

# Soil Contamination Countermeasures Act

(Act No. 53 of May 29, 2002)

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## Chapter I General Provisions

### (Purpose)

Article 1 The purpose of this Act is to facilitate the implementation of countermeasures against soil contamination by formulating measures to grasp the situation of soil contamination by Designated Hazardous Substances and measures to prevent harm to human health resulting from such contamination, and thereby to protect the health of the citizens.

### (Definitions)

Article 2 (1) The term "Designated Hazardous Substance" as used in this Act means any substance, including but not limited to lead, arsenic, trichloroethylene, and similar substances (excluding radioactive substances), designated by a Cabinet Order as likely to have harmful effects on human health when present in soil.

(2) The term "Soil Contamination Investigation" as used in this Act means an investigation of soil contamination by any Designated Hazardous Substance which is conducted pursuant to Article 3, paragraph (1) and Article 4 of this

Act.

## **Chapter II Soil Contamination Investigation**

(Investigation of Land Used as a Site for a Plant or Workplace of a Defunct Specified Facility which used Hazardous Substances)

- Article 3 (1) Any person who is the owner, manager, or occupier (hereinafter referred to as the "Owner, etc.") of the site of a plant or workplace pertaining to a Specified Facility which used Hazardous Substances (a Specified Facility as provided in Article 2, paragraph (2) of the Water Pollution Control Act (Act No. 138 of 1970) (hereinafter referred to as a "Specified Facility" in the following paragraph) in which any of the substances listed in paragraph (2), item (i) of said Article (limited to Designated Hazardous Substances) are manufactured, used and processed; the same shall apply hereinafter), whose use was abolished, and who has installed the Specified Facility or has received notification from the prefectural governor pursuant to the following paragraph, shall have a person designated by the Minister of Environment conduct an investigation into the situation of soil contamination of the land by Designated Hazardous Substances in the manner provided by Ordinance of the Ministry of the Environment, and shall report the results of said investigation to the governor. However, the foregoing requirement shall not apply to any person who has received confirmation from the governor, as provided by Ordinance of the Ministry of the Environment, that there are no threats to the scheduled use of said site and that no harm to human health will be caused by soil contamination by Designated Hazardous Substances.
- (2) A prefectural governor who receives notification of termination of the use of a Specified Facility (limited to a Specified Facility which uses hazardous substances) under Article 10 of the Water Pollution Control Act, or who discovers such termination, shall notify any existing Owner, etc. of the site other than the person who has installed such Specified Facility which used hazardous substances, of the termination and any other information prescribed by Ordinance of the Ministry of the Environment, in accordance with an Ordinance of the Ministry of the Environment.
- (3) Where the person provided in paragraph (1) fails to make a report or makes a false report, the prefectural governor may order such person to make or correct the report pursuant to the provisions of a Cabinet Order.
- (4) When a person who has received confirmation under the proviso to paragraph (1) intends to change the way in which land pertaining to the said confirmation is used, he/she shall be required to notify the prefectural governor to that effect in advance pursuant to an Ordinance of the Ministry of the Environment.
- (5) Where a prefectural governor has received the notification required under the

preceding paragraph and does not find that there is no threat of harm to human health due to soil contamination by any Designated Hazardous Substance in view of the way in which the land will be used after such change, he/she shall rescind said confirmation.

(Investigation in the Case of Changes to the Form or Nature of Land Threatened by Soil Contamination)

Article 4 (1) A person who intends to excavate and make other changes to the form or nature of land (hereinafter referred to as "Changes to the Form or Nature of Land") with an area exceeding that specified by Ordinance of the Ministry of the Environment, shall notify the prefectural governor of the land provided, however, that this paragraph shall not apply to the following listed activities:

- (i) Minor and other activities specified by Ordinance of the Ministry of the Environment.
- (ii) Activities performed as emergency measures necessitated by unforeseen disasters.

(2) When the prefectural governor, having received notification of Changes to the Form or Nature of Land under the provisions of the preceding paragraph, finds that said land is threatened with being contaminated by a Designated Hazardous Substance and falls under the standards set forth in an Ordinance of the Ministry of the Environment, he/she may order the Owner, etc. of the site (hereinafter referred to as "Designated Investigation Institution") to cause a person designated by the Minister of the Environment as prescribed in paragraph (1) of the preceding Article to conduct an investigation of the site in the manner prescribed by the Ordinance of the Ministry of the Environment in said paragraph, and to make a report on the results of said investigation.

(Investigation of Land Suspected of Posing a Health Hazard due to Soil Contamination)

Article 5 (1) When a prefectural governor finds the existence of land falling under the standards set forth by Cabinet Order for a land category which poses a threat of harm to human health due to soil contamination by a Designated Hazardous Substance, in addition to the cases mentioned in the main clause of Article 3, paragraph (1), and paragraph (2) of the preceding Article, the governor may order the Owner, etc. of the site to engage a Designated Investigation Institution to conduct an investigation of the site in the manner prescribed by the Ordinance of the Ministry of the Environment as mentioned in Article 3, paragraph (1), and to report the results of said investigation.

(2) If the prefectural governor cannot ascertain clearly, without the possibility of error, to whom he/she should give the order to conduct an investigation and

submit a report (hereinafter referred to as an "Investigation, etc." in this paragraph) regarding an incident of soil contamination by a Designated Hazardous Substance as described in paragraph (1) of this Article, and recognizes that it would be seriously incompatible with the public interest to leave such situation as it is, the governor may conduct such investigation himself/herself at the expense of the primarily responsible person. In such a case, the governor shall issue a public notice establishing a reasonable period of time for the Investigation, etc. and stating that the Investigation, etc. shall be conducted during such fixed period, and that if it is not conducted during the established period, the governor will conduct it himself/herself.

### **Chapter III Designation etc. of Areas**

#### **Section 1 Area which Requires Action**

(Designation etc. of Areas which Require Action)

Article 6 (1) When a prefectural governor finds that land falls under all of the following items, he/she shall designate an area covering such land as an area which is contaminated by a Designated Hazardous Substance and for which action to remove such contamination, prevent the dispersion of such contamination, or other measures (hereinafter referred to as an "Action for Removal, etc.") is necessary in order to prevent such contamination from causing harm to human health.

- (i) A Soil Contamination Investigation reveals that the contamination of the soil at the site by a Designated Hazardous Substance does not conform to the standards prescribed by Ordinance of the Ministry of the Environment.
  - (ii) The site is classified as harmful to human health or posing a threat of such harm under the standards specified by Cabinet Order due to soil contamination by a Designated Hazardous Substance.
- (2) When making the designation mentioned in the preceding paragraph, the governor shall issue a public notice to such effect pursuant to an Ordinance of the Ministry of the Environment.
- (3) Designation under paragraph (1) is legally effective as of the time of the public notice prescribed in the preceding paragraph.
- (4) The prefectural governor shall cancel all or part of a designation under paragraph (1) (hereinafter referred to as an "Area which Requires Action") when he/she finds that the reason for the designation has ceased to exist with respect to all or part of the Area which Requires Action due to the Action for Removal, etc.
- (5) The provisions of paragraphs (2) and (3) shall apply mutatis mutandis to the cancellation under the preceding paragraph.

(Action for Removal, etc.)

