

# **Act on Measures in Securing Smooth and Safe Activities Using Radio Wave by the Self-Defense Forces, etc. While Avoiding Radio Wave Transmission Interference Caused by Installation or Modification of Wind Power Generation Facility**

(Act No. 39 of May 24, 2024)

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## **Chapter I General Provisions**

### **(Purpose)**

Article 1 The purpose of this Act is to secure the smooth and safe activities of the Self-Defense Forces, etc. using radio waves by establishing a system concerning designation of a zone free of radio interference, an obligation to notify as to the installation or modification of a wind power generation facility within the radio interference free zone, and discussions between the wind power generation facility installer and the Minister of Defense, in order to avoid the possibilities of transmission interference with the radio waves used by the Self-Defense Forces, etc. caused by the installation of a wind power generation facility.

### **(Definitions)**

Article 2 In this Act, the terms stated in the following items have the meanings provided in those items:

- (i) "wind power generation facility" means a power generation facility that converts wind power into electricity by the rotation of blades on land, with the blade length of 5 meters or more, or with the wind turbine height (meaning the vertical distance between the tip of the blade and the surface of the earth when the tip is at the highest position; the same applies in paragraph (1), item (i) of the following Article and Article 4, paragraph (1)) of

20 meters or more;

- (ii) "Self-Defense Forces, etc." means the Self Defense Forces or the United States Armed Forces in Japan based on the Treaty of Mutual Cooperation and Security between Japan and the United States of America; and
- (iii) "wind power generation facility installer" means an ordering party under a construction contract for installation or modification (referred to below as "installation or modification") of a wind power generation facility or a person who carries out the construction work by themselves without a construction contract.

## **Chapter II Designation of Radio Interference Free Zone**

Article 3 (1) If installation or modification of a wind power generation facility has a risk of causing significant interference with the activities of the Self-Defense Forces, etc. stated in the following items and there is necessity to prevent the risk and to secure smooth and safe activities of the Self-Defense Forces, etc. using radio waves, the Minister of Defense may designate the zone specified in the following items as a radio interference free zone in accordance with the classification in the following items to the extent necessary:

- (i) surveillance using radar necessary for destruction measures against ballistic missiles, etc. under Article 82-3 of the Self-Defense Forces Act (Act No. 165 of 1954) or measures against violation of territorial airspace under Article 84 of that Act: a ground-projected zone of a part of a plane, extending from the surveillance facility transmitting or receiving radio waves to the horizontal line, where the total height of the highest wind turbine height expected in Japan as specified by Ministry of Defense Order (referred to as the "presumed maximum wind turbine height" in this paragraph) and its altitude exceeds the height of the part of the plane;
- (ii) guidance or monitoring by using radar necessary for the landing of aircraft of the Self-Defense Forces, etc. as well as for ensuring the safety of their flight operations: the zone specified in (a) or (b) below:
  - (a) a ground-projected zone of a part of a plane which satisfies the following: the plane itself includes an approach surface at an airfield where the Self-Defense Forces, etc. conducts air traffic control (the approach surface means the approach surface as prescribed in Article 2, paragraph (8) of the Civil Aeronautics Act (Act No. 231 of 1952); the same applies in this sub-item); the part of the plane is circumscribed by the outer base of the approach surface, two lines, both of which are extended outward and upward from two oblique sides of the approach surface, and another line parallel to and at a horizontal distance of 12 kilometers from the outer base of the approach surface; and the zone also falls under a ground-

- projected zone of a part of another plane, extending at a slope of 1.4 degree from a horizontal plane beginning from the short side of the runway of the airfield, where the total height of the presumed maximum wind turbine height and its altitude exceeds the height of the part of the plane;
- (b) a zone within 5 km from a defense facility of the Self-Defense Forces, etc. (meaning a facility of the Self-Defense Forces or a facility or area under Article II, paragraph 1 of the Agreement under Article VI of the Treaty of Mutual Cooperation and Security Between Japan and the United States of America, Regarding Facilities and Areas and the Status of United States Armed Forces in Japan; the same applies in this sub-item) specified by Cabinet Order which has a 900-hectares area or less, a rectangular zone in land with longer sides of 20 km or less and shorter sides of 5 km or less, annexing to a defense facility of the Self-Defense Forces, etc. where aircraft fire or bomb, and a ground-projected zone of a part of a plane, extending from any of the above-mentioned zones to the surveillance facility transmitting or receiving radio waves, where the total height of the presumed maximum wind turbine height and its altitude exceeds the height of the part of the plane ; or
- (iii) radio communications conducted between an artificial satellite used by the Self-Defense Forces and its radio station: a ground-projected zone of a part of a plane, extending at an elevation angle of 3 degrees from a horizontal plane beginning from the radio station, where the total height of the presumed wind turbine height and its altitude exceeds the height of the part of the plane.
- (2) If the Minister of Defense designates a radio interference free zone pursuant to the provisions of the preceding paragraph, the Minister must issue a public notice to that effect and of the designated zone in the Official Gazette.
- (3) The designation of a radio interference free zone under paragraph (1) becomes effective upon the public notice under the preceding paragraph.
- (4) The Minister of Defense must make drawings indicating a radio interference free zone available for public inspection pursuant to the provisions of Ministry of Defense Order, and make them public by using the Internet or other means pursuant to the provisions of Ministry of Defense Order.
- (5) The Minister of Defense must cancel the designation of a radio interference free zone without delay when the reason for the designation under paragraph (1) has ceased to exist. In this case, the provisions of paragraphs (2) and (3) apply mutatis mutandis.
- (6) The provisions of paragraphs (2) through (4) apply mutatis mutandis to changes to a radio interference free zone.

