explanation)

Article 18 The commissioned official must, when requested by the organization, issue a certified copy of the record of the explanation and examined documentary evidence to the organization.

(Notice of Decision not to Request a Disposition)

Article 19 When the Director-General of the Public Security Intelligence Agency decides not to request a disposition referred to in Article 11 with regard to the case for which the Director-General gave the notice referred to in Article 12, paragraph (1), the Director-General must promptly notify the organization of the decision and notify the public of the decision in the official gazette.

(Format for Request for Disposition)

Article 20 (1) A request for disposition referred to in Article 11 must be filed by submitting a written request for disposition to the Public Security Examination Commission, which provides the fact constituting the grounds for the request, the fact that the disposition referred to in Article 5, paragraph (1) or Article 7 is requested, and other matters prescribed by the Rules of the Public Security Examination Commission.

(2) A written request for disposition must be accompanied by the evidence proving the fact which constitutes the grounds for the request, all the evidence submitted by the organization and the record of the explanation prescribed in Article 17.

(3) Regarding the evidence proving the fact which constitutes the grounds for the request referred to in the preceding paragraph, the organization must have been given an opportunity to state its opinions on the evidence.

(Notice of Request for Disposition and Written Opinion)

Article 21 (1) In case the Director-General of the Public Security Intelligence Agency submits a written request for disposition to the Public Security Examination Commission, the Director-General must notify the organization of the details of the request.

(2) The notice referred to in the preceding paragraph is given to the public in the official gazette. In this case, the organization is deemed to have been notified when seven days have elapsed since the public notice was given.

(3) When the address or residence of the representative or chief officer of the organization is known, a certified copy of the written request for disposition must be sent to such person in addition to public notice in the official gazette under the preceding paragraph.

(4) The organization may, within fourteen days from the date on which the notice referred to in paragraph (1) is given, submit its written opinion for the request for disposition to the Public Security Examination Commission.

(Decisions Made by the Public Security Examination Commission)

Article 22 (1) The Public Security Examination Commission must examine the

written request for disposition, the evidence and the record of the explanation submitted by the Director-General of the Public Security Intelligence Agency and the written opinion submitted by the organization. In this case, the Public Security Examination Commission may carry out the investigation necessary for the examination.

- (2) In order to carry out the investigation referred to in the preceding paragraph, the Public Security Examination Commission may implement the dispositions set forth in the following items:
  - (i) requesting a relevant person or witness to voluntarily appear to carry out an interview, or collecting opinions or reports from the person;
  - (ii) requesting the owner, holder or custodian of books and documents or other items to submit them voluntarily, or retaining the items which are voluntarily submitted;
  - (iii) with the consent of the guard or resident, or a person who acts on behalf of them, entering the office of the organization or any other place as necessary and inspecting the status of the business or books and documents or other items; and
  - (iv) requesting a public office or public or private organization to submit necessary reports or materials.
- (3) The Public Security Examination Commission, when it deems appropriate, may have a member or official of the Public Security Examination Commission implement any of the dispositions referred to in the preceding paragraph.
- (4) In implementing any of the dispositions referred to in paragraph (2), a member or official of the Public Security Examination Commission must, when requested by the relevant person, present their identification.
- (5) The Public Security Examination Commission must, based on the results of the examination under paragraph (1), make a decision according to the following categories on the case:
  - (i) a decision to dismiss the request for a disposition without prejudice when the request is unlawful;
  - (ii) a decision to dismiss the request for a disposition with prejudice when there is no ground for the request; or
  - (iii) a decision to implement the respective dispositions when there is ground for the request.
- (6) Even when the Public Security Examination Commission is unable to implement a disposition referred to in Article 7 in a case pertaining to a request for dissolution, the Public Security Examination Commission must make a decision to implement any of the dispositions referred to in Article 5, paragraph (1), notwithstanding the provisions of item (ii) of the preceding paragraph, if the organization falls under the provisions of Article 5, paragraph(1).



(Decision-Making Procedures)

Article 23 The decision must be made in writing, and accompanied by a statement of the reason, and it must bear the signatures and seals of the chairperson and members of the Commission who took part in the decision-making process.

(Notice and Public Notice of the Decisions)

Article 24 (1) The notice of decision must be given to the Director-General of the Public Security Intelligence Agency and the organization.

(2) The notice referred to in the preceding paragraph is given by sending a certified copy of the written decision to the Director-General of the Public Security Intelligence Agency and the organization.

(3) The decision must be given to the public in the official gazette.

(Time When Decisions Become Effective)

Article 25 (1) The decision becomes effective at the time set forth in the following items:

(i) the decision to dismiss the request for disposition with or without prejudice: when a certified copy of the written decision is sent to the Director-General of the Public Security Intelligence Agency; or

(ii) the decision to implement a disposition referred to in Article 5, paragraph (1) or Article 7: when the decision is given to the public in the official gazette pursuant to the provisions of paragraph (3) of the preceding Article.

