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(provisional translation)

This is a provisional and unofficial translation of the Immigration Control and Refugee Recognition Act after the actual date of enforcement of the “law for partial amendment to the Immigration Control and Refugee Recognition Act and the Special Act on the Immigration Control of, Inter Alia, Those who have Lost Japanese Nationality Pursuant to the Treaty of Peace with Japan” which was passed and enacted at the regular Diet session of 2009, and promulgated on July 15, 2009.

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## **CHAPTER V PROCEDURES FOR DEPORTATION**

### **SECTION 1 INVESTIGATION INTO VIOLATIONS**

(Investigation into Violations)

Article 27 An immigration control officer may, when he believes that a foreign national falls under any of the items under Article 24, conduct an investigation into any violation that may have been committed by such foreign national (hereinafter referred to as "suspect").

(Necessary Questioning and Requests for Information for Investigation into Violations)

Article 28 (1) An immigration control officer may conduct necessary questioning in order to attain the objectives of an investigation into any possible violation. However, compulsory dispositions may not be conducted unless special provisions are provided in this Chapter and Chapter VIII.

(2) An immigration control officer may request information on necessary matters in connection with investigations into violations from public offices or from public or private organizations.

(Request for Appearance and Questioning of Suspects)

Article 29 (1) An immigration control officer may, in cases where it is necessary to an investigation into any violation, request the appearance of a suspect and question him/her.

- (2) In the case referred to in the preceding paragraph, the immigration control officer shall enter the suspect's statement on record.
- (3) In entering the statement on record as set forth in the preceding paragraph, the immigration control officer shall have the suspect inspect it or the immigration control officer will read it aloud to the suspect and have him/her sign it, and the immigration control officer shall affix his/her own signature thereto.
- (4) In the case referred to in the preceding paragraph, if the suspect is unable to sign or refuses to sign the statement, the immigration control officer shall make an additional entry to such effect in the record.

(Request for Appearance of Witnesses)

Article 30 (1) An immigration control officer may, in cases where it is necessary to an investigation into any violation, request the appearance of a witness and interview him/her.

- (2) In the case referred to in the preceding paragraph, the immigration control officer shall enter the witness's statement on record.
- (3) The provisions of paragraphs (3) and (4) of the preceding Article shall apply mutatis mutandis to the case referred to in the preceding paragraph. In this case, "suspect" in paragraphs (3) and (4) of the preceding Article shall be deemed to be replaced with "witness".

(Inspection, Search and Seizure)

Article 31 (1) An immigration control officer may, in cases where it is necessary to conduct an investigation into any violation, carry out an inspection, search or seizure with permission from a judge of the district court or summary court exercising jurisdiction over the area where his/her office is located.

- (2) In the case referred to in the preceding paragraph, in case of urgency, the immigration control officer may take the action as set forth in the preceding paragraph with permission from a judge of the district court or summary court exercising jurisdiction over the place subject to inspection, the persons or articles subject to search, or the articles subject to seizure.
- (3) The immigration control officer shall, when he/she is to apply for the permission set forth in paragraph (1) or in the preceding paragraph, submit an application together with proof indicating that the suspect falls under any of the items of Article 24, and if the immigration control officer is to inspect a place, such as a residence other than that of the suspect, he/she shall submit proof indicating the existence of circumstances which show that the place is likely to be connected with the violation. If the immigration control officer is to search a person other than the suspect, articles, residence or other place of the person, he/she shall submit proof that indicating the existence of articles which should be seized and circumstances which show that those articles are likely to be connected with the violation; and if the immigration control officer is to seize an article of a person other than the suspect, he/she shall submit proof that indicates the existence of circumstances which show that the article is likely to be connected with the violation.

- (4) When an application as set forth in the preceding paragraph is submitted, a district court or summary court judge shall issue a permit containing the place of inspection, the person or articles subject to search, the articles to be seized, the position and name in full of the officer making the application, the validity period of the permit, and the name of the court with the name and seal of the judge, and deliver it to the immigration control officer.
- (5) The immigration control officer may deliver the permit set forth in the preceding paragraph to another immigration control officer and have him/her carry out the inspection, search or seizure.

(Necessary Dispositions)

Article 32 An immigration control officer may, in cases where it is necessary to conduct a search or seizure, remove locks, open seals, or carry out any other necessary measures.

(Carrying of an Identification Card)

Article 33 An immigration control officer shall carry his/her identification card with him/her and show it upon request by the person concerned when he/she conducts questioning, inspection, search or seizure.

(Attendance at a Search or Seizure)

Article 34 An immigration control officer shall, in the event that he/she conducts a search or seizure at a residence or building, ensure that the owner, lessee, custodian or other person who acts in the capacity of such person is present. If this cannot be done, he/she shall ensure that a neighbor or an official of the local government is present.

(Restriction on Hours)

Article 35 (1) An immigration control officer shall not enter any residence or building to conduct a search or seizure before sunrise or after sunset, unless the permit indicates that it may be conducted at night.

(2) An immigration control officer may, in the event that he/she began the search or seizure before sunset, continue after sunset.

(3) An immigration control officer shall not be required to act pursuant to the restrictions prescribed in paragraph (1) when conducting a search or seizure at the following places:

- (i) Any place which is considered to be commonly used for acts prejudicial to public morals.
- (ii) A hotel, restaurant or any other place which the public is able to enter and leave at night; provided however, that this shall apply only during the hours that the place is open to the public.

(Prohibition of Entry and Exit)

Article 36 An immigration control officer may prohibit any person from entering or exiting the premises without permission while he/she is conducting questioning, inspection, search or

seizure.

(Procedures for Seizure)

Article 37 (1) An immigration control officer shall, in the event that he/she has carried out a seizure, make a list of the articles seized and deliver it to the owner, holder, custodian or other person who acts in the capacity of such person.

(2) An immigration control officer shall, if he/she finds that there is no need to retain a seized article, return it promptly.

(Preparation of Records)

Article 38 (1) An immigration control officer shall, in the event that he/she has conducted an inspection, search or seizure, prepare a record thereof and have the person required to be present inspect it, or read it aloud to the person and have him/her sign it, and affix his/her own signature thereto.

(2) In the case referred to in the preceding paragraph, if the person present is unable to sign or refuses to sign the record, the immigration control officer shall make an additional entry to such effect in the record.

## SECTION 2 DETENTION

(Detention)

Article 39 (1) An immigration control officer may, if he has reasonable grounds to believe that a suspect falls under any of the items of Article 24, detain the suspect pursuant to a written detention order.

(2) The written detention order set forth in the preceding paragraph shall be issued upon application by an immigration control officer by a supervising immigration inspector of the office to which the former is attached.

(Form of a Written Detention Order)

Article 40 The name, place of residence, and nationality of the suspect, a summary of the suspected offense, place of detention, validity period and date of issuance of the order, and other matters provided for by Ordinance of the Ministry of Justice shall be entered in the written detention order set forth in paragraph (1) of the preceding Article, and a supervising immigration inspector shall sign his/her name and affix his/her seal thereto.

(Period and Place of Detention and Commission of Custody)

Article 41 (1) The period of detention determined pursuant to the written detention order shall be within 30 days. However, if a supervising immigration inspector finds that there are unavoidable reasons, he/she may extend such period once for an additional 30 days.

(2) The place where the foreign national may be detained pursuant to the written detention order

shall be an immigration detention center, detention house, or any other appropriate place designated by the Minister of Justice or by a supervising immigration inspector commissioned by the Minister of Justice.

- (3) A police official may place a suspect in custody in a detention facility, upon the request of a supervising immigration inspector who deems it necessary.

(Procedures for Detention)

Article 42 (1) When an immigration control officer detains a suspect pursuant to a written detention order, he/she shall show the detention order to the suspect.

- (2) In urgent cases, an immigration control officer may detain a suspect by giving the suspect a summary of the suspected offense and informing him/her that the order has been issued, provided that the order shall be shown to the suspect as soon as possible even if the immigration control officer is not in possession of a written detention order.

(Cases of Emergency)

Article 43 (1) If an immigration control officer finds that there are reasonable grounds to believe that a person clearly falling under any of the items of Article 24 is likely to flee before issuance of a written detention order, the immigration control officer may detain him/her without a written detention order.

- (2) In cases where detention has been carried out as set forth in the preceding paragraph, the immigration control officer shall notify a supervising immigration inspector promptly of the grounds for the detention and request the issuance of a written detention order.
- (3) In the case referred to in the preceding paragraph, if the supervising immigration inspector does not approve the detention set forth in paragraph (1), the immigration control officer shall immediately release the detained person.

(Delivery of the Suspect)

Article 44 If an immigration control officer has detained a suspect pursuant to the provisions of Article 39, paragraph (1), he/she shall deliver the suspect to an immigration inspector together with the records and evidence within 48 hours from the time he/she has taken the suspect into custody.

### **SECTION 3 EXAMINATION, HEARING AND FILING OF AN OBJECTION**

(Examination by an Immigration Inspector)

Article 45 (1) When an immigration inspector has taken delivery of a suspect pursuant to the provisions of the preceding Article, the immigration inspector shall promptly examine whether the suspect falls into the category of a foreign national subject to deportation (a foreign national who falls under any of the items of Article 24 but who does not fall into the category of a foreign national subject to a departure order; the same shall apply hereinafter).

- (2) The immigration inspector shall, in the event that he/she has conducted the examination set forth in the preceding paragraph, prepare a record thereof.

(Burden of Proof on the Suspect)

Article 46 Any suspect subject to the examination set forth in the preceding Article who is suspected of falling under items (i) (except for the part pertaining to Article 3, paragraph (1), item (ii)), or (ii) under Article 24, shall have the burden of proof to establish that he/she does not fall under said items.

(Procedures after Examination)

Article 47 (1) An immigration inspector shall immediately release a suspect when he/she finds, as a result of an examination, that the suspect does not fall under any of the items of Article 24.

- (2) When an immigration inspector finds, as a result of an examination, that the suspect falls into the category of a foreign national subject to a departure order, he/she shall promptly notify a supervising immigration inspector of such finding. In this case, if the suspect has been given a departure order pursuant to the provisions of Article 55-3, paragraph (1), the immigration inspector shall immediately release the suspect.
- (3) When an immigration inspector finds, as a result of examination, that a suspect falls into the category of a foreign national subject to deportation, he/she shall promptly notify a supervising immigration inspector and the suspect of his/her findings in writing together with a statement of the grounds for such findings.
- (4) When the immigration inspector submits the notice set forth in the preceding paragraph, he/she shall notify the suspect that the suspect may request a hearing pursuant to the provisions of Article 48.
- (5) In the case referred to in paragraph (3), if the suspect has no objection to the findings, the supervising immigration inspector shall, after having the foreign national sign a document with a statement that he/she will not request a hearing, promptly issue a written deportation order pursuant to the provisions of Article 51.