### **Chapter III Procedures for Installation or Modification of Wind Power**

## **Generation Facility in Radio Interference Free Zone**

(Notification of Installation or Modification of Wind Power Generation Facility in Radio Interference Free Zone to the Minister of Defense)

- Article 4 (1) Before starting or ordering their contractor to start the construction work (the contractor includes their subcontractors; the same applies below) concerning the installation or modification of a wind power generation facility in the radio interference free zone (including when the work extends beyond the subject zone encompassing other zones; the same applies in paragraph (4)), the wind power generation facility installer must notify the Minister of Defense of the position, wind turbine height, and shape of the wind power generation facility, and the name and address of the contractor if the installer is the ordering party under the construction contract for the installation or modification of the wind power generation facility (referred to as "matters related to the installation of a wind power generation facility" in paragraph (5)), and other matters specified by Ministry of Defense Order as necessary matters, pursuant to the provisions of Ministry of Defense Order.
- (2) If a wind power generation facility installer having filed the notification under the preceding paragraph intends to change any of the matters stated in the notification, the installer must notify the Minister of Defense of the matters subject to the change pursuant to the provisions of Ministry of Defense Order.
- (3) If the notification under the preceding two paragraphs has been filed and the Minister of Defense finds that it is impossible to determine whether or not the wind power generation facility causes interference with the radio transmission used by the Self-Defense Forces, etc. in the radio interference free zone (referred to below as "cause of interference with radio waves used by the Self-Defense Forces, etc.") with the matters stated in the notification, the Minister may request the wind power generation facility installer having filed the notification to make a report on matters found to be necessary within a period designated by the Minister, to the extent necessary for the determination.
- (4) The provisions of paragraph (1) do not apply to the construction work concerning the installation or modification of a wind power generation facility, which is being undertaken within a radio interference free zone at the time the zone is designated or changed (including when the preparation for the construction has been completed to the extent specified by Order of the Ministry of Defense).
- (5) A wind power generation facility installer related to the installation or modification prescribed in the preceding paragraph must notify the Minister of Defense of the matters related to the installation of the wind power generation facility and other necessary matters provided by Ministry of Defense Order

regarding the installation or modification of the wind power generation facility without delay after the designation or change of the radio interference free zone, as provided by Ministry of Defense Order.

- (6) The provisions of paragraphs (2) and (3) apply mutatis mutandis if a wind power generation facility installer related to the installation or modification prescribed in paragraph (4) intends to change any of the matters stated in the notification under the preceding paragraph (if a notification of change has been filed pursuant to the provisions of paragraph (2) as applied mutatis mutandis pursuant to this paragraph, the matters after the change).

(Order of the Minister of Defense to Any Person Who Fails to Notify)

Article 5 (1) If a wind power generation facility installer is required to file a notification under paragraph (1) or (2) of the preceding Article (including as applied mutatis mutandis pursuant to paragraph (6) of that Article; the same applies below) or under paragraph (2) of that Article as applied mutatis mutandis pursuant to the following paragraph, and the Minister of Defense becomes aware that the installer has started or has had their contractor start the construction work concerning the installation or modification of the wind power generation facility or the part of the construction work involving the matters subject to the change (excluding the construction work provided by Ministry of Defense Order) without filing the notification, or if the installer is required to file a notification under paragraph (5) of that Article and the Minister becomes aware that the notification has not been filed, the Minister is to immediately order the installer to notify the Minister of Defense of the required matters pursuant to the provisions of paragraph (1) or (2) of that Article (including as applied mutatis mutandis pursuant to the following paragraph) or paragraph (5) of that Article by a date certain.

