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## **Chapter I General Provisions**

### **Section 1 Purpose, etc.**

#### Article 1 (Purpose)

The purpose of this Act is, with regard to persons who have committed crimes and juvenile delinquents, to prevent them from re-offending or eliminate their delinquencies and assist them to become self-reliant as sound members of society and improve and rehabilitate themselves by treating them properly within society, and to ensure the suitable operation of pardons and promote crime prevention activity, etc., thereby to protect society and enhance the welfare of individuals and the public.

#### Article 2 (Responsibilities of National Government)

- (1) The Government shall promote activities which contribute to the realization of the purpose under the preceding Article and which are voluntarily carried out by organizations or individuals in the private sector, shall coordinate and cooperate with such persons and shall endeavor to deepen the understanding of the general public and attain their cooperation for the rehabilitation.
- (2) Local governments may, considering that the activities set forth in the preceding paragraph contribute to improving the safety of the local community and the welfare of residents, provide necessary cooperation for such activities.
- (3) The citizen shall endeavor to contribute, according to their position and capability, in order to achieve the purposes under the preceding Article.

#### Article 3 (Standard for Operation)

Measures taken pursuant to the provisions of this Act for persons who have committed crimes and for juvenile delinquents shall be rendered in the most appropriate way and to the extent necessary and suitable for their improvement and rehabilitation by fully taking their character, age, personal history, mental and physical conditions, family environment, associates and other factors of persons who are to receive such measures into consideration.

### **Section 2 National Offenders Rehabilitation Commission**

Article 4 (Establishment and Affairs under the Jurisdiction)

- (1) The National Offenders Rehabilitation Commission (hereinafter referred to as "Commission") shall be established in the Ministry of Justice.
- (2) The Commission shall take charge of the following affairs:
  - (i) Recommending the implementation of a special pardon, commutation of the sentence granted to a specific person, remission of execution of the sentence or restoration of rights with respect to a specific person;
  - (ii) Examining and determining on the decision made by the Regional Parole Board as provided for in this Act and the Administrative Appeal Act (Act No. 160 of 1962);
  - (iii) In addition to what are listed in the preceding two items, dealing with the matters that are caused to belong to its authority by this Act and other Acts.

Article 5 (Organization of the Commission)

The Commission shall be composed of a chairman and four members.

Article 6 (Appointment of the Chairman and Members of the Commission)

- (1) The chairman and members of the Commission shall be appointed by the Minister of Justice, with the consent of both Houses of the Diet from among persons who possess a wide range of knowledge and sound judgment.
- (2) The Minister of Justice may appoint the chairman or a member notwithstanding the provisions set forth in the preceding paragraph, if the consent of both Houses of the Diet cannot be obtained due to the closing of the Diet or the dissolution of the House of Representatives in case the term of office of the chairman or member expire or a position is vacant.
- (3) In the case referred to in the preceding paragraph, the ex post facto consent of both Houses of the Diet shall be obtained in the first session of the Diet after the appointment. In this case, if the ex post facto consent by both Houses cannot be obtained, the Minister of Justice shall dismiss the chairman or a member in question.
- (4) With respect to the appointment of the chairman or members, no more than two persons among them shall be members of the same political party.

Article 7 (Term of Office of the Chairman and Members)

The term of office of the chairman and members of the Commission shall be three years; provided, however, that the term of office of the chairman or member chosen to fill a vacancy shall be the remaining term of office of his/her predecessor.

Article 8 (Service of the Chairman and Members, etc.)

- (1) Two of the members shall be part-time members.

- (2) The chairman and members, during their term of office, shall not be officers of political parties or other political organizations or actively participate in political activities.
- (3) The chairman and full-time members, during their term of office, shall not engage in other duties while receiving remuneration, engage in commercial businesses or carry out any other business for monetary gain, except in such cases as permitted by the Minister of Justice.
- (4) The remuneration of the chairman and members shall be specified by an Act.

#### Article 9 (Dismissal of the Chairman and Members)

- (1) The Minister of Justice shall dismiss the chairman or a member from office, if the chairman or member receives an order for commencement of bankruptcy proceedings or is sentenced to imprisonment without work or a greater punishment.
- (2) The Minister of Justice, after obtaining the consent of both Houses of the Diet, may dismiss the chairman or a member from office when he/she finds that person is incapable of executing his/her duties due to a mental or physical disorder or has committed a violation of his/her obligations in the course of his/her duties or an act unbecoming of the chairman or member of the Commission.
- (3) In a case where three or more persons out of the chairman and members of the Commission belong to the same political party, the Minister of Justice, after obtaining the consent of both Houses of the Diet, shall dismiss the chairman or members so that only two persons belong to the same political party.
- (4) The provision of the preceding paragraph shall not affect the position of the chairman or a member who has not changed his/her political status in regard to party affiliation.

#### Article 10 (Chairman)

- (1) The chairman shall preside over the affairs of the Commission and represent the Commission.
- (2) Should the chairman be incapacitated, a full-time member shall perform the duties of the chairman in such order as prescribed by the chairman in advance.

#### Article 11 (Meetings etc.)

- (1) The meetings of the Commission shall be convened by the chairman.
- (2) The Commission shall not convene a meeting or pass any resolutions unless the chairman and the majority of the members are present.
- (3) The decision of the Commission shall be made by the majority of those present and, in the case of a tie, the chairman shall break the tie.
- (4) The research carried out by the Commission within its authority, or the

proceedings for the examination as provided for in item (ii), paragraph (2) of Article 4 may be carried out by the chairman or a member based on the appointment of the Commission.

- (5) In applying the second paragraph above in the event that the chairman is incapacitated the full-time member who performs the duties of the chairman pursuant to the provision of paragraph (2) of the preceding Article shall be deemed to be the chairman.

#### Article 12 (Hearing)

- (1) The Commission may, if deemed necessary during the course of research of matters within the affairs under its jurisdiction, summon and hear from concerned persons as provided for by the Ordinance of the Ministry of Justice.
- (2) If a person, who fails to comply with the summons pursuant to the provision of the preceding paragraph, is summoned once again pursuant to the provision of the preceding paragraph and fails to appear at a summons without justifiable grounds, the person shall be punished by a non-penal fine of not more than 100,000 yen.
- (3) Travel expenses, a daily allowance and accommodation charges shall be paid to those persons who comply with the summons pursuant to the provision of paragraph (1) as provided for by the Cabinet Order; provided, however, that this shall not apply to persons who refuse to make a statement without justifiable grounds.

#### Article 13 (Request for Submission of Records, etc.)

The Commission may, if deemed necessary during the course of research of matters within the affairs under its jurisdiction, request the court, the public prosecutor, the warden of the penal institution, the superintendent of the juvenile training school, the superintendent of the women's guidance home, the Regional Parole Board or the director of the probation office to submit records, documents, written opinions and written reports.

#### Article 14 (Request for Cooperation)

The Commission may request public agencies, schools, hospitals, organizations relating to public health and welfare and other persons to provide necessary cooperation for the purpose of performing the affairs under its jurisdiction.

#### Article 15 (Delegation to the Cabinet Order)

In addition to what is provided for in Article 4 through Article 11, matters necessary for the organization of the Commission shall be prescribed by the Cabinet Order.

### **Section 3 Regional Parole Boards**

#### Article 16 (Affairs under the Jurisdiction)

The Regional Parole Board (hereinafter referred to as "Regional Board") shall take charge of the following affairs:

- (i) Permitting release on parole or revoke the disposition as the government agency under Article 28 of the Penal Code (Act No. 45 of 1907);
- (ii) Permitting provisional release as the government agency under Article 30 of the Penal Code;
- (iii) Permitting release on parole or discharge from a juvenile training school;
- (iv) Applying for a decision concerning persons released on parole from a juvenile training school to return the parolee to the juvenile training school and commit him/her;
- (v) Disposing so that the punishment rendered pursuant to the provisions of paragraphs (1) and (2) of Article 52 of the Juvenile Act (Act No. 168 of 1948) (hereinafter referred to as "indeterminate sentence") is deemed to have been executed and terminated;
- (vi) Suspending probation provisionally or revoke the disposition as the government agency under paragraph (2) of Article 25-2 of the Penal Code;
- (vii) Permitting release on parole from the women's guidance home or revoke the disposition;
- (viii) Supervising the affairs of the probation office;
- (ix) In addition to what is listed in each of the preceding items, dealing with the matters that are caused to belong to its authority by this Act or other Acts.

#### Article 17 (Organization of the Regional Board)

The Regional Board shall be composed of more than three persons but less than the number prescribed by the Cabinet Order.

#### Article 18 (Term of Office of the Members of the Board)

The term of office of the members of the Board shall be three years.

#### Article 19 (Chairman)

- (1) The Regional Board shall have a chairman. The chairman shall be appointed by the Minister of Justice from among the members of the Board.
- (2) The chairman shall preside over the affairs of the Board and represent the Regional Board.
- (3) Should the chairman be incapacitated, a member shall perform the duties of the chairman in such order as prescribed by the chairman in advance.

Article 20 (Secretariat)

- (1) A secretariat for the Regional Board shall be established.
- (2) The internal organization of the secretariat shall be prescribed by the Ordinance of the Ministry of Justice.

