

The Act for Establishment of the Aircraft and Railway Accidents Investigation Commission is hereby promulgated.

Act for Establishment of the Aircraft and Railway Accidents Investigation Commission

(Act No. 113 of October 12, 1973)

(Purpose)

Article 1 The purpose of this Act shall be to establish an Aircraft and Railway Accidents Investigation Commission to properly carry out investigations into the causes of aircraft and railway accidents and causes of damage incidental to such accidents, as well as the necessary investigations into serious incidents, and to contribute to the prevention of aircraft and railway accidents, and to help to alleviate damages if such accidents take place.

(Establishment)

Article 2 The Aircraft and Railway Accidents Investigation Commission (hereinafter referred to as the "Commission") shall be established in the Ministry of Land, Infrastructure, Transport and Tourism.

(Definitions)

Article 2-2 (1) The term "aircraft accident" as used in this Act shall mean an accident listed in each of the items under Article 76, paragraph 1 of the Civil Aeronautics Act (Act No. 231 of 1952).

(2) The term "aircraft serious incident" as used in this Act shall mean a situation where the pilot in command of an aircraft in flight recognized a risk of collision or contact with another aircraft, or any other situation prescribed by the Ordinance of the Ministry of Land, Infrastructure, Transport and Tourism under Article 76-2 of the Civil Aeronautics Act.

(3) The term "aircraft accident, etc." as used in this Act shall mean aircraft accidents and serious incidents.

(4) The term "railway accident" as used in this Act shall mean a serious accident among those of the following kind of accident prescribed by the Ordinance of the Ministry of Land, Infrastructure, Transport and Tourism; an accident that occurs during the operation of a train or railway vehicle as mentioned in Article 19 of the Railway Enterprise Act (Act No. 92, 1986), collision or fire involving a train or any other accident that occurs during the operation of a train or vehicle on a private railway, collision or fire involving a train or any other accident that occurs during the operation of a train on a tramway.

- (5) The term "railway serious incident" as used in this Act shall mean a situation prescribed by the Ordinance of the Ministry of Land, Infrastructure, Transport and Tourism where it is recognized that there is risk of a railway accident occurring.
- (6) The term "railway accident, etc." as used in this Act shall mean railway accidents and serious incidents.

(Affairs under the Jurisdiction)

Article 3 The affairs under the jurisdiction of the Commission shall be as follows:

- (i) Carrying out investigations into the causes of aircraft accidents.
- (ii) Carrying out investigations into the causes of damage incidental to aircraft accidents.
- (iii) Carrying out aircraft serious incident investigations necessary from the perspective of preventing aircraft accidents.
- (iv) Carrying out investigations into the causes of railway accidents.
- (v) Carrying out investigations into the causes of damage incidental to railway accidents.
- (vi) Carrying out railway serious incident investigations necessary from the perspective of preventing railway accidents.
- (vii) Recommending, based on the results of investigations prescribed in the preceding items, measures which should be taken to prevent aircraft accidents and railway accidents, as well as to alleviate damages if such accidents take place.
- (viii) Proposing measures which should be taken to prevent aircraft accidents and railway accidents, as well as to alleviate damages if such accidents take place.
- (ix) Conducting investigations and carrying out research necessary to effect the affairs listed in each of the preceding items.

(Exercise of Authority)

Article 4 The chairperson and each member of the Commission shall independently exercise their authority.

(Organization)

Article 5 (1) The Commission shall be composed of a chairperson and nine members.

- (2) Four of the members shall be part-time members.
- (3) The chairperson shall preside over the affairs of the Commission, and shall represent it.
- (4) Should the chairperson be incapacitated, a full-time member designated

beforehand shall represent the chairperson's duty.

(Appointment of the Chairperson and Members of the Commission)

Article 6 (1) The chairperson and members of the Commission shall be appointed by the Minister of Land, Infrastructure, Transport and Tourism with the consent of both houses of the Diet from among persons found to be possessing scientific and fair judgment to conduct the affairs under the jurisdiction of the Commission.