- Article 7 (1) When a prefectural governor has made a designation under paragraph (1) of the preceding Article, he/she shall instruct the Owner, etc. of the Area which Requires Action to take an Action for Removal, etc. in the Area, only to the extent necessary to prevent harm to human health due to contamination, and shall establish a reasonable period of time for such Action for Removal, etc.; provided, however, that where it is clear that a person other than the Owner, etc. of said site has caused the contamination, and where it is appropriate to cause said person (hereinafter including his successor by inheritance, merger, or split) to take an Action for Removal, etc. and where the Owner, etc. has no objection to such action, the governor shall so instruct the person who caused the contamination.
- (2) When a prefectural governor gives the instruction under the provisions of the preceding paragraph, he/she shall indicate the Action for Removal, etc. to be taken in the said Area which Requires Action, the reason and other matters provided by Ordinance of the Ministry of the Environment.
- (3) A person who has received an instruction from a governor under the provisions of paragraph (1) shall take the Action for Removal, etc. indicated according to the provisions of the preceding paragraph (hereinafter referred to as an "Instructed Action") or an Action for Removal, etc. specified by Ordinance of the Ministry of the Environment as having an equal or greater effect than the Action for Removal, etc. under the preceding paragraph (hereinafter referred to as an "Instructed Action, etc.").
- (4) When a prefectural governor finds that the person prescribed in the preceding paragraph has failed to take an Instructed Action, etc. , he/she may order the person to take said Instructed Action, etc. , pursuant to an Ordinance of the Ministry of the Environment.
- (5) When a prefectural governor is unable to ascertain to whom an instruction under the provisions of paragraph (1) should be given without the possibility of error and recognizes that it would be seriously incompatible with the public interest to leave such situation as it is, he/she may himself/herself take the Instructed Action, etc. at the expense of the person. In such case, the governor shall issue a public notice establishing a reasonable period of time for the Instructed Action, etc. to be taken and stating that it shall be removed during such established period, and that if it is not removed during such established period, he/she will carry out said Instructed Action himself/herself.
- (6) The technical standards for the Instructed Action, etc. to be undertaken pursuant to the preceding three paragraphs shall be provided by Ordinance of the Ministry of the Environment.

(Claims for the Cost of an Action for Removal, etc.)

Article 8 (1) When an Owner, etc. , who receives an instruction set forth in the provisions of the main clause of paragraph (1) of the preceding Article by a prefectural governor, has taken the Instructed Action, etc. with respect to a site, and the soil of the site has been or is being contaminated with a Designated Hazardous Substance by any person other than the Owner, etc. , the Owner may claim the cost of said Instructed Action, etc. from the person responsible for the contamination to the extent of the amount needed for the Instructed Action; provided, however, that this shall not apply where said person has already borne or has been deemed to bear the needed cost of the Instructed Action, etc. .

(2) The right to make a claim as provided in the preceding paragraph shall be extinguished by prescription if it is not exercised within three years from the time when the Owner, etc. takes an Instructed Action, etc. and comes to know of the person responsible for the contamination. The same shall apply when twenty years have elapsed from said Instructed Action, etc.

(Prohibition of Changes to the Form or Nature of Land in Areas which Require Action)

Article 9 No person shall make Changes to the Form or Nature of Land in an Area which Requires Action; provided, however, that this shall not apply to the following activities:

- (i) Activities such as the Instructed Action, etc. that the person engages in under an instruction from a prefectural governor pursuant to Article 7, paragraph (1).
- (ii) Routine administrative activities, minor activities and other activities specified by Ordinance of the Ministry of the Environment.
- (iii) Activities engaged in as emergency measures necessitated by unforeseen disasters.

(Exclusion from Application)

Article 10 The provisions of Article 4, paragraph (1) shall not apply to activities such as an Instructed Action, etc. that a person engages in under an instruction from a prefectural governor pursuant to the provisions of Article 7, paragraph (1).

## **Section 2 Area for which Changes to Form or Nature Require Notification**

(Designation of Area for which Changes to Form or Nature Require Notification, etc.)

Article 11 (1) When a prefectural governor finds that land falls under Article 6,

paragraph (1), item (i), but not under item (ii) of the same paragraph, he/she shall designate the area of said land as an area whose land is contaminated by a Designated Hazardous Substance and for which a notification must be submitted when the relevant person intends to change the form or nature of said land.

- (2) When a prefectural governor finds that the reason for the designation under paragraph (1) ceases to exist with respect to all or part of the area to which it pertains (hereinafter referred to as the "Area for which Changes in Form or Nature Require Notification") due to the removal of soil contaminated by a Designated Hazardous Substance, he/she shall cancel the designation under that paragraph of all or part of said Area for which Changes to Form or Nature Require Notification.
- (3) The provisions of Article 6, paragraphs (2) and (3) shall apply mutatis mutandis to designations under paragraph (1) and cancellations under the preceding paragraph.
- (4) Where a designation has been made pursuant to the provisions of Article 6, paragraph (1) with respect to all or part of an Area for which Changes to Form or Nature Require Notification, the designation under paragraph (1) with respect to all or part of said Area shall be deemed to have been cancelled. In such case, if a governor has issued a public notice, he/she shall be deemed to have issued a public notice of cancellation pursuant to Article 6, paragraph (2) of the same Article as applied mutatis mutandis to the preceding Article.

(Notification of Changes to the Form or Nature of Land in an Area for which Changes to Form or Nature Require Notification and Order to Revise Plan)

Article 12 (1) Any person who intends to make Changes to the Form or Nature of Land in an Area for which Changes to Form or Nature Require Notification shall notify the prefectural governor of the types of changes that will be made to the Form or Nature of said land, the location of the land, the method by which the changes will be made, the date on which the changes will commence, and other matters defined by Ordinance of the Ministry of the Environment, at least 14 days before the scheduled date of the changes, pursuant to an Ordinance of the Ministry of the Environment; provided, however, that this shall not apply to the following activities:

- (i) Routine administrative activities, minor activities and other activities specified by Ordinance of the Ministry of the Environment.
  - (ii) Activities that had already commenced at the time when the Area for which Changes to Form or Nature Require Notification was designated.
  - (iii) Activities performed as emergency measures necessitated by unforeseen disasters.
- (2) Any person who had already commenced activities to make Changes to the

Form or Nature of Land in an Area for which Changes to Form or Nature Require Notification at the time when said Area was designated as such shall notify the prefectural governor to that effect within 14 days from the date of designation, as prescribed by an Ordinance of the Ministry of the Environment.

(3) Any person who engages in activities emergency measures necessitated by unforeseen disasters that result in Changes to the Form or Nature of Land in an Area for which Changes to Form or Nature Require Notification shall notify the prefectural governor to that effect within 14 days from the date of the Changes to the Form or Nature of Land, as prescribed by an Ordinance of the Ministry of the Environment.

(4) Where a prefectural governor receives the notification prescribed in paragraph (1) and finds that the methods to be used in making Changes to the Form or Nature of the Land to which said notification pertains do not conform to the standards prescribed by Ordinance of the Ministry of the Environment, he/she may order the person who has filed said notification to revise the plan with regard to the methods to be used in making the Changes to the Form or Nature of the Land only within 14 days from the date of having received said notification.

(Exclusion from Application)

Article 13 The provisions of Article 4, paragraph (1) shall not apply to changes to the form or nature of land in an Area for which Changes to Form or Nature Require Notification.

### **Section 3 Miscellaneous Provisions**

(Application for Designation)

Article 14 (1) When an Owner, etc. considers that the situation of soil contamination of land by a Designated Hazardous Substance does not conform to the standards prescribed by Ordinance of the Ministry of the Environment under Article 6, paragraph (1), item (i) as a result of an investigation into the situation of soil contamination by a Designated Hazardous Substance which shall be excluded from application of the provisions of the main clause of Article 3, paragraph (1), Article 4, paragraph (2), and Article 5, paragraph (1), he/she may file an application with the prefectural governor pursuant to an Ordinance of the Ministry of the Environment, requesting that the governor designate an area of said land under the provisions of Article 6, paragraph 1 and Article 11, paragraph (1). In this case, when there are Owners, etc. of said site other than the Owners, etc. pertaining to said application, he/she shall obtain the unanimous agreement of all Owners, etc. in advance.

