

Telecommunications Business Act

(Act No. 86 of December 25, 1984)

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Act No. 50 of June 2, 2006 (unenforced)

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Chapter I General Provisions (Articles 1 to 5)

Chapter II Telecommunications Business

Section 1 General Provisions (Articles 6 to 8)

Section 2 Registration, Etc. of Business (Articles 9 to 18)

Section 3 Business Activities (Articles 19 to 40)

Section 4 Telecommunications Facilities

Subsection 1 Telecommunications Facilities for the Use of Telecommunications Business (Articles 41 to 51)

Subsection 2 Connection, Etc. of Terminal Facilities (Articles 52 to 73)

Section 5 Designated Examination Body, Etc.

Subsection 1 Designated Examination Body (Articles 74 to 85)

Subsection 2 Registered Approval Body (Articles 86 to 103)

Subsection 3 Recognized Approval Body (Articles 104 and 105)

Section 6 Universal Telecommunications Service Support Institution (Articles 106 to 116)

Chapter III Use of Land, Etc.

Section 1 Approval of Business (Articles 117 to 127)

Section 2 Use of Land (Articles 128 to 143)

Chapter IV Telecommunications Business Dispute Settlement Commission

Section 1 Establishment and Organization (Articles 144 to 153)

Section 2 Mediation and Arbitration (Articles 154 to 159)

Section 3 Consultation, Etc. (Articles 160 to 162)

Chapter V Miscellaneous Provisions (Articles 163 to 176)

Chapter VI Penal Provisions (Articles 177 to 193)

## **Supplementary Provisions**

### **Chapter I General Provisions**

Article 1 (Purpose)

The purpose of this Act is to ensure proper and reasonable operations and promote fair competition of the telecommunications business in light of the public nature of such business, and thereby ensure that telecommunications services are smoothly provided and protect the interests of the users of such services, so as to ensure sound development of telecommunications and convenience for citizens and to promote the public welfare.

Article 2 (Definition)

In this Act, the meanings of the terms listed in the following items shall be as

prescribed respectively in those items:

(i) "Telecommunications" means transmitting, relaying or receiving codes, sounds or images by cable, radio or any other electromagnetic form.

(ii) "Telecommunications facilities" mean machines, equipment, wires and cables or other electrical facilities for the operation of telecommunications.

(iii) "Telecommunications service" means intermediating communications of others through the use of telecommunications facilities, or any other acts of providing telecommunications facilities for the use of communications by others.

(iv) "Telecommunications business" means the business of providing telecommunications services in order to meet the demands of others (except businesses pertaining to facility-supplying broadcasting service prescribed in Article 52-10 paragraph (1) of the Broadcasting Act (Act No. 132 of 1950), cable sound broadcasting prescribed in Article 2 of the Act on Regulation of the Operation of Cable Sound Broadcasting Service (Act No. 135 of 1951), cable broadcasting telephone services prescribed in Article 2 paragraph (1) of the Cable Broadcasting Telephone Act (Act No. 152 of 1957), cable television broadcasting prescribed in Article 2 paragraph (1) of the Cable Television Broadcasting Act (Act No. 114 of 1972), and the acceptance of requests for the use of cable television broadcasting facilities pursuant to the provision of Article 9 of the same Act).

(v) "Telecommunications carrier" means any person who has obtained registration set forth in Article 9 to operate a telecommunications business, and has filed a notification pursuant to the provision of Article 16 paragraph (1).

(vi) "Telecommunications activities" mean business activities conducted by a telecommunications carrier to provide a telecommunications service.

#### Article 3 (Prohibition on Censorship)

No communications being handled by a telecommunications carrier shall be censored.

#### Article 4 (Protection of Secrecy)

(1) The secrecy of communications being handled by a telecommunications carrier shall not be violated.

(2) Any person who is engaged in a telecommunications business shall not disclose secrets obtained, while in office, with respect to communications being handled by a telecommunications carrier. The same shall apply even after he/she has left the office.

#### Article 5 (Treaties on Telecommunications Business)

Where the provisions are expressly specified in treaties with respect to telecommunications business, such provisions shall prevail over this Act.

## **Chapter II Telecommunications Business**

### **Section 1 General Provisions**

#### Article 6 (Fairness in Use)

No telecommunications carrier shall engage in unfair and discriminatory

treatment with regard to the provision of telecommunications services.

Article 7 (Provision of Universal Telecommunications Services)

Any telecommunications carrier who provides universal telecommunications services (telecommunications services which are specified by an Ordinance of the Ministry of Internal Affairs and Communications as being indispensable to the lives of citizens and thereby shall be provided nationwide; hereinafter the same shall apply) shall make efforts to provide such services appropriately, impartially and stably.

Article 8 (Securing of Essential Communications)

(1) Any telecommunications carrier shall, when a natural disaster, accident or any other emergency occurs or is likely to occur, give priority to communications on matters that are necessary for disaster prevention or relief efforts, for securing of transportation, communications or electric power supply, or for the maintenance of public order. The same shall apply to other communications that are specified by an Ordinance of the Ministry of Internal Affairs and Communications to be performed urgently for the public interest.

(2) In the cases set forth in the preceding paragraph, a telecommunications carrier may, where necessary, suspend part of its telecommunications activities in accordance with the standards specified by an Ordinance of the Ministry of Internal Affairs and Communications.

(3) Where any telecommunications carrier interconnects its telecommunications facilities with other telecommunications carriers' telecommunications facilities in order to cooperate with each other to ensure that the communications set forth in paragraph (1) (hereinafter referred to as "essential communications") are smoothly conducted, it shall, as specified by an Ordinance of the Ministry of Internal Affairs and Communications, take necessary measures, including concluding an agreement for preferential treatment of essential communications.

**Section 2 Registration, Etc. of Business**

Article 9 (Registration of Telecommunications Business)

Any person who intends to operate a telecommunications business shall obtain registration from the Minister for Internal Affairs and Communications; provided, however, that this shall not apply to cases where the scale of telecommunications circuit facilities (telecommunications line facilities that connect places of transmission with places of reception and switching facilities installed as an integral part of these, and their adjunct facilities; hereinafter the same shall apply) installed by the person and the scope of areas where the telecommunications circuit facilities are installed do not exceed the standards specified by an Ordinance of the Ministry of Internal Affairs and Communications.

Article 10

(1) Any person who intends to obtain registration as set forth in the preceding Article shall, as specified by an Ordinance of the Ministry of Internal Affairs and

Communications, file with the Minister for Internal Affairs and Communications an application describing the following matters:

(i) Name and address of the applicant and in the case of a juridical person, the name of the representative person

(ii) Service areas

(iii) Outline of telecommunications facilities

(2) The application set forth in the preceding paragraph shall be submitted with a document in which the person pledges that he/she does not fall under any of item (i) through item (iii) of Article 12 paragraph (1), and other documents specified by an Ordinance of the Ministry of Internal Affairs and Communications attached thereto.

Article 11 (Implementation of Registration)

(1) When an application for the registration set forth in Article 9 is filed, the Minister for Internal Affairs and Communications shall register the following matters in the telecommunications carriers registration book, except where the Minister refuses the registration pursuant to the provision of paragraph (1) of the following Article:

(i) Matters listed in the items of paragraph (1) of the preceding Article

(ii) Registration date and registration number

(2) When the Minister for Internal Affairs and Communications has made a registration pursuant to the provision of the preceding paragraph, the Minister shall notify the applicant to that effect without delay.

Article 12 (Refusal of Registration)

(1) Where a person who has filed an application as set forth in Article 10 paragraph (1) falls under any of the following items, or where the application or any document attached thereto includes a false entry on any important matter or fails to describe any material fact, the Minister for Internal Affairs and Communications shall refuse the registration:

(i) Any person who has been sentenced to a fine or severer punishment pursuant to the provisions of this Act, the Cable Telecommunications Act (Act No. 96 of 1953) or the Radio Act (Act No. 131 of 1950), if a period of two years has not passed from the date on which the enforcement of such punishment has been completed or has ceased to become applicable

(ii) Any person whose registration was revoked pursuant to the provision of Article 14 paragraph (1), if a period of two years has not passed from the date of revocation

(iii) Any juridical person or association any of whose officers falls under any of the preceding two items

(iv) Any person whose telecommunications business, if commenced, is found to be inappropriate for the sound development of telecommunications

(2) When the Minister for Internal Affairs and Communications has refused

registration pursuant to the provision of the preceding paragraph, the Minister shall notify the applicant to that effect in writing with the reasons attached thereto.

#### Article 13 (Registration of Change, Etc.)

(1) When any person who has obtained registration as set forth in Article 9 intends to change any of the matters set forth in item (ii) or item (iii) of Article 10 paragraph (1), he/she shall obtain registration of the change from the Minister for Internal Affairs and Communications; provided, however, that this shall not apply to minor changes specified by an Ordinance of the Ministry of Internal Affairs and Communications.

(2) Any person who intends to obtain registration of the change as set forth in the preceding paragraph shall, as specified by an Ordinance of the Ministry of Internal Affairs and Communications, file with the Minister for Internal Affairs and Communications an application which describes the matters pertaining to the change.

(3) The provisions of Article 10 paragraph (2), Article 11 and the preceding Article shall apply mutatis mutandis to registration of the change as set forth in paragraph (1). In this case, the term "the following matters" in Article 11 paragraph (1) shall be deemed to be replaced with "the matters pertaining to the change"; and the term "Where a person who has filed an application set forth in Article 10 paragraph (1) falls under any of the following items" in paragraph (1) of the preceding Article shall be deemed to be replaced with "Where a person who has filed an application for registration of a change falls under any of the following items (except item (ii))."

(4) When any person who has obtained registration as set forth in Article 9 has changed any of the matters set forth in Article 10 paragraph (1) item (i) or made any minor changes specified by an Ordinance of the Ministry of Internal Affairs and Communications, as set forth in the proviso of paragraph (1), he/she shall notify the Minister for Internal Affairs and Communications to that effect without delay. Upon such notification, the Minister shall change the registration without delay.

#### Article 14 (Revocation of Registration)

(1) Where any person who has obtained registration as set forth in Article 9 falls under any of the following items, the Minister for Internal Affairs and Communications may revoke the registration set forth in the same Article:

(i) If the person who has obtained the registration as set forth in Article 9 violates this Act or any order or disposition made under this Act, and is found to impair the public interest

(ii) If the person has obtained registration as set forth in Article 9 or registration of a change as set forth in paragraph (1) of the preceding Article through dishonest means

(iii) If the person falls under Article 12 paragraph (1) item (i) or item (iii)  
(2) The provision of Article 12 paragraph (2) shall apply mutatis mutandis to the case set forth in the preceding paragraph.

#### Article 15 (Deletion of Registration)

When a notification of the abolition of a telecommunications business in whole or a notification of dissolution is filed pursuant to the provision of Article 18 paragraph (1) or paragraph (2), or when the Minister for Internal Affairs and Communications revokes the registration pursuant to the provision of paragraph (1) of the preceding Article, the Minister shall delete the registration of the person who has obtained the registration set forth in Article 9.

#### Article 16 (Notification of Telecommunications Business)

(1) Any person (except a person who shall obtain registration as set forth in Article 9) who intends to operate a telecommunications business shall, as specified by an Ordinance of the Ministry of Internal Affairs and Communications, file a notification with the Minister for Internal Affairs and Communications to that effect by attaching documents that describe the following matters:

(i) Name and address of the applicant and in the case of a juridical person, the name of the representative person

(ii) Service areas

(iii) Outline of telecommunications facilities (limited to cases where the person installs telecommunications facilities for telecommunications business which is set forth in Article 44 paragraph (1))

(2) When any person who has filed a notification as set forth in the preceding paragraph has changed any of the matters specified in item (i) of the same paragraph, he/she shall notify the Minister for Internal Affairs and Communications to that effect without delay.

(3) When any person who has filed a notification as set forth in paragraph (1) intends to change any of the matters as set forth in item (ii) or item (iii) of the same paragraph, he/she shall notify the Minister for Internal Affairs and Communications to that effect; provided, however, that this shall not apply to minor changes specified by an Ordinance of the Ministry of Internal Affairs and Communications.

#### Article 17 (Succession)

(1) In the event of the assignment of a telecommunications business in whole, or merger, split (limited to split resulting in the succession to a telecommunications business in whole) or inheritance of a telecommunications carrier, the assignee of the telecommunications business in whole, the juridical person surviving after the merger or the juridical person newly established upon the merger, or the juridical person who has succeeded to the telecommunications business in whole upon the split or the heir (where one particular heir has been selected from among two or more heirs as the successor to the telecommunications business by agreement

between the heirs, such selected heir; hereinafter the same shall apply in this paragraph) shall succeed to the status of the telecommunications carrier; provided, however, that this shall not apply to cases where the telecommunications carrier has obtained the registration as set forth in Article 9 and the assignee of the telecommunications business in whole, the juridical person surviving after the merger or the juridical person newly established upon the merger, or the juridical person who has succeeded to the telecommunications business in whole upon the split or the heir falls under any of item (i) through item (iii) of Article 12 paragraph (1).

(2) Any person who has succeeded to the status of telecommunications carrier pursuant to the provision of the preceding paragraph shall notify the Minister for Internal Affairs and Communications to that effect without delay.

Article 18 (Suspension and Abolition of Business and Dissolution of Juridical Person)

(1) When a telecommunications carrier suspends or abolishes its telecommunications business in whole or in part, it shall notify the Minister for Internal Affairs and Communications to that effect without delay.

(2) When a juridical person as a telecommunications carrier dissolves due to reasons other than merger, the liquidator in charge (in the case of dissolution due to an order for the commencement of bankruptcy proceedings, the bankruptcy trustee) shall notify the Minister for Internal Affairs and Communications to that effect without delay.

(3) When a telecommunications carrier intends to suspend or abolish its telecommunications business in whole or in part, it shall, as specified by an Ordinance of the Ministry of Internal Affairs and Communications, fully inform the users of the telecommunications business to be suspended and abolished (persons who have concluded a contract with the telecommunications carrier to receive telecommunications services; hereinafter the same shall apply) to that effect; provided, however, that this shall not apply to cases of suspension or abolition of a telecommunications business that is specified by an Ordinance of the Ministry of Internal Affairs and Communications as a business having a comparatively small influence on the interests of its users.

### **Section 3 Business Activities**

Article 19 (Tariffs for Universal Telecommunications Services)

(1) Any telecommunications carrier who provides universal telecommunications services shall establish tariffs concerning charges and other terms and conditions for the provision of its universal telecommunications services (except matters pertaining to technical conditions to be authorized pursuant to the provision of Article 52 paragraph (1) or Article 70 paragraph (1) item (i) and matters specified by an Ordinance of the Ministry of Internal Affairs and Communications) and submit, as specified by an Ordinance of the Ministry of Internal Affairs and

Communications, the tariffs to the Minister for Internal Affairs and Communications prior to the implementation of the tariffs. The same shall also apply when it intends to change such tariffs.

(2) Where the Minister for Internal Affairs and Communications finds that tariffs notified pursuant to the provision of the preceding paragraph fall under any of the following items, the Minister may order the telecommunications carrier who provides the universal telecommunications services to change the tariffs within a reasonable time limit designated by the Minister:

(i) If the tariffs do not properly and explicitly specify methods to calculate charges

(ii) If the tariffs do not properly and explicitly specify matters concerning the responsibilities of the telecommunications carrier and of its users, and methods to share the costs of installation and other works of telecommunications facilities

(iii) If the tariffs unreasonably restrict the way the telecommunications circuit facilities are used

(iv) If the tariffs treat certain persons in an unfair and discriminatory manner

(v) If the tariffs do not pay due consideration to the matters concerning essential communications

(vi) If the tariffs may lead to unfair competition with other telecommunications carriers, or are extremely improper in light of social and economic circumstances, and thereby impair the interests of users

(3) No telecommunications carrier who provides universal telecommunications services shall provide its universal telecommunications services unless charges and other terms and conditions for the service provision, which shall be specified in tariffs pursuant to the provision of paragraph (1), are in accordance with the tariffs notified pursuant to the provision of the same paragraph; provided, however, that this shall not apply to cases where the charges for the universal telecommunications services specified in the tariffs are reduced or exempted pursuant to the provision of the following paragraph.

(4) Any telecommunications carrier who provides universal telecommunications services may, in accordance with the standards specified by an Ordinance of the Ministry of Internal Affairs and Communications, reduce or exempt charges for the universal telecommunications services specified in the tariffs notified pursuant to the provision of paragraph (1).

#### Article 20 (Security Tariffs for Designated Telecommunications Services)

(1) Any telecommunications carrier who provides designated telecommunications services (telecommunications services which a telecommunications carrier who installs Category I designated telecommunications facilities set forth in Article 33 paragraph (2) provides by using the Category I designated telecommunications facilities, and the provision of which for proper charges and other terms and conditions needs to be guaranteed, as specified by an Ordinance of the Ministry of



Internal Affairs and Communications, particularly in order to protect the interests of users in consideration of the circumstances, including the fact that telecommunications services to substitute for the telecommunications services may not be sufficiently provided by other telecommunications carriers; hereinafter the same shall apply) shall establish tariffs concerning charges and other terms and conditions for the provision of its designated telecommunications services (except matters pertaining to technical conditions to be authorized pursuant to the provision of Article 52 paragraph (1) or Article 70 paragraph (1) item (i), and matters specified by an Ordinance of the Ministry of Internal Affairs and Communications; the same shall apply in paragraph (5) and Article 25 paragraph (2)) and shall submit, as specified by an Ordinance of the Ministry of Internal Affairs and Communications, the tariffs to the Minister for Internal Affairs and Communications prior to the implementation of the tariffs. The same shall also apply when it intends to change such tariffs.

(2) The provision of the preceding paragraph (including cases where the preceding paragraph shall apply with the replacement pursuant to the provision of paragraph (4)) shall not apply to telecommunications services which are designated telecommunications services as well as universal telecommunications services.

(3) Where the Minister for Internal Affairs and Communications finds that tariffs notified pursuant to the provision of paragraph (1) (including cases where paragraph (1) shall apply with the replacement pursuant to the provision of the following paragraph) (hereinafter referred to as "security tariffs") fall under any of the following items, the Minister may order the telecommunications carrier who provides the designated telecommunications services to change the security tariffs within a reasonable time limit designated by the Minister:

(i) If the tariffs do not properly and explicitly specify methods to calculate charges

(ii) If the tariffs do not properly and explicitly specify matters concerning the responsibilities of the telecommunications carrier and of its users, and methods to share the costs of installation and other works of telecommunications facilities

(iii) If the tariffs unreasonably restrict the way the telecommunications circuit facilities are used

(iv) If the tariffs treat certain persons in an unfair and discriminatory manner

(v) If the tariffs do not pay due consideration to the matters related to essential communications

(vi) If the tariffs may lead to unfair competition with other telecommunications carriers, or are extremely improper in light of social and economic circumstances, and thereby impair the interests of users

(4) With respect to tariffs which a telecommunications carrier who installs telecommunications facilities to which designation is newly granted pursuant to

the provision of Article 33 paragraph (1) shall notify to the Minister for Internal Affairs and Communications for the first time after the designation date pursuant to the provision of paragraph (1), the term "shall submit, as specified by an Ordinance of the Ministry of Internal Affairs and Communications, the tariffs to the Minister for Internal Affairs and Communications prior to the implementation of the tariffs. The same shall also apply when it intends to change such tariffs" in the same paragraph shall be deemed to be replaced with "shall file the tariffs to the Minister for Internal Affairs and Communications within three months from the date on which the designation is granted pursuant to the provision of Article 33 paragraph (1)."

(5) No telecommunications carrier who provides designated telecommunications services shall, except in cases where it has agreed with the party receiving the designated telecommunications services on charges and other terms and conditions for the service provision, provide the designated telecommunications services unless the charges and other terms and conditions for the service provision are in accordance with those specified in the security tariffs; provided, however, that this shall not apply to cases where charges for the designated telecommunications services specified in the security tariffs are reduced or exempted pursuant to the provision of the following paragraph.

(6) Any telecommunications carrier who provides designated telecommunications services may, in accordance with the standards specified by an Ordinance of the Ministry of Internal Affairs and Communications, reduce or exempt charges for the designated telecommunications services specified in the security tariffs.

#### Article 21 (Charges for Specified Telecommunications Services)

(1) With regard to designated telecommunications services specified by an Ordinance of the Ministry of Internal Affairs and Communications as having a significant influence on the interests of users in light of their content, scope of users, etc. (hereinafter referred to as "specified telecommunications services"), the Minister for Internal Affairs and Communications shall, at least once a year, as specified by an Ordinance of the Ministry of Internal Affairs and Communications, determine the level of charges that may be generally found feasible, in consideration of reasonable cost under efficient management, commodity prices and other economic circumstances, for each type of specified telecommunications services specified by an Ordinance of the Ministry of Internal Affairs and Communications by using a charge index (figures to represent the level of charges for each type of telecommunications services, which are calculated using the methods specified by an Ordinance of the Ministry of Internal Affairs and Communications from charges based on the distance and speed of communications and other classifications as well as from the amount of traffic, number of circuits, etc. to which such charges are applied; hereinafter the same shall apply) and shall notify the telecommunications carrier who provides the specified

telecommunications services of the charge index (hereinafter referred to as "the standard charge index") within the number of days specified by an Ordinance of the Ministry of Internal Affairs and Communications before the date on which the standard charge index becomes applicable.

(2) When any telecommunications carrier who provides specified telecommunications services intends to change charges for its specified telecommunications services and the charge index after the change exceeds the standard charge index pertaining to the specified telecommunications services, it shall obtain authorization from the Minister for Internal Affairs and Communications, notwithstanding the provision of Article 19 paragraph (1) or paragraph (1) of the preceding Article (including cases where paragraph (1) of the preceding Article shall apply with the replacement pursuant to the provision of paragraph (4) of the same Article).

(3) When an application for authorization set forth in the preceding paragraph is filed, the Minister for Internal Affairs and Communications shall grant authorization as set forth in the same paragraph if the Minister finds that there are special circumstances making it difficult to offer charges based on a charge index that is equivalent to or less than the standard charge index and that the charges after the change pertaining to the application do not fall under any of the following items:

(i) If the methods to calculate charges are not properly and explicitly specified

(ii) If the charges after the change treat certain persons in an unfair and discriminatory manner

(iii) If the charges after the change may lead to unfair competition with other telecommunications carriers, or are extremely improper in light of social and economic circumstances, and thereby impair the interests of users

(4) Where, after the standard charge index has been applied, the charge index of the charges for the specified telecommunications services, to which the standard charge index is applicable, exceeds the standard charge index, the Minister for Internal Affairs and Communications shall order the telecommunications carrier who provides the specified telecommunications services to change the charges for the specified telecommunications services within a reasonable time limit designated by the Minister, except for cases where there are special circumstances making it difficult to offer charges based on a charge index that is equivalent to or less than the standard charge index.

(5) Any charges for telecommunications services, which a telecommunications carrier who installs telecommunications facilities that had been Category I designated telecommunications facilities set forth in Article 33 paragraph (2) provides by using the telecommunications facilities (limited to universal telecommunications services) and which had been authorized pursuant to the provision of Article 33 paragraph (2) at the time of the cancellation of the

designation granted pursuant to the provision of Article 33 paragraph (1), shall be deemed to be the charges notified pursuant to the provision of Article 19 paragraph (1).

(6) With respect to charges to be authorized pursuant to the provision of paragraph (2), no telecommunications carrier who provides specified telecommunications services shall provide the specified telecommunications services unless the charges are in accordance with the charges authorized pursuant to the provision of the same paragraph; provided, however, that this shall not apply to cases where charges for the specified telecommunications services are reduced or exempted pursuant to the provision of the following paragraph.

(7) Any telecommunications carrier who provides specified telecommunications services may, in accordance with the standards specified by an Ordinance of the Ministry of Internal Affairs and Communications, reduce or exempt charges for the specified telecommunications services authorized pursuant to the provision of paragraph (2).

#### Article 22 (Record of Amount of Traffic, Etc.)

Any telecommunications carrier who provides specified telecommunications services shall keep records of the amount of traffic, number of circuits, etc. of its specified telecommunications services by means specified by an Ordinance of the Ministry of Internal Affairs and Communications.

#### Article 23 (Posting, Etc. of Tariffs)

(1) Any telecommunications carrier who provides universal telecommunications services, designated telecommunications services or specified telecommunications services shall, as specified by an Ordinance of the Ministry of Internal Affairs and Communications, announce tariffs (including the technical conditions authorized pursuant to the provision of Article 52 paragraph (1) or Article 70 paragraph (1) item (i)) notified pursuant to the provision of Article 19 paragraph (1) or Article 20 paragraph (1) (including cases where Article 20 paragraph (1) shall apply with the replacement pursuant to the provision of the paragraph (4) of the same Article) or charges authorized pursuant to the provision of Article 21 paragraph (2), and shall post such tariffs or charges at its business offices and other places of business in a place where the general public can easily see them.

(2) The provision of the preceding paragraph shall apply mutatis mutandis to the terms and conditions for the service provision pertaining to the matters specified by an Ordinance of the Ministry of Internal Affairs and Communications set forth in Article 19 paragraph (1) or Article 20 paragraph (1).

#### Article 24 (Keeping of Accounts)

Any telecommunications carrier who provides universal telecommunications services or designated telecommunications services shall keep accounts in accordance with the classification of accounts and other accounting procedures

specified by an Ordinance of the Ministry of Internal Affairs and Communications, in order to contribute to proper calculation of charges for its universal telecommunications services or designated telecommunications services.

Article 25 (Obligation to Provide Services)

(1) Any telecommunications carrier who provides universal telecommunications services shall not, without justifiable grounds, refuse to provide its universal telecommunications services within its service areas.

(2) Any telecommunications carrier who provides designated telecommunications services shall not, without justifiable grounds, refuse to provide the designated telecommunications services for the charges and other terms and conditions for the service provision specified in the security tariffs within its service areas, except in cases where it has separately agreed with the party receiving the designated telecommunications services on charges and other terms and conditions for the service provision.

Article 26 (Accountability of Terms and Conditions for the Service Provision)

When any telecommunications carrier or any person who engages in acting as an intermediary, agency or agent for concluding a contract for the provision of telecommunications services of a telecommunications carrier (hereinafter referred to as "telecommunications carrier, etc.") intends to conclude a contract, or to act as an intermediary, agency or agent for concluding a contract, with a person (except a telecommunications carrier) who intends to receive telecommunications services on the provision of telecommunications services specified by an Ordinance of the Ministry of Internal Affairs and Communications as those relevant to the daily lives of citizens, they shall, as specified by an Ordinance of the Ministry of Internal Affairs and Communication, explain to the person an outline of the charges and other terms and conditions for the provision of the telecommunications services.

Article 27 (Procedure for Processing Complaints, Etc.)

Any telecommunications carrier shall, properly and promptly, process complaints and inquiries from users (including persons who intend to receive telecommunications services and excluding persons who are telecommunications carriers; the same shall apply in Article 29 paragraph (2)) with regard to the telecommunications carrier's methods of conducting its business activities pertaining to the telecommunications services specified by an Ordinance of the Ministry of Internal Affairs and Communications as set forth in the preceding Article or with regard to the telecommunications services specified by an Ordinance of the Ministry of Internal Affairs and Communications as set forth in the same Article, which are provided by the telecommunications carrier.

Article 28 (Reporting on Suspension, Etc. of Business Activities)

When a telecommunications carrier suspends its telecommunications activities in part pursuant to the provision of Article 8 paragraph (2), or when a violation of

secrecy of communications or any other serious accident specified by an Ordinance of the Ministry of Internal Affairs and Communications has occurred with respect to telecommunications activities, it shall report without delay to the Minister for Internal Affairs and Communications to that effect including its reason or cause.

Article 29 (Order to Improve Business Activities)

(1) Where the Minister for Internal Affairs and Communications finds that the business activities of a telecommunications carrier fall under any of the following items, the Minister may order the telecommunications carrier to improve the methods of conducting its business activities or take other measures within the limits necessary for ensuring the interests of users or the public interest:

(i) If there is hindrance in ensuring secrecy of communications with respect to the telecommunications carrier's methods of conducting its business activities

(ii) If the telecommunications carrier treats certain persons in an unfair and discriminatory manner

(iii) If the telecommunications carrier does not pay due consideration to the matters related to essential communications

(iv) If methods of calculating charges for telecommunications services (except universal telecommunications services or designated telecommunications services (limited to those provided in accordance with the charges and other terms and conditions for the service provision specified in security tariffs); the same shall apply in the following item through item (vii)) provided by the telecommunications carrier are not specified properly and explicitly, and thereby impair the interests of users

(v) If the charges and other terms and conditions for the provision of the telecommunications services provided by the telecommunications carrier may lead to unfair competition with other telecommunications carriers or are extremely improper in light of social and economic circumstances, and thereby impair the interests of users

(vi) If the terms and conditions for the provision (except charges; the same shall apply in the following item) of the telecommunications services provided by the telecommunications carrier do not properly and explicitly specify matters related to the responsibilities of the telecommunications carrier and of its users, and the methods to share the costs of installation and other works for the telecommunications facilities, and thereby impair the interests of users

(vii) If the terms and conditions for the provision of the telecommunications services provided by the telecommunications carrier unreasonably restrict the way the telecommunications circuit facilities are used

(viii) If the telecommunications carrier fails to promptly make repairs or to take other measures necessary for removing any hindrance, which has been caused by an accident, to the provision of telecommunications services

(ix) If the telecommunications carrier does not sincerely fulfill its obligations

imposed by treaties or other international agreements related to the international telecommunications business, and is thereby likely to seriously impair the public interest

(x) If the telecommunications carrier hinders other telecommunications carriers from properly conducting their business activities by treating certain telecommunications carriers in an unfair and discriminatory manner in interconnecting or sharing telecommunications facilities or in providing wholesale telecommunications services (telecommunications services for the use of the telecommunications business of other telecommunications carrier; hereinafter the same shall apply) or by conducting other unfair operations related to such business activities, and is thereby likely to seriously impair the public interest

(xi) If an operator's business of providing telecommunications services intended to satisfy the demand for telecommunications services without installing telecommunications circuit facilities makes it difficult, from the perspective of the management, for another telecommunications carrier to maintain the carrier's own telecommunications circuit facilities pertaining to its business of providing telecommunications services by installing its own telecommunications circuit facilities intended to satisfy the same demand, and is thereby likely to seriously impair the public interest

(xii) In addition to the cases listed in the preceding items, if the telecommunications carrier does not operate its business properly and reasonably, and is thereby likely to hinder the sound development of telecommunications or the securing of convenience of citizens

(2) Where any telecommunications carrier, etc. violates the provision of Article 26 or a telecommunications carrier violates the provision of Article 27, the Minister for Internal Affairs and Communications may order the telecommunications carrier, etc. to improve the methods of conducting its business activities or take other measures within the limits necessary for ensuring the interests of users.

Article 30 (Prohibited Acts, Etc.)

(1) In cases where the total profit that a telecommunications carrier who installs Category II designated telecommunications facilities set forth in Article 34 paragraph (2) earned from its telecommunications services using the Category II designated telecommunications facilities in the most recent year as a percentage of the total profit earned from all telecommunications services of the same kind in the most recent year in the same area as the service area pertaining to the telecommunications services exceeds the percentage specified by an Ordinance of the Ministry of Internal Affairs and Communications, the Minister for Internal Affairs and Communications may, as specified by an Ordinance of the Ministry of Internal Affairs and Communications, designate the telecommunications carrier as a telecommunications carrier to whom the provisions of paragraphs (3) through (5) shall apply, where the Minister finds it necessary to ensure proper competition

with other telecommunications carriers in consideration of changes in the percentage and other circumstances.

(2) Where the Minister for Internal Affairs and Communications finds the designation pursuant to the provision of the preceding paragraph is no longer necessary, the Minister shall cancel the designation.

(3) Any telecommunications carrier who has been designated pursuant to the provision of paragraph (1) and any telecommunications carrier who installs Category I designated telecommunications facilities set forth in Article 33 paragraph (2) shall not conduct any of the following acts:

(i) Using or providing proprietary information on other telecommunications carriers or their users, which came to its knowledge with respect to business activities of interconnecting with the telecommunications facilities of the telecommunications carriers, for purposes other than such business activities

(ii) Applying unreasonable preferential treatment or conferring benefits, or applying unreasonable disadvantageous treatment or causing disadvantages, to certain telecommunications carriers, with regard to its telecommunications activities

(iii) Unreasonably disciplining or intervening in the business activities of other telecommunications carriers (including those who operate any of the telecommunications business listed in items of Article 164 paragraph (1)), or manufacturers or sellers of telecommunications facilities

(4) Where the Minister for Internal Affairs and Communications finds that an act committed by any telecommunications carrier who has been designated pursuant to the provision of paragraph (1) or any telecommunications carrier who installs Category I designated telecommunications facilities set forth in Article 33 paragraph (2) violates the provision of the preceding paragraph, the Minister may order the telecommunications carrier to suspend or change the act.

(5) Any telecommunications carrier who has been designated pursuant to the provision of paragraph (1) and any telecommunications carrier who installs Category I designated telecommunications facilities set forth in Article 33 paragraph (2) shall, as specified by an Ordinance of the Ministry of Internal Affairs and Communications, keep accounts in accordance with the classification of accounts and other accounting procedures specified by an Ordinance of the Ministry of Internal Affairs and Communications, and announce the status of income and expenditure for its telecommunications services and other accounting matters as specified by an Ordinance of the Ministry of Internal Affairs and Communications.

#### Article 31

(1) Where a telecommunications carrier who installs Category I designated telecommunications facilities as set forth in Article 33 paragraph (2) is a juridical person, none of its officers shall concurrently act as an officer of any other



telecommunications carrier which is a company in which the telecommunications carrier owns a majority of the votes of all shareholders (excluding shareholders who cannot exercise their voting rights with regard to all matters that may be resolved at the shareholders meetings, and including shareholders who are deemed as having voting rights pursuant to the provision of Article 879 paragraph (3) of the Companies Act (Act No. 86 of 2005)) or of all employees (hereinafter referred to as a "subsidiary" in this paragraph), the parent company that owns the telecommunications carrier as a subsidiary (parent juridical person prescribed in Article 879 paragraph (1) of the same Act; hereinafter the same shall apply in this paragraph and Article 87 paragraph (1) item (iii) (a)) or as a subsidiary of the parent juridical person (except the telecommunications carrier) and which is designated by the Minister for Internal Affairs and Communications (hereinafter referred to as a "specified relevant carrier").

(2) No telecommunications carrier who installs Category I designated telecommunications facilities set forth in Article 33 paragraph (2) (limited to juridical person; hereinafter the same shall apply in this Article) shall conduct the following acts; provided, however, that this shall not apply if there are compelling reasons specified by an Ordinance of the Ministry of Internal Affairs and Communications:

(i) Applying disadvantageous treatment to other telecommunications carriers in comparison with specified relevant carriers, with regard to installing or maintaining telecommunications facilities necessary for interconnection with Category I designated telecommunications facilities set forth in Article 33 paragraph (2), or using or providing information on the land and buildings and other works affixed thereto

(ii) Applying disadvantageous treatment to other telecommunications carriers in comparison with specified relevant carriers, with regard to consigning an intermediary, agency or agent for concluding a contract for the provision of telecommunications services or other business activities of other telecommunications carriers

(3) Where the Minister for Internal Affairs and Communications finds that an act committed by a telecommunications carrier who installs Category I designated telecommunications facilities as set forth in Article 33 paragraph (2) violates the provision of the preceding paragraph, the Minister may order the telecommunications carrier to suspend or change the act.