Article 21 (Board Meetings)

- (1) The affairs under the jurisdiction of the Regional Board shall be disposed of by a resolution of a meeting composed of all the Board members except in cases where the authority of the Board is exercised by a council composed of three Board members pursuant to the provision of paragraph (1) of Article 23 or where there exists a special provision in other laws and regulations.
- (2) The meeting set forth in the preceding paragraph shall be convened by the chairman.
- (3) The meeting under paragraph (1) shall not open a meeting or pass any resolutions unless the majority of the members of the Board are present.
- (4) The decision of the meeting under paragraph (1) shall be made by the majority of those present and, in the case of a tie, the chairman shall break the tie; provided, however, that if the number of persons present is two in a Regional Board composed of less than five members, such decision shall be made through accordance of their opinions.

Article 22 (Application, Mutatis Mutandis of the Provisions Concerning a Request for the Submission of Records, etc.)

Provisions of Article 13 shall apply mutatis mutandis to the research by the Board under paragraph (1) of the preceding Article. In this case, the term ", the Regional Parole Board or the director of the probation office" in Article 13 shall be deemed to be replaced with "and the director of the probation office".

Article 23 (Council)

- (1) The Regional Board shall exercise its authority by a council composed of three Board members with respect to the following matters:
  - (i) Dispositions to be made by a decision pursuant to the provisions of this Act or other acts;
  - (ii) Judgment on the commencement of examinations pursuant to the provision of paragraph (1) of Article 35 (including the cases where applied mutatis mutandis pursuant to Article 42 and paragraph (4) of Article 25 of the Anti-Prostitution Act (Act No. 118 of 1956));
  - (iii) Judgment on the recommencement of examinations pursuant to the provision of paragraph (4) of Article 39 (including the cases where applied mutatis mutandis pursuant to Article 42 and paragraph (4) of Article 25 of the

Anti-Prostitution Act);

- (iv) Applications pursuant to the provision of Article 71.
- (2) The decision of the council set forth in the preceding paragraph shall be made by the majority of its members.
- (3) The council under paragraph (1) may have its members or probation officers carry out the research to be carried out by it within its authority.

#### Article 24 (Examination by the Council)

The council under paragraph (1) of the preceding Article shall hold examinations to judge for whether or not the disposition listed in item (i) of said paragraph or an application listed in item (iv) of said paragraph should be made.

#### Article 25 (Research During the Course of the Examinations)

- (1) The council under paragraph (1) of Article 23 may, if deemed necessary in the examinations of the preceding Article, carry out research by interviewing persons who are regarded as the subject of examinations (hereinafter referred to as "person subject to examination"), questioning concerned persons and using other methods.
- (2) When a person carrying out the research set forth in the preceding paragraph carries out the research at a place other than his/her office, he/she shall carry his/her identification card and produce it when requested by concerned persons.
- (3) The provisions of Article 12 and Article 13 shall apply mutatis mutandis to the research under paragraph (1). In this case, the term "the Regional Parole Board or the director of the probation office" in the Articles shall be deemed to be replaced with "and the director of the probation office".
- (4) The summons and hearing pursuant to the provision of paragraph (1) of Article 12 as applied mutatis mutandis pursuant to the preceding paragraph shall not be conducted by probation officers notwithstanding the provision of paragraph (3) of Article 23.

#### Article 26 (Written Ruling)

The decision of the council under paragraph (1) of Article 23 shall be made by preparing a written ruling.

#### Article 27 (Notification of the Decision)

- (1) The decision under the preceding Article shall become effective by notifying the same to the person who is regarded as the subject of said decision.
- (2) The notification of the decision set forth in the preceding paragraph shall be made by rendering said decision, or by sending a certified copy of the written ruling by means considered to be suitable, to the person who is regarded as the subject of said decision: provided, however, that, in urgent cases, the means



specified by the Ordinance of the Ministry of Justice may be used.

- (3) In cases where the person who is regarded as the subject of the decision under paragraph (1) is committed in a penal institution or detained in a workhouse or is committed in a juvenile training school or a women's guidance home, if the certified copy of the written ruling is sent to the warden of the penal institution (or, if such person is detained in a workhouse, the penal institution to which said workhouse is attached), the superintendent of the juvenile training school or the chief of the women's guidance home, it shall be deemed that the certified copy of the written ruling has been sent to the person who is the subject of said decision.
- (4) When a certified copy of a written ruling is sent to a residence in which resides a person who is regarded as the subject of the decision under paragraph (1) pursuant to the provision of item (iv) of Article 50 (including the cases where applied mutatis mutandis pursuant to paragraph (2) of Article 26 of the Anti-Prostitution Act) (if a specific place to stay is specified for the person pursuant to item (v) of paragraph (2) of Article 51 (including the cases where applied mutatis mutandis pursuant to paragraph (2) of Article 26 of said Act), said place) by registered mail or by entrustment to correspondence delivery services as provided for in paragraph (2) of Article 2 of the Act Concerning the Delivery of Correspondence by Vendors in the Private Sector (Act No. 99 of 2002) that are provided by a general correspondence delivery vendor as provided for in paragraph (6) of said Article or by a specified correspondence delivery vendor as provided for in paragraph (9) of said Article and are specified by the Minister of Justice as being similar to registered mail, a certified copy of said decision shall be deemed to have been sent to the person who is regarded as the subject of said decision on the day on which five days elapse from the day of sending the same.

Article 28 (Application, Mutatis Mutandis of the Provision Concerning Requests for Cooperation)

The provisions of Article 14 shall apply mutatis mutandis to the Regional Board.

#### **Section 4 Probation Offices**

Article 29 (Affairs under the Jurisdiction)

The probation office shall take charge of the following affairs:

- (i) Conducting probation as provided for by this Act and the Anti-Prostitution Act;
- (ii) For the purpose of ensuring crime prevention, enlightening the public, making efforts for improvement of the social environment and promoting the activities of the local residents;
- (iii) In addition to what are listed in the preceding two items, dealing with the matters that are caused to belong to its authority by this Act or other Acts.

Article 30 (Requests for Cooperation, etc.)

The director of a probation office may request public agencies, schools, hospitals, organizations relating to public health and welfare and other persons to provide necessary assistance and cooperation for the purpose of performing the affairs under its jurisdiction.

**Section 5 Probation Officers and Volunteer Probation Officers**

Article 31 (Probation Officers)

- (1) Probation officers shall be established in the secretariat of the Regional Board and the probation office.
- (2) Based on medicine, psychology, pedagogy, sociology and other expert knowledge relating to rehabilitation, probation officers shall engage in the work of probation, research, coordination of the social circumstances and other work relating to the rehabilitation of persons who have committed crimes and juvenile delinquents, and the prevention of crime.

Article 32 (Volunteer Probation Officers)

Volunteer probation officers shall supplement the work not covered sufficiently by probation officers, being instructed and supervised by the Regional Board or the director of the probation office, based on the provisions specified in the Volunteer Probation Officers Act (Act No. 204 of 1950), and shall engage in affairs under the jurisdiction of the Regional Board or the probation office.

**Chapter II Parole, etc.**

**Section 1 Parole and Provisional Release**

Article 33 (Notification of Elapse of the Statutory Period)

When the period specified in Article 28 of the Penal Code or in paragraph (1) of Article 58 of the Juvenile Act has elapsed with regard to a person committed for the execution of punishment of imprisonment with or without work, the warden of the penal institution or the superintendent of the juvenile training school shall notify the Regional Board of such circumstances.

Article 34 (Proposals for Parole and Provisional Release)

- (1) If the warden of the penal institution or the superintendent of the juvenile training school recognizes that the period set forth in the preceding Article has elapsed with regard to a person committed for the execution of punishment of

imprisonment with or without work and that such person falls under the standard prescribed by the Ordinance of the Ministry of Justice, he/she shall submit a proposal to the Regional Board to the effect that the parole should be permitted for such person.

- (2) If the warden of the penal institution recognizes that the person, who is committed for the execution of punishment of misdemeanor imprisonment without work or who is detained in a workhouse, falls under the standard prescribed by the Ordinance of the Ministry of Justice, he/she shall submit a proposal to the Regional Board to the effect that provisional release should be permitted for such person.

Article 35 (Commencement of Examinations, etc. without the Submission of a Proposal)

- (1) The Regional Board may commence examinations for whether or not the parole or provisional release should be permitted without the submission of the proposal under the preceding Article if it is deemed necessary.
- (2) When the Regional Board commences examinations pursuant to the provision of the preceding paragraph, it shall hear the opinion in advance of the warden of the penal institution (or, if the person is detained in a workhouse, the penal institution to which said workhouse is attached) or the superintendent of the juvenile training school where the person who is the subject of the examination is committed.

Article 36

- (1) The Regional Board may, if deemed necessary to judge whether or not examinations should be commenced pursuant to the provision of paragraph (1) of the preceding Article, carry out research by interviewing the person who is the subject of the examinations, questioning concerned persons and using other methods.
- (2) If the Regional Board carries out the research set forth in the preceding paragraph, it may collect useful information from the staff of the penal institution (or, if the person is detained in a workhouse, the penal institution to which said workhouse is attached) or the juvenile training school where the person who is regarded as the subject of the examination is committed and may ask them to attend the interview or provide other cooperation.
- (3) The provisions of Article 13 and paragraph (2) of Article 25 shall apply mutatis mutandis to the research under paragraph (1). In this case, the term ", the Regional Parole Board or the director of the probation office" in Article 13 shall be deemed to be replaced with "and the director of the probation office".