(Hearing)

- Article 48 (1) Any suspect who has received the notice set forth in paragraph (3) of the preceding Article may, if he/she has an objection to the findings set forth in the same paragraph, orally request a special inquiry officer for a hearing within 3 days from the date of notice.
- (2) When a request has been made for the hearing set forth in the preceding paragraph, an immigration inspector shall submit the record set forth in Article 45, paragraph (2) and other pertinent documents to a special inquiry officer.
- (3) When a request is made for the hearing set forth in paragraph (1), the special inquiry officer shall promptly notify the suspect of the time and place of the hearing and conduct the hearing.

- (4) The special inquiry officer shall, when a hearing is held as set forth in the preceding paragraph, prepare a record of the hearing.
- (5) The provisions of Article 10, paragraphs (3) to (6) shall apply mutatis mutandis to the hearing proceedings set forth in paragraph (3).
- (6) When a special inquiry officer finds, as a result of the hearing, that the findings set forth in paragraph (3) of the preceding Article are not supported by factual evidence (limited to cases where the suspect does not fall under any of the items of Article 24), he/she shall immediately release the suspect.
- (7) When a special inquiry officer finds, as a result of the hearing, that the findings set forth in paragraph (3) of the preceding Article are not supported by factual evidence (limited to cases where the suspect falls into the category of a foreign national subject to a departure order), he/she shall promptly notify a supervising immigration inspector of his/her finding. In this case, if the suspect has been given a departure order pursuant to the provisions of Article 55-3, paragraph (1), the immigration inspector shall immediately release the suspect.
- (8) When a special inquiry officer finds, as a result of the hearing, that there is no error in the findings set forth in paragraph (3) of the preceding Article, he/she shall promptly notify the supervising immigration inspector and the suspect to that effect, and at the same time notify the suspect that the suspect may file an objection pursuant to the provisions of Article 49.
- (9) If the suspect, upon receipt of the notice set forth in the preceding paragraph, has no objection to the findings set forth in the same paragraph, the supervising immigration inspector shall have him/her sign a document containing a statement that he/she will not file an objection and the supervising immigration inspector shall promptly issue the written deportation order pursuant to the provisions of Article 51.

(Filing of an Objection)

- Article 49 (1) Upon receipt of the notice set forth in paragraph (8) of the preceding Article, any suspect may, if he/she has an objection to the findings set forth in the same paragraph, file an objection with the Minister of Justice by submitting a written statement containing the grounds for his/her complaint to a supervising immigration inspector in accordance with the procedures provided for by Ordinance of the Ministry of Justice within 3 days from the date of receipt of the notice.
- (2) When an objection as set forth in the preceding paragraph has been filed, a supervising immigration inspector shall submit to the Minister of Justice the record of the examination set forth in Article 45, paragraph (2), the record of the hearing set forth in paragraph (4) of the preceding Article, and other pertinent documents.
  - (3) When the Minister of Justice has received an objection filed pursuant to the provisions of paragraph (1), he/she shall determine whether the objection is with reason and notify a supervising immigration inspector of his/her determination.
  - (4) The supervising immigration inspector shall, upon receipt of a notice from the Minister of Justice of his/her determination that the objection is with reason (limited to cases where the

- suspect does not fall under any of the items of Article 24), immediately release the suspect.
- (5) When the supervising immigration inspector receives from the Minister of Justice notice of a determination that an objection has been found to be with reason (limited to cases in which the suspect falls within the category of a foreign national subject to a departure order), the supervising immigration inspector shall, when issuing a departure order to the suspect pursuant to the provisions of Article 55-3, paragraph (1), immediately release the suspect.
- (6) The supervising immigration inspector shall, if he/she has received from the Minister of Justice notice of a determination that an objection is without reason, promptly notify the suspect to that effect and issue a written deportation order pursuant to the provisions of Article 51.

(Special Case Determinations by the Minister of Justice)

- Article 50 (1) Even if the Minister of Justice finds that a filed objection is without reason in making the determination set forth in paragraph (3) of the preceding Article, he/she may grant the suspect special permission to stay in Japan if the suspect falls under any of the following items:
- (i) He/She has obtained permission for permanent residence.
  - (ii) He/She has had a registered domicile in Japan as a Japanese national in the past.
  - (iii) He/She resides in Japan under the control of another due to trafficking in persons.
  - (iv) The Minister of Justice finds grounds to grant special permission to stay, other than the previous items.
- (2) In the case referred to in the preceding paragraph, the Minister of Justice may decide a status of residence and period of stay and impose conditions which he/she deems necessary, such as the period of stay, pursuant to the provisions of an Ordinance of the Ministry of Justice.
- (3) In the case where the Minister of Justice grants a permission pursuant to the provision of paragraph (1) (limited to those with the decision of status of residence), if such foreign national becomes a medium to long-term resident, he/she has an immigration inspector issue a residence card to such foreign national.
- (4) The permission set forth in paragraph (1) shall be regarded as a determination that an objection filed is with reason with respect to the application of the provision of paragraph (4) of the preceding Article.

#### **SECTION 4 ENFORCEMENT OF WRITTEN DEPORTATION ORDERS**

(Form of Written Deportation Orders)

- Article 51 A deportation order issued pursuant to the provisions of Article 47, paragraph (5), Article 48, paragraph (9) or Article 49, paragraph (6), or in accordance with the deportation procedures pursuant to the provisions of Article 63, paragraph (1), shall contain the full name, age and nationality of the foreign national subject to deportation, the reason for the deportation, the destination, the date of issuance of the deportation order, and other matters



provided by Ordinance of the Ministry of Justice, and the name and seal of a supervising immigration inspector shall be affixed thereto.

(Enforcement of Written Deportation Orders)

Article 52 (1) A written deportation order shall be enforced by an immigration control officer.

- (2) Upon the request of a supervising immigration inspector who finds it necessary due to shortage of immigration control officers, a police official or coast guard officer may enforce a written deportation order.
- (3) In enforcing a deportation order, an immigration control officer (including a police official or coast guard officer enforcing a written deportation order pursuant to the provisions of the preceding paragraph; hereinafter the same shall apply in this Article) shall show the deportation order or a copy of it to the foreign national subject to deportation and have him/her deported promptly to the destination provided in the following Article. However, the immigration control officer shall deliver him/her to a carrier if the foreign national is to be sent back via the carrier pursuant to the provisions of Article 59.
- (4) In the case referred to in the preceding paragraph, if a person for whom a deportation order has been issued wishes to depart Japan voluntarily at his/her own expense, the director of the immigration detention center or supervising immigration inspector may permit him/her to do so based on an application from said person. In this case, notwithstanding the entries in the written deportation order and the provisions of the following Article, the director of the immigration detention center or supervising immigration inspector may decide the destination of the person based on his/her application.
- (5) In the case referred to in the first sentence of paragraph (3), if the foreign national cannot be deported immediately, the immigration control officer may detain him/her in an immigration detention center, detention house, or any other place designated by the Minister of Justice or by the supervising immigration inspector commissioned by the Minister of Justice until such time as deportation becomes possible.
- (6) In the case referred to in the preceding paragraph, the director of the immigration detention center or the supervising immigration inspector may, if it is found that the foreign national cannot be deported, release him/her with conditions as may be deemed necessary, such as restrictions on the place of residence and area of movement and an obligation to appear upon receiving a summons.

(Deportation Destinations)

Article 53 (1) Any person subject to deportation shall be deported to a country of which he/she is a national or citizen.

- (2) If the person cannot be deported to such country as set forth in the preceding paragraph, such person shall be deported to any of the following countries pursuant to his/her wishes:
  - (i) A country in which he/she had been residing immediately prior to his/her entry into Japan.
  - (ii) A country in which he/she once resided before his/her entry into Japan.

- (iii) A country containing the port or airport where he/she boarded the vessel or aircraft departing for Japan.
  - (iv) A country where his/her place of birth is located.
  - (v) A country which contained his/her birthplace at the time of his/her birth.
  - (vi) Any country other than those prescribed in the preceding items.
- (3) The countries set forth in the preceding two paragraphs shall not include any of the followings countries.
- (i) The territories of countries prescribed in the Refugee Convention, Article 33, paragraph (1) (except for cases in which the Minister of Justice finds it significantly detrimental to the interests and public security of Japan)
  - (ii) Countries prescribed in the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Article 3, paragraph (1)
  - (iii) Countries prescribed in the International Convention for the Protection of All Persons from Enforced Disappearances, Article 16, paragraph (1)

## **SECTION 5 PROVISIONAL RELEASE**

### (Provisional Release)

- Article 54 (1) Any person detained pursuant to a written detention order or deportation order, his/her representative, curator, spouse, lineal relative or sibling may apply for provisional release to the director of the immigration detention center or supervising immigration inspector in accordance with the procedures provided for by Ordinance of the Ministry of Justice.
- (2) The director of the immigration detention center or supervising immigration inspector may accord provisional release to a foreign national detained pursuant to a written detention order or deportation order upon the application set forth in the preceding paragraph or ex officio, taking into consideration such matters as the circumstances, evidence produced in support of the application, and the character and assets of the foreign national pursuant to the provisions of an Ordinance of the Ministry of Justice, upon the foreign national paying a deposit not exceeding 3 million yen as provided by an Ordinance of the Ministry of Justice, and with such conditions as may be deemed necessary, such as restrictions on the place of residence and area of movement and the obligation to appear upon receiving a summons.
- (3) The director of the immigration detention center or supervising immigration inspector, if he/she deems appropriate, may permit a letter of guarantee submitted by a person other than the foreign national detained under a written detention order or deportation order to be substituted for the deposit. Such a letter of guarantee shall contain the amount of the deposit and a statement that the deposit will be paid at any time.

### (Revocation of Provisional Release)

- Article 55 (1) The director of the immigration detention center or the supervising immigration inspector may revoke a provisional release if the foreign national accorded provisional release

has fled, he/she has reasonable grounds to suspect that the foreign national will attempt to flee, the foreign national fails to comply with an order to appear upon receiving a summons without justifiable reason, or has violated any of the conditions of provisional release.

