

This English translation of the Act on Regulation of the Transmission of Specified Electronic Mail (Act No. 26 of April 17, 2002) has been prepared in compliance with the Standard Bilingual Dictionary (March 2006 edition).

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## **The Act on Regulation of the Transmission of Specified Electronic Mail (Act No. 26 of April 17, 2002)**

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### **Chapter I General Provisions**

#### Article 1 (Purpose)

The purpose of this Act, in light of the recognized need to prevent the occurrence of disturbances upon the transmission and reception of Electronic Mails due to simultaneous transmission, etc. of Specified Electronic Mails to many persons, is, by specifying measures, etc. for proper transmission of Specified Electronic Mails, to create a preferable environment for the use of Electronic Mails, and thereby to contribute to the sound development of an advanced information and communications society.

#### Article 2 (Definitions)

In this Act, for the meanings of the terms given in the following items, the definition specified in each item shall apply.

(i) The term “Electronic Mail” means telecommunications (referring to telecommunications as specified under Article 2 item (i) of the Telecommunications Business Act (Act No. 86 of 1984)) to transmit information, including texts, to specified persons by having the screens of communications terminals (including input/output devices; the same shall apply hereinafter) used by said specified persons display said information, and which uses communications methods specified in the applicable Ministry of Internal Affairs and Communications (hereinafter, “MIC”) ordinance.

(ii) The term “Specified Electronic Mail” means Electronic Mail, which a person who sends Electronic Mail (limited to transmissions from telecommunications facilities (referring to telecommunications as specified under Article 2 item (ii) of the Telecommunications Business Act; the same shall apply hereinafter) in Japan or transmission to telecommunications facilities in Japan; the same shall apply hereinafter) (limited to an organization for profit and a person in cases where the person is engaged in business; hereinafter, “sender”) sends as a means of advertisement or propaganda for their own sales activities or for others.

(iii) The term “Electronic Mail Address” means codes, including characters, numerical characters and marks, for identifying a user of Electronic Mail.

(iv) The term “Fictitious Electronic Mail Address” means an Electronic Mail Address falling under both of the following conditions:

(a) An Electronic Mail Address as produced by using a program (referring to a set of orders to a computer, and orders of which are combined for obtaining a result) with a function to automatically generate many Electronic Mail Addresses

(b) An Electronic Mail Address actually not being used by anyone as an Electronic Mail Address

(v) The term “Electronic Mail Services” means telecommunications services pertaining to Electronic Mail as provided for in Article 2 item (iii) of the Telecommunications Business Act.

## **Chapter II Measures for the Appropriate Transmission of Specified Electronic Mail**

### **Article 3 (Limitation of Transmission of Specified Electronic Mail)**

A sender shall not send any Specified Electronic Mail to any persons other than the following persons:

(i) A person who has notified the sender or the consignor of transmission (referring to a person who consigned transmission of Electronic Mail (limited to an organization for profit and a person in cases where the person is engaged in business); the s

ame shall apply hereinafter) of the request or the consent to send Specified Electronic Mail prior to the transmission thereof

(ii) In addition to those listed in the preceding item, a person who has notified, as specified in the applicable MIC ordinance, the sender or the consignor of transmission of his/her own Electronic Mail Address

(iii) In addition to those listed in the preceding two items, a person who has a business relationship with a person engaged in sales activities relating to advertisement or propaganda that employs the said Specified Electronic Mail as its means

(iv) In addition to those listed in the preceding three items, an organization or a person who has made, as specified in the applicable MIC ordinance, his/her address public (limited to those who engage in business in the case of a person)

(2) A person who has received the notification set forth in item (i) of the preceding paragraph shall maintain, as specified in the applicable MIC ordinance, a record that proves the fact that a request was made to send Specified Electronic Mail or that consent was made to send Specified Electronic Mail.

(3) When a sender has received notice of a request not to send Specified Electronic Mail (or, in cases where the request was not to send Specified Electronic Mail pertaining to certain matters, the said request) (including cases where a consignor of transmission has received such notification) from any person specified in the items of paragraph (1) in accordance with the applicable MIC ordinance, the sender shall not send Specified Electronic Mail against the notifying party's intention indicated in the said notice, provided, however, that this shall not apply to cases where advertisement or propaganda is made appendantly in an Electronic Mail that is sent based on the intention of the person who receives the Electronic Mail sent mainly for purposes other than advertisement or propaganda and other similar cases as specified in the applicable MIC ordinance.