Article 37 (Interviews, etc. by Board Members in Parole Examinations)

- (1) In examinations for whether or not parole should be permitted, the Regional Board shall have its constituting Board members interview the person subject to examination; provided, however, that this shall not apply to cases in which it is recognized that the severe illness or injury of such person makes the interview difficult or cases in which it is recognized that an interview in the case in question is prescribed by the Ordinance of the Ministry of Justice as being unnecessary.
- (2) The Regional Board may, if deemed necessary in examinations for whether or not parole should be permitted, ask the director of the probation office to carry out the coordination of the social circumstances pursuant to the provision of Article 82 with regard to the person subject to examination with respect to specified items.
- (3) The provisions of paragraph (2) of the preceding Article shall apply mutatis mutandis to the research in examinations for whether or not parole should be permitted.

#### Article 38 (Hearing of victims' Opinions in Parole Examinations)

- (1) The Regional Board shall, as provided for by the Ordinance of the Ministry of Justice, hear the opinions or feelings of the victims (those persons who have suffered damage as a result of the crimes which are the grounds for the punishment rendered to the person subject to examination, hereinafter referred to as "victims", including their statutory agents or in the case of the victim's death or their suffering from severe mental or physical disorders, their spouse, lineal relatives or siblings) regarding the parole of the person subject to examination and regarding sentiment on damage by the crimes whenever, in its deliberation period, victims ask this of the Board. The Regional Board however has the discretion not to hear from victims when it finds that there is good reason to consider that hearing from them is not appropriate, in light of the nature of the case, the circumstances of the parole examinations and other related circumstances.
- (2) The Regional Board may, in conducting the victims' hearing process set forth in the preceding paragraph, commission the following work to the director of the probation office which has jurisdiction over the victims' residence: acceptance of applications by the victims and any work which is considered necessary in order to conduct the hearing more efficiently.

#### Article 39 (Disposition permitting parole and provisional release)

- (1) The disposition to permit parole pursuant to the provision of Article 28 of the Penal Code and the disposition to permit provisional release pursuant to the provision of Article 30 of said Code shall be implemented by the decision of the Regional Board.
- (2) When the Regional Board implements a disposition to permit parole or provisional release, it shall specify the day on which the release is to be

implemented.

- (3) When the Regional Board implements the disposition to permit parole, it shall specify the residence in which the person for whom the parole is permitted is to reside based on the results of the adjustment of residence pursuant to the provision of Article 82 except for cases in which a specific place to stay is specified pursuant to the provision of item (v) of paragraph (2) of Article 51 or any specific circumstances exist.
- (4) If, after the Regional Board renders a decision under paragraph (1), it considers that a person for whom a decision has been rendered has engaged in an act prejudicial to the discipline and order of a penal institution, or substantial changes in the planned residence after release, employment or other social circumstances factors or any specific circumstances have occurred which make the Board consider that release is not suitable, prior to the release, it shall resume examinations for whether or not the parole or provisional release is to be permitted. In this case, said decision shall cease to be effective.
- (5) The provisions of Article 36 shall apply mutatis mutandis to the judgment on resumption of the examinations pursuant to the provision of the preceding paragraph.

#### Article 40 (Probation during parole)

A person for whom release on parole is permitted shall be under probation during the period of the parole.

### **Section 2 Release on parole from a Juvenile Training School**

#### Article 41 (Disposition permitting release on parole)

If the Regional Board recognizes, with regard to a person committed in a juvenile training school for the execution of protective measures, that the person has reached the highest stage of treatment, that it is suitable for such person's improvement and rehabilitation to have the person released provisionally and that it is specially necessary for improvement and rehabilitation to have the person released provisionally, it shall permit the release on parole by its decision.

#### Article 42 (Application, Mutatis Mutandis)

The provisions of Article 35 to Article 38, paragraph (2) to paragraph (5) of Article 39 and Article 40 shall apply mutatis mutandis to the release on parole from the juvenile training school. In this case, the term "the preceding Article" in paragraph (1) of Article 35 shall be deemed to be replaced with "paragraph (2) of Article 12 of the Juvenile Training Schools Act" (Act No. 169 of 1948)" and the term "punishment" in paragraph (1) of Article 38 shall be deemed to be replaced with "protective

measures" and "crimes" with "crimes or acts violating criminal laws and regulations".

### **Section 3 Termination of Executions of Indeterminate Sentences of Inmates**

Article 43 (Proposal for Termination of Executions of Indeterminate Sentences for Persons Committed in Penal Institutions, etc.)

If the warden of the penal institution or the superintendent of the juvenile training school considers, with regard to a person committed for the execution of an indeterminate sentence, that the short term of the sentence has terminated and that it is suitable to terminate execution of the sentence, he/she shall submit a proposal to the Regional Board to the effect that the person should be treated as having completed execution of the sentence.

Article 44 (Dispositions for Termination of Execution of Indeterminate Sentences for Persons Committed in Penal Institutions, etc.)

- (1) When the Regional Board finds it suitable to terminate execution of the sentence when the proposal under the preceding Article has been submitted for the person specified in said Article, it shall dispose by its decision that execution of the sentence has been completed with regard to the person.
- (2) When the Regional Board renders the decision set forth in the preceding paragraph, it shall promptly notify the warden of the penal institution or the superintendent of the juvenile training school in which the person who is the subject of said decision is committed of such circumstance in writing and shall deliver a certificate indicating that said decision is rendered to the person to whom the decision is rendered.
- (3) The term of the sentence for the person who is the subject of the decision under paragraph (1) shall terminate on the day when the notice set forth in the preceding paragraph reaches the penal institution or the juvenile training school.

Article 45 (Application, Mutatis Mutandis)

The provisions of Article 37 shall apply mutatis mutandis to the examinations for whether or not the decision under paragraph (1) of the preceding Article should be made.

### **Section 4 Release of Inmates**

Article 46 (Disposition permitting release for persons committed in juvenile training schools)

- (1) If, when a proposal of the superintendent of the juvenile training school is submitted, the Regional Board recognizes, with regard to a person committed in a

juvenile training school for the execution of protective measures, that release is suitable (or that, with regard to a person who is 23 years of age or older and who has been committed in a juvenile training school, the person no longer falls under the circumstances specified in paragraph (5) of Article 11 of the Juvenile Training Schools Act" (Act No. 169 of 1948) or that release is suitable on other grounds), it shall permit the release by its decision.

- (2) When the Regional Board renders the decision set forth in the preceding paragraph, it shall deliver a certificate indicating that said decision is rendered to the person to whom the decision is rendered.

#### Article 47 (Application, Mutatis Mutandis)

The provisions of Article 37 shall apply mutatis mutandis to the examinations for whether or not the decision under paragraph (1) of the preceding Article should be made.

### **Chapter III Probation**

#### **Section 1 General Rules**

#### Article 48 (Probationers and Parolees)

The implementation of probation for the following persons (hereinafter referred to as "probationers and parolees") shall be governed by the provision of this Chapter:

- (i) Persons under the protective measures specified in item (i) of paragraph (1) of Article 24 of the Juvenile Act (hereinafter referred to as "juvenile under probation");
- (ii) Persons for whom release on parole from the juvenile training school is permitted and who are under probation pursuant to the provision of Article 40, as applied mutatis mutandis pursuant to Article 42 (hereinafter referred to as "parolee from the juvenile training school");
- (iii) Persons for whom release on parole is permitted and who are under probation pursuant to the provision of Article 40 (hereinafter referred to as "parolee from the penal institution");
- (iv) Persons under probation pursuant to the provision of paragraph (1) of Article 25-2 of the Penal Code (hereinafter referred to as "person under probation with suspension of execution of the sentence").

#### Article 49 (Implementation Method for Probation)

- (1) Probation shall be implemented for the purpose of ensuring the improvement and rehabilitation of the probationers and parolees by conducting the instruction and supervision provided for in Article 57 and the guidance and assistance provided for

in Article 58.

- (2) The probation with regard to the juvenile under probation or the parolee from the juvenile training school shall be implemented by taking the purpose of the protective measures into consideration and by expecting sound nurturing of the person in question.

#### Article 50 (General Conditions)

The probationers and parolees shall comply with the following matters (hereinafter referred to as "general conditions").

- (i) Maintaining a sound attitude towards life so that he/she does not re-offend or so that delinquency is eliminated;
- (ii) Observing the following matters and undergoing the instruction and supervision of probation officers and volunteer probation officers sincerely:
  - (a) If he/she is summoned or receives a visit from probation officers or volunteer probation officers, he/she shall respond to such summons or visit and undergo an interview;
  - (b) If he/she is requested by probation officers or volunteer probation officers to clarify facts that show the actual conditions of life such as the state of work or attendance at school, the state of income or expenditure, the family environment, associates and other factors which need to be understood by the officers in order to conduct the instruction and supervision, he/she shall respond to such request, shall declare such facts or present materials relating to those facts.
- (iii) If he/she is put under probation, he/she shall choose a residence promptly and shall notify the director of the probation office with jurisdiction over the place (except for cases in which the residence is specified pursuant to the provision of paragraph (3) of Article 39 (including the cases where applied mutatis mutandis pursuant to Article 42; the same shall apply in the immediately following item) and a specific place to stay is specified pursuant to the provision of item (v) of paragraph (2) of the immediately following Article).
- (iv) Residing in the residence given in the notification of the preceding item (if the residence is specified pursuant to the provision of paragraph (3) of Article 39, said residence, if a change of residence is permitted pursuant to the immediately following item, the residence pertaining to said permission) (except for cases where a specific place to stay is specified pursuant to the provision of item (v) of paragraph (2) of the immediately following Article).
- (v) If he/she intends to change the residence or travel for more than seven days, he/she shall obtain permission from the director of the probation office in advance.