(4) Any telecommunications carrier who installs Category I designated telecommunications facilities as set forth in Article 33 paragraph (2) shall, every year, as specified by an Ordinance of the Ministry of Internal Affairs and Communications, report to the Minister for Internal Affairs and Communications on matters specified by an Ordinance of the Ministry of Internal Affairs and Communications with respect to the measures it has taken to comply with the

provision of paragraph (2) and the status of implementation of such measures.

Article 32 (Interconnection with Telecommunications Circuit Facilities)

Any telecommunications carrier shall accept a request from another telecommunications carrier to interconnect the telecommunications facilities of the requesting telecommunications carrier with the telecommunications circuit facilities that the requested telecommunications carrier installs, except in the cases listed below:

(i) Where the interconnection is likely to hinder telecommunications services from being smoothly provided

(ii) Where the interconnection is likely to unreasonably harm the interests of the requested telecommunications carrier

(iii) In addition to the cases listed in the preceding two items, where there are justifiable grounds specified by an Ordinance of the Ministry of Internal Affairs and Communications

Article 33 (Interconnection with Category I Designated Telecommunications Facilities)

(1) For each of the areas specified by an Ordinance of the Ministry of Internal Affairs and Communications, which are determined by dividing the entire district of Japan by usage of telecommunications services and prefectural districts, the Minister for Internal Affairs and Communications may, as specified by an Ordinance of the Ministry of Internal Affairs and Communications, designate transmission line facilities installed by one telecommunications carrier and having the number of telecommunications circuits whose percentage of the total telecommunications circuits of all transmission line facilities of the same kind installed in the area exceeds the percentage specified by an Ordinance of the Ministry of Internal Affairs and Communications, from among transmission line facilities one end of which is connected to users' telecommunications facilities (except for mobile terminal facilities (users' telecommunications facilities as radio facilities of mobile radio stations; the same shall apply in paragraph (1) of the following Article)), and telecommunications facilities specified by an Ordinance of the Ministry of Internal Affairs and Communications and installed as an integral part of them by the telecommunications carrier in the area, in aggregate, as telecommunications facilities that need to be interconnected with other telecommunications carriers' telecommunications facilities for improved user convenience and comprehensive and reasonable development of telecommunications.

(2) Any telecommunications carrier who installs telecommunications facilities designated pursuant to the provision of the preceding paragraph (hereinafter referred to as "Category I designated telecommunications facilities") shall, with respect to interconnection between the Category I designated telecommunications facilities and other telecommunications carriers' telecommunications facilities,

establish interconnection tariffs concerning the amount of money that the telecommunications carrier who installs the Category I designated telecommunications facilities shall receive (hereinafter referred to as "interconnection charges" in this Article) and the technical conditions required at the points of interconnection with other telecommunications carriers' telecommunications facilities, and other terms and conditions of interconnection, including distinctions of telecommunications carriers according to which charges for telecommunications services are specified (hereinafter referred to as "terms and conditions of interconnection"), and shall obtain authorization from the Minister for Internal Affairs and Communications. The same shall also apply when it intends to change such interconnection tariffs.

(3) Interconnection charges and terms and conditions of interconnection specified in the interconnection tariffs for which authorization shall be obtained as set forth in the preceding paragraph and which are also specified by an Ordinance of the Ministry of Internal Affairs and Communications as those having a comparatively small influence on improvement of user convenience and comprehensive and reasonable development of telecommunications shall not be required to obtain authorization notwithstanding the provision of the same paragraph.

(4) The Minister for Internal Affairs and Communications shall grant authorization as set forth in paragraph (2) where the Minister finds an application for authorization as set forth in paragraph (2) (including cases where paragraph (2) shall apply with the replacement pursuant to the provision of paragraph (16); hereinafter the same shall apply in this paragraph, paragraph (6), paragraph (9), paragraph (10) and paragraph (14)) comply with all of the following items:

(i) Matters listed below are specified properly and explicitly:

(a) Technical conditions required at the points specified by an Ordinance of the Ministry of Internal Affairs and Communications as standard points, from among the interconnection points where interconnection with other telecommunications carriers' telecommunications facilities is technically and economically feasible

(b) Interconnection charges for respective functions specified by an Ordinance of the Ministry of Internal Affairs and Communications

(c) Matters related to the responsibilities of the telecommunications carrier who installs the Category I designated telecommunications facilities and of other telecommunications carriers who interconnect their telecommunications facilities with such facilities

(d) Distinctions of telecommunications carriers, according to which charges for telecommunications services are specified

(e) In addition to the matters listed in (a) through (d) above, matters specified by an Ordinance of the Ministry of Internal Affairs and Communications as being necessary for smooth interconnection with Category I designated

telecommunications facilities

(ii) The interconnection charges shall be fair and appropriate in light of the costs calculated with the methods specified by an Ordinance of the Ministry of Internal Affairs and Communications as methods to calculate reasonable cost under efficient management.

(iii) The terms and conditions of interconnection shall not be disadvantageous in comparison with those applicable to cases where the telecommunications carrier who installs Category I designated telecommunications facilities interconnects its own telecommunications facilities with the Category I designated telecommunications facilities.

(iv) The interconnection tariffs do not treat certain telecommunications carriers in an unfair and discriminatory manner.

(5) Where Category I designated telecommunications facilities are reorganized to improve their efficiency with the use of advanced new telecommunications technologies that are generally available, the methods specified by an Ordinance of the Ministry of Internal Affairs and Communications as set forth in item (ii) of the preceding paragraph (limited to the methods which specify interconnection charges for functions specified by an Ordinance of the Ministry of Internal Affairs and Communications as those, from among the functions specified by an Ordinance of the Ministry of Internal Affairs and Communications as set forth in item (i) (b) of the same paragraph, found to have the potential to considerably improve efficiency in providing telecommunications services pertaining to the function achieved through interconnection with Category I designated telecommunications facilities with the introduction of advanced new telecommunications technologies) shall be able to calculate costs in consideration of the expenses pertaining to the Category I designated telecommunications facilities, which may rise in accordance with an increase in the amount of traffic or the number of circuits pertaining to the telecommunications services provided by the Category I designated telecommunications facilities and through interconnection with the Category I designated telecommunications facilities.

(6) Where the Minister for Internal Affairs and Communications finds that the interconnection charges specified in the interconnection tariffs which have been authorized as set forth in paragraph (2) become inappropriate in light of the cost set forth in paragraph (4) item (ii), or that the terms and conditions of interconnection specified in the interconnection tariffs become seriously inappropriate due to changes in the social and economic circumstances, and thereby hinder promotion of the public interest, the Minister may order the telecommunications carrier who installs the Category I designated telecommunications facilities to apply for authorization of a change of the interconnection tariffs within a reasonable time limit designated by the Minister.

(7) Any telecommunications carrier who installs Category I designated

telecommunications facilities shall establish interconnection tariffs for interconnection charges and terms and conditions of interconnection specified by an Ordinance of the Ministry of Internal Affairs and Communications, as set forth in paragraph (3), with respect to interconnection with the Category I designated telecommunications facilities that it installs, and shall file a notification with the Minister for Internal Affairs and Communications prior to the implementation of the interconnection tariffs. The same shall also apply when it intends to change such interconnection tariffs.

(8) Where the Minister for Internal Affairs and Communications finds that interconnection charges or terms and conditions of interconnection specified in the interconnection tariffs notified pursuant to the provision of the preceding paragraph (including cases where the preceding paragraph shall apply with the replacement pursuant to the provision of paragraph (17)) hinder promotion of the public interest, the Minister may order the telecommunications carrier who installs the Category I designated telecommunications facilities to change the interconnection tariffs within a reasonable time limit designated by the Minister.

(9) Any telecommunications carrier who installs Category I designated telecommunications facilities shall not conclude nor amend an agreement with other telecommunications carriers on interconnection with the Category I designated telecommunications facilities that it installs, unless in accordance with the interconnection tariffs authorized pursuant to the provision of paragraph (2) or notified pursuant to the provision of paragraph (7) (including cases where paragraph (7) shall apply with the replacement pursuant to the provision of paragraph (17)) (hereinafter referred to as "authorized interconnection tariffs, etc." in this Article).

(10) Notwithstanding the provision of the preceding paragraph, where there are special circumstances that make it difficult to comply with authorized interconnection tariffs, etc., any telecommunications carrier who installs Category I designated telecommunications facilities may, upon authorization of the Minister for Internal Affairs and Communications, conclude or amend an agreement on interconnection with the Category I designated telecommunications facilities that it installs under interconnection charges and terms and conditions of interconnection different from the interconnection charges and terms and conditions of interconnection specified in the authorized interconnection tariffs, etc. (in the case of those that fall under the interconnection charges and terms and conditions of interconnection as set forth in paragraph (2), limited to those conforming to all items (except item (i) (a) and (b)) in paragraph (4)).

(11) Any telecommunications carrier who installs Category I designated telecommunications facilities shall, as specified by an Ordinance of the Ministry of Internal Affairs and Communications, announce the authorized interconnection tariffs, etc.

(12) Any telecommunications carrier who installs Category I designated telecommunications facilities shall, as specified by an Ordinance of the Ministry of Internal Affairs and Communications, keep records of the amount of traffic or the number of circuits, and other matters specified by an Ordinance of the Ministry of Internal Affairs and Communications (referred to as "amount of traffic, etc." in paragraph (14)) for respective functions specified by an Ordinance of the Ministry of Internal Affairs and Communications, as set forth in paragraph (4) item (i) (b), pertaining to interconnection with the Category I designated telecommunications facilities.

(13) Any telecommunications carrier who installs Category I designated telecommunications facilities shall, as specified by an Ordinance of the Ministry of Internal Affairs and Communications, keep accounts for interconnection with its Category I designated telecommunications facilities, and based on the accounting, announce the status of income and expenditure for the interconnection and other matters specified by an Ordinance of the Ministry of Internal Affairs and Communications.

(14) Any telecommunications carrier who installs Category I designated telecommunications facilities shall recalculate the interconnection charges based on records of the amount of traffic, etc. and on the results of the accounting as set forth in the preceding paragraph, in order to keep the interconnection charges fair and justifiable in light of the costs calculated with the methods specified by an Ordinance of the Ministry of Internal Affairs and Communications as set forth in paragraph (4) item (ii), every period of within five years as specified by an Ordinance of the Ministry of Internal Affairs and Communications after the date of authorization as set forth in paragraph (2) in the case of interconnection charges as set forth in paragraph (5), or every year when a telecommunications carrier has completed accounting for the preceding business year pursuant to the provision of the preceding paragraph in the case of other interconnection charges.

(15) Any telecommunications carrier who installs Category I designated telecommunications facilities shall endeavor to provide other telecommunications carriers with any information necessary for smooth interconnection between their telecommunications facilities and the Category I designated telecommunications facilities.

(16) With regard to interconnection charges and terms and conditions of interconnection specified in interconnection tariffs for which a telecommunications carrier who installs telecommunications facilities newly designated pursuant to the provision of paragraph (1) shall obtain authorization from the Minister for Internal Affairs and Communications for the first time after the date of designation pursuant to the provision of paragraph (2), the term "shall obtain authorization from the Minister for Internal Affairs and Communications. The same shall also apply when it intends to change such interconnection tariffs"

in the same paragraph shall be deemed to be replaced with "shall apply for authorization of the Minister for Internal Affairs and Communications within three months from the date on which the designation is newly granted pursuant to the provision of the preceding paragraph."

(17) With regard to interconnection charges and the terms and conditions of interconnection specified in the interconnection tariffs for which the telecommunications carrier who installs the telecommunications facilities newly designated pursuant to the provision of paragraph (1) shall file a notification with the Minister for Internal Affairs and Communications for the first time after the date of the designation pursuant to the provision of paragraph (7), the term "shall file a notification with the Minister for Internal Affairs and Communications prior to the implementation of the interconnection tariffs. The same shall also apply when it intends to change such interconnection tariffs" in the same paragraph shall be deemed to be replaced with "shall file a notification with the Minister for Internal Affairs and Communications within three months from the date on which designation is newly granted pursuant to the provision of paragraph (1)."

(18) From among the agreements on interconnection that the telecommunications carrier who installs the telecommunications facilities newly designated pursuant to the provision of paragraph (1) has concluded with other telecommunications carriers on the date when the authorization of the Minister for Internal Affairs and Communications is granted with respect to interconnection tariffs that the telecommunications carrier has applied for pursuant to the provision of paragraph (2), which shall apply with the replacement pursuant to the provision of paragraph (16), or on the date when the telecommunications carrier notifies the interconnection tariffs pursuant to the provision of paragraph (7), which shall apply with the replacement pursuant to the provision of the preceding paragraph, whichever comes later (hereinafter referred to as "initial date of reckoning" in this paragraph), the provision of paragraph (9) shall not apply to agreements on interconnection with the newly designated telecommunications facilities for three months from the initial date of reckoning.

#### Article 34 (Interconnection with Category II Designated Telecommunications Facilities)

(1) The Minister for Internal Affairs and Communications may, as specified by an Ordinance of the Ministry of Internal Affairs and Communications, designate transmission line facilities installed by one telecommunications carrier and having the number of connecting specified mobile terminal facilities whose percentage of the total specified mobile terminal facilities of all transmission line facilities of the same kind installed in the same area as the service area of the telecommunications services using the transmission line facilities exceeds the percentage specified by an Ordinance of the Ministry of Internal Affairs and Communications, from among transmission line facilities one end of which is

connected to specified mobile terminal facilities (mobile terminal facilities specified by an Ordinance of the Ministry of Internal Affairs and Communications; hereinafter the same shall apply in this paragraph) and telecommunications facilities specified by an Ordinance of the Ministry of Internal Affairs and Communications and installed by the telecommunications carrier to provide the telecommunications services, in the aggregate, as telecommunications facilities that shall be ensured to be interconnected appropriately and smoothly with other telecommunications carriers' telecommunications facilities.

(2) Any telecommunications carrier who installs telecommunications facilities designated pursuant to the provision of the preceding paragraph (hereinafter referred to as "Category II designated telecommunications facilities") shall, with respect to the interconnection between the Category II designated telecommunications facilities and other telecommunications carriers' telecommunications facilities, establish interconnection tariffs concerning the amount of money that the telecommunications carrier who installs the Category II designated telecommunications facilities shall receive and the terms and conditions of interconnection, and shall file, as specified by an Ordinance of the Ministry of Internal Affairs and Communications, a notification with the Minister for Internal Affairs and Communications prior to implementation of the interconnection tariffs. The same shall also apply when it intends to change such interconnection tariffs.

(3) Where the Minister for Internal Affairs and Communications finds that the interconnection tariffs notified pursuant to the provision of the preceding paragraph (including cases where the preceding paragraph shall apply with the replacement pursuant to the provision of paragraph (6)) fall under any of the following items, the Minister may order the telecommunications carrier who installs the Category II designated telecommunications facilities to change the interconnection tariff within a reasonable time limit designated by the Minister:

(i) If the interconnection tariffs do not properly and explicitly specify matters related to the responsibilities of the telecommunications carrier who installs the Category II designated telecommunications facilities and of other telecommunications carriers who interconnect their telecommunications facilities with such facilities

(ii) If the interconnection tariffs do not properly and explicitly specify the technical conditions required at the points of interconnection with other telecommunications carriers' telecommunications facilities

(iii) If the interconnection tariffs do not properly and explicitly specify distinctions of telecommunications carriers, according to which charges for telecommunications services are specified

(iv) If the amount of money that the interconnection tariffs specify the telecommunications carrier who installs the Category II designated



telecommunications facilities shall receive exceeds reasonable costs under efficient management plus reasonable profits

(v) If the interconnection tariffs impose conditions that are unreasonably disadvantageous to other telecommunications carriers

(vi) If the interconnection tariffs treat certain telecommunications carriers in an unfair and discriminatory manner

(4) Any telecommunications carrier who installs Category II designated telecommunications facilities shall neither conclude nor amend an agreement with other telecommunications carriers on interconnection with the Category II designated telecommunications facilities that it installs, unless in accordance with the interconnection tariffs notified pursuant to the provision of paragraph (2) (including cases where paragraph (2) shall apply with the replacement pursuant to the provision of paragraph (6); the same shall apply in the following paragraph).

(5) Any telecommunications carrier who installs Category II designated telecommunications facilities shall, as specified by an Ordinance of the Ministry of Internal Affairs and Communications, announce the interconnection tariffs that it has notified pursuant to the provision of paragraph (2).

(6) With regard to the amount of money that a telecommunications carrier who installs telecommunications facilities newly designated pursuant to the provision of paragraph (1) shall receive and the terms and conditions of interconnection specified in the interconnection tariffs which the telecommunications carrier shall notify the Minister for Internal Affairs and Communications for the first time after the date of designation pursuant to the provision of paragraph (2), the term "shall file...a notification with the Minister for Internal Affairs and Communications prior to the implementation of the interconnection tariffs. The same shall also apply when it intends to change such interconnection tariffs" in the same paragraph shall be deemed to be replaced with "shall file a notification with the Minister for Internal Affairs and Communications within three months from the date on which designation is newly granted pursuant to the provision of the preceding paragraph."

(7) From among the agreements on interconnection that a telecommunications carrier who installs telecommunications facilities newly designated pursuant to the provision of paragraph (1) has concluded with other telecommunications carriers on the date when the telecommunications carrier notifies interconnection tariffs (hereinafter referred to as "date of notification") pursuant to the provision of paragraph (2), which shall apply with the replacement pursuant to the provision of the preceding paragraph, the provision of paragraph (4) shall not apply to agreements on interconnection with the newly designated telecommunication facilities for three months from the date of notification.

Article 35 (Order, Etc. on Interconnection with Telecommunications Facilities)

(1) When a telecommunications carrier requests another telecommunications

carrier to conclude an agreement on interconnection between the requested telecommunications carrier's telecommunications facilities and the requesting telecommunications carrier's telecommunications facilities, but the requested telecommunications carrier refuses to hold negotiations or such negotiations fail, with the result that the requesting telecommunications carrier files a petition, the Minister for Internal Affairs and Communications shall order the requested telecommunications carrier to start or restart such negotiations, except in cases where the Minister finds that such interconnection falls under the items of Article 32 and cases where an application for arbitration has been filed pursuant to the provision of Article 155 paragraph (1).

(2) In addition to the cases set forth in the preceding paragraph, where a telecommunications carrier requests another telecommunications carrier to conclude an agreement on interconnection between the requested telecommunications carrier's telecommunications facilities and the requesting telecommunications carrier's telecommunications facilities, but the requested telecommunications carrier refuses to hold negotiations or such negotiations fail, with the result that the requesting telecommunications carrier files a petition, the Minister for Internal Affairs and Communications shall order the requested telecommunications carrier to start or restart such negotiations, if the Minister finds that such interconnection is particularly necessary and appropriate to promote the public interest, except in cases where an application for arbitration has been filed pursuant to the provision of Article 155 paragraph (1).

(3) When negotiations between the parties on interconnection with the telecommunications facilities of a telecommunications carrier fail with regard to such agreement details as the amount of money to be received or paid by the parties and the terms and conditions of interconnection, the telecommunications carrier who installs telecommunications facilities to be interconnected with the telecommunications facilities may apply to the Minister for Internal Affairs and Communications for an award; provided, however, that this shall not apply after the parties have filed an application for arbitration pursuant to the provision of Article 155 paragraph (1).

(4) In addition to the cases set forth in the preceding paragraph, when an order has been issued pursuant to the provision of paragraph (1) or paragraph (2) and negotiations between the parties fail with regard to such agreement details as the amount of money to be received or paid by the parties and the terms and conditions of interconnection, the party (or parties) may apply to the Minister for Internal Affairs and Communication for an award.

(5) Upon receipt of an application for an award pursuant to the provisions of the preceding two paragraphs, the Minister for Internal Affairs and Communications shall notify the other party (or parties) to that effect, and shall give the party (or parties) an opportunity to submit written answers within a period designated by

the Minister.

(6) When the Minister for Internal Affairs and Communications renders an award as set forth in paragraph (3) or paragraph (4), the Minister shall notify the parties to that effect without delay.

(7) When the award is rendered as set forth in paragraph (3) or paragraph (4), the negotiations between the parties shall be deemed to have reached agreement as specified by the award.

(8) Any of the parties who are dissatisfied with the award as set forth in paragraph (3) or paragraph (4) with regard to the amount of money to be received or paid by the party (or parties) may demand an increase or decrease in the amount by filing an action within six months from the date on which the party is informed of the award.

(9) In filing an action as set forth in the preceding paragraph, the other party (or parties) shall be the defendant(s).

(10) In filing an objection to the award as set forth in paragraph (3) or paragraph (4), dissatisfaction with the amount of money to be received or paid by the party (or parties) shall not constitute grounds for dissatisfaction with the award.

Article 36 (Plan for Change or Addition of Functions of Category I Designated Telecommunications Facilities)

(1) When any telecommunications carrier who installs Category I designated telecommunications facilities has a plan to change or make an addition to existing functions (except those specified by an Ordinance of the Ministry of Internal Affairs and Communications) of the Category I designated telecommunications facilities, it shall, as specified by an Ordinance of the Ministry of Internal Affairs and Communications, notify the Minister for Internal Affairs and Communications of the plan within the number of days specified by an Ordinance of the Ministry of Internal Affairs and Communications before the date on which the installation work starts. The same shall also apply when it intends to change the plan it has notified.

(2) Any telecommunications carrier who installs Category I designated telecommunications facilities shall, as specified by an Ordinance of the Ministry of Internal Affairs and Communications, announce the plan it has notified pursuant to the provision of the preceding paragraph.

(3) When a notification is filed pursuant to the provision of paragraph (1) and the Minister for Internal Affairs and Communications finds that the implementation of the notified plan is likely to hinder the smooth interconnection between the Category I designated telecommunications facilities and another telecommunications carrier's telecommunications facilities, the Minister may recommend the telecommunications carrier who installs the Category I designated telecommunications facilities to change its plan.

Article 37 (Agreement on Sharing Category I Designated Telecommunications

Facilities)

(1) When any telecommunications carrier who installs Category I designated telecommunications facilities intends to conclude or amend an agreement with other telecommunications carriers on sharing its Category I designated telecommunications facilities, it shall, as specified by an Ordinance of the Ministry of Internal Affairs and Communications, file a notification with the Minister for Internal Affairs and Communications in advance.

(2) Any telecommunications carrier who installs telecommunications facilities which are newly designated pursuant to the provision of Article 33 paragraph (1) shall without delay, as specified by an Ordinance of the Ministry of Internal Affairs and Communications, file with the Minister for Internal Affairs and Communications a notification of the agreement on sharing the telecommunications facilities, from among agreements it has concluded with other telecommunications carriers at the time of the designation.

Article 38 (Order, Etc. on Sharing Telecommunications Facilities)

(1) When a telecommunications carrier requests another telecommunications carrier to conclude an agreement on sharing telecommunications facilities, but the requested telecommunications carrier refuses to hold negotiations or such negotiations fail, with the result that the requesting telecommunications carrier files a petition, the Minister for Internal Affairs and Communications shall order the requested telecommunications carrier to start or restart negotiations, if the Minister finds that such sharing is particularly necessary and appropriate to promote the public interest, except where an application for arbitration is filed pursuant to the provision of Article 155 paragraph (1), as applied mutatis mutandis pursuant to Article 156 paragraph (1).

(2) The provisions of Article 35 paragraph (3) through paragraph (10) shall apply mutatis mutandis to the sharing of telecommunications facilities. In this case, the term "terms and conditions of interconnection" in paragraph (3) and paragraph (4) of the same Article shall be deemed to be replaced with "terms and conditions for sharing"; the term "installs telecommunications facilities to be interconnected with the telecommunications facilities" and the term "Article 155 paragraph (1)" in paragraph (3) of the same Article shall be deemed to be replaced with "intends to conclude an agreement with the telecommunications carrier" and "Article 155 paragraph (1), as applied mutatis mutandis pursuant to Article 156 paragraph (1)," respectively; and, the term "paragraph (1) or paragraph (2)" in paragraph (4) of the same Article shall be deemed to be replaced with "Article 38 paragraph (1)." Article 39 (Application, Mutatis Mutandis to Provision of Wholesale Telecommunications Services)

The provisions of Article 35 paragraph (3) through paragraph (10) and paragraph (1) of the preceding Article shall apply mutatis mutandis to the provision of wholesale telecommunications services. In this case, the term "terms

and conditions of interconnection" in Article 35 paragraph (3) and paragraph (4) shall be deemed to be replaced with "terms and conditions for the service provision"; the term "agreement" in paragraph (3) and paragraph (4) of the same Article and paragraph (1) of the preceding Article shall be deemed to be replaced with "contract"; the term "installs telecommunications facilities to be interconnected with the telecommunications facilities" and the term "Article 155 paragraph (1)" in Article 35 paragraph (3) shall be deemed to be replaced with "intends to conclude a contract with the telecommunications carrier" and "Article 155 paragraph (1), as applied mutatis mutandis pursuant to Article 156 paragraph (2)," respectively; the term "paragraph (1) or paragraph (2)" in paragraph (4) of the same Article shall be deemed to be replaced with "Article 38 paragraph (1), as applied mutatis mutandis pursuant to Article 39"; and the term "such sharing" and the term "Article 156 paragraph (1)" in paragraph (1) of the preceding Article shall be deemed to be replaced with "such provision" and "Article 156 paragraph (2)," respectively.

Article 40 (Authorization of Agreements, Etc. with Foreign Governments, Etc.)

When any telecommunications carrier intends to conclude, amend or abolish an agreement or contract on telecommunications activities, which includes important matters specified by an Ordinance of the Ministry of Internal Affairs and Communications, with foreign governments, or foreign nationals or foreign juridical persons, it shall obtain authorization from the Minister for Internal Affairs and Communications.

#### **Section 4 Telecommunications Facilities**

##### **Subsection 1 Telecommunications Facilities for the Use of Telecommunications Business**

Article 41 (Maintenance of Telecommunications Facilities)

(1) Any telecommunications carrier who installs telecommunications circuit facilities shall maintain its telecommunications facilities for the use of its telecommunications business (except those specified by an Ordinance of the Ministry of Internal Affairs and Communications as having a minor influence on the interests of users in the event of damage, failure, etc.) in conformity with the technical standards specified by an Ordinance of the Ministry of Internal Affairs and Communications.

(2) Any telecommunications carrier who provides universal telecommunications services shall maintain its telecommunications facilities (except those set forth in the preceding paragraph) for the use of the business of providing universal telecommunications services in conformity with the technical standards specified by an Ordinance of the Ministry of Internal Affairs and Communications.

(3) The technical standards set forth in the preceding two paragraphs shall be specified so as to ensure the following matters:

(i) Damage or failure of such telecommunications facilities shall not

significantly hinder the provision of telecommunications services.

(ii) Quality of telecommunications services shall be maintained at an appropriate level.

(iii) Secrecy of communications shall not be violated.

(iv) The telecommunications facilities shall not damage telecommunications facilities which users or other telecommunications carriers connect with nor cause problems to their functions.

(v) The demarcation of responsibilities between the telecommunications carrier's telecommunications facilities and telecommunications facilities which other telecommunications carriers connect with shall be clearly specified.

Article 42 (Self-Confirmation of Telecommunications Carrier's Telecommunications Facilities)

(1) When any telecommunications carrier who installs telecommunications circuit facilities intends to start using the telecommunications facilities set forth in paragraph (1) of the preceding Article, it shall confirm itself, as specified by an Ordinance of the Ministry of Internal Affairs and Communications, whether the telecommunications facilities (except those specified by an Ordinance of the Ministry of Internal Affairs and Communications) are in conformity with the technical standards specified by an Ordinance of the Ministry of Internal Affairs and Communications, as set forth in the same paragraph.

(2) The provision of the preceding paragraph shall apply *mutatis mutandis* to the cases where a telecommunications carrier who installs telecommunications circuit facilities intends to change the matters set forth in Article 10 paragraph (1) item (iii) or Article 16 paragraph (1) item (iii). In this case, the term "the telecommunications facilities" in the preceding paragraph shall be deemed to be replaced with "the telecommunications facilities, which are set forth in paragraph (1) of the preceding Article, after change."

(3) When any telecommunications carrier who installs telecommunications circuit facilities has confirmed compliance pursuant to the provision of paragraph (1) (including cases where applied *mutatis mutandis* pursuant to the preceding paragraph), it shall, as specified by an Ordinance of the Ministry of Internal Affairs and Communications, notify the Minister for Internal Affairs and Communications of the results of its self-confirmation before it starts using the telecommunications facilities as set forth in the same paragraph.

(4) The provisions of the preceding three paragraphs shall apply *mutatis mutandis* to the case where any telecommunications carrier who provides universal telecommunications services intends to start using the telecommunications facilities as set forth in paragraph (2) of the preceding Article. In this case, the term "paragraph (1) of the preceding Article" in paragraph (2) shall be deemed to be replaced with "paragraph (2) of the preceding Article."

Article 43 (Order to Conform to Technical Standards)

(1) Where the Minister for Internal Affairs and Communications finds that the telecommunications facilities set forth in Article 41 paragraph (1) do not conform to the technical standards specified by an Ordinance of the Ministry of Internal Affairs and Communications, as set forth in the same paragraph, the Minister may order the telecommunications carrier who installs the telecommunications facilities to repair or alter them to conform to the technical standards, or may restrict their use.

(2) The provision of the preceding paragraph shall apply mutatis mutandis to cases where the telecommunications facilities set forth in Article 41 paragraph (2) are found not to conform to the technical standards specified by an Ordinance of the Ministry of Internal Affairs and Communications, as set forth in the same paragraph.

#### Article 44 (Administrative Regulations)

(1) In order to ensure the reliable and stable provision of its telecommunications services, any telecommunications carrier shall, as specified by an Ordinance of the Ministry of Internal Affairs and Communications, establish administrative regulations for the telecommunications facilities set forth in Article 41 paragraph (1) or paragraph (2) (hereinafter referred to as "telecommunications facilities for telecommunications business") and notify the Minister for Internal Affairs and Communications of such administrative regulations prior to the commencement of its telecommunications business.

(2) When a telecommunications carrier amends its administrative regulations, it shall notify the Minister for Internal Affairs and Communications of the amended matters without delay.

#### Article 45 (Chief Telecommunications Engineer)

(1) Any telecommunications carrier shall, as specified by an Ordinance of the Ministry of Internal Affairs and Communications, appoint a chief telecommunications engineer to supervise matters related to installation, maintenance and operation of telecommunications facilities for telecommunications business, out of persons who have a chief telecommunications engineer's license; provided, however, that this shall not apply to cases where the telecommunications facilities for telecommunications business are small in scale or the cases specified by an Ordinance of the Ministry of Internal Affairs and Communications.

(2) Where any telecommunications carrier has appointed a chief telecommunications engineer pursuant to the provision of the preceding paragraph, it shall notify the Minister for Internal Affairs and Communications to that effect without delay. The same shall also apply when it dismisses such chief telecommunications engineer.

#### Article 46 (Chief Telecommunications Engineer's License)

(1) Classes of chief telecommunications engineer's license shall be specified by an

Ordinance of the Ministry of Internal Affairs and Communications for transmission and switching technology and for transmission line technology, respectively.

(2) The scope of matters that persons who have a chief telecommunications engineer's license may supervise with respect to installation, maintenance and operation of telecommunications facilities for telecommunications business shall be specified by an Ordinance of the Ministry of Internal Affairs and Communications according to the classes of the chief telecommunications engineer's license as set forth in the preceding paragraph.

(3) The Minister for Internal Affairs and Communications shall grant a chief telecommunications engineer's license to persons who fall under any of the following items:

(i) A person who has passed the qualification examination for chief telecommunications engineers

(ii) A person who has completed a training course for persons who intend to obtain a chief telecommunications engineer's license, which the Minister for Internal Affairs and Communications has certified as conforming to the standards specified by an Ordinance of the Ministry of Internal Affairs and Communications

(iii) A person whom the Minister for Internal Affairs and Communications certifies as having expert knowledge and ability equivalent to or greater than those of the persons listed in the preceding two paragraphs

(4) Notwithstanding the provision of the preceding paragraph, the Minister for Internal Affairs and Communications may refuse to grant a chief telecommunications engineer's license to persons who fall under any of the following items:

(i) Any person who was ordered to return his/her chief telecommunications engineer's license pursuant to the provision of the following Article, if within a period of one year from the date of the order

(ii) Any person who has been sentenced to a fine or severer punishment pursuant to the provisions of this Act, if within a period of two years from the date on which the enforcement of such punishment has been completed or has become inapplicable

(5) The procedural matters concerning the granting of chief telecommunications engineer's licenses shall be specified by an Ordinance of the Ministry of Internal Affairs and Communications.

#### Article 47 (Return of Chief Telecommunications Engineer's License)

Where any person who has been granted a chief telecommunications engineer's license violates the provisions of this Act or any order issued pursuant to this Act, the Minister for Internal Affairs and Communications may order him/her to return his/her chief telecommunications engineer's license.

#### Article 48 (Qualification Examination for Chief Telecommunications Engineers)



(1) The qualification examination for chief telecommunications engineers shall be conducted with regard to expert knowledge and ability necessary for the installation, maintenance and operation of telecommunications facilities.

(2) The qualification examination for chief telecommunications engineers shall be conducted by the Minister for Internal Affairs and Communications for respective classes of the chief telecommunications engineer's license.

(3) The subjects, application procedures and other details of the qualification examination for chief telecommunications engineers shall be specified by an Ordinance of the Ministry of Internal Affairs and Communications.

#### Article 49 (Obligations of Chief Telecommunications Engineer)

Any chief telecommunications engineer shall sincerely perform his/her duties of supervising matters related to the installation, maintenance and operation of telecommunications facilities for telecommunications business.

#### Article 50 (Standards for Telecommunications Numbers)

(1) When any telecommunications carrier provides telecommunications services by using telecommunications numbers (numbers, signs or other codes that telecommunications carriers use in providing their telecommunications services, for identifying telecommunications facilities in order to connect places of transmission with places of reception, or identifying types or content of telecommunications services to provide; hereinafter the same shall apply), it shall ensure that its telecommunications numbers conform to the standards specified by an Ordinance of the Ministry of Internal Affairs and Communications.

(2) The standards set forth in the preceding paragraph shall be specified so as to ensure the following matters:

(i) The telecommunications numbers shall make it possible for telecommunications carriers and users to clearly and easily identify telecommunications facilities or types or content of the telecommunications services.

(ii) Sufficient telecommunications numbers necessary for providing telecommunications services shall be secured.

(iii) Changes to the telecommunications numbers shall be avoided as much as possible.

(iv) The telecommunications numbers shall be used in a fair and efficient manner.

#### Article 51 (Order for Conformity)

Where the Minister for Internal Affairs and Communications finds that the telecommunications numbers that a telecommunications carrier uses to interconnect its telecommunications facilities with other telecommunications carriers' telecommunications facilities, or the telecommunications numbers that a telecommunications carrier uses for communications that must be performed urgently for the public interest, do not conform to the standards specified by an

Ordinance of the Ministry of Internal Affairs and Communications, as set forth in paragraph (1) of the preceding Article, the Minister may order the telecommunications carrier to change the telecommunications numbers to conform to the standards, or may prohibit their use.

**Subsection 2 Connection, Etc. of Terminal Facilities**

Article 52 (Technical Standards for Connection of Terminal Facilities)

(1) When a telecommunications carrier receives a request from a user to connect his/her terminal facilities (telecommunications facilities one end of which is connected to telecommunications circuit facilities and part of which are to be installed on the same premises (including the areas equivalent to such premises) or in the same building as where other parts of such facilities are to be installed; hereinafter the same shall apply) with its telecommunications circuit facilities (except those specified by an Ordinance of the Ministry of Internal Affairs and Communications as having a minor influence on the interests of users in the event of damage, failure, etc; the same shall apply in Article 69 and Article 70), it shall not refuse such request, except in cases where such connection does not conform to the technical standards specified by an Ordinance of the Ministry of Internal Affairs and Communications (including technical conditions established, with the authorization of the Minister for Internal Affairs and Communications, by the requested telecommunications carrier or by another telecommunications carrier whose telecommunications facilities are connected to those of the requested telecommunications carrier, who is a telecommunications carrier specified by an Ordinance of the Ministry of Internal Affairs and Communications; the same shall apply in the following paragraph and Article 69) and other cases specified by an Ordinance of the Ministry of Internal Affairs and Communications.

