

Administrative Procedure Act (Article 3, paragraph (1), item (viii), Article 15, paragraph (1), (3), and (4), Article 16, paragraph (1), Article 22, paragraph (3), Article 31, unenforced (Tentative translation))

(Act No. 88 of November 12, 1993)

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Chapter I General Provisions

(Purpose)

Article 1 (1) The purpose of this Act is, by providing for common rules concerning procedures for dispositions, administrative guidance and notifications, and procedures for establishing Administrative Orders, to improve fairness and transparency (meaning clarity in the public understanding of the content and decision-making processes involved in administrative processes; the same applies in Article 46) with regard to administrative operations, and thereby to promote the protection of the rights and interests of the public.

(2) When special provisions exist in other laws on the matters otherwise governed by this Act concerning procedures for dispositions, administrative guidance and notifications, and procedures for making Administrative Orders, these procedures are governed by the special provisions.

(Definitions)

Article 2 In this Act, the meanings of the terms listed in the following items are as prescribed respectively in those items:

- (i) Laws and Regulations: Laws, Orders established pursuant to laws (including public notices), Prefectural/Municipal Ordinances, and Rules (including regulations. Hereinafter referred to as "Rules") promulgated by the executive organ of local public entities;
- (ii) Dispositions: dispositions and other acts involving the exercising of public authority by administrative agencies;
- (iii) Applications: requests, made pursuant to laws and regulations, for permission, approval, licenses, or some other disposition by an administrative agency granting some form of benefit to the applicant (collectively hereinafter referred to as "permission, etc.") and to which requests the administrative agencies should respond to in the affirmative or negative;
- (iv) Adverse Dispositions: Dispositions in which administrative agencies, acting pursuant to laws and regulations, designate specified persons as subject parties to the disposition and directly impose duties upon them or limit their rights; provided, however, that those which fall under any of the following specified provisions are excluded:
 - (a) De facto acts and dispositions in the nature of procedures that may be required by laws and regulations to clarify the scope, timing, etc. pertaining to de facto acts;
 - (b) Dispositions which refuse the permission, etc. requested by applications and other dispositions that are rendered based upon applications, and which specifically designate those who made the applications as the subject of the disposition;
 - (c) Dispositions rendered with the consent of the persons who are subject parties to the disposition;
 - (d) Dispositions which nullify the effect of any permission, etc. and which are rendered because there has been a notification that the facts on which the applicable permission, etc. had been based have ceased to exist.
- (v) Administrative Organs: the organs listed as follows:
 - (a) Organs within the Cabinet or organs under the jurisdiction of the Cabinet which were established pursuant to the provisions of laws, the Imperial Household Agency, organs provided for in Article 49, paragraph (1) or (2) of the Act for Establishment of the Cabinet Office (Act No. 89 of 1999), organs provided for in Article 3, paragraph (2) of the National Government Organization Act (Act No. 120 of 1948), the Board of Audit or organs established by one of these organs, or the personnel of the above mentioned organs who are authorized by laws to independently exercise the authority; and,
 - (b) Organs (excluding assemblies) of local public entities.
- (vi) Administrative Guidance: guidance, recommendations, advice, or other acts

by which an Administrative Organ may seek, within the scope of its duties or processes under its jurisdiction, certain action or inaction on the part of specified persons in order to realize administrative aims, where the acts are not Dispositions;

- (vii) Notifications: acts taken to notify administrative agencies of given matters (excluding applications) as may be expressly obligated by laws and regulations (including those notices which become necessary by virtue of being prerequisite for bringing about some hoped-for legal effect); and
- (viii) "Administrative Orders, etc.": the following, as established by the Cabinet, or Administrative Organs:
 - (a) Orders established pursuant to laws (including public notices which include the requirements of the disposition. Referred to in the second paragraph of the next Article as the "Orders") and Rules
 - (b) Review standards (here meaning the standards necessary for judging, in accordance with the provisions of relevant laws and regulations, whether an application requesting permission, etc. will be granted; the same applies hereinafter)
 - (c) Disposition standards (here meaning, the standards necessary for judging, in accordance with the provisions of relevant laws and regulations, whether Adverse Dispositions are rendered, and as the case may be, what kind of Adverse Dispositions are rendered; the same applies hereinafter)
 - (d) Administrative Guidance guidelines (meaning standardized contents of Administrative Guidance which, in order to achieve a common administrative aim, an Administrative Organ intends to render to more than one person who meets certain conditions; the same applies hereinafter).

(Exclusion from Application)

Article 3 (1) The provisions of Chapters II to IV-2 inclusive do not apply to the Dispositions and the Administrative Guidance listed as follows:

- (i) Dispositions rendered in the nature of any resolution of both or either Houses of the Diet, or by the assemblies of local public entities;
- (ii) Dispositions rendered by the judgment of any court or judge, or made in the nature of the execution of any such judgment;
- (iii) Dispositions directed in the nature of an express instruction by a resolution of both or either houses of the Diet, or assemblies of local public entities, or Dispositions rendered based upon the consent or approval of the houses or assemblies, where the consent or approval is necessary;
- (iv) Dispositions decided by the Audit Commission and Administrative Guidance during audit of the Board of Audit;
- (v) Dispositions and Administrative Guidance rendered by public prosecutors,

