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This English translation of the National Public Service Act has been prepared (up to the revisions of Act No. 50 of 2006 (Effective May 24, 2006)) in compliance with the Standard Bilingual Dictionary (March 2006 edition).

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## National Public Service Act (Act No. 120 of 1947)

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## **Chapter 1 General Provisions**

### Article 1 (Purpose and Effect of this Act)

- (1) The purpose of this Act is to establish basic standards (including adequate measures to protect the welfare and interest of officials) which shall be applicable to all officials who are national public servants and by providing that officials shall be so selected and guided through democratic means as to achieve maximum efficiency in the performance of public duties, guarantee citizens democratic and efficient performance of those duties.
- (2) This Act shall provide exclusively for the standards for the administration of the civil service referred to in Article 73 of the Constitution of Japan.
- (3) No person shall intentionally violate or attempt or conspire to violate this Act or orders pursuant to this Act. Further, no person shall intentionally commit or attempt to commit any fraud concerning the enforcement of, or obstruct the enforcement of this Act or orders pursuant to this Act.
- (4) If any provision of this Act loses its effect or the application thereof is held invalid, the remainder of this Act or other applications of such provision shall not be affected.
- (5) If any provision of this Act is inconsistent or in conflict with laws or laws and regulations pursuant to laws in force as of the effective date of this Act, the provisions of this Act shall take precedence.

### Article 2 (Regular and Special Service)

- (1) Positions of the national public servants shall be divided into regular service and special service positions.
- (2) The regular service shall be comprised of all positions of the national public servants other than those belonging to the special service.

- (3) The special service shall be comprised of the official positions listed below:
- (i) The Prime Minister;
  - (ii) Ministers of State;
  - (iii) Commissioners of the National Personnel Authority and Auditors of the Board of Audit;
  - (iv) Director-General of the Cabinet Legislation Bureau;
  - (v) Deputy Chief Cabinet Secretary;
  - (v-ii) Deputy Chief Cabinet Secretary for Crisis Management;
  - (v-iii) Assistant Chief Cabinet Secretary, Cabinet Public Relations Secretary and Director of Cabinet Intelligence;
  - (vi) Special Advisor to the Prime Minister;
  - (vii) Senior Vice-Ministers and Senior Vice-Ministers of agencies whose heads shall be appointed from among the Ministers of State, as provided for by law;
  - (vii-ii) Parliamentary Secretary;
  - (viii) Executive Secretaries to the Prime Minister and other Executive Secretaries to Ministers of State, or Executive Secretaries to heads of agencies included in the special service who are designated by rules of the National Personnel Authority;
  - (ix) Officials who hold positions whose assumption requires an election, or the resolution or consent of one or both Houses of the Diet;
  - (x) Grand Steward, Grand Chamberlain, Grand Master of the Crown Prince's Household, Grand Master of Ceremonies and Deputy Grand Chamberlain of the Imperial Household Agency, and other officials of the Imperial Household Agency designated by law or by rules of the National Personnel Authority;
  - (xi) Ambassadors Extraordinary and Plenipotentiary, Envoys Extraordinary and Ministers Plenipotentiary, Ambassadors on Special Mission, Representatives of the Government, Plenipotentiaries; Acting Representatives of the Government or Alternates of Plenipotentiaries; and Advisors and Members of the Suite of Ambassadors on Special Mission, Representatives of the Government or Plenipotentiaries;
  - (xi-ii) Members of the Japanese National Commission for UNESCO;
  - (xii) Members of the Japan Academy;
  - (xii-ii) Members of the Science Council of Japan;
  - (xiii) Judges and other officials of law courts;
  - (xiv) Diet Officials;
  - (xv) Confidential Secretary to Members of the Diet;
  - (xvi) Officials of the Japan Defense Agency (excluding the members of the council and others, and the conciliator and others, provided for in paragraph 1 of Article 61 of the Defense Agency Establishment Law (Law No. 164 of 1954), who are designated by rules of the National Personnel Authority);

- (xvii) Members of Incorporated Administrative Agencies, designated in paragraph 2 of Article 2 of the Act on General Rules for Independent Administrative Institutions (Law No. 103 of 1999) (hereinafter referred to as "specified independent administrative institutions");
- (xviii) Officers of the Japan Post.
- (4) The provisions of this Act shall apply to all positions belonging to the regular service (hereinafter referred to as "government positions," and those holding such positions will be hereinafter referred to as "officials"). The National Personnel Authority shall have the authority to decide whether a certain position belongs to the service of the national public servants, and whether it belongs to the regular service or the special service as provided for in this Article.
- (5) The provisions of this Act shall not apply to positions belonging to the special service unless otherwise provided for by an amendment of this Act.
- (6) The government shall not pay salary, compensation, or other remuneration in respect of duties performed by persons other than persons in the regular service or the special service.
- (7) The provision of the preceding paragraph shall not apply to contracts between the government or governmental institutions and foreign nationals concluded on an individual basis.

## **Chapter 2 Central Personnel Administrative Agencies**

### Article 3 (National Personnel Authority)

- (1) The National Personnel Authority shall be established under the jurisdiction of the Cabinet. The National Personnel Authority shall report to the Cabinet pursuant to the standards provided for in this Act.
- (2) The National Personnel Authority shall, in accordance with applicable law, have authority over affairs concerning recommendations for improvement in personnel administration as well as in remuneration and other conditions of work; position classification; examination, appointment and dismissal; remuneration; training; change in employment status; disciplinary action; processing of complaints; maintenance of ethics relating to the performance of public duties; and other matters concerning the maintenance of fairness in personnel administration, the protection of the welfare of public officials and the like.
- (3) Within the sphere in which the National Personnel Authority is authorized to act by law, the decisions and dispositions of the National Personnel Authority shall be subject to review only by the National Personnel Authority.
- (4) The provision of the preceding paragraph shall not in any way affect the right to file an action in court on legal matters.

Article 3-2 (National Public Service Ethics Board)

- (1) The National Public Service Ethics Board shall be established within the National Personnel Authority in order to fulfill the maintenance of ethics pertaining to the duties of officials as provided for in paragraph 2 of the preceding Article.
- (2) In addition to what is provided for in this Act, matters concerning the National Public Service Ethics Board shall be governed by the provisions of the National Public Service Ethics Act (Act No. 129 of 1999).

Article 4 (Officials)

- (1) The National Personnel Authority shall be composed of three Commissioners.
- (2) One of the Commissioners shall be appointed as President.
- (3) The National Personnel Authority shall appoint a Secretary-General and other such officials as it deems necessary properly and adequately to execute its duties within the limitations of its budget.
- (4) The National Personnel Authority shall control its own internal organizational structure. The provisions of the National Administrative Organization Act (Act No. 120 of 1948) shall not apply to the National Personnel Authority.

Article 5 (Commissioners of the National Personnel Authority)

- (1) Commissioners of the National Personnel Authority shall be appointed, with the consent of both Houses of the Diet, by the Cabinet from among persons 35 years of age or older, who are of the highest moral character and integrity, in known sympathy with the democratic form of government and efficient administration therein based on merit principles, and possess a wide range of knowledge and sound judgment concerning personnel administration.
- (2) The appointment and dismissal of a Commissioner shall be certified by the Emperor.
- (3) No person falling under any of the following items may be appointed as a Commissioner:
  - (i) A person who has become bankrupt and has not yet had his/her rights restored;
  - (ii) A person who has been punished heavier than imprisonment or who has been punished for committing a crime provided for in Chapter 4;
  - (iii) A person who falls under Item 3 or Item 5 of Article 38.
- (4) No person may be appointed as a Commissioner if he/she is or has been, within five years previous to the proposed date of appointment, an officer, political advisor or other similarly politically influential member of a political party or who, within five years previous to the proposed date of appointment, has been a candidate for national or prefectural elective public office, pursuant to rules of the National

Personnel Authority.

- (5) With respect to the appointment of Commissioners, no two persons among them shall be members of the same political party or graduates of the same department of the same university.

#### Article 6 (Oath Taking and Service Discipline)

- (1) After appointment, a Commissioner shall not execute his/her duty until he/she has signed a written oath before the Chief Justice of the Supreme Court, pursuant to rules of the National Personnel Authority.
- (2) The provisions of Section 7 of Chapter 3 shall apply mutatis mutandis to Commissioners.

#### Article 7 (Term of Office)

- (1) The term of office of a Commissioner shall be four years. However, a Commissioner who is appointed to fill a vacancy shall remain in office for the remaining term of his/her predecessor.
- (2) A Commissioner may be reappointed. However, he/she may not remain in office continuously for a period exceeding 12 years.
- (3) No person who has been a Commissioner may be appointed to a government position other than positions in the National Personnel Authority for one year after leaving his/her position as commissioner.

#### Article 8 (Leaving of Commissioner's Position and Dismissal)

- (1) A Commissioner shall not be dismissed against his/her will except in cases which fall under any of the following items:
  - (i) When he/she falls under any of the items in paragraph 3 of Article 5;
  - (ii) When his/her dismissal has been affirmed by public impeachment proceedings based on a prosecution filed by the Diet;
  - (iii) When he/she has completed his/her term of office and has not been reappointed, or when he/she has been continuously in office as a Commissioner for twelve years.
- (2) The causes for impeachment provided for in item 2 of the preceding paragraph shall be the following:
  - (i) When he/she is unable to perform official duties due to a mental or physical disorder;
  - (ii) When he/she has breached his/her obligation in the course of duties or is guilty of such malfeasance as to render himself/herself unfitting to be a Commissioner.
- (3) In the case when two or more Commissioners belong to the same political party, all of them except one shall be dismissed, with the consent of both Houses of the

Diet, by the Cabinet.

- (4) The provision of the preceding paragraph shall not jeopardize the position of a Commissioner who has not changed his/her political status in regard to party affiliation.