- (2) The provisions of paragraph (2) of the preceding Article apply mutatis mutandis to a person that has been ordered to file a notification of the required matters pursuant to the provisions of paragraph (1) or paragraph (5) of that Article as per the provisions of the preceding paragraph, and that has filed the notification.
- (3) The provisions of paragraph (3) of the preceding Article (including as applied mutatis mutandis pursuant to paragraph (6) of that Article; the same applies in paragraph (2) of the following Article and Article 9, paragraph (1), item (ii)) apply mutatis mutandis if a notification is filed based on an order under paragraph (1) (other than a notification of the required matters pursuant to the provisions of paragraph (5) of the preceding Article; the same applies in paragraph (1) of the following Article) or if a notification is filed under paragraph (2) of the preceding Article as applied mutatis mutandis pursuant to the preceding paragraph.

(Notice of Existence or Absence of Transmission Interference with Radio Waves  
Used by the Self-Defense Forces, etc.)

- Article 6 (1) If a notification under Article 4, paragraph (1) or paragraph (2) (including as applied mutatis mutandis pursuant to paragraph (2) of the preceding Article) or a notification based on an order pursuant to the provisions of paragraph (1) of the preceding Article is filed, the Minister of Defense must review the matters stated in the notification, and if the wind power generation facility stated in the notification (or in the case of a notification of modification, the wind power generation facility after the modification; the same applies below) is found to be the cause of interference with the radio waves used by the Self-Defense Forces, etc. in the radio interference free zone, the Minister must notify the wind power generation facility installer having filed the notification to that effect by indicating the part of the wind power generation facility that causes interference with the radio waves used by the Self-Defense Forces, etc. (referred to as the "part causing interference" in paragraph (3), the following Article, and Article 14, item (i)) and the reason for it, and if the wind power generation facility is found not to cause interference with the radio waves used by the Self-Defense Forces, etc. in the radio interference free zone, the Minister must issue the wind power generation facility installer a notice to that effect by indicating the result of the review.
- (2) The notice under the preceding paragraph must be given within three weeks starting on the date of the notification (or if a report is requested pursuant to the provisions of Article 4, paragraph (3) (including as applied mutatis mutandis pursuant to paragraph (3) of the preceding Article), the date of the report).
- (3) If the Minister of Defense issues the wind power generation facility installer a notice that the wind power generation facility is found to cause interference with radio waves used by the Self-Defense Forces, etc. in the radio interference free zone pursuant to the provisions of paragraph (1), and the installer is the ordering party under the construction contract for the installation or modification of the wind power generation facility, the Minister must immediately issue a notice of the part causing interference and other necessary matters to the contractor of the construction work stated in the notification by the installer.

(Restrictions on Construction Work Concerning Installation or Modification of  
Wind Power Generation Facility That Cause Interference with Radio Waves  
Used by the Self-Defense Forces, etc.)

Article 7 If a wind power generation facility installer receives a notice that the

wind power generation facility is found to cause interference with the radio waves used by the Self-Defense Forces, etc. in the radio interference free zone pursuant to the provisions of paragraph (1) of the preceding Article, the installer must not start or have their contractor start the construction work involving the part causing interference stated in the notice for two years starting on the day of receiving the notice, except in cases that fall under any of the following items:

- (i) if the installer changes the construction plan concerning the installation or modification of the wind power generation facility, files a notification under Article 4, paragraph (2) (including as applied *mutatis mutandis* pursuant to Article 5, paragraph (2)) regarding the change, and receives a notice that the wind power generation facility will not cause interference with the radio waves used by the Self-Defense Forces, etc. in the radio interference free zone pursuant to the provisions of paragraph (1) of the preceding Article;
- (ii) if the installer reaches an agreement with the Minister of Defense pursuant to the provisions of paragraph (1) of the following Article; or
- (iii) if the designation of the radio interference free zone is cancelled pursuant to the provisions of Article 3, paragraph (5) or any other case prescribed by Ministry of Defense Order occurs.

(Discussions to Secure Smooth and Safe Activities of the Self-Defense Forces Using Radio Waves)

Article 8 (1) A wind power generation facility installer prescribed in the preceding Article or the Minister of Defense may request a mutual discussion regarding measures to supplement the functions of the radar, changes to the construction plan concerning the installation or modification of the wind power generation facility, or other measures necessary to provide a coordination between securing smooth and safe activities of the Self-Defense Forces, etc. using radio waves and exercising property rights regarding the wind power generation facility.

- (2) If the Minister of Defense or the wind power generation facility installer prescribed in the preceding Article has received a request under the preceding paragraph, they must take part in the discussion as requested.