(2) The technical standards set forth in the preceding paragraph shall be specified so as to ensure the following matters:

(i) The technical standards shall not result in damage to the telecommunications circuit facilities nor cause problems to their functions.

(ii) The technical standards shall not cause trouble to other users of the telecommunications circuit facilities.

(iii) The demarcation of responsibilities between the telecommunications circuit facilities installed by the telecommunications carrier and the terminal facilities connected to them by users shall be clearly specified.

Article 53 (Technical Standards Conformity Approval for Terminal Equipment)

(1) When a person who has obtained registration pursuant to the provision of Article 86 paragraph (1) (hereinafter referred to as "registered approval body") receives a request from another person who intends to obtain a technical standards conformity approval (an approval for conformity to the technical standards specified by an Ordinance of the Ministry of Internal Affairs and Communications, as set forth in paragraph (1) of the preceding Article; hereinafter

the same shall apply) pertaining to its registration, it shall, as specified by an Ordinance of the Ministry of Internal Affairs and Communications, examine the request and shall grant a technical standards conformity approval only when it finds that the terminal equipment (equipment of terminal facilities of types specified by an Ordinance of the Ministry of Internal Affairs and Communications; hereinafter the same shall apply) pertaining to the request conforms to the technical standards specified by an Ordinance of the Ministry of Internal Affairs and Communications, as set forth in paragraph (1) of the preceding Article.

(2) When a registered approval body grants a technical standards conformity approval pertaining to its registration, it shall affix a mark of technical standards conformity approval to the terminal equipment, as specified by an Ordinance of the Ministry of Internal Affairs and Communications.

(3) Except where the mark is affixed pursuant to the provisions of the preceding paragraph (including cases where applied *mutatis mutandis* pursuant to Article 104 paragraph (4)), Article 58 (including cases where applied *mutatis mutandis* pursuant to Article 104 paragraph (7)) or Article 65, no person shall affix such a mark or any other confusingly similar mark to any terminal equipment in Japan.

Article 54 (Order to Prevent Disturbance)

Where the Minister for Internal Affairs and Communications finds that the terminal equipment which has obtained technical standards conformity approval from a registered approval body and on which the mark set forth in paragraph (2) of the preceding Article is affixed does not conform to the technical standards specified by an Ordinance of the Ministry of Internal Affairs and Communications, as set forth in Article 52 paragraph (1), and that the use of the terminal equipment is likely to disturb communications of other users of telecommunications circuit facilities, the Minister may order the person who has obtained the technical standards conformity approval to take necessary measures to prevent the spread of the disturbance caused by the terminal equipment, if the Minister finds it particularly necessary in preventing the spread of the disturbance.

Article 55 (Cases Where Terminal Equipment Is Deemed to Have No Mark Affixed)

(1) Where terminal equipment which has obtained a technical standards conformity approval from a registered approval body and to which the mark is affixed pursuant to the provision of Article 53 paragraph (2) does not conform to the technical standards specified by an Ordinance of the Ministry of Internal Affairs and Communications, as set forth in Article 52 paragraph (1), the terminal equipment shall be deemed not to have a mark affixed pursuant to the provision of Article 53 paragraph (2), if the Minister for Internal Affairs and Communications finds it particularly necessary in preventing a disturbance in the communications of other users of the telecommunications circuit facilities.

(2) Where terminal equipment is deemed not to have a mark affixed pursuant to the provision of the preceding paragraph, the Minister for Internal Affairs and

Communications shall issue a public notice to that effect.

Article 56 (Certification of Type of Terminal Equipment)

(1) At the request of a person engaged in handling terminal equipment, a registered approval body shall issue a certification of its type (including methods to confirm whether the terminal equipment is in accordance with the type) (hereinafter referred to as "certification of type") by regarding the requester's terminal equipment conforms to the technical standards specified by an Ordinance of the Ministry of Internal Affairs and Communications, as set forth in Article 52 paragraph (1).

(2) Upon receiving a request for certification of type pertaining to its registration, a registered approval body shall, as specified by an Ordinance of the Ministry of Internal Affairs and Communications, examine the request and shall issue a certification of type only when it finds that the type pertaining to the request conforms to the technical standards specified by an Ordinance of the Ministry of Internal Affairs and Communications, as set forth in Article 52 paragraph (1) and that any of the terminal equipment based on the type is ensured to be in accordance with the type.

Article 57 (Obligation to Be in Accordance With the Type, Etc.)

(1) When any person who has obtained a certification of type from a registered approval body (hereinafter referred to as "certified dealer") handles terminal equipment based on the type pertaining to the certification of type (hereinafter referred to as "certified type"), he/she shall ensure that the terminal equipment is in accordance with the certified type.

(2) Any certified dealer shall inspect terminal equipment which it handles as set forth in the preceding paragraph in accordance with the confirmation method for the certification of type, and shall, as specified by an Ordinance of the Ministry of Internal Affairs and Communications, make and keep a record of the inspection.

Article 58 (Mark of Terminal Equipment Based on Certified Type)

When a certified dealer has fulfilled its obligation with regard to terminal equipment based on the certified type pursuant to the provision of paragraph (2) of the preceding Article, it may affix the mark specified by an Ordinance of the Ministry of Internal Affairs and Communications to the terminal equipment.

Article 59 (Order for Certified Dealer to Take Measures)

Where the Minister for Internal Affairs and Communications finds that a certified dealer violates the provision of Article 57 paragraph (1), the Minister may order the certified dealer to take the necessary measures to improve the confirmation method for the certification of type.

Article 60 (Prohibition on Affixing a Mark)

(1) In the cases listed in the items below, the Minister for Internal Affairs and Communications may prohibit a certified dealer, for a fixed period not exceeding two years, from affixing the mark set forth in Article 58 to terminal equipment

based on the certified type or the type set forth in the respective items:

(i) Where terminal equipment based on a certified type does not conform to the technical standards specified by an Ordinance of the Ministry of Internal Affairs and Communications, as set forth in Article 52 paragraph (1), and if the prohibition is found to be particularly necessary for preventing a disturbance in the communications of other users of telecommunications circuit facilities (except in cases listed in item (vi)): The certified type of terminal equipment

(ii) Where a certified dealer has violated the provision of Article 57 paragraph (2): The certified type of terminal equipment pertaining to the violation

(iii) Where a certified dealer has violated an order issued pursuant to the provision of the preceding Article: The certified type of terminal equipment pertaining to the violation

(iv) Where a certified dealer has obtained a certification of type through dishonest means from a registered approval body: The type pertaining to the certification of type

(v) Where a registered approval body has issued a certification of type in violation of the provision of Article 56 paragraph (2) or Article 91 paragraph (2), as applied mutatis mutandis pursuant to Article 103: The type pertaining to the certification of type

(vi) Where the technical standards specified by an Ordinance of the Ministry of Internal Affairs and Communications, as set forth in Article 52 paragraph (1), have been changed and the type of the certification of type issued prior to the change is found not to conform to the technical standards after the change: The type

(2) Where the Minister for Internal Affairs and Communications prohibits the affixing of a mark pursuant to the provision of the preceding paragraph, the Minister shall issue a public notice to that effect.

Article 61 (Application, Mutatis Mutandis)

The provision of Article 54 shall apply mutatis mutandis to certified dealers, and the provision of Article 55 shall apply mutatis mutandis to terminal equipment based on the certified type. In these cases, the term "which has obtained technical standards conformity approval from a registered approval body" in Article 54 shall be deemed to be replaced with "based on the certified type"; the term "paragraph (2) of the preceding Article" in Article 54 and the term "Article 53 paragraph (2)" in Article 55 paragraph (1) shall be deemed to be replaced with "Article 58"; and the term "the person who has obtained the technical standards conformity approval" in Article 54 shall be deemed to be replaced with "the person who has obtained the technical standards conformity approval pertaining to the certified type."

Article 62 (Foreign Dealers)

(1) With regard to the application of the provision of Article 54 to a foreign dealer

(a person in a foreign state who engages in handling terminal equipment to be used in Japan; hereinafter the same shall apply) as a person who has obtained technical standards conformity approval from a registered approval body, the term "order" in the same Article shall be deemed to be replaced with "request."

(2) With regard to the application of the provision of Article 54, as applied mutatis mutandis pursuant to Article 59, Article 60 paragraph (1) item (iii) and the preceding Article, to a foreign dealer as a certified dealer, the term "order" in Article 54, as applied mutatis mutandis pursuant to Article 59 and the preceding Article, shall be deemed to be replaced with "request"; and the term "has violated an order" and the term "violation" in Article 60 paragraph (1) item (iii) shall be deemed to be replaced with "has not responded to a request" and "request," respectively.

(3) In addition to the provision of Article 60 paragraph (1), the Minister for Internal Affairs and Communications may prohibit a foreign dealer who has obtained a certification of type from a registered approval body, for a fixed period not exceeding two years, from affixing the mark set forth in Article 58 to terminal equipment based on the certified type as set forth in the following items:

(i) Where the Minister for Internal Affairs and Communications prompts the foreign dealer to submit a report pursuant to the provision of Article 166 paragraph (2), as applied mutatis mutandis pursuant to paragraph (3) of the same Article, but the foreign dealer does not submit such a report or makes a false report: The certified type of terminal equipment pertaining to the report

(ii) Where the Minister for Internal Affairs and Communications prompts any member of ministerial officials to conduct an inspection at the place of business of the foreign dealer pursuant to the provision of Article 166 paragraph (2), as applied mutatis mutandis pursuant to paragraph (3) of the same Article, but it refuses, obstructs or challenges such inspection: The certified type of terminal equipment pertaining to the inspection

(iii) Where the foreign dealer does not respond to the request made pursuant to the provision of Article 167 paragraph (1), which shall be deemed to be replaced pursuant to the provision of paragraph (6) of the same Article: The certified type of terminal equipment pertaining to the request

(4) Where the Minister for Internal Affairs and Communications prohibits the affixing of a mark pursuant to the provision of the preceding paragraph, the Minister shall issue a public notice to that effect.

Article 63 (Self-Confirmation of Technical Standards Conformity, Etc.)

(1) Any manufacturer or importer of terminal equipment specified by an Ordinance of the Ministry of Internal Affairs and Communications, in consideration of the technical standards for the terminal equipment, the way it is used, etc., as not likely to disturb communications of other users of telecommunications circuit facilities (hereinafter referred to as "specified terminal

equipment") may confirm by itself whether the type (including methods to confirm whether the terminal equipment is in accordance with the type) of their specified terminal equipment conforms to the technical standards specified by an Ordinance of the Ministry of Internal Affairs and Communications, as set forth in Article 52 paragraph (1).

(2) Any manufacturer or importer shall carry out confirmation pursuant to the provision of the preceding paragraph (referred to as "self-confirmation of technical standards conformity" in the following paragraph), only when it conducts verification as specified by an Ordinance of the Ministry of Internal Affairs and Communications and finds that the type of its specified terminal equipment conforms to the technical standards specified by an Ordinance of the Ministry of Internal Affairs and Communications, as set forth in Article 52 paragraph (1), and that any piece of the specified terminal equipment based on the type is ensured to be in accordance with the type.

(3) When any manufacturer or importer has conducted self-confirmation of technical standards conformity, it may notify the Minister for Internal Affairs and Communications of the matters listed below:

(i) Name and address of the manufacturer or importer and in the case of a juridical person, the name of the representative person

(ii) Class and type of specified terminal equipment for which the self-confirmation of technical standards conformity was carried out

(iii) Outline of the results of the verification set forth in the preceding paragraph

(iv) Methods to confirm whether any piece of the specified terminal equipment based on the type set forth in item (ii) is in accordance with the type

(v) Other matters specified by an Ordinance of the Ministry of Internal Affairs and Communications concerning methods for the self-confirmation of technical standards conformity, etc.

(4) Any person who has filed a notification pursuant to the provision of the preceding paragraph (hereinafter referred to as "notifying supplier") shall, as specified by an Ordinance of the Ministry of Internal Affairs and Communications, make and keep a record pertaining to the verification set forth in paragraph (2).

(5) When any of the matters listed in paragraph (3) item (i), item (iv) or item (v) has been changed, any notifying supplier shall, as specified by an Ordinance of the Ministry of Internal Affairs and Communications, notify the Minister for Internal Affairs and Communications to that effect without delay.

(6) When a notification is filed pursuant to the provision of paragraph (3), the Minister for Internal Affairs and Communications shall, as specified by an Ordinance of the Ministry of Internal Affairs and Communications, issue a public notice to that effect. The same shall also apply to the cases where any of the matters in such public notice is changed upon notification pursuant to the

provision of the preceding paragraph.

Article 64 (Obligation to Be in Accordance With the Type, Etc.)

(1) Where any notifying supplier manufactures or imports specified terminal equipment based on the type pertaining to the notification filed pursuant to the provision of paragraph (3) of the preceding Article (hereinafter referred to as "notified type"), it shall ensure that the specified terminal equipment is in accordance with the notified type.

(2) Any notifying supplier shall inspect the specified terminal equipment set forth in the preceding paragraph, which it manufacturers or imports, in accordance with the confirmation method pertaining to the notification filed pursuant to the provision of paragraph (3) of the preceding Article, and shall, as specified by an Ordinance of the Ministry of Internal Affairs and Communications, make and keep a record pertaining to the inspection.

Article 65 (Mark)

When a notifying supplier has fulfilled its obligation pursuant to the provision of paragraph (2) of the preceding Article with regard to specified terminal equipment based on the notified type, it may affix the mark specified by an Ordinance of the Ministry of Internal Affairs and Communications to the specified terminal equipment.

Article 66 (Prohibition on Affixing a Mark)

(1) In the cases listed in the following items, the Minister for Internal Affairs and Communications may prohibit a notifying supplier, for a fixed period not exceeding two years, from affixing the mark set forth in the preceding Article to specified terminal equipment based on the notified type or type as set forth in the respective items:

(i) If the specified terminal equipment based on the notified type does not conform to the technical standards specified by an Ordinance of the Ministry of Internal Affairs and Communications, as set forth in Article 52 paragraph (1), and the prohibition is found to be particularly necessary in preventing a disturbance in the communications of other users of telecommunications circuit facilities (except the cases listed in item (v)): The notified type of the specified terminal equipment

(ii) If the notifying supplier files a false notification when it files a notification pursuant to the provision of Article 63 paragraph (3): The type pertaining to the false notification

(iii) If the notifying supplier has violated the provision of Article 63 paragraph (4) or Article 64 paragraph (2): The notified type of the specified terminal equipment pertaining to the violation

(iv) If the notifying supplier has violated an order issued pursuant to the provision of Article 59, as applied mutatis mutandis pursuant to Article 68: The notified type of the specified terminal equipment pertaining to the violation

(v) If the technical standards specified by an Ordinance of the Ministry of



Internal Affairs and Communications, as set forth in Article 52 paragraph (1), have been changed and the type notified pursuant to the provision of Article 63 paragraph (3) prior to the change is found not to conform to the technical standards after the change: The type

(2) Where the Minister for Internal Affairs and Communications prohibits the affixing of the mark pursuant to the provision of the preceding paragraph, the Minister shall issue a public notice to that effect.

#### Article 67

(1) Where a notifying supplier falls under any of paragraph (1) item (ii) through item (iv) of the preceding Article and the Minister for Internal Affairs and Communications finds that it is likely to fall under any of item (ii) through item (iv) of the same paragraph again, the Minister may prohibit the notifying supplier, for a fixed period not exceeding two years, from affixing the mark set forth in Article 65 to the specified terminal equipment.

(2) Where the Minister for Internal Affairs and Communications prohibits the affixing of the mark pursuant to the provision of the preceding paragraph, the Minister shall issue a public notice to that effect.

#### Article 68 (Application, Mutatis Mutandis)

The provisions of Article 54 and Article 59 shall apply mutatis mutandis to the specified terminal equipment and the notifying supplier, and the provision of Article 55 shall apply mutatis mutandis to the specified terminal equipment based on the notified type. In these cases, the term "which has obtained technical standards conformity approval from a registered approval body" in Article 54 shall be deemed to be replaced with "based on a notified type"; the term "paragraph (2) of the preceding Article" in the same Article and the term "Article 53 paragraph (2)" in Article 55 paragraph (1) shall be deemed to be replaced with "Article 65"; the term "the person who has obtained technical standards conformity approval" in Article 54 shall be deemed to be replaced with "the person who has obtained technical standards conformity approval pertaining to the notified type"; and the term "Article 57 paragraph (1)" and the term "certification of type" in Article 59 shall be deemed to be replaced with "Article 64 paragraph (1)" and "notification filed pursuant to the provision of Article 63 paragraph (3)," respectively.

#### Article 69 (Inspection of Connection of Terminal Facilities)

(1) Where a user connects his/her terminal equipment to telecommunications circuit facilities of a telecommunications carrier, he/she shall not use such terminal equipment before the telecommunications carrier conducts an inspection to certify that such connection conforms to the technical standards set forth in Article 52 paragraph (1), except in cases where he/she connects terminal equipment having a mark affixed pursuant to the provision of Article 53 paragraph (2) (including cases where applied mutatis mutandis pursuant to Article 104 paragraph (4)), Article 58 (including cases where applied mutatis

mutandis pursuant to Article 104 paragraph (7)) or Article 65 (except terminal equipment deemed not to have a mark affixed pursuant to the provision of Article 55 paragraph (1) (including cases where applied mutatis mutandis pursuant to Article 61, the preceding Article, and Article 104 paragraph (4) and paragraph (7)) and other cases specified by an Ordinance of the Ministry of Internal Affairs and Communications. The same shall also apply where such connection is changed.

(2) Any telecommunications carrier who installs telecommunications circuit facilities may request its users to undergo inspection to determine whether the connection of their terminal facilities conforms to the technical standards set forth in Article 52 paragraph (1), where it is found necessary because there is a defect in the terminal facilities or the smooth provision of its telecommunications services is hindered for any other reason. In this case, the users shall not refuse the request, except in cases where there are justifiable grounds and other cases specified by an Ordinance of the Ministry of Internal Affairs and Communications.

(3) Any person who engages in the inspection set forth in the preceding two paragraphs shall carry a certificate for identification and produce it to the persons concerned.

#### Article 70 (Connection of Customer-Owned and Maintained Telecommunications Facilities)

(1) When any telecommunications carrier receives a request from any person who is not a telecommunications carrier and who installs telecommunications circuit facilities for connecting his/her telecommunications facilities (limited to those other than terminal facilities; hereinafter referred to as "customer-owned and maintained telecommunications facilities") to its telecommunication circuit facilities, it shall not refuse such request except in the cases listed below:

(i) If the connection of the customer-owned and maintained telecommunications facilities does not conform to the technical standards specified by an Ordinance of the Ministry of Internal Affairs and Communications (including technical conditions established, with the authorization of the Minister for Internal Affairs and Communications, by the telecommunications carrier or other telecommunications carriers whose telecommunications facilities are connected to those of the telecommunications carrier and who are specified by an Ordinance of the Ministry of Internal Affairs and Communications)

(ii) If the telecommunications carrier has obtained approval from the Minister for Internal Affairs and Communications with regard to the possibility that the connection of such customer-owned and maintained telecommunications facilities would make it difficult, from the perspective of management, to maintain its telecommunications circuit facilities

(2) The provision of Article 52 paragraph (2) shall apply mutatis mutandis to the technical standards set forth in item (i) of the preceding paragraph, and the provision of the preceding Article shall apply mutatis mutandis to the inspection

of the connection of the customer-owned and maintained telecommunications facilities pertaining to the request set forth in the preceding paragraph. In these cases, the term "technical standards set forth in Article 52 paragraph (1)" in paragraph (1) and paragraph (2) of the preceding Article shall be deemed to be replaced with "technical standards set forth in Article 70 paragraph (1) item (i) (including the technical conditions set forth in the same item)."

Article 71 (Conduct and Supervision of Installation Work by Installation Technicians)

(1) When any user connects his/her terminal facilities or customer-owned and maintained telecommunications facilities, he/she shall commission a person who has an installation technician's license (hereinafter referred to as "installation technician") to conduct the installation work or supervise the installation on site, according to the class of the installation technician's license; provided, however, that this shall not apply to cases specified by an Ordinance of the Ministry of Internal Affairs and Communications.

(2) The installation technician shall sincerely perform his/her duties of conducting or supervising the installation work.

Article 72 (Installation Technician's License)

(1) The classes of installation technician's licenses and the scope of installation work to be conducted or supervised by installation technicians pertaining to the connection of terminal facilities or customer-owned and maintained telecommunications facilities shall be specified by an Ordinance of the Ministry of Internal Affairs and Communications.

(2) The provisions of Article 46 paragraph (3) through paragraph (5) and Article 47 shall apply mutatis mutandis to the installation technician's licenses. In these cases, the term "qualification examination for chief telecommunications engineers" in Article 46 paragraph (3) item (i) shall be deemed to be replaced with "qualification examination for installation technicians"; and the term "expert knowledge and ability" in item (iii) of the same paragraph shall be deemed to be replaced with "knowledge and technical ability."

Article 73 (Qualification Examination for Installation Technicians)

(1) The qualification examination for installation technicians shall be conducted with regard to the knowledge and technical ability necessary for the connection of terminal facilities and customer-owned and maintained telecommunications facilities.

(2) The provisions of Article 48 paragraph (2) and paragraph (3) shall apply mutatis mutandis to the qualification examination for installation technicians. In these cases, the term "chief telecommunications engineer's license" in paragraph (2) of the same Article shall be deemed to be replaced with "installation technician's license."

#### **Section 5 Designated Examination Body, Etc.**

### **Subsection 1 Designated Examination Body**

#### **Article 74 (Designation, Etc. of Designated Examination Body)**

(1) The Minister for Internal Affairs and Communications may designate a person whom the Minister designates (hereinafter referred to as "designated examination body") to undertake affairs for conducting qualification examinations for chief telecommunications engineers and installation technicians (hereinafter referred to as "examination work").

(2) The designation of a designated examination body shall be made according to the classification specified by an Ordinance of the Ministry of Internal Affairs and Communications, upon application from a person who intends to conduct examination work.

(3) When the Minister for Internal Affairs and Communications designates a designated examination body, the Minister shall issue a public notice to that effect.

(4) When the Minister for Internal Affairs and Communications designates a designated examination body, the Minister shall no longer conduct the examination work for the class (or classes) pertaining to the designation.

#### **Article 75 (Criteria for Designating Designated Examination Body)**

(1) The Minister for Internal Affairs and Communications shall not designate a designated examination body unless no other person has been designated as a designated examination body to conduct examination work for the class pertaining to the application set forth in paragraph (2) of the preceding Article and unless the Minister finds that the applicant complies with all of the following items:

(i) The applicant's plan, which specifies staff, facilities, method to conduct examination work, and other matters concerning examination work, is appropriate for properly conducting examination work.

(ii) The applicant has an adequate financial basis and technical capabilities to properly implement the plan for conducting examination work set forth in the preceding item.

(iii) If the applicant engages in business activities other than examination work, the conducting of such business activities is unlikely to cause unfairness in its examination work.

(2) Where any person who has filed an application set forth in paragraph (2) of the preceding Article falls under any of the following items, the Minister for Internal Affairs and Communications shall not designate the person as a designated examination body:

(i) Any person other than a juridical person incorporated pursuant to the provision of Article 34 of the Civil Code (Act No. 89 of 1896)

(ii) Any person who has been sentenced to a fine or severer punishment pursuant to the provisions of this Act, the Cable Telecommunications Act or the Radio Act, if within a period of two years from the date on which the enforcement

of such punishment has been completed or has become inapplicable

(iii) Any person whose designation was revoked pursuant to the provision of Article 84 paragraph (1) or paragraph (2), if within a period of two years from the date of revocation

(iv) Any person any of whose officers falls under any of the following:

(a) Any person who falls under item (ii)

(b) Any person who has been dismissed by an order issued pursuant to the provision of Article 77 paragraph (3), if within a period of two years from the date of dismissal

#### Article 76 (Qualification Examiner)

When conducting examination work, a designated examination body shall commission a person who satisfies the requirements specified by an Ordinance of the Ministry of Internal Affairs and Communications (hereinafter referred to as "qualification examiner") to undertake affairs concerning the judgment as to whether examinees have the expert knowledge and ability required of a chief telecommunications engineer or the knowledge and technical ability required of an installation technician.

#### Article 77 (Appointment and Dismissal of Officers, Etc.)

(1) No appointment and dismissal of officers of a designated examination body shall take effect unless authorized by the Minister for Internal Affairs and Communications.

(2) When a designated examination agency appoints or dismisses its qualification examiner, it shall notify the Minister for Internal Affairs and Communications to that effect without delay.

(3) When an officer or qualification examiner of a designated examination body has violated this Act, any order or disposition made under this Act, or the examination work rules set forth in Article 79 paragraph (1), the Minister for Internal Affairs and Communications may order the designated examination body to dismiss the officer or qualification examiner.

#### Article 78 (Confidentiality Obligation, Etc.)

(1) Any officer or member of staff (including qualification examiner) of a designated examination body, or any person who formerly held such position, shall not divulge any secret which has come to that person's knowledge in respect of the examination work.

(2) Any officer or member of staff (including qualification examiner) of a designated examination body who engages in examination work shall be deemed to be a person engaged in public duties pursuant to laws and regulations, with regard to the application of the Penal Code (Act No. 45 of 1907) and other penal provisions.

#### Article 79 (Examination Work Rules)

(1) A designated examination body shall establish examination work rules that

govern matters specified by an Ordinance of the Ministry of Internal Affairs and Communications concerning the conducting of examination work, and shall obtain authorization from the Minister for Internal Affairs and Communications. The same shall also apply when it intends to amend such rules.

(2) Where the Minister for Internal Affairs and Communications finds that the authorized examination work rules set forth in the preceding paragraph become inappropriate for properly conducting examination work, the Minister may order the designated examination body to amend the rules.

#### Article 80 (Business Plan, Etc.)

(1) A designated examination body shall prepare its business plan and revenues and expenses budget for each business year, and shall obtain authorization from the Minister for Internal Affairs and Communications before the business year starts (for the business year during which it is designated as such body, without delay after the designation). The same shall also apply when it intends to change such business plan and/or revenues and expenses budget.

(2) A designated examination body shall prepare its annual report and settlement of balance for each business year, and shall submit them to the Minister for Internal Affairs and Communications within three months from the end of the business year.

#### Article 81 (Keeping of Books, Etc.)

A designated examination body shall, as specified by an Ordinance of the Ministry of Internal Affairs and Communications, keep and retain books and make entries as to matters specified by an Ordinance of the Ministry of Internal Affairs and Communications concerning examination work.

#### Article 82 (Supervision Orders)

The Minister for Internal Affairs and Communications may issue to a designated examination body an order necessary for supervising its examination work, where the Minister finds it necessary for the enforcement of this Act.

#### Article 83 (Suspension and Abolition of Business Activities)

(1) A designated examination body shall not suspend or abolish its examination work in whole or in part unless it obtains permission of the Minister for Internal Affairs and Communications.

(2) When the Minister for Internal Affairs and Communications has granted permission as set forth in the preceding paragraph, the Minister shall issue a public notice to that effect.

#### Article 84 (Revocation, Etc. of Designation)

(1) Where a designated examination body falls under Article 75 paragraph (2) item (i), item (ii) or item (iv), the Minister for Internal Affairs and Communications shall revoke its designation.

(2) Where a designated examination body falls under any of the following items, the Minister for Internal Affairs and Communications may revoke its designation

or suspend its examination work in whole or in part for a fixed period designated by the Minister.

(i) If the designated examination body has violated the provisions of this Subsection

(ii) If the designated examination body is found to no longer conform to any of the items of Article 75 paragraph (1)

(iii) If the designated examination body has violated an order issued pursuant to the provision of Article 77 paragraph (3), Article 79 paragraph (2) or Article 82

(iv) If the designated examination body has conducted examination work not in accordance with the examination work rules authorized pursuant to the provision of Article 79 paragraph (1)

(v) If the designated examination body has obtained designation through dishonest means

(3) When the Minister for Internal Affairs and Communications has revoked the designation pursuant to the provision of paragraph (1) or the preceding paragraph, or ordered suspension in whole or in part of the examination work pursuant to the provision of the preceding paragraph, the Minister shall issue a public notice to that effect.

Article 85 (Conducting of Examination Work by the Minister for Internal Affairs and Communications)

(1) Where a designated examination body has suspended its examination work in whole or in part pursuant to the provision of Article 83 paragraph (1), where the Minister for Internal Affairs and Communications has ordered a designated examination body to suspend its examination work in whole or in part pursuant to the provision of paragraph (2) of the preceding Article, or where it has become difficult for a designated examination body to conduct its examination work in whole or in part due to a natural disaster or for other reasons and the Minister for Internal Affairs and Communications finds it necessary, the Minister shall conduct the examination work in whole or in part by himself, notwithstanding the provision of Article 74 paragraph (4).

(2) When the Minister for Internal Affairs and Communications has decided to conduct the examination work pursuant to the provision of the preceding paragraph or to no longer conduct the examination work that the Minister is conducting pursuant to the provision of the same paragraph, the Minister shall issue a public notice to that effect in advance.

(3) When the Minister for Internal Affairs and Communications has decided to conduct the examination work pursuant to the provision of paragraph (1) and permitted the abolition of examination work pursuant to the provision of Article 83 paragraph (1) or revoked the designation pursuant to the provision of paragraph (1) or paragraph (2) of the preceding Article, the succession of examination work and other necessary matters shall be specified by an Ordinance

of the Ministry of Internal Affairs and Communications.

### **Subsection 2 Registered Approval Body**

#### **Article 86 (Registration of Registered Approval Body)**

(1) A person who conducts the business of technical standards conformity approval for terminal equipment may obtain registration from the Minister for Internal Affairs and Communications, according to the classification of business specified by an Ordinance of the Ministry of Internal Affairs and Communications (hereinafter referred to simply as the "classification of business" in this Section).

(2) Any person who intends to obtain registration as set forth in the preceding paragraph shall, as specified by an Ordinance of the Ministry of Internal Affairs and Communications, file with the Minister for Internal Affairs and Communications an application which describes the matters listed below:

(i) Name and address of the applicant and in the case of a juridical person, the name of the representative person

(ii) Classification of business

(iii) Names and address of offices

(iv) Outline of the measuring instrument or other equipment to be used for examination of technical standards conformity approval

(v) Matters concerning appointment of approval examiners as set forth in Article 91 paragraph (2)

(vi) Scheduled starting date of business

(3) The application document set forth in the preceding paragraph shall be filed with documents describing a plan for conducting business activities for technical standards conformity approval and other documents specified by an Ordinance of the Ministry of Internal Affairs and Communications attached thereto.

#### **Article 87 (Criteria for Registration)**

(1) When a person who has filed an application for registration as set forth in paragraph (1) of the preceding Article (hereinafter referred to as "applicant for registration" in this paragraph) conforms to all of the following items, the Minister for Internal Affairs and Communications shall register the person:

(i) The person commissions a member of staff who has knowledge and experience that conform to any of the conditions listed in Appended Table 1 to conduct the technical standards conformity approval.

(ii) The person conducts technical standards conformity approval by using the measuring instruments or other equipment listed in Appended Table 2 and for which calibration or correction of any of the following (hereinafter referred to as "calibration, etc." in this item) has been carried out (limited to those for which calibration, etc. has been carried out within a period not exceeding one year from the first day of the month following the month of calibration, etc.):

(a) Calibration conducted by the National Institute of Information and Communications Technology (referred to as "the Institute" in (c)) or the designated



calibration body prescribed in Article 102-18 paragraph (1) of the Radio Act

(b) Correction pursuant to the provision of Article 135 or Article 144 of the Measurement Act (Act No. 51 of 1992)

(c) Calibration conducted in a foreign state and equivalent to calibration conducted by the Institute or the designated calibration body prescribed in Article 102-18 paragraph (1) of the Radio Act

(d) Calibration, etc. conducted by using equipment for which any of the calibration, etc. listed in (a) through (c) has been carried out

(iii) The applicant for registration, as a person controlled by a manufacturer, importer or seller of terminal equipment (hereinafter referred to as "specified manufacturer, etc.," in this item), does not fall under any of the following:

(a) If the applicant for registration is a stock company, its parent company is a specified manufacturer, etc.

(b) The number of officers or members of staff from a specified manufacturer, etc. (including those who held a position of officer or member of staff in the specified manufacturer, etc. in the past two years) accounts for more than one half of the total number of the officers in the applicant for registration (in cases where the applicant is a membership company (membership company prescribed in Article 575 paragraph (1) of the Companies Act), members executing its business activities).

(c) The applicant for registration (in cases where the applicant is a juridical person, an officer who has the authority of representation) is an officer or member of staff of a specified manufacturer, etc. (including those who held a position of officer or member of staff in the specified manufacturer, etc. in the past two years).

(2) Any person who falls under any of the following items may not obtain the registration set forth in paragraph (1) of the preceding Article:

(i) Any person who has been sentenced to a fine or severer punishment pursuant to the provisions of this Act, the Cable Telecommunications Act or the Radio Act, if within a period of two years from the date on which the enforcement of such punishment has been completed or has become inapplicable

(ii) Any person whose registration was revoked pursuant to the provision of Article 100 paragraph (1) or paragraph (2) (including cases where applied *mutatis mutandis* pursuant to Article 103), if within a period of two years from the date of revocation

(iii) Any juridical person any of whose officers fall under either of the preceding two items

(3) In addition to matters set forth in the preceding Article and the preceding two paragraphs, matters necessary for the registration set forth in paragraph (1) of the same Article shall be specified by an Ordinance of the Ministry of Internal Affairs and Communications.

Article 88 (Renewal of Registration)

(1) The registration set forth in Article 86 paragraph (1) shall be renewed every period of longer than five years but not exceeding ten years as specified by a Cabinet Order. Otherwise the registration shall lose its effect with the expiration of the period.

(2) The provisions of Article 86 paragraph (2) and paragraph (3) and the preceding Article shall apply mutatis mutandis to the renewal of registration set forth in the preceding paragraph.

#### Article 89 (Registration Book)

With regard to persons who have been registered as a registered approval body, the Minister for Internal Affairs and Communications shall prepare a registered approval bodies registration book and register the matters listed below:

(i) Dates of registration of registered approval bodies and renewal of their registration, and registration numbers

(ii) Matters listed in Article 86 paragraph (2) item (i) through item (iii)

#### Article 90 (Public Notice, Etc. of Registration)

(1) When the Minister for Internal Affairs and Communications has registered an approval body as set forth in Article 86 paragraph (1), the Minister shall issue a public notice providing the name and address of the registered approval body and classification of business pertaining to the registration, the addresses of offices where the business activities of technical standards conformity approval are to be conducted, and the date on which the business activities of technical standards conformity approval start.

(2) When any registered approval agency intends to change the matters listed in Article 86 paragraph (2) item (i) or item (iii), it shall notify the Minister for Internal Affairs and Communications to that effect no later than two weeks prior to the date of such change.

(3) When a notification is filed pursuant to the provision of the preceding paragraph, the Minister for Internal Affairs and Communications shall issue a public notice to that effect.

#### Article 91 (Obligation, Etc. for Technical Standards Conformity Approval)

(1) When any registered approval body is requested to approve conformity to technical standards pertaining to its registration, it shall conduct, without delay, an examination for technical standards conformity approval, except in cases where there are justifiable grounds.