#### Article 9 (Impeachment of Commissioner)

- (1) Impeachment of a Commissioner shall be judged by the Supreme Court.
- (2) When the Diet intends to prosecute an impeachment against a Commissioner, the cause for prosecution shall be submitted to the Supreme Court in writing.
- (3) In the case of the preceding paragraph, the Diet shall send a copy of the document provided for in the same paragraph to the Commissioner pertaining to the prosecution.
- (4) The Supreme Court shall set a date for commencing the trial not less than thirty days and not more than ninety days after receipt of the document set forth in paragraph 2, and notify the Diet and the Commissioner pertaining to the prosecution thirty days prior to that date.
- (5) The Supreme Court shall pronounce judgment within one hundred days from the date of commencing the trial.
- (6) The judgment procedures for impeachment of Commissioners shall be prescribed by rules of court.
- (7) Costs of judgment shall be borne by the national treasury.

#### Article 10 (Remuneration of Commissioners)

The remuneration of Commissioners shall be prescribed separately by law.

#### Article 11 (President of the National Personnel Authority)

- (1) The President of the National Personnel Authority shall be appointed by the Cabinet from among the Commissioners.
- (2) The President shall preside over affairs of the National Personnel Authority and represent the National Personnel Authority.
- (3) When the President is unable to attend to his/her duties or when his/her post is vacant, a senior Commissioner shall act for the President in the performance of his/her duties.

#### Article 12 (Meetings of the National Personnel Authority)

- (1) Regular meetings of the National Personnel Authority shall, as a rule, be held at least once a week at a fixed place, pursuant to rules of the National Personnel Authority.
- (2) The proceedings of the meetings of the National Personnel Authority shall be recorded in its minutes.

- (3) The minutes set forth in the preceding paragraph shall be prepared by the Executive Secretary.
- (4) Necessary matters concerning the proceedings of the administrative affairs of the National Personnel Authority shall be prescribed by rules of the National Personnel Authority.
- (5) The Secretary-General shall be present at the meetings of the National Personnel Authority as Executive Secretary.
- (6) When exercising the powers listed below, the National Personnel Authority shall require a resolution of the National Personnel Authority:
  - (i) Enactment, revision, or repeal of rules of the National Personnel Authority;
  - (ii) Deleted;
  - (iii) Recommendations to the head of the government agency concerned as provided for by Article 22;
  - (iv) Offering of opinions to the Diet and the Cabinet as provided for by Article 23;
  - (v) Report to the Diet and the Cabinet as provided for by Article 24;
  - (vi) Recommendations to the Diet and the Cabinet as provided for by Article 28;
  - (vii) Drafting of a position classification as provided for by Article 29;
  - (viii) Ruling on standards for selection and designation of a selecting body as provided for by Article 36 (including cases where it is applied mutatis mutandis pursuant to the provision of Article 37) ;
  - (ix) Designation of examining bodies as provided for by Article 48;
  - (x) Approval of temporary appointments and renewals thereof, restriction of the number of officials subject to temporary appointment and decisions on their requisite qualifications, and rescission of temporary appointments as provided for by Article 60 (except where provided for by rules of the National Personnel Authority) ;
  - (xi) Drafting of remuneration plans as provided for by Article 63;
  - (xii) Drafting of revisions to remuneration plans as provided for by Article 67;
  - (xiii) Deleted;
  - (xiv) Evaluation of cases as provided for by Article 87;
  - (xv) Evaluation of dispositions as provided for by Article 92;
  - (xvi) Drafting of important matters concerning compensation as provided for by Article 95;
  - (xvii) Decisions on filing of an objection as provided for by Article 103 and reports to the Diet and the Cabinet as provided for by the same Article;
  - (xviii) Offering of opinions to the Diet and the Cabinet as provided for by Article 108;

- (xix) Suspension of the effect of registration of an employee organization and rescission of its registration as provided for by paragraph 6 of Article 108-3;
- (xx) Other matters which, by a resolution of the National Personnel Authority, require a resolution of the National Personnel Authority.

#### Article 13 (Secretariat and Budget)

- (1) The National Personnel Authority shall have a Secretariat and a legal advisor under its jurisdiction.
- (2) The organization of the Secretariat and necessary matters concerning the legal advisor shall be prescribed by rules of the National Personnel Authority.
- (3) The National Personnel Authority shall, prior to the beginning of each fiscal year, submit to the Cabinet for inclusion in the national budget a written request for its necessary expenses for the ensuing fiscal year. Such requests shall cover purchase of land; construction of buildings; rental of offices; purchase of furniture, equipment and supplies; payment of salaries and compensation; together with expenses for all other necessary goods and services.
- (4) In the event the Cabinet desires to revise the request of the National Personnel Authority for expenses so submitted, the request of the National Personnel Authority and the request as revised by the Cabinet shall be submitted to the Diet.
- (5) The National Personnel Authority may establish local offices as it deems necessary with the approval of the Diet.

#### Article 14 (Secretary-General)

The Secretary-General shall be the assistant to the President for the execution of his/her duties and, subject to general supervision of the President, shall direct and supervise all administrative and technical activities of the National Personnel Authority, and plan, recruit, assign and direct officials of the National Personnel Authority. He/she shall act as the Executive Secretary of the meetings of the National Personnel Authority.

#### Article 15 (Prohibition of Officials of the National Personnel Authority from Holding Concurrent Position)

No Commissioner or Secretary-General shall hold concurrently any other government position.

#### Article 16 (Rules and Directives of the National Personnel Authority)

- (1) In order to implement law, or as delegated by law, the National Personnel Authority shall enact rules of the National Personnel Authority, issue directives of the National Personnel Authority and establish procedures concerning affairs

under its jurisdiction. The National Personnel Authority may revise or repeal its rules at any time at its discretion.

- (2) Rules of the National Personnel Authority and their revisions or repeal shall be promulgated in the Official Gazette.
- (3) The National Personnel Authority may issue directives of the National Personnel Authority to implement rules of the National Personnel Authority or take other measures under this Act.

#### Article 17 (Investigation)

- (1) The National Personnel Authority, or any person designated by the National Personnel Authority, may conduct investigations concerning matters relevant to personnel administration under its jurisdiction.
- (2) The National Personnel Authority, or persons designated pursuant to the provision of the preceding paragraph, may, when necessary in conducting the investigations set forth therein, summon witnesses and demand the submission of documents, or copies thereof, found to be pertinent to the matters for investigation.
- (3) The National Personnel Authority, when it finds it necessary for the investigation set forth in paragraph 1 (limited to that conducted with regard to the maintenance of ethics pertaining to the duties of officials), may summon an official who is under investigation to appear and question him/her. The National Personnel Authority may also have the person who is designated pursuant to the provision of paragraph 1, enter the place where the official under investigation works (including the place where he/she has worked before as an official), inspect books and documents and other necessary materials, and question persons concerned.
- (4) A person who enters and inspects pursuant to the provision of the preceding paragraph shall carry a certificate for identification, and show it to the persons concerned when requested.
- (5) The authority concerning the on-site inspection provided for in paragraph 3 shall not be construed as the one authorized for criminal investigation.

#### Article 17-2 (Delegation of Authority to the National Public Service Ethics Board)

The National Personnel Authority shall delegate the authority provided for in the preceding Article (limited to those implemented in regard to the maintenance of ethics pertaining to the duties of officials, and except for the appeals provided for in paragraph 1 of Article 90) to the National Public Service Ethics Board.

#### Article 18 (Control of Payment of Remuneration)

- (1) The National Personnel Authority shall control the payment of remuneration to officials.
- (2) No remuneration shall be paid to officials contrary to rules or directives of the

National Personnel Authority.

Article 18-2 (Prime Minister)

- (1) The Prime Minister shall, in accordance with applicable law, have authority over affairs concerning efficiency, welfare, and service discipline, etc. of officials (except those matters under the jurisdiction of the National Personnel Authority, pursuant to the provision of paragraph 2 of Article 3).
- (2) In addition to those provided for in the preceding paragraph, the Prime Minister shall have authority over affairs concerning coordination and integration necessary for maintaining uniformity in regard to such matters as policies and programs concerning personnel management which are applied by administrative organs with respect to their officials.

Article 19 (Personnel Records)

- (1) The Prime Minister shall administer matters concerning personnel records of the officials.
- (2) The Prime Minister shall prescribe that the Prime Minister's Office as well as ministries and other government agencies prepare and retain personnel records inclusive of all matters related to the personnel affairs of officials of such government agencies.
- (3) The particulars to be entered in personnel records, the form thereof, and other necessary matters concerning personnel records shall be provided for by Cabinet Orders.
- (4) Where it is found that the personnel records prepared and retained by the Prime Minister's Office or any ministry or other government agency contravene Cabinet Orders as provided for in the preceding paragraph, the Prime Minister may order revisions and take such other measures as may be called for.

Article 20 (Statistical Reports)

- (1) The Prime Minister shall, pursuant to the provisions of Cabinet Orders, provide for and implement a system of statistical reporting concerning employment of officials.
- (2) When it is necessary in connection with the statistical reporting set forth in the preceding paragraph, the Prime Minister may require any government agency concerned to give required reports on request or at specified times and in specified forms.

Article 21 (Delegation of Authority)

Of the authority granted pursuant to this Act, the National Personnel Authority or the Prime Minister may delegate certain authority to other government agencies,

pursuant respectively to the provisions of rules of the National Personnel Authority or Cabinet Orders. In such cases, the National Personnel Authority or the Prime Minister may direct and supervise the heads of those agencies in regard to such affairs.

**Article 22 (Recommendations for Improvement of Personnel Administration)**

- (1) The National Personnel Authority may make recommendations to the relevant minister or head of another government agency concerning improvements in personnel administration.
- (2) In the case referred to in the preceding paragraph, the National Personnel Authority shall report thereon to the Cabinet.

**Article 23 (Offer of Opinions on Enactment, Revision or Repeal of Laws and Regulations)**

The National Personnel Authority shall, when, for the realization of the purpose of this Act it has opinions concerning the enactment or revision or repeal of laws and regulations, submit them to the Diet and to the Cabinet simultaneously.

**Article 24 (Report on Business)**

- (1) The National Personnel Authority shall report annually to the Diet and the Cabinet on the state of its business.
- (2) The Cabinet shall make public the report set forth in the preceding paragraph.