#### Article 4 (Obligation of Labeling)

Any sender shall, as specified in the applicable MIC ordinance, upon transmission of Specified Electronic Mails, make such a Specified Electronic Mail correctly display the matters listed as follows (except the matters listed in item (ii) for those cases specified in the applicable MIC ordinance under the proviso of paragraph (3) of the preceding article) on the screen of a communications terminal being used by a person who receives the said Specified Electronic Mail:

(i) Personal name or legal name of the said sender (in the cases where there exists a consignor of transmission for the transmission of the said Electronic Mail, the said sender or the said consignor of transmission whoever is responsible for the said transmission)

(ii) The Electronic Mail Address for receiving the notification under the main clause of paragraph (3) of the preceding article, or codes, including characters, numerical

characters and marks, as specified in the applicable MIC ordinance, for identifying telecommunications facilities

(iii) Other matters specified in the applicable MIC ordinance

#### Article 5 (Prohibition of Transmission under False Sender Information)

No sender shall send Specified Electronic Mails falsifying the following information on the sender among information for sending and/or receiving Electronic Mails (hereinafter, "sender information"):

(i) Electronic Mail Address used for sending the said Electronic Mails

(ii) Codes, including characters, numerical characters and marks, for identifying telecommunications facilities for sending the said Electronic Mails

#### Article 6 (Prohibition of Transmission Using Fictitious Electronic Mail Address)

No sender shall send Electronic Mails to Fictitious Electronic Mail Addresses for the purpose of sending many Electronic Mails for their own or other's sales activities.

#### Article 7 (Administrative Order)

Where the Minister for Internal Affairs and Communications (hereinafter, the Minister) deems that with respect to the transmission of Electronic Mails, including simultaneous transmission of Specified Electronic Mails to many persons, a sender does not comply with the provisions of Article 3 or Article 4, or where the Minister deems that a sender has sent Electronic Mails using false sender information or Electronic Mails to Fictitious Electronic Mail Addresses, and when the Minister deems that it is necessary to prevent the occurrence of disturbances upon transmission and reception of Electronic Mails, the Minister may order the said sender (or, in cases where the consignor of transmission related to these Electronic Mails has conducted part of the services related to the transmission of the said Electronic Mails, including receiving the notification under item (i) or item (ii) of Article 3 paragraph (1) regarding the transmission of the said Electronic Mails, maintaining the record under paragraph (2) of the same article and others, and when it is deemed that there is a cause attributable to the said consignor related to the transmission of the said Electronic Mails, the said sender and the said consignor of transmission) to take necessary measures to improve the methods for Electronic Mail transmission.

#### Article 8 (Petition to the Minister)

A person who has received Specified Electronic Mail may, when it is deemed that Specified Electronic Mail has been sent in violation of the provisions of Article 3 through Article 5, petition the Minister to take proper measures.

(2) A person who is offering an Electronic Mail Service may, when it is deemed that

Electronic Mail has been sent to Fictitious Electronic Mail Addresses in violation of the provisions of Article 6, petition the Minister to take proper measures.

(3) The Minister shall, when receiving a petition pursuant to the provisions of the preceding two paragraphs, implement the necessary investigation, and where it is deemed necessary based upon the results of the investigation, take measures based upon this Act and other proper measures.

#### Article 9 (Dealing with Complaints, etc.)

Any sender of Specified Electronic Mails shall, in good faith, deal with complaints, inquiries, etc. on transmission of the Specified Electronic Mails by the sender.

#### Article 10 (Information Provision and Technological Development, etc. by Telecommunications Carriers)

Any telecommunications carrier (referring to a telecommunications carrier stipulated in Article 2 item (v) of the Telecommunications Business Act; hereinafter the same shall apply) offering Electronic Mail Services shall endeavor to provide users of said services with information on services that contribute to preventing the occurrence of disturbances upon transmission and reception of Electronic Mails caused by Specified Electronic Mails, Electronic Mails using false sender information or Electronic Mails being sent to Fictitious Electronic Mail Addresses (hereinafter, "Specified Electronic Mail, etc." ).

(2) Any telecommunications carrier offering Electronic Mail Services shall endeavor to develop or introduce technologies that contribute to preventing the occurrence of disturbances upon transmission and reception caused by Specified Electronic Mail, etc.