(2) When conducting an examination as set forth in the preceding paragraph, any registered approval body shall commission a person who has knowledge and experience that conform to the conditions listed in Appended Table 1 (hereinafter referred to as "approval examiner") to conduct the examination in accordance with the methods specified by an Ordinance of the Ministry of Internal Affairs and Communications.

#### Article 92 (Reporting, Etc. of Technical Standards Conformity Approval)

(1) When any registered approval body has granted technical standards conformity approval pertaining to its registration, it shall report to the Minister for Internal Affairs and Communications on the class of terminal equipment for which it granted the technical standards conformity approval and other matters specified by an Ordinance of the Ministry of Internal Affairs and Communications.

(2) When the Minister for Internal Affairs and Communications has received a report as set forth in the preceding paragraph, the Minister shall issue a public notice to that effect as specified by an Ordinance of the Ministry of Internal Affairs and Communications.

#### Article 93 (Appointment and Dismissal of Officers, Etc.)

When a registered approval body appoints or dismisses its officers or approval examiners, it shall notify the Minister for Internal Affairs and Communications to that effect without delay.

#### Article 94 (Business Activities Rules)

Any registered approval body shall establish business activities rules that govern the classification of business pertaining to its registration, methods of conducting the business activities of technical standards conformity approval and other matters specified by an Ordinance of the Ministry of Internal Affairs and Communications, and shall notify the Minister for Internal Affairs and Communications thereof prior to the commencement of the business activities. The same shall also apply when it intends to amend such rules.

#### Article 95 (Keeping and Inspection of Financial Statements, Etc.)

(1) Any registered approval body shall, within three months from the end of each business year, prepare an inventory of assets, a balance sheet, a profit and loss settlement or statement of cash flow, and an annual report (including an electromagnetic record (a record made in electronic form, magnetic form, or any other form not recognizable to human perception, which is used in information processing by computers; hereinafter the same shall apply in this Article) in cases where such electromagnetic record is produced instead of these documents; referred to as "financial statements, etc." in the following paragraph and Article 192 item (iii)), and shall retain such documents for five years at its office.

(2) A person who engages in handling terminal equipment and other interested persons may make the requests listed below whenever within the business hours of a registered approval body. When making the request set forth in item (ii) or item (iv), however, he/she shall pay a fee specified by the registered approval body.

(i) If financial statements, etc. are produced as written documents, a request for access to, or a copy of, the documents

(ii) A request for a certified copy or abridged copy of the written documents set forth in the preceding item

(iii) If financial statements, etc. are produced as electromagnetic records, a request for access to, or a copy of, the matters recorded on the electromagnetic

record and represented by means specified by an Ordinance of the Ministry of Internal Affairs and Communications

(iv) A request for provision of the matters recorded on the electromagnetic record by means specified by an Ordinance of the Ministry of Internal Affairs and Communications as set forth in the preceding item, or a request for delivery of written documents describing the matters

Article 96 (Keeping of Books, Etc.)

Any registered approval body shall, as specified by an Ordinance of the Ministry of Internal Affairs and Communications, keep and retain books and make entries as to matters specified by an Ordinance of the Ministry of Internal Affairs and Communications concerning its business activities of technical standards conformity approval.

Article 97 (Order to Improve, Etc.)

(1) Where the Minister for Internal Affairs and Communications finds that a registered approval body no longer conforms to any of the items of Article 87 paragraph (1), the Minister may order the registered approval body to take the necessary measures to conform to those provisions.

(2) Where the Minister for Internal Affairs and Communications finds that a registered approval body violates the provision of Article 53 paragraph (1) or Article 91, the Minister may order the registered approval body to conduct the examination for technical standards conformity approval or take the necessary measures to improve its examination method for technical standards conformity approval and any other methods for its business activities.

Article 98 (Application for Technical Standards Conformity Approval and Order from the Minister for Internal Affairs and Communications)

(1) Any person who has requested a technical standards conformity approval pursuant to the provision of Article 53 paragraph (1) may, where a registered approval body does not examine the terminal equipment pertaining to its request or where the person has an objection to the results of the technical standards conformity approval, file an application with the Minister for Internal Affairs and Communications to order the registered approval body to conduct or re-conduct the examination for technical standards conformity approval.

(2) Where an application as set forth in the preceding paragraph is filed and the Minister for Internal Affairs and Communications finds that the registered approval body pertaining to the application violates the provision of Article 53 paragraph (1) or Article 91, the Minister shall issue an order pursuant to the provision of paragraph (2) of the preceding Article to the registered approval body pertaining to the application.

(3) When the Minister for Internal Affairs and Communications has issued an order pursuant to paragraph (2) of the preceding Article or made a decision not to issue such an order in the case set forth in the preceding paragraph, the Minister

shall notify the person who filed the application to that effect without delay.

#### Article 99 (Suspension and Abolition of Business Activities)

(1) When any registered approval body intends to suspend or abolish the business activities of technical standards conformity approval pertaining to its registration, it shall, as specified by an Ordinance of the Ministry of Internal Affairs and Communications, notify the Minister for Internal Affairs and Communications to that effect in advance.

(2) When a registered approval body abolishes the business activities of technical standards conformity approval in whole, the registration of the registered approval body loses its effect.

(3) When a notification is filed pursuant to the provision of paragraph (1), the Minister for Internal Affairs and Communications shall issue a public notice to that effect.

#### Article 100 (Revocation, Etc. of Registration)

(1) Where a registered approval body falls under Article 87 paragraph (2) item (i) or item (iii), the Minister for Internal Affairs and Communications shall revoke its registration.

(2) Where a registered approval body falls under any of the following items, the Minister for Internal Affairs and Communications shall revoke its registration or order the suspension in whole or in part of its business activities of technical standards conformity approval pertaining to its registration for a fixed period designated by the Minister:

(i) If the registered approval body has violated the provisions of this Subsection

(ii) If the registered approval body has violated the order issued pursuant to the provision of the Article 97 paragraph (1) or paragraph (2)

(iii) If the registered approval body has obtained registration set forth in Article 86 paragraph (1) or renewal of the registration by dishonest means

(3) Where the Minister for Internal Affairs and Communications has revoked registration pursuant to the provision of paragraph (1) or the preceding paragraph, or ordered the suspension in whole or in part of its business activities of technical standards conformity approval pursuant to the provision of the preceding paragraph, the Minister shall issue a public notice to that effect.

#### Article 101 (Deletion of Registration)

When registration of a registered approval body has lost its effect pursuant to the provision of Article 88 paragraph (1) or Article 99 paragraph (2), or when the Minister for Internal Affairs and Communications has revoked registration of a registered approval body pursuant to the provision of paragraph (1) or paragraph (2) of the preceding Article, the Minister shall delete the registration of the registered approval body.

#### Article 102 (Conducting of Technical Standards Conformity Approval by the Minister for Internal Affairs and Communications)

(1) Where there is no person to be granted the registration set forth in Article 86 paragraph (1), where a registered approval body has suspended or abolished its business activities of technical standards conformity approval pursuant to the provision of Article 99 paragraph (1), where the Minister for Internal Affairs and Communications has revoked registration pursuant to the provision of Article 100 paragraph (1) or paragraph (2), where the Minister has ordered a registered approval body to suspend in whole or in part its business activities of technical standards conformity approval pursuant to the provision of Article 100 paragraph (2), or where it has become difficult for a registered approval body to conduct in whole or in part its business activities of technical standards conformity approval due to a natural disaster or for other reasons, and where the Minister finds it necessary, the Minister shall conduct in whole or in part the business activities of technical standards conformity approval.

(2) When the Minister for Internal Affairs and Communications has decided to conduct the business activities of technical standards conformity approval pursuant to the provision of the preceding paragraph or to no longer conduct the business activities of technical standards conformity approval that the Minister is conducting pursuant to the provision of the same paragraph, the Minister shall issue a public notice to that effect in advance.

(3) Where the Minister for Internal Affairs and Communications has decided to conduct the business activities of technical standards conformity approval pursuant to the provision of paragraph (1), the succession of the business activities of technical standards conformity approval and other necessary matters shall be specified by an Ordinance of the Ministry of Internal Affairs and Communications.

#### Article 103 (Application, Mutatis Mutandis)

The provisions of Article 91 through Article 93, Article 96, Article 97 paragraph (2) and Article 98 shall apply mutatis mutandis to cases where a registered approval body issues a certification of type, and the provisions of Article 94, Article 99, Article 100 paragraph (2) and paragraph (3) and the preceding Article shall apply mutatis mutandis to cases where a registered approval body conducts business activities of technical standards conformity approval and certification of type. In these cases, the term "for which it granted" in Article 92 paragraph (1) shall be deemed to be replaced with "based on a type pertaining to"; the term "the business activities" in Article 94 shall be deemed to be replaced with "these business activities"; the term "Article 53 paragraph (1)" in Article 97 paragraph (2) and Article 98 paragraph (1) and paragraph (2) shall be deemed to be replaced with "Article 56 paragraph (2)"; and the term "terminal equipment" in paragraph (1) of the same Article shall be deemed to be replaced with "type (including the method to confirm whether the terminal equipment is in accordance with the type)."

### Subsection 3 Recognized Approval Body

Article 104 (Recognition, Etc. of Recognized Approval Body)

(1) When an application is filed by a person who conducts inspection, examination and the like of terminal equipment under a terminal equipment inspection system that is based on foreign laws and regulations and similar to the technical standards conformity approval system, and who intends to grant technical standards conformity approval for terminal equipment which will be handled by foreign dealers in a foreign state for use in Japan, the Minister for Internal Affairs and Communications may recognize such a person for each classification of business.

(2) When a person who has been recognized pursuant to the provision of the preceding paragraph (hereinafter referred to as a "recognized approval body") suspends or abolishes its business activities of technical standards conformity approval pertaining to its recognition, it shall notify the Minister for Internal Affairs and Communications to that effect without delay.

(3) When a notification is filed pursuant to the provision of the preceding paragraph, the Minister for Internal Affairs and Communications shall issue a public notice to that effect.

(4) The provisions of Article 53 paragraph (1) and paragraph (2), Article 55, Article 90 paragraph (2) and paragraph (3), Article 91, Article 92, Article 94, and Article 96 through Article 98 shall apply mutatis mutandis to a recognized approval body. The provision of Article 54 shall apply mutatis mutandis to a person who has obtained technical standards conformity approval from a recognized approval body. The provisions of Article 86 paragraph (2) and paragraph (3), Article 87, and Article 90 paragraph (1) shall apply mutatis mutandis to the recognition that the Minister for Internal Affairs and Communications shall grant pursuant to the provision of paragraph (1).

(5) In the cases set forth in the preceding paragraph, the words and phrases listed in the middle column of the following table, which are used in the provisions listed in the left column in the same table, shall be deemed to be replaced with the words and phrases listed in the right column of the same table.

Article 53 paragraph (1) and paragraph (2), Article 91 paragraph (1), Article 92 paragraph (1), and Article 94 registration recognition	
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Article 54 registered approval body	recognized approval body
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order request	
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Article 87 paragraph (1), except the items thereof	applicant for registration
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applicant for recognition	
when unless	
shall shall not	

Article 87 paragraph (1) item (iii), except (a)	applicant for registration
applicant for recognition	

Article 87 paragraph (1) item (iii) (a) applicant for registration applicant for recognition

parent company person equivalent to a parent company in a foreign state

Article 87 paragraph (2) item (ii) Article 100 paragraph (1) or paragraph (2) (including cases where applied mutatis mutandis pursuant to Article 103) Article 105 paragraph (1) or paragraph (2)

Article 87 paragraph (3) the preceding Article and the preceding two paragraphs paragraph (2) and paragraph (3) of the preceding Article, the preceding two paragraphs, and Article 104 paragraph (1)

Article 90 paragraph (1) registered approval body recognized approval body

Article 97 order request

Article 98 paragraph (1) to order to request

Article 98 paragraph (2) and paragraph (3) order request

(6) Upon request from a foreign dealer, a recognized approval body may certify a type of terminal equipment to be used in Japan.

(7) The provisions of Article 55, Article 56 paragraph (2), Article 91, Article 92, Article 96, Article 97 paragraph (2) and Article 98 shall apply mutatis mutandis to cases where a recognized approval body issues a certification of type. The provisions of Article 57 through Article 60, Article 54, as applied mutatis mutandis pursuant to Article 61, and Article 62 paragraph (3) and paragraph (4) shall apply mutatis mutandis to a person who has obtained a certification of type from a recognized approval body. The provisions of Article 94, and paragraph (2) and paragraph (3) shall apply mutatis mutandis to cases where a recognized approval body conducts the business activities of technical standards conformity approval and certification of type.

(8) In the cases set forth in the preceding paragraph, the words and phrases listed in the middle column of the following table, which are used in the provisions listed in the left column in the same table, shall be deemed to be replaced with the words and phrases listed in the right column of the same table.

Article 55 paragraph (1) which has obtained based on the type pertaining to

Article 53 paragraph (2) Article 58

Article 56 paragraph (2) and Article 91 paragraph (1) registration recognition

Article 59 and Article 54, as applied mutatis mutandis pursuant to Article 61 order request

Article 60 paragraph (1) item (iii) has violated an order has not responded to a request

violation request

Article 60 paragraph (1) item (iv) registered approval body recognized approval body

Article 60 paragraph (1) item (v) registered approval agency recognized approval body



Article 103 Article 104 paragraph (7)

Article 62 paragraph (3) item (i) and item (ii) paragraph (3) of the same Article paragraph (6) of the same Article

Article 62 paragraph (3) item (iii) paragraph (6) of the same Article paragraph (7) of the same Article

Article 92 paragraph (1) registration recognition for which it granted based on the type pertaining to

Article 94 Registration recognition the business activities these business activities

Article 97 paragraph (2) Article 53 paragraph (1) Article 56 paragraph (2) order request

Article 98 paragraph (1) Article 53 paragraph (1) Article 56 paragraph (2) terminal equipment type (including the method to confirm whether the terminal equipment is in accordance with the type)

to order to request

Article 98 paragraph (2) Article 53 paragraph (1) Article 56 paragraph (2) order request

Article 98 paragraph (3) order request

Article 105 (Revocation of Recognition)

(1) When a recognized approval body has lost the status in the foreign state as set forth in paragraph (1) of the preceding Article, or when it falls under Article 87 paragraph (2) item (i) or item (iii), as applied mutatis mutandis pursuant to paragraph (4) of the preceding Article, the Minister for Internal Affairs and Communications shall revoke its recognition.

(2) When a recognized approval body falls under any of the following items, the Minister for Internal Affairs and Communications may revoke its recognition:

(i) If the recognized approval body has violated the provision of paragraph (2) of the preceding Article (including cases where applied mutatis mutandis pursuant to paragraph (7) of the same Article), the provision of Article 90 paragraph (2), Article 91, Article 92 paragraph (1), Article 94 or Article 96, as applied mutatis mutandis pursuant to paragraph (4) of the preceding Article, or the provision of Article 91, Article 92 paragraph (1), Article 94 or Article 96, as applied mutatis mutandis pursuant to paragraph (7) of the preceding Article

(ii) If the recognized approval body does not respond to a request made pursuant to the provision of Article 97, as applied mutatis mutandis pursuant to paragraph (4) of the preceding Article, or the provision of Article 97 paragraph (2), as applied mutatis mutandis pursuant to paragraph (7) of the preceding Article

(iii) If the recognized approval body has obtained recognition by dishonest means

(iv) If the Minister for Internal Affairs and Communications prompts the recognized approval body to submit a report pursuant to the provision of Article 166

paragraph (4), as applied mutatis mutandis pursuant to paragraph (6) of the same Article, but the recognized approval body does not submit a report, or makes a false report

(v) If the Minister for Internal Affairs and Communications prompts any ministerial official to conduct inspection at an office or place of business of the recognized approval body pursuant to the provision of Article 166 paragraph (4), as applied mutatis mutandis pursuant to paragraph (4) of the same Article, but the recognized approval body refuses, obstructs or challenges such inspection

(3) When the Minister for Internal Affairs and Communications has revoked any recognition pursuant to the provisions of the preceding two paragraphs, the Minister shall issue a public notice to that effect.

### **Section 6 Universal Telecommunications Service Support Institution**

Article 106 (Designation of the Universal Telecommunications Service Support Institution)

The Minister for Internal Affairs and Communications may, upon application, designate a juridical person prescribed in Article 34 of the Civil Code, which is established to contribute to ensuring the provision of universal telecommunications services and which is found to conform to the criteria listed below with respect to the business activities set forth in the following Article (hereinafter referred to as "the support activities"), as the only Universal Telecommunications Service Support Institution (hereinafter referred to as "the support institution") in Japan:

(i) The applicant's plan for conducting the support activities, which specifies staff, facilities, methods to conduct the support activities and other matters, is appropriate for properly conducting the support activities

(ii) The applicant has an adequate financial basis and technical capabilities to properly implement the plan for conducting the support activities set forth in the preceding item.

(iii) If the applicant engages in business activities other than the support activities, and the conducting of such business activities is unlikely to cause unfairness in its support activities.

Article 107 (Business Activities)

The support institution shall conduct the following business activities:

(i) To provide eligible telecommunications carriers who have been designated pursuant to the provision of paragraph (1) of the following Article with subsidies to be allocated for covering part of the estimated excess in cases where the costs required to provide universal telecommunications services pertaining to the designation is likely to exceed the profit generated from the provision of universal telecommunications services pertaining to the designation,

(ii) To conduct business activities incidental to the business activities described in the preceding item

Article 108 (Designation of Eligible Telecommunications Carriers)

(1) When the Minister for Internal Affairs and Communications has designated the support institution, the Minister may designate a telecommunications carrier, who is providing universal telecommunications services and is found to conform to the criteria listed below, as an eligible telecommunications carrier upon its application:

(i) The telecommunications carrier announces, as specified by an Ordinance of the Ministry of Internal Affairs and Communications, the status of income and expenditure and other matters specified by an Ordinance of the Ministry of Internal Affairs and Communications with respect to the business activities of providing universal telecommunications services pertaining to its application.

(ii) If the telecommunications facilities which the telecommunications carrier installs to provide the universal telecommunications services pertaining to the application are telecommunications facilities other than Category I designated telecommunications facilities and Category II designated telecommunications facilities, the telecommunications carrier has interconnection tariffs established for interconnection between the telecommunications facilities and other telecommunications carriers' telecommunications facilities that specify the amount of money that the telecommunications carrier who provides the universal telecommunications services shall receive and the terms and conditions of interconnection, and announces such tariffs as specified by an Ordinance of the Ministry of Internal Affairs and Communications.

(iii) The scope of service areas of the universal telecommunications services pertaining to the application conforms to the standards specified by an Ordinance of the Ministry of Internal Affairs and Communications.

(2) The designation pursuant to the provision of the preceding paragraph shall be granted for each type of universal telecommunications services specified by an Ordinance of the Ministry of Internal Affairs and Communications.

(3) When an eligible telecommunications carrier (limited to a telecommunications carrier other than those who install Category I designated telecommunications facilities or those who install Category II telecommunications facilities) intends to change the interconnection tariffs as set forth in paragraph (1) item (ii), it shall, as specified by an Ordinance of the Ministry of Internal Affairs and Communications, notify the Minister for Internal Affairs and Communications and announce such changes prior to implementation.

(4) In the event that a telecommunications carrier succeeds to the status of a telecommunications carrier, pursuant to the provision of Article 17 paragraph (1), who is an eligible telecommunications carrier the telecommunications carrier, succeeding to the status of the telecommunications carrier shall succeed to the status of eligible telecommunications carrier.

(5) When an eligible telecommunications carrier falls under any of the following

items or has filed an application for revocation of the designation as set forth in paragraph (1), the Minister for Internal Affairs and Communications may revoke its designation:

(i) When the eligible telecommunications carrier has violated the provision of paragraph (2) or paragraph (3) of the following Article

(ii) When it is found that the eligible telecommunications carrier no longer conforms to any of the items of paragraph (1)

#### Article 109 (Granting of Subsidies)

(1) The support institution shall, with the method specified by an Ordinance of the Ministry of Internal Affairs and Communications, calculate the subsidies set forth in Article 107 item (i) (hereinafter referred to simply as "subsidies" in this Section), and shall obtain authorization from the Minister for Internal Affairs and Communications with regard to the amount and method of granting the subsidies for each fiscal year (the year starting from April 1 and ending on March 31 of the following year; hereinafter the same shall apply in this Section).

(2) An eligible telecommunications carrier shall, as specified by an Ordinance of the Ministry of Internal Affairs and Communications, notify the support institution of the costs it spent in the previous fiscal year to provide the universal telecommunications services pertaining to the designation set forth in paragraph (1) of the preceding Article, the profit that it generated from the universal telecommunications services pertaining to the designation and other matters specified by an Ordinance of the Ministry of Internal Affairs and Communications, as the basis for calculating the subsidies.

(3) The cost set forth in the preceding paragraph shall be calculated with the method specified by an Ordinance of the Ministry of Internal Affairs and Communications as a method to calculate reasonable cost under efficient management.

(4) When the support institution has obtained authorization as set forth in paragraph (1), it shall announce the amount of subsidies as specified by an Ordinance of the Ministry of Internal Affairs and Communications.

#### Article 110 (Collection of Contributions)

(1) The support institution may, each fiscal year, collect contributions to allocate to all or part of the cost required for the support activities from the telecommunications carriers who are listed below and whose scale of business exceeds the standards specified by a Cabinet Order (hereinafter referred to as "interconnecting telecommunications carriers, etc." in this Article). However, the contributions (hereinafter referred to simply as "contributions" in this Section) as a percentage of the amounts calculated with the methods specified by an Ordinance of the Ministry of Internal Affairs and Communications as profit generated by the telecommunications services provided in the previous business year by an interconnecting telecommunications carrier, etc. (where such a person

is, in the event of a merger, split (limited to those resulting in the succession to a telecommunications business in whole) or inheritance with regard to another interconnecting telecommunications carrier, etc. in the previous fiscal year or in the fiscal year (limited to the period until the person receives the notification pursuant to the provision of paragraph (3)), the juridical person surviving after the merger or the juridical person newly established upon the merger, the juridical person who has succeeded to the telecommunications business in whole upon the split or the heir, or a person who has succeeded to the telecommunications business in whole from another interconnecting telecommunications carrier, etc., the profit shall include those generated from telecommunications services provided by a juridical person who becomes extinct upon merger, a split juridical person or a decedent, or an interconnecting telecommunications carrier, etc. who assigned the business) shall not exceed the percentage specified by a Cabinet Order:

(i) A telecommunications carrier who has concluded an agreement on interconnection with telecommunications facilities which an eligible telecommunications carrier has installed to provide universal telecommunications services pertaining to the designation set forth in Article 108 paragraph (1)

(ii) A telecommunications carrier who has concluded an agreement on interconnection with telecommunications facilities of the telecommunications carrier described in the preceding item, or a telecommunications carrier who installs telecommunications facilities which interconnect with the telecommunications facilities set forth in the same item via telecommunications facilities of another telecommunications carrier

(iii) A telecommunications carrier who has concluded a contract to receive wholesale telecommunications services which use telecommunications facilities that interconnect with the telecommunications facilities as set forth in item (i) via telecommunications facilities as set forth in the same item, telecommunications facilities which interconnect with such telecommunications facilities or telecommunications facilities of a telecommunications carrier

(2) The support institution shall calculate the contributions with the methods specified by an Ordinance of the Ministry of Internal Affairs and Communications, and shall obtain authorization from the Minister for Internal Affairs and Communications with regard to the amount and methods of collection of contributions for each fiscal year.

(3) When the support institution has obtained authorization as set forth in the preceding paragraph, it shall send to interconnecting telecommunications carriers, etc. a notification describing the amount, the time limit and methods of collection of contributions they shall pay, with written documents describing the matters authorized attached thereto.

(4) Any interconnecting telecommunications carrier, etc. shall have the obligation

to pay the contributions to the support institution, in accordance with the notification sent pursuant to the provision of the preceding paragraph.

(5) In the event that any interconnecting telecommunications carriers, etc. has received the notification sent out pursuant to the provision of paragraph (3) but fails to pay the contributions to the support institution within the time limit, it has obligations to pay a delinquent charge which is equivalent to the contributions multiplied by the rate specified by an Ordinance of the Ministry of Internal Affairs and Communications for the number of days from the date following the time limit.

(6) In the event that any interconnecting telecommunications carrier, etc. fails to pay its contributions by the time limit, the support institution shall designate a new time limit and demand in writing that it make the payment by that time limit.

(7) When any interconnecting telecommunications carrier, etc. who has received a written demand pursuant to the provision of the preceding paragraph fails to pay the contributions pertaining to the demand and the delinquent charge pursuant to the provision of paragraph (5) within the designated time limit, the support institution may file a petition with the Minister for Internal Affairs and Communications to that effect.

(8) Where a petition is filed pursuant to the provision of the preceding paragraph, the Minister for Internal Affairs and Communications may order the interconnecting telecommunications carrier, etc. to pay to the support institution the contributions and the delinquent charge pursuant to the provision of paragraph (5).

#### Article 111 (Request for Submission of Data)

The support institution may request telecommunications carriers to submit data, where such data are necessary for conducting its support service.

#### Article 112 (Separate Accounting)

Where the support institution conducts business activities other than the support activities, it shall separate the accounting pertaining to the business activities and the accounting pertaining to the support activities.

#### Article 113 (Support Activities Consultation Commission)

(1) The support institution shall establish a support activities consultation commission.

(2) The support activities consultation commission may, in response to consultation from the representative person of the support institution, study and deliberate on the amount and method of granting of subsidies, the amount and method of collection of contributions and other important matters concerning the conducting of the support activities, and provide the representative person of the support institution with the opinions that it finds necessary for such matters.

(3) The representative person of the support institution shall appoint members of the support activities consultation commission from among telecommunications

carriers and experts with authorization from the Minister for Internal Affairs and Communications.

Article 114 (Transitional Measures upon Revocation of Designation of the Support Institution)

(1) Where the Minister for Internal Affairs and Communications revokes the designation of the support institution pursuant to the provision of Article 84 paragraph (1) or paragraph (2), as applied mutatis mutandis pursuant to Article 116 paragraph (1), and newly designates a support institution after the revocation, assets pertaining to the support activities of the support institution pertaining to the revocation shall belong to the newly designated support institution.

(2) In addition to the matters set forth in the preceding paragraph, where the Minister for Internal Affairs and Communications revokes the designation of a support institution pursuant to the provision of Article 66 paragraph (1) or paragraph (2), as applied mutatis mutandis pursuant to Article 72-16 paragraph (1), management of assets pertaining to the support activities and other necessary transitional measures (including transitional measures concerning penal provisions) shall be specified by a Cabinet Order within a scope considered reasonably necessary.

Article 115 (Provision of Information, Etc. to the Support Institution)

The Minister for Internal Affairs and Communications shall provide information and data, or instruction and advice, necessary for conducting the support activities to the support institution.

Article 116 (Application, Mutatis Mutandis)

(1) The provisions of Article 75 paragraph (2) item (ii) through item (iv), Article 77 paragraph (1) and paragraph (3), Article 78 through Article 84 and Article 90 shall apply mutatis mutandis to the support institution.

(2) In the cases set forth in the preceding paragraph, the words and phrases listed in the middle column of the following table, which are used in the provisions listed in the left column in the same table, shall be deemed to be replaced with the words and phrases listed in the right column of the same table.

Article 75 paragraph (2) paragraph (2) of the preceding Article Article 106

Article 77 paragraph (3) officer or qualification examiner officer  
examination work rules support activities rules

Article 78 member of staff (including qualification examiner) member of staff  
examination work support activities

Article 79 and Article 84 paragraph (2) item (iv) examination work support  
activities

examination work rules support activities rules

Article 81, Article 82, Article 83 paragraph (1), and Article 84 paragraph (2) (except the items thereof) and paragraph (3) examination work support activities

Article 84 paragraph (1) Article 75 paragraph (2) item (i), item (ii) or item (iv)

Article 75 paragraph (2) item (ii) or item (iv), as applied mutatis mutandis pursuant to Article 116 paragraph (1)

Article 84 paragraph (2) item (i) this Subsection the provisions of Article 109 paragraph (1) or paragraph (4), Article 110 paragraph (2), Article 112 or Article 113 paragraph (3), or this Subsection, as applied mutatis mutandis pursuant to Article 116 paragraph (1)

Article 84 paragraph (2) item (ii) the items of Article 75 paragraph (1) the items of Article 106

Article 90 paragraph (1) has registered an approval body as set forth in Article 86 paragraph (1) has designated a support institution

the name and address of the registered approval body, and classification of business pertaining to the registration, the addresses of offices where the business activities of technical standards conformity approval are to be conducted name and address of the support institution, the address of the office where the support activities are to be conducted

and the date on which the business activities of technical standards conformity approval start and the date on which the support activities start

Article 90 paragraph (2) matters listed in Article 86 paragraph (2) item (i) or item (iii) its name or address, or the address of the office where the support activities are to be conducted

### **Chapter III Use of Land, Etc.**

#### **Section 1 Approval of Business**

Article 117 (Approval of Business)

(1) When a telecommunications carrier who operates a telecommunications business of providing telecommunications services by installing telecommunications circuit facilities or a person who intends to operate the telecommunications business intends to establish eligibility under the provision of the following Section, it may file an application to obtain approval from the Minister for Internal Affairs and Communications for the telecommunications business in whole or in part.

(2) Any person who intends to obtain approval as set forth in the preceding paragraph shall, as specified by an Ordinance of the Ministry of Internal Affairs and Communications, file with the Minister for Internal Affairs and Communications an application describing the following matters:

(i) Name and address of the applicant and in the case of a juridical person, the name of the representative person

(ii) Service areas of the telecommunications business pertaining to the application

(iii) Outline of telecommunications facilities for the use of telecommunications business pertaining to the application

(3) The application document as set forth in the preceding paragraph shall be



submitted with a business plan and other documents specified by an Ordinance of the Ministry of Internal Affairs and Communications attached thereto.

#### Article 118 (Grounds for Disqualification)

Any person who falls under any of the following items may not obtain approval as set forth in paragraph (1) of the preceding Article:

(i) Any person who has been sentenced to a fine or severer punishment pursuant to the provisions of this Act, the Cable Telecommunications Act or the Radio Act, if within a period of two years from the date on which the enforcement of such punishment has been completed or has become inapplicable

(ii) Any person whose approval lost its effect as he/she fell under Article 125 item (i), if within a period of two years from the date on which the approval lost its effect, or any person whose approval was revoked pursuant to the provision of Article 126 paragraph (1), if within a period of two years from the date of revocation

(iii) Any juridical person or association any of whose officers fall under either of the preceding two items

#### Article 119 (Criteria for Approval)

The Minister for Internal Affairs and Communications shall not grant approval as set forth in Article 117 paragraph (1), unless the Minister finds that an application for approval under the same paragraph complies with all of the following items:

(i) The applicant has an adequate financial basis and the technical capabilities to properly conduct the telecommunications business pertaining to his/her application.

(ii) The plan of the telecommunications business pertaining to his/her application is reliable and reasonable.

(iii) The applicant has obtained the registration as set forth in Article 9 that is necessary for operating the telecommunications business pertaining to his/her application or registration of change as set forth in Article 13 paragraph (1), or has filed a notification as set forth in Article 16 paragraph (1) or paragraph (3).

#### Article 120 (Obligation to Start Business)

(1) Any person who has obtained approval as set forth in Article 117 paragraph (1) (hereinafter referred to as "approved telecommunications carrier") shall start the telecommunications business pertaining to the approval (hereinafter referred to as "approved telecommunications business") within the period designated by the Minister for Internal Affairs and Communications.

(2) The Minister for Internal Affairs and Communications may, where the Minister finds it particularly necessary, divide the service areas set forth in Article 117 paragraph (2) item (ii) and designate the period set forth in the preceding paragraph for the divided service areas.

(3) Upon application from an approved telecommunications carrier, the Minister

for Internal Affairs and Communications may, where the Minister finds that there are justifiable grounds, extend the period set forth in paragraph (1).

(4) When an approved telecommunications carrier has started an approved telecommunications business (in the case where the period was designated for service areas divided pursuant to the provision of paragraph (2), the approved telecommunications business pertaining to the division), it shall notify the Minister for Internal Affairs and Communications to that effect without delay.

#### Article 121 (Obligation to Provide Services)

(1) No approved telecommunications carrier shall, without due reason, refuse to provide telecommunications services pertaining to its approved telecommunications business.

(2) When any approved telecommunications carrier has violated the provision of the preceding paragraph, the Minister for Internal Affairs and Communications may order the approved telecommunications carrier to improve the methods of conducting its business activities or take other measures, within the limit necessary for ensuring the interests of users or the public interest.

#### Article 122 (Approval of Changes, Etc.)

(1) When any approved telecommunications carrier intends to change the matters set forth in Article 117 paragraph (2) item (ii) or item (iii), it shall obtain approval from the Minister for Internal Affairs and Communications; provided, however, that this shall not apply to minor changes specified by an Ordinance of the Ministry of Internal Affairs and Communications.

(2) When any approved telecommunications carrier has made minor changes specified by an Ordinance of the Ministry of Internal Affairs and Communications, which are as set forth in the proviso of the preceding paragraph, it shall notify the Minister for Internal Affairs and Communications to that effect without delay.

(3) The provisions of Article 117 paragraph (3), Article 118 item (i) and item (iii), and Article 119 shall apply mutatis mutandis to the approval as set forth in paragraph (1).

(4) The provision of Article 120 shall apply mutatis mutandis to the cases set forth in paragraph (1) (except cases where the number of service areas is decreased). In this case, the term "Article 117 paragraph (1)" in paragraph (1) of the same Article shall be deemed to be replaced with "Article 122 paragraph (1)."

(5) When an approved telecommunications carrier changes any of the matters set forth in Article 117 paragraph (2) item (i), it shall notify the Minister for Internal Affairs and Communications to that effect without delay.

#### Article 123 (Succession)

(1) When an approved telecommunications carrier dies, the heir (where one particular heir has been selected from among two or more heirs as the successor of the approved telecommunications business by agreement among the heirs, such selected heir) shall succeed to the status of the approved telecommunications

carrier as the decedent.

(2) Where an heir as set forth in the preceding paragraph does not apply, within sixty days from the death of the decedent, for authorization of the Minister for Internal Affairs and Communications with regard to its succession, or where a disposition not to authorize an application from the heir as set forth in the same paragraph is rendered, the approval of the approved telecommunications business loses its effect at the time when the period has passed or when the disposition is rendered.

(3) When a juridical person as an approved telecommunications carrier has completed a merger or split (limited to those resulting in the succession to an approved telecommunications business in whole), the juridical person surviving after the merger or the juridical person newly established upon the merger, or the juridical person who has succeeded to the approved telecommunications business in whole upon the split shall succeed to the status of approved telecommunications carrier with the authorization of the Minister for Internal Affairs and Communications.

(4) When an approved telecommunications carrier has assigned its approved telecommunications business in whole, the assignee of the approved telecommunications business in whole may succeed to the status of approved telecommunications carrier with the authorization of the Minister for Internal Affairs and Communications.

(5) The provisions of Article 118 and Article 119 shall apply mutatis mutandis to the authorization as set forth in the preceding three paragraphs.

#### Article 124 (Suspension and Abolition of Business)

(1) When an approved telecommunications carrier suspends or abolishes its approved telecommunications business in whole or in part, it shall notify the Minister for Internal Affairs and Communications to that effect without delay.

(2) The period of suspension set forth in the preceding paragraph shall not exceed one year.

#### Article 125 (Lapse of Approval)

Where an approved telecommunications carrier falls under either of the following items, its approval shall lose its effect.