**Article 25 (Personnel Managers)**

- (1) The Prime Minister's Office, the ministries and other such government agencies as may be designated by Cabinet Orders, shall have a Personnel Manager as an official of that agency.
- (2) The Personnel Manager shall be the head of the bureau in charge of personnel affairs, and assist the head of the government agency set forth in the preceding paragraph by taking charge of matters pertaining to personnel affairs. In this case, the Personnel Manager shall maintain close liaison and cooperate with the central personnel administrative agencies.

Article 26 Deleted.

**Chapter 3 Standards for Government Positions**

**Section 1 General Rules**

**Article 27 (Principle of Equal Treatment)**

In the application of this Act, all citizens shall be accorded equal treatment and shall not be discriminated against by reason of race, religious faith, sex, social status, family origin, or political opinions or affiliation except as provided for in item 5 of Article 38.

Article 28 (Principle of Meeting Changing Conditions)

- (1) The fundamental matters concerning remuneration, hours of work and other working conditions to be established pursuant to this Act may at any time be changed by the Diet to bring them into accord with general conditions of society. It shall be the duty of the National Personnel Authority to recommend such changes.
- (2) The National Personnel Authority shall report to the Diet and the Cabinet simultaneously on the propriety of the current salary schedules not less than once each year. When it is found that changes in conditions affecting the salary determination require an increase or decrease in salaries provided for in the salary schedules by 5 % or more, the National Personnel Authority, with such report thereon, shall make appropriate recommendations to the Diet and the Cabinet.

**Section 2 Position Classification**

Article 29 (Establishment of Position Classification)

- (1) The position classification shall be prescribed by law.
- (2) The National Personnel Authority shall organize the position classification in accordance with the kinds of duties and by the degrees of complexity of the duties and responsibilities involved.
- (3) Position classification shall be so effected that the same qualifications may be required for and the same schedules of salary may be paid to all government positions in the same classes having the same employment conditions.
- (4) Plans for matters provided for in the preceding three paragraphs shall be submitted to the Diet and its approval obtained.
- (5) The classification of duties as provided for by Article 6 of the Act on Remuneration of Officials in the Regular Service (Act No. 95 of 1950) shall be deemed as being a plan provided for in this Article and other Articles and conforming to what is requested in this Act and shall remain in effect until its revisions are recommended by the National Personnel Authority and enacted by the Diet.

Article 30 (Enforcement of the Position Classification)

- (1) The position classification shall be implemented in stages, commencing first with measures which can be put into effect.
- (2) In addition to those provided for in this Act, matters necessary for the

implementation of the position classification shall be prescribed by rules of the National Personnel Authority.

Article 31 (Grading of Government Positions)

- (1) In enforcing the position classification, the National Personnel Authority shall, pursuant to rules of the National Personnel Authority, assign every government position capable of classification to one of the available classifications.
- (2) The National Personnel Authority shall, pursuant to rules of the National Personnel Authority, re-examine at any time the grading provided for in the preceding paragraph, and revise it, as necessary.

Article 32 (Prohibition of Classification of Government Positions by Means Other than the Position Classification)

In regard to all government positions in the regular service, no classification shall be made other than the position classification.

**Section 3 Examination, Appointment and Dismissal**

Article 33 (Basic Standard for Appointment and Dismissal)

- (1) Appointment of any official shall, pursuant to the provision of this Act and rules of the National Personnel Authority, be made entirely based on the result of his/her examination and the merit of his/her performance of duties or other demonstrated abilities.
- (2) The National Personnel Authority shall at its discretion decide whether the examination shall be an employment examination, a promotional examination, or both.
- (3) Dismissal of an official shall be for a cause as provided for by law.
- (4) In addition to those provided for in this Act, matters necessary for enforcing the basic standard provided for in the preceding three paragraphs shall be prescribed by rules of the National Personnel Authority.

**Subsection 1 General Rules**

Article 34 Deleted.

Article 35 (Method of Filling Vacancies)

When a government position becomes vacant, an appointer, except as otherwise provided for by law or by rules of the National Personnel Authority, may appoint an official by any one of the following methods: employment, promotion, demotion or transfer. This shall not, however, apply to cases where the National Personnel

Authority finds special necessity to designate the method of appointment.

#### Article 36 (Method of Employment)

- (1) Employment of officials shall be made by competitive examination. However, in cases where, with respect to government positions provided for by rules of the National Personnel Authority, the approval of the National Personnel Authority has been obtained, this provision shall not preclude such employment by means of examination based on demonstrated abilities other than by competitive examination (hereinafter referred to as selection).
- (2) The selection specified in the proviso of the preceding paragraph shall be conducted by the National Personnel Authority or a selecting body designated by the National Personnel Authority pursuant to standards provided for by the National Personnel Authority.

#### Article 37 (Method of Promotion)

- (1) Promotion of officials shall be by competitive examination (hereinafter referred to as examination) among incumbents of government positions of lower levels than the government position under consideration. However, the National Personnel Authority may at its discretion restrict the scope of persons to be examined when it finds necessary.
- (2) In cases where, in view of the duties and responsibilities of the government position to which promotion is to be made, the National Personnel Authority finds it inappropriate to hold an examination among the said incumbents, promotion may be made by means of selection based on the past performance of duty of such incumbents.
- (3) The provision of paragraph 2 of the preceding Article shall apply mutatis mutandis to the selection set forth in the preceding paragraph.

#### Article 38 (Provisions for Disqualification)

No person falling under any of the following items shall be eligible to assume a government position except as provided for by rules of the National Personnel Authority:

- (i) An adult ward or a person under guardianship;
- (ii) A person who has been sentenced on account of a crime by imprisonment or more serious punishment, and of whom the execution of the sentence has not been completed or who has not yet ceased to be amenable to the execution of the sentence;
- (iii) A person who was dismissed by disciplinary action and a period of two years has not expired since the day of that disposition;
- (iv) A person who has committed a crime provided for in Articles 109 to 111

inclusive when he/she served as a Commissioner or Secretary-General of the National Personnel Authority, and has been punished;

- (v) A person who, on or after the date of the enforcement of the Constitution of Japan, formed or belonged to a political party or other organization which advocated the overthrow by force of the Constitution of Japan or the government established thereunder.

#### Article 39 (Prohibition of Illegal Acts Concerning Personnel Affairs)

No person shall, for the purpose of realizing any matters listed in any of the following items, pay or receive, offer, solicit, or promise to pay or receive money or other interest, use intimidation, compulsion or other similar method, directly or indirectly utilize or offer, demand or promise to utilize his/her public status, or in any way participate in such acts:

- (i) Leaving of government position or administrative leave, or failure to accept appointment;
- (ii) Revocation of his/her application for examination or appointment, or suspension of competition for appointment;
- (iii) Realizing or recommending appointment, increase of pay, retention in employment or other interest concerning a government position.

#### Article 40 (Prohibition of Fraud Concerning Personnel Affairs)

No person shall make any false or wrongful statement, entry, certification, scoring, appraisal or report with regard to examination, selection, appointment or personnel record.

#### Article 41 (Prohibition Against Impeding the Right to Examination or Appointment or Providing Information)

No person belonging to any examining body or other official shall impede the taking of examination or appointment or provide any special or secret information for the purpose of giving unjust influence on the taking of examination or appointment.

### **Subsection 2 Examination**

#### Article 42 (Instances of Holding Examination)

Examination shall be held pursuant to rules of the National Personnel Authority.

#### Article 43 (Disqualifications for Examination)

Persons who are ineligible due to lack of qualifications provided for in Article 44 or who otherwise are ineligible to assume a government position may not compete in an examination.

Article 44 (Eligibility Requirements for Examination)

The National Personnel Authority may, by rules of the National Personnel Authority, provide for according to government positions the minimum objective and uniform requirements indispensable to the performance of the duties, as necessary qualifications for persons taking examinations.

Article 45 (Content of Examination)

The purpose of each examination shall be to determine whether the persons examined have the ability to perform the duties of the positions concerned.

Article 46 (Employment Examinations to be Open and Equal)

Employment examinations shall be open on equal conditions to any citizen who possesses the qualifications which are provided for by rules of the National Personnel Authority to take examinations.

Article 47 (Announcement of Employment Examination)

- (1) Announcement of employment examinations shall be by public notice.
- (2) The announcement set forth in the preceding paragraph shall state the outline of the duties and responsibilities, the remuneration of the government positions pertaining to the examination, the requisite qualifications for taking the examination, the time and place of examination, where, when and how application forms may be secured and submitted, other qualifying procedures observed, and other such information as the National Personnel Authority may find necessary.
- (3) The public notice provided for in paragraph 1 shall, pursuant to rules of the National Personnel Authority, be given publicity in such a way that all matters necessary for the examination may become widely known to all persons qualified for such examination.
- (4) The National Personnel Authority shall endeavor at all times to secure the participation of ostensibly qualified persons to take examinations.
- (5) Examinations announced or in process may be rescinded or changed by the National Personnel Authority.

Article 48 (Examining Bodies)

Examinations shall, pursuant to rules of the National Personnel Authority, be conducted by examining bodies designated by the National Personnel Authority.

Article 49 (Time and Place of Examination)

The time and place of examinations shall be so decided that they may be reasonably accessible to any qualified person in the nation.

### **Subsection 3 Appointment Candidate Lists**

#### Article 50 (Preparation of Candidate List)

In regard to appointment of officials by examination, appointment candidate lists (employment candidate lists and promotion candidate lists) shall be prepared pursuant to rules of the National Personnel Authority.

#### Article 51 (Persons to be Entered in Employment Candidate List)

The names and examination scores of persons who have achieved a passing score or better in employment examination shall be entered in the employment candidate list in the order of their examination scores as eligible to be employed for the government positions concerned.

#### Article 52 (Persons to be Entered in Promotion Candidate List)

The names and examination scores of persons who have achieved a passing score or better in a promotional examination shall be entered in the promotion candidate list in the order of their examination scores as eligible for promotion to the government positions concerned.

#### Article 53 (Inspection of Candidate List)

Appointment candidate lists shall be at all times available for inspection by the persons examined, appointing government agencies, and other persons concerned upon request.