(2) Notwithstanding the provision of the preceding paragraph, in the event that when the term of office of the chairperson or a member has expired, or a vacancy has occurred on the Commission, the consent of both Houses cannot be obtained for the appointment of a new chairperson or member because the Diet is in recess or the House of Representatives is dissolved, the Minister of Land, Infrastructure, Transport and Tourism may appoint the chairperson or a member from among persons possessing the qualifications provided for in the preceding paragraph.

(3) In the case referred to in the preceding paragraph, the approval of both Houses of the Diet shall be obtained at the first session of the Diet after the appointment in question. In the event that approval by both Houses cannot be obtained, the Minister of Land, Infrastructure, Transport and Tourism shall dismiss the chairperson or member in question immediately.

(4) Any person who falls under any of the following items may not become chairperson or a member of the Commission:

(i) A bankrupt who has not had his or her rights restored.

(ii) A person who has been punished by an imprisonment or severer sentence.

(iii) Any air carrier or any entity engaged in the business of manufacture, alteration, maintenance or sale of aircraft or their appliances, or an officer thereof, if the above is a juridical person (including any person whose actual scope of authority or control is equivalent to or greater than that of an officer regardless of title), or its employee and other person in the service.

(iv) Any railway or tramway operators or any entity engaged in the business of manufacture, alteration, maintenance or sale of vehicle, signal safety devices or other land transportation machinery used in connection with railways or tramways, or an officer thereof, if the above is a juridical person (including any person whose actual scope of authority or control is equivalent to or greater than that of an officer regardless of title), or its employee and other person in the service.

(v) Any officer of any association of the enterprises listed in the two preceding items (including any person whose actual scope of authority or control is equivalent to or greater than that of an officer regardless of title), or its employee and other person in the service.

(Term of Office)

- Article 7 (1) The term of office of the chairperson and members of the Commission shall be three years provided, however, that the term of office of a chairperson or member chosen to fill a vacancy shall be the remaining term of office of his or her predecessor.
- (2) The chairperson and members may be reappointed.

(Dismissal)

- Article 8 (1) The Minister of Land, Infrastructure, Transport and Tourism shall dismiss the chairperson or a member from office if any item of Article 6, paragraph 4 becomes applicable to that person.
- (2) The Minister of Land, Infrastructure, Transport and Tourism, after consulting with the Commission and obtaining the consent of both Houses of the Diet, may dismiss the chairperson or a member from office when he/she finds that person is incapable of executing his or her duties due to mental or physical disorder or has committed a violation of obligations in the course of duties or conduct unbecoming the office.

(Meetings)

- Article 9 (1) Meetings of the Commission shall be convened by the chairperson.
- (2) Meetings may not be convened and decisions may not be made unless the chairperson and four or more members are present.
- (3) All matters shall be decided by majority of those present. In case of a tie vote, the chairperson shall break the tie.
- (4) In applying the second paragraph above in the event that the chairperson is incapacitated, the full-time member representing the chairperson's duty pursuant to the provision of Article 5, paragraph 4 shall be deemed as the chairperson.

(Duties)

- Article 10 (1) The chairperson and members shall not divulge any secret that may have come to their knowledge in the course of their duties. The same shall apply after they retire from their duties
- (2) The chairperson and members, during their terms of office, shall not be officers of political parties or other political organizations or actively participate in political activities.
- (3) The chairperson and full-time members, during their terms of office, shall not engage in other duties while receiving remuneration, or engage in commercial business or carry out any other business for pecuniary gain except in such cases as permitted by the Minister of Land, Infrastructure, Transport and

Tourism.

(Salary)

Article 11 The salary of the chairperson and members shall be separately specified by an act.

(Expert Advisers)

Article 12 (1) Expert advisers may be appointed to investigate technical matters.

(2) Expert advisers shall be appointed from among persons with relevant knowledge and experience by the Minister of Land, Infrastructure, Transport and Tourism after the Minister has consulted with the Commission.

(3) Expert advisers shall be part-time members of the Commission.