(i) If the registration of the approved telecommunications carrier is revoked pursuant to the provision of Article 14 paragraph (1)

(ii) If the approved telecommunications carrier abolishes its approved telecommunications business in whole

#### Article 126 (Revocation of Approval)

(1) The Minister for Internal Affairs and Communications may revoke the approval of an approved telecommunications carrier where it falls under any of the following items:

(i) If the approved telecommunications carrier falls under Article 118 item (i) or

item (iii)

(ii) If the approved telecommunications carrier does not start its approved telecommunications business within the period designated pursuant to the provision of Article 120 paragraph (1) (when the period was extended pursuant to the provision of paragraph (3) of the same Article, the extended period)

(iii) In addition to the cases set forth in the preceding two items, where the approved telecommunications carrier violates this Act, or any order or disposition made under this Act, and is found to impair the public interest

(2) When the Minister for Internal Affairs and Communications revokes approval pursuant to the provision of the preceding paragraph, the Minister shall notify the approved telecommunications carrier to that effect in writing with the reasons attached thereto.

Article 127 (Revocation of Approval of Changes)

(1) When an approved telecommunications carrier, who has obtained approval of a change in the matters which are set forth in Article 117 paragraph (2) item (ii) or item (iii), pursuant to the provision of Article 122 paragraph (1), does not change the matters within the period designated pursuant to the provision of Article 120 paragraph (1), as applied mutatis mutandis pursuant to Article 122 paragraph (4) (if the period was extended pursuant to the provision of Article 120 paragraph (3), as applied mutatis mutandis pursuant to Article 122 paragraph (4), the extended period), the Minister for Internal Affairs and Communications may revoke its approval.

(2) The provision of paragraph (2) of the preceding Article shall apply mutatis mutandis to the cases set forth in the preceding paragraph.

## **Section 2 Use of Land**

Article 128 (Right to Use Land, Etc.)

(1) An approved telecommunications carrier may, where it is necessary and appropriate to use other persons' land and buildings or other structures affixed thereto (except administrative properties prescribed in Article 3 paragraph (2) of the National Property Act (Act No. 73 of 1948), administrative properties prescribed in Article 238 paragraph (3) of the Local Autonomy Act (Act No. 67 of 1947) and others specified by a Cabinet Order (referred to as "administrative properties, etc." in paragraph (4)); hereinafter referred to as the "land, etc.") for the establishment of wires and cables and antennas (in the case of wires and cables and antennas installed primarily for the use of communications for persons who are in one premises (including the areas equivalent to such premises) or buildings (hereinafter referred to as "premises, etc." in this paragraph) within the premises, etc., limited to those installed in premises, etc. where the public pass through or assemble) and other facilities accessory to such facilities (hereinafter referred to collectively as "lines" in this Section) for the use of its approved telecommunications business, it may, with the authorization of the Minister for

Internal Affairs and Communications, request the owner of the land, etc. (if there is a person who uses the land, etc. based on his/her title other than ownership, the person and the owner; hereinafter the same shall apply) to hold negotiations to establish the right to use the land, etc. (hereinafter referred to as "right to use"). The same shall apply to cases where an approved telecommunications carrier intends to extend the duration set forth in paragraph (3) in order to continuously use the land, etc. after expiration of the duration.

(2) The authorization set forth in the preceding paragraph may be granted where an approved telecommunications carrier uses the land, etc. to an extent not to seriously impair the use of the land, etc. However, in the cases of land, etc. being used for a business that is subject to eminent domain or use under any other Act, authorization may be granted as long as the use of land, etc. does not obstruct the use for such business. In the cases of buildings and other structures, authorization may be granted as long as they are used to support the lines.

(3) The duration of the right to use as set forth in paragraph (1) shall be fifteen years (if the purpose of use is to establish underground cables or other underground structures, or steel or concrete ground structures, fifty years); provided, however, that this shall not apply to cases where a shorter duration is set as a result of negotiations as set forth in the same paragraph or an award as set forth in Article 132 paragraph (2) or paragraph (3).

(4) Upon application for authorization as set forth in paragraph (1), the Minister for Internal Affairs and Communications shall, where the Minister finds it necessary, hear the opinions of the owner of the land, etc. (if the land, etc. is a building or other structures affixed to administrative properties, etc., the administrator of the administrative properties, etc., and other persons specified by a Cabinet Order shall be included; the same shall apply in the following paragraph and Article 130 paragraph (1) and Article 131).

(5) When the Minister for Internal Affairs and Communications has granted authorization as set forth in paragraph (1), the Minister shall notify the owner of the land, etc. to that effect, and issue a public notice thereof.

(6) When the negotiations set forth in paragraph (1) reach agreement, the approved telecommunications carrier and the owner of the land, etc. shall, as specified by an Ordinance of the Ministry of Internal Affairs and Communications, report to the Minister for Internal Affairs and Communications on the matters decided through such negotiations.

(7) When a report as set forth in the preceding paragraph is made, the approved telecommunications carrier shall acquire the right to use the land, etc., or the duration of the right to use shall be extended, in accordance with the report.

(8) The approved telecommunications carrier and the owner of the land, etc. may terminate the right to use by their agreement. In this case, they shall notify the Minister for Internal Affairs and Communications to that effect without delay.

Article 129 (Application for an Award)

(1) When negotiations conducted pursuant to the provision of paragraph (1) of the preceding Article fail or cannot be started, an approved telecommunications carrier may, in accordance with the procedures specified by an Ordinance of the Ministry of Internal Affairs and Communications, file with the Minister for Internal Affairs and Communications an application for an award concerning the use of the land, etc; provided, however, that this shall not apply to cases where three months have passed since the date on which the authorization set forth in the same paragraph was granted.

(2) When an approved telecommunications carrier applies for an award concerning extension of the duration of the right to use pursuant to the provision of the preceding paragraph, it may continue to use the land, etc. until the award is rendered.

Article 130 (Award)

(1) When the Minister for Internal Affairs and Communications has accepted an application for an award pursuant to the provision of paragraph (1) of the preceding Article, the Minister shall, within three days, send a copy of the application to the mayor of the municipality, and notify the owner of the land, etc. that the application for an award has been filed.

(2) When the mayor of the municipality receives the copy as set forth in the preceding paragraph, the mayor shall issue a public notice to that effect within three days and shall make the copy available for public inspection for one week from the date of the public notice.

(3) When the mayor of the municipality issues the public notice pursuant to the provision of the preceding paragraph, the mayor shall report the date on which the public notice is issued to the Minister for Internal Affairs and Communications.

(4) With regard to the application of the provisions of the preceding three paragraphs, the term "mayor of the municipality" in those provisions shall be deemed to be replaced with "mayor of the special ward" in a place where a special ward exists; with "mayor of the ward" in a designated city prescribed in Article 252-19 paragraph (1) of the Local Autonomy Act; with "administrator of the total union" for a place where a total union exists; or with "administrator of the clerical union" for a place where a clerical union exists.

Article 131

When a public notice is issued pursuant to the provision of paragraph (2) of the preceding Article, the owner of the land, etc. or any other interested persons may submit to the Minister for Internal Affairs and Communications their written opinions within ten days from the date of the public notice.

Article 132

(1) The Minister for Internal Affairs and Communications shall render an award promptly after the period set forth in the preceding Article has passed.

(2) The award which determines that the right to use be established shall specify the following matters:

(i) Location and scope of the land, etc. on or across which the right to use is to be established

(ii) Type and number of lines

(iii) Scheduled starting date of use

(iv) Duration of the right to use, if such duration has been determined

(v) Amount of consideration and the time and method of its payment

(3) An award which determines that the duration of the right to use be extended shall specify the extended period (if the matters listed in item (v) of the preceding paragraph are changed when extending the period, the extended period and the matters listed in the same item after the change).

(4) The Minister for Internal Affairs and Communications shall, with regard to the matters listed in paragraph (2) item (v) (including the matters set forth in the preceding paragraph after the change), hear the opinions of the expropriation committee of the prefecture having jurisdiction over the land, etc. in advance, and render an award based on such opinions. In this case, the standards of the consideration set forth in the same item shall be specified by a Cabinet Order for each type of lines and land, etc. to cover the loss which may generally arise from its use.

(5) When the Minister for Internal Affairs and Communications renders an award as set forth in Article 129 paragraph (1), the Minister shall notify the approved telecommunications carrier and the owner of the land, etc. to that effect without delay and shall issue a public notice thereof.

(6) When an award which determines that the right to use be established is rendered, the approved telecommunications carrier shall acquire the right to use the land, etc. on the scheduled starting date of use, which is specified in the award.

(7) When an award which determines that the duration of the right to use be extended is rendered, the duration of the right to use shall be extended for the period specified in the award.

(8) The provisions of Article 35 paragraph (8) through paragraph (10) shall apply mutatis mutandis to the award set forth in Article 129 paragraph (1). In this case, the term "the amount of money to be received or paid by the party (or parties)" in Article 35 paragraph (8) and paragraph (10) shall be deemed to be replaced with "the amount of consideration."

Article 133 (Temporary Use of the Land, Etc.)

(1) An approved telecommunications carrier may, where use of another person's land, etc. for the purposes listed below is necessary and inevitable to conduct an approved telecommunications business, temporarily use it to an extent that does not seriously obstruct the use of the land, etc. In the cases of buildings or other

structures, however, such use shall be limited for the purpose of supporting lines.

(i) Establishing yards for materials and vehicles and dumps for soil and stone, which are necessary for conducting line installation

(ii) Establishing lines and other telecommunications facilities necessary for securing essential communications in the cases where a natural disaster, accident or any other emergency has occurred or where there are any other particularly compelling reasons

(iii) Setting up land survey markers

(2) When any approved telecommunications carrier intends to use another person's land, etc. temporarily pursuant to the provision of the preceding paragraph, it shall obtain permission of the Minister for Internal Affairs and Communications; provided, however, that this shall not apply to temporary use for a period not exceeding fifteen days in the event of a natural disaster, accident or any other emergency.

(3) When any approved telecommunications carrier intends to use another person's land, etc. temporarily pursuant to the provision of paragraph (1), it shall notify the possessor of the land, etc. in advance. Where advance notification is difficult to make, however, it is sufficient for the approved telecommunications carrier to notify the possessor without delay after starting use.

(4) If the land, etc. that an approved telecommunications carrier intends to use temporarily pursuant to the provision of paragraph (1) is currently in use for a residence, it shall obtain the consent of its resident.

(5) The period of temporary use pursuant to the provision of paragraph (1) shall not exceed six months (when temporary lines or land survey markers have been set up in the cases set forth in item (ii) of the same paragraph, one year).

(6) Any person who enters another person's land, etc. for the purpose of temporary use pursuant to the provision of paragraph (1) shall carry a document certifying that he/she has obtained the permission set forth in paragraph (2) (in the cases of the proviso of the same paragraph, a certificate for identification) and shall produce it to the persons concerned.

#### Article 134 (Entry into Land)

(1) An approved telecommunications carrier may enter another person's land where it is necessary for a survey, on-site investigation, or installation concerning lines.

(2) The provisions of paragraph (2) through paragraph (4) and paragraph (6) of the preceding Article shall apply mutatis mutandis to the cases where an approved telecommunications carrier enters another person's land pursuant to the provision of the preceding paragraph.

#### Article 135 (Passage)

(1) An approved telecommunications carrier may pass through another person's land where it is necessary for line installation or for line maintenance.



(2) The provisions of Article 69 paragraph (3) and Article 133 paragraph (3) and paragraph (4) shall apply mutatis mutandis to the cases where an approved telecommunications carrier passes through another person's land pursuant to the provision of the preceding paragraph.

#### Article 136 (Clearing of Plants)

(1) Where any plants cause, or are likely to cause, an obstruction to the lines, or where any plants hinder surveys, on-site investigations or installation concerning lines, an approved telecommunications carrier may, if inevitable, clear or transplant the plants with the permission of the Minister for Internal Affairs and Communications.

(2) When an approved telecommunications carrier clears or transplants a plant pursuant to the provision of the preceding paragraph, it shall notify the owner of the plant to that effect in advance. Where advance notification is difficult to make, however, it is sufficient for the approved telecommunications carrier to notify the owner without delay after clearing or transplanting the plant.

(3) Where an approved telecommunications carrier finds that a plant which is causing an obstruction to lines will seriously damage the lines and hinder the securing of communications if the problem is left unsolved, it may clear or transplant the plant without the permission of the Minister for Internal Affairs and Communications, notwithstanding the provision of paragraph (1). In this case, the approved telecommunications carrier shall, without delay after clearing or transplanting the plant, report to the Minister for Internal Affairs and Communications to that effect, and shall notify the owner of the plant.

#### Article 137 (Compensation for Loss)

(1) When an approved telecommunications carrier has caused a loss by having temporarily used another person's land, etc. pursuant to the provision of Article 133 paragraph (1), by having entered another person's land pursuant to the provision of Article 134 paragraph (1), by having passed through another person's land pursuant to the provision of Article 135 paragraph (1), or by having cleared or transplanted any plant pursuant to the provision of paragraph (1) or (3) of the preceding Article, it shall compensate the person who has suffered the loss for that loss.

(2) When negotiations on the compensations for loss pursuant to the provision of the preceding paragraph between an approved telecommunications carrier and a person who has suffered the loss fail or cannot be conducted, the approved telecommunications carrier or the person who has suffered the loss may file with the prefectural governor an application for an award in accordance with the procedures specified by an Ordinance of the Ministry of Internal Affairs and Communications.

(3) The provisions of Article 35 paragraph (5) through paragraph (10) shall apply mutatis mutandis to the award set forth in the preceding paragraph. In this case,

the term "the Minister for Internal Affairs and Communications" and the term "written answers" in paragraph (5) of the same Article shall be deemed to be replaced with "the prefectural governor" and "written answers (or written opinions when notifying the person who has suffered the loss)," respectively; the term "the Minister for Internal Affairs and Communications" in paragraph (6) of the same Article shall be deemed to be replaced with "the prefectural governor"; and the term "the amount of money to be received or paid by the party (or parties)" in paragraph (8) and paragraph (10) of the same Article shall be deemed to be replaced with "the amount of compensation."

(4) The award which determines that compensation be paid shall specify the amount of compensation and the date and method of the payment.

#### Article 138 (Relocation, Etc. of Lines)

(1) Where the purpose or method of use of the land, etc. on which lines are installed based on the right to use or the land, etc. adjacent thereto has been changed and thereby the lines seriously hinder the use of such land, etc., the owner of such land, etc. may request an approved telecommunications carrier to take measures necessary to remove the hindrance, including relocation of the lines.

(2) Any approved telecommunications carrier shall take the measures set forth in the preceding paragraph, except in cases where it is extremely difficult to take the measures set forth in the preceding paragraph for conducting its business activities or from a technical perspective.

(3) Where negotiations between an approved telecommunications carrier and the owner of the land, etc. on the measures set forth in paragraph (1) fail or cannot be conducted, the approved telecommunications carrier or the owner of the land, etc. may file with the Minister for Internal Affairs and Communications an application for an award in accordance with the procedures specified by an Ordinance of the Ministry of Internal Affairs and Communications.

(4) The provisions of Article 130, Article 131, and Article 132 paragraph (1) and paragraph (5) shall apply mutatis mutandis to the award as set forth in the preceding paragraph.

(5) The award which determines that the measures set forth in paragraph (1) be taken shall specify that the cost in whole or in part of the measures should be borne by the owner of the land, etc.

(6) The award which determines that the measures set forth in paragraph (1) be taken shall specify the date when such measures should be taken (in the case set forth in the preceding paragraph, the date when such measures should be taken and the amount, date and method of payment of the money to be borne by the owner of the land, etc.).

(7) When a public notice has been issued pursuant to the provision of Article 132 paragraph (5), as applied mutatis mutandis pursuant to paragraph (4), the

negotiations between the approved telecommunications carrier and the owner of the land, etc. shall be deemed to have reached agreement as specified by the award.

(8) The provisions of Article 35 paragraph (8) through paragraph (10) shall apply mutatis mutandis to the award set forth in paragraph (3). In this case, the term "the amount of money to be received or paid by the party (or parties)" in paragraph (8) and paragraph (10) of the same Article shall be deemed to be replaced with "the amount of costs to be borne."

#### Article 139 (Obligation of Restoration)

When an approved telecommunications carrier has terminated the use of the land, etc. or when the use of the land, etc. for its approved telecommunications business becomes no longer necessary, it shall return such land, etc. after restoring it or compensating for the losses arising from not restoring it.

#### Article 140 (Use of Public Surfaces of Water)

(1) When an approved telecommunications carrier intends to lay an underwater cable to be used for its approved telecommunications business (hereinafter referred to as "underwater cable") under any surface of water for public use (hereinafter referred to as "waters"), it shall notify the Minister for Internal Affairs and Communications and the relevant prefectural governor (if the waters include fishing grounds over which the Minister of Agriculture, Forestry and Fisheries exercises the authorities of the prefectural governor pursuant to the provision of Article 136 of the Fishery Act (Act No. 267 of 1949), the Minister of Agriculture, Forestry and Fisheries shall be included; the same shall apply in the following paragraph) of the following matters in advance:

(i) Locations of the underwater cable and areas for which the approved telecommunications carrier intends to file the application set forth in paragraph (1) of the following Article

(ii) Date of the start and completion of the installation work

(iii) Outline of the installation work

(2) Where a notification is filed pursuant to the provision of the preceding paragraph and the relevant prefectural governor finds it necessary to change the matters pertaining to the notification set forth in the preceding paragraph, based on the opinions of persons interested in the fishing rights (fishing rights under the Fishery Act; hereinafter the same shall apply) or of any persons who are actually and lawfully engaged in fisheries specified by a Cabinet Order as set forth in paragraph (4) of the following Article within the area set forth in item (i) of the preceding paragraph or in consideration of the impact of fisheries, the governor may notify the Minister for Internal Affairs and Communications and the approved telecommunications carrier to that effect, after conducting the necessary negotiations with other relevant prefectural governors if there are any, within thirty days from the date on which the notification was filed.

(3) The provision of Article 11 paragraph (6) of the Fishery Act shall apply mutatis mutandis to the notification filed pursuant to the provision of the preceding paragraph. In this case, the term "the prefectural governor" in paragraph (6) of the same Article shall be deemed to be replaced with "the relevant prefectural governor who received the notification pursuant to the provision of Article 140 paragraph (1) of the Telecommunications Business Act."

(4) When an approved telecommunications carrier has received a notification pursuant to the provision of paragraph (2), it shall change the matters; provided, however, that this shall not apply to cases where changing the matters will seriously hinder the conducting of its business activities and the Minister for Internal Affairs and Communications has authorized that the changes to the matters are not necessary.

#### Article 141 (Protection of Underwater Cable)

(1) Upon application from an approved telecommunications carrier, the Minister for Internal Affairs and Communications may, where necessary for the protection of the underwater cable laid in accordance with the procedures set forth in the preceding Article, designate an area within one thousand meters (in the case of a river to which the River Act (Act No. 167 of 1964) shall apply, or shall apply mutatis mutandis (hereinafter referred to as "river"), fifty meters) of the underwater cable as a protected area.

(2) The designation set forth in the preceding paragraph shall be made by issuing a notice.

(3) When a protected area has been designated pursuant to the provision of paragraph (1), any approved telecommunications carrier shall, as specified by an Ordinance of the Ministry of Internal Affairs and Communications, set up landmarks indicating such area and issue a public notice of the locations of the landmarks.

(4) In the protected area set forth in paragraph (1), no person shall anchor a vessel, engage in trawl fishing or other fishing specified by a Cabinet Order, mine soil, or moor a boat or raft to the landmarks set forth in the preceding paragraph; provided, however, that this shall not apply to cases where there are compelling reasons for a river administrator to conduct river construction, for a coast administrator as prescribed in Article 2 paragraph (3) of the Coast Act (Act No. 101 of 1956) (hereinafter referred to as "coastal administrator" in this Article) to conduct construction work for coast conservation facilities as prescribed in Article 2 paragraph (1) of the same Act (hereinafter referred to as "coastal conservation facilities" in this paragraph), or for the competent minister to conduct construction work for coastal conservation facilities pursuant to the provision of Article 6 paragraph (1) of the same Act, or in other cases specified by a Cabinet Order.

(5) Where an application is filed by an approved telecommunications carrier and

the prefectural governor (in cases where the Minister for Agriculture, Forestry and Fisheries exercises the authorities of the prefectural governor pursuant to the provision of Article 136 of the Fishery Act, the Minister for Agriculture, Forestry and Fisheries; the same shall apply in paragraph (7)) finds it necessary to protect the underwater cable, the governor may revoke or change the fishing rights which have been established on the waters within the protected area set forth in paragraph (1), or order to suspend the exercise of such rights.

(6) The provision of Article 11 paragraph (6) of the Fishery Act shall apply mutatis mutandis to the revocation or change of the fishing rights, or suspension of the exercise of such rights, pursuant to the provision of the preceding paragraph. In these cases, the term "prefectural governor" in paragraph (6) of the same Article shall be deemed to be replaced with "prefectural governor who has received the application pursuant to the provision of Article 141 paragraph (5) of the Telecommunications Business Act."

(7) The prefectural governor shall pay the necessary consideration to protecting the underwater cable with regard to establishing fishing rights on the waters within the protected area as set forth in paragraph (1).

(8) A coastal administrator shall pay the necessary consideration to protecting the underwater cable with regard to permitting the establishment of facilities or structures or any act on the waters within the protected area set forth in paragraph (1).

#### Article 142

(1) Any approved telecommunications carrier shall compensate any person who holds the fishing rights for any loss caused by the revocation or change to his/her fishing rights or the suspension of the exercise of such rights pursuant to the provision of paragraph (5) of the preceding Article.

(2) The provisions of Article 39 paragraph (7) through paragraph (12) of the Fishery Act shall apply mutatis mutandis to the compensation for the loss pursuant to the provision of the preceding paragraph. In this case, the term "prefecture" in paragraph (10) and paragraph (11) of the same Article shall be deemed to be replaced with "approved telecommunications carrier."

#### Article 143

No vessel shall navigate on the waters within the scope as specified by an Ordinance of the Ministry of Internal Affairs and Communications within one thousand meters (in the case of a river, fifty meters) of a vessel which is engaged in laying or repairing an underwater cable of an approved telecommunications carrier and posts a sign to that effect, or within the scope as specified by an Ordinance of the Ministry of Internal Affairs and Communications scope within four hundred meters (in the case of a river, thirty meters) of a buoy which marks the location of the underwater cable being laid or repaired and posts a sign to that effect.

**Chapter IV Telecommunications Business Dispute Settlement Commission**  
**Section 1 Establishment and Organization**

Article 144 (Establishment and Authority)

(1) A Telecommunications Business Dispute Settlement Commission (hereinafter referred to as "the Commission") shall be established under the Ministry of Internal Affairs and Communications.

(2) The Commission shall deal with the matters authorized pursuant to the provisions of this Act.

Article 145 (Organization)

(1) The Commission shall be composed of five commission members.

(2) The commission members shall serve on a part-time basis; provided, however, that up to two of them may serve on a full-time basis.

Article 146 (Chair)

(1) The Commission shall have a chair who is appointed by the commission members from among themselves.

(2) The chair shall preside over the affairs of the Commission and represent the Commission.

(3) The chair shall nominate, in advance, an acting chair from the commission members, who shall perform his/her duties when he/she is unable to attend to his/her duties.

Article 147 (Appointment of Commission Members)

(1) The commission members shall be appointed by the Minister for Internal Affairs and Communications, from among persons with deep insight into the telecommunications business or utilization of radio waves, with the consent of both Houses of the Diet.

(2) Where the term of office of a commission member expires or a vacancy for such a position occurs and the Minister for Internal Affairs and Communications is not able to obtain the consent of both Houses of the Diet because the Diet is closed or because the House of Representatives has been dissolved, the Minister may appoint a person from qualified persons set forth in the preceding paragraph as a commission member, notwithstanding the provision of the preceding paragraph.

(3) In the cases set forth in the preceding paragraph, the Minister for Internal Affairs and Communications shall obtain the consent of both Houses of the Diet at the first Diet session following the appointment. In this case, if the Minister cannot obtain the ex post facto approval of both Houses of the Diet, the Minister shall immediately dismiss the commission member.

Article 148 (Term of Office)

(1) The term of office of a commission member shall be three years; provided, however, that the term of office of a commission member who has been appointed to fill a vacancy shall be the remaining term of his/her predecessor.

(2) Any of the commission members may be reappointed.

(3) When the term of office of a commission member expires, the commission member shall perform the duties until his/her successor is appointed.

Article 149 (Dismissal of a Commission Member)

When the Minister for Internal Affairs and Communications finds that a commission member is unable to perform his/her duties due to mental or physical disorder or that he/she has breached his/her obligations in the course of duties or committed any other misconduct unfitting of a commission member, the Minister may dismiss him/her with the consent of both Houses of the Diet.

Article 150 (Service Discipline of a Commission Member)

(1) No commission member shall divulge any secrets which may have come to his/her knowledge in the course of his/her duties. The same shall apply even after he/her has left office.

(2) No commission member shall become an official of a political party or any other political organizations, or actively engage in a political movement, during his/her term of office.

(3) No full-time commission member shall, during his/her term of office, engage in other duties from which he/she receives remuneration or operate a profit-making business, or conduct any other businesses for pecuniary gain, except in cases approved by the Minister for Internal Affairs and Communications.

Article 151 (Remuneration of a Commission Member)

Remuneration of the commission members shall be separately prescribed by an Act.

Article 152 (Secretariat)

(1) A Secretariat shall be established under the Commission to handle the affairs of the Commission.

(2) The Secretariat shall have a director-general and other necessary officials.

(3) The director-general shall handle the work of the Secretariat as ordered by the chair.

Article 153 (Delegation to a Cabinet Order)

In addition to the matters set forth in this Section, matters necessary for the Commission shall be specified by a Cabinet Order.

**Section 2 Mediation and Arbitration**

Article 154 (Mediation on Interconnection of Telecommunications Facilities)

(1) Where a telecommunications carrier requests another telecommunications carrier to conclude an agreement on interconnection of telecommunications facilities but the requested telecommunications carrier refuses to hold negotiations or such negotiations fail, or where negotiations between the parties about concluding an agreement on the interconnection of telecommunications facilities fail with regard to such agreement details as the amount of money to be received or paid by the parties and the terms and conditions of interconnection, such parties may file with the Commission an application for mediation; provided,

however, that this shall not apply where the parties have already filed a petition as set forth in Article 35 paragraph (1) or paragraph (2), an application for an award pursuant to the provision of paragraph (3) of the same Article, or an application for arbitration pursuant to the provision of paragraph (1) of the following Article.

(2) The Commission shall conduct mediation except where it finds that the case is not appropriate for mediation by its nature, or where it finds that the parties have filed an application for mediation without due cause for unjust purposes.

(3) The mediation of the Commission shall be conducted by mediation commissioners whom the Commission nominates for each case from among the commission members or other officials (limited to those whom the Commission appoints in advance; the same shall apply in paragraph (3) of the following Article).

(4) The mediation commissioners shall mediate the parties, confirm the points of both parties' arguments, and make efforts to resolve the case.

(5) The mediation commissioners may hear opinions from the parties or request reports from the parties, compile draft mediation as necessary for resolving the case, and present it to the parties.

(6) The mediation commissioners shall terminate the mediation on a case being undertaken when the parties file a petition as set forth in Article 35 paragraph (1) or paragraph (2), an application for an award pursuant to the provision of paragraph (3) of the same Article, or an application for arbitration pursuant to the provision of paragraph (1) of the following Article.

#### Article 155 (Arbitration on Interconnection of Telecommunications Facilities)

(1) Where negotiations between telecommunications carriers on concluding an agreement on interconnection of telecommunications facilities fail with regard to such agreement details as the amount of money to be received or paid by the parties and the terms and conditions of interconnection, both parties may file with the Commission an application for arbitration; provided, however, that this shall not apply where the parties have already filed a petition as set forth in Article 35 paragraph (1) or paragraph (2), or an application for an award pursuant to the provision of paragraph (3) of the same Article.

(2) Arbitration of the Commission shall be conducted by three arbitration commissioners.

(3) The Commission shall appoint those selected with the agreement of the parties, from among the commission members and other officials, as arbitration commissioners. However, if selection with the agreement of the parties has not been made, the Commission shall nominate arbitration commissioners from among the commission members and other officials.

(4) Unless otherwise specified in this Article, the provisions of the Arbitration Act (Act No. 138 of 2003) shall apply mutatis mutandis to the arbitration by deeming



arbitration commissioners as arbitrators.

Article 156 (Application, Mutatis Mutandis)

(1) The provisions of the preceding two Articles shall apply mutatis mutandis to agreements concerning the sharing of telecommunications facilities. In this case, the term "terms and conditions of interconnection" in Article 154 paragraph (1) and paragraph (1) of the preceding Article shall be deemed to be replaced with "terms and conditions for sharing"; and the term "Article 35 paragraph (1) or paragraph (2)" and the term "paragraph (3) of the same Article" in Article 154 paragraph (1) and paragraph (6) and paragraph (1) of the preceding Article shall be deemed to be replaced with "Article 38 paragraph (1)" and "Article 35 paragraph (3), as applied mutatis mutandis pursuant to paragraph (2) of the same Article," respectively.

(2) The provisions of the preceding two Articles shall apply mutatis mutandis to contracts concerning the provision of wholesale telecommunications services. In this case, the term "terms and conditions of interconnection" and the term "agreement details" in Article 154 paragraph (1) and paragraph (1) of the preceding Article shall be deemed to be replaced with "terms and conditions for the service provision" and "contract details," respectively; and the term "Article 35 paragraph (1) or paragraph (2)" and the term "paragraph (3) of the same Article" in Article 154 paragraph (1) and paragraph (6) and paragraph (1) of the preceding Article shall be deemed to be replaced with "Article 38 paragraph (1), as applied mutatis mutandis pursuant to Article 39" and "Article 35 paragraph (3), as applied mutatis mutandis pursuant to Article 39," respectively.

Article 157 (Mediation, Etc. Concerning Other Agreements, Etc.)

(1) Where negotiations between telecommunications carriers concerning an agreement or contract specified by a Cabinet Order as required to ensure that telecommunications service are smoothly provided (referred to as "agreement, etc." in paragraph (3)) fail with regard to such details as the amount of money to be received or paid by the parties and terms and conditions, such parties may file with the Commission an application for mediation.

(2) The provisions of Article 154 paragraph (2) through paragraph (5) shall apply mutatis mutandis to the mediation set forth in the preceding paragraph.

(3) Where negotiations between telecommunications carriers on concluding an agreement etc. fail with regard to such details as the amount of money to be received or paid by the parties and terms and conditions, both parties may file with the Commission an application for arbitration.

(4) The provisions of Article 155 paragraph (2) through paragraph (4) shall apply mutatis mutandis to the arbitration set forth in the preceding paragraph.

Article 158 (Application via the Minister)

Any application for mediation or arbitration filed with the Commission pursuant to the provision of this Section shall be made via the Minister for

Internal Affairs and Communications.

Article 159 (Delegation to a Cabinet Order)

In addition to the matters set forth in this Section, matters necessary for procedures for mediation and arbitration shall be specified by a Cabinet Order.

**Section 3 Consultation, Etc.**

Article 160 (Consultation with the Commission)

The Minister for Internal Affairs and Communications shall consult the Commission on the matters listed below; provided, however, that this shall not apply to matters that the Commission finds to be minor:

(i) Orders concerning interconnection of telecommunications facilities pursuant to the provision of Article 35 paragraph (1) or paragraph (2), awards concerning interconnection of telecommunications facilities pursuant to the provision of paragraph (3) or paragraph (4) of the same Article, orders concerning sharing of telecommunications facilities pursuant to the provision of Article 38 paragraph (1), awards concerning sharing of telecommunications facilities pursuant to the provision of Article 35 paragraph (3) or paragraph (4), as applied mutatis mutandis pursuant to paragraph (2) of Article 38, awards concerning provision of wholesale telecommunications services pursuant to the provision of Article 35 paragraph (3) or paragraph (4), as applied mutatis mutandis pursuant to Article 39, orders concerning provision of wholesale telecommunications services pursuant to the provision of Article 38 paragraph (1), as applied mutatis mutandis pursuant to Article 39, authorization concerning use of the land, etc. pursuant to the provision of Article 128 paragraph (1), awards concerning use of the land, etc. pursuant to the provision of Article 129 paragraph (1), or awards concerning measures necessary to remove a hindrance pursuant to the provision of Article 138 paragraph (3)

(ii) Orders to change tariffs pursuant to the provision of Article 19 paragraph (2), orders to change security tariffs pursuant to the provision of Article 20 paragraph (3), orders to change charges for specified telecommunications services pursuant to the provision of Article 21 paragraph (4), orders to improve business activities pursuant to the provision of Article 29 paragraph (1), orders pursuant to the provision of Article 30 paragraph (4) to suspend or change acts violating the provision of paragraph (3) of the same Article, orders pursuant to the provision of Article 31 paragraph (3) to suspend or change acts violating the provision of paragraph (2) of the same Article, orders to apply for authorization of a change of interconnection tariffs pursuant to the provision of Article 33 paragraph (6), orders to change interconnection tariffs pursuant to the provision of paragraph (8) of the same Article, orders to change interconnection tariffs pursuant to the provision of Article 34 paragraph (3), recommendations to change a plan pursuant to the provision of Article 36 paragraph (3), or orders to improve business activities pursuant to the provision of Article 121 paragraph (2)

#### Article 161 (Special Provisions for Hearings)

(1) When the Minister for Internal Affairs and Communications intends to render a disposition pursuant to the provision of Article 19 paragraph (2), Article 20 paragraph (3), Article 21 paragraph (4), Article 29 paragraph (1) or paragraph (2), Article 30 paragraph (4), Article 31 paragraph (3), Article 33 paragraph (6) or paragraph (8), Article 34 paragraph (3), Article 35 paragraph (1) or paragraph (2), Article 38 paragraph (1) (including cases where applied *mutatis mutandis* pursuant to Article 39), or Article 121 paragraph (2), the Minister shall hold a hearing notwithstanding the classification of procedures for hearing statements of opinions pursuant to the provision of Article 13 paragraph (1) of the Administrative Procedure Act (Act No. 88 of 1993).

(2) Upon holding a hearing pertaining to a disposition set forth in the preceding paragraph, where such disposition is to be subjected to consultation with the Commission pursuant to the provision of the preceding Article, the official presiding over the hearing pertaining to the disposition shall be nominated from among the commission members with a recommendation from the Commission.

(3) The presiding official of the hearing pertaining to a disposition rendered pursuant to the provision of paragraph (1) shall grant permission when the party (parties) interested in the disposition has (have) requested to participate in the procedures of the hearing pursuant to the provision of Article 17 paragraph (1) of the Administrative Procedure Act.

#### Article 162 (Recommendation)

(1) The Commission may provide necessary recommendations to the Minister for Internal Affairs and Communications with respect to the matters authorized pursuant to the provisions of this Act.

(2) Upon receipt of a recommendation as set forth in the preceding paragraph, the Minister for Internal Affairs and Communications shall announce such recommendation.

### **Chapter V Miscellaneous Provisions**

#### Article 163 (Conditions for Registration, Etc.)

(1) Conditions may be attached to registration (except the registration set forth in Article 86 paragraph (1); the same shall apply in the following paragraph), authorization, permission or approval (except technical standards conformity approval; the same shall apply in the following paragraph), and such conditions may be changed.

(2) Conditions as set forth in the preceding paragraph shall be limited to the minimum necessary in light of the purposes of registration, authorization, permission or approval, or in order to ensure the conducting of matters pertaining to the registration, authorization, permission or approval, and shall not impose unreasonable obligations on the person to whom the registration, authorization, permission or approval is granted.

Article 164 (Exemption, Etc.)