- public prosecutor's assistant officers, or judicial police officials pursuant to laws and regulations relating to criminal cases;
- (vi) Dispositions and Administrative Guidance rendered by the Commissioner of the National Tax Agency, directors of the Regional Taxation Bureaus, the chiefs of tax offices, the relevant officials of the National Tax Agency, the Regional Taxation Bureau, or the tax office, the superintendents of custom houses, customs officers, or local tax officials (including those who perform the duties of these offices pursuant to the provisions of other laws and regulations) pursuant to laws and regulations relating to national or local tax law violations (including cases where the laws and regulations are applied *mutatis mutandis* pursuant to other laws and regulations), and Dispositions and Administrative Guidance rendered by the Securities and Exchange Surveillance Commission, personnel of that Commission (including those persons deemed as its personnel pursuant to applicable laws and regulations), directors of Local Finance Bureaus, and directors of the Local Finance Branch Bureaus pursuant to laws and regulations relating to violations of financial instruments transactions regulations (including cases where the laws and regulations are applied *mutatis mutandis* pursuant to other laws and regulations);
- (vii) Dispositions and Administrative Guidance rendered, towards the achievement of educational or training-oriented goals, to students, pupils, elementary school children or pre-school children or to their guardians, or to trainees in schools, short-course training schools, training schools and professional training institutes;
- (viii) Dispositions and Administrative Guidance rendered to effectuate accommodation in prisons, juvenile prisons, jails, detention facilities, detention facilities of Japan Coast Guard, juvenile training schools, and juvenile classification homes;
- (ix) Dispositions or Administrative Guidance concerning the duties or status rendered to public officials (here meaning, the national public officers described in Article 2, paragraph (1) of the National Public Officer Act (Act No. 120 of 1947) and the local public officers described in Article 3, paragraph (1) of the Local Public Officer Act (Act No. 261 of 1950). The same applies hereinafter) or rendered to former public officials;
- (x) Dispositions and Administrative Guidance concerning the departure and immigration of foreign nationals, recognition of refugee status prescribed in Article 61-2, paragraph (1) of the Immigration Control and Refugee Recognition Act (Cabinet Order No. 319 of 1951), recognition of status of person eligible for complementary protection prescribed in paragraph (2) of the same Article, and naturalization;
- (xi) Dispositions exclusively based upon results of examinations or tests for

- certifications regarding a person's expertise;
- (xii) Awards or other Dispositions (limited to cases where both sides are made parties to the proceedings) and Administrative Guidance rendered pursuant to the provisions of those laws and regulations that have been enacted for the purpose of adjusting the interests between persons with a conflict of interests;
 - (xiii) Dispositions and Administrative Guidance rendered on the scene by police officials, coast guard officers, or other personnel invested expressly by laws with the authority to safeguard the public interest, where situations implicating a risk to public health, environmental protection, the prevention of epidemics, public safety, and other public interests arise or are likely to arise;
 - (xiv) Dispositions ordering the submission of reports or articles, and any other Dispositions and Administrative Guidance rendered with the express purpose of collecting information necessary for the performance of administrative duties;
 - (xv) Determinations, decisions, and other Dispositions rendered by administrative agencies relating to requests for review, requests for re-investigation, and other administrative appeals; and,
 - (xvi) Dispositions or Administrative Guidance rendered pursuant to laws and regulations concerning procedures for the Dispositions prescribed in the preceding item, procedures for hearings or for grants the opportunity for explanation prescribed in Chapter III, and other procedures for statements of opinions.
- (2) The provisions of Chapter VI do not apply to acts to establish the Administrative Orders, etc. listed as follows:
- (i) Cabinet Orders which provide for the effective date of laws;
 - (ii) Orders about pardons;
 - (iii) Orders or Rules which provide for the content of the disposition;
 - (iv) Orders or Rules which provide for, pursuant to the provisions of laws, the designation of facilities, sections, areas and other similar matters;
 - (v) Administrative Orders, etc. about the salaries, working hours and other working conditions of public officers; or
 - (vi) Review Standards, Disposition Standards or Administrative Guidance Guidelines, other than those available to the public, by the provisions of laws and regulations, by custom, or by the decision of the organs which have authority to establish Administrative Orders, etc.
- (3) Beyond what is set forth in the items of paragraph (1) and the preceding paragraph, the provisions of Chapters II to VI inclusive do not apply to Dispositions (limited to Dispositions made pursuant to underlying provisions contained in Prefectural/Municipal Ordinances and Rules of local public

entities) and Administrative Guidance rendered by the organs of local public entities, notifications (limited to where notice set forth in item (vii) of the preceding Article is given pursuant to underlying provisions contained in Prefectural/Municipal Ordinances and Rules) to the organs of local public entities, and the acts of the organs of local public entities to establish Administrative Orders, etc.

(Exclusion from the Application of Dispositions Rendered towards National Government Organs)

- Article 4 (1) The provisions of this Act do not apply to Dispositions and Administrative Guidance rendered towards national government organs or to local public entities or their organs (limited to organs and entities that are the subject parties of the applicable Dispositions with regard to their distinct status as governmental entities), nor do they apply to notifications made by the organs or entities (limited to where the obligation to make the notification of the involved organs and entities arises with regard to their distinct status as governmental entities).
- (2) The provisions of Chapters II and III do not apply to Dispositions concerning the corporations which fall under any of the following items and which are rendered pursuant to the specific provisions of laws relating to the supervision of those corporations (excluding however, Dispositions to order the dissolution of those corporations or rescinding the approval for their establishment or ordering the dismissal of either the officers of those corporations or of the persons carrying out their business):
- (i) corporations established expressly by laws or established by a special act of establishment pursuant to the provisions of special laws; and,
 - (ii) corporations established pursuant to special laws and which, the approval of administrative agencies being required for their establishment, are designated by Cabinet Order for having processes closely related to the administrative operations of the national government or the local public entities.
- (3) When administrative agencies designate, pursuant to the provisions of laws, all or some part of the performance of examinations, inspections, certifications, registrations, or other processes of administration, to specific persons charged with the performance of those processes, and when those designated persons (or, in the case of corporations, their officers), their employees or others, concerning their involvement in those processes, are deemed to be engaged in public duties, then the provisions of Chapters II and III do not apply to Dispositions (excluding however, Dispositions rescinding the designation, Dispositions ordering the dismissal of officers of designated corporations, or otherwise with regards to the designated persons, Dispositions ordering the

dismissal of the individuals engaged in the concerned processes) rendered to those designated persons for the purpose of supervising the assigned matters pursuant to the laws.