(2) With regard to an action for revocation of the decision referred to in the preceding paragraph, the court must endeavor to promptly commence the proceedings, and to render judgment within one hundred days from the date on which the case was filed, regardless of the order of other cases.

(Detailed Regulations on Procedures for Disposition)

Article 26 Beyond what is provided for provisions in this Chapter, detailed regulations on the procedures of the Public Security Examination Commission are to be prescribed in the Rule of the Public Security Examination Commission.

## **Chapter IV Investigations**

(Public Security Intelligence Officers' Authority to Investigate)

Article 27 A public security intelligence officer may conduct necessary investigations with regard to the controls under this Act, within the criteria prescribed in Article 3.

(Inspection of Documents and Articles of Evidence)

Article 28 (1) A public security intelligence officer may, when there is a need for the investigation with regard to the controls under this Act, request the public prosecutor or judicial police personnel to allow the public security intelligence officer to inspect the documents and articles of evidence regarding the case which is related to the control.

(2) Unless the request referred to in the preceding paragraph interferes with the performance of their functions, the public prosecutor or judicial police personnel is to comply with such request.

(Exchange of Information Between the Public Security Intelligence Agency and the Police)

Article 29 The Public Security Intelligence Agency, the National Police Agency or the prefectural police must exchange information or materials with each other for the implementation of this Act.

(Attendance of Public Security Intelligence Officers)

Article 30 A public security intelligence officer may, when there is a need for the investigation with regard to the controls under this Act, attend the seizure, inspection and search conducted by the judicial police personnel on a crime which is involved a terroristic subversive activity .

(Retention of Items)

Article 31 A public security intelligence officer may retain any item submitted voluntarily by a relevant person or witness. In this case, the public security intelligence officer must prepare the list of items and issue it in an official letter to the person who submitted the items.

(Custody of Items)

Article 32 If it is inconvenient for the public security intelligence officer to transport or store any of the items retained pursuant to the provisions of the preceding Article, the officer may assign a guard for such items or have the owner thereof, or any other person, store those with the consent of that person.

(Return of Items)

Article 33 (1) Among the items retained by the public security intelligence officer pursuant to the provisions of Article 31, those which need not to be in custody must be returned to the person who submitted them.

(2) In the case referred to in the preceding paragraph, when the address of the person to whom they are to be returned is unknown or when the items cannot be returned, the public security intelligence officer must notify the public of

the fact in the official gazette.

(3) When there is no request for return of the item within six months from the date of public notice in the official gazette, the ownership of the item is vested in the national treasury.

(4) Even within the period referred to in the preceding paragraph, items that have no value may be disposed of and those that are inconvenient to store may be sold by public auction and the proceeds thereof may be kept.

(Presentation of Identification)

Article 34 In performing their duties, the public security intelligence officer must, when requested by a relevant person, present thier identification.

## **Chapter V Miscellaneous Provisions**

(Public Notice of Judicial Decisions)

Article 35 When a court revokes all or part of the decision made by the Public Security Examination Commission to implement a disposition referred to in Article 5, paragraph (1) or Article 7, the Director-General of the Public Security Intelligence Agency must notify the public of the judicial decision in the official gazette.

(Report to the Diet)

Article 36 The Minister of Justice must report to the Diet once a year through the Prime Minister on the status of the control of organizations under this Act.

(Exclusion from Application of the Administrative Procedure Act)

Article 36-2 The provisions of Chapter III of the Administrative Procedure Act (Act No. 88 of 1993) do not apply to the dispositions implemented by the Public Security Examination Commission based on the provisions of this Act (including a disposition implemented by a member or official of the Public Security Examination Commission pursuant to the provision of Article 22, paragraph (3)).

(Restriction on Appeals)

Article 36-3 The request for appeal under the Administrative Complaint Review Act (Act No. 160 of 1962) may not be filed with regard to the disposition implemented by the Public Security Examination Commission based on the provisions of this Act (including a disposition implemented by a member or official of the Public Security Examination Commission pursuant to the provisions of Article 22, paragraph (3)).

(Detailed Regulations for Enforcement of this Act)

Article 37 Unless otherwise specifically provided for in this Act, procedures for the implementation of this Act and other detailed regulations necessary for its enforcement are to be prescribed by Order of the Ministry of Justice.

## **Chapter VI Penal Provisions**

(Inducement of Insurrection and Foreign Aggression)

Article 38 (1) A person who induces another person to commit a crime referred to in Article 77, 81 or 82 of the Penal Code or incites the crime with the intent to cause someone to commit the crime is punished by imprisonment or imprisonment without work for not more than seven years.