#### Article 11 (Refusal to Provide Telecommunications Services)

A telecommunications carrier may, in cases where an Electronic Mail using false sender information has been sent and when it is deemed that there is a risk of causing disturbances in offering smooth Electronic Mail Services, or causing disturbances upon transmission and reception of Electronic Mails to users of the services, where many Electronic Mails being sent to Fictitious Electronic Mail Addresses have been simultaneously sent and when it is deemed that there is a risk of causing disturbances in offering smooth Electronic Mail Services, or where it is deemed that there is justifiable grounds to refuse the provision of Electronic Mail Services to prevent the occurrence of disturbances upon transmission and reception of Electronic Mails, refuse to provide Electronic Mail Services to a person who sends Electronic Mails that have a risk of causing said disturbances, to the extent necessary to prevent said disturbances.

#### Article 12 (Instruction and Advice to Corporations for Telecommunications Carrier

s)

The Minister shall endeavor to give the necessary instructions and advice for services to a juridical person incorporated pursuant to the provisions of Article 34 of the Civil Code (Act No. 89 of 1896), which provides member telecommunications carriers with services, including the provision of information, contributing to preventing the occurrence of disturbances upon transmission and reception of Electronic Mails caused by Specified Electronic Mails, etc.

#### Article 13 (Disclosure of Status of Research and Development, etc.)

The Minister shall, at least once a year, disclose the status of research and development on technologies for contributing to preventing the occurrence of disturbances upon transmission and reception of Electronic Mails caused by Specified Electronic Mails, etc. and the status of introduction of such technologies by telecommunications carriers providing Electronic Mail Services.

### **Chapter III Registered Agencies for Proper Transmission**

#### Article 14 (Registration of a Registered Agency for Proper Transmission)

The Minister may have a person who is registered by the Minister (hereinafter, the “registered agency for proper transmission” ) conduct the following services (hereinafter, “services for the proper transmission of Specified Electronic Mail, etc.” ):

- (i) To give instructions or advice to a person who intends to file a petition with the Minister pursuant to the provisions of paragraph (1) or paragraph (2) of Article 8
- (ii) To conduct investigations on facts pertaining to the petition in Article 8 paragraph (3), when requested by the Minister.
- (iii) To collect and provide information or materials concerning Specified Electronic Mail, etc.

(2) The registration in the preceding paragraph shall be made upon request from a person who intends to conduct the services for the proper transmission of Specified Electronic Mail, etc.

#### Article 15 (Disqualification)

Any person who falls under any of the following items shall not be registered under paragraph (1) of the preceding article:

- (i) Any person who has been sentenced to a fine or severer penalty for a crime stipulated in this Act or an order based upon this Act, provided that a period of two years has not elapsed since the day the sentence was served out or the suspension of such sentence expired
- (ii) Any person whose registration was revoked pursuant to the provisions of Article 25, provided that a period of two years has not elapsed since the day of the rescis

sion

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

#### Article 16 (Criterion for Registration)

The Minister shall grant registration to any person who has applied for registration pursuant to the provisions of Article 14 paragraph (2), if the applicant for registration complies with all of the following items. In this case, the procedures necessary for registration shall be specified in the applicable MIC ordinance.

(i) A person who has graduated from a university, college or technical college, provided for in the School Education Act (Act No. 26 of 1947) as having mastered subjects concerning telecommunications, and shall have one year or longer of experience in the business of Electronic Mail Services, or a person who has knowledge and experiences equivalent thereto or higher, shall be engaged in the services for the proper transmission of Specified Electronic Mail, etc.

(ii) The following measures shall be taken to properly implement the services for the proper transmission of Specified Electronic Mail, etc.:

(a) A full-time administrator shall be appointed at a unit to implement the services for the proper transmission of Specified Electronic Mail, etc.

(b) Documents shall be prepared to ensure management and proper implementation of the services for the proper transmission of Specified Electronic Mail, etc.

(c) In accordance with the descriptions in the documents under (b), a dedicated unit shall be set up to ensure management and proper implementation of the services for the proper transmission of Specified Electronic Mail, etc.

(2) The registration shall be made by entering the following matters in the registration book of registered agencies for proper transmission:

(i) Date of registration and registration number

(ii) Name and address of the registered agency for proper transmission and, in cases where the person is a juridical person, name of the representative

(iii) Name and address of the office where the registered agency for proper transmission conducts the services for the proper transmission of Specified Electronic Mail, etc.