- (4) The provisions of Chapter VI do not apply to the acts to establish the Administrative Orders, etc. listed as follows:
- (i) Administrative Orders, etc. to provide for the establishment, the scope of processes under jurisdiction and other matters concerning the organization of the national government or local public entities;
 - (ii) Administrative Orders, etc. concerning the Record of Imperial Lineage under Article 26 of the Imperial House Act (Act No. 3 of 1947);
 - (iii) Administrative Orders, etc. to provide for manners, uniform, training, discipline, commendation and recognition for public officers, and competitive examination among the public officers;
 - (iv) Administrative Orders, etc. to provide for the budget, settlement of accounts and accounts of the national government or local public entities (except for Administrative Orders, etc. to provide for the qualifications of the bidders, deposits for bid participation and other matters concerning the contractors or those who would like to contract with the national government or the local public entities), and Administrative Orders, etc. to provide for the management of the properties and the materials of the national government or local public entities (except for Administrative Orders, etc. providing for the matters pertaining to the parties or those who would like to be when the national government or local public entities loan, exchange, sell, transfer, entrust or contribute the properties and the materials, or establish private rights on them);
 - (v) Administrative Orders, etc. to provide for the audit of the final accounts of the State;
 - (vi) Administrative Orders, etc. to provide for the relationship between national government organs, and Administrative Orders, etc. to provide the relationship between the national government and Ordinary Local Public entities, or between Ordinary Local Public entities as provided for in Part II, Chapter XI of the Local Autonomy Act (Act No. 67 of 1947), and other relationships between the national government and Local Public entities, or between Local Public entities (including the Administrative Orders, etc. concerning the Dispositions which the provisions of this Act do not apply to pursuant to the provisions of paragraph (1) of this Article);or
 - (vii) Administrative Orders, etc. to provide for the officers and employees, scope of business, finances and accounts, and other matters concerning organization, operation and management of the corporations as provided for in each item of paragraph (2) of this Article (excluding Administrative Orders, etc. pertaining to the Disposition to order the dissolution or to

rescind the approval for the establishment of the corporations, or to dismiss the officers or employees of the corporations).

Chapter II Dispositions upon Application

(Review Standards)

Article 5 (1) Administrative agencies are to establish review standards.

(2) Administrative agencies, in establishing review standards, must make them as concrete as possible in light of the nature of the particular permission, etc. in question.

(3) Except in cases of extraordinary administrative inconvenience, administrative agencies must make review standards available to the public by means of posting them at the office which is, pursuant to laws and regulations, in charge of receiving the subject Applications or by some other appropriate method.

(Standard Period of Time for Processing)

Article 6 Administrative agencies must endeavor to establish standard periods of time to be typically needed between an Application's arrival at their offices and the rendering of a Disposition regarding that Application (provided that where laws and regulations designate for receipt of Applications an organ which is not the competent administrative agency to decide upon the Applications, the competent agency must also endeavor to establish standard periods of time typically needed between the Application's arrival at the office of the organ designated to receive the Application and its subsequent arrival at the administrative offices of the competent agency); and upon establishing the standard periods of time, must make them available to the public by means of posting them at the office which is designated to receive the subject Applications or by some other appropriate method.

(Review and Response to Applications)

Article 7 Upon the arrival of an Application at the offices of an administrative agency, the agency must commence its review of the Application without delay, and unless an Application conforms to requirements that the entries of the written application be completed, that the written application be attached by necessary documents, that the Application be filed within a specified period of time, or to other pro forma requirements provided by laws and regulations, the agency must promptly either request the persons who filed the Application (hereinafter referred to as "applicants") to amend the Application, specifying a considerable period of time to make the amendment, or refuse the permission, etc. sought through the Application.

(Presentation of Grounds)

Article 8 (1) Administrative agencies must, if they render Dispositions refusing the permission, etc. sought through Applications, concurrently show the grounds for the subject Disposition; provided, however, that where either the requirements provided by laws and regulations for the permission, etc. or the review standards that have been made available to the public are clearly specified in terms of quantitative indices or other objective indices, and where the fact that an Application does not conform to these requirements or standards can easily be seen from the contents of the written application or from its attached documents, it would be sufficient to show the grounds for the refusal only upon request of the applications.

(2) When Dispositions prescribed in the main clause of the preceding paragraph are rendered in writing, then the grounds set forth in the preceding paragraph must also be shown in writing.

(Providing Information)

Article 9 (1) Upon the request of applicants, administrative agencies must endeavor to indicate the progress of the review of an Application and the prognosis when a Disposition upon that Application may be expected.

(2) Upon the request of applicants or of persons planning to file Applications, administrative agencies must endeavor to provide information concerning the contents of written application, documents to be attached to them, and other information necessary with regards to filing Applications.

(Holding of Public Hearings)

Article 10 Administrative agencies, when rendering Dispositions upon Applications, and where applicable laws and regulations provide that the interests of persons other than the applicants be considered in granting the relevant permission, etc., must, where circumstances make it necessary, endeavor to provide opportunities for the opinions of this persons other than the applicants to be heard, by holding public hearings or by other appropriate methods.

(Dispositions Involving More Than One Administrative Agency)

Article 11 (1) The fact that related Applications filed by applicants may be simultaneously under review by other administrative agencies may not excuse the administrative agencies handling the Applications for acting to intentionally delay their appointed review or decision whether to grant permission, etc.

(2) Where more than one administrative agency is concerned with either a Disposition upon a single Application or to several related Applications from a

single applicant, the agencies concerned are to endeavor to accelerate their review by maintaining contact with one another and by jointly hearing explanations from the applicant, etc., where circumstances make it necessary.

Chapter III Adverse Dispositions

Section 1 General Rules

(Disposition Standards)

Article 12 (1) Administrative agencies must endeavor to establish disposition standards, and to make the standards available to the public.

(2) Administrative agencies, in establishing disposition standards, must make them as concrete as possible in light of the nature of the particular Adverse Disposition in question.

(Procedures Prerequisite for Adverse Dispositions)

Article 13 (1) Administrative agencies must, with regard to rendering Adverse Dispositions and pursuant to terms of the following items, establish procedures for hearing statements of opinion of persons who will become the subject parties of the Adverse Dispositions, in accordance with the categories specified respectively in those items and generally in the manner set forth in this Chapter:

(i) Hearings: when any of the following applies:

(a) when rendering Adverse Dispositions that will rescind some permission, etc.;

(b) beyond the circumstances provided for in (a) of this item, when rendering any other Adverse Dispositions which will directly deprive the subject parties of some conferred qualification or status;

(c) when rendering Adverse Dispositions that are rendered to corporations and order the dismissal of the officers of the subject corporations, that order the dismissal of the persons engaged in the processes of the subject parties, or that order the expulsion of persons who are members of the subject parties; or

(d) other than cases as described in (a) through (c) of this item, when cases occur which administrative agencies recognize as appropriate.

(ii) Granting of the opportunity for explanation: when none of the circumstances described in (a) through (d) of the preceding items apply.