(2) A person who files an application under the preceding paragraph shall submit



to the prefectural governor a written application containing the methods and results of the investigation of the situation of soil contamination by a Designated Hazardous Substance to which the application set forth in the preceding paragraph pertains (hereinafter referred to as an "Application-related Investigation" in this Article), and other matters prescribed by Ordinance of the Ministry of the Environment, by attaching the documents specified by Ordinance of the Ministry of the Environment.

- (3) Where a prefectural governor receives an application under paragraph (1) and finds that the Application-related Investigation was conducted fairly using a method which conforms with the Ordinance of the Ministry of the Environment under Article 3, paragraph (1), he/she may designate the area in land pertaining to said application set forth in the provisions of Article 6, paragraph (1) or Article 11, paragraph (1). In this case, the said Application-related Investigation shall be deemed to be a Soil Contamination Investigation.
- (4) Where a prefectural governor who receives an application under paragraph (1), finds it necessary, he/she may request the person who filed said application to report or to submit materials regarding the Application-related Investigation, or direct the Minister's officials to visit the site and inspect the situation of implementation of said Application-related Investigation.

(The Registry)

- Article 15 (1) The prefectural governor shall create and keep a registry of Areas which Require Action and of Areas for which Changes to Form or Nature Require Notification (hereinafter referred to as the "Registry" in this Article).
- (2) The information to be entered in the Registry and other necessary matters concerning the creation and keeping of the Registry shall be provided by Ordinance of the Ministry of the Environment.
- (3) The prefectural governor may not reject requests to inspect the Registry without justifiable grounds.

#### **Chapter IV Regulations Concerning Carrying-Out of Contaminated Soil, etc.**

##### **Section 1 Measures when Carrying-Out Contaminated Soil**

(Notification when Carrying-Out Contaminated Soil and Order to Revise Plan)

- Article 16 (1) A person who intends to carry out soil from land (excluding soil whose contamination by a Designated Hazardous Substance has been found by the prefectural governor to be in conformity with the standards prescribed in an Ordinance of the Ministry of the Environment under Article 6, paragraph (1), item (i) as a result of an investigation by a Designated Investigation Institution that was conducted in the manner prescribed by Ordinance of the

Ministry of the Environment; hereinafter referred to as "Contaminated Soil") in an Area which Requires Action or in an Area for which Changes to Form or Nature Require Notification (hereinafter referred to as an " Area which Requires Action, etc.") to a location outside of said Area which Requires Action, etc. (excluding a person who has been entrusted with and who intends only to transport said Contaminated Soil) shall notify the relevant governor of the matters listed in the following items at least 14 days prior to the date of commencing the carrying-out of said Contaminated Soil, pursuant to an Ordinance of the Ministry of the Environment; provided, however, that this shall not apply where said carrying out is performed as an emergency measure necessitated by an unforeseen disaster or to make the Contaminated Soil available for use in testing and research.

(i) Situation of said Soil Contaminated by a Designated Hazardous Substance.

(ii) Volume of said Contaminated Soil.

(iii) Method of Transport of said Contaminated Soil.

(iv) Names of both the transporter and processor of said Contaminated Soil.

(v) Location of facilities that process said Contaminated Soil.

(vi) Scheduled commencement date for the carrying-out of said Contaminated Soil.

(vii) Other matters specified by Ordinance of the Ministry of the Environment.

(2) When the person who has provided notification under the preceding paragraph intends to make changes to matters which are the subject of said notification, he/she shall notify the relevant governor to that effect at least 14 days before the date of commencing the activities to which such notification pertains, pursuant to an Ordinance of the Ministry of the Environment.

(3) A person who has carried out Contaminated Soil to a location outside of said Area which Requires Action, etc. as an emergency measure necessitated by an unforeseen disaster, shall notify the prefectural governor to that effect within 14 days from the date of having carried out said Contaminated Soil pursuant to an Ordinance of the Ministry of the Environment.

(4) Where the prefectural governor receives notification under paragraph (1) or (2) and determines that any of the following apply, he/she may order the person who has provided said notification to take the measures specified in the respective items only within 14 days from the date of receiving the notification.

(i) In cases where the method of transport is in violation of the standards for transport of Contaminated Soil provided by Ordinance of the Ministry of the Environment, to change the method of transport of said Contaminated Soil.

(ii) In cases of not entrusting the processing of said Contaminated Soil to a person who has received a permission set forth in Article 22, paragraph (1) (hereinafter referred to as a "Contaminated Soil Processing Licensee"), to entrust processing of said Contaminated Soil to a Contaminated Soil

Processing Licensee.

(Standards for Transport)

Article 17 A person who transports Contaminated Soil outside an Area which Requires Action, etc. shall do so in accordance with the standards for transport of Contaminated Soil provided by Ordinance of the Ministry of the Environment; provided, however, that this shall not apply to cases where said transport is conducted as an emergency measure necessitated by an unforeseen disaster.

(Entrustment of Processing of Contaminated Soil)

Article 18 (1) A person who carries out Contaminated Soil to a location outside said Area which Requires Action, etc. (excluding a person who has received an entrustment from said person and who only transports said Contaminated Soil) shall entrust the processing of said Contaminated Soil to a Contaminated Soil Processing Licensee; provided, however, that this shall not apply in the cases described in the following items:

(i) Where a person who carries out said Contaminated Soil to a location outside said Area which Requires Action, etc. is a Contaminated Soil Processing Licensee and processes said Contaminated Soil himself/herself.

(ii) Where said carrying-out is carried out as an emergency measure necessitated by an unforeseen disaster.

(iii) Where the carrying-out is for the purpose of making Contaminated Soil available for use in testing and research.

(2) The provisions of the main clause of the preceding paragraph shall apply mutatis mutandis to a person who has carried out Contaminated Soil to a location outside said Area which Requires Action, etc. as an emergency measure necessitated by an unforeseen disaster; provided, however, that this shall not apply to cases where the person who has performed said carrying-out is a Contaminated Soil Processing Licensee and processes said Contaminated Soil himself/herself.

(Orders to Take Measures)

Article 19 When the prefectural governor finds it necessary to prevent dispersion of contamination by a Designated Hazardous Substance in Contaminated Soil, in the cases falling under the following items, he/she may order a person specified in the respective items to take measures for appropriate transport and processing of said Contaminated Soil and other necessary measures, establishing a reasonable period of time.

(i) Where a person has transported said Contaminated Soil in violation of the provisions of Article 17, the person who carried out said transport.

- (ii) Where a person has not entrusted the processing of Contaminated Soil to a Contaminated Soil Processing Licensee in violation of paragraph (1) of the preceding Article (including cases where applied mutatis mutandis under paragraph (2) of the same Article), the person who carried out said Contaminated Soil to a location outside said Area which Requires Action, etc. (excluding a person who has received an entrustment from such person and who only transported said Contaminated Soil).

(Control Manifest)

Article 20 (1) When a person, who carries out Contaminated Soil to outside an Area which Requires Action, etc. , entrusts transport or processing of said Contaminated Soil to others, he/she shall deliver a Control Manifest, describing the situation of contamination by a Designated Hazardous Substance and the volume of Contaminated Soil to which said entrustment pertains, the name of the person who received the entrustment of transport or processing, and other matters provided by Ordinance of the Ministry of the Environment, to the person who received the entrustment of transport of said Contaminated Soil (where said entrustment pertains only to the processing of Contaminated Soil, to the person who received entrustment of the processing) simultaneously with the delivery of said Contaminated Soil to which said entrustment pertains; provided, however, that this shall not apply where said carrying-out is performed as an emergency measure necessitated by an unforeseen disaster or to make Contaminated Soil available for use in testing and research.