- (2) The director of the immigration detention center or supervising immigration inspector shall, if he/she revokes the provisional release pursuant to the provisions of the preceding paragraph, prepare a written revocation of the provisional release and deliver it to an immigration control officer with the written detention order or deportation order attached.
- (3) The director of the immigration detention center or supervising immigration inspector shall confiscate the entire deposit if he/she revokes a provisional release on the grounds that the person may flee or has failed to comply with an order to appear upon receiving a summons without a justifiable reason, and he/she shall confiscate the deposit in part if he/she revokes a provisional release on any other grounds.
- (4) If the provisional release of any person has been revoked, an immigration control officer shall show a written revocation of the provisional release and a detention order or deportation order to such person and detain him/her at an immigration detention center, detention house, or any other place designated by the Minister of Justice or supervising immigration inspector commissioned by the Minister of Justice.
- (5) An immigration control officer may, in cases of emergency, detain a person whose provisional release has been revoked without a written revocation of the provisional release and a detention order or deportation order, by informing him/her that the provisional release has been revoked. However, a written revocation of the provisional release and a detention order or deportation order shall be shown to such person as soon as possible.

## **CHAPTER V-2 DEPARTURE ORDERS**

(Examination Pertaining to Departure Orders)

- Article 55-2 (1) If an immigration control officer finds that there are reasonable grounds to believe that a suspect falls under the category of a foreign national subject to a departure order, notwithstanding the provisions of Article 39, the immigration control officer shall send the case of the violation pertaining to the suspect to an immigration inspector.
- (2) When the immigration inspector receives a case of a violation pursuant to the provisions of the preceding paragraph, he/she immediately examine whether the suspect falls within the category of a foreign national subject to a departure order.
  - (3) When the immigration inspector finds, as a result of the examination that the suspect falls under the category of a foreign national subject to a departure order he/she shall promptly notify a supervising immigration inspector of the findings.
  - (4) The immigration inspector shall, if he/she finds that there are reasonable grounds to suspect that the suspect falls within the category of a foreign national subject to deportation, notify the immigration control officer of his/her findings and send the case of the violation back to the immigration control officer.

(Departure Orders)

- Article 55-3 (1) If a supervising immigration inspector receives notice pursuant to the provisions of Article 47, paragraph (2), Article 48, paragraph (7), Article 49, paragraph (5), or paragraph (3) of the preceding Article, he/she shall immediately order the suspect to whom the notice pertains to depart from Japan. In this case, the supervising immigration inspector shall designate a period not exceeding 15 days within which the suspect shall depart from Japan.
- (2) When ordering departure pursuant to the provisions of the preceding paragraph, the supervising immigration inspector shall deliver a written departure order pursuant to the provisions of the following Article to the suspect.
- (3) When ordering departure pursuant to the provisions of paragraph (1), the supervising immigration inspector may, provided by Ordinance of the Ministry of Justice, impose restrictions on the suspect's place of residence and area of movement, and other conditions which the supervising immigration inspector may deem necessary.

(Form of Written Departure Orders)

Article 55-4 A written departure order delivered pursuant to the provisions of paragraph (2) of the preceding Article shall contain the full name, age and nationality of the foreign national who has been given the departure order, the reason for the departure order, the time limit for departure, the date of issuance of the departure order, and other matters provided by Ordinance of the Ministry of Justice, and the name and seal of a supervising immigration inspector shall also be affixed thereto.

(Extension of the Time Limit for Departure)

Article 55-5 Upon receiving notification from the foreign national who has been given a departure order pursuant to the provisions of Article 55-3, paragraph (1) that the foreign national is unable to depart from Japan within the time limit for departure in accordance with the departure order, the supervising immigration inspector may, pursuant to the provisions of an Ordinance of the Ministry of Justice, extend the time limit for departure, provided that the supervising immigration inspector finds a reason not imputable to the foreign national such as the operating schedule of the vessel or aircraft used for departure.

(Revocation of Departure Orders)

Article 55-6 When a foreign national who has been given a departure order pursuant to the provisions of Article 55-3, paragraph (1) violates any of the conditions imposed pursuant to the provisions of paragraph (3) of the same Article, the supervising immigration inspector may revoke the departure order.

**CHAPTER VI RESPONSIBILITY OF THE CAPTAIN OF A VESSEL OR  
AIRCRAFT AND THE CARRIER**

(Duty of Cooperation)

Article 56 The captain of a vessel or aircraft entering Japan and the carrier who operates such vessel or aircraft shall cooperate with an immigration inspector in executing his/her duties, such as immigration inspections.

(Duty to Check Passports or Other Documents)

Article 56-2 For the purpose of preventing foreign nationals from illegally entering Japan, the carrier who operates a vessel or aircraft entering Japan (or the captain of such vessel or aircraft in the absence of the carrier) shall check the passports, crew member's pocket-ledgers or re-entry permits possessed by foreign nationals who intend to board the vessel or aircraft.

(Duty to Report)

- Article 57 (1) Pursuant to the provisions of an Ordinance of the Ministry of Justice, the captain of a vessel or aircraft entering Japan shall report in advance to an immigration inspector at the port of entry or departure where the vessel or aircraft will arrive the names of its crew members and passengers and other matters provided by Ordinance of the Ministry of Justice.
- (2) Upon the request of an immigration inspector at the port of entry or departure from which the vessel or aircraft departs, the captain of a vessel or aircraft departing from Japan shall report matters pertaining to its crew members and passengers as prescribed in the preceding paragraph.
- (3) If the captain of a vessel or aircraft entering Japan has knowledge of any foreign national aboard the vessel or aircraft who does not possess a valid passport, crew member's pocket-ledger or re-entry permit, he/she shall report such information immediately to an immigration inspector at the port of entry or departure.
- (4) If a crew member who has been granted the permission set forth in Article 16, paragraph (2) is on board the vessel or aircraft entering Japan, the captain of such vessel or aircraft shall immediately report the name of the crew member and other matters provided by Ordinance of the Ministry of Justice to an immigration inspector upon each arrival at a port of entry or departure.
- (5) At the request of an immigration inspector at the port of entry or departure for a vessel or aircraft, the captain of the vessel or aircraft departing from Japan shall report whether any person granted permission for landing in transit pursuant to the provisions of Article 15, paragraph (1) has returned to his/her vessel or aircraft, whether any person who received landing permission for crew members is aboard the correct vessel or aircraft, and whether any person seeking to depart Japan in violation of the provisions of Article 25, paragraph (2), or Article 60, paragraph (2) is aboard the vessel or aircraft.

(Duty to Prevent Landing)

Article 58 If the captain of a vessel or aircraft arriving in Japan has knowledge of any foreign

national prescribed in paragraph (3) of the preceding Article aboard the vessel or aircraft, he/she shall prevent such foreign national from landing.

(Duty to Send Back)

Article 59 (1) The captain of a vessel or aircraft or the carrier who operates a vessel or aircraft that has transported any foreign national falling under any of the following items shall promptly send such foreign national out of Japan at his/her own expense and on his/her own responsibility via the same vessel or aircraft or any other vessel or aircraft owned by the same carrier:

- (i) Any person denied landing pursuant to the provisions of Chapter III, Section 1 or 2.
- (ii) Any person deported for falling under any of items (v) to (vi)-2 of Article 24.
- (iii) In addition to those prescribed in the preceding item, any foreign national who is deported within 5 years of his/her landing date for falling under any of the items of Article 24 regarding whom the captain of the vessel or aircraft or the carrier who operates the vessel or aircraft can be considered to have had clear knowledge of the existence of grounds for deportation at the time of his/her landing.

(2) In the case referred to in the preceding paragraph, if the carrier concerned cannot send the foreign national back via the vessel or aircraft prescribed in said paragraph, he/she shall send the foreign national back promptly via another vessel or aircraft on his/her own responsibility and at his/her own expense.

(3) Notwithstanding the provisions of the preceding two paragraphs, concerning the expense and responsibility born by the captain of a vessel or aircraft or the carrier who operates the vessel or aircraft, a supervising immigration inspector may exempt the captain or the carrier from all or part of the expenses and responsibility arising from keeping a foreign national who falls under paragraph (1), item (i) at a facility (referred to as a "depaerure waiting facility" in Article 61-7-6) designated as provided by Ordinance of the Ministry of Justice as a place to stay pursuant to the provisions of Article 13-2, paragraph (1), provided that the foreign national concerned possesses a valid passport with a visa issued by a Japanese consular officer.

## **CHAPTER VI-2 INQUIRY INTO THE FACTS**

(Inquiry into the Facts)

Article 59-2 (1) The Minister of Justice may have an immigration inspector inquire into the facts, if necessary, in order to conduct dispositions relating to the issuance of a certificate pursuant to the provisions of Article 7-2, paragraph (1) or to permission pursuant to the provisions of Article 12, paragraph (1), Article 19, paragraph (2), Article 20, paragraph (3), main clause (including cases in which it is applied mutatis mutandis pursuant to Article 22-2, paragraph (3) (including cases in which it is applied mutatis mutandis pursuant to Article 22-3)), Article 21, paragraph (3), Article 22, paragraph (2) (including cases in which it is

applied mutatis mutandis pursuant to Article 22-2, paragraph (4) (including cases where it is applied mutatis mutandis pursuant to Article 22-3)), Article 50, paragraph (1), or Article 61-2-11, or relating to revocation of the status of residence pursuant to the provisions of Article 22-4, paragraph (1).

- (2) An immigration inspector may require a foreign national and other persons concerned to appear, may ask questions, or request the presentation of documents, if necessary, for the inquiry set forth in the preceding paragraph.
- (3) The Minister of Justice or an immigration inspector may make inquiries of public offices or of public or private organizations and request submission of reports on necessary facts in relation to the inquiry set forth in paragraph (1).

## **CHAPTER VII DEPARTURE FROM AND RETURN TO JAPAN OF JAPANESE NATIONALS**

(Departure of Japanese Nationals)

Article 60 (1) Any Japanese national (except for crew members) who departs from Japan with the intention of proceeding to an area outside of Japan shall possess a valid passport and shall receive confirmation of departure from an immigration inspector in accordance with the procedures provided by Ordinance of the Ministry of Justice, at the port of entry or departure from which such person departs.

- (2) The Japanese national set forth in the preceding paragraph shall not depart from Japan unless he/she has received confirmation of departure from Japan.

(Return to Japan of Japanese Nationals)

Article 61 Any Japanese national (except for crew members) who returns to Japan from an area outside of Japan shall possess a valid passport (a document that certifies Japanese nationality if he/she is unable to possess a valid passport) and shall receive confirmation of his/her return to Japan from an immigration inspector in accordance with the procedures provided by Ordinance of the Ministry of Justice, at the port of entry or departure at which such person lands.