(Measures in the Case of a Violation)

Article 9 (1) In the case falling under any of the following items, the Minister of Defense may order the wind power generation facility installer referred to in each of the items to suspend or have the contractor suspend the construction work referred to in those items or to abstain from or have the contractor abstain from the construction work during a reasonable time period to be set, as found necessary within the range of necessity:

- (i) if the wind power generation facility installer does not file a notification under Article 4, paragraph (1) or (2) (including as applied *mutatis mutandis* pursuant to Article 5, paragraph (2)) in violation of those provisions (excluding when the installer has filed a notification based on an order under Article 5, paragraph (1) and the Minister of Defense has issued a notice to accept or reject under Article 6, paragraph (1) in response to that notification), and the installer has already started or has ordered their contractor to start the construction work concerning the installation or modification of the wind power generation facility, or is about to be starting or ordering their contractor to start that construction work;
  - (ii) if the Minister of Defense has requested a report pursuant to the provisions of Article 4, paragraph (3) (including as applied *mutatis mutandis* pursuant to Article 5, paragraph (3)), but the wind power generation facility installer has not made the report by the due date, and if the installer has already started or has ordered their contractor to start the construction work concerning installation or modification of the wind power generation facility, or is about to be starting or ordering their contractor to start that construction work.
- (2) The reasonable period referred to in the preceding paragraph is to be specified within the limit of the period prescribed in Article 7 in consideration of the circumstances, such as the extent to which the wind power generation facility causes interference with the radio waves used by the Self-Defense Forces, etc. in the radio interference free zone, and the time period normally required for taking measures to supplement the functions of radar if those measures are to be taken.
- (3) If the Minister of Defense has ordered a wind power generation facility installer to abstain from or have their contractor abstain from the construction work concerning the installation or modification of the wind power generation facility for a time period to be set, as provided by paragraph (1), and if an agreement is reached between the wind power generation facility installer and the Minister of Defense, the situation falls under Article 7, item (i) or item (iii), or the need for that order ceases to exist for any other reasons during that time period, the Minister must remove the order without delay.

(Collection of Reports)

Article 10 If the Minister of Defense finds it particularly necessary for the enforcement of the provisions of this Chapter, the Minister may have a wind power generation facility installer report on matters related to its plan or implementation of the construction work concerning the installation or modification of the wind power generation facility to the extent necessary.



(Cooperation of the Minister of Defense and the Minister of Economy, Trade and Industry)

Article 11 The Minister of Defense and the Minister of Economy, Trade and Industry are to cooperate with each other for the enforcement of the provisions of this Chapter.

#### **Chapter IV Miscellaneous Provisions**

(Entrustment to Ministry of Defense Order)

Article 12 Beyond what is provided for in this Act, procedures and other matters necessary for the enforcement of this Act are prescribed by Ministry of Defense Order.

(Transitional Measures)

Article 13 When enacting, amending or repealing an order pursuant to the provisions of this Act, necessary transitional measure (including transitional measure concerning penal provisions) may be specified by that order to the extent considered reasonably necessary for the enactment, amendment or repeal.

#### **Chapter V Penal Provisions**

Article 14 In cases falling under any of the following items, a person who has committed the relevant violation is subject to imprisonment for not more than one year or a fine of not more than five hundred thousand yen:

- (i) having undertaken the construction work involving the part causing interference or having had their contractor undertake that construction work in violation of the provisions of Article 7;
- (ii) having failed to suspend or have their contractor suspend the construction work concerning the installation or modification of the wind power generation facility, or having undertaken or having had their contractor undertake the construction work in violation of an order under Article 9, paragraph (1).

Article 15 If a person has failed to file a notification or has filed a false notification in violation of an order under Article 5, paragraph (1), the person who has committed the relevant violation is subject to a fine of not more than five hundred thousand yen.

Article 16 In cases falling under any of the following items, a person who has committed the relevant violation is subject to a fine of not more than three

hundred thousand yen:

- (i) having failed to file a notification under Article 4, paragraph (1) or (2) (including as applied *mutatis mutandis* pursuant to Article 5, paragraph (2)) or having filed a false notification; or
- (ii) having failed to make a report under Article 10, or having made a false report.

Article 17 If a representative of a corporation, or any agent, employee, or other worker of a corporation or individual has violated the provisions of any of the preceding three Articles regarding the business operation of the corporation or individual, in addition to the offender being subject to the punishment, the corporation or the individual is subject to the fine referred to in the respective Article.

### **Supplementary Provisions**

(Effective Date)

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

(Adjustment Provisions)

- (2) If this Act comes into effect before the date on which the Act Partially Amending the Penal Code and Other Acts (Act No. 67 of 2022) comes into effect (referred to as the "effective date of the Penal Code" in this paragraph), to apply the provisions of Article 14 until the day before the effective date of the Penal Code, the term "imprisonment" in that Article is deemed to be replaced with "imprisonment under the former Penal Code". The same applies to the application of the provisions of that Article to conduct in which a person engages before the effective date of the Penal Code on or after the effective date of the Penal Code.

(Review)

- (3) After approximately five years from the enforcement of this Act, the government is to review the status of enforcement of this Act and take any necessary measures based on the results of the review if it finds this to be necessary.