- (2) The provisions of the main clause of the preceding paragraph shall apply mutatis mutandis to a person who has carried out Contaminated Soil to a location outside said Area which Requires Action, etc. as an emergency measure necessitated by an unforeseen disaster.
- (3) When a person who has received entrustment of transport of Contaminated Soil (hereinafter referred to as the "Transport Trustee") has completed said transport, he/she shall enter the matters specified by Ordinance of the Ministry of the Environment in the Control Manifest delivered under the provisions of paragraph (1) (including where applied mutatis mutandis under the preceding paragraph; hereinafter the same shall apply in this paragraph and the following paragraph.); and send a copy of said Control Manifest to the person who delivered the Control Manifest (hereinafter referred to as the "Control Manifest Deliverer" in this Article) within a period of time specified by Ordinance of the Ministry of the Environment. In this case, when a person has received entrustment of the processing of said Contaminated Soil, he/she shall refer the Control Manifest to that person.
- (4) When a person who has received entrustment of the processing of

Contaminated Soil (hereinafter referred to as the "Processing Trustee") has completed said processing, he/she shall enter the matters specified by Ordinance of the Ministry of the Environment in the Control Manifest delivered under the provisions of paragraph (1) or such referred to under the provisions of the second sentence of the preceding paragraph and send a copy of said Control Manifest to the Control Manifest Deliverer who had entrusted such processing within a period of time specified by Ordinance of the Ministry of the Environment. In this case, when said Control Manifest has been referred pursuant to the provisions of the second sentence of the same paragraph, he/she shall send a copy of said Control Manifest to the person who had made such reference.

- (5) When a Control Manifest Deliverer has received a copy of a Control Manifest pursuant to the provisions of the preceding two paragraphs, he/she shall confirm, using said Control Manifest, the completion of said transport or processing, and preserve the copy of said Control Manifest for the period of time specified by Ordinance of the Ministry of the Environment from the date on which said copy is received.
- (6) When a Control Manifest Deliverer has not received a copy of a Control Manifest under the provisions of paragraph (3) or (4) within the period of time provided by Ordinance of the Ministry of the Environment, or when he/she has received a copy of a Control Manifest which does not contain the matters prescribed in said provisions or which contains a false entry, he/she shall promptly grasp the situation of transport or processing of the entrusted Contaminated Soil and notify the prefectural governor thereof.
- (7) When a Transport Trustee has sent a copy of a Control Manifest under the provisions of the first sentence of the paragraph (3) (excluding cases in which he/she has referred a Control Manifest), or has received a copy of a Control Manifest under the provisions of the second sentence of paragraph (4), he/she shall, from the date on which it is sent or received, preserve said Control Manifest or the copy of said Control Manifest for the period of time provided by Ordinance of the Ministry of the Environment.
- (8) When a Processing Trustee has sent a copy of a Control Manifest under the provisions of the first sentence of paragraph (4), he/she shall preserve said Control Manifest from the date on which it is sent for the period of time provided by Ordinance of the Ministry of the Environment.

(Prohibition of Delivery of False Control Manifest, etc.)

Article 21 (1) No person shall deliver a Control Manifest containing a false entry regarding the matters provided in paragraph (3) of the preceding Article regardless of whether he/she has received entrustment of the transport of Contaminated Soil.

- (2) No person shall deliver a Control Manifest containing a false entry regarding the matters provided in paragraph (4) of the preceding Article regardless of whether he/she has received entrustment of the processing of Contaminated Soil.
- (3) A Transport Trustee or Processing Trustee may not carry out the sending under paragraph (3) or (4) of the preceding Article regardless of whether he/she has completed the entrusted transport or processing of Contaminated Soil.

## **Section 2 Contaminated Soil Processing Business**

(Contaminated Soil Processing Business)

Article 22 (1) A person who intends to engage in the processing of Contaminated Soil (excluding processing in an Area which Requires Action, etc.) in the course of trade shall obtain a license for each facility to be used in the business of processing Contaminated Soil (hereinafter referred to as a "Contaminated Soil Processing Facility") from the prefectural governor having jurisdiction over the address of said Contaminated Soil Processing Facility, as provided by an Ordinance of the Ministry of the Environment.

(2) A person who intends to obtain a permit under the preceding paragraph shall file a written application containing the matters listed in the following items as provided by Ordinance of the Ministry of the Environment.

(i) The applicant's name or designation and address, and in the case of a juridical person, the name of its representative.

(ii) The site at which the Contaminated Soil Processing Facility is to be built.

(iii) Type, structure and processing capability of the Contaminated Soil Processing Facility.

(iv) The situation of Contaminated Soil with respect to Designated Hazardous Substances that are to be processed by the Contaminated Soil Processing Facility.

(v) Other matters specified by Ordinance of the Ministry of the Environment.

(3) A prefectural governor shall not grant a license under paragraph (1) unless he/she finds that the application for the license under said paragraph conforms to the standards listed in the following items.

(i) The capabilities of the Contaminated Soil Processing Facility and of the applicant shall conform to the standards specified by Ordinance of the Ministry of the Environment, such that the applicant can reliably and satisfactorily conduct its operations on an ongoing basis.

(ii) The applicant does not fall under any of the following items:

(a) Any person who has been sentenced to a punishment for violation of this Act or who is subject to a disposition under this Act, if a period of two years has not elapsed since the day on which the punishment was

- completed or on which it ceased to be applied.
- (b) Any person whose license was rescinded pursuant to the provisions of Article 25 if two years have not elapsed from the day of the rescission.
  - (c) A juridical person which includes a person or entity who falls under either of the preceding two subitems among the officers who carry out its operations.
- (4) Unless the license set forth in paragraph (1) is renewed every five years, it will cease to be valid once that period has elapsed.
  - (5) The provisions of paragraph (2) and (3) shall apply mutatis mutandis to the renewal under the preceding paragraph.
  - (6) A Contaminated Soil Processing Licensee shall carry out the processing of Contaminated Soil in accordance with the standards relating to the processing of Contaminated Soil that have been specified by Ordinance of the Ministry of the Environment.
  - (7) A Contaminated Soil Processing Licensee shall not entrust the processing of Contaminated Soil to others.
  - (8) A Contaminated Soil Processing Licensee shall record the matters specified by Ordinance of the Ministry of the Environment concerning the processing of Contaminated Soil at said Contaminated Soil Processing Facility for each such facility to which said license pertains, keep this record at said Contaminated Soil Processing Facility (in cases where it is difficult to keep it at said facility, the office closest to the facility), and allow inspection by a person with an interest in the processing of said Contaminated Soil, upon his/her request.
  - (9) In cases where breakage or some other accident has occurred at the Contaminated Soil Processing Facility constructed by a Contaminated Soil Processing Licensee to which such license pertains, and Contaminated Soil processed in said facility or polluted water or gas that has been generated together with said processing has dispersed, flown out, seeped underground or been otherwise emitted, the Contaminated Soil Processing Licensee shall, immediately notify the prefectural governor to that effect.

(Changes to License, etc.)

- Article 23 (1) When a Contaminated Soil Processing Licensee intends to make changes to the matters listed in (c) or (d) of paragraph (2) of the preceding Article pertaining to said license, the licensee shall receive the permission of the prefectural governor as specified by Ordinance of the Ministry of the Environment; provided, however, that this shall not apply to a minor change specified by Ordinance of the Ministry of the Environment.
- (2) The provisions of paragraph (3) of the preceding Article shall apply mutatis mutandis to the permission set forth in the preceding paragraph.
  - (3) Where a Contaminated Soil Processing Licensee has made a minor change

specified by Ordinance of the Ministry of the Environment as set forth in the proviso to paragraph (1), or where there have been changes to the matters listed in paragraph (2), item (a) of the preceding Article or other matters specified by Ordinance of the Ministry of the Environment, he/she shall notify the prefectural governor to that effect without delay pursuant to the Ordinance of the Ministry of the Environment.

- (4) When a Contaminated Soil Processing Licensee intends to terminate or suspend all or a part of the business of processing Contaminated Soil, or intends to resume previously suspended business of processing said Contaminated Soil, he/she shall notify the prefectural governor to that effect in advance.