(1) The provisions of this Act shall not apply to the telecommunications businesses listed below:

(i) Any telecommunications business that exclusively provides telecommunications services to a single person (except a person as a telecommunications carrier)

(ii) Any telecommunications business that provides telecommunications services by using telecommunications facilities part of which are to be installed on the same premises (including the areas equivalent to such premises) or the same building as where another part of such facilities are installed, or telecommunications facilities on a scale that do not meet the standards specified by an Ordinance of the Ministry of Internal Affairs and Communications

(iii) Any telecommunications business that provides, without installing telecommunications circuit facilities, telecommunications services other than telecommunications services to intermediate communications of others through the use of telecommunications facilities

(2) Notwithstanding the provision of the preceding paragraph, the provisions of Article 3 and Article 4 shall apply to communications being handled by a person who operates a telecommunications business listed in the items of the same paragraph.

Article 165 (Handling of Local Governments Conducting Telecommunications Businesses Not For Profit)

(1) Any local government that intends to conduct a telecommunications business not for profit (limited to telecommunications businesses of providing telecommunications services specified by an Ordinance of the Ministry of Internal Affairs and Communications as those having a comparatively significant influence on the interests of users in light of their content, the scope of users, etc.) shall, as specified by an Ordinance of the Ministry of Internal Affairs and Communications, file a notification with the Minister for Internal Affairs and Communications to that effect, with documents describing the matters listed in the items of Article 16 paragraph (1) attached thereto.

(2) Any local government that has filed a notification as set forth in the preceding paragraph shall be deemed to be a telecommunications carrier that has filed a notification pursuant to the provision of Article 16 paragraph (1); provided, however, that this shall not apply when applying the provisions of Article 19 through Article 25, Article 30, Article 31, Article 33, Article 34, Article 36, Article 37, Article 40, Article 42, Article 44, Article 45, Article 52, Article 69, Article 70 and Chapter II Section 6.

Article 166 (Report and Inspection)

(1) The Minister for Internal Affairs and Communications may, within the limit necessary for enforcement of this Act, prompt a telecommunications carrier, etc. to

report on their business, or commission ministerial officials to enter into their business offices, offices or other places of business of the telecommunications carrier to inspect their telecommunications facilities, books and records and other properties.

(2) The Minister for Internal Affairs and Communications may, within the limit necessary for enforcement of this Act, prompt a person who has obtained technical standards conformity approval from a registered approval body to report on terminal equipment pertaining to technical standards conformity approval, or to commission ministerial officials to enter into the places of business of the person who has obtained the technical standards conformity approval to inspect the terminal equipment and other properties.

(3) The provision of the preceding paragraph shall apply mutatis mutandis to a certified dealer or a notifying supplier, respectively. In this case, the term "technical standards conformity approval" in the same paragraph shall be deemed to be replaced with "certification of type granted to the certified dealer" for a certified dealer or "its notification" for a notifying supplier, respectively.

(4) The Minister for Internal Affairs and Communications may, within the limit necessary for enforcement of this Act, prompt a designated examination body or the support institution to report on its business activities, or to commission ministerial officials to enter into the offices or places of business of the designated examination body or the support institution to inspect its books and records and other properties.

(5) The provision of the preceding paragraph shall apply mutatis mutandis to a registered approval body.

(6) The provision of paragraph (2) shall apply mutatis mutandis to a person who has obtained technical standards conformity approval from a recognized approval body or a person who has obtained a certification of type from a recognized approval body, respectively. The provision of paragraph (4) shall apply mutatis mutandis to a recognized approval body. In these cases, the term "technical standards conformity approval" in paragraph (2) shall be deemed to be replaced with "certification of type" for a person who has obtained a certification of type.

(7) Any ministerial officials who conduct on-site inspection pursuant to the provision of paragraph (1), or the provision of paragraph (2) (including cases where applied mutatis mutandis pursuant to paragraph (3) or the preceding paragraph) or paragraph (4) (including cases where applied mutatis mutandis pursuant to paragraph (5) or the preceding paragraph) shall carry a certificate for identification and produce it to the persons concerned.

(8) The authority for on-site inspection pursuant to the provision of paragraph (1), or the provision of paragraph (2) (including cases where applied mutatis mutandis pursuant to paragraph (3) or paragraph (6)) or paragraph (4) (including cases where applied mutatis mutandis pursuant to paragraph (5) or paragraph (6)) shall

not be construed as being invested for criminal investigations.

Article 167 (Submission of Terminal Equipment, Etc.)

(1) Where the Minister for Internal Affairs and Communications has commissioned ministerial officials to conduct an inspection pursuant to the provision of paragraph (2) of the preceding Article and such officials find terminal equipment which is extremely difficult to inspect on-site or particular properties which are particularly necessary for the inspection of the terminal equipment, the Minister may order the person who has obtained technical standards conformity approval from the registered approval body to submit the terminal equipment or the properties within a time limit designated by the Minister.

(2) With respect to any loss caused by the order pursuant to the provision of the preceding paragraph, the State shall compensate the person who has obtained technical standards conformity approval for the loss.

(3) The compensation pursuant to the provision of the preceding paragraph shall be for any loss which normally arises from the order set forth in paragraph (1).

(4) The provisions of the preceding three paragraphs shall apply mutatis mutandis to a certified dealer or notifying supplier, respectively. In these cases, the term "paragraph (2) of the preceding Article" in paragraph (1) shall be deemed to be replaced with "paragraph (2) of the same Article, as applied mutatis mutandis pursuant to paragraph (3) of the preceding Article."

(5) With regard to the application of the provisions of paragraph (1) through paragraph (3) to a foreign dealer in cases where a person who has obtained technical standards conformity approval is a foreign dealer, the term "order" in paragraph (1) shall be deemed to be replaced with "request" and the term "the order" in paragraph (2) and paragraph (3) shall be deemed to be replaced with "the request."

(6) With regard to the application of the provisions of paragraph (1) through paragraph (3), as applied mutatis mutandis pursuant to paragraph (4), to a foreign dealer in cases where a certified dealer is a foreign dealer, the term "order" in paragraph (1) shall be deemed to be replaced with "request" and the term "the order" in paragraph (2) and paragraph (3) shall be deemed to be replaced with "the request."

(7) The provisions of paragraph (1) through paragraph (3) shall apply mutatis mutandis to a person who has obtained technical standards conformity approval from a recognized approval body or a person who has obtained a certification of type from a recognized approval body, respectively. In these cases, the term "paragraph (2) of the preceding Article" and the term "order" in paragraph (1) shall be deemed to be replaced with "paragraph (2) of the preceding Article, as applied mutatis mutandis pursuant to paragraph (6) of the same Article" and "request," respectively; and the term "the order" in paragraph (2) and paragraph (3) shall be deemed to be replaced with "the request."

Article 168 (Negotiations, Etc.)

In cases where the Minister for Internal Affairs and Communications establishes ordinances of the Ministry of Internal Affairs and Communications (limited to those specified by a Cabinet Order) or issues an order or renders other dispositions (limited to those specified by a Cabinet Order), or where a notification concerning telecommunications business (limited to those specified by a Cabinet Order) is filed with the Minister, pursuant to the provisions of this Act, with respect to telecommunications business (limited to those to provide telecommunications services without installing telecommunications circuit facilities; hereinafter the same shall apply in this Article), a person who acts as an intermediary, agency or agent for concluding a contract for the provision of a telecommunications carrier's telecommunications services, or terminal equipment, necessary negotiations with other relevant administrative organs, notifications to such organs and other procedures shall be specified by a Cabinet Order.

Article 169 (Consultation with Councils, Etc.)

The Minister for Internal Affairs and Communications shall consult the councils, etc. (organizations prescribed in Article 8 of the National Government Organization Act (Act No. 120 of 1948)) specified by a Cabinet Order with regard to the matters listed below; provided, however, that this shall not apply to matters which the councils, etc. consider to be minor.

(i) Authorization of charges concerning specified telecommunications services pursuant to the provision of Article 21 paragraph (2), authorization of interconnection tariffs pursuant to the provision of Article 33 paragraph (2), authorization of an agreement concerning interconnection with Category I designated telecommunications facilities pursuant to the provision of paragraph (10) of the same Article, designation of eligible telecommunications carriers pursuant to the provision of Article 108 paragraph (1), authorization of the amount and method of granting subsidies pursuant to the provision of Article 109 paragraph (1), authorization of the amount and method of collecting contributions pursuant to the provision of Article 110 paragraph (2), or authorization of support activities rules pursuant to the provision of Article 79 paragraph (1), as applied *mutatis mutandis* pursuant to Article 116 paragraph (1)

(ii) Setting of the standard charge index pursuant to the provision of Article 21 paragraph (1), designation of telecommunications carriers pursuant to the provision of Article 30 paragraph (1), designation of specified relevant carriers pursuant to the provision of Article 31 paragraph (1), designation of Category I designated telecommunications facilities pursuant to the provision of Article 33 paragraph (1), or designation of Category II designated telecommunications facilities pursuant to the provision of Article 34 paragraph (1)

(iii) Planning of establishment, revision or abolition of Cabinet Orders pursuant to the provision of Article 110 paragraph (1)

(iv) Establishment, revision or abolition of Ordinances of the Ministry of Internal Affairs and Communications pursuant to the provision of Article 7, Article 8 paragraph (3), Article 9 proviso, Article 20 paragraph (1), Article 21 paragraph (1), Article 26, Article 30 paragraph (1) or paragraph (5), Article 31 paragraph (2) proviso or paragraph (4), Article 32 item (iii), Article 33 paragraph (1), paragraph (3), paragraph (4) item (i) (a), (i) (b) or (i) (e), or item (ii), paragraph (5), paragraph (11), paragraph (13) or paragraph (14), Article 34 paragraph (1) or paragraph (5), Article 36 paragraph (1) or paragraph (2), Article 41 paragraph (1) or paragraph (2), Article 45 paragraph (1) proviso, Article 50 paragraph (1), Article 52 paragraph (1), Article 70 paragraph (1) item (i), Article 108 paragraph (1) item (i) through item (iii) or paragraph (3), Article 109 paragraph (1) through paragraph (3), or Article 110 paragraph (1) or paragraph (2)  
Article 170 (Special Provisions for Hearings)

The presiding official of the hearing pertaining to a disposition rendered pursuant to the provision of Article 14 paragraph (1), Article 47 (including cases where applied mutatis mutandis pursuant to Article 72 paragraph (2)), Article 77 paragraph (3) (including cases where applied mutatis mutandis pursuant to Article 116 paragraph (1)), Article 126 paragraph (1) or Article 127 paragraph (1) shall grant permission when the party (parties) interested in the disposition has (have) requested to participate in the procedures of the hearing pursuant to the provision of Article 17 paragraph (1) of the Administrative Procedure Act.

Article 171 (Hearing of Opinions in Appeal Procedure)

(1) Any determination or decision on an application for examination or on an opposition with respect to a disposition rendered pursuant to the provisions of this Act shall be rendered with advance notice issued with a reasonable time period to the requester or objector and after holding a hearing of opinions.

(2) The advance notice set forth in the preceding paragraph shall indicate the date and place of the determination or decision to be made and the content of the case.

(3) Upon the hearing set forth in paragraph (1), the requester or objector and the interested person(s) shall be presented with evidence relating to the case and be given opportunities to state their opinions.

Article 172 (Offering of Opinions)

(1) Any person who has complaints or other opinions on the charges and other terms and conditions for the provision of telecommunication services or on the methods of conducting business activities of telecommunications carriers, etc. may offer his/her opinion to the Minister for Internal Affairs and Communications by submitting documents describing the reasons.

(2) When an opinion is offered as set forth in the preceding paragraph, the Minister for Internal Affairs and Communications shall sincerely handle the opinion and notify the results to the person who offered the opinion.

Article 173 (Application for Examination of Administrative Disposition Rendered



to Designated Examination Body)

Any person who is dissatisfied with a disposition rendered to a designated examination body pursuant to the provisions of this Act may file with the Minister for Internal Affairs and Communications an application for examination under the Administrative Appeals Act (Act No. 160 of 1962).

Article 174 (Fees)

(1) Any person who intends to take the examination for chief telecommunications engineers or for installation technicians, any person who intends to renew registration pursuant to the provision of Article 88 paragraph (1), any person who intends to obtain technical standards conformity approval pursuant to the provision of Article 102 paragraph (1) or a certification of type pursuant to the provision of Article 102 paragraph (1), as applied mutatis mutandis pursuant to Article 103, or any person who intends to obtain or renew a chief telecommunications engineer's license or an installation technician's license shall pay a fee specified by a Cabinet Order in consideration of the actual cost.

(2) With respect to the fees set forth in the preceding paragraph, those paid by persons who intend to take an examination organized by a designated examination body shall be the income of the designated examination body while other fees shall be national revenue.

Article 175 (Transitional Measures)

When an order is established, revised or abolished pursuant to the provisions of this Act, necessary transitional measures (including those relating to penal provisions) may be specified in such order within a scope that is found reasonably necessary in conjunction with the establishment, revision or abolition.

Article 176 (Classification of Affairs)

The affairs to be handled by municipalities pursuant to the provisions of Article 130 paragraph (2) and paragraph (3) (including cases where applied mutatis mutandis pursuant to Article 138 paragraph (4)) shall be the Type 1 statutory entrusted functions prescribed in Article 2 paragraph (9) item (i) of the Local Autonomy Act.

## **Chapter VI Penal Provisions**

Article 177

Any person who has operated a telecommunications business in violation of the provision of Article 9 shall be punished by imprisonment with work of not more than three years or a fine of not more than two million yen, or both.

Article 178

Any person who has refused to provide telecommunications services in violation of the provision of Article 25 paragraph (1) or paragraph (2) shall be punished by imprisonment with work of not more than two years or a fine of not more than one million yen, or both.

Article 179

(1) Any person who has violated the secrecy of communications being handled by a telecommunications carrier (including communications set forth in Article 164 paragraph (2)) shall be punished by imprisonment with work of not more than two years or a fine of not more than one million yen.

(2) Any person engaging in a telecommunications business who has committed the act set forth in the preceding paragraph shall be punished by imprisonment with work of not more than three years or a fine of not more than two million yen.

(3) An attempt at the offenses set forth in the preceding two paragraphs shall be punished.

#### Article 180

(1) Any person who has operated, without due cause, any telecommunications facilities for telecommunications business of a telecommunications carrier and thereby disturbed the provision of telecommunications services shall be punished by imprisonment with work of not more than two years or a fine of not more than five hundred thousand yen.

(2) The provision of the preceding paragraph shall also apply where any person who engages in a telecommunications business fails to carry out, without justifiable grounds, the business activities of maintenance or operation of telecommunications facilities for telecommunications business of a telecommunications carrier and thereby causes problems with the provision of telecommunications services.

(3) An attempt at the offenses set forth in paragraph (1) shall be punished.

#### Article 181

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

(i) Any person who has violated an order under Article 54 (including cases where applied mutatis mutandis pursuant to Article 61 and Article 68)

(ii) Any person who has violated the prohibition under Article 60 paragraph (1) (limited to the part pertaining to item (i)), Article 66 paragraph (1) (limited to the part pertaining to item (i)), or Article 67 paragraph (1)

#### Article 182

Any person who has violated an order to suspend business activities under Article 100 paragraph (2) (including cases where applied mutatis mutandis pursuant to Article 103) shall be punished by imprisonment with work of not more than one year or a fine of not more than five hundred thousand yen.

#### Article 183

Any person who has divulged any secret that has come to his/her knowledge with respect to his/her duties in violation of the provision of Article 78 paragraph (1) (including cases where applied mutatis mutandis pursuant to Article 116 paragraph (1)) shall be punished by imprisonment with work of not more than one

year or a fine of not more than five hundred thousand yen.

#### Article 184

When a designated examination body or the support institution has violated an order to suspend its business activities under Article 84 paragraph (2) (including cases where applied mutatis mutandis pursuant to Article 116 paragraph (1)), any of its officers or members of staff who has committed the violation shall be punished by imprisonment with work of not more than one year or a fine of not more five hundred thousand yen.

#### Article 185

Any person who has operated a telecommunications business in violation of the provision of Article 16 paragraph (1) (except those who are to obtain registration as set forth in Article 9) shall be punished by imprisonment with work of not more than six months or a fine of not more than five hundred thousand yen.

#### Article 186

Any person who falls under any of the following items shall be punished by a fine of not more than two million yen:

(i) Any person who has changed the matters set forth in Article 10 paragraph (1) item (ii) or item (iii) in violation of the provision of Article 13 paragraph (1)

(ii) Any person who has provided telecommunications services in violation of the provision of Article 19 paragraph (3), Article 20 paragraph (5), or Article 21 paragraph (6)

(iii) Any person who has violated any order or disposition under Article 19 paragraph (2), Article 20 paragraph (3), Article 21 paragraph (4), Article 29 paragraph (1) or paragraph (2), Article 30 paragraph (4), Article 31 paragraph (3), Article 33 paragraph (6) or paragraph (8), Article 34 paragraph (3), Article 35 paragraph (1) or paragraph (2), Article 38 paragraph (1) (including cases where applied mutatis mutandis pursuant to Article 39), Article 43 paragraph (1) (including cases where applied mutatis mutandis pursuant to paragraph (2) of the same Article), Article 51 or Article 121 paragraph (2)

(iv) Any person who has concluded, revised or abolished an agreement or contract in violation of the provision of Article 33 paragraph (9), Article 34 paragraph (4) or Article 40

(v) Any person who has failed to appoint a chief telecommunications engineer in violation of the provision of Article 45 paragraph (1)

#### Article 187

Any person who falls under either of the following items shall be punished by a fine of not more than five hundred thousand yen:

(i) Any person who has failed to file a notification pursuant to the provision of Article 16 paragraph (3) or has filed a false notification

(ii) Any person who has affixed a mark in violation of the provision of Article 53 paragraph (3)

Article 188

Any person who falls under any of the following items shall be punished by a fine of not more than three hundred thousand yen:

(i) Any person who has failed to file a notification pursuant to the provision of Article 17 paragraph (2), Article 18 paragraph (1), Article 36 paragraph (1), Article 37 paragraph (1) or paragraph (2), Article 42 paragraph (3) (including cases where applied mutatis mutandis pursuant to paragraph (4) of the same Article), Article 44 paragraph (1) or paragraph (2), Article 45 paragraph (2), Article 108 paragraph (3), Article 120 paragraph (4) (including cases where applied mutatis mutandis pursuant to Article 122 paragraph (4)) or Article 124 paragraph (1), or has filed a false notification

(ii) Any person who has failed to file a notification pursuant to the provision of Article 20 paragraph (1)

(iii) Any person who has failed to keep records pursuant to the provision of Article 22 or Article 33 paragraph (12), or kept false records

(iv) Any person who has violated the provision of Article 23 paragraph (1)

(v) Any person who has failed to make a report pursuant the provision of Article 28 or Article 31 paragraph (4), or made a false report

(vi) Any person who has failed to announce interconnection tariffs in violation of the provision of Article 33 paragraph (11), Article 34 paragraph (5) or Article 108 paragraph (3)

(vii) Any person who has failed to announce a plan in violation of the provision of Article 36 paragraph (2)

(viii) Any person who has filed a false notification when filing a notification pursuant to the provision of Article 63 paragraph (3)

(ix) Any person who has failed to make a record or made a false record, or has failed to keep a record in violation of the provision of Article 63 paragraph (4)

(x) Any person who has failed to make a report pursuant to the provision of Article 92 paragraph (1) (including cases where applied mutatis mutandis pursuant to Article 103), or made a false report

(xi) Any person who has failed to keep and retain books or make an entry, or has made a false entry, in violation of the provision of Article 96 (including cases where applied mutatis mutandis pursuant to Article 103)

(xii) Any person who has abolished his/her business activities without filing a notification pursuant to the provision of Article 99 paragraph (1) (including cases where applied mutatis mutandis pursuant to Article 103), or has filed a false notification

(xiii) Any person who has violated the provision of Article 141 paragraph (4) or Article 143

(xiv) Any person who has failed to make a report pursuant to the provision of Article 166 paragraph (1), paragraph (2) (including cases where applied mutatis

mutandis pursuant to paragraph (3) of the same Article), or paragraph (4), as applied mutatis mutandis pursuant to paragraph (5) of the same Article, or made a false report, or has refused, obstructed or challenged the inspection under these provisions

(xv) Any person who has violated the order under Article 167 paragraph (1) (including cases where applied mutatis mutandis pursuant to paragraph (4) of the same Article)

#### Article 189

Where a designated examination body or the support institution falls under any of the following items, any of its officers or members of staff who has committed a violation shall be punished by a fine of not more than three hundred thousand yen:

(i) When any officer or member of staff of such organizations has failed to keep and retain books or make an entry, or has made a false entry, in violation of the provision of Article 81 (including cases where applied mutatis mutandis pursuant to Article 116 paragraph (1))

(ii) When any officer or member of staff of such organizations has abolished the examination work or support activities in whole in violation of the provision of Article 83 paragraph (1) (including cases where applied mutatis mutandis pursuant to Article 116 paragraph (1))

(iii) When any officer or member of staff of such organizations has failed to make a report pursuant to the provision of Article 166 paragraph (4), or made a false report, or has refused, obstructed or challenged the inspection under the same paragraph

#### Article 190

When any representative person of a juridical person, or an agent or employee of a juridical person or individual, has committed a violation listed in the following items with respect to the business activities of the juridical person or individual, not only shall the offender be punished but also the juridical person shall be punished by the fine set forth in the respective items and the individual shall be punished by the fine set forth in the relevant Article.

(i) Article 181: Fine of not more than one hundred million yen

(ii) Article 177 through Article 188 (except Article 180, Article 181, Article 183 and Article 184): Fine set forth in the relevant Article

#### Article 191

Any person who falls under any of the following items shall be punished by a non-penal fine of not more than one million yen; provided, however, that this shall not apply to cases where such person is to be subject to a punishment on account of the act in question:

(i) Any person who has violated the provision of Article 24

(ii) Any person who has failed to make an announcement or has made a false announcement in violation of the provisions of Article 30 paragraph (5) or Article

33 paragraph (13)

(iii) Any person who has concurrently acted as an officer in violation of the provision of Article 31 paragraph (1)

Article 192

Any person who falls under any of the following items shall be punished by a non-penal fine of not more than three hundred thousand yen:

(i) Any person who has failed to file a notification or has filed a false notification in violation of the provision of Article 63 paragraph (5)

(ii) Any person who has failed to file a notification or has filed a false notification in violation of the provision of Article 90 paragraph (2)

(iii) Any person who has failed to retain financial statements, etc., has failed to enter the matters to be entered in financial statements, etc., or has made a false entry in violation of the provision of Article 95 paragraph (1), or has refused, without justifiable grounds, a request under paragraph (2) of the same Article

Article 193

Any person who falls under any of the following items shall be punished by a non-penal fine of not more than one hundred thousand yen:

(i) Any person who has failed to file a notification under Article 13 paragraph (4), Article 16 paragraph (2) or Article 18 paragraph (2), or has filed a false notification

(ii) Any person who has failed, without justifiable grounds, to return a chief telecommunications engineer's license or installation technician's license in violation of an order under Article 47 (including cases where applied mutatis mutandis pursuant to Article 72 paragraph (2))

(iii) Any person who has violated the provision of Article 141 paragraph (3)

### **Supplementary Provisions**

Article 1 (Effective Date)

This Act shall come into effect as from April 1, 1985.

Article 2 (Review)

The government shall, within three years from the date of enforcement of this Act, review the status of enforcement of this Act and shall take necessary measures based on the results of the review.

Article 3 (Abolition of the Public Telecommunications Act)

The Public Telecommunications Act (Act No. 97 of 1953) shall be abolished.

Article 4 (Transitional Measures)

(1) Any business pertaining to public telecommunications activities which, at the time of enforcement of this Act, are actually conducted by Nippon Telegraph and Telephone Public Corporation before dissolution (hereinafter referred to as "former Public Corporation") and falls, or is deemed to fall, under Type I telecommunications business shall be deemed to be business for which Nippon Telegraph and Telephone Corporation (hereinafter referred to as "NTT") has

obtained permission as set forth in Article 9 paragraph (1) on the date of enforcement of this Act (hereinafter referred to as "effective date").

(2) Any business pertaining to public telecommunications activities which, at the time of enforcement of this Act, are actually conducted by Kokusai Denshin Denwa Company, Limited (hereinafter referred to as "KDD") and falls, or is deemed to fall, under Type I telecommunications business shall be deemed to be business for which KDD has obtained permission as set forth in Article 9 paragraph (1) on the effective date.

(3) Both NTT and KDD shall, within one month from the effective date, notify the Minister of Posts and Telecommunications of the matters specified by an Ordinance of the Ministry of Posts and Telecommunications with respect to the business set forth in the preceding two paragraphs.

#### Article 5

(1) For the time being, the telegram business (including delivery; hereinafter the same shall apply in this Article) shall be deemed to be a telecommunications business, and business activities pertaining to acceptance and delivery, from among the business activities pertaining to the business, shall be conducted only by Nippon Telegraph and Telephone East Corporation, Nippon Telegraph and Telephone West Corporation, and the person who has succeeded to the status of Kokusai Denshin Denwa Company, Limited as a telecommunications carrier established under the Kokusai Denshin Denwa Company, Limited Act (Act No. 301 of 1952), which was abolished pursuant to the provision of Article 1 of the Act on Development of the Relevant Acts for Rationalization of the Regulations in the Telecommunications Field (Act No. 58 of 1998) (hereinafter referred to as "KDD successor" in this Article). In this case, the provisions on the telegram business (excluding Article 16, Article 17 and the Supplementary Provisions Article 5 paragraph (1), and including penal provisions; the same shall apply in the following paragraph) in this Act prior to the revision by Article 2 of the Act to Amend the Telecommunications Business Act and the Act on Nippon Telegraph and Telephone Corporation, Etc. (Act No. 125 of 2003) (hereinafter referred to as "the former Act" in this Article) shall remain in force.

(2) In the case set forth in the preceding paragraph, the provisions of the former Act, which shall be deemed to remain in force pursuant to the provision of the preceding paragraph, shall apply, deeming the telegram handling services provided by Nippon Telegraph and Telephone East Corporation, Nippon Telegraph and Telephone West Corporation, and the KDD successor (hereinafter referred to as "Nippon Telegraph and Telephone East Corporation, etc." in this Article) to be the telecommunications services prescribed in Article 2 item (iii) of the former Act, deeming the business activities of providing the service to be the telecommunications activities prescribed in Article 2 item (vi) of the former Act, and deeming the telegram business conducted by Nippon Telegraph and Telephone

East Corporation, etc. to be a Type I telecommunications business as prescribed in Article 6 paragraph (2) of the former Act.

(3) Notwithstanding the provision of Article 15 paragraph (1) of the former Act, Nippon Telegraph and Telephone East Corporation, etc. may entrust part of the business activities pertaining to their telegram business to others as specified by an Ordinance of the Ministry of Internal Affairs and Communications.

(4) In addition to the matters set forth in the preceding three paragraphs, matters necessary for business activities or services pertaining to telegram handling shall be specified by an Ordinance of the Ministry of Internal Affairs and Communications.

#### Article 6

Any person who, at the time of enforcement of this Act, actually operates a business equivalent to a General Type II telecommunications business which falls under the cases specified by an Ordinance of the Ministry of Posts and Telecommunications as prescribed in Article 55-13 paragraph (2) of the Public Telecommunications Act before being abolished by this Act (hereinafter referred to as "the former Public Act") shall be deemed to have filed a notification pursuant to the provision of Article 22 paragraph (1) on the effective date.

#### Article 7

Entrustment of part of public telecommunications activities which, at the time of enforcement of this Act, are actually conducted by former Public Corporation or KDD pursuant to the provisions of Article 7 through Article 10 of the former Public Act, shall be deemed to be entrustment to NTT or KDD with authorization as set forth in Article 15 paragraph (1) or pursuant to the provision of Supplementary Provisions Article 5 paragraph (2) until the time limit specified as of the effective date.

#### Article 8

(1) With regard to matters which, pursuant to the provisions of this Act, require authorization for the provision of telecommunications services pertaining to a Type I telecommunications business which is, pursuant to the provision of Supplementary Provisions Article 4 paragraph (1) or paragraph (2), deemed to have obtained the permission set forth in Article 9 paragraph (1), NTT and KDD shall file an application for authorization within two months of the effective date.

(2) NTT and KDD may, from the effective date until a disposition is rendered concerning the authorization based on the application set forth in the preceding paragraph, continue to provide their telecommunications services under the same terms and conditions then in force.

#### Article 9

(1) With regard to the telephone subscriber's right pursuant to the provisions of the former Public Act, which is based on the contract concluded with the former Public Corporation, the provisions of Article 38 through Article 38-3 of the former



Public Act shall remain in force for the time being, even after the effective date. In this case, the term "the Public Corporation" in Article 38 paragraph (1) of the former Public Act shall be deemed to be replaced with "Nippon Telegraph and Telephone East Corporation or Nippon Telegraph and Telephone West Corporation who have succeeded to the rights and obligation pertaining to the telephone subscriber's right in accordance with the Succeeding Plan as prescribed in Supplementary Provisions Article 5 paragraph (6) of the Act to Amend the Nippon Telegraph and Telephone Corporation Act (Act No. 98 of 1997); the term "the Public Corporation" in paragraph (2) of the same Article shall be deemed to be replaced with "Nippon Telegraph and Telephone East Corporation or Nippon Telegraph and Telephone West Corporation"; the term "shall not be put in pledge" in paragraph (4) of the same Article shall be deemed to be replaced with "shall not be put in pledge except for the cases prescribed in the Act on Temporary Special Measures for Telephone Subscriber's Right (Act No. 138 of 1958)"; and the term "telephone offices" in Article 38-2 and Article 38-3 paragraph (1) of the former Public Act shall be deemed to be replaced with "offices of Nippon Telegraph and Telephone East Corporation or Nippon Telegraph and Telephone West Corporation which handle local affairs relating to telephone services."

(2) The right based on the contract concluded with NTT after the effective date and the right based on the contract concluded with Nippon Telegraph and Telephone East Corporation or Nippon Telegraph and Telephone West Corporation after the date of enforcement of the Act to Amend the Nippon Telegraph and Telephone Corporation Act (Act No. 98 of 1997), which meet the requirements specified by an Ordinance of the Ministry of Internal Affairs and Communications as equivalent to the telephone subscriber's right set forth in the preceding paragraph, shall be governed by the provisions of Article 38 through Article 38-3 of the former Public Act, which shall apply to the telephone subscriber's right set forth in the same paragraph, during the period within which the provisions of these Articles remain in force pursuant to the provision of the same paragraph.

#### Article 10

Any agreement or contract which, at the time of enforcement of this Act, KDD actually concludes with the authorization set forth in Article 108 of the former Public Act shall be deemed to be an agreement or contract which KDD has concluded with the authorization set forth in Article 40, until the time limit prescribed in the agreement or contract.

#### Article 11

With regard to the application of the provision of Article 43 paragraph (1) to NTT or KDD, the term "prior to the commencement of its telecommunications business" shall be deemed to be replaced with "without delay after the enforcement of this Act."

#### Article 12

The provision of Article 44 paragraph (1) shall not apply to NTT or KDD for six months from the effective date.

#### Article 13

Terminal facilities or private cable facilities which, at the time of enforcement of this Act, are actually established by users, etc. of public telecommunications services and which are connected to telecommunications circuit facilities pursuant to the provision of Article 55-8, Article 55-11 paragraph (3) (including cases where applied mutatis mutandis pursuant to Article 55-18), Article 55-13-2 paragraph (1), Article 55-21, Article 105 paragraph (1) or Article 108-2, or Article 55-16 or Article 106 of the former Public Act shall be deemed to be terminal facilities or customer-owned and maintained telecommunications facilities which have undergone inspection as set forth in the first sentence of Article 51 paragraph (1) (including cases where applied mutatis mutandis pursuant to Article 52 paragraph (2)) and have been certified to be in conformity with the technical standards.

#### Article 14

(1) Any person who, at the time of enforcement of this Act, is actually an installation technician pursuant to the provision of Article 55-17 or Article 105 paragraph (7) or the clauses on tariffs set forth in Article 108-2 of the former Public Act shall be deemed to be an installation technician as set forth in Article 53 paragraph (1) within the scope of his/her license then in force, limited to a period of six months from the effective date. The same shall apply until an installation technician's license is granted where a notification is filed pursuant to the provision of the following paragraph.

(2) When the person set forth in the preceding paragraph has, as specified by an Ordinance of the Ministry of Posts and Telecommunications, filed a notification with the Minister of Posts and Telecommunications within the period set forth in the same paragraph, he/she shall be deemed to have obtained the certification set forth in Article 45 paragraph (3) item (iii), as applied mutatis mutandis pursuant to Article 54 paragraph (2).

#### Article 15

Any notification which, prior to the enforcement of this Act, the former Public Corporation or KDD has filed pursuant to the provision of Article 100 paragraph (1) of the former Public Act shall be deemed to be a notification which NTT or KDD has filed pursuant to the provision of Article 85 paragraph (1).

#### Article 16

Any area which, at the time of enforcement of this Act, is actually designated pursuant to the provision of Article 101 paragraph (1) of the former Public Act shall be deemed to be designated as a protected area pursuant to the provision of Article 86 paragraph (1).

#### Article 17

Any disposition, procedure or other act which, prior to the enforcement of this Act, has been taken against the former Public Corporation or KDD, or any disposition, procedure or other act which has been taken by these persons, pursuant to the former Public Act or by an order under the former Public Act shall be deemed to be a disposition, procedure or other act taken against the former Public Corporation or KDD, or a disposition, procedure or other act taken by these persons, pursuant to the corresponding provisions of this Act.

#### Article 18

(1) With regard to the application of the penal provisions to any act committed prior to the enforcement of this Act, the provisions then in force shall remain applicable.

(2) With respect to the secrecy of communications being handled by the former Public Corporation or KDD prior to the enforcement of this Act, the provision of Article 112 of the former Public Act shall remain in force even after the effective date. In this case, the term "any person who engages in public telecommunications activities" in paragraph (2) of the same Article shall be deemed to be replaced with "any person who was engaged in public telecommunications activities at the time of enforcement of the Telecommunications Business Act and continues to be engaged in the telecommunications business after enforcement of the same Act."

#### Article 19

With regard to the application of the provisions of Article 12 paragraph (1) item (i) and item (iii), Article 75 paragraph (2) item (ii) and item (iv) (a), and Article 87 paragraph (2) item (i) and item (iii), any persons who, prior to enforcement of this Act, have been sentenced to a fine or severer punishment pursuant to the provisions of the former Public Act or any persons who, after enforcement of this Act, have been sentenced to a fine or severer punishment (if within a period of two years from the date on which the enforcement of such punishment has been completed or has become inapplicable) pursuant to the provisions of the former Public Act that remain applicable or remain in force even after the enforcement of this Act pursuant to the provision of the preceding Article, or any juridical persons or organizations that include such persons as its officers, shall be deemed to be persons who fall under these provisions.

#### Article 20 (Delegation to a Cabinet Order)

In addition to the provisions of Supplementary Provisions Article 4 through the preceding Article, other transitional measures necessary for the enforcement of this Act shall be specified by a Cabinet Order.

#### **Supplementary Provisions (Act No. 57–June 2, 1987)**

This Act shall come into effect as from the date specified by a Cabinet Order within a period not exceeding three months from the date of promulgation; provided, however, that the provision to revise Article 27 paragraph (3) shall come into effect as from the date of promulgation.

**Supplementary Provisions (Act No. 55–June 28, 1989) (Excerpts)**

(Effective Date, Etc.)

1. This Act shall come into effect as from October 1, 1989.

**Supplementary Provisions (Act No. 61–May 27, 1992)**

This Act shall come into effect as from the date specified by a Cabinet Order within a period not exceeding three months from the date of promulgation.