#### Article 54 (Invalidation of Candidate List)

The National Personnel Authority may, at its discretion, invalidate appointment candidate lists when one year or more has passed since they were prepared or at any time for one of the causes provided for by the National Personnel Authority.

### **Subsection 4 Appointment**

#### Article 55 (Appointer)

- (1) Except as otherwise provided for by law, the appointive power shall be vested in the Cabinet, each Minister (this refers to the Prime Minister and Ministers of each Ministry - the same shall apply hereinafter), the President of the Board of Audit, the President of the National Personnel Authority, Grand Steward of the Imperial Household Agency, and the heads of each external bureau. The appointive power held by the head of these organs shall be restricted to government positions within their organizational structure, while the appointive power of the Cabinet shall be

restricted to government positions within the organizations directly (excluding the Prime Minister's Office) attached to it. However, the power to appoint heads of external bureaus shall be vested in each Minister.

- (2) The appointer who is the head of an administrative organ provided for in the preceding paragraph may delegate such appointive power only to a high-ranking official within such organ. All such delegations shall be presented to the National Personnel Authority in writing in advance of the effective date.
- (3) No person shall be appointed, employed, promoted or transferred or assigned to any government position who has not met the requirements provided for in this Act, rules and directives of the National Personnel Authority.

#### Article 56 (Method of Employment from Employment Candidate List)

Employment of officials from an employment candidate list shall be made from amongst the five names on such list with the highest examination scores for each person to be employed.

#### Article 57 (Method of Promotion from Promotional Candidate List)

Promotion of officials from a promotional candidate list shall be made from amongst the five names on such list with the highest examination scores for each person to be promoted.

#### Article 58 (Recommendation of Candidates for Appointment)

In cases where an appointer desires to employ or promote officials and makes due request thereof, the National Personnel Authority shall, pursuant to rules of the National Personnel Authority, present to the appointer the required number of persons provided for in the preceding two Articles as candidates for the appointment from among those entered in the appointment candidate lists.

#### Article 59 (Conditional Period of Appointment)

- (1) The employment or promotion of officials to every government position in the regular service shall be considered conditional and shall become regular only after the appointee shall have served in the government position concerned for a period of not less than six months during which he/she shall have performed satisfactorily the duties of that position.
- (2) Necessary matters concerning conditional employment or the establishment of a conditional period of employment exceeding six months shall be prescribed by rules of the National Personnel Authority.

#### Article 60 (Temporary Appointment)

- (1) An appointer, pursuant to rules of the National Personnel Authority, may effect,

with the approval of the National Personnel Authority, temporary appointment with a term of office not exceeding six months, in emergencies, in temporary government positions or in instances when an appointment candidate list does not exist. In such cases, such appointment may, with the approval of the National Personnel Authority pursuant to rules of the National Personnel Authority, be renewed for a period of six months, but may not be renewed a second time.

- (2) The National Personnel Authority may, with respect to temporary appointments, limit the number of persons so appointed or specify qualifications of persons to be so appointed.
- (3) The National Personnel Authority may rescind any temporary appointment which violates the provisions of the preceding two paragraphs or rules of the National Personnel Authority.
- (4) Temporary appointment shall not in any way confer priority for permanent appointment.
- (5) In addition to what is provided for in the preceding four paragraphs, this Act and rules of the National Personnel Authority shall be applied to temporary appointees.

#### **Subsection 5 Administrative Leave, Reinstatement, Leaving of Government Position and Dismissal**

Article 61 (Administrative Leave, Reinstatement, Leaving of government position and Dismissal)

The administrative leave, reinstatement, leaving of government position, and dismissal of officials shall be effected by the appointer, subject to this Act and rules of the National Personnel Authority.

#### **Section 4 Remuneration**

Article 62 (Basic Standard for Remuneration)

- (1) The remuneration to officials shall be paid on the basis of the duties and responsibilities of their government positions.
- (2) The purpose of the provision of the preceding paragraph shall be achieved as promptly as possible.

#### **Subsection 1 Remuneration Plan**

Article 63 (Payment of Remuneration Under Remuneration Plan)

- (1) The remuneration to officials shall be paid under a remuneration plan provided for by law, and, unless provided for therein, no money or consideration of any kind

may be given.

- (2) The National Personnel Authority shall conduct necessary research and study, develop a remuneration plan conforming to the position classification and submit it to the Diet and the Cabinet.

#### Article 64 (Salary schedules)

- (1) Salary schedules shall be provided for in the remuneration plan.
- (2) Salary schedules, which shall be determined after taking into consideration the cost of living, prevailing wage rates of the private sector and other appropriate circumstances determined by the National Personnel Authority, shall include a clearly specified range of salary amount for each grade or class of position.

#### Article 65 (Matters to be Provided for in Remuneration Plan)

- (1) In addition to the salary schedules set forth in the preceding Article, the following items shall be provided for in the remuneration plan:
  - (i) Matters concerning standards for an increase of pay within the same grade or class of position;
  - (ii) Matters concerning remuneration for any government position when the position classification is applied to the position for the first time;
  - (iii) Matters concerning remuneration for overtime, night and holiday work;
  - (iv) Matters concerning allowances for service in special areas, for hazardous work and other extraordinary services;
  - (v) Matters concerning adjustment of remuneration by the National Personnel Authority: in regard to number of dependents, government positions not requiring full-time service, government positions for which facilities necessary for living are wholly or partly supplied at official expense, and others with special working conditions.
- (2) The standards set forth in item 1 of the preceding paragraph shall be determined after taking into consideration length of service, efficiency of service and other service-related requirements.

#### Article 66 (Determination of Amount of Remuneration)

Officials shall be paid the salary amount provided for in the remuneration plan, which is determined in accordance with the classes of positions provided for in the position classification in respect to each government position.

#### Article 67 (Revisions of Remuneration Plan)

The National Personnel Authority shall at all times conduct necessary research and study concerning the remuneration plan and shall, when it finds it necessary to raise or lower the amount of remuneration, prepare and submit such revision

proposals without delay to the Diet and the Cabinet.

## **Subsection 2 Payment of Remuneration**

### Article 68 (Payroll)

- (1) A person who pays remuneration to officials shall first prepare a payroll in regard to recipients.
- (2) Payrolls shall be kept available for audit by officials of the National Personnel Authority at all times.
- (3) In addition to those provided for in the preceding two paragraphs, necessary matters concerning payrolls shall be provided for by rules of the National Personnel Authority.

### Article 69 (Auditing of Payroll)

When it is necessary to ensure that payment of remuneration is made to officials in compliance with laws and regulations, rules of the National Personnel Authority or directives of the National Personnel Authority, the National Personnel Authority may audit payrolls and order rectifications when it finds it necessary.

### Article 70 (Measures Against Illegal Payment)

In cases when it is discovered that payment of remuneration has been made in violation of laws and regulations, rules of the National Personnel Authority or directives of the National Personnel Authority, the National Personnel Authority, in addition to taking appropriate measures in regard to the matters under its own jurisdiction, shall, when it finds it necessary, according to the nature of the case, report it to the Board of Audit or notify it to a public prosecutor for action.

## **Section 5 Efficiency**

### Article 71 (Basic Standard for Efficiency)

- (1) Efforts shall be made fully to develop and improve the efficiency of officials.
- (2) In addition to those provided for in this Act, matters necessary for enforcing the basic standard set forth in the preceding paragraph shall be prescribed by rules of the National Personnel Authority.
- (3) The Prime Minister (the National Personnel Authority, in the case of paragraph 1, item 1 of Article 73) shall conduct research and study concerning development and improvement of the efficiency of officials and take appropriate steps to assure the attainment of this objective.

### Article 72 (Evaluation of Work Performance)

- (1) The work performance of officials shall be periodically evaluated by the head of the government agency employing that official, who shall take appropriate measures as may be called for by the findings of the evaluation.
- (2) Necessary matters concerning the procedures for and records of the evaluation of work performance set forth in the preceding paragraph shall be prescribed by Cabinet Order.
- (3) The Prime Minister shall plan matters concerning commendation of persons for excellent work performance and corrective measures for those with extremely poor performance, and take appropriate measures thereon.

#### Article 73 (Programs for Improving Efficiency)

- (1) For the purpose of developing and improving the work efficiency of officials, the Prime Minister (the National Personnel Authority, in the case of item 1) and the head of the relevant agency shall formulate programs and exercise diligence in administering them in the areas of:
  - (i) Training of officials;
  - (ii) Health of officials;
  - (iii) Recreation of officials;
  - (iv) Maintaining safety of officials;
  - (v) Welfare of officials.
- (2) In regard to the formulation and administration of the programs set forth in the preceding paragraph, the Prime Minister (the National Personnel Authority, in the case of item 1 of the same paragraph) shall be responsible for their comprehensive planning, coordination with relevant agencies and oversight of such agencies.

### **Section 6 Change in Employment Status, Disciplinary Action and Guarantee**

#### Article 74 (Change in Employment Status, Disciplinary Action and Guarantee)

- (1) In regard to their change in employment status, disciplinary action and guarantee, officials shall be treated fairly.
- (2) In addition to those provided for in this Act, matters necessary for enforcing the basic standard provided for in the preceding paragraph shall be prescribed by rules of the National Personnel Authority.

#### **Subsection 1 Change in Employment Status**

##### **Division 1 Demotion, Administrative Leave, Dismissal, etc.**

#### Article 75 (Guarantee of Status)

- (1) Officials shall not, against their will, be demoted, placed on administrative leave

or dismissed, unless they come under a cause provided for by law or by rules of the National Personnel Authority.

(2) Officials shall suffer reduction of pay when they come under a cause provided for by rules of the National Personnel Authority.

#### Article 76 (Forfeiture of Position due to Disqualification)

When officials come to fall under any of the items of Article 38, they shall automatically forfeit their positions, except in cases provided for by rules of the National Personnel Authority.

#### Article 77 (Separation from Service)

Provisions for separation of officials from service shall be provided for by this Act and rules of the National Personnel Authority.