(2) The provisions of the preceding paragraph do not apply to the cases which fall under any of the following items:

(i) when, for the public interest, it is necessary to render Adverse Dispositions urgently, and procedures for statements of opinion prescribed in the preceding paragraph cannot therefore be timely implemented;

- (ii) when rendering Adverse Dispositions which must be rendered when it is ascertained that some person's qualifications required by laws and regulations are lacking or have been lost, and when the fact of the non-existence of the qualifications or their loss has been expressly established by a written judgment or decision of court, by the document of the appointer which corroborates that person's assuming the specific position, or by some other objective documents;
- (iii) where laws and regulations clearly provide for, with technical standards, the matters to be complied with concerning the establishment, maintenance or management of facilities or equipment, or concerning the manufacturing, sale or other handling of goods and when rendering Adverse Dispositions ordering to comply with the standards, solely based upon the fact of non-compliance with these standards, which has been confirmed by measurement, experimentation, or some other objective method for the determination;
- (iv) when rendering Adverse Dispositions which fix an amount of money to be paid, which order the payment of a specific amount of money, or which rescind a decision of cash benefits or otherwise restrict cash benefits; or,
- (v) when rendering Adverse Dispositions, which are specified by Cabinet Order as being not subject to the requirement to hear the opinion of those who will become the subject parties owing to the fact that, in light of the nature of the Dispositions, the contents of the duties imposed by the Dispositions are extremely insignificant.

(Showing of Grounds for Adverse Dispositions)

Article 14 (1) Administrative agencies, if they render Adverse Dispositions, must concurrently show the grounds for the Adverse Disposition to the subject parties; provided, however, that this does not apply when there are pressing needs for rendering Adverse Dispositions without showing grounds.

(2) In the case referred to in the proviso of the preceding paragraph, but excepting cases where the locations of the subject parties have become unknown and other cases where circumstances make it difficult to show grounds after rendering of the Disposition, administrative agencies must show the grounds for the Disposition concerned within the considerable period of time after its rendering.

(3) When Adverse Dispositions are rendered in writing, the grounds set forth in the preceding two paragraphs must also be shown in writing.

Section 2 Hearings

(Manner of Notice of Formal Hearings)

Article 15 (1) In conducting hearings, administrative agencies must provide to

the anticipated subject parties of Adverse Dispositions written notice of the following particulars, which notices are to be provided with a considerable period of time before the date of the hearing:

- (i) the contents of the anticipated Adverse Disposition and the specific provisions of laws and regulations which will be the grounds for the anticipated Adverse Disposition;
 - (ii) the facts which will be the cause of the anticipated Adverse Disposition;
 - (iii) the date and place of the hearing; and,
 - (iv) the name and location of the organization which has jurisdiction over processes relating to the hearing.
- (2) The following particulars must be included in the written notice set forth in the preceding paragraph:
- (i) that the addressee may appear and state his or her opinion on the date of the hearing, may produce documentary evidence or articles of evidence (hereinafter referred to as "documentary evidence, etc.") at that time, or may, in lieu of appearing on the date of the hearing, submit written statements and documentary evidence, etc.; and,
 - (ii) that the addressee, until the conclusion of the hearing, may demand inspection of materials which prove the facts upon which the anticipated Adverse Disposition will be based.
- (3) Administrative agencies may, if the location of an anticipated subject party of an Adverse Disposition is unknown, provide the notice pursuant to the provisions of paragraph (1) of this Article by the method of public notice.
- (4) The notice by the method of public notice referred to in the preceding paragraph is to be provided by enabling an unspecified and large number of persons to inspect the name of the anticipated subject party of an Adverse Disposition, the matters listed in paragraph (1), items (iii) and (iv), and a statement that the administrative agency will deliver to the anticipated subject party at any time a document addressing each of the matters listed in the items of the same paragraph (hereinafter referred to as the "matters of public notice" in this paragraph) by the method specified by Order of the Ministry of Internal Affairs and Communications, and by taking measures to post a document addressing the matters of public notice on the notice board in the office of the administrative agency or to enable the inspection of the matters of public notice displayed on a screen of a computer located at the office. In this case, the notice is deemed to have reached the anticipated subject party two weeks after the commencement of the measures.

(Agents)

Article 16 (1) Persons who have received the notice set forth in paragraph (1) of the preceding Article (including persons to whom the notice is deemed to have

reached pursuant to the second sentence of paragraph (4) of the same Article. Hereinafter referred to as "parties") may appoint agents.

- (2) Agents may perform any act relating to hearings individually on behalf of parties.
- (3) The status of agents must be certified in writing.
- (4) When an agent becomes divested of his or her status, the parties who appointed that agent must give written notice thereof to the administrative agencies concerned.

(Intervenors)

Article 17 (1) Persons who preside over hearings pursuant to the provisions of Article 19 (hereinafter referred to as "presiding officials") may, when they find it necessary, request persons who are not parties, but who are recognized, in light of laws and regulations on which anticipated Adverse Dispositions are pursuant to, as having an interest in the anticipated Adverse Disposition (referred to in paragraph (2), item (vi) of the same Article as "interested parties") to intervene in the hearing process or may permit the interested parties' intervention in the hearing process.

- (2) Persons who intervene in the hearing process pursuant to the provisions of the preceding paragraph (hereinafter referred to as "intervenors") may appoint an agent.
- (3) The provisions of paragraphs (2) to (4) of the preceding Article 16 inclusive apply mutatis mutandis to the agents set forth in the preceding paragraph. In this case, the term "parties" in paragraphs (2) and (4) of the same Article is deemed to be replaced with "intervenors."

(Inspection of Records)

Article 18 (1) Parties and intervenors whose interests would be harmed by a particular Adverse Disposition (referred to in this Article and in Article 24, paragraph (3) as "parties, etc.") may, between the time when notice of a hearing is given and the time when the hearing is concluded, request from the administrative agency concerned to inspect records indicating the results of investigations on the matters in question and other materials which prove the facts upon which the anticipated Adverse Disposition will be based. In this case, administrative agencies may not reject requests for inspection unless there is a risk that the interests of third parties would be harmed or unless there are other justifiable grounds.

- (2) The provisions of the preceding paragraph do not preclude the parties, etc. from making additional requests for the inspection of materials, the need for which arises during the course of proceedings on the date of hearings.
- (3) Administrative agencies may designate the date, time and place for

inspections set forth in the preceding two paragraphs.

(Presidency of Hearings)

Article 19 (1) Hearings will be presided over by an official designated by the administrative agencies or the other persons as may be provided for by Cabinet Order.