(Order for Improvement)

Article 24 When the prefectural governor finds that a Contaminated Soil Processing Licensee has engaged in processing of Contaminated Soil which does not conform to the standards provided by Ordinance of the Ministry of the Environment under Article 22, paragraph (6), he/she may order said licensee to make changes to its method of processing Contaminated Soil and take other necessary measures within a fixed, reasonable period of time.

(Rescission of License, etc.)

Article 25 Where a licensee falls under any of the following items, a prefectural governor may rescind the license thereof or order the suspension of all or part of the licensee's business activities for a fixed period not exceeding one year.

(i) Cases falling under Article 22, paragraph (3), item (ii), (a) or (c).

(ii) Cases where the capabilities of the Contaminated Soil Processing Facility or the competence of the person does not conform to the standards specified by Ordinance of the Ministry of the Environment pursuant to Article 22, paragraph (3), item (i).

(iii) Cases where a violation of the provisions of this chapter or of an order based on said provisions has occurred.

(iv) Cases in which a license under Article 22, paragraph (1) (including renewal of the license set forth in paragraph (4) of the same Article) or permission for a change under Article 23, paragraph (1) has been received.

(Prohibition on Name Lending)

Article 26 No Contaminated Soil Processing Licensee shall engage another person to carry out the processing of Contaminated Soil in the course of trade.

(Obligations to Take Measures in the Event of Rescission, etc. of a License)

Article 27 (1) A Contaminated Soil Processing Licensee who has terminated the



business of processing Contaminated Soil or has had his/her license rescinded pursuant to the provisions of Article 25 shall prevent the dispersion of contamination by any Designated Hazardous Substance at the Contaminated Soil Processing Facility that had been used in the terminated business or that is under the rescinded license, and take other necessary measures.

(2) When a prefectural governor finds that harm to human health or a threat of such harm exist as a result of contamination by any Designated Hazardous Substance at a Contaminated Soil Processing Facility as provided in the preceding paragraph, he/she may order the former operator of said Contaminated Soil Processing Facility used in the business of processing of Contaminated Soil to remove and prevent the dispersion of such contamination and take other necessary measures within a fixed, reasonable period of time.

(Delegation to Ordinance of the Ministry of the Environment)

Article 28 In addition to what is provided for in this section, necessary matters for the business of processing Contaminated Soil shall be specified by Ordinance of the Ministry of the Environment.

## **Chapter V Designated Investigation Institution**

(Application for Designation)

Article 29 The designation prescribed in Article 3, paragraph (1) shall be granted upon application by a person who intends to conduct the Soil Contamination Investigation and the investigation under Article 16, paragraph (1) (hereinafter referred to as a "Soil Contamination Investigation, etc." in this chapter), pursuant to an Ordinance of the Ministry of the Environment.

(Disqualification Clause)

Article 30 Any person who falls under any of the following items shall not be permitted to receive the designation set forth in Article 3, paragraph (1):

- (i) Any person who has been sentenced to a punishment for violation of this Act or a disposition based upon this Act, if two years have not elapsed since the day the punishment was completed or ceased to be applied.
- (ii) Any person whose designation was rescinded pursuant to the provisions of Article 42 if two years have not elapsed since the day of the rescission.
- (iii) A juridical person of which the officers who carry out its operations include a person who falls under either of the preceding items.

(Standards for Designation)

Article 31 The Minister of the Environment shall not designate a person under Article 3, paragraph (1) unless he/she finds that the person's application for

such designation conforms to all of the following requirements:

- (i) The applicant conforms to the standards set forth in an Ordinance of the Ministry of the Environment with regard to having a sufficient financial basis and the technical capability to carry out the business of Soil Contamination Investigation, etc. properly and smoothly;
- (ii) Where the applicant is a juridical person, the officers of the applicant, or the organization of the members of the applicant who are prescribed by Ordinance of the Ministry of the Environment according to the type of juridical person in question is not likely to impede the fair execution of the Soil Contamination Investigation, etc.
- (iii) In addition to the preceding item, the applicant conforms to the standards set forth in an Ordinance of the Ministry of the Environment as involving no likelihood that the Soil Contamination Investigation, etc. will be unfair.

(Renewal of Designation)

Article 32 (1) The designation set forth in Article 3, paragraph (1) is valid for five years unless it is renewed.

(2) The provisions of the preceding three Articles shall apply mutatis mutandis to the renewal under the preceding paragraph.

(Appointment of a Technical Manager)

Article 33 A Designated Investigation Institution shall appoint a person to be in charge of technical management of a Soil Contamination Investigation, etc. at the site of such Soil Contamination Investigation, etc. , who conforms to the standards provided by Ordinance of the Ministry of the Environment (referred to as the "Technical Manager" in the following Article).

(Duties of a Technical Manager)

Article 34 When a Designated Investigation Institution conducts a Soil Contamination Investigation, etc. , it shall have a Technical Manager supervise other persons engaged in said Soil Contamination Investigation, etc.; provided, however, that this shall not apply to cases in which only the Technical Manager is engaged in said Soil Contamination Investigation, etc.

(Notification of Change)

Article 35 When a Designated Investigation Institution intends to change the name or location of the business office at which a Soil Contamination Investigation, etc. is to be conducted or other matters specified by Ordinance of the Ministry of the Environment, it shall notify the Minister of the Environment to that effect at least 14 days before the scheduled date of the change.

(Obligation to Conduct Soil Contamination Investigation, etc.)

Article 36 (1) Upon request, a Designated Investigation Institution shall conduct a Soil Contamination Investigation, etc. without delay, unless justifiable grounds for a delay exist.

(2) A Designated Investigation Institution shall conduct a Soil Contamination Investigation, etc. fairly and in the manner prescribed by the Ordinance of the Ministry of the Environment under Article 3, paragraph (1) and Article 16, paragraph (1).

(3) In the cases mentioned in the preceding two paragraphs, if the Designated Investigation Institution fails to conduct a Soil Contamination Investigation or conducts a Soil Contamination Investigation, etc. in an inappropriate manner, the Minister of the Environment may order the Designated Investigation Institution to conduct the Soil Contamination Investigation or to improve the manner in which it is conducted.

(Operational Rules and Procedures)

Article 37 (1) A Designated Investigation Institution shall establish its operational rules and procedures concerning the business of Soil Contamination Investigation, etc. (referred to in the next paragraph as the "Operational Rules and Procedures"), and shall notify the Minister of the Environment of the Operational Rules and Procedures prior to the commencement of the business of Soil Contamination Investigation, etc. The same shall apply when such Operational Rules and Procedures are to be revised.

(2) The matters to be prescribed in the Operational Rules and Procedures shall be specified by Ordinance of the Ministry of the Environment.

(Retention of Books, etc.)

Article 38 A Designated Investigation Institution shall retain and preserve books recording the matters with respect to the business of Soil Contamination Investigation, etc. specified by Ordinance of the Ministry of the Environment, pursuant to the provisions of an Ordinance of the Ministry of the Environment.

(Compliance Order)

Article 39 The Minister of the Environment may, when finding that any Designated Investigation Institution ceases to comply with any of the items under Article 31, order said Designated Investigation Institution to take necessary measures to comply with all such provisions.

(Notification of Termination of Business)

Article 40 A Designated Investigation Institution shall notify the Minister of the Environment upon terminating the business of a Soil Contamination Investigation, etc. without delay and pursuant to an Ordinance of the Ministry of the Environment.

(Cancellation of Designation)

Article 41 A designation under Article 3, paragraph (1) shall cease to be effective upon termination of the business of a Soil Contamination Investigation, etc. by a Designated Investigation Institution.