(Restriction of Engagement in Duties)

Article 13 (1) When it finds that the chairperson, any member or any expert adviser of the Commission is closely related to any person who is likely to be connected to the causes of an aircraft accident, etc. or a railway accident, etc. (hereinafter referred to as "accident, etc.") (in regard to aircraft accident or railway accident, including the causes of damage incidental to such accidents, and the same shall apply hereinafter), the Commission shall not permit such chairperson, members or expert advisers to engage in the investigation of the said accident, etc. (hereinafter referred to as the "accident, etc. investigation").

(2) Such chairperson or member may not be present at meetings concerning the said accident, etc. investigation.

(Secretariat)

Article 14 (1) In order to manage the affairs of the Commission, a secretariat of the Commission shall be established.

(2) The personnel of the secretariat shall consist of a director-general and accident investigators, among others.

(3) The director-general shall administer the secretariat in accordance with the directives of the chairperson of the Commission.

(4) The internal organization of the secretariat shall be established by an Ordinance of the Ministry of Land, Infrastructure, Transport and Tourism.

(Accident, etc. Investigation)

Article 15 (1) The Commission shall conduct investigations prescribed by Article 3, items 1 to 3 in conformity with the provisions of the Convention on International Civil Aviation and with the Standards, Practices and Procedures adopted as Annexes thereto.

(2) The Commission may, when it finds it necessary for conducting an accident,

etc. investigation, take the dispositions listed in the following items:

- (i) Take reports from persons involved in the aircraft accident, etc. such as users of the aircraft, aircraft crew, persons who have engaged in rescue of human life or aircraft during an aircraft accident. (hereinafter referred to as "person involved in an aircraft accident, etc.").
 - (ii) Take reports from persons involved in the railway accident, etc. such as railway operators, tramway operators, crew of trains or other vehicle, persons who have engaged in rescue of human life during a railway accident. (hereinafter referred to as "person involved in a railway accident, etc.").
 - (iii) Enter the scene of an accident, etc., offices of users of the aircraft, railway operators, tramway operators, and any place where deemed necessary and examine any aircraft, railway facility, book, document or other material relevant to the accident, etc. (hereinafter referred to as "relevant material") and interrogate any person involved in an aircraft accident, etc. or railway accident, etc. (hereinafter referred to as "person involved").
 - (iv) Request the attendance of person involved and interrogate them.
 - (v) Require the owner, holder or custodian of any relevant material to produce it and/or take custody of the same.
 - (vi) Require the owner, holder or custodian of any relevant material to preserve same, and prohibit such parties from relocating same.
 - (vii) Prohibit persons from entering to the scene of an accident, etc. except for those on public duty or otherwise sanctioned by the Commission.
- (3) The Commission may, when it finds it necessary, cause the chairperson, members or officials of the secretariat to take the dispositions listed in each item of the preceding paragraph, and cause the expert advisers to take the dispositions listed in item (3) of the same paragraph.
- (4) Any official who disposes of the matters listed in item (3) of the second paragraph of this article pursuant to the provision of the preceding paragraph shall carry his/her identification and present the same to any relevant person upon request.
- (5) The authority of disposition prescribed in paragraph 2 or 3 shall not be construed as encompassing criminal investigations.

(Entrustment of Investigation, etc.)

Article 15-2 (1) When it finds it necessary for conducting an accident, etc. investigation, the Commission may entrust part of their work related to the investigations or research to an incorporated administrative agency (meaning an incorporated administrative agency prescribed by Article 2, paragraph 1 of the Act on General Rules for Incorporated Administrative Agency (Act No. 103 of 1999)) (the same shall apply to Article 18 hereof), a juridical person that is established pursuant to the provision of Article 34 of the Civil Code (Law No.89

of 1896), business operator, other private body or any person with relevant knowledge and experience.

- (2) A person that is entrusted with relevant work pursuant to the provision of the preceding paragraph, including its officers or personnel, or any person who was engaged in the relevant work shall not divulge any secret that may have come to their knowledge concerning the said entrusted work.
- (3) A person that is entrusted with relevant work pursuant to the provision of paragraph 1, or its officers or personnel who are engaged in the relevant entrusted work shall be deemed as officials engaged in public service by laws and regulations when the penal provisions prescribed by the Penal Code (Law No.45 of 1907) or other laws and regulations are applied.