(2) No person who falls under any of the following items may preside over a hearing:

(i) parties to or intervenors in the hearing concerned;

(ii) spouses, relatives within the fourth degree of kinship, or other relatives living together with the persons prescribed in the preceding paragraph;

(iii) agents of the persons prescribed in item (i) of this paragraph or the assistants prescribed in paragraph (3) of the next Article;

(iv) persons who were the persons prescribed by any of the preceding three items;

(v) guardians, supervisors of guardians, curators, supervisors of curators, assistants or supervisors of assistants of the persons prescribed in item (i) of this paragraph; and,

(vi) interested parties other than intervenors.

(Method of Proceedings on the Date of Hearings)

Article 20 (1) The presiding official must, at the outset of the first date of the hearing, direct officials of the administrative agency concerned to explain to the persons who have appeared there: the contents of the anticipated Adverse Disposition, and the underlying provisions of laws and regulations, and the facts upon which the Adverse Disposition will be based.

(2) Parties and intervenors may, by appearing on the date of the hearing, state their opinions, produce documentary evidence, etc., and, with the approval of the presiding official, address questions to the officials of the administrative agency concerned.

(3) In the case referred to in the preceding paragraph, parties or intervenors may, with the permission of the presiding official, appear together with assistants.

(4) The presiding official may, when he or she finds it necessary, address questions to parties or intervenors, call upon them to state their opinions or produce documentary evidence, etc., or require officials of the administrative agency concerned to provide explanations.

(5) Notwithstanding the fact that some parties or intervenors may be absent, the presiding official may conduct the proceedings on the assigned date of the hearing.

(6) Except when administrative agencies are considered suitable to open to the public, proceedings on the date of hearings will be closed to the public.

(Submission of Written Statements)

Article 21 (1) Parties or intervenors may, in lieu of appearing on the date of a hearing, submit written statements and produce documentary evidence, etc. to the presiding official on or before the date of the hearing.

(2) If so requested by persons appearing on the date of the hearing, the presiding official may exhibit to persons in appearance there the written statements and documentary evidence, etc. set forth in the preceding paragraph.

(Designation of Dates for Continuation)

Article 22 (1) When the results of the proceedings on the date of a hearing suggest that continuation of the hearing is necessary, the presiding official may assign a continuation date.

(2) In the case referred to in the preceding paragraph, the parties and intervenors must be given, in advance, notice in writing of the date and the location of the next hearing; provided, however, that it would be sufficient to notify parties and intervenors who appeared on the date of hearing of the above matters made on the date of the hearing.

(3) The provisions of Article 15, paragraphs (3) and (4) apply mutatis mutandis to the means of giving notice in the case referred to in the main clause of the preceding paragraph when the locations of parties or intervenors are unknown. In this case, the term "anticipated subject party of an Adverse Disposition" in paragraphs (3) and (4) of the same Article is deemed to be replaced with the "parties or intervenors," and the term "two weeks after the commencement of the measures" in paragraph (4) of the same Article is deemed to be replaced with "two weeks after the commencement of the measures (but in the case of the second notice being made to the same parties or intervenors, the day following the day of commencement of the measures)."

(Conclusion of a Hearing with Nonappearance of Parties)

Article 23 (1) The presiding official may, where some or all of the parties fail to appear on the date of a hearing without justifiable grounds and the parties do not submit written statements or produce documentary evidence, etc. prescribed in Article 21, paragraph (1), or, where some or all of the intervenors fail to appear on the date of the hearing, conclude the hearing without granting the persons any further opportunity to state their opinions and produce documentary evidence, etc.

(2) Beyond the case prescribed in the preceding paragraph, if some or all of the parties fail to appear on the date of the hearing and do not submit written statements or produce documentary evidence, etc. prescribed in Article 21, paragraph (1), and when the persons are not expected to appear on an date for

the hearing for a considerable period of time, the presiding official may ask them to submit written statements and produce documentary evidence, etc. with a due date, and conclude the hearing when the due date falls.

(Record of Hearings and Written Reports)

- Article 24 (1) Presiding officials must prepare a record of the proceedings of hearings, and the record must clearly indicate the outline of the statements raised by parties and intervenors with regard to the facts upon which the anticipated Adverse Disposition will be based.
- (2) The record set forth in the preceding paragraph must be prepared on each date of the hearing when hearing sessions are conducted, and where hearing sessions are not conducted, then promptly after the hearing is concluded.
- (3) The presiding official must, promptly after the hearing is concluded, prepare a written report containing his or her opinion as to whether the assertion of the parties, etc. concerning the facts which will be the cause of the anticipated Adverse Disposition are justified, and submit the report to the administrative agency concerned together with the record set forth in paragraph (1) of this Article.
- (4) Parties and intervenors may demand inspection of the records set forth in paragraph (1) of this Article and the written report set forth in the preceding paragraph.

(Reopening of Hearings)

Article 25 Administrative agencies may, when they find necessary in light of the circumstances arising after the conclusion of a hearing, order the presiding official to reopen a hearing by returning to the presiding official the written report submitted pursuant to the provisions of paragraph (3) of the preceding Article. The provisions of the main clause of Article 22, paragraph (2) and of paragraph (3) of the same Article apply *mutatis mutandis* to this case.

(Decisions to Render Adverse Dispositions Following Hearings)

Article 26 In deciding to render an Adverse Disposition, administrative agencies must do so only after careful consideration of the contents of the record set forth in Article 24, paragraph (1) and of the opinion of the presiding official entered in the written report set forth in paragraph (3) of the same Article.

(Limitations upon Requests for Review)

Article 27 No request for review may be filed against Dispositions under the provisions of this Section or inaction thereof.

(Special Provisions on Hearings Prerequisite for Adverse Dispositions Ordering

the Dismissal of Officers)

Article 28 (1) For the purpose of applying the provisions of this Section, when, in the hearings pertaining to an Adverse Disposition which falls under Article 13, paragraph (1), item (i) (c), the notice set forth in Article 15, paragraph (1) is given, the officers of the corporation which is the subject party, the persons engaged in the processes of the subject party, or the members of the subject party (limited to those persons being ordered in the Disposition to be dismissed or expelled) are deemed to be the persons who have received the notice.

(2) If hearings have been conducted pertaining to Adverse Dispositions set forth in the preceding paragraph that order the dismissal of officers of the corporation which is the subject party or the persons engaged in the processes of the subject party (hereinafter in this paragraph referred to as "officers, etc."), then, notwithstanding the provisions of Article 13, paragraph (1), administrative agencies are not required to conduct hearings for the officers, etc., with regard to Adverse Dispositions which are rendered pursuant to the provisions of laws and regulations to dismiss the officers, etc. because the original subject party did not follow the initial Adverse Disposition in question.