#### Article 51 (Special Conditions)

- (1) If, in addition to the general conditions, special matters to be complied with are specified (hereinafter referred to as "special conditions"), the probationers and parolees shall comply with those conditions.
- (2) The special conditions shall be specified as provided for by the immediately following Article, in concrete terms within the scope as a violation of the special conditions may possibly result in the disposition provided for in paragraph (1) of Article 72, Article 26-2 and paragraph (1) of Article 29 of the Penal Code and paragraph (1) of Article 26-4 of the Juvenile Act, specially necessary for improvement and rehabilitation of the probationers and parolees with respect to the following matters:
  - (i) Not engaging in specific acts that could lead to crimes or delinquency such as association with persons of a criminal nature, wandering around disreputable places, reckless expenditures for pleasure, excessive alcohol consumption or others;
  - (ii) Performing or continuing to perform specific acts that are considered necessary to maintain a sound attitude towards life free from the possibility of re-offending or delinquency such as to engaging in work, going to school or others;
  - (iii) Notifying probation officers or volunteer probation officers in advance, except in cases of emergency, of specific matters relating to the lifestyle or status that are considered specially important to be understood by them in advance in order to conduct the instruction and supervision, such as travel for less than seven days, quitting a job, changes in status or others;
  - (iv) Receiving the treatment specified by the Minister of Justice as treatment of a systematic procedure to improve specific criminal tendencies based on medicine, psychology, pedagogy, sociology and other expert knowledge;
  - (v) Staying in facilities designated by the Minister of Justice, the residences of persons who are to care for the probationers and parolees or other specific places that are considered suitable for improvement and rehabilitation and are offered as a place to stay for a prescribed period, and undergoing the instruction and supervision;
  - (vi) Other matters specially necessary to conduct the instruction and supervision.

#### Article 52 (Establishment and Changes in Special Conditions)

- (1) The director of the probation office may establish special conditions for the juvenile under probation by a hearing, and on the basis of, the opinion of the family court that renders the protective measure under item (i) of paragraph (1) of Article 24 of the Juvenile Act as provided for by the Ordinance of the Ministry of Justice. The same shall apply when he/she intends to change them.
- (2) The Regional Board may establish special conditions for the parolee from the

juvenile training school or the parolee from the penal institution on the basis of a proposal submitted by the director of the probation office by its decision as provided for by the Ordinance of the Ministry of Justice. The same shall apply when it intends to change them on the basis of a proposal submitted by the director of the probation office.

- (3) If, in the case referred to in the preceding paragraph, the Regional Board intends to establish or change the special conditions prior to the time of release by a decision to permit the release on parole from the penal institution or parole from the juvenile training school, the submission of a proposal by the director of the probation office shall not be necessary.
- (4) At the time of commencing the probation, the director of the probation office may establish special conditions for the person under probation with suspension of execution of the sentence by a hearing, and on the basis of the opinion of the court which rendered that the person should be put on probation pursuant to the provision of paragraph (1) of Article 25-2 of the Penal Code, as provided for by the Ordinance of the Ministry of Justice.
- (5) In addition to the case set forth in the preceding paragraph, the director of the probation office may establish or change the special conditions for the person under probation with suspension of execution of the sentence by presenting the contents, and necessary materials, the special conditions that he/she intends to establish or change to, and by hearing the opinion of the district court, family court or summary court having jurisdiction over the place where the probation office is located as provided for by the Ordinance of the Ministry of Justice; provided, however, that this shall not apply to the special conditions for which such court expresses its opinion to the effect that they are not suitable.

#### Article 53 (Revocation of Special Conditions)

- (1) When the director of the probation office finds that the special conditions specified for the juvenile under probation or the person under probation with suspension of execution of the sentence are no longer necessary, he/she shall revoke them as provided for by the Ordinance of the Ministry of Justice.
- (2) When the Regional Board finds that the special conditions specified for the parolee from the juvenile training school or the parolee from the penal institution are no longer necessary on the basis of the proposal submitted by the director of the probation office, it shall revoke them by its decision as provided for by the Ordinance of the Ministry of Justice.
- (3) The provisions of paragraph (3) of the preceding Article shall apply mutatis mutandis to cases in which the special conditions are revoked pursuant to the provision of the preceding paragraph.

Article 54 (Notice of General Conditions)

- (1) When the protective measure under item (i), paragraph (1) of Article 24 of the Juvenile Act is rendered, or when the pronouncement to put the person in question on the probation is made pursuant to the provision of paragraph (1) of Article 25-2 of the Penal Code, the director of the probation office shall deliver a document describing the contents of the general conditions to the juvenile under probation or the person under probation with suspension of execution of the sentence as provided for by the Ordinance of the Ministry of Justice.
- (2) If the warden of the penal institution or the superintendent of the juvenile training school releases persons who have been committed for the execution of imprisonment with or without work, or of protective measures by a decision pursuant to the provision of paragraph (1) of Article 39 or Article 41, he/she shall deliver a document describing the contents of the general conditions to such persons as provided for by the Ordinance of the Ministry of Justice.

Article 55 (Notice of Special Conditions)

- (1) When special conditions are established or changed for the probationers and parolees, the director of the probation office shall deliver a document describing the contents of such special conditions to such probationers and parolees as provided for by the Ordinance of the Ministry of Justice; provided, however, that this shall not apply to the cases specified in the immediately following paragraph.
- (2) If special conditions are established for persons who have been committed for the execution of imprisonment with or without work, or of protective measures prior to the time of release by the decision pursuant to the provision of paragraph (1) of Article 39 or Article 41, the warden of the penal institution or the superintendent of the juvenile training school shall deliver a document describing the contents of such special conditions (if they are changed by the time of release, those after the change) to such persons at the time of release as provided for by the Ordinance of the Ministry of Justice; provided, however, that this shall not apply if such special conditions have been revoked by the time of such release.

Article 56 (Life and Conduct Guideline)

- (1) The director of the probation office may, if deemed necessary in conducting the instruction and supervision of the probation suitably for the probationers and parolees, establish guidelines for life and conduct that contributes to the improvement and rehabilitation of such probationers and parolees (hereinafter referred to as "life and conduct guidelines", as provided for by the Ordinance of the Ministry of Justice.
- (2) When the director of the probation office establishes the life and conduct guidelines pursuant to the provision of the immediately preceding paragraph,

he/she shall deliver a document describing the contents of such life and conduct guidelines to the probationers and parolees as provided for by the Ordinance of the Ministry of Justice.

- (3) When the life and conduct guidelines are established pursuant to the provision of paragraph (1), the probationers and parolees shall endeavor to live their lives and conduct themselves in accordance with the guidelines.

#### Article 57 (Manner of Instruction and Supervision)

- (1) The instruction and supervision during the probation shall be conducted in the following manner:
- (i) Maintaining contact with the probationers and parolees through interviews or other suitable methods to understand their behavior;
  - (ii) Giving necessary instructions or take other measures to ensure that the probationers and parolees live their lives and conduct themselves complying with the general conditions and the special conditions (hereinafter referred to as "conditions") and in accordance with the life and conduct guidelines;
  - (iii) Implementing professional treatment to improve specific criminal tendencies.
- (2) The director of the probation office may, if deemed specially necessary in conducting the instruction and supervision set forth in the immediately preceding paragraph suitably, offer accommodation to the probationers and parolees for said instruction and supervision.

#### Article 58 (Manner of Guidance and Assistance)

The guidance and assistance during the probation shall be conducted in the following manner to enable the probationers and parolees to live an independent life based on their own responsibility for self-help:

- (i) Assisting them so that they can obtain a suitable residence or other accommodation and assisting them so that they can return and live in such accommodation;
- (ii) Assisting them so that they can receive medical care and medical treatment;
- (iii) Helping them to obtain employment, giving them vocational guidance;
- (iv) Assisting them so that they can obtain the means for cultural education and training;
- (v) Improving and coordinating their social circumstances;
- (vi) Teaching them the life skills necessary to adapt themselves to social life;
- (vii) In addition to those matters that are listed in the respective preceding items, giving such advice or taking such measures as are necessary for the probationers and parolees to live a sound social life.

#### Article 59 (Measures for Parents and Guardians)

The director of the probation office may, if deemed necessary, give guidance or advice, or take other suitable measures for parents and guardians (who shall be the parents and guardians specified in paragraph (2) of Article 2 of the Juvenile Act) of juveniles under probation (who shall be limited to the juveniles specified in paragraph (1) of said Article, being the juvenile under probation or the parolee from the juvenile training school) for the purpose of having them realize their responsibility regarding the care of such juveniles and to contribute to the improvement and rehabilitation of the juveniles.

#### Article 60 (Jurisdiction of Probation)

The probation office having jurisdiction over the place of residence (current place or last known place of residence or location, if the residence does not exist or is unknown) of the probationers and parolees shall take charge of the probation.

#### Article 61 (Executor of Probation)

- (1) The instruction and supervision and the guidance and assistance during the probation shall be conducted by probation officers or volunteer probation officers considering the characteristics of the probationers and parolees, contents of the measures to be taken and other circumstances into consideration.
- (2) The guidance and assistance set forth in the preceding paragraph may be conducted through commission to persons running rehabilitation services or other suitable persons pursuant to the provisions of the Offenders Rehabilitation Services Act (Act No. 86 of 1995), if it is considered effective and suitable for ensuring the improvement and rehabilitation of the probationers and parolees.