## **CHAPTER VII-2 RECOGNITION OF REFUGEE STATUS AND OTHER RELATED MATTERS**

(Recognition of Refugee Status)

Article 61-2 (1) The Minister of Justice may, if a foreign national in Japan submits an application in accordance with the procedures provided by Ordinance of the Ministry of Justice, recognize such person as a refugee (hereinafter referred to as "recognition of refugee status") based on the data submitted.

- (2) When the recognition of refugee status has been made, the Minister of Justice shall issue a

certificate of refugee status to the foreign national concerned in accordance with the procedures provided by Ordinance of the Ministry of Justice. If recognition of refugee status is denied, the foreign national shall be notified in writing with the reason attached.

(Permission Pertaining to Status of Residence)

Article 61-2-2 (1) When the Minister of Justice recognizes a foreign national as a refugee pursuant to the provisions of paragraph (1) of the preceding Article and the foreign national who has filed the application set forth in the same paragraph falls within the category of a foreign national without a status of residence (foreign nationals other than those who are staying in Japan under a status of residence listed in the left-hand column of Appended Table I or Appended Table II, those who have been granted permission for landing for temporary refuge who have not stayed in Japan beyond the period stated in the permit, and special permanent residents; the same shall apply hereinafter), permit the foreign national to acquire the status of residence of "Long-Term Resident", unless the foreign national falls under any of the following items:

- (i) The foreign national has filed the application set forth in paragraph (1) of the preceding Article 6 months after the date on which he/she landed in Japan (or the date on which he/she became aware of circumstances as a result of which he/she may have become a refugee while he/she was in Japan), unless there were unavoidable circumstances.
  - (ii) The foreign national has not entered Japan directly from a territory where his/her life, body or physical freedom was likely to be persecuted on the grounds prescribed in Article 1, paragraph A- (2) of the Refugee Convention, unless the circumstances under which he/she may have become a refugee arose while he/she was in Japan.
  - (iii) The foreign national falls under any of the persons listed in item (iii) to item (iii)-5 or sub-items (c) to (o) of item (iv) of Article 24.
  - (iv) The foreign national has, after entering Japan, been convicted of a crime provided in Part II, Chapter XII, XVI to XIX, XXIII, XXVI, XXVII, XXXI, XXXIII, XXXVI, XXXVII or XXXIX of the Penal Code of Japan, in Article 1, 1-2 or 1-3 (except for the parts pertaining to Article 222 or 261 of the Penal Code of Japan) of the Act on Punishment of Physical Violence and Others, the Act for Prevention and Disposition of Robbery, Theft, and Other Related Matters, or Article 15 or 16 of the Act on Prohibition of Possession of Special Picking Tools and Other Related Matters and sentenced to imprisonment with or without work.
- (2) When a foreign national without a status of residence has filed the application set forth in paragraph (1) of the preceding Article and is denied recognition as a refugee, or the permission set forth in the preceding paragraph is not granted, the Minister of Justice shall examine whether there are grounds to grant special permission to stay to the foreign national without a status of residence, and may grant special permission to stay if he/she finds such grounds.
- (3) When granting permission as set forth in the preceding two paragraphs, the Minister of



Justice shall determine the foreign national's status of residence and period of stay, and depending on categories listed in the following each item, take measures as specified in each item. In this case, that permission shall become effective with the content of such residence card or certificate of status of residence when a residence card or a certificate of status of residence as specified in each item is issued.

- (i) In the case where a foreign national pertaining to the permission becomes a medium to long-term resident; have an immigration inspector issue a residence card to such foreign national.
  - (ii) In the case other than the preceding item, have an immigration inspector issue to the foreign national; a certificate of status of residence with the content that states the status of residence and the period of stay.
- (4) When granting the permission set forth in paragraph (1) or paragraph (2), the Minister of Justice shall revoke the permission for provisional landing or permission for landing pursuant to the provisions of Chapter III, Section 4, which has been granted to the foreign national.

Article 61-2-3 When a foreign national recognized as a refugee (except for a foreign national who has acquired a status of residence with the permission set forth in paragraph (2) of the preceding Article) files an application to change his/her status to that of "Long-Term Resident" pursuant to the provisions of Article 20, paragraph (2), or files an application to acquire the status of residence of "Long-Term Resident" pursuant to the provisions of Article 22-2, paragraph (2) (including cases where it is applied mutatis mutandis pursuant to Article 22-3), the Minister of Justice shall, notwithstanding the provisions of Article 20, paragraph (3), main clause (including cases where it is applied mutatis mutandis pursuant to Article 22-2, paragraph (3) (including cases where it is applied mutatis mutandis pursuant to Article 22-3)), grant permission to the foreign national, unless the foreign national falls under item (i), paragraph (1) of the preceding Article.

(Permission for Provisional Stay)

- Article 61-2-4 (1) When a foreign national without a status of residence files the application set forth in Article 61-2, paragraph (1), the Minister of Justice shall permit the foreign national to stay in Japan provisionally, unless he/she falls under any of the following.
- (i) The foreign national has been granted permission for provisional landing.
  - (ii) The foreign national has been granted permission for landing at a port of call, permission for landing in transit, landing permission for crew members, permission for emergency landing or landing permission due to distress, and has not stayed in Japan beyond the period given in his/her passport or permit.
  - (iii) The foreign national has been permitted to stay in Japan pursuant to the provisions of Article 22-2, paragraph (1).
  - (iv) The foreign national fell within the category of any of the persons listed in Article 5, paragraph (1), items (iv) to (xiv) when he/she entered Japan.

- (v) There are reasonable grounds to suspect that the foreign national has fallen within the category of any of the persons set forth in Article 24, item (iii) to item (iii)-5 or sub-items (c) to (o) of item (iv).
  - (vi) The foreign national clearly falls within either Article 61-2-2, paragraph (1), item (i) or item (ii).
  - (vii) The foreign national has, after entering Japan, been convicted of a crime provided in Part II, Chapter XII, XVI to XIX, XXIII, XXVI, XXVII, XXXI, XXXIII, XXXVI, XXXVII or XXXIX of the Penal Code of Japan, or in Article 1, 1-2 or 1-3 (except for the parts pertaining to Article 222 or 261 of the Penal Code of Japan) of the Act on Punishment of Physical Violence and Others, the Act on Prevention and Disposition of Robbery, Theft, and Other Related Matters, or Article 15 or 16 of the Act on Prohibition of Possession of Special Picking Tools and Other Related Matters and sentenced to imprisonment with or without work.
  - (viii) A written deportation order has been issued to the foreign national.
  - (ix) There are reasonable grounds to suspect that the foreign national is likely to flee.
- (2) When granting the permission set forth in the preceding paragraph, the Minister of Justice shall, pursuant to the provisions of an Ordinance of the Ministry of Justice, determine the period of stay pertaining to the permission (hereinafter referred to as the "period of provisional stay"), and have an immigration inspector issue a permit for provisional stay that states the period of provisional stay to the foreign national without a status of residence. In this case, the permission shall become effective with the contents thereof and as of the time of issuance.
- (3) When granting the permission set forth in paragraph (1), the Minister of Justice may, pursuant to the provisions of an Ordinance of the Ministry of Justice, impose restrictions on the foreign national without a status of residence on his/her place of residence, area of movement, activities, the obligation to appear upon receiving a summons, and other conditions which may be deemed necessary and, if deemed necessary, his/her fingerprints may be taken.
- (4) Upon receiving an application filed by a foreign national with the permission set forth in paragraph (1) to extend the period of provisional stay, the Minister of Justice shall permit the extension. In this case, the provisions of paragraph (2) shall apply *mutatis mutandis*.
- (5) When a foreign national with the permission set forth in paragraph (1) subsequently comes to fall within any of the following items, the period of provisional stay granted to the foreign national (including the period of provisional stay extended pursuant to the provisions of the preceding paragraph; the same shall apply hereinafter) shall be deemed to have terminated at the time he/she comes to fall within the item.
- (i) The objection as set forth in Article 61-2-9, paragraph (1) has not been filed against a denial of recognition of refugee status, and the period set forth in paragraph (2) of the same Article has passed.
  - (ii) The objection as set forth in Article 61-2-9, paragraph (1) has been filed against a denial of recognition of refugee status, but the objection has been withdrawn or a decision has been made denying or dismissing the objection.

- (iii) The foreign national has been recognized as a refugee but has not been granted the permission set forth in Article 61-2-2, paragraph (1) or paragraph (2).
- (iv) The permission set forth in paragraph (1) has been revoked pursuant to the provisions of the next Article.
- (v) The application set forth in Article 61-2, paragraph (2) has been withdrawn.

(Revocation of Permission for Provisional Stay)

Article 61-2-5 When any of the facts listed in the following items are found with respect to a foreign national who has been granted the permission set forth in paragraph (1) of the preceding Article, the Minister of Justice may revoke the permission in accordance with the procedures provided for by Ordinance of the Ministry of Justice.

- (i) The foreign national fell under any of items (iv) to (viii) of paragraph (1) of the preceding Article when he/she was granted the permission set forth in the same paragraph.
- (ii) The foreign national came to fall under item (v) or item (vii) of paragraph (1) of the preceding Article after being granted the permission set forth in the same paragraph.
- (iii) The foreign national has violated the conditions imposed pursuant to the provisions of paragraph (3) of the preceding Article.
- (iv) The foreign national has submitted forged or altered materials or false materials, made false statements, or had persons concerned make false statements, with the intention of being recognized as a refugee.
- (v) The foreign national has carried out the procedures to receive confirmation of departure as set forth in Article 25.

(Relation to Deportation Procedures)

Article 61-2-6 (1) The procedures for deportation provided for in Chapter V (including the procedures for deportation pursuant to the provisions of Article 63, paragraph (1); hereinafter the same shall apply in this Article) shall not be carried out with respect to a foreign national who has been granted the permission set forth in Article 61-2-2, paragraph (1) or paragraph (2), on the grounds that the foreign national fell under any of the items of Article 24 when he/she was granted the permission.

- (2) The procedures for deportation provided for in Chapter V shall be suspended with respect to a foreign national without a status of residence who has filed the application set forth in Article 61-2, paragraph (1), and who has been granted the permission set forth in Article 61-2-4, paragraph (1), until the period of provisional stay pertaining to the permission has elapsed, even if there are reasonable grounds to suspect that the foreign national falls under any of the items of Article 24.
- (3) When the procedures for deportation provided for in Chapter V are carried out, deportation pursuant to the provisions of Article 52, paragraph (3) (including delivery pursuant to the proviso of the same paragraph and deportation pursuant to the provisions of Article 59) shall be suspended with respect to a foreign national without a status of residence who has filed the

application set forth in Article 61-2, paragraph (1) but has not been granted the permission set forth in Article 61-2-4, paragraph (1), or whose period of provisional stay pertaining to said permission has elapsed (except for a foreign national who falls under items (i) to (iii) and item (v) of paragraph (5) of the same Article), until the foreign national falls under any of the cases listed in items (i) to (iii) of paragraph (5) of the same Article.