Section 3 Granting of the Opportunity for Explanation

(Method of Granting an Opportunity for Explanation)

Article 29 (1) Except when administrative agencies authorize presentation to be made orally, explanations are to be made by submitting a written statement of explanation (hereinafter referred to as a "written explanation").

(2) When offering explanation, documentary evidence, etc. may be produced.

(Method of Notice of Granting of an Opportunity for Oral Explanation)

Article 30 Administrative agencies must provide a written notice of the following particulars to the anticipated subject parties of Adverse Dispositions, which must be provided within a reasonable period of time before the deadline of the submission of written explanation (or in the case of granting of an opportunity for oral explanation, before the date and time of that presentation) :

(i) the contents of the anticipated Adverse Disposition and the specific provisions of laws and regulations which will be the grounds for the anticipated Adverse Disposition;

(ii) the facts which will be the cause of the anticipated Adverse Disposition;
and

(iii) the place and deadline for submitting a written explanation (or in the case of granting of the opportunity for oral explanation, the time, date, and place of explanation).

(Application Mutatis Mutandis of Procedures of Hearings)

Article 31 The provisions of Article 15, paragraphs (3) and (4) and Article 16 apply mutatis mutandis to the grant of opportunities for explanation. In this case, the terms "paragraph (1)" in Article 15, paragraph (3), "paragraph (1), items (iii) and (iv)" in Article 15, paragraph (4), and "paragraph (1) of the preceding Article" and "the second sentence of paragraph (4) of the same Article" in Article 16, paragraph (1) are deemed to be replaced respectively with "Article 30," "Article 30, item (iii)," "Article 30" and "the second sentence of paragraph (4), Article 15 as applied mutatis mutandis pursuant to Article 31."

Chapter IV Administrative Guidance

(General Principles of Administrative Guidance)

Article 32 (1) Persons imposing Administrative Guidance must give due regard to their actions so as not to exceed, in the slightest degree, the scope of the duties or processes under the jurisdiction of the Administrative Organ concerned and that the content of the Administrative Guidance is, to the utmost degree, realized based solely upon the voluntary cooperation of the subject party.

(2) Persons imposing Administrative Guidance must not treat the subject party of Administrative Guidance disadvantageously owing to the subject party's non-compliance with the Administrative Guidance in question.

(Administrative Guidance for Applications)

Article 33 With regard to Administrative Guidance seeking either withdrawal or modification of the contents of an Application, persons imposing Administrative Guidance must not act in disregard of an applicant's manifestation that they have no intention of complying with the Administrative Guidance in question to obstruct the applicant's exercise of rights by conduct such as continuing the Administrative Guidance in question.

(Administrative Guidance for Authority over Permission)

Article 34 With regard to Administrative Guidance rendered by an Administrative Organ with the authority to grant permission, etc. or to render Dispositions pertaining to permission, etc., where the Administrative Organ is either unable to or has no intent to exercise its authority, a person imposing Administrative Guidance must not engage in conduct such as compelling a subject party to comply with the Administrative Guidance in question by deliberately suggesting that they are capable of exercising the authority.

(Means of Administrative Guidance)

Article 35 (1) Persons imposing Administrative Guidance must make clear to the subject party the purpose and content of, and the persons responsible for, the Administrative Guidance in question.

(2) When a person imposing Administrative Guidance suggests, on the occasion of imposing the Administrative Guidance in question, that the relevant Administrative Organ is capable of exercising the authority to grant permission, etc. or to render Dispositions pertaining to permission, etc., the person must indicate the following:

- (i) the specific provisions of laws and regulations which are grounds for the capability to exercise the authority;
- (ii) the requirements prescribed in the specific provisions set forth in the preceding item; and
- (iii) the reason why the exercise of the authority conforms to the requirements set forth in the preceding item.

(3) Where Administrative Guidance is rendered orally, the person imposing the Administrative Guidance in question must, if so requested by the subject party, provide the particulars prescribed in the preceding two paragraphs in writing, so long as no extraordinary administrative inconvenience arises thereby.

(4) The provisions of the preceding paragraph do not apply to the following instances of Administrative Guidance:

- (i) Administrative Guidance that seeks the subject party to carry out acts on the spot; and
- (ii) Administrative Guidance that seeks, in content, matters that the subject party has already been notified of in writing (including documents set forth in the preceding paragraph) or electronic or magnetic records (records produced by an electronic device, magnetic device or any other device not recognizable to the human senses).

(Administrative Guidance Directed to More Than One Person)

Article 36 When an Administrative Organ intends to render Administrative Guidance to more than one person who meets certain conditions in order to achieve a common administrative aim, the Administrative Organ must, in advance and in accordance with the circumstances of the particular case, establish the Administrative Guidance Guidelines, and so long as no extraordinary administrative inconvenience arises thereby, must make the Guideline known to the public.

(Requests for Suspension of Administrative Guidance)

Article 36-2 (1) If the subject party of Administrative Guidance imposed to seek correction of an act that violates laws and regulations (limited to

Administrative Guidance imposed pursuant to underlying provisions contained in laws) considers that the Administrative Guidance in question does not conform to the requirements prescribed in the relevant laws, the subject party may notify the Administrative Organ that has imposed the Administrative Guidance to that effect and request it to suspend the Administrative Guidance or take any other necessary measures; provided, however, that this does not apply when the Administrative Guidance has been imposed after conducting the procedures for granting the subject party with the opportunity to explain or for hearing the subject party's statements of opinions.

- (2) The notification set forth in the preceding paragraph must be made by submitting a written notification containing the following particulars:
 - (i) the name and domicile or residence of the notifying party;
 - (ii) the substance of the Administrative Guidance;
 - (iii) the specific provisions of the laws which are the grounds for the Administrative Guidance;
 - (iv) the requirements prescribed in the specific provisions set forth in the preceding item;
 - (v) the reason why the notifying party considers that the Administrative Guidance does not conform to the requirements set forth in the preceding item; and
 - (vi) other particulars for reference.
- (3) If the notification under the provisions of paragraph (1) is made, the Administrative Organ concerned must conduct investigation as necessary, and if it finds that that the Administrative Guidance in question does not conform to the requirements prescribed in the relevant laws, it must suspend the Administrative Guidance or take any other necessary measures.