#### Article 62 (Urgent Aid)

- (1) If there is the possibility that the improvement and rehabilitation of the probationers and parolees may be hampered as they cannot obtain the necessary means to live a sound social life such as proper medical care, meals, a residence or other necessities, the director of the probation office shall assist them so that such probationers and parolees are able to receive the necessary urgent aid within the scope of such purposes from public health and welfare organizations and other organizations.
- (2) If necessary urgent aid cannot be obtained through the assistance pursuant to the provision of the preceding paragraph, the director of the probation office shall provide such assistance himself/herself within the scope of the budget.
- (3) The aid set forth in the preceding paragraph may be performed through commission to persons running rehabilitation services or other suitable persons pursuant to the provisions of the Offenders Rehabilitation Services Act.
- (4) When the director of the probation office considers measures pursuant to the

provisions of paragraphs (1) or (2), he/she shall pay due consideration so that the self-awareness of the probationers and parolees of their responsibility for self-help is not hampered.

#### Article 63 (Order of Summons and Apprehension)

- (1) The Regional Board or the director of the probation office may, if deemed necessary in performing its or his/her duty, order the probationers and parolees to be summoned.
- (2) If the director of the probation office considers that the probationers and parolees fall under any of the following items, he/she may apprehend such probationers and parolees to appear by a warrant of arrest issued by a judge in advance;
  - (i) If they fail to live in a residence specified in item (iv) of Article 50 (or, if a specific place to stay is specified pursuant to the provision of item (v) of paragraph (2) of Article 51, but they fail to stay in said place) without justifiable grounds;
  - (ii) If there exist sufficient grounds to suspect that they have not abided by the conditions and they have not obeyed or are likely not to obey the order of summons pursuant to the provision of the preceding paragraph without justifiable grounds;
- (3) If the Regional Board considers that the parolee from the juvenile training school or the parolee from penal institution falls under any of the items set forth in the preceding paragraph, it may apprehend such parolee from the juvenile training school or such parolee from the penal institution and have him/her appear by a warrant of arrest issued by a judge in advance;
- (4) The warrant of arrest under paragraph (2) shall be issued based on the request of the director of the probation office, and the warrant of arrest set forth in the preceding paragraph shall be issued based on the request of the Regional Board, by a judge of the district court, the family court or the summary court having jurisdiction over the location of the director of the probation office or the Regional Board in question.
- (5) The warrant of arrest under paragraph (2) or (3) may be issued by an assistant judge him/herself.
- (6) The warrant of arrest under paragraph (2) or (3) shall be executed by probation officers; provided, however, that if it is difficult to get probation officers to execute it, its execution may be commissioned to police officials.
- (7) The provisions of Article 64, the first sentence of paragraph (1) and paragraph (3) of Article 73, Article 74, the main clause of paragraph (1) and paragraph (2) (which shall be limited to the part relating to subpoenas) of Article 76 of the Code of Criminal Procedure (Act No. 131 of 1948) shall apply mutatis mutandis to the warrant of arrest under paragraph (2) or (3) and the apprehending of the

probationers and parolees pursuant to the provisions of these paragraphs. In this case, the terms "the crime, a summary of the charged facts" in paragraph (1) of Article 64 of said Code, "a summary of the charged facts" in paragraph (3) of Article 73 of said Code, and "a summary of the charged facts, that he/she has the right to appoint counsel, and that, when he/she is unable to appoint counsel him/herself because of indigence or other reasons, he/she is entitled to request the court to appoint counsel instead" shall be deemed to be replaced with "the reason for apprehending", the terms "the presiding judge or the commissioned judge" in paragraph (1) of Article 64 of said Code shall be deemed to be replaced with "the judge", the term "penal institution" in Article 74 of said Code shall be deemed to be replaced with "penal institution or juvenile classification home", the term "a judge of a collegiate panel or a court clerk" in paragraph (2) of Article 76 of said Code shall be deemed to be replaced with "a Board member or a probation officer if apprehended by the Regional Parole Board or a probation officer if apprehended by the director of the probation office".

- (8) Persons apprehended by the warrant of arrest under paragraph (2) or (3) shall be released within twenty-four hours after such persons have been taken to the place where they are to be apprehended; provided, however, that this shall not apply if such persons are detained pursuant to the provisions of paragraph (1) of Article 73, paragraph (1) of Article 76 or paragraph (1) of Article 80 within such hours.
- (9) The order pursuant to the provisions of paragraph (1), the judgment pertaining to the apprehension pursuant to the provisions of paragraph (3) and the judgment pertaining to the release pursuant to the provisions of the main clause of the preceding paragraph carried out by the Regional Board shall be conducted by a council composed of three Board members (or, after the examinations for whether or not the application pursuant to the provisions of Article 71 should be made, whether or not the decision pursuant to the provisions of paragraph (1) of Article 75 should be made or whether or not the decision pursuant to the provisions of paragraph (5) of Article 81 should be made commence, the council taking charge of such examinations); provided, however, that, in a case requiring urgency, the judgment of the Regional Board pertaining to the release pursuant to the provision of the main clause of the preceding paragraph may be made by one Board member designated by the Regional Board in advance.
- (10) The provisions of Article 13, paragraph (3) of Article 23 and paragraphs (1) and (2) of Article 25 shall apply mutatis mutandis to the research by the council or Board members for measures pursuant to the provision of the preceding paragraph, and the provision of paragraph (2) of Article 23 shall apply mutatis mutandis to the decision of the council set forth in the preceding paragraph, respectively. In this case, the terms ", the Regional Parole Board or the director of the probation office" in Article 13 shall be deemed to be replaced with "or the

director of the probation office".

#### Article 64 (Examination for Probation)

- (1) The director of the probation office may, if deemed necessary in the examination for the probation, ask questions and request relevant persons to submit materials.
- (2) Asking of questions and requests for materials to be submitted pursuant to the provision of the preceding paragraph shall be performed by probation officers or volunteer probation officers.
- (3) The provision of paragraph (2) of Article 25 shall apply mutatis mutandis to the asking of questions and requests for materials to be submitted pursuant to the provision of paragraph (1).

#### Article 65 (Communication of Victims' Sentiments to Probationers)

- (1) The director of the probation office shall, as provided for by the Ordinance of the Ministry of Justice, hear the sentiments of the victims (including the victims' current situation and their opinion toward their offenders' life or behavior, hereinafter referred to as "feelings"), whenever victims ask this of him/her, in the course of the relevant probationer's supervision period, and communicate such feelings to the probationers. The director of the probation office, however, has the discretion not to communicate the feelings to the probationers when he/she finds that there is a reasonable possibility that the communication may hinder the probationers from rehabilitation or it is not appropriate in light of the nature of the case or further administration of their supervision. The term "victims" in this paragraph, includes their statutory agents or in the case of the victim's death or their suffering from a severe mental or physical disorder, their spouse, lineal relatives or siblings.
- (2) The director of the probation office may, in conducting the communication set forth in the preceding paragraph, commission the following work to the director of another probation office which has jurisdiction over the victim's residence: the acceptance of the application by the victims and any work which is considered necessary in order to hear the feelings more efficiently. Before the director of the probation office decides that he/she will not communicate the victims' feelings toward the probationers, he/she should hear, in advance, the other director's opinion on the decision.

### **Section 2 Juveniles under Probation**

#### Article 66 (Period of Protective Measures under Item (i) of Paragraph (1) of Article 24 of the Juvenile Act)

The period of probation for the juvenile under probation shall be until said juvenile



under probation reaches 20 years of age (or for two years, if the period is shorter than two years); provided, however, that if the period of probation is specified pursuant to the provision of paragraph (3) of Article 68, the period of the probation shall be such period.

Article 67 (Warnings and Applications for Decisions under Paragraph (1) of Article 26-4 of the Juvenile Act)

- (1) When the director of the probation office finds that the juvenile under probation has failed to comply with the conditions, he/she may issue warnings to such juvenile under probation to comply with such conditions.
- (2) When the director of the probation office finds that the juvenile under probation who received the warnings set forth in the preceding paragraph has still failed to comply with the conditions and that the degree of failure is serious, he/she may apply for the decision under paragraph (1) of Article 26-4 of the Juvenile Act.

Article 68 (Notification, etc. to the Family Court)

- (1) When the director of the probation office finds that the juvenile under probation has any of the circumstances listed in item (iii) of paragraph (1) of Article 3 of the Juvenile Act, he/she may notify the family court of such circumstances.
- (2) If the notification pursuant to the provision of the preceding paragraph is made, and if the juvenile under probation pertaining to said notification is 20 years or older, such juvenile shall be deemed to be a juvenile under paragraph (1) of Article 2 of the Juvenile Act, and the provision of Chapter II of said Act shall apply.
- (3) When the family court renders the protective measure under item (i) or (iii) of paragraph (1) of Article 24 of the Juvenile Act to the juvenile under probation who shall be deemed to be the juvenile under paragraph (1) of Article 2 of said Act pursuant to the provision of the preceding paragraph, it shall specify, concurrently with the decision of the protective measure, the period of probation or the period in which such juvenile is to be committed in a juvenile training school within a period before the juvenile reaches 23 years of age.