(2) A person who falls under any of the following items is punished by imprisonment or imprisonment without work for not more than five years:

(i) a person who induces a crime referred to in Article 78, 79 or 88 of the Penal Code;

(ii) a person who prints, distributes or posts any document or picture in public places asserting the propriety or necessity of committing a crime referred to in Article 77, 81 or 82 of the Penal Code, with the intent to cause someone to commit the crime; or

(iii) a person who communicates any assertion of the propriety or necessity of committing a crime referred to in Article 77, 81 or 82 of the Penal Code via wireless communications or cable broadcasting, with the intent to cause someone to commit the crime.

(3) In case a person has committed any of the crimes referred to in the preceding two paragraphs pertaining to the crime referred to in Article 77, 78 or 79 of the Penal Code but voluntarily surrenders to the authority before the riot occurs, their punishment is reduced or the person is exculpated.

(Preparation for Arson for Political Purposes and Others)

Article 39 A person who, with the intent to promote, support or oppose any political doctrine or policy, prepares, plots a crime or induces a person to commit a crime referred to in Article 108, paragraph(1) of Article 109, the first sentence of paragraph (1) of Article 117, paragraph (1) or (2) of Article 126, Article 199 or paragraph(1) of Article 236 of the Penal Code, or who incites a crime with the intent to cause someone to commit the crime, is punished by imprisonment or imprisonment without work for not more than five years.

(Preparation for Disturbance for Political Purposes)

Article 40 A person who, with the intent to promote, support or oppose any political doctrine or policy, prepares for, plots a crime or induces a person to

commit any of the following crimes, or who incites such crime with the intent to cause the crime to be committed, is punished by imprisonment or imprisonment without work for not more than three years:

- (i) a crime referred to in Article 106 of the Penal Code;
- (ii) a crime referred to in Article 125 of the Penal Code; or
- (iii) a crime referred to in Article 95 of the Penal Code, committed collectively by carrying any weapon or poisonous or deleterious substance, against any person engaged in prosecutorial or police duties, or assisting such official, any person who guards or escorts a person detained or confined in accordance with laws and regulations, or any person engaged in an investigation pursuant to the provisions of this Act.

(Inducement)

Article 41 The provisions of this Act related to inducement do not preclude the application of the provisions regarding inducement prescribed in the General Provisions of the Penal Code if the person is induced to commit the crime which is induced by another. In this case, the sentences provided for by the Penal Code and this Act are compared and the person is punished with the heavier sentence.

(Crime of Violation of Prohibition Against Engaging in Acts in the Interest of the Organizations)

Article 42 A person who violates Article 8 or 9 is punished by imprisonment for not more than three years or a fine of not more than fifty thousand yen.

(Violation of Disposition Restricting Organizations' Activities)

Article 43 A person who violates Article 5, paragraph (2) or Article 6 is punished by imprisonment for not more than two years or a fine of not more than thirty thousand yen.

(Crime of Violation of Orders to Leave)

Article 44 A person who violates an order under Article 15, paragraph (4) is punished by a fine of not more than thirty thousand yen.

(Crime of Abuse of Authority Committed by Public Security Intelligence Officers)

Article 45 When a public security intelligence officer abuses the authority prescribed in this Act and has another person to perform an act which the person has no obligation to perform, or obstructs another person from exercising the right, the officer is punished by imprisonment or imprisonment without work for not more than three years.

## Supplementary Provisions [Extract]

- (1) This Act comes into effect on the day of its promulgation.
- (2) The following Cabinet Orders are repealed:
  - (i) Organization Control Order (Cabinet Order No. 64 of 1949);
  - (ii) Cabinet Order Concerning the Management and Disposition of Property of Dissolved Organizations (Cabinet Order No. 238 of 1948); and
  - (iii) Order Concerning the Council for Sale of Property of Dissolved Organizations (Cabinet Order No. 285 of 1948).
- (3) Prior laws continue to govern the applicability of penal provisions of the Cabinet Order set forth in items (i) and (ii) of the preceding paragraph to acts that a person commits before this Act comes into effect.
- (4) Prior laws continue to govern the management and disposition of the property of the organization dissolved pursuant to the provisions of Article 4 of the Organization Control Order (including the organization prescribed in Article 23 of the Cabinet Order Concerning the Management and Disposition of Property of Dissolved Organization) of which ownership was vested in the national treasury before this Act comes into effect (including the fulfillment of an obligation under Article 14 of Cabinet Order Concerning the Management and Disposition of Property of Dissolved Organization), as well as the punishment of the violation regarding such management and disposition. In this case, the functions of the Council for Sale of Property of Dissolved Organizations are to be performed by the Minister of Justice.
- (5) Omitted
- (6) The Code of Criminal Procedure (Act No. 131 of 1948) is partially amended as follows:

The term "or Article 45 of the Subversive Activities Prevention Act (Act No. 240 of 1952)." is added immediately after the term "Articles 193 through 196 of the Penal Code" in Article 262, paragraph (1)."