(Notification of the Occurrence of an Accident, etc.)

Article 16 The Minister of Land, Infrastructure, Transport and Tourism shall, pursuant to the provisions of Article 76, paragraph 1 or 2 or Article 76-2 of the Civil Aeronautics Act, or Article 19 or 19-2 of the Railway Enterprise Act, when the Minister has received a report of an accident, etc. or has learned of the occurrence of an accident, etc., immediately notify the Commission to that effect.

(Assistance by the Minister of Land, Infrastructure, Transport and Tourism)

Article 17 (1) The Commission may, when it finds it necessary for conducting an accident, etc. investigation, request assistance in investigating the facts of the accident, etc. or collecting evidence, or other necessary assistance from the Minister of Land, Infrastructure, Transport and Tourism.

- (2) When the Minister of Land, Infrastructure, Transport and Tourism's assistance in investigating the facts of an accident, etc. has been requested pursuant to the provision of the preceding paragraph, the Minister may, when he/she finds it necessary, have officials of the Ministry take the actions listed in Article 15, paragraph 2, item (3).
- (3) When the Minister of Land, Infrastructure, Transport and Tourism has learned that an accident, etc. has occurred, the Minister shall, in appropriate cases, immediately take such measures as investigation of facts surrounding the accident, etc. and collection of evidence so that the Commission can commence an accident, etc. investigation smoothly.
- (4) The Minister of Land, Infrastructure, Transport and Tourism may, when he/she finds it necessary in order to take measures set forth in the preceding paragraph, have officials of the Ministry take the dispositions listed in each item of Article 15, paragraph 2.
- (5) The provisions of Article 15, paragraphs 4 and 5 shall apply mutatis mutandis to cases where the officials dispose of matters pursuant to the provision of the

second or preceding paragraph of this Article.

(Cooperation of Relevant Administrative Organ, etc.)

Article 18 The Commission may, when it finds it necessary for conducting an accident, etc. investigation, request the head of the relevant administrative organ, the head of the relevant local public entity, the president of an incorporated administrative agency concerned or the president of a local incorporated administrative agency concerned (meaning a local incorporated administrative agency prescribed by Article 2, paragraph 1 of the Act on Local Incorporated Administrative Agency (Act No. 118, 2003)), to submit data or information or give other necessary cooperation.

(Hearing of Opinions Involving Persons, etc. Relevant to the Cause)

Article 19 (1) The Commission shall give an opportunity to those persons related to the cause of an accident, etc. to express their opinion before completing the accident, etc. investigation.

(2) The Commission may, when it finds it necessary, hold hearings before completing the accident, etc. investigation, and seek views on the said accident, etc. from persons with relevant knowledge and experience.

(3) The Commission shall hold the hearings set forth in the preceding paragraph when a passenger/air carrier is involved in an aircraft accident, etc. causing public concern or when a passenger/railway operators or tramway operators is involved in a railway accident, etc. causing public concern.

(Written Report, etc.)

Article 20 (1) The Commission shall prepare a written report of the following items on the said accident, etc. upon completion of the accident, etc. investigation and shall submit it to the Minister of Land, Infrastructure, Transport and Tourism and make it public.

(i) The progress and process of the accident, etc. investigation;

(ii) The facts investigated;

(iii) The findings of fact;

(iv) The cause(s) or probable cause(s).

(2) The opinion of any minority shall be appended to the report described in the preceding paragraph.

(3) The Commission shall, when it finds it necessary before completing the accident, etc. investigation for the reason that difficulties are expected in completing the accident, etc. investigation within one year from the day the accident, etc. occurred, report the progress and process of the accident/incident investigation to the Minister of Land, Infrastructure, Transport and Tourism and also make it public.

(Recommendations)

Article 21 (1) The Commission may, when it finds it necessary at the completion of an accident, etc. investigation, make recommendations to the Minister of Land, Infrastructure, Transport and Tourism on measures which should be taken to prevent aircraft or railway accidents, or to alleviate damage if such accidents take place on the basis of the results of its investigations.

(2) The Minister of Land, Infrastructure, Transport and Tourism shall report to the Commission the measures which have been taken on the basis of recommendations set forth in the preceding paragraph.