Article 69 (Early Discharge from Probation)

When the director of the probation office finds that it is no longer necessary to continue probation for the juvenile under probation, he/she shall discontinue the probation.

Article 70 (Temporary Discharge from Probation)

- (1) If the director of the probation office considers that will contribute to the improvement and rehabilitation of the juvenile under probation, he/she may temporarily suspend the probation by specifying a period.

- (2) With respect to the juvenile under probation for whom the probation is temporarily suspended pursuant to the provision of the preceding paragraph, the provisions of Article 49, Articles 51 through 59, Article 61, Article 62, Article 65, Article 67 and Article 68 shall not apply.
- (3) With respect to the application of the provisions of Article 50 and Article 63 for the juvenile under probation for whom probation is temporarily suspended pursuant to the provision of paragraph (1), the term "hereinafter referred to as "general conditions" in Article 50 shall be deemed to be replaced with "excluding matters listed in item (ii)(b) and item (iii)", and the term "observe the following matters and undergo the instruction and supervision of probation officers and volunteer probation officers sincerely" in item (ii) of said Article shall be deemed to be replaced with "observe the following matters", and the term "change the residence or travel for more than seven days" in item (v) of said Article shall be deemed to be replaced with "change the residence", and the term "the conditions" in item (ii) of paragraph (2) of Article 63 shall be deemed to be replaced with "matters listed in Article 50 as applied by being deemed to be replaced pursuant to the provision of paragraph (3) of Article 70".
- (4) When the disposition pursuant to the provision of paragraph (1) is made, the special conditions specified for the juvenile under probation to whom such disposition is made shall be deemed to have been revoked concurrently with such disposition.
- (5) The director of the probation office shall, if deemed necessary to commence the probation once again for the juvenile under probation for whom the probation is temporarily suspended pursuant to the provision of paragraph (1), revoke the disposition pursuant to the provision of said paragraph.
- (6) In the case referred to in the preceding paragraph, the director of the probation office shall not issue a warning pursuant to the provision of paragraph (1) of Article 67 nor apply for a decision pursuant to the provision of paragraph (2) of said Article by reason of the failure by the juvenile under probation to comply with the conditions listed in Article 50 as applied by being deemed to be replaced pursuant to the provision of paragraph (3) during the period when the probation is temporarily suspended for the juvenile in question pursuant to the provision of paragraph (1).

### **Section 3 Parolees from Juvenile Training Schools**

#### **Article 71 (Application for Returning Commitment to a Juvenile Training School)**

When the Regional Board finds that the parolee from the juvenile training school has failed to comply with the conditions, it may apply to the family court that has referred the parolee from the juvenile training school to the juvenile training school

for a decision to return the parolee to the juvenile training school and commit him/her based on a proposal made by the director of the probation office; provided, however, that, with respect to a parolee from the juvenile training school who has reached 23 years of age, such application may only be made when it finds that the parolee falls under the reasons specified in paragraph (5) of Article 11 of the Juvenile Training Schools Act.

#### Article 72 (Decision for Returning Commitment to the Juvenile Training School)

- (1) When the family court that receives the application under the preceding Article finds that it is appropriate for the parolee from the juvenile training school pertaining to said application, it may render a decision to return the parolee to the juvenile training school and commit him/her there.
- (2) The family court may, if deemed necessary, when it renders the decision set forth in the preceding paragraph, to commit the parolee from the juvenile training school who is under 23 years of age after he/she has reached 20 years of age, specify, concurrently with said decision, the period for which such parolee is to be committed in the juvenile training school within a period before such parolee reaches 23 years of age. If such parolee has already reached 20 years of age, the family court shall specify, concurrently with said decision, the period for which such parolee is to be committed in the juvenile training school within a period before the parolee reaches 23 years of age.
- (3) When the family court renders the decision under paragraph (1) for a parolee from the juvenile training school who has reached 23 years of age, it shall specify, concurrently with said decision, the period for which such parolee is to be committed in the juvenile training school within a period before such parolee reaches 26 years of age.
- (4) When the family court holds proceedings for a case pertaining to the decision under paragraph (1), it shall hear the opinion of persons with knowledge of medicine, psychology, pedagogy, sociology and other expert knowledge and of the director of the probation office.
- (5) In addition to those matters that are specified in the preceding three paragraphs, the procedure for the case pertaining to the decision under paragraph (1) shall be governed by the procedure for the case pertaining to the protective measures of juveniles so long as such procedure does not against its nature.

#### Article 73 (Detention)

- (1) When a proposal under Article 71 is made for a parolee from the juvenile training school who is apprehended by a warrant of arrest under paragraph (2) or (3) of Article 63 and the Regional Board commences examinations for whether or not it will submit an application pursuant to the provision of said Article 71, it may

detain the parolee from the juvenile training school in a penal institution or a juvenile classification home.

- (2) The period of detention pursuant to the provision of the preceding paragraph shall be within ten days from the day on which the parolee from the juvenile training school is apprehended to the place for apprehension; provided, however, that when the Regional Board finds that detention is no longer necessary, it shall release the parolee immediately even during the period.
- (3) If the application pursuant to the provision of Article 71 is made for the parolee from the juvenile training school who is detained pursuant to the provision of paragraph (1), the Regional Board may continue to detain the parolee, notwithstanding the provisions set forth in the preceding paragraph, until a notice of decision pertaining to said application comes from the family court or until measures for protection under item (ii) of paragraph (1) of Article 17 of the Juvenile Act are taken; provided, however, that the period of detention shall not exceed twenty days in total.
- (4) The detention pursuant to the provision of paragraph (1) and the judgment on release pursuant to the provision of the proviso of paragraph (2) shall be conducted by a council composed of three Board members (or, after the examinations for whether or not the application pursuant to the provisions of Article 71 should be made, the council taking charge of such examinations); provided, however, that, in a case requiring urgency, such detention or judgment may be conducted by one Board member designated by the Regional Board in advance.
- (5) The provisions of Article 13, paragraph (3) of Article 23 and paragraphs (1) and (2) of Article 25 shall apply mutatis mutandis to the research by the council or Board members for the measures specified in the preceding paragraph, and the provisions of paragraph (2) of Article 23 shall apply mutatis mutandis to the decision by the council set forth in the preceding paragraph, respectively. In this case, the term ", the Regional Parole Board or the director of the probation office" in Article 13 shall be deemed to be replaced with "and the director of the probation office".
- (6) No appeal may be entered against the detention pursuant to the provision of paragraph (1) pursuant to the Administrative Appeal Act.

#### Article 74 (Disposition Permitting Discharge from Parolee from the Juvenile Training School)

- (1) If, when a proposal of the director of the probation office is submitted, the Regional Board recognizes, with regard to the parolee from the juvenile training school, that it is no longer necessary to continue the probation (or that, with regard to the parolee from the juvenile training school who is 23 years of age or older, such parolee no longer falls under the circumstance specified in paragraph

- (5) of Article 11 of the Juvenile Training Schools Act or it is no longer necessary to continue the probation), it shall permit discharge from parole by its decision.
- (2) The provision of paragraph (2) of Article 46 shall apply mutatis mutandis to the decision set forth in the preceding paragraph.

#### **Section 4 Parolees**

##### Article 75 (Revocation of Parole)

- (1) The revocation of parole pursuant to the provision of paragraph (1) of Article 29 of the Penal Code shall be made by the Regional Board with jurisdiction over the location of the probation office which is in charge of probation for the parolee by its decision.
- (2) The decision set forth in the preceding paragraph by reason of the parolee in question falling under item (iv) of paragraph (1) of Article 29 of the Penal Code shall be made on the basis of a proposal from the director of the probation office.
- (3) The provisions of Articles 484 through 489 of the Code of Criminal Procedure shall apply to the commitment of a person for whom the parole is revoked.

##### Article 76 (Detention)

- (1) If a parolee apprehended by a warrant of arrest under paragraph (2) or (3) of Article 63 falls under items (i) through (iii) of paragraph (1) of Article 29 of the Penal Code and if the Regional Board considers it necessary to commence examinations for whether or not the decision under paragraph (1) of the preceding Article should be made or, when a proposal under paragraph (2) of said Article is submitted, it commences examinations for such proposal, it may detain such parolee in a penal institution or juvenile classification home.
- (2) When a parolee is detained pursuant to the provision of the preceding paragraph, and if the parole of the person is revoked, the number of days in detention shall be included in the term of sentence notwithstanding the provision of paragraph (2) of Article 29 of the Penal Code.
- (3) The provisions of paragraph (2) and paragraphs (4) through (6) of Article 73 shall apply mutatis mutandis to the detention pursuant to the provision of paragraph (1). In this case, the term "the application pursuant to the provisions of Article 71" in paragraph (4) of said Article shall be deemed to be replaced with "the decision under paragraph (1) of Article 75".

##### Article 77 (Suspension of Probation)

- (1) If the Regional Board considers, based on the proposal of the director of the probation office, that the probation can no longer be conducted as the whereabouts of the parolee is unknown, it may suspend the probation by its decision.