**Supplementary Provisions (Act No. 89 of November 12, 1993) (Excerpts)**

Article 1 (Effective Date)

This Act shall come into effect as from the date of enforcement of the Administrative Procedure Act (Act No. 88 of 1993).

Article 2 (Transitional Measures Concerning Adverse Dispositions on Which Consultation, Etc. Are Made)

Where a consultation or other request has been made to a council or other council organization on the taking of procedures equivalent to procedures for holding hearings or granting the opportunity for explanation and other procedures for statement of opinions prescribed in Article 13 of the Administrative Procedure Act based on laws and regulations prior to the enforcement of this Act, the provisions then in force shall remain applicable to the procedures for adverse dispositions pertaining to the consultation or other request, notwithstanding the provisions of relevant Acts revised by this Act.

Article 13 (Transitional Measures Concerning Penal Provisions)

With regard to the application of the penal provisions to any act committed prior to the enforcement of this Act, the provisions then in force shall remain applicable.

Article 14 (Transitional Measures Concerning Adjustment of Provisions Related to Hearings)

Any hearings (except those pertaining to adverse dispositions), or procedures for such hearings which, prior to the enforcement of this Act, have been conducted pursuant to the provisions of the Acts shall be deemed to be hearings conducted pursuant to the corresponding provisions of the relevant Acts revised by this Act.

Article 15 (Delegation to a Cabinet Order)

In addition to the provisions of Supplementary Provisions Article 2 through the preceding Article, other transitional measures necessary for the enforcement of this Act shall be specified by a Cabinet Order.

**Supplementary Provisions (Act No. 73–June 29, 1994)**

This Act shall come into effect as from the date of promulgation.

**Supplementary Provisions (Act No. 82–May 8, 1995)**

(Effective Date)

1. This Act shall come into effect as from the date specified by a Cabinet Order within a period not exceeding six months from the date of promulgation.

(Transitional Measures)

2. Any charges which, at the time of enforcement of this Act, are actually specified

by tariffs authorized pursuant to the provision of Article 31 paragraph (1) of the Telecommunications Business Act prior to the revision (hereinafter referred to as "the former Act") and fall under the charges to which the provision of Article 31 paragraph (1) of the revised Telecommunications Business Act (hereinafter referred to as "the new Act") shall apply shall be deemed to be charges authorized pursuant to the provision of the same paragraph.

3. Any charges which, at the time of enforcement of this Act, are actually specified by tariffs authorized pursuant to the provision of Article 31 paragraph (1) of the former Act and fall under the charges to which the provision of Article 31 paragraph (3) of the new Act shall apply shall be deemed to be charges notified pursuant to the provision of the same paragraph.

4. Any tariffs (except parts pertaining to charges) which, at the time of enforcement of this Act, are actually authorized pursuant to the provision of Article 31 paragraph (1) of the former Act shall be deemed to be tariffs authorized pursuant to the provision of Article 31-2 paragraph (1) of the new Act.

5. Any charges specified by tariffs which, prior to the enforcement of this Act, have been notified pursuant to the provision of Article 31 paragraph (5) of the former Act shall be deemed to be charges notified pursuant to the provision of Article 31 paragraph (6) of the new Act.

6. Any tariffs (except parts pertaining to charges) which, prior to enforcement of this Act, have been notified pursuant to the provision of Article 31 paragraph (5) of the former Act shall be deemed to be tariffs notified pursuant to the provision of Article 31-2 paragraph (5) of the new Act.

7. Any application which, at the time of enforcement of this Act, is actually filed for authorization of tariffs pursuant to the provision of Article 31 paragraph (1) of the former Act shall be deemed to be an application for authorization filed pursuant to the provision of Article 31 paragraph (1) of the new Act if pertaining to the charges to which the provision of the same paragraph shall apply, a notification filed pursuant to the provision of Article 31 paragraph (3) of the new Act if pertaining to the charges to which the provision of the same paragraph shall apply, or an application for authorization filed pursuant to the provision of Article 31-2 paragraph (1) of the new Act if pertaining to the tariffs set forth in the same paragraph.

8. With regard to the application of the penal provisions to any act committed prior to enforcement of this Act, the provisions then in force shall remain applicable.

#### **Supplementary Provisions (Act No. 97-June 20, 1997)**

##### Article 1 (Effective Date)

This Act shall come into effect as from the date specified by a Cabinet Order within a period not exceeding six months from the date of promulgation; provided, however, that the provision of the following Article shall come into effect as from the date of promulgation.

## Article 2 (Consultation with Councils)

In order to establish an Ordinance of the Ministry of Posts and Telecommunications prescribed in Article 38 item (iii), Article 38-2 paragraph (1), paragraph (3) item (i) (a), item (i) (b) or item (i) (d), or item (ii), paragraph (4), paragraph (7) or paragraph (9), Article 39-2 paragraph (1) or paragraph (2), or Article 48-2 paragraph (1) of the revised Telecommunications Business Act (hereinafter referred to as "the new Act"), the Minister of Posts and Telecommunications may, even prior to enforcement of this Act, consult the council specified by a Cabinet Order as prescribed in Article 94 paragraph (1) of the new Act.

## Article 3 (Transitional Measures Concerning Interconnection, Etc.)

Any order which, prior to enforcement of this Act, has been issued pursuant to the provision of Article 36 paragraph (3) of the Telecommunications Business Act prior to the revision (hereinafter referred to as "the former Act") shall be deemed to be an order issued pursuant to the provision of Article 36 paragraph (5) of the new Act.

## Article 4

Any agreement concerning interconnection or sharing which, at the time of enforcement of this Act, is actually authorized pursuant to the provision of Article 38 paragraph (1) of the former Act shall be deemed to be an agreement authorized pursuant to the provision of Article 38-3 paragraph (1) of the new Act in the case of an agreement concerning interconnection, or an agreement authorized pursuant to the provision of Article 39-3 paragraph (1) of the new Act in the case of an agreement concerning sharing.

## Article 5

Any application for authorization of an agreement concerning interconnection or sharing which, at the time of enforcement of this Act, is actually filed pursuant to the provision of Article 38 paragraph (1) of the former Act shall be deemed to be an application for authorization filed pursuant to the provision of Article 38-3 paragraph (1) of the new Act in the case of an agreement concerning interconnection, or an application for authorization filed pursuant to the provision of Article 39-3 paragraph (1) of the new Act in the case of an agreement concerning sharing.

## Article 6

Any contract which, at the time of enforcement of this Act, is actually authorized pursuant to the provision of Article 38 paragraph (2) of the former Act shall be deemed to be a contract authorized pursuant to the provision of Article 39-3 paragraph (2) of the new Act.

## Article 7

Any application for authorization of a contract which, at the time of enforcement of this Act, is actually filed pursuant to the provision of Article 38 paragraph (2) of

the former Act shall be deemed to be an application for authorization filed pursuant to the provision of Article 39-3 paragraph (2) of the new Act.

#### Article 8

Any agreement concerning interconnection or sharing which, at the time of enforcement of this Act, is actually notified pursuant to the provision of Article 38 paragraph (4) of the former Act shall be deemed to be an agreement notified pursuant to the provision of Article 38-3 paragraph (5) of the new Act in the case of an agreement concerning interconnection, or an agreement notified pursuant to the provision of Article 39-3 paragraph (4) of the new Act in the case of an agreement concerning sharing.

#### Article 9

Any order which, prior to the enforcement of this Act, has been issued pursuant to the provision of Article 39 paragraph (1) of the former Act shall be deemed to be an order issued pursuant to the provision of Article 39 paragraph (1) or paragraph (2) of the new Act in the case of an order concerning interconnection, or an order issued pursuant to the provision of Article 39-4 paragraph (1) of the new Act in the case of an order concerning the provision of telecommunications services with terms and conditions for sharing or for the service provision (except those pertaining to the charges specified by an Ordinance of the Ministry of Posts and Telecommunications as set forth in Article 31 paragraph (1) of the former Act, the matters specified by an Ordinance of the Ministry of Posts and Telecommunications as set forth in Article 31-2 paragraph (1) of the former Act, or the technical conditions to be authorized pursuant to the provision of Article 49 paragraph (1) or Article 52 paragraph (1) item (i) of the former Act) which differ from the charges authorized pursuant to the provision of Article 31 paragraph (1) of the former Act, the charges notified pursuant to the provision of paragraph (3) of the same Article, or the terms and conditions for the service provision specified in the tariffs authorized pursuant to the provision of Article 31-2 paragraph (1) of the former Act (hereinafter referred to as "non-tariff based services").

#### Article 10

Any petition for an order which, prior to the enforcement of this Act, has been filed pursuant to the provision of Article 39 paragraph (1) of the former Act shall be deemed to be a petition for an order filed pursuant to the provision of Article 39 paragraph (1) or paragraph (2) of the new Act if concerning interconnection, or a petition for an order filed pursuant to the provision of Article 39-4 paragraph (1) of the new Act if concerning sharing or the provision of non-tariff based services.

#### Article 11

Any award which, prior to the enforcement of this Act, has been rendered pursuant to the provision of Article 39 paragraph (2) of the former Act shall be deemed to be an award rendered pursuant to the provision of Article 39 paragraph (4) of the new Act in the case of an award concerning interconnection, or an award

rendered pursuant to the provision of Article 39-4 paragraph (2) of the new Act in the case of an award concerning the sharing or the provision of non-tariff based services.

#### Article 12

Any application for an award which, prior to the enforcement of this Act, has been filed pursuant to the provision of Article 39 paragraph (2) of the former Act shall be deemed to be an application for an award filed pursuant to the provision of Article 39 paragraph (4) of the new Act if concerning interconnection, or an application for an award filed pursuant to the provision of Article 39-4 paragraph (2) of the new Act if concerning the sharing or the provision of non-tariff based services.

#### Article 13

Hearings and their procedures which, prior to the enforcement of this Act, have been held pursuant to the provision of Article 95 of the former Act shall be deemed to be held pursuant to the provision of Article 95 of the new Act.

#### Article 14 (Transitional Measures Concerning Application of Penal Provisions)

With regard to the application of the penal provisions to any act committed prior to the enforcement of this Act, the provisions then in force shall remain applicable.

#### Article 15 (Review)

The government shall, after approximately three years from the enforcement of this Act, review the systems pertaining to interconnection, where the government finds it necessary taking into account the status of enforcement of the provisions pertaining to interconnection of the new Act, and shall take necessary measures based on the results of the review.

#### **Supplementary Provisions (Act No. 98–June 20, 1997) (Excerpts)**

##### Article 1 (Effective Date)

This Act shall come into effect as from the date specified by a Cabinet Order within a period not exceeding two years and six months from the date of promulgation.

#### **Supplementary Provisions (Act No. 100–June 20, 1997)**

##### (Effective Date)

1. This Act shall come into effect as from the date on which the Fourth Protocol to the General Agreement on Trade in Services becomes effective in Japan.

##### (Transitional Measures Concerning Penal Provisions)

2. With regard to the application of the penal provisions to any act committed prior to the enforcement of this Act, the provisions then in force shall remain applicable.

#### **Supplementary Provisions (Act No. 58–May 8, 1998) (Excerpts)**

##### Article 1 (Effective Date)

This Act shall come into effect as from the date specified by a Cabinet Order within a period not exceeding six months from the date of promulgation; provided, however, that the provisions listed in the following items shall come into effect as



from the date set forth in the respective items.

(ii) The provision of Article 1, the provision in Article 2 to revise the Telecommunications Business Act Supplementary Provisions Article 5, and the provisions of Supplementary Provisions Article 4, Article 7, Article 9 and Article 11 through Article 16: The date specified by a Cabinet Order within a period not exceeding five months from the date of promulgation

(iii) In Article 2, the provisions to revise the Table of Contents of the Telecommunications Business Act, the provision to revise Article 50 of the same Act, the provision to revise by adding three Articles after the same Article, the provision to revise by changing the title of Section 5 in Chapter II of the same Act, the provision to revise Article 72 of the same Act, the provision to revise by adding one Article and one Subsection after the same Article, the provision to revise Article 92 and Article 98 of the same Act, the provision to revise Article 108 of the same Act (limited to the part pertaining to item (iv)), the provision to revise Article 109 of the same Act (limited to the part pertaining to item (iii)) and the provision to revise Article 110 of the same Act and the provision to revise the Table of Contents of the Radio Act in Article 3, the provision to revise Article 10 and Article 18 of the same Act, the provision to revise by adding one Article after Article 24-8 of the same Act, the provision to revise Article 38-2 of the same Act, the provision to revise by adding three Articles after Article 38-15 of the same Act, the provision to revise Article 73 of the same Act, the provision to revise Article 99-11 of the same Act (limited to the part to add "Article 38-17 paragraph (5) and" after "Article 38-5 paragraph (2) ("), the provision to revise Article 103 of the same Act, the provision to revise Article 112 of the same Act (limited to the part to replace "Article 38-2 paragraph (6) or paragraph (7)" with "Article 38-2 paragraph (7) or paragraph (8)"), the provision to revise Article 113 of the same Act, and the provision of Supplementary Provisions Article 8: The date specified by a Cabinet Order within a period not exceeding ten months from the date of promulgation

Article 2 (Changes to Articles of Incorporation)

(1) Kokusai Denshin Denwa Company, Limited established under the former KDD Act (referred to as "the Company" in Supplementary Provisions Article 4) may, prior to the date of enforcement of the provisions listed in item (ii) of the preceding Article, make a resolution for changes to its articles of incorporation which becomes effective from the date of enforcement of the provisions listed in the item.

(2) With regard to the resolution of the preceding paragraph, the provision of Article 11 paragraph (1) of the former KDD Act shall not apply.

Article 3 (Consultation with Councils)

(1) In order to establish an Ordinance of the Ministry of Posts and Telecommunications pursuant to the provision of Article 31 paragraph (3) of the Telecommunications Business Act revised by the provision of Article 2 (hereinafter referred to as "the new Telecommunications Business Act") or in order to set the

standard charge index pursuant to the provision of the same paragraph, the Minister of Posts and Telecommunications may, even prior to the date of enforcement of this Act (hereinafter referred to as "the effective date"), consult the councils specified by a Cabinet Order as prescribed in Article 94 of the new Telecommunications Business Act.

(2) In order to establish an Ordinance of the Ministry of Posts and Telecommunications that specifies functions pursuant to the provision of Article 4 item (iii) of the Radio Act revised by the provision of Article 3 (hereinafter referred to as "the new Radio Act") or in order to establish an Ordinance of the Ministry of Posts and Telecommunications pursuant to the provision of Article 38-5 paragraph (2) of the new Radio Act, as applied mutatis mutandis pursuant to Article 38-17 paragraph (5) of the new Radio Act, the Minister of Posts and Telecommunications may, even prior to the effective date or the date of enforcement of the provisions listed in Supplementary Provisions Article 1 item (iii), consult the Radio Regulatory Council.

Article 4 (Transitional Measures in Connection with Abolition of the Former KDD Act)

With regard to company bond certificates and coupons issued by the Company prior to the enforcement of the provisions listed in Supplementary Provisions Article 1 item (ii) and the company bond certificates and coupons to be issued by the Company to those who have lost such after the enforcement of the provisions listed in the same item, the provision of Article 7 of the former KDD Act shall remain in force even after the enforcement of the provisions listed in the same item.

Article 5 (Transitional Measures in Connection with Partial Revision of the Telecommunications Business Act)

(1) Any person who, at the time of enforcement of this Act, actually operates a Type II telecommunications business by filing a notification pursuant to the provision of Article 22 paragraph (1) of the Telecommunications Business Act prior to the revision by Article 2 (hereinafter referred to as "the former Telecommunications Business Act") and whose Type II telecommunications business falls under the category of the Special Type II telecommunications business prescribed in Article 21 paragraph (3) of the new Telecommunications Business Act (except a Type II telecommunications business that provides telecommunications facilities to perform communications with places outside Japan for the use of communications by others; referred to as "new Domestic Special Type II telecommunications business" in the following paragraph) may, within a period not exceeding six months from the effective date, continue to operate the Type II telecommunications business to which the provisions then in force shall remain applicable, without the registration prescribed in Article 24 paragraph (1) of the new Telecommunications Business Act. In cases where such a

person applies for registration as prescribed in the same paragraph within the period, the same shall apply from the time when the period has passed until the time when the registration or the disposition of a refusal of the registration is rendered for the application.

(2) Any person who, at the time of enforcement of this Act, actually operates a Type II telecommunications business with registration as prescribed in Article 24 paragraph (1) of the former Telecommunications Business Act (except those who operate a Type II telecommunications business that provides telecommunications facilities to perform communications with places outside Japan for the use of communications by others) and whose Type II telecommunications business does not fall under the category of new Domestic Special Type II telecommunications business shall be deemed to have filed, on the effective date, a notification as prescribed in Article 22 paragraph (1) of the new Telecommunications Business Act.

#### Article 6

(1) Charges which have been authorized, prior to the effective date, pursuant to the provision of Article 31 paragraph (1) of the former Telecommunications Business Act and charges which have been notified pursuant to the provision of Article 31 paragraph (3) of the former Telecommunications Business Act shall be deemed to be charges notified pursuant to the provision of Article 31 paragraph (1) of the new Telecommunications Business Act.

(2) Any application which, at the time of enforcement of this Act, is actually filed for the authorization of charges pursuant to the provision of Article 31 paragraph (1) of the former Telecommunications Business Act shall be deemed to be a notification filed pursuant to the provision of Article 31 paragraph (1) of the new Telecommunications Business Act.

(3) With regard to charges specified by an Ordinance of the Ministry of Internal Affairs and Communications as prescribed in Article 31 paragraph (3) of the new Telecommunications Business Act for telecommunications services which a Type I telecommunications carrier who installs designated telecommunications facilities, which are prescribed in Article 38-2 paragraph (2) of the new Telecommunications Business Act, provides at the time of enforcement of this Act by using the designated telecommunications facilities, the provisions of the preceding two paragraphs and the new Telecommunications Business Act (except Article 31 paragraph (3) of the new Telecommunications Business Act) shall not apply until the standard charge index prescribed in Article 31 paragraph (3) of the new Telecommunications Business Act becomes applicable, but the provisions then in force shall remain applicable.

(4) With regard to the charges to which the provisions then in force shall remain applicable pursuant to the provision of the preceding paragraph, the provisions of paragraph (1) and paragraph (2) shall apply *mutatis mutandis*. In this case, the

term "prior to the effective date" and the term "former Telecommunications Business Act" in paragraph (1) shall be deemed to be replaced with "prior to the date when the standard charge index set forth in paragraph (3) becomes applicable" and "former Telecommunications Business Act to which the provisions then in force shall remain applicable pursuant to the provision of paragraph (3)," respectively; and the term "enforcement of this Act" and the term "former Telecommunications Business Act" in paragraph (2) shall be deemed to be replaced with "application of the standard charge index set forth in the following paragraph" and "former Telecommunications Business Act to which the provisions then in force shall remain applicable pursuant to the provision of the following paragraph," respectively.

(5) With regard to the charges for telegram handling services prescribed in Supplementary Provisions Article 5 paragraph (2) of the Telecommunications Business Act revised by the provision of Article 2 of the Act to Amend the Telecommunications Business Act and the Act on Nippon Telegraph and Telephone Corporation, Etc. (Act No. 125 of 2003; hereinafter referred to as "the Revised Act of 2003"), the provisions of the former Telecommunications Business Act shall, during the period when the telegram business is regarded as a telecommunications business pursuant to the provision of Supplementary Provisions Article 5 paragraph (1) of the revised Telecommunications Business Act, remain in force and the provisions of the Telecommunications Business Act prior to the revision by the provision of Article 2 of the Revised Act of 2003, which shall remain in force pursuant to the provision of Supplementary Provisions Article 5 paragraph (1) of the revised Telecommunications Business Act, shall not apply. In this case, the term "an Ordinance of the Ministry of Posts and Telecommunications" and the term "the Minister of Posts and Telecommunications" in the former Telecommunications Business Act shall be deemed to be replaced with "an Ordinance of the Ministry of Internal Affairs and Communications" and "the Minister for Internal Affairs and Communications," respectively.

#### Article 7 (Transitional Measures Concerning the Application of Penal Provisions)

With regard to the application of the penal provisions to any act committed prior to the enforcement of respective provisions to revise this Act and to any act committed after the effective date where the provisions then in force shall remain applicable pursuant to the provisions of Supplementary Provisions Article 5 paragraph (1) and paragraph (3) of the preceding Article, the provisions then in force shall remain applicable.

#### Article 8 (Review)

The government shall, after approximately ten years from the enforcement of the provisions listed in Supplementary Provisions Article 1 item (iii), review the status of enforcement of the provisions of Article 50-2, Article 50-3, Article 72-3

and Article 72-4 of the new Telecommunications Business Act and the provisions of Articles 24-9, Article 38-17 and Article 38-18 of the new Radio Act, and shall take the necessary measures based on the results of the review, where the government finds necessary by taking into account telecommunications disciplines and radio regulations.

**Supplementary Provisions (Act No. 54–May 28, 1999) (Excerpts)**

Article 1 (Effective Date)

This Act shall come into effect as from the date specified by a Cabinet Order within a period not exceeding one year from the date of promulgation.

**Supplementary Provisions (Act No. 87–July 16, 1999) (Excerpts)**

Article 1 (Effective Date)

This Act shall come into effect as from April 1, 2000; provided, however, that the provisions listed in the following items shall come into effect as from the date set forth in the respective items:

(i) In Article 1, the provision to revise the Local Autonomy Act by adding five Articles, a Section title, and two Subsections and Subsection titles after Article 250 of the Act (limited to the part pertaining to Article 250-9 paragraph (1) of the same Act (limited to the part pertaining to consent to be obtained from both Houses of the Diet)); in Article 40, the provision to revise Supplementary Provisions paragraph (9) and paragraph (10) of the Natural Parks Act (limited to the part pertaining to Supplementary Provisions paragraph (10) of the same Act), the provision of Article 244 (except the part pertaining to the provision to revise Article 14-3 of the Agricultural Improvement Promotion Act) and the provision of Article 472 (except the part pertaining to the provision to revise Article 6, Article 8 and Article 17 of the Municipal Merger Act); and the provisions of Supplementary Provisions Article 7, Article 10, Article 12, Article 59 proviso, Article 60 paragraph (4) and paragraph (5), Article 73, Article 77, Article 157 paragraph (4) through paragraph (6), Article 160, Article 163, and Article 164 and Article 202: The date of promulgation

Article 159 (Affairs of the State, Etc.)

In addition to the affairs prescribed in respective Acts prior to the revision by this Act, the affairs of the state, local governments and other public entities (referred to as "affairs of the state, etc." in Supplementary Provisions Article 161) which, prior to the enforcement of this Act, have been managed or executed by organizations of local governments pursuant to Acts or Cabinet Orders under the Acts shall, after the enforcement of this Act, be handled by local governments as the affairs of the local governments pursuant to Acts and Cabinet Orders under the Acts.

Article 160 (Transitional Measures Concerning Dispositions, Applications, Etc.)

(1) With regard to the application of respective revised Acts after the date of enforcement of this Act, dispositions of permission, etc. and other acts which, prior

to the enforcement of this Act (with regard to the provisions listed in the items of Supplementary Provisions Article 1, the provisions of the respective items; hereinafter the same shall apply in this Article and in Supplementary Provisions Article 163), has been rendered pursuant to the provisions of respective Acts prior to the revision (hereinafter referred to as "acts of disposition, etc." in this Article), or applications for permission, etc. and other acts which, at the time of enforcement of this Act, are actually made pursuant to the provisions of respective Acts prior to the revision (hereinafter referred to as "acts of application, etc. in this Article), administrative affairs of which, as of the date of enforcement of this Act, are to be conducted by different persons, shall be deemed as acts of disposition, etc. or acts of application, etc. rendered or made pursuant to the corresponding provisions of the respective revised Acts, except acts set forth in the provisions of Supplementary Provisions Article 2 through the preceding Article or prescribed in the provisions concerning transitional measures under the respective revised Acts (including orders under such Acts).

(2) With regard to the matters which, prior to the enforcement of this Act, have required reporting, notification, submission or other procedures with organizations of the state or local governments pursuant to the respective Acts prior to the revision and for which, prior to the date of enforcement of this Act, such procedures have not been undergone, the provisions of the respective Acts revised by this Act shall apply, deeming that procedures for the matters which, pursuant to the corresponding provisions of the respective revised Acts, require reporting, notification, submission or other procedures with corresponding organizations of the state or local governments have not been undergone, except for matters otherwise prescribed in this Act and Cabinet Orders under this Act.

#### Article 161 (Transitional Measures Concerning Appeals)

(1) With regard to appeals under the Administrative Appeal Act filed against dispositions pertaining to affairs of the state, etc. prior to the effective date, where the administrative agency rendering the dispositions (hereinafter referred to as the "disposition agency" in this Article) has been established under a higher administrative agency prescribed in the same Act (hereinafter referred to as a "higher administrative agency" in this Article) prior to the effective date, as the provisions of the Administrative Appeal Act shall apply even after the effective date, deeming that the disposition agency continues to be established under the higher administrative agency. In this case, an administrative agency to be regarded as the higher administrative agency of the disposition agency shall be the administrative agency which, prior to the effective date, was deemed as the higher administrative agency of the disposition agency.

(2) In the case set forth in the preceding paragraph, where the administrative agency regarded as the higher administrative agency is an organization of a local government, the affairs to be handled by the organization pursuant to the

provisions of the Administrative Appeal Act shall be deemed as the Type 1 statutory entrusted functions prescribed in Article 2 paragraph (9) item (i) of the new Local Autonomy Act.

Article 162 (Transitional Measures Concerning Fees)

With regard to fees which, prior to the effective date, shall have been paid pursuant to the provisions of the respective Acts (including orders under such Acts) prior to the revision by this Act, the provisions then in force shall remain applicable, except where otherwise specified in this Act and Cabinet Orders under this Act.

Article 163 (Transitional Measures Concerning Penal Provisions)

With regard to the application of the penal provisions to any act committed prior to the enforcement of this Act, the provisions then in force shall remain applicable.

Article 164 (Delegation of Other Transitional Measures to a Cabinet Order)

(1) In addition to the transitional measures set forth in these Supplementary Provisions, transitional measures necessary in connection with the enforcement of this Act (including transitional measures concerning penal provisions) shall be specified by a Cabinet Order.

(2) Matters necessary for the application of the provisions of Supplementary Provisions Article 18, Article 51 and Article 184 shall be specified by a Cabinet Order.

Article 250 (Review)

With regard to the Type 1 statutory entrusted functions prescribed in Article 2 paragraph (9) item (i) of the new Local Autonomy Act, establishment of new functions should be limited to the minimum possible extent, whereas those listed in Appended Table 1 of the new Local Autonomy Act and those prescribed in a Cabinet Order pursuant to the new Local Autonomy Act shall be reviewed and, where necessary, revised appropriately with a view to promoting decentralization.

Article 251

In order to help local governments execute their affairs and business voluntarily and independently, the government shall review how to secure adequate sources of local tax revenues according to the sharing of roles between the state and local governments, taking into account the economic trends, etc., and shall take the necessary measures based on the results of the review.

Article 252

The government shall, along with various reforms such as the medical insurance system reform and the pension system reform, review the ideal administrative system and personnel system for social insurance from the viewpoint of ensuring convenience for the insured and improving efficiency in administration, and shall, where the government finds it necessary, take the necessary measures based on the results of the review.

**Supplementary Provisions (Act No. 137–August 18, 1999) (Excerpts)**

(Effective Date)

1. This Act shall come into effect as from the date specified by a Cabinet Order within a period not exceeding one year from the date of promulgation.

**Supplementary Provisions (Act No. 160–December 22, 1999) (Excerpts)**

Article 1 (Effective Date)

This Act (except Article 2 and Article 3) shall come into effect as from January 6, 2001.

**Supplementary Provisions (Act No. 79–May 19, 2000)**

(Effective Date)

1. This Act shall come into effect as from the date specified by a Cabinet Order within a period not exceeding six months from the date of promulgation; provided, however, that the provisions in the following paragraph shall come into effect as from the date of promulgation.

(Consultation with Councils)

2. In order to establish an Ordinance of the Ministry of Posts and Telecommunications as prescribed in Article 38-2 paragraph (4) or paragraph (12) of the revised Telecommunications Business Act, the Minister of Posts and Telecommunications may, even prior to the enforcement of this Act, consult the councils specified by a Cabinet Order as prescribed in Article 94 of the same Act.

**Supplementary Provisions (Act No. 91 of May 31, 2000)**

(Effective Date)

1. This Act shall come into effect as from the date on which the Act to Amend the Commercial Code, Etc. (Act No. 90 of 2000) comes into effect.

(Transitional Measures)

2. Where the date of enforcement of this Act comes before the date of enforcement of the provisions of Supplementary Provisions Article 8 of the Act on the Center for Food Quality, Labeling and Consumer Services (Act No. 183 of 1999), the term "Article 27" in Article 31 to revise Article 19-5-2, Article 19-6 paragraph (1) item (iv), and Article 27 of the Act on Standardization and Proper Quality Labeling of Agricultural and Forestry Products shall be deemed to be replaced with "Article 26."

**Supplementary Provisions (Act No. 62–June 22, 2001)**

Article 1 (Effective Date)

This Act shall come into effect as from the date specified by a Cabinet Order within a period not exceeding six months from the date of promulgation; provided, however, that the provisions listed in the following items shall come into effect as from the date set forth in the respective items:

(i) The provision in Article 1 to add one Chapter after Chapter 3 of the Telecommunications Business Act (limited to the part pertaining to consent to be obtained from both Houses of the Diet in Article 88-5 paragraph (1) of the same Act) and the provisions of the following Article: The date of promulgation



(ii) The provision of Article 2: The date specified by a Cabinet Order within a period not exceeding one year from the date of promulgation

Article 2 (Consultation with Councils, Etc.)

In order to establish an Ordinance of the Ministry of Internal Affairs and Communications pursuant to the provisions of Article 37-2 paragraph (1) or paragraph (5), Article 37-3 paragraph (3) proviso or paragraph (5), Article 38-3 paragraph (1) or paragraph (5), Article 38-4 paragraph (3) or Article 39-5 paragraph (4) of the Telecommunications Business Act revised by Article 1 (hereinafter referred to as "the new Telecommunications Business Act"), in order to plan the establishment of a Cabinet Order pursuant to the provision of Article 72-10 paragraph (1) of the Telecommunications Business Act revised by Article 2, or in order to establish an Ordinance of the Ministry of Internal Affairs and Communications pursuant to the provision of Article 72-5, Article 72-8 paragraph (1) item (i) or item (iii), Article 72-9 paragraph (1) through paragraph (3), or Article 72-10 paragraph (1) or paragraph (2) of the same Act, the Minister for Internal Affairs and Communications may, even prior to the date of enforcement of this Act, consult the councils, etc. prescribed in Article 94 of the new Telecommunications Business Act.

Article 3 (Transitional Measures in Connection with the Partial Revision of the Telecommunications Business Act)

(1) Any tariffs which, at the time of enforcement of this Act, are actually authorized pursuant to the provision of Article 31-4 paragraph (1) of the Telecommunications Business Act prior to the revision by Article 1 (hereinafter referred to as "the former Telecommunications Business Act") shall be deemed to be tariffs notified pursuant to the provision of Article 31-4 paragraph (1) of the new Telecommunications Business Act in the case of tariffs to which the provision of the same paragraph shall apply, or tariffs authorized pursuant to the provision of paragraph (3) of the same Article in the case of tariffs to which the provision of the same paragraph shall apply.

(2) Any application for authorization of tariffs which, at the time of enforcement of this Act, is actually filed pursuant to the provision of Article 31-4 paragraph (1) of the former Telecommunications Business Act shall be deemed to be a notification filed pursuant to the provision of Article 31-4 paragraph (1) of the new Telecommunications Business Act in the case of tariffs to which the provision of the same paragraph shall apply, or an application for authorization filed pursuant to the provision of paragraph (3) of the same Article in the case of tariffs to which the provision of the same paragraph shall apply.

(3) Any agreement which, at the time of enforcement of this Act, is actually authorized pursuant to the provision of Article 38-3 paragraph (1) of the former Telecommunications Business Act shall be deemed to be an agreement notified pursuant to the provision of Article 38-4 paragraph (1) of the new

Telecommunications Business Act.

(4) Any application for authorization which, at the time of enforcement of this Act, is actually filed pursuant to the provision of Article 38-3 paragraph (1) of the former Telecommunications Business Act shall be deemed to be a notification filed pursuant to the provision of Article 38-4 paragraph (1) of the new Telecommunications Business Act.

(5) Interconnection tariffs which, at the time of enforcement of this Act, are actually authorized pursuant to the provision of Article 38-3 paragraph (2) of the former Telecommunications Business Act or notified pursuant to the provision of the same paragraph shall be deemed to be interconnection tariffs notified pursuant to the provision of Article 38-4 paragraph (2) of the new Telecommunications Business Act.

(6) Any application for authorization which, at the time of enforcement of this Act, is actually filed pursuant to the provision of Article 38-3 paragraph (2) of the former Telecommunications Business Act shall be deemed to be a notification filed pursuant to the provision of Article 38-4 paragraph (2) of the new Telecommunications Business Act.

(7) Any agreement which, at the time of enforcement of this Act, is actually authorized pursuant to the provision of Article 38-3 paragraph (2) of the former Telecommunications Business Act or is concluded based on interconnection tariffs notified pursuant to the provision of the same paragraph, or any agreement which is notified pursuant to the provision of paragraph (5) of the same Article, shall be deemed to be an agreement notified pursuant to the provision of Article 38-4 paragraph (1) of the new Telecommunications Business Act.

(8) Any agreement which, at the time of enforcement of this Act, is actually authorized under Article 39-3 paragraph (1) of the former Telecommunications Business Act shall be deemed to be an agreement authorized under Article 39-3 paragraph (1) of the new Telecommunications Business Act in the case of an agreement to which the provision of the same paragraph shall apply, or an agreement notified pursuant to the provision of paragraph (5) of the same Article in the case of an agreement to which the provision of the same paragraph shall apply.

(9) Any application for authorization of an agreement which, at the time of enforcement of this Act, is actually filed pursuant to the provision of Article 39-3 paragraph (1) of the former Telecommunications Business Act shall be deemed to be an application for authorization filed pursuant to the provision of Article 39-3 paragraph (1) of the new Telecommunications Business Act in the case of an agreement to which the provision of the same paragraph shall apply, or a notification filed pursuant to the provision of paragraph (5) of the same Article in the case of an agreement to which the provision of the same paragraph shall apply.

(10) Any contract which, at the time of enforcement of this Act, is actually

authorized pursuant to the provision of Article 39-3 paragraph (2) of the former Telecommunications Business Act shall be deemed to be a contract notified pursuant to the provision of Article 39-5 paragraph (1) of the new Telecommunications Business Act.

(11) Any application for authorization which, at the time of enforcement of this Act, is actually filed pursuant to the provision of Article 39-3 paragraph (2) of the former Telecommunications Business Act shall be deemed to be a notification filed pursuant to the provision of Article 39-5 paragraph (1) of the new Telecommunications Business Act.

(12) Any agreement which, at the time of enforcement of this Act, is actually notified pursuant to the provision of Article 39-3 paragraph (4) of the former Telecommunications Business Act shall be deemed to be an agreement notified pursuant to the provision of Article 39-3 paragraph (5) of the new Telecommunications Business Act.

(13) Any petition prescribed in Article 39-4 paragraph (1) of the former Telecommunications Business Act which, at the time of enforcement of this Act, is actually filed shall be deemed to be a petition prescribed in Article 39-4 paragraph (1) of the new Telecommunications Business Act if concerning sharing, or a petition prescribed in Article 39-4 paragraph (1) of the new Telecommunications Business Act, as applied mutatis mutandis pursuant to Article 39-6 of the new Telecommunications Business Act, if concerning the non-tariff based services (non-tariff based services prescribed in Article 39-3 paragraph (2) of the former Telecommunications Business Act; the same shall apply in the following paragraph).