(Proposals)

Article 22 The Commission may, when it finds it necessary, make proposals on measures which should be taken to prevent aircraft or railway accidents, or to alleviate damage if such accidents take place to the Minister of Land, Infrastructure, Transport and Tourism or the head of the relevant administrative organ.

(Delegation to Cabinet Orders)

Article 23 In addition to what is provided for in this Act, necessary matters concerning the Commission shall be prescribed by Cabinet Order.

(Prohibition of Disadvantageous Treatment)

Article 24 No person shall be discharged or disadvantaged for obeying any disposition prescribed by Article 15, paragraph 2 or 3, or Article 17, paragraph 2 or 4.

(Penal Provisions)

Article 25 Any person who has violated the provisions of Article 15-2, paragraph 2 shall be punished by an imprisonment with work for not more than one year or a fine of not more than 500,000 yen.

Article 26 Any person who falls under any of the following items shall be punished by a fine of not more than 300,000 yen:

- (i) Anyone who has made a false statement in connection with the preparation of a report prescribed by Article 15, paragraph 2, items (1) or (2), Article 15, paragraph 3 or Article 17, paragraph 4;
- (ii) Anyone who has refused, obstructed or evaded an inspection prescribed by Article 15, paragraph 2, item (3), Article 15, paragraph 3 or Article 17, paragraph 2 or 4, or anyone who has made a false statement in response to any question prescribed in the same provisions;

- (iii) Anyone who has made a false statement in response to any question prescribed by Article 15, paragraph 2, item (4), Article 15, paragraph 3 or Article 17, paragraph 4;
- (iv) Anyone who has not submitted materials in contravention of any disposition prescribed by Article 15, paragraph 2, item (5), Article 15, paragraph 3 or Article 17, paragraph 4;
- (v) Anyone who has not preserved materials, or has removed it contrary to any disposition prescribed by Article 15, paragraph 2, item (6) Article 15, paragraph 3 or Article 17, paragraph 4.

Article 27 When a representative of a juridical person or an agent, employee, or other person in the service of a juridical person or of an individual has committed a violation set forth in the preceding article with regard to the business of the said juridical person or individual, not only the offender but also the said juridical person or individual shall be punished by the fine prescribed by the preceding article.

Supplementary Provisions [Extract]

(Effective Date)

Article 1 This Act shall come into force as from the date specified by a Cabinet Order within a period not exceeding nine months from the day of promulgation. However, the provisions listed in the following items shall come into force as from the date prescribed respectively in those items:

- (i) The provisions of Article 4, Article 10 (except the revised provisions of Article 15 of the Act for Establishment of the Ministry of Land, Infrastructure, Transport and Tourism), Articles 11 and 12, and the following article, as well as the provisions of Articles 3, 5 to 8, 10, 11 and 13 of the Supplementary Provisions April 1, 2006
- (ii) (Omitted)

(Transitional measure due to the Partial Revision of the Act for Establishment of the Aircraft and Railway Accidents Investigation Commission)

Article 5 The provisions of the Act for Establishment of the Aircraft and Railway Accidents Investigation Commission revised by the provisions of Article 12 of the said Act shall apply to an accident, etc. that occurred before the day when the provisions of the said Article came into force and for which the report concerning said accident, etc. has not yet been submitted to the Minister of Land, Infrastructure, Transport and Tourism on the day of the enforcement.

(Transitional Measure concerning Penal Provisions)

Article 6 With regard to the application of penal provisions to acts committed prior to the enforcement of this Act (the provisions listed in each paragraph of Article 1 of the Supplementary Provisions shall be governed by said provisions) and to acts for which the provisions then in force shall remain applicable pursuant to the provision of Article 4 of the Supplementary Provisions, and committed after the enforcement of the provisions of said Article, the provisions then in force shall remain applicable.

(Consideration)

Article 8 By taking into consideration the enforcement status of the provisions revised by this Act within five years after the enforcement of this Act, the government shall, when it finds it necessary, consider said provisions and take necessary measures accordingly.

(Omitted)

Article 10