#### Article 78 (Demotion and Dismissal Against Official's Will)

In cases when an official falls under any of the following items, he/she may be demoted or dismissed against his/her will, pursuant to rules of the National Personnel Authority:

- (i) When his/her performance on duty is not satisfactory;
- (ii) When due to mental or physical disorder, he/she has difficulty or is incompetent to perform duties;
- (iii) When he/she lacks other qualifications required for his/her government position;
- (iv) When he/she becomes redundant or his/her position is abolished due to a revision or repeal of the laws concerning the administrative organization or of the fixed number of officials, or as a result of a reduction in budget.

#### Article 79 (Administrative Leave Against Official's Will)

In cases when an official falls under any of the following items, or in other cases established by rules of the National Personnel Authority, he/she may be placed on administrative leave against his/her will:

- (i) When he/she requires a prolonged rest due to mental or physical disorder;
- (ii) When he/she is prosecuted with respect to a criminal case.

#### Article 80 (Effect of Administrative Leave)

(1) The period of administrative leave as provided for in item 1 of the preceding Article shall be provided for by rules of the National Personnel Authority. When the disorder abates during the period of administrative leave, the administrative leave shall be deemed to have automatically terminated and the reinstatement shall be ordered promptly.

- (2) The period of administrative leave in any case as provided for in item 2 of the preceding Article shall be the period of time that such case is pending in court.
- (3) Any administrative leave shall automatically be deemed to have terminated when the reason for such leave has extinguished.
- (4) While still retaining his/her status as an official, a person who is on administrative leave does not attend to his/her duties. He/she shall not receive remuneration of any kind during the period of his/her administrative leave unless specifically provided for in a remuneration plan.

#### Article 81 (Exclusion from Application)

- (1) In regard to the change in employment status (excluding matters pertaining to mandatory retirement age, the same shall apply for the next paragraph) of officials listed below, the provisions of Article 75, Article 78 to the preceding Article inclusive and Article 89, and the provisions of the Administrative Appeal Act (Act No. 160 of 1962) shall not apply:
  - (i) Temporary officials;
  - (ii) Officials in period of conditional employment;
  - (iii) Officials who, in consequence of a revision of the grading of government positions by the position classification, suffer the same results as a reduction of pay or demotion.
- (2) In regard to the change in employment status of officials listed in the items of the preceding paragraph, necessary matters may be provided for by rules of the National Personnel Authority.

### **Division 2 Mandatory Retirement Age**

#### Article 81-2 (Retirement at Mandatory Age)

- (1) An official shall retire when he/she reaches the mandatory retirement age, at the earlier of the dates: either the first March 31 on or after the day when he/she reaches the mandatory retirement age or the day which an appointer, provided for in paragraph 1 of Article 55 or provided for in other laws, shall designate in advance (hereinafter referred to as "mandatory retirement day"), except as otherwise provided for by law.
- (2) The mandatory retirement age set forth in the preceding paragraph shall be 60 years of age. However, the mandatory retirement age for officials listed in each of the following items shall be as provided for in that item:
  - (i) Doctors and dentists working at hospitals, sanatoriums, clinics, etc. which shall be provided for by rules of the National Personnel Authority -- 65 years of age;
  - (ii) Officials, who shall be provided for by rules of the National Personnel

Authority, engaged in guarding government buildings or other maintenance of government buildings and equivalent businesses -- 63 years of age;

(iii) In addition to those officials listed in the preceding two items, officials provided for by rules of the National Personnel Authority, who hold positions for which the mandatory retirement age of 60 is found to be extremely inappropriate because their duties and responsibilities have particularities or it is difficult to supplement the vacancies of those positions -- age provided for respectively by rules of the National Personnel Authority which shall be over 60 but not more than 65.

(3) The provisions in the preceding two paragraphs shall not apply to temporary officials or other officials appointed with a term of office which is provided for by law, and officials who hold government positions not requiring full-time service.

#### Article 81-3 (Special Provisions for Retirement at Mandatory Age)

(1) If an official who has reached the mandatory retirement age is about to retire pursuant to the provision of paragraph 1 of the preceding Article, an appointer may keep him/her in his/her present position, notwithstanding the provision of the same paragraph, setting a term within the limit of not more than one year from the day of his/her mandatory retirement day, in order to let him/her continue to perform his/her duties, when there are sufficient reasons for concluding that his/her retirement may cause extreme difficulties in administering public duties in view of the particularities of his/her duties or special circumstances of the performance of his/her duties.

(2) In the case when the term set forth in the preceding paragraph or the term extended pursuant to the provision of this paragraph is about to expire, an appointer may extend the term within the limit of not exceeding one year, with the approval of the National Personnel Authority, if there are sufficient reasons for concluding that there are still grounds set forth in the preceding paragraph. However, the extended term shall not exceed three years from the day of the mandatory retirement day pertaining to the official concerned.

#### Article 81-4 (Reappointment of a Person who has Mandatorily Retired, etc.)

(1) An appointer may employ a person, who retired pursuant to the provision of paragraph 1 of Article 81-2, who retired after completing his/her service pursuant to the provision of the preceding Article, or who, among the persons who had retired before the mandatory retirement age, shall, after considering such matters as the length of service, etc., be dealt with in the same manner as those who retired at the mandatory retirement age by rules of the National Personnel Authority (hereinafter referred to as "a person who has mandatorily retired, etc."), or who retired pursuant to the provision of the Self-Defense Forces Act (Act No.

165 of 1954) and shall be dealt with in the same manner as a person who has mandatorily retired, etc. by rules of the National Personnel Authority (referred to as "a person who has mandatorily retired, etc. under the Self-Defense Forces Act" in the following paragraph), based on the previous performance on duty for selection, for a position requiring a full-time service, setting a term of office not exceeding one year, unless the person has not reached the mandatory retirement age pertaining to the government position concerned.

- (2) The term of office set forth in the preceding paragraph, or the term of office renewed pursuant to the provision of this paragraph, may be renewed within a limit not exceeding one year.
- (3) The last day of the term of office set pursuant to the provision of the preceding two paragraphs shall be the day or after the day when he/she reaches 65 years of age and not later than the first March 31 thereafter.

#### Article 81-5

- (1) An appointer may employ a person who has mandatorily retired, etc. or has mandatorily retired, etc. under the Self-Defense Forces Act, based on the previous performance on duty for selection of a part-time government position (This refers to a government position where normal hours of work per week of an official who holds it are shorter than that of an official who holds a full-time position with similar duties. The same shall apply in paragraph 3), setting the term of office not exceeding one year.
- (2) For the term of office of the official employed pursuant to the provision of the preceding paragraph, the provisions of paragraphs 2 and 3 in the preceding Article shall be applied *mutatis mutandis*.
- (3) A person may be appointed to a part-time government position from among the persons who have mandatorily retired, etc. and those who have mandatorily retired, etc. under the Self-Defense Forces Act, only if he/she has reached the mandatory retirement age pertaining to the said government position in the case when the provisions of paragraphs 1 and 2 of Article 81-2 shall be deemed applicable.

#### Article 81-6 (Adjustment of Affairs Concerning the Mandatory Retirement Age)

In order to ensure the proper administration of affairs concerning the mandatory retirement age of officials, the Prime Minister shall initiate coordination as may be required in regard to the administration of such affairs by various administrative organs, conduct research and study of measures concerning enforcement of the mandatory retirement age system for officials, and take appropriate measures for the matters within his/her jurisdiction.

## **Subsection 2 Disciplinary Action**

### Article 82 (Instances of Disciplinary Action)

- (1) When he/she falls under any of the following items, an official may, as disciplinary action, be dismissed, suspended from duty, suffer reduction in pay or be admonished:
  - (i) When he/she has violated this Act, the National Public Service Ethics Act or orders issued pursuant to these laws (including the official directives pursuant to the provision of paragraph 3, and regulations pursuant to the provision of paragraphs 4 and 6 of Article 5 of the National Public Service Ethics Act);
  - (ii) When he/she has violated an obligation in the course of his/her duties or has neglected his/her duties;
  - (iii) When he/she is guilty of such misconduct as to render himself/herself unfit to be a servant of all citizens.
- (2) When an official leaves government position, upon the request of an appointer to be a national public servant in the special service, a local public officer, or an employee of a public financial corporation as provided for in Article 1 of the Act on Budget and Settlement of Public Financial Corporations (Act No. 99 of 1951), or any other juridical person provided for by rules of the National Personnel Authority among those whose business is related closely to national affairs or undertakings (hereinafter referred to as "a national public servant in the special service, etc." in this paragraph), and then, after holding office without interruption as a national public servant in the special service, etc., is employed without interruption as an official on premise of the said leaving of government position (including the case of an official who holds one or more offices without interruption as a national public servant in the special service, etc. after holding another office as a national public servant in the special service, etc., and then is employed as an official on the premise of the said leaving of government position), in the cases where, during the continuous period of holding office as an official up to the said leaving of government position (in the case of an official who leaves government position similarly (hereinafter referred to as "the previous leaving of government position" in this paragraph) before the said leaving of government position, holds office as a national public servant in the special service, etc., and is employed as an official, including the continuous period of holding office as an official up to the previous leaving of government position, hereinafter referred to as "the period of holding office before leaving of government position responding to the request" in this paragraph), he/she falls under any of the items in the proceeding paragraph, any of the disciplinary actions provided for in the same paragraph may be taken. When an official who is employed pursuant to the provision of paragraph 1 of

Article 81-4 or paragraph 1 of Article 81-5 falls under any of the items of the preceding paragraph during the continuous period of holding office as an official up to the day when he/she has become a person who has mandatorily retired, etc. (including the period of holding office before leaving of government position responding to the request), or the period that he/she has held office as an official after the employment pursuant to the provision of paragraph 1 of Article 81-4 or paragraph 1 of Article 81-5, the same shall apply as well.

Article 83 (Effect of Disciplinary Action)

- (1) The period of suspension from duty shall be provided for by rules of the National Personnel Authority within the limit of not exceeding one year.
- (2) While still retaining his/her status as an official, a person suspended from duty does not attend to his/her duties. A person who is suspended from duty may not receive remuneration during such period of suspension except under the provisions of Article 92.