(14) Any application for an award prescribed in Article 39-4 paragraph (2) of the former Telecommunications Business Act which, at the time of enforcement of this Act, is actually filed shall be deemed to be an application for an award prescribed in Article 39 paragraph (4) of the new Telecommunications Business Act, as applied mutatis mutandis pursuant to Article 39-4 paragraph (2) of the new Telecommunications Business Act, if concerning sharing, or an application for an award prescribed in Article 39 paragraph (4) of the new Telecommunications Business Act, as applied mutatis mutandis pursuant to Article 39-6 of the new Telecommunications Business Act, if concerning non-tariff based services.

(15) Any person who, at the time of enforcement of this Act, is actually designated under Article 68 paragraph (1) of the former Telecommunications Business Act shall be deemed to be a person who, on the date of enforcement of this Act, is designated under Article 68 paragraph (1) of the new Telecommunications Business Act.

(16) Any disposition, procedure or other act which, prior to the enforcement of this Act, has been taken pursuant to the provisions of the former Telecommunications Business Act, except those set forth in the preceding paragraphs, shall be deemed

to be a disposition, procedure or other act taken pursuant to the provisions of the new Telecommunications Business Act if there are corresponding provisions in the new Telecommunications Business Act.

Article 4 (Transitional Measures Concerning Penal Provisions)

With regard to the application of the penal provisions to acts committed prior to the enforcement of this Act, the provisions then in force shall remain applicable.

Article 5 (Delegation of Other Transitional Measures to a Cabinet Order)

In addition to the transitional measures set forth in these Supplementary Provisions, transitional measures necessary in connection with the enforcement of this Act (including transitional measures concerning the penal provisions) shall be specified by a Cabinet Order.

Article 6 (Review)

The government shall, by taking into account the status of implementation of the provisions revised by this Act, trends of technologies and their uses pertaining to the Internet and other advanced information networks, and other changes, etc. in socioeconomic circumstances in Japan and abroad, while giving due consideration to smooth operations of international telecommunications businesses and improvement of the international competitiveness of Japan's telecommunications technologies, comprehensively review systems pertaining to telecommunications, including the classification of business pertaining to communications and broadcasting, and shall improve the legislative system or take other necessary measures based on the results of the review.

**Supplementary Provisions (Act No. 125–July 24, 2003) (Excerpts)**

Article 1 (Effective Date)

This Act shall come into effect as from the date specified by a Cabinet Order within a period not exceeding nine months from the date of promulgation; provided, however, that the provisions set forth in the following items shall come into force as from the date specified in the respective items:

(i) The provisions of the following Article and Supplementary Provisions Article 17 through Article 19: The date of promulgation

(ii) The provision in Article 3 to revise Supplementary Provisions of the Act on Nippon Telegraph and Telephone Corporation, Etc. (referred to as "the NTT Act" in the following item and Supplementary Provisions Article 16) by adding one Article and the provision of Supplementary Provisions Article 16: The date specified by a Cabinet Order within a period not exceeding three months from the date of promulgation

(iii) The provision of Article 2, the provision in Article 3 to revise Article 11 paragraph (2) of the NTT Act, and the provisions of Supplementary Provisions Article 6 through Article 15, Supplementary Provisions Article 21 through Article 31, Supplementary Provisions Articles 34 through Article 41, and Supplementary Provisions Article 44 through Article 48: The date specified by a Cabinet Order

within a period not exceeding one year from the date of promulgation  
Article 2 (Consultation with Councils, Etc.)

In order to establish an Ordinance of the Ministry of Internal Affairs and Communications pursuant to the provision of Article 8 paragraph (3), Article 9 proviso, Article 20 paragraph (1), Article 21 paragraph (1), Article 26, Article 41 paragraph (1) or paragraph (2), Article 45 paragraph (1) proviso, Article 52 paragraph (1), Article 70 paragraph (1) item (i), or Article 108 paragraph (1) item (ii) or paragraph (3) of the Telecommunications Business Act revised by Article 2, the Minister for Internal Affairs and Communications may, even prior to the enforcement of the provision of Article 2, consult the councils, etc. specified by a Cabinet Order as prescribed in Article 169 of the Telecommunications Business Act revised by the provision of Article 2.

Article 3 (Transitional Measures Concerning Designated Approval Body, Etc.)

(1) Any person who, at the time of enforcement of this Act, is actually designated pursuant to the provision of Article 68 paragraph (1) of the Telecommunications Business Act prior to the revision by Article 1 (hereinafter referred to as "the former Act" in this Article and the following Article) shall be deemed to be a person who, on the date of enforcement of this Act, is registered pursuant to the provision of Article 68 paragraph (1) of the Telecommunications Business Act revised by Article 1 (hereinafter referred to as "the new Act" in this Article through Supplementary Provisions Article 5). In this case, the period prescribed in Article 69-2 paragraph (1) of the new Act shall be calculated from the date of designation or renewal of designation under the former Act.

(2) Any application for designation which, at the time of enforcement of this Act, is actually filed pursuant to the provision of Article 68 paragraph (2) of the former Act, any application for renewal of designation which is actually filed pursuant to the provision of Article 69-2 paragraph (1) of the former Act, or any application for recognition which is actually filed pursuant to the provision of Article 72-3 paragraph (1) of the former Act shall be deemed to be an application for registration filed pursuant to the provision of Article 68 paragraph (1) of the new Act, an application for renewal of registration filed pursuant to the provision of Article 69-2 paragraph (1) of the new Act, or an application for recognition filed pursuant to the provision of Article 72-3 paragraph (1) of the new Act, respectively.

(3) Any person who, at the time of enforcement of this Act, is actually recognized pursuant to the provision of Article 72-3 paragraph (1) of the former Act shall be deemed to be a person who, on the date of enforcement of this Act, is recognized pursuant to the provision of Article 72-3 paragraph (1) of the new Act.

Article 4 (Transitional Measures Concerning Technical Standards Conformity Approval, Etc.)

(1) Any application for technical standards conformity approval which, at the time

of enforcement of this Act, is actually filed pursuant to the provision of Article 50 paragraph (2) of the former Act (including cases where applied mutatis mutandis pursuant to Article 72 of the former Act) or any application for approval which is actually filed pursuant to the provision of Article 50 paragraph (2) of the former Act, as applied mutatis mutandis pursuant to Article 72-3 paragraph (5) of the former Act, shall be deemed to be a request for technical standards conformity approval pursuant to the provision of Article 50 paragraph (1) of the new Act (including cases where applied mutatis mutandis pursuant to Article 72-3 paragraph (4) of the new Act), or any application for certification which is actually filed pursuant to the provision of Article 50-4 paragraph (1), Article 72-2 paragraph (1) or Article 72-3 paragraph (6) of the former Act shall be deemed to be a request for certification of type pursuant to the provision of 50-4 paragraph (1) or Article 72-3 paragraph (6) of the new Act.

(2) Any terminal equipment which, prior to the enforcement of this Act, has obtained technical standards conformity approval pursuant to the provision of Article 50 paragraph (2) of the former Act (including cases where applied mutatis mutandis pursuant to Article 72 of the former Act) or any terminal equipment which has obtained approval pursuant to the provision of Article 50 paragraph (2) of the former Act, as applied mutatis mutandis pursuant to Article 72-3 paragraph (5) of the former Act, shall be deemed to be terminal equipment which has obtained technical standards conformity approval pursuant to the provision of Article 50 paragraph (1) of the new Act (including cases where applied mutatis mutandis pursuant to Article 72-3 paragraph (4) of the new Act) and has a mark affixed pursuant to the provision of Article 50 paragraph (2) of the new Act (including cases where applied mutatis mutandis pursuant to Article 72-3 paragraph (4) of the new Act).

(3) Any type which, prior to the enforcement of this Act, has obtained certification pursuant to the provision of Article 50-4 paragraph (1), Article 72-2 paragraph (1), or Article 72-3 paragraph (6) of the former Act shall be deemed to be a type having obtained certification of type pursuant to the provision of Article 50-4 paragraph (2) of the new Act (including cases where applied mutatis mutandis pursuant to Article 72-3 paragraph (7) of the new Act).

(4) Any person who, prior to the enforcement of this Act, has obtained certification pursuant to the provision of Article 50-4 paragraph (1), Article 72-2 paragraph (1), or Article 72-3 paragraph (6) of the former Act shall be deemed to have obtained certification of type pursuant to the provision of Article 50-4 paragraph (2) of the new Act (including cases where applied mutatis mutandis pursuant to Article 72-3 paragraph (7) of the new Act). In this case, any person who has obtained certification pursuant to the provision of Article 50-4 paragraph (1), Article 72-2 paragraph (1), or Article 72-3 paragraph (6) of the former Act shall be deemed to be a person having fulfilled his/her obligations pursuant to the provision of Article

50-5 paragraph (2) of the new Act (including cases where Article 50-5 paragraph (2) of the new Act shall apply mutatis mutandis to Article 72-3 paragraph (7) of the new Act).

(5) Any terminal equipment which, prior to the enforcement of this Act, is based on a type certified pursuant to the provision of Article 50-4 paragraph (1), Article 72-2 paragraph (1), or Article 72-3 paragraph (6) of the former Act and has a mark affixed pursuant to the provision of Article 50-4 paragraph (5) of the former Act (including cases where applied mutatis mutandis pursuant to Article 72-2 paragraph (3) and Article 72-3 paragraph (8) of the former Act) shall be deemed to be terminal equipment based on a type certified pursuant to the provision of Article 50-4 paragraph (2) of the new Act (including cases where applied mutatis mutandis pursuant to Article 72-3 paragraph (7) of the new Act) and has a mark affixed pursuant to the provision of Article 50-6 of the new Act (including cases where applied mutatis mutandis pursuant to Article 72-3 paragraph (7) of the new Act).

(6) The provision of Article 50-2 of the new Act (including cases where applied mutatis mutandis pursuant to Article 50-9 and Article 72-3 paragraph (4) and paragraph (7) of the new Act) shall not apply to terminal equipment which, prior to the enforcement of this Act, has obtained technical standards conformity approval pursuant to the provision of Article 50 paragraph (2) of the former Act (including cases where applied mutatis mutandis pursuant to Article 72 of the former Act), terminal equipment which has obtained certification pursuant to the provision of Article 50 paragraph (2) of the former Act, as applied mutatis mutandis pursuant to Article 72-3 paragraph (5) of the former Act, and terminal equipment which is based on a type that has been certified pursuant to the provision of Article 50-4 paragraph (3) of the former Act (including cases where applied mutatis mutandis pursuant to Article 72-2 paragraph (3) and Article 72-3 paragraph (8) of the former Act), having a mark affixed pursuant to the provision of Article 50-4 paragraph (5) of the former Act (including cases where applied mutatis mutandis pursuant to Article 72-2 paragraph (3) and Article 72-3 paragraph (8) of the former Act).

Article 5 (Transitional Measures Concerning the National Institute of Information and Communications Technology)

With regard to the application of the provision of Article 69 paragraph (1) item (ii) of the new Act during the period from the date of enforcement of this Act until the day previous to the date of enforcement of the Act to Amend the Act on the Incorporated Administrative Agency Communications Research Laboratory (Act No. 134 of 2002), the term "the National Institute of Information and Communications Technology (referred to as "the Institute" in sub-item (c))" in sub-item (a) of the same item shall be deemed to be replaced with "the Incorporated Administrative Agency Communications Research Laboratory

(referred to as "the Laboratory" in sub-item (c))," and the term "the Institute" in sub-item (c) of the same item shall be deemed to be replaced with "the Laboratory."  
Article 6 (Transitional Measures Concerning Registration, Etc. of Business)

(1) Any person who, at the time of enforcement of the provision of Article 2, actually operates a Type I telecommunications business with permission as prescribed in Article 9 paragraph (1) of the Telecommunications Business Act prior to the revision by the same Article (hereinafter referred to as "the former Act") shall be deemed to be a person who, on the date of enforcement of the provision of Article 2 (hereinafter referred to as the "effective date"), has obtained registration as prescribed in Article 9 of the Telecommunications Business Act revised by Article 2 (hereinafter referred to as "the new Act") if he/she falls under those who shall be registered pursuant to the provision of Article 9 of the new Act, or a person who, on the effective date, has filed a notification as prescribed in Article 16 paragraph (1) of the new Act if he/she falls under those who shall file a notification pursuant to the provision of the same paragraph.

(2) Any application for permission which, at the time of enforcement of the provision of Article 2, is actually filed pursuant to the provision of Article 9 paragraph (1) of the former Act shall be deemed to be an application for registration filed pursuant to the provision of Article 9 of the new Act if pertaining to those who shall be registered pursuant to the provision of the same Article, or a notification filed pursuant to the provision of Article 16 paragraph (1) of the new Act if pertaining to those who shall file a notification pursuant to the provision of the same paragraph.

(3) Any application for permission which, at the time of enforcement of the provision of Article 2, is actually filed pursuant to the provision of Article 14 paragraph (1) of the former Act shall be deemed to be an application for registration of change filed pursuant to the provision of Article 13 paragraph (1) of the new Act if pertaining to those who shall be registered pursuant to the provision of Article 9 of the new Act, or a notification filed pursuant to the provision of Article 16 paragraph (3) of the new Act if pertaining to those who shall file a notification pursuant to the provision of paragraph (1) of the same Article.

(4) Any application for authorization which, at the time of enforcement of the provision of Article 2, is actually filed pursuant to the provision of Article 18 paragraph (3) of the former Act shall be deemed to be a notification filed pursuant to the provision of Article 18 paragraph (2) of the new Act.

(5) Any person who, at the time of enforcement of the provision of Article 2, actually files a notification pursuant to the provision of Article 22 paragraph (1) of the former Act, or who actually operates a Type II telecommunications business with a registration as prescribed in Article 24 paragraph (1) of the former Act, shall be deemed to be a person who, on the effective date, has filed a notification as prescribed in Article 16 paragraph (1) of the new Act.



(6) Any application for registration which, at the time of enforcement of the provision of Article 2, is actually filed pursuant to the provision of Article 24 paragraph (1) of the former Act shall be deemed to be a notification filed pursuant to the provision of Article 16 paragraph (1) of the new Act.

(7) Any application for registration of change which, at the time of enforcement of the provision of Article 2, is actually filed pursuant to the provision of Article 27 paragraph (1) of the former Act shall be deemed to be a notification filed pursuant to the provision of Article 16 paragraph (3) of the new Act.

#### Article 7 (Transitional Measures Concerning Approval, Etc. of Business)

(1) Any person who, at the time of enforcement of the provision of Article 2, actually operates a Type I telecommunications business with permission as prescribed in Article 9 paragraph (1) of the former Act shall be deemed to be a person who, on the effective date, has obtained approval as prescribed in Article 117 paragraph (1) of the new Act for his/her telecommunications business.

(2) Any application for permission which, at the time of enforcement of the provision of Article 2, is actually filed pursuant to the provision of Article 9 paragraph (1) of the former Act shall be deemed to be an application for approval filed pursuant to the provision of Article 117 paragraph (1) of the new Act.

(3) Any period which, at the time of enforcement of the provision of Article 2, is actually designated pursuant to the provision of Article 12 paragraph (1) of the former Act (including cases where applied *mutatis mutandis* pursuant to Article 14 paragraph (4) of the former Act) shall be deemed to be a period designated pursuant to the provision of Article 120 paragraph (1) of the new Act (including cases where applied *mutatis mutandis* pursuant to Article 122 paragraph (4) of the new Act).

(4) Any application for permission which, at the time of enforcement of the provision of Article 2, is actually filed pursuant to the provision of Article 14 paragraph (1) of the former Act shall be deemed to be an application for approval filed pursuant to the provision of Article 122 paragraph (1) of the new Act.

(5) Any disposition, procedure or any other act taken, pursuant to the provisions of Chapter III of the former Act, against a Type I telecommunications carrier as prescribed in Article 12 paragraph (1) of the former Act, or any procedure or any other act taken, pursuant to the provisions of Chapter III of the former Act, by a Type I telecommunications carrier as prescribed in Article 12 paragraph (1) of the former Act, shall be deemed to be a disposition, procedure or other act taken, pursuant to the corresponding provisions of Chapter III Section 2 of the new Act, against an approved telecommunications carrier as prescribed in Article 120 paragraph (1) of the new Act, or a procedure or other act taken, pursuant to the corresponding provisions of Chapter III Section 2 of the new Act, by an approved telecommunications carrier as prescribed in Article 120 paragraph (1) of the new Act, respectively.

Article 8 (Transitional Measures Concerning Confirmation of Technical Standards Conformity)

Any person who, at the time of enforcement of the provision of Article 2, actually obtains confirmation as prescribed in Article 12 paragraph (4) of the former Act (including cases where applied mutatis mutandis pursuant to Article 14 paragraph (4) of the former Act) with respect to telecommunications facilities pertaining to the permission prescribed in Article 9 paragraph (1) of the former Act shall be deemed to have filed a notification pursuant to the provision of Article 42 paragraph (3) of the new Act (including cases where applied mutatis mutandis pursuant to paragraph (4) of the same Article) with respect to the telecommunications facilities.

Article 9 (Transitional Measures Concerning Succession, Etc. of Business)

(1) Any application for authorization which, at the time of enforcement of the provision of Article 2, is actually filed pursuant to the provision of Article 16 paragraph (1) of the former Act shall be deemed to be a notification filed pursuant to the provision of Article 17 paragraph (2) of the new Act and an application for authorization pursuant to the provision of Article 123 paragraph (4) of the new Act.

(2) Any application for authorization which, at the time of enforcement of the provision of Article 2, is actually filed pursuant to the provision of Article 16 paragraph (2) of the former Act shall be deemed to be a notification filed pursuant to the provision of Article 17 paragraph (2) of the new Act and an application for authorization filed pursuant to the provision of Article 123 paragraph (3) of the new Act.

(3) Any application for authorization which, at the time of enforcement of the provision of Article 2, is actually filed pursuant to the provision of Article 17 paragraph (2) of the former Act shall be deemed to be a notification filed pursuant to the provision of Article 17 paragraph (2) of the new Act and an application for authorization filed pursuant to the provision of Article 123 paragraph (2) of the new Act.

(4) Any application for permission which, at the time of enforcement of the provision of Article 2, is actually filed pursuant to the provision of Article 18 paragraph (1) of the former Act shall be deemed to be a notification filed pursuant to the provision of Article 18 paragraph (1) of the new Act and a notification filed pursuant to the provision of Article 124 paragraph (1) of the new Act.

Article 10 (Transitional Measures Concerning Tariffs, Etc.)

(1) From among the charges which, prior to the effective date, have been notified pursuant to the provision of Article 31 paragraph (1) of the former Act, those concerning universal telecommunications services prescribed in Article 7 of the new Act shall be deemed to be charges specified in the tariffs notified pursuant to the provision of Article 19 paragraph (1) of the new Act.

(2) From among the terms and conditions for the service provision specified in the tariffs which, prior to the effective date, have been notified pursuant to the provision of Article 31-4 paragraph (1) of the former Act or the terms and conditions for the service provision specified in the tariffs which have been authorized pursuant to the provision of paragraph (3) of the same Article, those concerning universal telecommunications services prescribed in Article 7 of the new Act shall be deemed to be terms and conditions for the service provision specified in the tariffs notified pursuant to the provision of Article 19 paragraph (1) of the new Act.

(3) From among the applications for authorization of tariffs which, at the time of enforcement of the provision of Article 2, are actually filed pursuant to the provision of Article 31-4 paragraph (3) of the former Act, those concerning universal telecommunications services prescribed in Article 7 of the new Act shall be deemed to be notifications of tariffs (except charges) filed pursuant to the provision of Article 19 paragraph (1) of the new Act.

(4) From among the charges which, prior to the effective date, have been notified pursuant to the provision of Article 31 paragraph (1) of the former Act, those concerning designated telecommunications services prescribed in Article 20 paragraph (1) of the new Act (except universal telecommunications services prescribed in Article 7 of the new Act; hereinafter the same shall apply) shall be deemed to be charges specified in the tariffs notified pursuant to the provision of Article 20 paragraph (1) of the new Act.

(5) From among the terms and conditions for the service provision specified in the tariffs which, prior to the effective date, have been authorized pursuant to the provision of Article 31-4 paragraph (3) of the former Act, those concerning designated telecommunications services prescribed in Article 20 paragraph (1) of the new Act shall be deemed to be terms and conditions for the service provision specified in the tariffs notified pursuant to the provision of the same paragraph.

(6) From among the applications for authorization of tariffs which, at the time of enforcement of the provision of Article 2, are actually filed pursuant to the provision of Article 31-4 paragraph (3) of the former Act, those concerning designated telecommunications services prescribed in Article 20 paragraph (1) of the new Act shall be deemed to be notifications of tariffs (except charges) filed pursuant to the provision of the same paragraph.

#### Article 11 (Transitional Measures Concerning Orders to Change Tariffs, Etc.)

(1) From among the orders which, prior to the effective date, have been issued pursuant to the provision of Article 31 paragraph (2) of the former Act or the orders which have been issued pursuant to the provision of Article 31-4 paragraph (2) of the former Act, those concerning charges and other terms and conditions for the provision of universal telecommunications services prescribed in Article 7 of the new Act shall be deemed to be orders issued pursuant to the provision of

Article 19 paragraph (2) of the new Act, those concerning charges and other terms and conditions for the provision of designated telecommunications services prescribed in Article 20 paragraph (1) of the new Act shall be deemed to be orders issued pursuant to the provision of paragraph (3) of the same Article, or those concerning charges and other terms and conditions for the provision of telecommunications services other than universal telecommunications services or designated telecommunications services shall be deemed to be orders issued pursuant to the provision of Article 29 paragraph (1) of the new Act.

(2) From among the orders to apply for authorization of changes in tariffs which, prior to the effective date, have been issued pursuant to the provision of Article 36 paragraph (1) of the former Act, those concerning tariffs for universal telecommunications services prescribed in Article 7 of the new Act shall be deemed to be orders issued pursuant to the provision of Article 19 paragraph (2) of the new Act, those concerning tariffs for designated telecommunications services prescribed in Article 20 paragraph (1) of the new Act shall be deemed to be orders issued pursuant to the provision of paragraph (3) of the same Article, or those concerning tariffs for telecommunications services other than universal telecommunications services or designated telecommunications services shall be deemed to be orders issued pursuant to the provision of Article 29 paragraph (1) of the new Act.

Article 12 (Transitional Measures Concerning Posting, Etc. of Tariffs)

(1) From among the charges and tariffs which, prior to the effective date, have been announced and posted pursuant to the provision of Article 32 paragraph (1) of the former Act, those concerning universal telecommunications services prescribed in Article 7 of the new Act, those concerning designated telecommunications services prescribed in Article 20 paragraph (1) of the new Act, or those concerning specified telecommunications services prescribed in Article 21 paragraph (1) of the new Act shall be deemed to be charges and tariffs announced and posted pursuant to the provision of Article 23 paragraph (1) of the new Act.

(2) From among the charges and terms and conditions for the service provision which, prior to the effective date, have been announced and posted pursuant to the provision of Article 32 paragraph (1) of the former Act, as applied *mutatis mutandis* pursuant to paragraph (2) of the same Article, those concerning universal telecommunications services prescribed in Article 7 of the new Act or those concerning designated telecommunications services prescribed in Article 20 paragraph (1) of the new Act shall be deemed to have been announced and posted pursuant to the provision of Article 23 paragraph (1) of the new Act, as applied *mutatis mutandis* pursuant to paragraph (2) of the same Article.

Article 13 (Transitional Measures Concerning the Keeping of Accounts)

The provision of Article 24 of the new Act shall apply to the keeping of accounts pertaining to the business year starting on or after the effective date, whereas the

provisions then in force shall remain applicable to the keeping of accounts pertaining to the business year that have started prior to the effective date.

Article 14 (Transitional Measures Concerning Agreement on Sharing)

(1) Any agreement on sharing which, prior to the effective date, has been authorized pursuant to the provision of Article 39-3 paragraph (1) of the former Act shall be deemed to be an agreement on sharing notified pursuant to the provision of Article 37 paragraph (1) of the new Act.

(2) Any application for authorization of an agreement on sharing which, at the time of enforcement of the provision of Article 2, is actually filed pursuant to the provision of Article 39-3 paragraph (1) of the former Act shall be deemed to be a notification of an agreement on sharing filed pursuant to the provision of Article 37 paragraph (1) of the new Act.

Article 15 (Transitional Measures Concerning Local Governments)

Any local government which, at the time of enforcement of the provision of Article 2, actually operates a telecommunications business to which the provision of Article 165 paragraph (1) of the new Act shall apply may continue to operate its business for three months from the effective date, without filing the notification prescribed in the same paragraph.

Article 16 (Transitional Measures in Connection with Revision of Act on Nippon Telegraph and Telephone Corporation, Etc.)

With regard to the application of Supplementary Provisions Article 16 of the NTT Act revised by the provision in Article 3 to revise Supplementary Provisions of the NTT Act by adding one Article, during the period from the date of enforcement of the provision to revise until the day previous to the effective date, the term "Article 33 paragraph (2)" in paragraph (1) of Supplementary Provisions Article 16 shall be deemed to be replaced with "Article 38-2 paragraph (2)"; and the term "Article 33 paragraph (4) item (ii)" in paragraph (2) of the same Article shall be deemed to be replaced with "Article 38-2 paragraph (3) item (ii)."

Article 17 (Effects of Dispositions, Etc.)

Any disposition, procedure or other act which, prior to the enforcement of respective provisions to revise this Act, has been taken pursuant to the provisions of respective Acts prior to the revision shall be deemed to be a disposition, procedure or other act taken pursuant to the provisions of the respective Acts after revision if there are corresponding provisions in the respective Acts after revision, unless otherwise set forth in these Supplementary Provisions.

Article 18 (Transitional Measures Concerning the Application of Penal Provisions)

With regard to the application of the penal provisions to any act committed prior to the enforcement of the respective provisions to revise this Act and to any act committed after the effective date in cases where, pursuant to the provision of Supplementary Provisions Article 13, the provisions then in force shall remain applicable, the provisions then in force shall remain applicable.

Article 19 (Delegation of Other Transitional Measures to a Cabinet Order)

In addition to those set forth in these Supplementary Provisions, transitional measures necessary in connection with the enforcement of this Act (including transitional measures concerning the penal provisions) shall be specified by a Cabinet Order.

Article 20 (Review)

The government shall, after ten years have passed from the enforcement of the provision of Article 1 or Article 2, review the status of enforcement of the provisions revised by the provision of Article 1 or Article 2 from the viewpoint of telecommunications disciplines and shall, where the government finds it necessary, take the necessary measures based on the results of the review.

**Supplementary Provisions (Act No. 138–August 1, 2003) (Excerpts)**

Article 1 (Effective Date)

This Act shall come into effect as from the date specified by a Cabinet Order within a period not exceeding nine months from the date of promulgation.

**Supplementary Provisions (Act No. 76–June 2, 2004) (Excerpts)**

Article 1 (Effective Date)

This Act shall come into effect as from the date of enforcement of the Bankruptcy Act (Act No. 75 of 2004; referred to as "the new Bankruptcy Act" in paragraph (8) of the following Article, Supplementary Provisions Article 3 paragraph (8), Article 5 paragraph (8), paragraph (16) and paragraph (21), Article 8 paragraph (3) and Article 13.

Article 14 (Delegation to a Cabinet Order)

In addition to those set forth in Supplementary Provisions Article 2 through the preceding Article, transitional measures necessary for the enforcement of this Act shall be specified by a Cabinet Order.

**Supplementary Provisions (Act No. 84–June 9, 2004) (Excerpts)**

Article 1 (Effective Date)

This Act shall come into effect as from the date specified by a Cabinet Order within a period not exceeding one year from the date of promulgation.

Article 50 (Review)

The government shall, after five years have passed from the enforcement of this Act, review the status of enforcement of the new Act and shall, where the government finds it necessary, take the necessary measures based on the results of the review.

**Supplementary Provisions (Act No. 21–March 31, 2005) (Excerpts)**

Article 1 (Effective Date)

This Act shall come into effect as from April 1, 2005.

Article 89 (Delegation of Transitional Measures to a Cabinet Order)

In addition to those set forth in these Supplementary Provisions, transitional measures necessary for the enforcement of this Act shall be specified by a Cabinet

Order.

**Supplementary Provisions (Act No. 87–July 26, 2005) (Excerpt)**

This Act shall come into effect as from the date of enforcement of the Companies Act.

**Supplementary Provisions (Act No. 50—June 2, 2006) (Excerpt)**

(Effective Date)

1. This Act shall come into effect as from the date of enforcement of the General Incorporated Associations/Foundations Act.

(Adjustment Provisions)

2. With regard to the application of the provisions of Appended Table 62 of the Act for Punishment of Organized Crime, Control of Crime Proceeds and Other Matters (Act No. 136 of 1999; referred to as "Organized Crime Punishment Act" in the following paragraph) where the date of enforcement of the Act for Partial Revision of the Penal Code to Respond to an Increase in International and Organized Crime and Advancement of Information Processing (Act No. of 2006) comes after the effective date, during the period from the effective date until the day previous to the date of enforcement of the same Act, the term "the crime prescribed in Article 157 of the Intermediate Corporation Act (Act No. 49 of 2001) (Special Breach of Trust by Directors, Etc.)" shall be deemed to be replaced with "the crime prescribed in Article 334 of the Act on General Incorporated Associations and General Incorporated Foundations (Act No. 48 of 2006) (Special Breach of Trust by Directors, Etc.)"

3. In addition to those set forth in the previous paragraph, with regard to the application of the provisions of the Organized Crime Punishment Act in the cases set forth in the same paragraph, during the period until the day previous to the date of enforcement of the Act for Partial Revision of the Penal Code to Respond to an Increase in International and Organized Crime and Advancement of Information Processing, the crimes prescribed in Article 157 of the former Intermediate Corporation Act (Special Breach of Trust by Directors, Etc.) in cases where, pursuant to the provision of Article 457, the provisions then in force shall remain applicable shall be deemed to be the crimes listed in Appended Table 62 of the Organized Crime Punishment Act.

**Supplementary Provisions (Act No. 136–December 28, 2007) (Excerpt)**

Article 1 (Effective Date)

This Act shall come into effect as from the date specified by a Cabinet Order within a period not exceeding one year from the date of promulgation (hereinafter referred to as "the effective date"); provided, however, that the provisions listed in the following items shall come into effect as from the date set forth in the respective items:

(i) The provision in Article 2 to revise Article 99-11 paragraph (2) of the Radio Act, the provisions in Article 3 to revise Article 29 paragraph (1) and Article 147

paragraph (1) of the Telecommunications Business Act and the provisions of the following Article and Supplementary Provisions Article 9 through Article 11: The date of promulgation

(ii) In Article 2, the provision to revise the Table of Contents of the Radio Act (limited to the part that revises "Section 2 Registration for Radio Stations (Articles 27-18 to 27-34)" to "Section 2 Registration for Radio Stations (Articles 27-18 to 27-34) Section 3 Mediation, Etc. for Establishment of Radio Stations (Articles 27-35 and 27-36)"), the provision to revise Article 6 paragraph (1) of the same Act by adding one item, the provision to revise paragraph (2) of the same Article by adding one item, the provision to revise Article 26-2 paragraph (5) of the same Act, the provision to revise Article 27-3 paragraph (1) of the same Act by adding one item, the provision to revise Article 27-18 paragraph (3) of the same Act, the provision to revise the same Act by adding one Section after Chapter II Section 2, and the provision to revise the same Act by adding ", Article 27-35 paragraph (1) (Mediation and Arbitration by the Telecommunications Business Dispute Settlement Commission)" after "(Notification on Establishment of Radio Stations)" in Article 99-11 paragraph (1) item (i) of the same Act; the provision in Article 3 to revise Article 144 paragraph (2) of the Telecommunications Business Act; and the provisions of Supplementary Provisions Article 8 and Article 16: The date specified by a Cabinet order within a period not exceeding nine months from the date of promulgation

Article 9 (Effects of Dispositions, Etc.)

Any disposition, procedure or other act which, prior to the enforcement of this Act (with regard to the provisions listed in the respective items of Supplementary Provisions Article 1, the provisions of the respective items), has been taken or shall be taken pursuant to the provisions of the respective Acts prior to the revision shall be deemed to be a disposition, procedure or other act which, pursuant to the provisions of the respective Acts after revision, has been taken or shall be taken if there are corresponding provisions in the respective Acts after revision, unless otherwise set forth in these Supplementary Provisions.

Article 10 (Transitional Measures Concerning the Application of Penal Provisions)

With regard to the application of the penal provisions to any act committed prior to the enforcement of this Act (with regard to the provisions listed in the respective items of Supplementary Provisions Article 1, the provisions of the respective items), the provisions then in force shall remain applicable.

Article 11 (Delegation of Other Transitional Measures to a Cabinet Order)

In addition to those set forth in these Supplementary Provisions, transitional measures necessary in connection with the enforcement of this Act (with regard to the provisions listed in the respective items of Supplementary Provisions Article 1, the provisions of the respective items) shall be specified by a Cabinet Order (including transitional measures concerning the penal provisions).



#### Article 12 (Review)

(1) The government shall, after five years have passed from enforcement of this Act, review NHK's international broadcast programming operations prescribed in Article 9 paragraph (1) item (v) of the new Broadcasting Act, the paid broadcasting prescribed in Article 52-4 paragraph (1) of the new Broadcasting Act, the paid broadcasting management business prescribed in Article 52-6-2 paragraph (1) of the new Broadcasting Act, the succession of the status of the program-supplying broadcaster prescribed in Article 52-18 paragraph (2) of the new Broadcasting Act and the system pertaining to the approved broadcasting holding company prescribed in Article 52-31 of the new Broadcasting Act, by taking into account the status of enforcement of the new Broadcasting Act, the changes in socioeconomic circumstances, etc., and shall, where the government finds it necessary, take the necessary measures based on the results of the review.

(2) The government shall, after five years have passed from the enforcement of this Act, review the status of enforcement of the provisions of Article 70-7, Article 70-8 and Article 80 of the new Radio Act from the viewpoint of radio regulations, and shall, where the government finds it necessary, take the necessary measures based on the results of the review.

#### Appended Table 1 (Re: Article 87 and Article 91)

(i) Any person who has graduated from a university (excluding junior college; the same shall apply in item (iii)) under the School Education Act (Act No. 26 of 1947) or a university under the former University Ordinance (Imperial Ordinance No. 388 of 1918) after completing a course in electrical engineering or communications engineering, or any person who has obtained a chief telecommunications engineer's license and has experience of one year or more in technical standards conformity approval or certification of type, or test, adjustment or maintenance of terminal equipment (hereinafter referred to as "business experience")

(ii) Any person who has graduated from a junior college or college of technology under the School Education Act or a college under the former Technical College Order (Imperial Order No. 61 of 1903) after completing a course in electrical engineering or communications engineering and has business experience of three years or more

(iii) Any person who has graduated from a foreign educational establishment corresponding to a university under the School Education Act after completing a course in electrical engineering or communications engineering and has business experience of one year or more

(iv) Any person who has graduated from a foreign educational establishment corresponding to a junior college or college of technology under the School Education Act after completing a course in electrical engineering or communications engineering and has business experience of three years or more

Appended Table 2 (Re: Article 87)

- (i) Voltmeter/ammeter
- (ii) Oscilloscope
- (iii) Impedance analyzer
- (iv) Megohmmeter
- (v) Optical power meter
- (vi) Level meter
- (vii) Spectrum analyzer
- (viii) Protocol analyzer
- (ix) Oscillator