#### Article 17 (Renewal of Registration)

The registration under Article 14 paragraph (1) shall, if the registered agency for proper transmission concerned does not renew the registration every three years, lose validity on expiry of the period.

(2) The provisions of Article 14 paragraph (2) and the preceding two articles shall apply, mutatis mutandis, to the renewal of registration under the preceding paragraph.

Article 18 (Obligation Pertaining to Implementation of Services for the Proper Transmission of Specified Electronic Mail, etc.)

Any registered agency for proper transmission shall conduct the services for the proper transmission of Specified Electronic Mail, etc. fairly using methods complying with the requirements listed in each item of Article 16 paragraph (1) and the standards specified in the applicable MIC ordinance.

Article 19 (Notification of Changes)

Any registered agency for proper transmission shall, when intending to change matters listed in item (ii) or item (iii) of Article 16 paragraph (2), notify the Minister to that effect by two weeks prior to the day of said changes.

Article 20 (Operational Rules and Procedures)

Any registered agency for proper transmission shall establish its operational rules and procedures concerning the services for the proper transmission of Specified Electronic Mail, etc. ("operational rules and procedures" in the following paragraph), and shall notify the Minister of the operational rules and procedures prior to the commencement of the services for the proper transmission of Specified Electronic Mail, etc. The same shall apply when such rules and procedures are to be revised.

(2) The operational rules and procedures shall specify the methods of carrying out the services for the proper transmission of Specified Electronic Mail, etc. and other matters specified in the applicable MIC ordinance.

Article 21 (Suspension and Discontinuance of Services)

Any registered agency for proper transmission shall, when intending to suspend in whole or in part or discontinue the services for the proper transmission of Specified Electronic Mail, etc., notify the Minister to that effect in advance, as specified in the applicable MIC ordinance.

Article 22 (Preparation of Financial Statements, etc. and Access, etc. Thereto)

Any registered agency for proper transmission shall, within three months after the end of every business year, prepare a list of properties, a balance sheet and a profit and loss statement or income and expenditure account statement, and a business report (including an electromagnetic record (any record which is produced by electronic, magnetic, or any other means unrecognizable by natural perceptive function, and is used for data processing by a computer; the same shall apply hereinafter in this article) in cases where electromagnetic records are produced instead of those paper documents; "financial statements, etc." in the following paragraph and Article 38) and retain thereof for a five-year period at its office.



(2) Parties concerned, including a person who has received the Specified Electronic Mail, may, whenever within the business hours of the registered agency for proper transmission, make the following requests. However, when making a request concerning item (ii) or item (iv), the fees set forth by the registered agency for proper transmission shall be paid.

(i) Where financial statements, etc. are written documents, request for access to said documents or copy thereof

(ii) Request for a certified copy or abridged copy of the documents under the preceding item

(iii) Where financial statements, etc. are produced as electromagnetic records, request for access to or copy of matters recorded on said electromagnetic records which are displayed in a manner stipulated in the applicable MIC ordinance

(iv) Request for the matters recorded on electromagnetic records under the preceding item in an electromagnetic manner stipulated in the applicable MIC ordinance or request for delivery of written documents containing said matters

#### Article 23 (Order for Compliance)

When the Minister deems that the registered agency for proper transmission has failed to comply with any of the items in Article 16 paragraph (1), the Minister may order such registered agency for proper transmission to take the necessary measures for compliance with all such provisions.

#### Article 24 (Order to Improve Business Activities)

The Minister may, when it is deemed that a registered agency for proper transmission is violating the provisions of Article 18, order the said registered agency for proper transmission to implement the services for the proper transmission of Specified Electronic Mail, etc. pursuant to the provisions of the same article or to take the necessary measures to improve the methods of the services for the proper transmission of Specified Electronic Mail, etc.

#### Article 25 (Rescission, etc. of Registration)

Where a registered agency for proper transmission falls under any of the following items, the Minister may rescind its registration or order the suspension in whole or in part of its services for the proper transmission of Specified Electronic Mail, etc. for a specified period:

(i) Falls under item (i) or item (iii) of Article 15.

(ii) Violates the provisions of Article 19 through Article 21, Article 22 paragraph (1) or the following article.

(iii) Rejects a request pursuant to the provisions of each item of Article 22 paragraph (2) without justifiable reason.