- (4) The provisions of Article 50, paragraph (1) shall not apply to the procedures for deportation provided in Chapter V where they are carried out with respect to the foreign national prescribed in paragraph (2) who has come to fall under any of items (i) to (iii) of paragraph (5) of Article 61-2-4, or who is prescribed in the preceding paragraph.

(Revocation of Recognition of Refugee Status)

Article 61-2-7 (1) When any of the facts listed in the following items are found with respect to a foreign national residing in Japan who has been recognized as a refugee, the Minister of Justice shall revoke the recognition of refugee status in accordance with the procedures provided for by Ordinance of the Ministry of Justice.

- (i) The foreign national has been recognized as a refugee due to deceit or other wrongful means.
  - (ii) The foreign national has come to fall under any of the cases listed in Article 1, C-(1) to (6) of the Refugee Convention.
  - (iii) The foreign national has taken an action listed in Article 1, F-(a) or (c) of the Refugee Convention after being recognized as a refugee.
- (2) When revoking the recognition of refugee status pursuant to the provisions of the preceding paragraph, the Minister of Justice shall notify the foreign national concerned in writing with the reason attached and place a notice in the Official Gazette of the expiration of the certificate of refugee status and the refugee travel document pertaining to the foreign national.
- (3) When a foreign national who has been issued a certificate of refugee status or a refugee travel document receives a notice of revocation of the recognition of refugee status pursuant to the provisions of the preceding paragraph, he/she must promptly return these certificates to the Minister of Justice.

(Revocation of the Status of Residence of a Foreign National Recognized as a Refugee)

Article 61-2-8 (1) When it is found that a foreign national residing in Japan under a status of residence listed in the left-hand column of Appended Table I or Appended Table II and recognized as a refugee has obtained, by deceit or other wrongful means, the permission set forth in Article 61-2-2, paragraph (1) on the grounds that the foreign national does not fall under any of the items under the same paragraph, the Minister of Justice may revoke his/her status of residence in accordance with the procedures provided for by Ordinance of the Ministry of Justice.

- (2) The provisions of paragraphs (2) to (9) of Article 22-4 shall apply mutatis mutandis to the revocation of the status of residence pursuant to the provisions of the preceding paragraph. In

this case, "immigration inspector" in paragraph (2) of the same Article shall be deemed to be replaced with "refugee inquirer", and "paragraph (1) (except for item (i) and item (ii))" in paragraph (7) of the same Article shall be deemed to be replaced with "Article 61-2-8, paragraph (1)".

(Filing of an Objection)

Article 61-2-9 (1) If a foreign national has an objection to any of the following dispositions, he/she may file an objection with the Minister of Justice by submitting a document that states the matters provided by Ordinance of the Ministry of Justice.

- (i) Denial of recognition of refugee status.
  - (ii) Revocation of recognition of refugee status pursuant to the provisions of Article 61-2-7, paragraph (1).
- (2) The period provided for in Article 45 of the Administrative Complaint Investigation Act (Act No. 160 of 1962) for the objection set forth in the preceding paragraph shall be within 7 days from the date on which the foreign national received the notice set forth in Article 61-2, paragraph (2), or Article 61-2-7, paragraph (2).
- (3) When making a decision on the objection set forth in paragraph (1), the Minister of Justice shall, as provided by Ordinance of the Ministry of Justice, consult with the refugee examination counselors.
- (4) When making a decision pursuant to the provisions of Article 47, paragraph (1) or paragraph (2) of the Administrative Complaint Investigation Act regarding the objection set forth in paragraph (1), the Minister of Justice shall clearly state, in the reason to be attached to the decision, a summary of the opinions of the refugee examination counselors set forth in the preceding paragraph.
- (5) The refugee examination counselors may request the Minister of Justice to give the petitioner or intervenor opportunities to present his/her opinion orally. In this case, the Minister of Justice shall immediately give him/her such opportunities.
- (6) The refugee examination counselors may observe procedures in which the petitioner for objection or intervenor presents his/her opinion pursuant to the proviso of Article 25, paragraph (1), as applied mutatis mutandis pursuant to Article 48 of the Administrative Complaint Administrative Act, or the preceding paragraph, and may question the petitioner or intervenor.

(Refugee Examination Counselors)

Article 61-2-10 (1) The Ministry of Justice shall have a number of refugee examination counselors present their opinions on the recognition of refugee status with respect to the objection pursuant to the provisions of paragraph (1) of the preceding Article.

- (2) The refugee examination counselors shall be appointed by the Minister of Justice from among persons of reputable character who are capable of making a fair judgment on the objection pursuant to the provisions of paragraph (1) of the preceding Article and who have an

academic background in law or current international affairs.

- (3) The term of the refugee examination counselors shall be 2 years, and they may be reappointed.
- (4) The refugee examination counselors shall execute their duties on a part-time basis.

(Special Provisions on Permanent Residence Permits for Refugees)

Article 61-2-11 If a person recognized as a refugee has applied for permanent residence as set forth in Article 22, paragraph (1), the Minister of Justice may grant permission notwithstanding the provisions of the main part of paragraph (2) of the same Article, and even if the person does not conform to item (ii) of the same paragraph.

(Refugee Travel Document)

Article 61-2-12 (1) The Minister of Justice shall, if a foreign national residing in Japan recognized as a refugee seeks to depart from Japan, issue a refugee travel document based on an application by such foreign national in accordance with the procedures provided by Ordinance of the Ministry of Justice. However, this shall not apply if the Minister of Justice finds there to be a possibility of the person committing acts detrimental to the interests or public security of Japan.

- (2) Any foreign national who is to be issued a refugee travel document in Japan pursuant to the provisions of the preceding paragraph while possessing a refugee travel document issued by a foreign country shall submit the foreign refugee travel document before receiving the Japanese refugee travel document.
- (3) The validity period of the refugee travel document set forth in paragraph (1) shall be 1 year.
- (4) A person who has been issued the refugee travel document set forth in paragraph (1) may enter and depart from Japan within the validity period of the refugee travel document. In this case, re-entry permission pursuant to the provisions of Article 26, paragraph (1) will not be required.
- (5) In the case referred to in the preceding paragraph, if the Minister of Justice deems it necessary, the validity period for re-entry with a refugee travel document may be limited to not less than 3 months and less than 1 year.
- (6) The Minister of Justice may, if a person who has departed from Japan with the refugee travel document set forth in paragraph (1) has reasonable grounds for not being able to re-enter Japan within the validity period of the refugee travel document, extend the validity period of the document by a period not exceeding 6 months based on an application from the person concerned.
- (7) The extension set forth in the preceding paragraph shall be entered in the refugee travel document and the administrative work shall be entrusted to a Japanese consular officer.
- (8) If the Minister of Justice finds there to be a possibility of the person who has been issued the refugee travel document set forth in paragraph (1) committing an act detrimental to the interests or public security of Japan, the Minister of Justice may order the person, while he/she

is in Japan, to return the refugee travel document within a time limit pursuant to the provisions of an Ordinance of the Ministry of Justice.

- (9) The refugee travel document ordered to be returned pursuant to the provisions of the preceding paragraph shall lose its effect at the time it is returned or on the expiration date set forth in the same paragraph if it is not returned. In this case, the Minister of Justice shall, if it is not returned within the time limit set forth in the same paragraph, place a notice in the Official Gazette of the expiration of the refugee travel document concerned.

(Return of the Certificate of Refugee Status Following Issuance of a Deportation Order)

Article 61-2-13 If a foreign national residing in Japan recognized as a refugee receives a deportation order pursuant to the provisions of Article 47, paragraph (5), Article 48, paragraph (9) or Article 49, paragraph (6), or through the procedures for deportation pursuant to the provisions of Article 63, paragraph (1), the foreign national shall promptly return the certificate of refugee status and refugee travel document in his/her possession to the Minister of Justice.

(Inquiry into the Facts)

Article 61-2-14 (1) The Minister of Justice may have a refugee inquirer inquire into the facts if necessary for the recognition of refugee status, the granting of permission pursuant to the provisions of Article 61-2-2, paragraph (1) or paragraph (2), Article 61-2-3 or Article 61-2-4, paragraph (1), the revocation of permission pursuant to the provisions of Article 61-2-5, the revocation of recognition of refugee status pursuant to the provisions of Article 61-2-7, paragraph (1), or the revocation of status of residence pursuant to the provisions of Article 61-2-8, paragraph (1).

- (2) The refugee inquirer may request the persons concerned to appear and may ask questions or request the presentation of documents, if necessary, for the inquiry set forth in the preceding paragraph.
- (3) The Minister of Justice or the refugee inquirer may make inquiries of public offices or of public or private organizations and request submission of reports on necessary facts in relation to the inquiry set forth in paragraph (1).

## CHAPTER VIII AUXILIARY PROVISIONS

(Immigration Inspector)

Article 61-3 (1) Immigration detention centers and regional immigration bureaus shall be assigned immigration inspectors.

- (2) An immigration inspector shall conduct the following duties:
- (i) To conduct examinations and hearings pertaining to landing and deportation as well as examination of departure orders.
  - (ii) To hear opinions pursuant to the provisions of Article 22-4, paragraph (2) (including cases

where it is applied mutatis mutandis pursuant to Article 61-2-8, paragraph (2)), to notify pursuant to the provisions of proviso in Article 22-4, paragraph (3) (including cases where it is applied mutatis mutandis in Article 61-2-8, paragraph (2)). The same shall apply in the following Article, paragraph (2), item (v)) and make a personal delivery pursuant to the provisions of Article 61-9-2, paragraph (4) and (5).

- (iii) To conduct inquiries into facts prescribed in Article 19-19, paragraph (1), Article 59-2, paragraph (1) and Article 61-2-14, paragraph (1).
  - (iv) To issue written detention orders and written deportation orders.
  - (v) To carry out provisional release of detainees under written detention orders or written deportation orders.
  - (vi) To deliver departure orders pursuant to the provisions of Article 55-3, paragraph (1).
- (3) An immigration inspector of a regional immigration bureau may, if he/she deems it necessary, execute his/her duties outside the area over which the regional immigration bureau exercises jurisdiction.

(Immigration Control Officer)

Article 61-3-2 (1) Immigration detention centers and regional immigration bureaus shall be assigned immigration control officers.