Article 84 (Administrator of Disciplinary Action)

- (1) Disciplinary action shall be administered by an appointer.
- (2) The National Personnel Authority may initiate disciplinary proceedings against officials through investigation as provided for in this Act.

Article 84-2 (Delegation of Authority to the National Public Service Ethics Board)

The National Personnel Authority shall delegate certain authority provided for in paragraph 2 of the preceding Article (limited to that implemented in regard to the acts violating the National Public Service Ethics Act or orders issued thereunder [including the official directives pursuant to the provision of paragraph 3 of Article 5, and regulations pursuant to the provision of paragraphs 4 and 6 of the same Article of the said Act]) to the National Public Service Ethics Board.

Article 85 (Relation with Criminal Court)

Even while a case which is to be subject to disciplinary action is pending in the criminal court, disciplinary proceedings may be taken for the same case at the discretion of the National Personnel Authority or the appointer with the approval of the National Personnel Authority. Any disciplinary action under this Act shall not preclude the official involved from being subjected to criminal prosecution for the same or related cases.

**Subsection 3 Guarantee**

Division 1 Request for Administrative Action on Working Conditions

Article 86 (Request for Administrative Action on Working Conditions)

Officials may make requests to the National Personnel Authority that appropriate administrative action be accorded by the National Personnel Authority, the Prime Minister, or the head of the government agency employing that official, relative to salary, pay, or any other working condition.

Article 87 (Review and Evaluation of Case)

When a request provided for in the preceding Article is received, the National Personnel Authority shall conduct such investigations, hearings or other fact-finding reviews it finds necessary, and evaluate the case with due regard to fairness to the public and the persons concerned and in terms of developing and improving the efficiency of officials.

Article 88 (Measures to be Taken as a Result of Evaluation)

When the National Personnel Authority finds it necessary to take certain measures in regard to working conditions based on the evaluation provided for in the preceding Article, it shall implement its own measures on the matters under its jurisdiction, and recommend the Prime Minister or the head of the government agency employing that official to take measures in regard to other matters.

**Division 2 Review of Disadvantageous Dispositions Made Against the Will of Officials**

Article 89 (Delivery of Written Explanation Concerning Dispositions such as Reduction of Pay, etc., Made Against the Will of Officials)

- (1) When an official, against his/her will, has his/her pay reduced, or is demoted, placed on administrative leave, dismissed or otherwise subjected to extremely disadvantageous disposition, or is about to be administered disciplinary action, the person making such disposition shall deliver a written explanation setting forth the reasons for disposition to the official at the time of such disposition.
- (2) In cases where an official considers that he/she has been subjected to extremely disadvantageous disposition provided for in the preceding paragraph, he/she may request delivery of the written explanation set forth in the same paragraph.
- (3) The written explanation referred to in paragraph 1 shall contain a statement to the effect that an appeal to the said disposition may be entered against the National Personnel Authority, and the period of time for the entry of such appeal.

Article 90 (Appeal)

- (1) The official subject to the disposition provided for in paragraph 1 of the

preceding Article may enter an appeal under the Administrative Appeal Act (applying for examination or filing of an objection) only against the National Personnel Authority.

- (2) In addition to those dispositions provided for in paragraph 1 of the preceding Article or dispositions otherwise provided for by law, officials may not enter an appeal under the Administrative Appeal Act in regard to the dispositions made against them. The same shall apply to any inaction in regard to the applications filed by officials.
- (3) The provisions of Sections 1 to 3 inclusive, Chapter 2 of the Administrative Appeal Act shall not apply to the appeals provided for in paragraph 1 of this Article.

#### Article 90-2 (Period for Appeals)

An appeal provided for in paragraph 1 of the preceding Article shall be entered within 60 days from the day the official concerned received the written explanation of the disposition, and may not be entered when a period of one year has passed since the day the disposition was made.

#### Article 91 (Investigation)

- (1) On receipt of the appeal provided for in paragraph 1 of Article 90, the National Personnel Authority, or any agency designated by the National Personnel Authority, shall immediately investigate the case.
- (2) In the cases provided for in the preceding paragraph, a hearing shall be accorded if so requested by the official subject to the disposition. If so requested by the official concerned, the hearing shall be open to the public.
- (3) The person who made the disposition or his/her deputy, and the official subject to the disposition may appear at all the hearings, appoint legal counsel as their representative, make statements, present witnesses, and produce documents, records and any other pertinent facts and data.
- (4) Persons other than those listed in the preceding paragraph may produce to the National Personnel Authority any facts and data concerning the case.

#### Article 92 (Measures to be Taken as a Result of Investigation)

- (1) If, as a result of the investigation provided for in the preceding Article, it is determined that there are grounds for the disposition to be made, the National Personnel Authority shall approve or at its discretion revise the disposition.
- (2) If, as a result of the investigation provided for in the preceding Article, it is determined that there are no grounds for the disposition to be made against the official, the National Personnel Authority shall rescind the disposition and take such action as may be necessary and advisable to restore employment rights to the

official and rectify any injustice that may have been done to him/her by reason of such disposition. The National Personnel Authority shall instruct that the official be paid any salary lost by reason of such disposition.

- (3) Findings set forth in the preceding two paragraphs shall be final and subject to review only by the National Personnel Authority pursuant to its rules.

#### Article 92-2 (Relations Between Appeal and Lawsuit)

With regard to any of the dispositions which are provided for in paragraph 1 of Article 89 of which officials may apply for examination or against which officials may file an objection to the National Personnel Authority, no lawsuit may be filed for its rescission until after the National Personnel Authority has rendered a judgment or a decision on the said application or the objection filed.

### **Division 3 Compensation for Injury and Disease Incurred in Line of Public Duty**

#### Article 93 (Compensation for Injury and Disease Incurred in Line of Public Duty)

- (1) A system of compensating the official himself/herself and his/her immediate dependents for damage sustained by them due to the death, injury or disease of the official incurred in line of public duty or the death of the official resultant of injury or disease incurred in line of public duty shall be established and enforced.
- (2) The compensation system provided for in the preceding paragraph shall be provided for by law.

#### Article 94 (Matters to be Provided for in Act)

In the compensation system set forth in the preceding Article, the following matters shall be provided for:

- (i) Matters concerning protection of the official against economic distress during periods of incapacity resultant of injury or disease incurred in line of public duty;
- (ii) Matters concerning compensation to the official for damage sustained by him/her due to permanent or prolonged harm to his/her earning capacity resultant of injury or disease incurred in line of public duty;
- (iii) Matters concerning compensation to the bereaved family of the official or those who maintain living by the income of the official at the time of his/her death for damage sustained by them due to the death of the official resultant of injury or disease incurred in line of public duty.

#### Article 95 (Responsibility for Drafting and Administering Compensation System)

The National Personnel Authority shall conduct studies in regard to the

compensation system, submit the results thereof to the Diet and the Cabinet and administer such program as promptly as possible.

## **Section 7 Service Discipline**

### Article 96 (Basic Standard for Service Discipline)

- (1) Every official, as a servant of all citizens, shall serve the public interest, and exert his/her utmost effort in the performance of his/her duties.
- (2) In addition to those provided for in this Act or the National Public Service Ethics Act, matters necessary for enforcing the basic standard provided for in the preceding paragraph shall be provided for by rules of the National Personnel Authority.

### Article 97 (Oath of Service)

Officials shall take an oath of service, as provided for by a Cabinet Order.

### Article 98 (Obligation to Obey Laws and Regulations and Orders of Superiors; Prohibition of Acts of Dispute, etc.)

- (1) Officials shall, in the performance of their duties, comply with laws and regulations and faithfully observe the orders of their superiors in the course of their duties.
- (2) Officials shall not strike or engage in delaying tactics or other acts of dispute against the public represented by the National Government as employer, or resort to delaying tactics which reduce the efficiency of government operations, nor shall any persons attempt, or conspire to effect, instigate or incite such illegal acts.
- (3) Any official who resorts to a strike or other acts violating the provision of the preceding paragraph may not, with the commencement of such acts, set up against the National Government with the rights to appointment or employment possessed by him/her under laws and regulations.

### Article 99 (Prohibition of Acts Causing Discredit)

No official shall act in such a way as to discredit his/her government position or bring dishonor upon all the government positions.

### Article 100 (Obligation to Preserve Secrecy)

- (1) An official shall not divulge any secret which may have come to his/her knowledge in the course of his/her duties. This shall also be applied after he/she has left his/her position.
- (2) In order for an official to make a statement concerning any secret in the course of his/her duties as a witness, an expert witness or in other capacities provided for

by laws and regulations, he/she shall require the permission of the head of the government agency employing him/her (or in the case of a person who has left government position, the head of the government agency having jurisdiction over the government position he/she held at the time of his/her leaving of government position or any government position equivalent thereto) .

- (3) The permission set forth in the preceding paragraph shall not be refused, except in cases pertaining to the conditions and procedures provided for by law or by Cabinet Orders.
- (4) The provisions of the preceding three paragraphs shall not apply where information is requested by the National Personnel Authority during an investigation or hearing conducted by the National Personnel Authority. It shall not be necessary for any person to secure permission from anyone to make a statement or testify on any secret or restricted information when so requested by the National Personnel Authority during or as part of such investigations or hearings conducted under the jurisdiction of the National Personnel Authority. Failure to make a statement or testify before the National Personnel Authority on such information upon its official request shall make the individual liable to the penal provisions of this Act.

#### Article 101 (Obligation to Give Undivided Attention to Duty)

- (1) Officials, except in cases provided for by laws or orders, shall give their full hours of work and attention to the performance of their duties in the course of their duties, and engage only in those duties which are the responsibility of the Government to perform. Officials, except in cases provided for by laws or orders, may not hold concurrently two or more government positions. Even when officials hold additional government positions they shall not be paid for them.
- (2) The provisions of the preceding paragraph shall not preclude the assignment, by relevant government agencies, of officials to duties other than their regular duties in the event of an earthquake, fire, flood or other serious disasters.