- (iv) Violates the order pursuant to the provisions of the preceding two articles
- (v) Obtains the registration under Article 14 paragraph (1) by wrongful means

#### Article 26 (Maintenance of Record Book)

Any registered agency for proper transmission shall, in accordance with the applicable MIC ordinance, prepare and maintain a record book, in which matters specified in the applicable MIC ordinance related to the services for the proper transmission of Specified Electronic Mail, etc. shall be entered.

#### Article 27 (Public Notice)

The Minister shall, in the following cases, issue a public notice to that effect in the Official Gazette:

- (i) When registering an agency under Article 14 paragraph (1)
- (ii) When receiving a notification pursuant to the provisions of Article 19
- (iii) When receiving a notification pursuant to the provisions of Article 21
- (iv) When rescinding a registration under Article 14 paragraph (1) or ordering the suspension of the services for the proper transmission of Specified Electronic Mail, etc., pursuant to the provisions of Article 25

### **Chapter IV Miscellaneous Provisions**

#### Article 28 (Report and On-site Inspection)

Within the limits necessary for the enforcement of this Act, the Minister may order a sender or the consignor of the transmission of Specified Electronic Mail, etc. to report on the state of transmission thereof, or delegate ministerial staff to enter the office of the sender or the consignor of transmission to inspect articles, including record books and documents.

- (2) To the extent necessary for ensuring the proper operation of the services for the proper transmission of Specified Electronic Mail, etc., the Minister may order a registered agency for proper transmission to report on the state of the services for the proper transmission of Specified Electronic Mail, etc. or assets, as necessary, or delegate ministerial staff to enter the office of the registered agency for proper transmission to inspect the state of the services for the proper transmission of Specified Electronic Mail, etc., or articles, including record books and documents.
- (3) Any ministerial staff who conducts an on-site inspection in accordance with the provisions of the preceding two paragraphs shall carry an identification card and show it to the persons concerned.
- (4) The power of the on-site inspection under the provisions of paragraph (1) or paragraph (2) shall not be construed as being legitimate for the purpose of criminal investigations.

#### Article 29 (Request to Provide Information on the Sender)

Within the limits necessary for the enforcement of this Act, the Minister may request the telecommunication carrier or other party who has granted the right to use the Electronic Mail Address or codes, including characters, numerical characters and marks (limited to those related to the sender among those displayed on the screen of the communications terminal used by the person receiving Specified Electronic Mails, etc., or those used for receiving and sending of Specified Electronic Mails) to provide information such as the personal name or legal name, address and others that are necessary to identify the person to whom the said right has been granted.

#### Article 30 (Provision of Information to Foreign Enforcement Authorities)

The Minister may provide any foreign authority that enforces foreign laws and regulations corresponding to this Act (hereinafter, "Foreign Enforcement Authority") with information that is deemed to contribute to the execution of their duties (limited to those corresponding to the duties specified under this Act; the same shall apply in the following paragraph).

(2) As for the provision of information under the preceding paragraph, appropriate measures shall be taken so that the said information will not be used for anything other than execution of the duties of the said Foreign Enforcement Authority, and will not be used for investigation of foreign criminal cases (limited to cases where the target criminal fact has already been identified) or judgment of foreign criminal cases ("investigations" in the following paragraph) unless consent pursuant to the provisions of the following paragraph has been obtained.

(3) The Minister may, upon request from a Foreign Enforcement Authority, give consent for the use of the information provided pursuant to the provisions of paragraph (1) in investigations of a foreign criminal case pertaining to the said request, except for cases that fall under any of the following items:

(i) When the crime that is said to be the target of the investigations of the criminal case pertaining to the said request is a political crime, or when the said request is deemed to have been made with the purpose of performing investigations for a political crime

(ii) If the act relating to the crime that is said to be the target of the investigations of the criminal case pertaining to the said request is assumed to have been conducted in Japan, and when such act is not construed as a crime under the acts and regulations of Japan

(iii) When no guarantee is given by the requesting country to allow Japan to make the same kind of request

(4) The Minister shall, upon giving the consent set forth in the preceding paragraph, receive in advance confirmation from the Minister of Justice that the case does not fa

ll under item (i) and item (ii) of the same paragraph, and confirmation from the Minister for Foreign Affairs that the case does not fall under item (iii) of the same paragraph, respectively.

#### Article 31 (Administrative Work to Be Conducted by Prefectures)

As specified in the applicable cabinet order, part of the administrative work under the jurisdiction of the Minister stipulated in this Act may be treated as administrative work that shall be conducted by prefectural governors.