- (2) An immigration control officer shall conduct the following duties:
- (i) To conduct investigations into cases of violations relating to entry, landing and residence.
  - (ii) To detain, escort and send back those persons who are subject to enforcement of written detention orders and deportation orders.
  - (iii) To guard immigration detention centers, detention houses and other facilities.
  - (iv) To conduct inquiries into facts prescribed in Article 19-19, paragraph (1).
  - (v) To notify pursuant to the provisions of proviso in Article 22-4, paragraph (3) and make a personal delivery pursuant to the provisions of Article 61-9-2, paragraph (4) and (5).
- (3) The provisions of paragraph (3) of the preceding Article shall apply mutatis mutandis to an immigration control officer.
- (4) The immigration control officer shall, concerning the application of the National Public Service Act (Act No. 120 of 1947), be deemed a member of the police force.
- (5) The ranks of immigration control officers shall be separately provided for by a Cabinet Order.

(Carrying and Use of Weapons)

- Article 61-4 (1) Immigration inspectors and immigration control officers may carry weapons in executing their duties.
- (2) Immigration inspectors and immigration control officers may use their weapons with respect to the execution of their duties within the limits judged to be reasonably necessary according to the circumstances. However, they shall not injure a person except in any of the following cases.



- (i) The case falls under Article 36 or 37 of the Penal Code.
- (ii) The person subject to enforcement of the written detention order or deportation order attempts to resist the immigration inspector or immigration control officer executing his/her duties with respect to such person, or a third person resists the immigration inspector or immigration control officer in an attempt to allow said person to escape, and the immigration inspector or immigration control officer has reasonable grounds to believe that there are no alternative means of preventing such resistance or escape.

(Uniform and Identification Card)

Article 61-5 (1) Immigration inspectors and an immigration control officers shall, when executing their duties, except as otherwise provided by law or regulations, wear their respective uniforms or carry with them a proper identification card indicating their official status.

- (2) The identification card set forth in the preceding paragraph shall be shown upon request to the person against whom the immigration inspector or immigration control officer is executing his/her duties.
- (3) The form of the uniform and identification card set forth in paragraph (1) shall be provided for by Ordinance of the Ministry of Justice.

(Detention House)

Article 61-6 Each regional immigration bureaus shall be equipped with a detention house to detain persons who are subject to enforcement of written detention orders.

(Treatment of Detainees)

Article 61-7 (1) A person detained in an immigration detention center or detention house (hereinafter referred to as a "detainee" and "immigration detention facilities") shall be given maximum liberty consistent with the security requirements of the immigration detention facilities.

- (2) The detainee shall be provided with standardized bedding and supplied with standardized food.
- (3) The supplies furnished to the detainee shall be adequate and the accommodations at the immigration detention facilities shall be maintained in a sanitary condition.
- (4) The director of an immigration detention center or regional immigration bureau (hereinafter referred to as "director of the immigration detention facilities") may examine the body, personal effects or clothing of the detainee, and may retain the detainee's personal effects or clothing when he/she considers it necessary for the security or sanitation purposes of the immigration detention facilities.
- (5) The director of the immigration detention facilities may inspect any communications the detainee sends or receives, and may prohibit or restrict such sending or receiving when he/she considers it necessary for the security of the immigration detention facilities.

- (6) In addition to the matters prescribed in the preceding paragraphs, other necessary matters pertaining to the treatment of detainees shall be provided by Ordinance of the Ministry of Justice.

(Immigration Detention Facilities Visiting Committee)

Article 61-7-2 (1) An Immigration Detention Facilities Visiting Committee (hereinafter referred to as "Committee") shall be established at immigration offices provided for by Ordinance of the Ministry of Justice

- (2) In order to contribute to the proper administration of the immigration detention facilities, the Committee shall inspect immigration detention facilities in the area of its responsibility as provided by Ordinance of the Ministry of Justice, with regard to its administration, state its opinion to director of the immigration detention facilities.

(Organization)

Article 61-7-3 (1) The Committee shall be composed of a maximum of 10 members.

- (2) The Minister of Justice shall appoint Committee members possessing high levels of integrity, insight and enthusiasm for the improvement of the administration of immigration detention facilities.
- (3) The term of the Committee members shall be 1 year and they may be reappointed.
- (4) The Committee members shall execute their duties on a part-time basis.
- (5) In addition to what is provided in the preceding paragraphs, necessary matters regarding the organization and administration of the Committees shall be provided by Ordinance of the Ministry of Justice.

(Information provision for the Committee and Visits of the Committee members)

Article 61-7-4 (1) The director of the immigration detention facilities shall furnish the Committee on a regular or as-needed basis with information on the immigration detention facilities with respect to its state of administration pursuant to the provisions of an Ordinance of the Ministry of Justice.

- (2) The Committee may conduct a visit to the immigration detention facilities by the Committee members in order to grasp the circumstances of their administration of the immigration detention facilities. In this case, when the Committee deems necessary, it may elicit cooperation from director of the immigration detention facilities for conducting interviews of detainees by Committee members.
- (3) Directors of immigration detention facilities shall provide the necessary cooperation for such visits and interviews with detainees as set forth in the preceding paragraph.
- (4) Notwithstanding the provisions of Article 61-7, paragraph (5), documents submitted by detainees to the Committee shall not be inspected, and submission of documents to the Committee by detainees shall not be prohibited or restricted.

(Publication of the Opinions of the Committee)

Article 61-7-5 The Minister of Justice shall annually compile both the opinions expressed by the Committee to directors of the immigration detention facilities and the measures taken by directors of the immigration detention facilities in response and shall publicize the outline thereof.

(Inspecting Departure Waiting Facility)

Article 61-7-6 (1) In addition to conducting the duties prescribed in the provisions of Article 61-7-2, paragraph (2), the Committee shall visit the departure waiting facility in the Committee's area of responsibility as provided by Ordinance of the Ministry of Justice and state its opinion on the administration thereof to the director of the regional immigration bureau in the area responsible for such departure waiting facility in order to contribute to its proper administration.

(2) The provisions of the preceding two Articles shall be applied mutatis mutandis to conducting the duties prescribed in the preceding paragraph.

(Cooperation of Other Administrative Organs)

Article 61-8 (1) The director general of an internal bureau of the Ministry of Justice, as provided by Cabinet Order, or the director of an immigration detention center or regional immigration bureau may request necessary cooperation from the National Police Agency, the Metropolitan Police Department, Prefectural Police Headquarters, the Japan Coast Guard, Customs, Public Employment Offices and other relevant administrative organs with regard to the execution of duties pertaining to immigration control and recognition of refugee status.

(2) Any relevant administrative organ whose cooperation has been requested pursuant to the provisions of the preceding paragraph shall comply with the request to the extent that such compliance will not interfere with the performance of its primary functions.

(Notice pertaining to the Entering of Residential Certificate)

Article 61-8-2 When the mayor of city, town or village enters, deletes or revises residential certificate for a foreign national resident prescribed in Article 30-45 of the Basic Resident Registration Act, based on the events as specified by Cabinet Order he/she immediately notify the Minister of Justice of that effect.

(Provision of Information)

Article 61-9 (1) The Minister of Justice may provide foreign authorities with duties corresponding to those duties of immigration control and recognition of refugee status provided by the Immigration Control and Refugee Recognition Act (hereinafter referred to as "foreign immigration authorities" in this Article) with information deemed helpful for the execution of their duties (limited to those duties corresponding to the duties of immigration control and recognition of refugee status provided by the Immigration Control and Refugee

Recognition Act; hereinafter the same shall apply in the next paragraph).

- (2) Upon the provision of information pursuant to the provisions of the preceding paragraph, appropriate measures shall be taken to ensure that the information is not used for purposes other than helping the foreign immigration authorities execute their duties.
- (3) Upon receiving a request from foreign immigration authorities, the Minister of Justice may, notwithstanding the provisions of the preceding paragraph, give consent for the information provided pursuant to the provisions of paragraph (1) to be used for the investigation or adjudication of a foreign criminal case pertaining to the request, except in the following cases.
  - (i) The crime subject to the investigation or adjudication of the criminal case in the request is a political crime or the request appears to have been made for the purpose of conducting the investigation or adjudication of a political crime.
  - (ii) The act pertaining to the crime subject to the investigation or adjudication of the criminal case in the request would not constitute a crime under Japanese laws or regulations if it were committed in Japan.
  - (iii) The foreign country that has made the request has not assured Japan that it will accept a similar request from Japan.
- (4) When giving the consent set forth in the preceding paragraph, the Minister of Justice shall, in advance, receive confirmation from the Minister of Foreign Affairs that the request does not fall under item (iii) of the preceding paragraph.

(Service)

- Article 61-9-2 (1) Service of documents provided for by Article 22-4, paragraph(3) or (6) (including the case applied mutatis mutandis in those provisions in Article 61-2-8, paragraph (2)) shall be made by mail or conducted by a general correspondence delivery operator prescribed in the Act on Correspondence Delivery by Private Business Operator (Act No. 99 of 2002), Article 2, paragraph (6) or a specific correspondence delivery operator prescribed in the same Article, paragraph (9), through service via letter delivery prescribed in the same Article, paragraph (2) (hereinafter referred to as "correspondence") or personal delivery, to the place of residence of the person who shall receive the service.
- (2) When a document prescribed in the preceding paragraph has been sent by ordinary mail or correspondence, such mail or such correspondence prescribed in Article 2, paragraph (3) of the Act on the Correspondence Delivery by Private Business Operators shall be presumed to have been served at the time when it shall arrive by ordinary.
  - (3) When the Minister of Justice sends a document prescribed in the preceding paragraph, he/she shall prepare a record sufficient to confirm the name of documents, the name of the person who shall receive the service of the document, address and the date of sending the document.
  - (4) Personal delivery shall be conducted by an immigration inspector or an immigration control officer, at the place where the documents shall be sent pursuant to the provisions of paragraph (1), to the person who shall receive it. Provided, however, the said document may be delivered at other places when the person who should receive the service has no objection.