- (2) If the whereabouts of the parolee for whom the probation is suspended pursuant to the provision of the preceding paragraph becomes known, the Regional Board with jurisdiction over the location of such whereabouts shall cancel the suspension immediately by its decision.
- (3) In a case requiring urgency, the decision set forth in the preceding paragraph may be made by one Board member notwithstanding the provision of paragraph (1) of Article 23.
- (4) If the parolee for whom the probation is suspended pursuant to the provision of paragraph (1) is apprehended by a warrant of arrest under paragraph (2) or (3) of Article 63, it shall be deemed that the decision under paragraph (2) has been made.
- (5) The term of sentence of the parolee shall be suspended by the decision under paragraph (1) and shall commence from the time of the decision under paragraph (2).
- (6) The Regional Board may not revoke parole by reason of the parolee failing to comply with the conditions during the period when the probation was suspended pursuant to the provision of paragraph (1).
- (7) If, after the Regional Board makes a decision under paragraph (1), it is found that the suspension of the probation has no grounds, it shall revoke the decision under said paragraph by its decision.
- (8) The provision of paragraph (5) shall not apply to the computation of the term of sentence of the parolee if the decision under paragraph (1) is revoked pursuant to the provision of the preceding paragraph.

#### Article 78 (Termination of Executions of Indeterminate Sentences of Parolees)

- (1) If the Regional Board considers, with respect to a person who is sentenced to an indeterminate sentence and for whom parole is permitted and the short term of the sentence terminates prior to or during the parole, that it is suitable to terminate execution of the sentence based on a proposal from the director of the probation office, it shall dispose by its decision that execution of the sentence has been completed with regard to the person notwithstanding the provision of paragraph (2) of Article 59 of the Juvenile Act.
- (2) The provision of paragraph (2) of Article 46 shall apply mutatis mutandis to the decision set forth in the preceding paragraph.

### **Section 5 Persons under Probation with Suspension of Execution of the Sentence**

#### Article 79 (Proposal to the Public Prosecutor)

If the director of the probation office considers, with respect to the person under

probation with suspension of execution of the sentence, that the rendition of suspension of execution of the sentence should be revoked pursuant to the provision of item (ii) of Article 26-2 of the Penal Code, he/she shall submit a proposal in writing to the public prosecutor of the public prosecutors office corresponding to the district court, the family court or the summary court specified in paragraph (1) of Article 349 of the Code of Criminal Procedure.

#### Article 80 (Detention)

- (1) If the director of the probation office considers, with respect to the person under probation with suspension of execution of the sentence who is apprehended by a warrant of arrest under paragraph (2) of Article 63, that it is necessary to commence proceedings on whether or not to submit the proposal under the preceding Article, he/she may detain such person under probation with suspension of execution of the sentence in a penal institution or juvenile classification home.
- (2) The period of detention pursuant to the provision of the preceding paragraph shall be within ten days from the day on which the person under probation with suspension of execution of the sentence is apprehended in the place of apprehension; provided, however, that if it becomes no longer necessary to submit the proposal under the preceding Article, or if it becomes obvious that the public prosecutor will not make the demand under paragraph (1) of Article 349 of the Code of Criminal Procedure or otherwise the detention becomes no longer necessary, such person under probation with suspension of execution of the sentence shall be released immediately even during the period.
- (3) If the demand under paragraph (1) of Article 349 of the Code of Criminal Procedure is made for the person under probation with suspension of execution of the sentence, who is detained pursuant to the provision of paragraph (1), the director of the probation office may continue to detain such person, notwithstanding the provisions set forth in the preceding paragraph, until a notification of the decision under paragraph (1) of Article 349-2 of said Code is delivered; provided, however, that the period of detention shall not exceed twenty days in total.
- (4) If the demand for an oral argument pursuant to the provision of paragraph (2) of Article 349-2 of the Code of Criminal Procedure is submitted, the court may extend the period set forth in the proviso of the preceding paragraph, by its decision, for only ten days. In this case, the notification of the decision shall be governed by the notification of the decision in said Code.
- (5) If the decision specified in paragraph (3) is to revoke the rendition of suspension of execution of the sentence of the person under probation with suspension of execution of the sentence, the director of the probation office may continue to detain such person, notwithstanding the provision of said paragraph until the

decision becomes final and binding.

- (6) When the person under probation with suspension of execution of the sentence is detained pursuant to the provision of paragraph (1), and if the rendition of suspension of execution of the sentence of the person is revoked, the number of days in detention shall be included in the term of sentence.
- (7) The provision of paragraph (6) of Article 73 shall apply mutatis mutandis to the detention pursuant to the provision of paragraph (1).

#### Article 81 (Provisional Discharge from Probation)

- (1) The disposition to provisionally suspend probation pursuant to the provision of paragraph (2) of Article 25-2 of the Penal Code shall be made by the Regional Board by its decision based on a proposal from the director of the probation office.
- (2) With respect to the person under probation with suspension of execution of the sentence for whom the probation is provisionally suspended pursuant to the provision of paragraph (2) of Article 25-2 of the Penal Code, the provisions of Article 49, Articles 51 through 58, Article 61, Article 62, Article 65, Article 79 and the preceding Article shall not apply.
- (3) With respect to the application of provisions of Article 50 and Article 63 for the person under probation with suspension of execution of the sentence for whom the probation is provisionally suspended pursuant to the provision of paragraph (2) of Article 25-2 of the Penal Code, the term "hereinafter referred to as "general conditions" in Article 50 shall be deemed to be replaced with "excluding matters listed in item (ii)(b) and item (iii)", and the term "observe the following matters and to undergo the instruction and supervision of probation officers and volunteer probation officers sincerely" in item (ii) of said Article shall be deemed to be replaced with "observe the following matters", and the term "change the residence or travel for more than seven days" in item (v) of said Article shall be deemed to be replaced with "change the residence", and the term "the conditions" in item (ii) of paragraph (2) of Article 63 shall be deemed to be replaced with "matters listed in Article 50 as applied by being deemed to be replaced pursuant to the provision of paragraph (3) of Article 81".
- (4) When the disposition pursuant to the provision of paragraph (1) is made, the special conditions specified for the person under probation with suspension of execution of the sentence to whom such disposition is made shall be deemed to have been revoked concurrently with such disposition.
- (5) If, when a proposal of the director of the probation office is submitted, the Regional Board considers, with respect to the person under probation with suspension of execution of the sentence for whom the probation is provisionally suspended pursuant to the provision of paragraph (2) of Article 25-2 of the Penal Code, that it is necessary to commence the probation once again taking the



behavior of such person into consideration, it shall revoke the disposition pursuant to the provision of said paragraph by its decision.

#### **Chapter IV Coordination of the Social Circumstances**

##### **Article 82 (Coordination of the Social Circumstances for Inmates)**

The director of the probation office shall, if deemed necessary, with respect to persons committed in a penal institution for execution of the sentence or persons committed in a juvenile training school for execution of the sentence or protective measures, for their smooth reintegration into society, coordinate their social circumstances such as the residence and place of work after release or other matters by visiting family members of such persons or other relevant person to request their cooperation or by other methods.

##### **Article 83 (Coordination of the Social Circumstances Prior to Suspension of Execution of the Sentence with Probation Becoming Final and Binding)**

The director of the probation office may, if deemed necessary, with respect to persons who are rendered a sentence to be placed under probation pursuant to the provision of paragraph (1) of Article 25-2 of the Penal Code and whose sentence has not yet become final and binding, in order to commence their probation smoothly, coordinate, upon obtaining their consent, their social circumstances such as the residence and the place of work or other matters by the method specified in the preceding Article.

##### **Article 84 (Application, Mutatis Mutandis)**

The provision of paragraph (1) of Article 61 shall apply mutatis mutandis to the measures specified in the preceding two Articles.

#### **Chapter V Urgent Aftercare of Discharged Offenders, etc.**

##### **Section 1 Urgent Aftercare of Discharged Offenders**

##### **Article 85 (Urgent Aftercare of Discharged Offenders)**

(1)The term "urgent aftercare of discharged offenders" as used in this section means assisting the following persons to become sound members of society willing to comply with laws and protecting their prompt improvement and rehabilitation, when it is considered that such persons, after they are released from physical restraint administered by penal procedures or protective measures, will not be able to receive assistance from relatives or medical care, lodgings, employment or other protection measures from public health and welfare organizations or other

organizations, or will not be able to improve and rehabilitate themselves with only such assistance or protection, by providing them with or lending them money or goods, offering them accommodation, aiding them to return and live in their place of stay, to receive medical care or medical treatment, to obtain employment or cultural education and training, giving them vocational guidance, and teaching them the life skills necessary to adapt themselves, helping them improve their circumstances and assisting them in coordinating to their circumstances.

- (i) Persons for whom execution of the sentence of imprisonment with or without work, or of penal detention has been completed;
  - (ii) Persons who have obtained remission of execution of the sentence of imprisonment with work or without work, or of penal detention;
  - (iii) Persons for whom suspension of execution of the sentence of imprisonment with or without work has been rendered but such sentence has not become final and binding;
  - (iv) In addition to the persons listed in the preceding items, persons for whom suspension of execution of the sentence of imprisonment with or without work has been rendered and who have not been placed under probation;
  - (v) Persons who have received a disposition of non-institution of prosecution because prosecution is unnecessary;
  - (vi) Persons who have received a judgment of a fine or petty fine;
  - (vii) Persons who have been discharged or provisionally released from a workhouse;
  - (viii) Persons who have been discharged or released on parole from a juvenile training school (excluding persons who are placed under probation);
- (2) Urgent aftercare of discharged offenders shall be performed on the responsibility of the government to the extent necessary for improvement and rehabilitation of the subject person.
- (3) Urgent aftercare of discharged offenders shall be performed by the director of the probation office him/herself or by commission to any person who operates offenders rehabilitation services or other suitable persons pursuant to the provisions of the Offenders Rehabilitation Services Act.
- (4) Urgent aftercare of discharged offenders shall be performed within a period not exceeding six months after the subject person has been released from physical restraint administered by penal procedures or protective measures and only in cases where the provision of such services is not against the intent of such person; provided, however, that if it is considered specially necessary in protecting the improvement and rehabilitation of the subject person, such services may be further performed within a period not exceeding six months.
- (5) When the urgent aftercare of discharged offenders is carried out, mediation shall be ensured so that the subject person may receive necessary protection from public health and welfare organizations or other organizations, and efforts shall be made

to enhance the efficiency of the urgent aftercare of discharged offenders and to shorten the period and to save costs.