#### Article 32 (Transitional Measures)

When orders should be established, amended or abolished in accordance with the provisions of this Act, necessary transitional measures (including those concerning the Penal Provisions) may be stipulated in those orders to the extent deemed to be reasonably necessary in establishing, amending or abolishing those orders.

### **Chapter V Penal Provisions**

#### Article 33

Any person who has violated an order to suspend his or her services in accordance with the provisions of Article 25 shall be guilty of an offense and liable to imprisonment with labor for a term not exceeding one year or to a fine not exceeding one million yen, or to both.

#### Article 34

Any person shall be guilty of an offense and liable to imprisonment with labor for a term not exceeding one year or to a fine not exceeding one million yen in the following cases:

- (i) If he or she has violated the provisions of Article 5
- (ii) If he or she has violated the order in accordance with the provisions of Article 7 (except those relating to the maintenance of records pursuant to the provisions of Article 3 paragraph (2))

#### Article 35

Any person shall be guilty of an offense and liable to a fine not exceeding one million yen in the following cases:

- (i) If he or she has violated the order pursuant to the provisions of Article 7 (limited to those relating to the maintenance of records pursuant to the provisions of Article 3 paragraph (2))
- (ii) If he or she has failed to submit a report pursuant to the provisions of Article 28 paragraph (1), has submitted a false report, or has refused, hindered or evaded

the inspection pursuant to the provisions of the same paragraph

#### Article 36

Any person shall be guilty of an offense and liable to a fine not exceeding three hundred thousand yen in the following cases:

- (i) If he or she has failed to submit a notification or submitted a false notification in accordance with the provisions of Article 21
- (ii) If he or she has failed to make entries or made false entries, or failed to maintain records in violation of the provisions of Article 26
- (iii) If he or she has failed to submit a report in accordance with the provision of Article 28 paragraph (2), or submitted a false report, or has refused, hindered or evaded the inspection pursuant to the provisions of the same paragraph

#### Article 37

When any representative of a juridical person, or any agent, employee, or other staff of a juridical person or a person, has committed an act of violation specified in any of the articles listed below with respect to the business activities of either the juridical person or the person concerned, the violator shall be punished. In addition, the juridical person shall be guilty of an offense and liable to a fine as specified below, and the person concerned shall be guilty of an offense and liable to a fine under the applicable article.

- (i) Article 34: A fine not exceeding thirty million yen
- (ii) Article 33, Article 35 or the preceding article: A fine under the respective provisions

#### Article 38

Any person who has failed to retain financial statements, etc., has failed to enter the matters required to be entered in financial statements, etc., or has made false entries in violation of the provisions of Article 22 paragraph (1), or has refused without due reason a request pursuant to the provisions of each item of paragraph (2) of the same article shall be liable to a non-penal fine not exceeding two hundred thousand yen.

### **Supplementary Provisions**

#### (Effective Date)

- (1) This Act shall come into force on the day specified in the applicable cabinet order within six months calculating from the day of promulgation.

#### (Review)

(2) The government shall, after considering the progress of implementation of this Act in view of the relevant circumstances, including the level of technologies pertaining to telecommunications, take the necessary measures based upon the results thereof within three years calculating from the day of enforcement of this Act.

### **Supplementary Provisions (Act No. 125 of July 24, 2003) Excerpts**

#### Article 1 (Effective Date)

This Act shall come into force on the day specified in the applicable cabinet order within nine months calculating from the day of promulgation. However, the provisions listed in the following items shall come into force as from the day specified respectively in those items.

(i), (ii) Omitted

(iii) Provisions of Article 2; amended provisions of Article 11 paragraph (2) of the Companies Act in Article 3; and Article 6 through Article 15, Article 21 through Article 31, Article 34 through Article 41, and Article 44 through Article 48 of the Supplementary Provisions: the day specified in the applicable cabinet order within one year calculating from the day of promulgation.

### **Supplementary Provisions (Act No. 46 of May 20, 2005) Excerpts**

#### Article 1 (Effective Date)

This Act shall come into force on the day specified in the applicable cabinet order within six months calculating from the day of promulgation. However, the provisions in the following article and Article 6 of the Supplementary Provisions shall come into force on the day of promulgation.

#### Article 2 (Transitional Measures)

A person who wishes to be registered under Article 14 paragraph (1) of the Act on Regulation of the Transmission of Specified Electronic Mail as amended by this Act (hereinafter, the "New Act" ) may, even before the enforcement of this Act, apply for registration. The same shall apply to the notification of the operational rules and procedures in accordance with the provisions of Article 14 paragraph (1) of the New Act.