#### Article 102 (Restriction on Political Acts)

- (1) Officials shall not solicit, or receive, or be in any manner concerned in soliciting or receiving any subscription or other benefit for any political party or political purpose, or engage in any political acts as provided for by rules of the National Personnel Authority other than to exercise his/her right to vote.
- (2) No official shall be a candidate for elective public office.
- (3) No official shall be an officer, political adviser, or another member with a similar role of any political party or political organization.

#### Article 103 (Exclusion from Private Enterprise)

- (1) No official shall concurrently hold the position of an officer, advisor or councillor in a company or any other organization established for the purpose of operating a commercial, industrial, financial or other for-profit private enterprise (hereinafter referred to as "profit-making enterprise"), nor shall he/she operate, on his/her own account, any profit-making enterprise.
- (2) Officials shall not, for a period of two years after separation from the service, accept or assume a position with a profit-making enterprise with a close connection to any agency of the State defined by rules of the National Personnel Authority, any specified independent administrative institution or the Japan Post, with which such persons were formerly employed within five years prior to separation from the service.
- (3) The provisions of the preceding two paragraphs shall not apply to cases wherein approval is given by the National Personnel Authority on the offer from the head of the government agency employing that official, pursuant to the provision of rules of the National Personnel Authority.
- (4) With respect to a profit-making enterprise, when an official is in a position in which he/she is able to participate in the management of the said enterprise because of his/her holding of shares therein or because of other relationships with it, the National Personnel Authority may call upon such an official to submit a report regarding his/her holdings of shares and other relationships, pursuant to the provision of rules of the National Personnel Authority.
- (5) When the National Personnel Authority, based on the report set forth in the preceding paragraph, finds that the continuance of the employee's relationship with the enterprise, in its entirety or in part, is inappropriate with respect to the performance of his/her duties, it may notify the said official to that effect, pursuant to the provision of rules of the National Personnel Authority.
- (6) If, upon receipt of the notice set forth in the preceding paragraph, the said official has an objection to the substance thereof, he/she may file an objection to the National Personnel Authority, under the Administrative Appeal Act, within 60 days from the day following the date on which he/she has received such notice.
- (7) The provisions of paragraph 3 of Article 90 and paragraphs 2 and 3 of Article 91 shall apply mutatis mutandis to instances when the objection set forth in the preceding paragraph has been filed, and the provisions of Article 92-2 shall apply mutatis mutandis to lawsuits filed for rescission of the notice set forth in paragraph 5 of this Article.
- (8) An official who has not filed an objection set forth in paragraph 6 and an official the National Personnel Authority, as a result of an investigation of the objection filed, has decided that the substance of the notice was justifiable shall, pursuant to the provision of rules of the National Personnel Authority, divest himself/herself of the relationships with that enterprise entirely or in part, or relinquish his/her

government position within the period provided for by rules of the National Personnel Authority.

- (9) With reference to the dispositions of approvals set forth in paragraph 3 which were given by the National Personnel Authority during the preceding year (excluding those pertaining to the provision of paragraph 1), the National Personnel Authority shall report annually, without delay, to the Diet and the Cabinet, with respect to each of the dispositions of approvals, the government positions in the state organ provided for by rules of the National Personnel Authority as set forth in paragraph 2, specified independent administrative institution or the Japan Post, which were held by the persons pertaining to the approval during the five years prior to his/her separation, his/her position in the profit-making enterprise pertaining to the approval, the reasons for the approval and other necessary matters.

#### Article 104 (Restriction on Participation in Other Undertaking or Business)

If an official is to hold concurrently the position of an officer, advisor or councillor in any undertaking other than a profit-making enterprise, or to engage in any other undertaking or to carry on a business, by receiving remuneration, he/she shall require the permission of the Prime Minister and the head of the government agency employing that official.

#### Article 105 (Scope of Duties of Officials)

Apart from taking charge of those duties provided for by laws, orders, rules or directives, officials as such shall assume no other obligations whatsoever.

#### Article 106 (Working Conditions)

- (1) Necessary matters concerning working conditions of officials and other matters pertinent to their performance of duties may be provided for by rules of the National Personnel Authority.
- (2) Rules of the National Personnel Authority set forth in the preceding paragraph shall be consistent with the purpose of the provisions of this Act.

### **Section 8 Retirement Pension System**

#### Article 107 (Retirement Pension System)

- (1) There shall be established and administered a system that governs the pension issuable to officials or to their bereaved families when such officials have retired after having faithfully served for a reasonable number of years or as the result of injury or disease incurred in line of public duty or when they have died in line of public duty.

- (2) The pension system set forth in the preceding paragraph shall have as its purpose the provision of an income necessary to enable the person concerned and his/her immediate dependents at the time of his/her retirement or death to maintain thereafter a standard of living appropriate to the conditions prevailing at the time of retirement or death.
- (3) The pension system set forth in paragraph 1 shall be provided for on a sound actuarial basis.
- (4) The pension system provided for in the preceding three paragraphs shall be provided for by law.

#### Article 108 (Offer of Opinion)

The National Personnel Authority may conduct research and studies in regard to the pension system set forth in the preceding Article and offer such opinion as it may consider necessary to the Diet and the Cabinet.

### **Section 9 Employee Organization**

#### Article 108-2 (Employee Organization)

- (1) The term "employee organization" as used in this Act shall mean an organization which is formed by officials for the purpose of maintaining and improving their working conditions or a federation of such organizations.
- (2) The term "officials" set forth in the preceding paragraph shall mean all officials other than those provided for in paragraph 5.
- (3) Officials may organize or refrain from organizing, or may join or refrain from joining an employee organization. However, officials making important administrative decisions, holding managerial positions who participate in making the aforementioned decisions, holding supervisory positions with direct authority on the appointment and dismissal of officials, or those holding supervisory positions with access to confidential matters related to plans and policies of the proper authorities on appointment and dismissal, change in employment status, disciplinary action or service discipline, remuneration and other working conditions of officials, or on their relations with employee organizations, whose obligations and responsibilities in the course of their duties are thus found to directly conflict with the sincerity and responsibilities as members of employee organizations, and other officials taking charge of duties which, in their relations with employee organizations, should be performed from the standpoint of the proper authorities (hereinafter referred to collectively as "managerial personnel, etc.") shall not form the same employee organization as officials other than managerial personnel, etc., and, further, an organization formed jointly by managerial personnel, etc. and by the officials other than managerial personnel, etc., is not the employee organization

referred to in this Act.

- (4) The scope of managerial personnel, etc. provided for in the proviso of the preceding paragraph shall be provided for by rules of the National Personnel Authority.
- (5) Police officials and officials working in the Japan Coast Guard or in penal facilities shall not organize or join an organization which has as its purpose the maintenance and improvement of their working conditions and which conducts negotiations thereon with the proper authorities.

#### Article 108-3 (Registration of an Employee Organization)

- (1) An employee organization may, pursuant to the provision of rules of the National Personnel Authority, apply for registration with the National Personnel Authority by submitting a written application setting forth the particulars provided for by rules of the National Personnel Authority, including the names of its directors and other officers, together with its constitution.
- (2) The constitution of an employee organization shall include at least the following particulars:
  - (i) Name;
  - (ii) Purpose and business;
  - (iii) Location of its principal office;
  - (iv) Provisions governing the scope of membership and the acquisition and loss of membership;
  - (v) Provisions governing its directors and other officers;
  - (vi) Provisions governing the management, meetings and voting, including the matters provided for in the next paragraph;
  - (vii) Provisions governing expenses and accounts;
  - (viii) Provisions governing association with other employee organizations;
  - (ix) Provisions governing revision of the constitution;
  - (x) Provisions governing dissolution.
- (3) In order to qualify for and maintain registration, an employee organization is required to provide procedures whereby the adoption or revision of its constitution, election of officers, and other equivalently important acts are decided by a majority of all its members (by a majority of those who voted, in the case of the election of officers) by direct secret vote in which every member is given an equal opportunity to participate, and is required to ensure that these important acts are actually decided in accordance with the procedures so provided for. In the case of an employee organization which is a federation or is national in scope, however, it shall suffice to establish and to actually observe such procedures provided for that delegates are elected by a majority vote by direct secret vote held for each constituent organization or each geographical area or occupational area which

every member is given an equal opportunity to participate in, and, further, that the foregoing important acts be decided by a majority of all the delegates (by a majority of the delegates who voted, in the case of the election of officers) by direct secret vote in which each delegate is given an equal opportunity to participate.

- (4) In addition to the provisions of the preceding paragraph, it is required that an employee organization, in order to qualify for and maintain its registration, be formed exclusively by officials other than those provided for in paragraph 5 of the preceding Article. However, this shall not preclude an employee organization from retaining in its membership those that have been officials other than those provided for in the same paragraph and who have been dismissed against their will or subject to dismissal in a disciplinary action, and for whom a period of one year has not elapsed since the day following the date of their dismissal, or who have entered an appeal or filed a lawsuit against such disposition, in accordance with applicable law, within the said one-year period but the judgment or decision, or court judgment thereon is still pending, nor shall it preclude an employee organization from having in its membership those who are currently its officers.
- (5) When an employee organization that has applied for registration conforms to the provisions set forth in the preceding three paragraphs, the National Personnel Authority shall, pursuant to the provision of rules of the National Personnel Authority, register its constitution and the particulars given in the written application as provided for in paragraph 1, and shall notify said employee organization to this effect. In this case, an employee organization that allows persons other than officials to hold the position of its officers shall not be construed to be disqualified for registration merely on that account.
- (6) When a registered employee organization ceases to be an employee organization, when it has been found that a registered employee organization no longer conforms to the provisions set forth in paragraphs 2 to 4 inclusive, or when a registered employee organization has failed to submit the notification as provided for in paragraph 9, the National Personnel Authority may suspend the effect of its registration for a period not exceeding 60 days or may rescind its registration, pursuant to the provision of rules of the National Personnel Authority.
- (7) The proceedings on the date of hearing pertaining to the rescission of registration as provided for in the preceding paragraph shall be open to the public, if such employee organization so requests.
- (8) The rescission of registration as provided for in paragraph 6 does not come into effect during the periods when a lawsuit for the rescission of such disposition can be filed, and while such lawsuit is pending in court in cases where a lawsuit has actually been filed.
- (9) When a registered employee organization has made any changes to its constitution or to the particulars set forth in the written application as provided for

in paragraph 1, it shall notify the National Personnel Authority to this effect, pursuant to the provision of rules of the National Personnel Authority. In this case, the provisions of paragraph 5 shall apply mutatis mutandis.