- (6) If it is deemed that mediation for employment is necessary in connection with the urgent aftercare of discharged offenders, the public employment security office shall make efforts, upon obtaining the cooperation of the persons who engage in the urgent aftercare of the discharged offenders, to arrange employment suited to the capability of the subject person of the urgent aftercare of discharged offenders pursuant to the provisions of the Employment Security Act (Act No. 141 of 1947).

#### Article 86 (Commencement, etc. of the Urgent Aftercare of Discharged Offenders)

- (1) The urgent aftercare of discharged offenders shall be performed only when the director of the probation office deems it necessary on the basis of a petition submitted by persons listed in the respective items of paragraph (1) of the preceding Article.
- (2) When the public prosecutor, the warden of the penal institution or the superintendent of the juvenile training school finds necessary when he/she releases persons listed in the respective items of paragraph (1) of the preceding Article from physical restraint administered by penal procedures or protective measures, he/she shall instruct such person on the system and the procedure for the petition of the urgent aftercare of discharged offenders provided for in this section.
- (3) When the director of the probation office judges whether or not it is necessary to perform the urgent aftercare of discharged offenders, he/she shall hear the opinion of the public prosecutor who is involved in the penal procedures of the person who has submitted the petition, or of the warden of the penal institution (or, if the person is detained in a workhouse, the penal institution to which said workhouse is attached) or the superintendent of the juvenile training school in which the person is committed; provided, however, that this shall not apply to persons who come to fall under item (i) of paragraph (1) of the preceding Article as a result of expiration of the period of parole or persons who come to fall under item (viii) of said paragraph as a result of the termination of release on parole.

#### Article 87 (Payment of Costs)

- (1) The government shall pay the costs incurred by the commission pursuant to the provision of paragraph (3) of Article 85 in accordance with the standards that the Minister of Justice specifies upon consultation with the Minister of Finance.
- (2) The commission prescribed in the preceding paragraph shall be performed within the scope in which the amount paid by the government pursuant to the provision of said paragraph does not exceed the amount of the budget.

### **Section 2 Measures for Persons under Stay of Execution of Sentence**

## Article 88

When the director of the probation office is required by the public prosecutor with respect to the person for whom execution of the sentence is stayed pursuant to the provisions of Article 480 or Article 482 of the Code of Criminal Procedure, he/she may provide the instruction and supervision, the guidance and assistance and urgent aid that he/she deems appropriate or may take measures to assist such person as governed by the provisions of paragraph (1) (excluding items (ii) and (iii)) of Article 57, Article 58, Article 61 and Article 62.

## **Chapter VI Recommendation for Pardon**

### Article 89 (Recommendation for Pardon)

The recommendation by the Commission specified in Article 12 of the Pardon Act (Act No. 20 of 1947) shall be made to the Minister of Justice.

### Article 90 (Research, etc. for Recommendation)

- (1) When the Commission makes the recommendation under the preceding Article, it shall perform necessary research in advance in respect of the character or behavior of the subject person of the recommendation, the likelihood of committing illegal acts, social sentiments toward such person and other matters.
- (2) When the Commission makes the recommendation for a special pardon, commutation of the sentence or remission of execution of the sentence with respect to a person committed in a penal institution or juvenile training school or detained in a workhouse, it shall consider whether or not such person is suited to being released without threatening the safety and order of society.

## **Chapter VII Applications for Examinations, etc.**

### **Section 1 Exclusion from Application of the Administrative Procedure Act**

#### Article 91

The provisions of Chapters II through IV of the Administrative Procedure Act (Act No. 88 of 1993) shall not apply to dispositions and administrative guidance pursuant to the provisions of this Act.

### **Section 2 Applications for Examinations**

#### Article 92 (Applications for Examinations)

Persons who are dissatisfied with the dispositions made by the Regional Board by

its decision pursuant to the provisions of this Act may file an application for examination with the Commission pursuant to the Administrative Appeal Act.

#### Article 93 (Submission of a Written Application for Examination)

- (1) The application for examination with respect to a person committed in a penal institution, a person detained in a workhouse or a person committed in a juvenile training school may be made by submitting a written application for examination to the warden of the penal institution (or, if the person is detained in a workhouse, the penal institution to which said workhouse is attached; the same shall apply in this Article) or the superintendent of the juvenile training school.
- (2) When the warden of the penal institution or the superintendent of the juvenile training school receives the submission of a written application for examination pursuant to the provision of the preceding paragraph, he/she shall send the original copy of the written application for examination to the Commission and a duplicate copy to the Regional Board immediately.
- (3) With respect to calculation of the period for the application for examination pursuant to the provision of Article 14 of the Administrative Appeal Act in the case of paragraph (1), the application for examination shall be deemed to have been made at the time when the written application for examination was submitted to the warden of the penal institution or the superintendent of the juvenile training school.

#### Article 94 (Stay of Execution)

With respect to application of the provision of paragraph (3) of Article 34 of the Administrative Appeal Act, the term ", upon hearing the opinion of the administrative agency ordering the disposition" in the main clause of said paragraph shall be "or ex officio", and the term "effect of disposition, execution of disposition or continuation of procedure" in the proviso of said paragraph shall be "execution of disposition".

#### Article 95 (Period for Determination)

The Commission shall render a determination within sixty days from the day of receiving the application for examination.

#### Article 96 (Relation between Applications for Examinations and Lawsuits)

An action for revocation of the disposition rendered by the Regional Board by its decision pursuant to the provision of this Act shall not be instituted unless the determination on the application for examination on said disposition has been rendered.

## Chapter VIII Miscellaneous Provisions

### Article 97 (Preservation, etc. of Records)

- (1) The Commission shall preserve the records of recommendations made by it for a special pardon, commutation of a sentence with respect to a specific person, remission of execution of sentence and restoration of rights with respect to a specific person, and the Regional Board shall preserve the records of proceedings and decisions pertaining to dispositions that are prescribed, pursuant to the provisions of this Act, to be made by a decision respectively as provided for by the Cabinet Order.
- (2) When a request is made by a person to inspect the records set forth in the preceding paragraph, the Commission and the Regional Board shall make such records available for inspection to such person; provided, however, that they may refuse the inspection when such inspection could impede improvement or rehabilitation of the subject persons of the recommendations under said paragraph or proceedings or could harm the fame or peaceful existence of the persons concerned.

### Article 98 (Collection of Costs)

- (1) The director of the probation office shall collect the costs required for the commission pursuant to the provision of paragraph (2) of Article 61 (including cases which are deemed to be governed by such provisions pursuant to the provision of Article 88) and the urgent aid pursuant to the provision of paragraph (2) of Article 62 (including cases which are deemed to be governed by such provisions pursuant to the provision of Article 88) and the costs under paragraph (1) of Article 87 from persons who have received measures requiring such costs or persons under obligation to support them; provided, however, that this shall not apply when the director of the probation office finds that they are unable to pay such costs.
- (2) The collection of costs pursuant to the provision of the preceding paragraph may be commissioned to the municipality (including special wards; the same shall apply hereinafter) of the place of residence, or the place where assets are located, of the person from whom the costs are to be collected.
- (3) When the government has commissioned collection of the costs to the municipality pursuant to the provision of the preceding paragraph, it shall deliver an amount equivalent to four-one hundreds (4/100) of the collected amount to such municipality.
- (4) Affairs that are deemed to be processed by the municipality pursuant to the provision of paragraph (2) shall be the item (i) statutory entrusted affairs specified in item (i) of paragraph (9) of Article 2 of the Local Autonomy Act (Act No. 67 of

1947).

#### Article 99 (Delegation to an Ordinance)

In addition to those items provided for in this Act, other matters necessary for the enforcement of this Act shall also be provided for by the Ordinance of the Ministry of Justice.

### **Supplementary Provisions**

#### Article 1 (Effective Date)

This Act shall come into effect as from the day provided for in the Cabinet Order within a period not exceeding one year counting from the date of promulgation; provided, however, that the provisions listed in the following items shall come into effect as from the day provided for in said respective items:

- (i) The provisions of Article 16, Article 19, Article 20 and Article 24 of the Supplementary Provisions - the day provided for in the Cabinet Order within a period not exceeding six months counting from the date of promulgation;
- (ii) The provisions of Article 59, Article 67, paragraph (6) of Article 70 and paragraph (2) of Article 11, Article 14 and Article 28 of the Supplementary Provisions - the day of enforcement of this Act, or the day of enforcement of the Act to Amend a Part of the Juvenile Act (Act No. 68 of 2007, which is referred to as the "Act Partially Amending the Juvenile Act, etc." in Article 11 of the Supplementary Provisions), whichever is later.