#### Article 3

Any person who is being actually designated, at the time of the enforcement of this Act, under Article 13 paragraph (1) of the Act on Regulation of the Transmission of Specified Electronic Mail before the amendment by this Act (the "Former Act" in the following article), until the day on which six months have elapsed calculating

from the day of enforcement of this Act, shall be deemed as being registered under Article 14 paragraph (1) of the New Act.

#### Article 4

In addition to what is provided for in the preceding article, acts committed prior to the enforcement of this Act, including disposition and procedures, based on the provisions of the Former Act (including orders based on the Former Act), that fall under the provisions of the New Act equivalent to those of the Former Act, shall be deemed as being acts committed, including disposition and procedures, based on the provisions of the New Act.

#### Article 5 (Transitional Measures Concerning the Penal Provisions)

With respect to the application of the Penal Provisions to any act committed before the enforcement of this Act, the provisions then in force shall still apply.

#### Article 6 (Delegation to Cabinet Orders)

In addition to the transitional measures specified under Article 2 through the preceding article of the Supplementary Provisions, other transitional measures necessary for the enforcement of this Act (including transitional measures concerning the Penal Provisions) shall be specified in the applicable cabinet order.

#### Article 7 (Review)

The government shall, after considering the progress of implementation of this Act in view of the relevant circumstances, including the level of technologies pertaining to telecommunications, take the necessary measures based upon the results thereof within three years calculating from the day of enforcement of this Act.

### **Supplementary Provisions (Act No. 87 of July 26, 2005) Excerpts**

This Act shall come into force on the day of enforcement of the Companies Act.

### **Supplementary Provisions (Act No. 54 of June 6, 2008) (unenforced)**

#### Article 1 (Effective Date)

This Act shall come into force on the day specified in the applicable cabinet order within six months calculating from the day of promulgation. However, the provision of Article 5 of the Supplementary Provisions shall come into force on the day of promulgation.

#### Article 2 (Transitional Measures Concerning Consent, etc. on the Transmission of

### Specified Electronic Mail)

A person who has already notified the sender (the sender specified under Article 2 item (ii) of the Act on Regulation of the Transmission of Specified Electronic Mail after amended by this Act (the “New Act” in this article and the next article); the same shall apply hereinafter in this article) or the consignor of transmission (the consignor of transmission specified under Article 3 paragraph (1) item (i) of the New Act; the same shall apply hereinafter in this article) of the request or the consent to send Specified Electronic Mail (Specified Electronic Mail specified under Article 2 item (ii) of the New Act; the same shall apply hereinafter in this article) at the time of enforcement of this Act shall be deemed as the one listed in Article 3 paragraph (1) item (i) of the New Act.

(2) A person who has already notified the sender or the consignor of transmission of his/her own Electronic Mail Address (Electronic Mail Address specified under Article 2 item (iii) of the New Act) shall be deemed as the one listed in Article 3 paragraph (1) item (ii) of the New Act.

(3) A notice that has already been given to the sender or the consignor of transmission at the time of enforcement of this Act and that contains a request not to send Specified Electronic Mail (or, in cases where the request was not to send Specified Electronic Mail pertaining to certain matters, the said request) shall be deemed as the notice specified under Article 3 paragraph (3) of the New Act.

### Article 3 (Transitional Measures Concerning the Administrative Order)

The order made according to the provisions of Article 7 of the Act on Regulation of the Transmission of Specified Electronic Mail before amended by this Act (the “Former Act” in this article) (limited only to those relating to the provisions of the Former Act equivalent to those of the New Act) shall be deemed as the order made according to the provisions of Article 7 of the New Act.

### Article 4 (Transitional Measures Concerning the Penal Provisions)

With respect to the application of the Penal Provisions to any act committed before the enforcement of this Act, the provisions then in force shall still apply.

### Article 5 (Delegation to Cabinet Orders)

In addition to the transitional measures specified under the preceding three articles, other transitional measures necessary for the enforcement of this Act (including transitional measures concerning the Penal Provisions) shall be specified in the applicable cabinet order.

### Article 6 (Review)

The government shall, after considering the progress of implementation of this Act i



n view of the relevant circumstances, including the level of technologies pertaining to telecommunications, take the necessary measures based upon the results thereof within three years calculating from the day of enforcement of this Act.