- (5) In the cases listed in the followings items, personal delivery may be conducted by the acts specified in each of the said items in lieu of the delivery set forth in the provisions of the preceding paragraph.
- (i) In a case of being unable to meet a person who shall receive the service of a document at the place where the service shall be made, the document shall be delivered to a person who lives with the person and is able to be expected to deliver the said document to the person.
- (ii) In the case where a person who should receive the service of the document and a person prescribed in the preceding item are not available in the place to which the service should be made or in the case where those people refused to receive the said document without any justifiable ground, the document shall be left at the place where the service is to be made.
- (6) With respect to the document to be sent pursuant to the provisions of the preceding paragraphs, in the case where the place of residence of the person who shall receive the service is unknown, the Minister of Justice may conduct service by publication in lieu of the aforementioned service. Provided, however, this shall not apply to the service of document pursuant to the provisions of Article 22-4, paragraph (3) and (6) which is applied mutatis mutandis in Article 61-2-8, paragraph (2).
- (7) Service by publication shall be conducted by posting a notice, at the posting area of the Ministry of Justice, of the name of document to be sent, of the name of the person who shall be served, and to the effect that the Minister of Justice will send such document at any time to the person who shall be served.
- (8) In the case of the preceding paragraph, when 2 weeks have elapsed since the day on which the notice was posted on the bulletin board, the service of documents shall be deemed to have been made.

(Obligation of Himself/Herself Appear and Notifications by Representative)

Article 61-9-3 (1) When a foreign national conducts acts listed in the following items, he/she shall appear himself/herself to the place specified in each item, respectively.

- (i) Notifications set forth in the provisions of Article 19-7, paragraph (1), Article 19-8, paragraph (1) or Article 19-9, paragraph (1) or receipt of a residence card to be returned pursuant to the provisions of Article 19-7, paragraph (2) (including the case of applying mutatis mutandis in Article 19-8, paragraph (2) and Article 19-9, paragraph (2) ): office of the city, town or village where the place of residence of the foreign national is located
- (ii) Notifications set forth in the provisions of Article 19-10, paragraph (1), applications pursuant to the provisions of Article 19-11, paragraph (1) or (2), Article 19-12, paragraph (1) or Article 19-13, paragraph (1) or (3) or receipt of residence card to be issued pursuant to the provisions of Article 19-10, paragraph (2) (including the case of applying mutatis mutandis in Article 19-11, paragraph (3), Article 19-12, paragraph (2) and Article 19-13, paragraph (4)): regional immigration bureau
- (iii) Application set forth in the provisions of Article 20, paragraph (2), Article 21, paragraph (2), Article 22, paragraph (1) (including the case of applying mutatis mutandis in Article

- 22-2, paragraph (4) (including the case of applying mutatis mutandis in Article 22-3)) or Article 22-2, paragraph (2) (including the case of applying mutatis mutandis in Article 22-3), or receipt of residence card to be issued set forth in the provisions of Article 20, paragraph (4), item (i) (including the case of applying mutatis mutandis in Article 21, paragraph (4) and Article 22-2, paragraph (3) (including the case of applying mutatis mutandis in Article 22-3) or Article 22, paragraph (3) (including the case of applying mutatis mutandis in Article 22-2, paragraph (4) (including the case of applying mutatis mutandis in Article 22-3)), Article 50, paragraph (3) or Article 61-2-2, paragraph (3), item (i): regional immigration bureau
- (2) In the case where a foreign national is under the age of 16 years or unable to conduct the acts listed in the provisions of item (i) or (ii) of the preceding paragraph by oneself due to disease or for other cause, such acts shall be performed by a person, who is living together with the foreign national and listed in the following items (except for a person who is under the age of 16 years) on behalf of the foreign national in the order specified in the following items.
- (i) Spouse
  - (ii) Child
  - (iii) Father or mother
  - (iv) Relatives other than those listed in the preceding three items
- (3) With respect to acts listed in paragraph (1), item (i) and (ii), in addition to the case prescribed in the preceding paragraph, a person specified in the items of the same paragraph (except for a person who is under the age of 16 years) and living with the foreign national conducts the acts on behalf of the foreign national by the request of the foreign national or in the case where provided for by an Ordinance of the Ministry of Justice, notwithstanding the provision of paragraph (1), the foreign national shall not be required to appear himself/herself to conduct such acts.
- (4) With respect to acts listed in paragraph (1), item (iii), in the case where a statutory agent of the foreign national conducts those acts on behalf of the foreign national or in the case provided for by an Ordinance of the Ministry of Justice, notwithstanding the provision of the same paragraph, the foreign national shall not be required to appear himself/herself to conduct such acts.

(Basic Plan for Immigration Control)

- Article 61-10 (1) The Minister of Justice shall formulate a basic plan for the control of the entry and residence of foreign nationals (hereinafter referred to as the "Basic Plan for Immigration Control"), in order to allow the exercise of equitable control over immigration affairs.
- (2) The Basic Plan for Immigration Control shall provide for the following matters:
- (i) Matters relating to foreign nationals' entry into and residence in Japan.
  - (ii) Matters relating to guidelines for the control of entry and residence of foreign nationals.
  - (iii) Matters necessary for implementation of the control of the entry and residence of foreign nationals, in addition to matters listed in the preceding two paragraphs.

- (3) Prior to the formulation of the Basic Plan for Immigration Control, the Minister of Justice shall consult with the heads of the relevant administrative organs.
- (4) The Minister of Justice shall announce an outline of the Basic Plan for Immigration Control without delay when it has been formulated.
- (5) The provisions of the preceding two paragraphs shall apply mutatis mutandis to modifications of the Basic Plan for Immigration Control.

Article 61-11 The Minister of Justice shall endeavor to exercise equitable control over the entry into and departure from Japan of foreign nationals, based on the Basic Plan for Immigration Control.

(Furnishing of Information)

- Article 62 (1) Any person may, if he/she has knowledge of a foreign national whom he/she believes to fall under any of the items of Article 24, report such information.
- (2) Any official of the Government or of a local public entity shall, if he/she comes to have knowledge of a foreign national set forth in the preceding paragraph in the execution of his/her duties, report such information.
  - (3) In cases of a foreign national set forth in paragraph (1) who is serving a sentence and is to be released due to completion of the sentence, stay of the execution of the sentence or for any other reason (except for release on parole), or in a case where such foreign national is to be released from a juvenile prison or a women's guidance home after receiving the disposition prescribed in Article 24, paragraph (1), item (iii) of the Juvenile Act or in Article 17 of the Anti-Prostitution Act (Act No. 118 of 1956), the head of the correctional institution shall report such information immediately.
  - (4) In the case of a foreign national set forth in paragraph (1) who is serving a sentence or has been committed to a juvenile prison under a disposition prescribed in Article 24, paragraph (1), item (iii) of the Juvenile Act or to a women's guidance home under a disposition prescribed in Article 17 of the Anti-Prostitution Act, the regional parole board shall, when granting release on parole or provisional release from a juvenile person or women's guidance home, report such information immediately.
  - (5) The information set forth in the preceding four paragraphs shall be submitted, orally or in writing, to an authorized immigration inspector or immigration control officer.

(Relation to Criminal Procedures)

Article 63 (1) If procedures provided for by laws and regulations related to criminal suits, enforcement of sentences, or treatment of the inmates of juvenile prisons or women's guidance homes are being carried out with regard to any foreign national subject to deportation, deportation procedures may be taken against such foreign national pursuant to the provisions of Chapter V (except for Section 2, and Articles 52 and 53) applicable mutatis mutandis, even when he/she is not being detained. In this case, "request the appearance of a suspect" in

Article 29, paragraph (1), shall be deemed to be replaced with "request the appearance of the suspect or personally visit him/her", and "when an immigration inspector has taken delivery of a suspect pursuant to the provisions of the preceding Article" in Article 45, paragraph (1), shall be deemed to be replaced with "when, as a result of investigation into violations, a suspect has reasonable grounds to believe that the suspect falls within the category of a foreign national subject to deportation".

- (2) In cases of a written deportation order having been issued pursuant to the provisions of the preceding paragraph, the enforcement of such order shall be carried out after the procedures pursuant to the provisions of laws and regulations related to criminal suits, enforcement of sentences or treatment of inmates of juvenile homes or women's guidance homes have been completed. However, the enforcement of such an order may be carried out with the approval of the Prosecutor-General or the Superintending Prosecutor even while the foreign national is serving his/her sentence.
- (3) If an immigration inspector, when carrying out the examination set forth in Article 45 or Article 55-2, paragraph (2), finds reasonable grounds to believe that the suspect has committed a crime, he/she shall file a formal accusation against him/her with a public prosecutor.

(Delivery of the Suspect)

- Article 64 (1) If a public prosecutor has taken delivery of a suspect for an offense set forth in Article 70 but has decided not to institute prosecution, he/she shall release the suspect and deliver him/her to an immigration control officer upon presentation of a written detention order or deportation order.
- (2) If a written detention order or deportation order has been issued for a foreign national, at the time of the foreign national's release from a correctional institution, the head of the correctional institution shall, in the case referred to in Article 62, paragraph (3) or (4), deliver him/her to the immigration control officer concerned upon presentation of a written detention order or deportation order.

(Special Cases under the Code of Criminal Procedure)

- Article 65 (1) In cases where a judicial police officer has arrested or taken custody of a foreign national suspected of committing any of the offenses set forth in Article 70, or of a flagrant offender regarding such an offense, and only in cases where a written detention order has been issued and the foreign national is not suspected of any other criminal offense, the judicial police officer may deliver the suspect to an immigration control officer together with the pertinent documents and evidence, notwithstanding the provisions of Article 203 of the Code of Criminal Procedure (Act No. 131 of 1948) (including cases where it is applied mutatis mutandis pursuant to the provisions of Articles 211 and 216 thereof).
- (2) In the case referred to in the preceding paragraph, the procedure for delivering a suspect to an immigration control officer shall be undertaken within 48 hours from the time at which the suspect is taken into custody.



(Reward for Providing Information)

Article 66 If a person furnishes information pursuant to the provisions of Article 62, paragraph (1), and if such information leads to the issuance of a written deportation order, the Minister of Justice may grant such person a reward in an amount not exceeding 50,000 yen pursuant to the provisions of an Ordinance of the Ministry of Justice. However, this shall not apply to cases in which the information was based on facts which an official of the Government or a local public entity learned of in course of executing his/her duties.

(Fees)

Article 67 A foreign national shall pay a fee not exceeding 10,000 yen as separately provided by Cabinet Order to the Government for entry, issuance or a seal of verification pertaining to any of the following permits:

- (i) Permission for a change in status of residence pursuant to the provisions of Article 20, paragraph (3), main clause.
- (ii) Permission for extension of the period of stay pursuant to the provisions of Article 21, paragraph (3).
- (iii) Permission for permanent residence pursuant to the provisions of Article 22, paragraph (2).
- (iv) Re-entry permission set forth in the provisions of Article 26, paragraph (1) (including permission for extension of the validity period set forth in the provisions of the same Article, paragraph (5)).