Chapter IV-2 Requests for Dispositions

Article 36-3 (1) Where a violation of laws and regulations exists, any person who considers that a Disposition or Administrative Guidance (limited to a Disposition or Administrative Guidance imposed pursuant to underlying provisions contained in laws) necessary for the correction of the violation has not been rendered or imposed may notify the administrative agency that has the authority to render the Disposition, or the Administrative Organ that has the authority to impose the Administrative Guidance to that effect and request it to render the Disposition or impose the Administrative Guidance.

- (2) The notification set forth in the preceding paragraph must be made by submitting a written notification containing the following particulars:
 - (i) the name and domicile or residence of the notifying party;
 - (ii) the substance of the violation of laws and regulations;

- (iii) the substance of the Disposition or Administrative Guidance;
 - (iv) the specific provisions of the laws and regulations which is the grounds for the Disposition or Administrative Guidance;
 - (v) the reason why the notifying party considers that the Disposition or Administrative Guidance should be rendered or imposed; and
 - (vi) other particulars for reference.
- (3) If the notification under the provisions of paragraph (1) is made, the administrative agency or Administrative Organ concerned must conduct investigations as necessary and render the Disposition or impose the Administrative Guidance if it finds it necessary to do so based on the results of the investigation.

Chapter V Notifications

(Notifications)

Article 37 Where notifications conform to requirements that the entries of written notification be completed and necessary documents are attached to written notifications, and to other pro forma requirements provided by laws and regulations, procedural obligations for filing the notification in question are to be performed upon its arrival at the office of the organ designated by laws and regulations to receive the notification in question.

Chapter VI Public Comment Procedures

(General Principles for the Establishment of Administrative Orders)

Article 38 (1) The Organ which is in charge of establishing Administrative Orders, etc. (if Administrative Orders, etc. are established by Cabinet Decision, the Minister in charge of drafting Administrative Orders, etc. Hereinafter referred to as "Organs Establishing Administrative Orders, etc.") must establish the Administrative Orders, etc. accommodating them to the purpose of the laws and regulations which will be the grounds for the Administrative Orders, etc.

(2) After the establishment of Administrative Orders, etc., Organs Establishing Administrative Orders, etc. must endeavor to maintain the appropriateness of the Administrative Orders, etc. by considering the implementation of the Administrative Orders, etc., and the development of the social and economic situation, and where circumstances make it necessary, by examining the content of the Administrative Orders, etc.

(Public Comment Procedures)

Article 39 (1) Organs when Establishing Administrative Orders, etc., must make

them public in advance (meaning a draft showing the content of the anticipated Administrative Orders. The same applies hereinafter.) and any materials relating to the proposed Administrative Orders, etc., and must seek comments (including information. The same applies hereinafter.) from the public, showing the address where the comments will be submitted and the period of time for the submission (hereinafter referred to as "period for submission of comments").

- (2) Proposed Administrative Orders, etc., publicly notified pursuant to the provisions of the preceding paragraph must have concrete and clear content, and must show the title and the specific provisions of the laws and regulations which will be grounds for the anticipated Administrative Orders, etc.
- (3) The period for submission of Comments set pursuant to the provisions of paragraph (1) must be 30 days or more from the date of public notice set forth in the same paragraph.
- (4) The provisions of paragraph (1) do not apply in cases fall under any of the following:
 - (i) when it would be difficult to follow the procedures provided for in paragraph (1) (hereinafter referred to as "procedures for public comment") because the urgent establishment of Administrative Orders, etc. are necessary for the public interest;
 - (ii) when establishing Administrative Orders, etc. which provide for the amount and the rate acting as the basis for calculation of the amount, and the means to calculate the amount which are needed because of the establishment or amendment of laws providing for the money to be paid, and other Orders providing for necessary matters concerning the implementation of the laws;
 - (iii) when establishing Administrative Orders, etc. which provide for the amount and the rate acting as the basis of the calculation of the amount, the means to calculate the amount, and other matters which are needed to implement the budget;
 - (iv) when establishing Administrative Orders, etc. which are, pursuant to the provisions of laws, to be established following deliberation in committees prescribed in Article 49, paragraph (1) or 2 of the Act for Establishment of the Cabinet Office or in Article 3, paragraph (2) of the National Government Organization Act, or Organs prescribed in Article 37 or Article 54 of the Act for Establishment of the Cabinet Office or in Article 8 of the National Government Organization Act (hereinafter referred to as "Committees, etc."), and which are specified by Cabinet Order as having been deliberated in the Committees, etc. for the purpose of adjusting the interests of persons with a conflict of interests, organized by, pursuant to the provisions of laws or Cabinet Orders, members representing the persons and the public interest

- respectively;
- (v) when establishing the Administrative Orders, etc., the content of which is practically the same as that of Administrative Orders, etc. which another Administrative Organ has established following the procedures for public comment;
 - (vi) when establishing Administrative Orders, etc. which provide, pursuant to the provisions of laws, technical replacement of terms necessary for application or mutatis mutandis application of the provisions of laws and regulations;
 - (vii) when abolishing Administrative Orders, etc. which should be abolished following the deletion of the provisions of laws and regulations which are the grounds for the Administrative Orders, etc.; or
 - (viii) when establishing Administrative Orders, etc. which have content specified by Cabinet Order as being insignificantly changed and not requiring the implementation of procedures for public comment, such as the arrangement of the provisions necessary in accordance with the establishment, amendment or repeal of other laws and regulations.

(Special Provisions for Procedures for Public Comment)

Article 40 (1) In cases that, when establishing Administrative Orders, etc., there are compelling grounds for not setting the 30-day minimum period for submission of comments, Organs Establishing Administrative Orders, etc. may, notwithstanding the provisions of paragraph (3) of the preceding Article, set the period for submission of comments at less than 30 days. In this case, the Organs Establishing Administrative Orders, etc. must show the grounds at the same time as the public notice of the proposed Orders.

(2) When establishing Administrative Orders, etc. following deliberation in committees, etc. (except for cases fall under paragraph (4), item (iv) of the preceding Article), when the committee has implemented a procedure equivalent to the procedures for public comment, notwithstanding the provisions of paragraph (1) of the same Article, Organs Establishing Administrative Orders, etc. are not required to implement the procedures for public comment.