- (10) When a registered employee organization has been dissolved, it shall notify the National Personnel Authority to this effect, pursuant to the provision of rules of the National Personnel Authority.

#### Article 108-4 (Employee Organizations of Juridical Persons)

A registered employee organization may become a juridical person by notifying the National Personnel Authority to this effect. The provisions of the Civil Code (Act No. 89 of 1896) and of the Non-Contentious Cases Procedure Act (Act No. 14 of 1898) concerning juridical persons as provided for in Article 34 of the Civil Code (except for Article 35, paragraph 2 of Article 38, Article 56, Article 67, Article 71, paragraph 3 of Article 77, Article 84, Article 84-2 and paragraph 1, item 4 of and paragraph 2 of Article 84-3 of the Civil Code, and Article 122-2 of the Non-Contentious Cases Procedure Act) shall apply mutatis mutandis to the juridical person referred to in this Article. In this case, the term "the competent government agency" and the term "articles of incorporation" in these provisions shall be deemed to be replaced with "the National Personnel Authority" and "the constitution" respectively, and, further, the term "permission for incorporation" in paragraph 1, item 4 of Article 46 of the Civil Code, the term "permission for incorporation" in paragraph 1, item 4 of Article 68 of the Civil Code, the term "decision on commencement of bankruptcy proceedings and rescission of permission for incorporation" in paragraph 1 of Article 77 of the Civil Code, and the term "permit" in Article 120 of the Non-Contentious Cases Procedure Act shall be deemed to be replaced with "notifying of its incorporation as a juridical person," "registration," "decision on commencement of bankruptcy proceedings" and "certificate of acceptance of notifying of incorporation as a juridical person," respectively.

#### Article 108-5 (Negotiation)

- (1) When a registered employee organization proposes lawfully to negotiate with the proper authorities on officials' remuneration, hours of work or other conditions of work or, in connection therewith, on matters pertaining to lawful activities including social and welfare activities, the authorities concerned shall place themselves in the position to respond to such proposal.
- (2) The negotiation between the employee organization and the proper authorities shall not include the right to conclude a collective agreement.
- (3) Matters concerning the administration and operation of state business may not be the subject of negotiation.
- (4) The proper authorities with whom the employee organization may negotiate

shall be those who may lawfully administer the matters to be negotiated or make decisions thereon.

- (5) The negotiation shall be conducted between the persons designated by the employee organization from among its officers and the persons designated by the proper authorities, within the number of such representatives as agreed upon in advance between the two parties concerned. In conducting the negotiation, the employee organization and the proper authorities shall agree, in advance, upon the agenda, time and place of the meeting and other necessary matters concerning the negotiation.
- (6) In the case referred to in the preceding paragraph, the employee organization may, if special circumstances exist, designate persons other than its officers. However, the persons so designated shall be the ones who were able to prove by document that they have been lawfully authorized by the executive organ of the said employee organization to negotiate on specific matters that are the subjects of the said negotiation.
- (7) The negotiation may be terminated when it has failed to conform to the provisions of the preceding two paragraphs or has obstructed the performance of duties by other officials, or has impeded the normal operation of state business.
- (8) The lawful negotiation provided for in this Article may take place during hours of work as well.
- (9) No official shall be denied the freedom to express dissatisfaction or offer opinions on any of the matters provided for in paragraph 1 by reason of his/her non-membership in an employee organization.

#### Article 108-6 (Restriction on Officials' Acts on Behalf of Employee Organization)

- (1) No official may engage exclusively in any business of an employee organization. However, this shall not apply to the case where an official, with the permission of the head of the government agency employing him/her, engages exclusively in such business as an officer of a registered employee organization.
- (2) The head of the government agency employing an official may, when he/she finds it appropriate, grant the permission set forth in the proviso of the preceding paragraph, and, in such a case, he/she shall fix the period for which such permission is effective.
- (3) The period for which an official engages exclusively in the business of a registered employee organization as its officer pursuant to the proviso of paragraph 1, may not exceed five years throughout the period of his/her service as an official (in the case of an official who has formerly engaged exclusively in the business of a trade union pursuant to the proviso of Article 7, paragraph 1 of the Act on Labor Relationship of Specified Independent Administrative Institutions, etc. (Act No. 257 of 1948) as the employee set forth in item 4 of Article 2 of the same Act, this

five-year period shall be reduced by subtracting the period during which he/she has formerly engaged exclusively in such business).

- (4) The permission set forth in the proviso of paragraph 1 shall be rescinded if the official who has been granted the permission no longer engages exclusively as an officer of a registered employee organization in the business of the said employee organization.
- (5) The official who has been granted the permission set forth in the proviso of paragraph 1 shall be deemed to be a person who is on administrative leave during the period the permission is effective.
- (6) No official shall carry on the business or act on behalf of an employee organization while receiving remuneration, except for the case where it is otherwise provided for by rules of the National Personnel Authority.

#### Article 108-7 (Prohibition of Adverse Treatment)

No official shall be subjected to adverse treatment on the grounds that he/she is a member of an employee organization, or that he/she has attempted to organize or join an employee organization, or that he/she has performed a justifiable act in an employee organization.

### **Chapter 4 Penal Provisions**

#### Article 109

Any person who falls under any of the following items shall be punished by imprisonment with work for not more than one year or a fine of not more than thirty thousand yen:

- (i) Any person who has accepted an appointment in violation of paragraph 3 of Article 7;
- (ii) Any Cabinet member who has intentionally failed to dismiss a Commissioner in violation of paragraph 3 of Article 8;
- (iii) Any Cabinet member who has failed to appoint a Commissioner within 60 days after a vacancy among the Commissioners occurs (This shall not apply to cases where the consent of both Houses of the Diet has not been obtained during the said period.);
- (iv) Any person who has concurrently held more than one government position in violation of Article 15;
- (v) Any person who has intentionally withheld publication of rules of the National Personnel Authority and revisions or repeal of rules of the National Personnel Authority in the Official Gazette in violation of paragraph 2 of Article 16;
- (vi) Any person who has intentionally failed to prepare, retain or revise

- personnel records in violation of Article 19;
- (vii) Any person who has intentionally failed to report in violation of Article 20;
  - (viii) Any person who has discriminated in violation of Article 27;
  - (ix) Any official who has withheld or restrained public notice of examinations in violation of paragraph 3 of Article 47;
  - (x) Any person who has ordered a suspension from duty in violation of paragraph 1 of Article 83;
  - (xi) Any person who has intentionally failed to comply with a decision, action or instruction of the National Personnel Authority made pursuant to the provision of Article 92;
  - (xii) Any person who has divulged secrets in violation of paragraphs 1 or 2 of Article 100;
  - (xiii) Any person who has assumed a position in any profit-making enterprise in violation of Article 103.

#### Article 110

- (1) Any person who falls under any of the following items shall be punished by imprisonment with work for not more than three years or a fine of not more than one hundred thousand yen:
- (i) Any person who has violated paragraph 6 of Article 2;
  - (ii) Deleted;
  - (iii) Any person who has been summoned as a witness pursuant to the provision of paragraph 2 of Article 17 and has made a false statement;
  - (iv) Any person who has been summoned as a witness pursuant to the provision of paragraph 2 of Article 17 and has not responded without any justifiable reason, or one who, pursuant to the provision of the same paragraph, has been ordered to submit documents or copies thereof, and has not complied with such order without any justifiable reason;
  - (v) Any person who has been ordered to submit documents or copies thereof pursuant to the provision of paragraph 2 of Article 17 and has submitted documents with false entry or copies thereof;
  - (v-i) Any person who has refused, prevented or recused the investigation conducted pursuant to the provision of paragraph 3 of Article 17, or has not made a statement or has made a false statement to the questions (except an official who is subject to the investigation set forth in paragraph 1 of the same Article);
  - (vi) Any person who has paid remuneration in violation of Article 18;
  - (vii) Any person who has made an appointment in violation of paragraph 1 of Article 33;
  - (viii) Any person who has violated the prohibition provided for in Article 39;

- (ix) Any person who has committed a fraud in violation of Article 40;
  - (x) Any person who has impeded the taking of examination or appointment or provided information in violation of Article 41;
  - (xi) Any person who has paid remuneration in violation of paragraph 1 of Article 63 or in violation of Article 66;
  - (xii) Any person who has paid remuneration in violation of Article 68;
  - (xiii) Any Commissioner who has intentionally failed to take appropriate measures in regard to payment of remuneration in violation of Article 70;
  - (xiv) Any person who has paid salaries to a person suspended from duty in violation of paragraph 2 of Article 83;
  - (xv) Any person who has intentionally prevented the presentation of a request for administrative action on working conditions in violation of Article 86;
  - (xvi) Deleted;
  - (xvii) Any person who has conspired to effect, instigated or incited an illegal act provided for in the first sentence of paragraph 2 of Article 98, or has attempted such act;
  - (xviii) Any person who has failed to make a statement or testify in violation of paragraph 4 of Article 100;
  - (xix) Any person who has violated the restrictions on political acts provided for in paragraph 1 of Article 102;
  - (xx) Any person who has formed an organization in violation of paragraph 5 of Article 108-2.
- (2) Money or other benefit received by a person who falls under item 8 of the preceding paragraph shall be confiscated. When it is not possible to confiscate such amount, either in whole or in part, its value shall be collected.

#### Article 111

Any person who has attempted to accomplish or who has ordered, intentionally permitted, instigated, or has been an accessory to the accomplishment of any of the acts listed in items 2, 3, 4 and 12 of Article 109, or item 1 and items 3 to 7 inclusive, items 9 to 15 inclusive, and items 18 and 20 of paragraph 1 of the preceding Article shall be punished by the prescript in each of these Articles.