(Rescission of Designation)

Article 42 The Minister of the Environment may, when a Designated Investigation Institution falls under any of the cases described in the following items, rescind its designation under Article 3, paragraph 1:

- (i) Falling under Article 31, items (i) or (iii).
- (ii) Violating the provisions of Article 33, Article 35, Article 37, paragraph (1), or Article 38.
- (iii) Violating an order under the provisions of Article 36, paragraph (3) or Article 39.
- (iv) Having obtained the designation under Article 3, paragraph (1) by dishonest means.

(Public Notice)

Article 43 The Minister of the Environment shall provide public notice of the following:

- (i) Cases in which a designation under Article 3, paragraph (1) is made.
- (ii) Cases in which a designation under Article 3, paragraph (1) has become ineffective and invalid due to the provisions of Article 32, paragraph (1) or where the designation has been rescinded pursuant to the provisions of the preceding Article.
- (iii) Cases of having received a notification pursuant to the provisions of Article 35 (excluding notifications pertaining to changes to the matters provided by Ordinance of the Ministry of the Environment under the same Article) or Article 40.

## **Chapter VI Designated Support Corporation**

(Designation)

Article 44 (1) The Minister of the Environment may designate, upon application, a juridical person prescribed in Article 34 of the Civil Code (Act No.89 of 1896) that is found to be capable of properly and unfailingly conducting the business

prescribed in the following paragraph (hereinafter referred to as the "Support Business") as one sole entity for the entire nation conducting the Support Business.

- (2) A juridical person who has received a designation under the preceding paragraph (hereinafter referred to as the "Designated Support Corporation") shall, when intending to make changes to the name, address, or business office location, notify the Minister of the Environment to that effect in advance.

(Business)

Article 45 The Designated Support Corporation shall engage in any of the businesses enumerated in the following items:

- (i) Granting subsidies to local governments that provide aid to persons taking an Action for Removal, etc. in an Area which Requires Action, pursuant to a Cabinet Order.
- (ii) Responding to inquiries and requests for consultation, and giving necessary advice on the following:
  - (a) Soil Contamination Investigation.
  - (b) Action for Removal, etc. on a site in an Area which Requires Action, etc.
  - (c) Changes to the form or nature of land in an Area for which Changes to Form or Nature Require Notification
- (iii) Disseminating knowledge and promoting public understanding of the effects of soil contamination by Designated Hazardous Substances on human health, in order to facilitate the proper and smooth implementation of the matters listed in the preceding sub-items (a) through (c).
- (iv) Engaging in businesses incidental to the businesses listed in the preceding three items.

(Fund)

Article 46 The Designated Support Corporation shall establish a fund for its Support Business (in the following Article referred to as the "Fund") and appropriate an amount of money corresponding to the total amount of subsidies granted pursuant to the provisions of said Article and the money contributed by non-governmental persons, on the condition that said money is allocated as necessary funding for its Support Business.

(Subsidy for the Fund)

Article 47 The Government may subsidize the funds to be appropriated for the Fund to the Designated Support Corporation within the scope of the budget.

(Business Plans, etc.)

Article 48 (1) The Designated Support Corporation shall prepare a business plan

and an income and expenditure budget relating to its Support Business pursuant to an Ordinance of the Ministry of the Environment and obtain approval therefor from the Minister of the Environment. The same shall apply where a change is made to such items.

(2) The Designated Support Corporation shall prepare a business report and an income and expenditure settlement document relating to its Support Business and submit the same to the Minister of the Environment following the end of each business year pursuant to the provisions of an Ordinance of the Ministry of the Environment.

(Separate Account)

Article 49 The Designated Support Corporation shall separate the accounting relating to the Support Business from its other accounting, and shall prepare a special account under which to arrange this.

(Obligation to Maintain Confidentiality)

Article 50 Officers and employees, as well as former officers and former employees of the Designated Support Corporation, shall not leak confidential information obtained in connection with the businesses listed in Article 45, items (i), (ii) or (iv) (limited to those incidental to the businesses listed in items (i) or (ii) of said Article).

(Supervision Order)

Article 51 The Minister of the Environment may, to the extent necessary for enforcing the provisions of this chapter, give the Designated Support Corporation orders necessary for the supervision of the Support Business.

(Rescission of Designation)

Article 52 The Minister of the Environment may rescind a designation made under Article 44, paragraph (1) when the Designated Support Corporation falls under any of the following items.

- (i) When it is found that the Support Business cannot be implemented in a proper and reliable manner.
- (ii) When the Designated Support Corporation has violated the provisions of this chapter or a disposition made under said provisions.
- (iii) When the Designated Support Corporation has obtained the designation under Article 44, paragraph (1) by dishonest means.

(Public Notice)

Article 53 The Minister of the Environment shall issue a public notice to the following effect in the following cases:

- (i) Cases in which a designation under Article 44, paragraph (1) is made.
- (ii) Cases in which notification pursuant to the provisions of Article 44, paragraph (2) is received.
- (iii) Cases in which notification under Article 44, paragraph (1) has been rescinded pursuant to the provisions of the preceding Article.

## **Chapter VII Miscellaneous Provisions**

(Report and Inspection)

- Article 54 (1) The Minister of the Environment or the prefectural governor may, to the extent necessary for enforcing this Act, request the Owner, etc. of a site subject to a Soil Contamination Investigation or a site in an Area which Requires Action, etc. , or the person carrying out or who has carried out an Action for Removal, etc. or who has changed the form or nature of land located in an Area which Requires Action, etc. to report the situation of said site, the Action for Removal, etc. , the situation of conducting the change in the form or nature of the land, or any other necessary matters, or may direct the Minister's or governor's officials to visit the site and inspect the situation of the site, the Action for Removal, etc. , or the situation of the change in the form or nature of the land.
- (2) The collection of the report by the Minister of the Environment or the inspection by the Minister's officials under the preceding paragraph shall be carried out only where an urgent necessity is recognized to prevent harm to human health from occurring due to soil contamination caused by any Designated Hazardous Substance.
  - (3) A prefectural governor may, to the extent necessary to enforce this Act, request a person who has carried Contaminated Soil to a location outside an Area which Requires Action, etc. , or who has transported Contaminated Soil, to provide necessary status reports on the transportation or processing of Contaminated Soil, or cause his/her officials to enter the office of said person, the site to which said Contaminated Soil is transported, and other sites, automobiles, vehicles or ships used to transport Contaminated Soil (hereinafter referred to as "Automobiles, etc." in this paragraph) to inspect the situation of said Contaminated Soil, books, documents, and other materials.
  - (4) A prefectural governor may, to the extent necessary to enforce this Act, request a Contaminated Soil Processing Licensee or a former Contaminated Soil Processing Licensee to submit necessary reports concerning its business activities, or cause his/her officials to enter its business office, Contaminated Soil Processing Facility and other workplaces to inspect equipment, books, documents and other materials.
  - (5) The Minister of the Environment may, to the extent necessary to enforce this

Act, request a Designated Investigation Institution or Designated Support Corporation to report as required on the situation of its business or accounts, or to direct his/her officials to visit its site and inspect the situation of its business or books, documents, and other properties.

- (6) Officials who conduct on-site inspection pursuant to the provisions of paragraph (1) or the preceding three paragraphs shall carry their identification cards and present them to persons concerned.
- (7) The authority to conduct on-site inspection set forth in paragraphs (1) or (3) through (5) shall not be construed to extend to criminal investigation.

(Consultation)

Article 55 A prefectural governor shall, when intending to issue an order pursuant to the provisions of Article 3, paragraph (3), Article 4, paragraph (2), Article 5, paragraph (1), Article 7, paragraph (4), or Article 12, paragraph (4) concerning land specified by Cabinet Order as land where a person engages in the management of facilities that are provided for public use pursuant to the provisions of laws and regulations, consult with the person managing said facilities in advance.