(Making Public Procedures for Public Comment)

Article 41 In establishing Administrative Orders, etc., implementing procedures for public comment, Organs Establishing Administrative Orders, etc. are to, where circumstances make it necessary, endeavor to make public the implementation of the procedures for public comment, and endeavor to provide the public with information relating to the implementation of the procedures for public comment.

(Consideration of Submitted Comments)

Article 42 In establishing Administrative Orders, etc. implementing the procedures for public comment, Organs Establishing Administrative Orders, etc. must adequately consider all comments submitted to it (hereinafter referred to as "submitted comments") within the period for submission of comments.

(Public Notice of Results)

Article 43 (1) In establishing Administrative Orders, etc. implementing the procedures for public comment, Organs Establishing Administrative Orders, etc. must make public the following particulars at the same time as the promulgation of the Administrative Orders, etc. (in the case of non-promulgation, meaning act to make the Order, etc. public; the same applies in paragraph (5));

(i) title of the Administrative Orders, etc.;

(ii) date of the public notice of the proposed Administrative Orders, etc.;

(iii) submitted comments (in cases of non-submission, the fact that there are no submitted comments);and

(iv) results following the consideration of the submitted comments (including any differences between the proposed Administrative Orders, etc. upon which the procedures for public comment was implemented and the established Administrative Orders, etc.), and the grounds for this.

(2) Notwithstanding the provisions of the preceding paragraph, Organs Establishing Administrative Orders, etc. may, where circumstances make it necessary, make public a suggest of the submitted comments, in lieu of the submitted comments set forth in item (iii) of the same paragraph. In this case, without delay after the public notice, the Organs Establishing Administrative Orders, etc. must make the submitted comments public by means of posting them at the office of the Organs Establishing Administrative Orders, etc. concerned, or by some other appropriate method.

(3) When there is a risk that the interests of a third party would be harmed by giving public notification of or making public the submitted comments pursuant to the provisions of the preceding two paragraphs, or when there is some other justifiable grounds, Organs Establishing Administrative Orders, etc. may exclude all or part of the submitted comments.

(4) When Organs Establishing Administrative Orders, etc. decide not to establish Orders, despite the implementation of the procedures for public comment, the Organs Establishing Administrative Orders, etc. must make public the decision (and the fact that new procedures for public comment will be implemented upon another proposed Administrative Orders, etc., if so) and the particulars

listed in items (i) and (ii) of paragraph (1), promptly.

(5) Organs Establishing Administrative Orders, etc. must make public the following particulars at the same time as the promulgation of the Administrative Orders, etc. concerned, in the case that the Organs Establishing Administrative Orders, etc. established Administrative Orders, etc., pursuant to the provisions of Article 39, paragraph (4), without the implementation of the procedures for public comment; provided, however, that the Organs may publish the purpose of the Administrative Orders, etc. specified in item (i), only when the Organs did not implement the procedures for public comment pursuant to the provisions of Article 39, paragraph (4) and the purpose of the Administrative Orders, etc. cannot be understood by the provisions of the Administrative Orders, etc.

(i) Title and purpose of the Administrative Orders, etc.;

(ii) Fact that procedures for public comment was not implemented and the grounds for this.

(Application Mutatis Mutandis)

Article 44 The provisions of Article 42 apply mutatis mutandis to cases that Organs Establishing Administrative Orders, etc. establish the Administrative Orders, etc. without implementing the procedures for public comment pursuant to the provisions of Article 40, paragraph (2); the provisions of paragraph (1) to 3 inclusive of the preceding Article apply mutatis mutandis to the case that Organs Establishing Administrative Orders, etc. established the Administrative Orders, etc. without implementing the procedures for public comment pursuant to the provisions of Article 40, paragraph (2); and the provisions of paragraph (4) of the preceding Article apply mutatis mutandis to the case that Organs Establishing Administrative Orders, etc. decided not to establish the Administrative Orders, etc. without implementing the procedures for public comment pursuant to the provisions of Article 40, paragraph (2). In these cases, the terms "Organs Establishing Administrative Orders etc." in Article 42, "Date of the public notice of the proposed Administrative Orders, etc." in paragraph (1), item (ii) of the preceding Article and "upon which the procedures for public comment was implemented" in item (iv) of the same paragraph are deemed to be replaced respectively with "Committees, etc.," "Date upon which the committee has implemented a procedure equivalent to the procedures for public comment upon the proposed Administrative Orders, etc." and "upon which the procedure equivalent to the procedures for public comment."

(Methods of Public Notice)

Article 45 (1) The public notice pursuant to the provisions of Article 39,

paragraph (1), and to the provisions of Article 43, paragraphs (1) (including cases where it is applied mutatis mutandis with replacement of terms pursuant to the provisions of the preceding Article), paragraph (4) (including the case where it is applied mutatis mutandis pursuant to the provisions of the preceding Article) and paragraph (5) is to be provided by the means using an electronic data processing system or other means using information and communications technology.

- (2) The Minister for Internal Affairs and Communications will provide for the necessary matters concerning the public notice set forth in the preceding paragraph.

Chapter VII Auxiliary Provisions

(Measures by Local Public Entities)

Article 46 Local public entities must, with regard to procedures for Dispositions, Administrative Guidance and notifications, and the procedure for establishing Administrative Orders, etc. to which the provisions of Chapters II to VI inclusive are made inapplicable by Article 3, paragraph (3), endeavor to take necessary measures in order to advance the guarantee of fairness and progress towards transparency in administrative operations, consistent with the purpose of the provisions of this Act.

Supplementary Provisions

(Effective Date)

- (1) This Act comes into effect as of the date specified by Cabinet Order within a period not exceeding one year from the day of promulgation.

(Transitional Measures)

- (2) Where, before this Act comes into effect, acts functionally equivalent to the notice described in the Article 15, paragraph (1) or Article 30 are taken, notwithstanding the provisions of Chapter III, prior laws continue to govern the procedures for the Adverse Dispositions pertaining to the acts equivalent to the notice.
- (3) Notwithstanding the provisions of Chapter III, prior laws continue to govern procedures involved in Adverse Dispositions if, before this Act comes into effect, a notification or other action prescribed by Cabinet Order (hereinafter referred to as a "notification, etc.") is subsequently effected for an Adverse Disposition which may be reached only within a fixed timeframe after the notification, etc. has been effected.
- (4) Beyond what is provided for in the preceding two paragraphs, Cabinet Orders

prescribe the necessary transitional measures concerning the enforcement of this Act.