(Request, etc. for Submission of Materials)

- Article 56 (1) The Minister of the Environment may request the head of a relevant local government to submit and explain necessary materials when he/she finds it necessary to achieve the purposes of this Act.
- (2) A prefectural governor may request the head of a relevant administrative organ or local government to provide various forms of cooperation including the submission of necessary materials, or may state his/her opinion with respect to gaining an understanding of the situation of the soil contamination by Designated Hazardous Substances and preventing harm to human health due to said contamination.

(Instructions from the Minister of the Environment)

- Article 57 When the Minister of the Environment recognizes an urgent necessity to prevent harm to human health due to soil contamination by a Designated Hazardous Substance, he/she may give a prefectural governor or leader of a city (including special wards) specified by Cabinet Order under Article 64 the necessary instructions with respect to the affairs listed in the following items:
- (i) Affairs with regard to the confirmation prescribed in the proviso to Article 3, paragraph (1).
- (ii) Affairs with regard to orders under Article 3, paragraph (3), Article 4, paragraph (2), Article 5, paragraph (1), Article 7, paragraph (4) Article 12, of paragraph (4) Article 16, paragraph (4), Article 19, Article 24, Article 25 and



- Article 27, paragraph (2).
- (iii) Affairs with regard to rescission of confirmation as prescribed in Article 3, paragraph (5).
  - (iv) Affairs with regard to investigations as prescribed in Article 5 paragraph (2).
  - (v) Affairs with regard to designations as prescribed Article 6, paragraph (1).
  - (vi) Affairs with regard to public notices as prescribed in Article 6, paragraph (2).
  - (vii) Affairs with regard to cancellations as prescribed in Article 6 paragraph (4).
  - (viii) Affairs with regard to instructions as prescribed in Article 7, paragraph (2).
  - (ix) Affairs with regard to an Instructed Action as prescribed in Article 7, paragraph (5).
  - (x) Affairs with regard to requesting the cooperation or statements prescribed in paragraph (2) of the preceding Article.

(State Assistance)

- Article 58 (1) In order to prevent harm to human health due to soil contamination by a Specified Hazardous Substance, the State shall endeavor to provide various forms of assistance, including facilitation of the funding necessary for a Soil Contamination Investigation or an Action for Removal, etc. in the site in an Area which Requires Action, and technical advice.
- (2) The State shall, when carrying out the measures prescribed in the preceding paragraph, give special consideration to small and medium-sized enterprise operators.

(Promotion, etc. of Research)

- Article 59 The State shall endeavor to promote research on technologies concerning soil contamination Action for Removal, etc. and other matters in order to prevent harm to human health due to soil contamination by Designated Hazardous Substances and shall disseminate the results of such research.

(Promotion of Public Understanding)

- Article 60 (1) National and local governments shall endeavor, through education, publicity, and other activities, to promote public understanding of the harmful effects on human health caused by soil contamination by Designated Hazardous Substances.
- (2) National and local governments shall endeavor to nurture human resources to perform the responsibilities set forth in the preceding paragraph.

(Collection, Organization, Preservation, and Provision, etc. of Information by Prefectural Governors)

Article 61 (1) A prefectural governor shall endeavor to collect, organize, preserve and properly provide information concerning the situation of soil contamination by any Designated Hazardous Substance in land within the relevant prefecture.

(2) A prefectural governor shall endeavor to have persons who intend to establish public facilities such as parks, public interest facilities such as schools wholesale markets, or any facilities equivalent to the above, gain an understanding of whether the intended site for such facility conforms to the standards specified by Ordinance of the Ministry of the Environment under Article 4, paragraph (2).

(Transitional Measures)

Article 62 Where an order is issued, revised or rescinded pursuant to this Act, necessary transitional measures (including transitional measures concerning penal provisions) may be set forth in the order to the extent considered reasonably necessary.

(Delegation of Authority)

Article 63 The authority of the Ministry of the Environment provided for in this Act may, as stipulated by Ordinance of the Ministry of the Environment, be delegated to the head of a Regional Environmental Affairs Office.

(Affairs Processed by a Mayor of a City Prescribed in the Cabinet Order)

Article 64 Part of the affairs that are under the authority of a prefectural governor according to the provisions of this Act may be undertaken by mayors of cities prescribed by Cabinet Order pursuant to the provisions of a Cabinet Order.

## **Chapter VIII Penal Provisions**

Article 65 Any person who falls under any of the following items shall be punished by imprisonment with work for not more than one year or by a fine of not more than 1,000,000 yen.

(i) A person who has violated orders pursuant to the provisions of Article 3, paragraph (3), Article 4, paragraph (2), Article 5, paragraph (1), Article 7, paragraph (4), Article 12, paragraph (4), Article 16, paragraph (4), Article 19, Article 24, Article 25, or Article 27, paragraph (2).

(ii) A person who has violated the provisions of Article 9.

- (iii) A person who has processed Contaminated Soil in the course of trade in violation of the provisions of Article 22, paragraph (1).
- (iv) A person who has engaged in the business of processing Contaminated Soil in violation of the provisions of Article 23, paragraph (1).
- (v) A person who has received a license under Article 22, paragraph (1) (or renewal of a license under paragraph (4) of the same Article) or permission for a change under Article 23, paragraph (1) by dishonest means.
- (vi) A person who has had other persons process Contaminated Soil in the course of trade in violation of the provisions of Article 26.

Article 66 Any person who falls under any of the following shall be punished by imprisonment with work for not more than three months or by a fine of not more than 300,000 yen.

- (i) A person who fails to provide notification or who provides false notification pursuant to the provisions of Article 3, paragraph (4), Article 4, paragraph (1), Article 12, paragraph (1), Article 16, paragraph (1) or (2) or Article 23 paragraph (3) or (4).
- (ii) A person who has transported Contaminated Soil in violation of the provisions of Article 17.
- (iii) A person who has entrusted the processing of Contaminated Soil to other persons in violation of the provisions of Article 18, paragraph (1) (including where applied mutatis mutandis under paragraph (2) of the same Article) or Article 22, paragraph (7).
- (iv) A person who has failed to deliver a Control Manifest in violation of the provisions of Article 20, paragraph (1) (including where applied mutatis mutandis under paragraph (2) of the same Article), failed to enter the matters specified in paragraph (1) of the same Article, or who has made a false entry and delivered a Control Manifest.
- (v) A person who has failed to send a copy of a Control Manifest in violation of the provisions of the first sentence of Article 20, paragraphs (3) or (4), has failed to enter the matters specified in said provisions, or who has sent a copy of a Control Manifest containing a false entry.
- (vi) A person who has failed to refer a Control Manifest in violation of the provisions of the second sentence of Article 20, paragraph (3).
- (vii) A person who has failed to preserve a Control Manifest or a copy of the Certificate in violation of the provisions of Article 20, paragraph (5), (7) or (8).
- (viii) A person who has delivered a Control Manifest containing a false entry in violation of the provisions of Article 21, paragraph (1) or (2).
- (ix) A person who has sent a copy of a Control Manifest in violation of the provisions of Article 21, paragraph (3).

Article 67 Any person who falls under any of the following items shall be punished by a fine of not more than 300,000 yen:

- (i) A person who has failed to record or made a false record, or who has failed to keep a record in violation of the provisions of Article 22, paragraph (8).
- (ii) a person who has violated the provisions of Article 50.
- (iii) A person who has failed to make a report or made a false report in accordance with the provisions of Article 54, paragraph (1), or paragraphs (3) through (5), or who has refused, hindered or evaded an inspection in accordance with these provisions.

Article 68 If any representative of a juridical person, or any agent, employee or other person engaged by a juridical person or individual commits any of the violations prescribed in the preceding three Articles (excluding item (ii) of the preceding Article) with regard to the business of the juridical person or individual, the violator and the juridical person or individual shall be punished by the fine prescribed in the corresponding Article.

Article 69 Any person who has failed to make a notification or made a false notification pursuant to the provisions of Article 12, paragraphs (2) or (3), Article 16, paragraph (3), Article 20, paragraph (6) or Article 40, shall be punished by a civil fine of not more than 200,000 yen.

### **Supplementary Provisions**

(Date of Enforcement)

Article 1 This Act shall enter into force on the date specified by Cabinet Order within a period not exceeding nine months from the day of its promulgation; provided, however, that the provisions of the following Article shall enter into force on the date specified by Cabinet Order within a period not exceeding six months from the day of promulgation.

(Preparatory Actions)

Article 2 (1) Designation pursuant to Article 3, paragraph (1) and related procedures and other necessary actions may be conducted according to the provisions of Articles 10 through 12 and Article 15 even if they occur prior to the enforcement of this Act.

(2) Designation pursuant to Article 20, paragraph (1) and related procedures and other necessary actions, may be conducted according to the provisions of Article 20, paragraphs (1) and (2) and Article 24, paragraph (1) even if they occur prior to the enforcement of this Act.

(Transitional Measures)

Article 3 The provisions of Article 3 shall not apply to land that is the site of a plant or workplace pertaining to a Specified Facility whose use has been terminated prior to the enforcement of this Act.

(Delegation to Cabinet Order)

Article 4 In addition to what is provided for in the preceding two Articles, necessary transitional measures for the enforcement of this Act shall be specified by Cabinet Order.

(Review)

Article 5 Ten years after the enforcement of this Act, the Government shall review the way in which the Support Business of the Designated Support Corporation is being carried out, with a view to abolishing such business, examine the situation of enforcement of this Act, and take necessary measures based on the results.

#### **Supplementary Provisions [Act No. 33 of April 27, 2005] [Extract]**

(Date of Enforcement)

Article 1 This Act shall enter into force on October 1, 2005.

(Transitional Measures)

Article 24 Where an order is established, revised or abrogated pursuant to the provisions of the respective Acts revised by this Act, necessary transitional measures (including transitional measures concerning penal provisions) may be prescribed by said order to the extent deemed reasonably necessary along with said establishment, revision or abrogation.

#### **Supplementary Provisions [Act No. 50 of June 6, 2006] [Extract]**

Date of Enforcement

This Act shall enter into force on the effective date of the General Incorporated Associations/Foundations Act.

#### **Supplementary Provisions [Act No. 23 of April 24, 2009]**

(Date of Enforcement)

Article 1 This Act shall enter into force on the day specified by Cabinet Order no later than April 1, 2010; provided, however, that the provisions of the next Article and Article 14 of the Supplementary Provisions shall enter into force on

a date specified by Cabinet Order within six months from the day of promulgation.

(Preparatory Actions)

Article 2 (1) A person who intends to obtain a license set forth in Article 22, paragraph (1) of the Soil Contamination Countermeasures Act as revised by this Act (hereinafter referred to as the "New Act") may file an application for the license in accordance with the provisions of paragraph (2) of the same Article.

(2) A person who has made a false entry in the written application pertaining to the application pursuant to the provisions of the preceding Article or any document to be attached to such application shall be punished by imprisonment with work for not more than one year or by a fine of not more than 1,000,000 yen.

(3) If any representative of a juridical person or individual, or any agent, employee or other person engaged by a juridical person or individual, commits any of the violations prescribed in the preceding paragraph in connection with the business of the juridical person or individual, the offending person and the juridical person or individual engaging him/her shall be punished by the fine prescribed in the same paragraph.

(Transitional Measures for Notification of Changes to the Form or Nature of Land of Area Larger than a Certain Size)

Article 3 The provisions of Article 4, paragraph (1) of the New Act shall apply to a person who commences making changes to the form or nature of land (meaning the changes of land prescribed in the same paragraph; the same shall apply to Article 8 of the Supplementary Provisions) after the day on which 30 days have elapsed from the Effective Date of this Act (hereinafter referred to as the "Effective Date").

(Transitional Measures for Designation of Designated Area)

Article 4 The areas of land which have been designated pursuant to the provisions of Article 5, paragraph (1) of the Soil Contamination Countermeasures Act prior to revision by this Act (hereinafter referred to as the "Former Act") at the time of the enforcement of this Act shall be deemed to be an Area for which Changes to Form or Nature Require Notification as designated pursuant to the provisions of Article 11, paragraph (1) of the New Act, as prescribed in paragraph (2) of the same Article.

(Transitional Measures for Designated Area Registry)

Article 5 The Registry of the Designated Area pursuant to the provisions of

Article 6, paragraph (1) of the Former Act in existence at the time of the enforcement of this Act shall be deemed to be the Registry of an Area for which Changes to Form or Nature Require Notification pursuant to the provisions of Article 15, paragraph (1) of the New Act.

(Transitional Measures for Order for Action)

Article 6 With regard to the Order for Action pursuant to the provisions of Article 7, paragraph (1) or (2) of the Former Act committed prior to the enforcement of this Act, the provisions then in force shall remain applicable.

(Transitional Measures for Claims for Cost of Action for Removal, etc.)

Article 7 With regard to the application of the provisions of Article 8 of the Former Act pertaining to the person who has received an order pursuant to the provisions of Article 7, paragraph (1) of the Former Act prior to the enforcement of this Act, the provisions then in force shall remain applicable.

(Transitional Measures for Notification of Change to the Form or Nature of

Land in an Area for which Changes in Form or Nature Require Notification)  
Article 8 A person who commences making changes to the form or nature of land in an area deemed to be an Area for which Changes to Form or Nature Require Notification prescribed in Article 11, paragraph (2) of the New Act pursuant to the provisions of Article 4 of the Supplementary Provisions after the Effective Date, and who has filed a notification pursuant to the provision of Article 9, paragraph (1) of the Former Act prior to the Effective Date concerning the Change to the Form or Nature of Land shall be deemed to be a person who has filed a notification pursuant to the provisions of Article 12, paragraph (1) of the New Act.

(Transitional Measures for Notification upon Carrying-out of Contaminated Soil)

Article 9 The provisions of Article 16, paragraph (1) of the New Act shall apply to a person (excluding a person who received an entrustment therefrom and intends only to transport) who intends to carry out Contaminated Soil to a location outside of said Area which Requires Action, etc. (meaning an Area which Requires Action, etc.) after the day on which 14 days have elapsed from the Effective Date.

(Transitional Measures for Designation of Designated Investigation Institution)

Article 10 A person who has received a designation pursuant to the provisions of Article 3, paragraph (1) of the Former Act at the time of enforcement of this

Act shall be deemed to a person who has received a designation set forth in Article 3, paragraph (1) of the New Act from the Effective Date.

(Transitional Measures for Notification of Change)

Article 11 The provisions of Article 35 of the New Act shall apply to a Designated Investigation Institution which intends to make changes to the matters as provided for in the same Article after the day on which 14 days have elapsed from the Effective Date; with respect to a Designated Investigation Institution which intends to make changes to said matters prior to that day, the provisions then in force shall remain applicable.

(Transitional Measures for Order for Compliance)

Article 12 An order issued pursuant to the provisions of Article 16 of the Former Act prior to the Effective Date shall be deemed to have been issued pursuant to the provisions of Article 39 of the New Act.

(Transitional Measures for Application of Penal Provisions)

Article 13 With regard to the application of penal provisions to acts committed prior to the enforcement of this Act and acts committed after the Effective Date where the provisions then in force shall remain applicable under Article 6 of these Supplementary Provisions, the provisions then in force shall remain applicable.

(Delegation of Other Transitional Measures to Cabinet Orders)

Article 14 In addition to what is provided for in these Supplementary Provisions, transitional measures required for enforcement of this Act shall be specified by Cabinet Order.

(Review)

Article 15 The Government shall review the status of the enforcement of the New Act five years after the enforcement of this Act and take necessary measures based on the results.