Article 67-2 Any foreign national who is issued a certificate of authorization for employment pursuant to the provisions of Article 19-2, paragraph (1), or who receives a residence card based on the application set forth in the provisions of Article 19-13, second sentence of paragraph (1) pursuant to the provisions of Article 19-10, paragraph (2) which is applied mutatis mutandis in the same Article, paragraph (4), shall pay a fee in an amount provided by a separate Cabinet Order, which shall be determined by calculating the actual expenses.

Article 68 (1) A foreign national shall pay a fee when obtaining a refugee travel document pursuant to the provisions of Article 61-2-12, paragraph (1) or when obtaining an extension of the validity period entered in the refugee travel document pursuant to the provisions of paragraph (7) of the same Article.

(2) The amount of the fee prescribed in the preceding paragraph shall be separately provided by a Cabinet Order pursuant to the provisions of paragraph (3) of the annex to the Refugee Convention.

(Classification of Business)

Article 68-2 The business to be handled by city, town or village pursuant to the provisions of

Article 19-7, paragraph (1) and (2) (including the case of applying mutatis mutandis in Article 19-8, paragraph (2) and Article 19-9, paragraph (2)), Article 19-8, paragraph (1) and Article 19-9, paragraph (1), shall be classified as Type 1 of the statutory entrusted functions defined in Article 2, paragraph (9), item (i) of the Local Autonomy Act.

(Entrustment to a Cabinet Order and a Ministerial Ordinance)

Article 69 The procedures for the enforcement of the provisions of Chapter II through this chapter and other matters necessary for the enforcement thereof shall be provided for by an Ordinance of the Ministry of Justice(the business to be handled by mayor of city, town or village shall be provided for by a Cabinet Order).

(Delegation of Authority)

Article 69-2 The authority of the Minister of Justice provided for by the Immigration Control and Refugee Recognition Act may be delegated to the director of a regional immigration bureau pursuant to the provisions of an Ordinance of the Ministry of Justice. However, this shall not apply to the authorities prescribed in Article 22, paragraph (2) (including cases where it is applied mutatis mutandis pursuant to Article 22-2, paragraph (4) (including cases where it is applied mutatis mutandis pursuant to Article 22-3)), the authorities prescribed in Article 22-4, paragraph (1) (limited to those pertaining to the status of permanent resident), or the authorities prescribed in Article 61-2-7, paragraph (1) and Article 61-2-11.

(Transitional Measures)

Article 69-3 In cases of the enactment, revision or abolition of an order pursuant to the provisions of the Immigration Control and Refugee Recognition Act, the order may provide for necessary transitional measures, (including transitional measures regarding penal provisions) insofar as such measures are judged to be reasonably necessary for the enactment, revision or abolition of the order.

## CHAPTER IX PENAL PROVISIONS

Article 70 (1) Any person falling under any of the following items shall be punished with imprisonment with or without work for not more than 3 years or a fine not exceeding 3 million yen, or shall be subject to the cumulative imposition of imprisonment with or without work and a fine.

- (i) A person who has entered Japan in violation of the provisions of Article 3.
- (ii) A person who has landed in Japan without obtaining permission for landing from an immigration inspector.
- (iii) A person whose status of residence has been revoked pursuant to the provisions of Article 22-4, paragraph (1) (limited to persons to whom item (i) or (ii) pertains) who has remained in Japan.

- (iii)-2 A person who has received a period designation pursuant to the provisions of Article 22-4, paragraph (7) (including cases where it is applied mutatis mutandis pursuant to Article 61-2-8, paragraph (2)) who has remained in Japan beyond the period designated.
  - (iv) A person who is found to be clearly engaged solely in activities related to the management of business involving income or activities for which he/she has received remuneration in violation of the provisions of Article 19, paragraph (1).
  - (v) A person who has remained in Japan beyond the permitted period of stay (including the period for which a person may reside in Japan pursuant to the provisions of Article 20, paragraph (5) (including case where it is applied mutatis mutandis pursuant to Article 21, paragraph (4))) authorized without obtaining an extension or change thereof.
  - (vi) A person who has been granted permission for provisional landing and has fled or failed to appear at a summons without a justifiable reason in violation of the conditions imposed pursuant to the provisions of Article 13, paragraph (3).
  - (vii) A person who has been granted permission for landing at a port of call, permission for landing in transit, landing permission for crew members, permission for emergency landing, landing permission due to distress or landing permission for temporary refuge, who has remained in Japan beyond the period entered in his/her passport or permit.
  - (vii)-2 A person, who has been designated a period for departure pursuant to the provisions of Article 16, paragraph (9), who has not returned to his/her vessel or departed from Japan within that period.
  - (viii) A person prescribed in Article 22-2, paragraph (1), who has remained in Japan beyond the period prescribed in Article 22-2, paragraph (1), without receiving permission pursuant to the provisions of Article 20, paragraphs (3), main clause as applied mutatis mutandis to Article 22-2, paragraph (3), or pursuant to the provisions of Article 22, paragraphs (2), as applied mutatis mutandis to Article 22-2, paragraph (4) .
  - (viii)-2 A person who has been issued a departure order pursuant to the provisions of Article 55-3, paragraph (1), who has remained in Japan beyond the time limit for departure pertaining to the departure order.
  - (viii)-3 A person whose departure order has been revoked pursuant to the provisions of Article 55-6 who has remained in Japan.
  - (viii)-4 A person who has been granted the permission set forth in Article 61-2-4, paragraph (1), who has remained in Japan beyond the period of provisional stay.
  - (ix) A person who was recognized as a refugee due to deceit or other wrongful means.
- (2) Any person listed in the preceding items (i) or (ii) who has landed and stayed in Japan illegally shall be punished in the same manner.

Article 70-2 Any person who has committed any of the offenses set forth in items (i), (ii), (v), or (vii) of paragraph (1) or paragraph (2) of the preceding Article, may be exempt from the penalty if the evidence produced applies to all of the following items. However, this shall be limited to cases where, after having committed the act pertaining to the crime, a report was

submitted without delay in the presence of an immigration inspector corresponding to the following items:

- (i) He/She is a refugee.
- (ii) He/She entered Japan directly from a territory where his/her life, body or physical freedom was likely to be persecuted on the grounds prescribed in Article 1, paragraph A-(2) of the Refugee Convention.
- (iii) The act pertaining to the crime was committed because of reasonable grounds for the preceding item.

Article 71 Any person who has departed or who has attempted to depart from Japan in violation of the provisions of Article 25, paragraph (2), or Article 60, paragraph (2), shall be punished with imprisonment with or without work for not more than 1 year or a fine not exceeding 300,000 yen, or shall be subject to the cumulative imposition of imprisonment with or without work and a fine.

Article 71-2 Any person who falls under any of the following items shall be punished by imprisonment with work for not more than 1 year or a fine of not exceeding 200,000 yen.

- (i) Any person who made a false notification with regard to the notification set forth in the provisions of Article 19-7, paragraph (1), Article 19-8, paragraph (1), Article 19-9, paragraph (1), Article 19-10, paragraph (1) or Article 19-16.
- (ii) Any person who violates the provisions of Article 19-11, paragraph (1), Article 19-12, paragraph (1) or Article 19-13, paragraph (3).

Article 71-3 Any person who falls under any of the following items shall be punished by a fine of not exceeding 200,000 yen.

- (i) Any person who did not notify his/her place of residence in violation of the provisions of Article 19-7, paragraph (1) or Article 19-8, paragraph (1).
- (ii) Any person who did not notify the new residence in violation of the provisions of Article 19-9, paragraph (1).
- (iii) Any person who was in violation of the provisions of Article 19-10, paragraph (1), Article 19-15 (except for paragraph (4)) or Article 19-16.

Article 72 Any foreign national falling under any of the following items shall be punished with imprisonment with work for not more than 1 year or a fine not exceeding 200,000 yen, or shall be subject to the cumulative imposition of imprisonment and a fine.

- (i) When a person, after being taken into custody pursuant to a written detention order or deportation order, has escaped.
- (ii) When a person released pursuant to the provisions of Article 52, paragraph (6) has fled or has failed to appear when summoned without a justifiable reason in violation of the conditions imposed pursuant to the provisions of the same paragraph.

- (iii) When a person permitted to land for temporary refuge has escaped in violation of the conditions imposed pursuant to the provisions of Article 18-2, paragraph (4).
- (iii)-2 When a person who has been given a departure order pursuant to the provisions of Article 55-3, paragraph (1) has escaped in violation of the conditions imposed pursuant to the provisions of paragraph (3) of the same Article.
- (iii)-3 When a person who has been given the permission set forth in Article 61-2-4, paragraph (1) has fled or has failed to appear without a justifiable reason upon receiving a summons, in violation of the conditions imposed pursuant to the provisions of paragraph (3) of the same Article.
- (iv) When a person has failed to return the certificate of refugee status or refugee travel document in violation of the provisions of Article 61-2-7, paragraph (3), or Article 61-2-13.
- (v) When a person who has been ordered to return the refugee travel document pursuant to the provisions of Article 61-2-12, paragraph (8) has failed to return it within the period specified pursuant to the provisions of the same paragraph.

Article 73 Except for cases to which the provisions of Article 70, paragraph (1), item (iv) are to be applied, any person who has been engaged in activities related to the management of business involving income or other activities for which he/she has received remuneration in violation of the provisions of Article 19, paragraph (1) shall be punished with imprisonment with or without work for not more than 1 year or a fine not exceeding 2 million yen, or shall be subject to the cumulative punishment of imprisonment with or without work and a fine.

Article 73-2 (1) Any person falling under any of the following items shall be punished by imprisonment with work for not more than 3 years or a fine not exceeding 3 million yen, or shall be subject to the cumulative imposition of imprisonment and a fine.

- (i) Any person who has had a foreign national engage in illegal work in connection with business activities.
  - (ii) Any person who has placed a foreign national under his/her control for the purpose of having the foreign national engage in illegal work.
  - (iii) Any person who has arranged on a regular basis for a foreign national to engage in illegal work or who has made arrangements for the act set forth in the preceding item.
- (2) Any person who commits the acts set forth in each item of the preceding paragraph may not exempt from punishment set forth in the provisions of the same paragraph on the ground of not knowing the fact that falls under any of the following each item. Provided, however, this shall not apply in cases where the person is faultless.
- (i) Activities of such foreign national are activities related to the management of business involving income or activities for which he/she receives reward, which are not included in those activities corresponding to each status of residence.
  - (ii) Such foreign national conducts his/her activities without permission provided for by Article 19, paragraph (2).

- (iii) Such foreign national is a person listed in Article 70, paragraph (1), item (i) to (iii)-2, item (v), (vii), (vii)-2 or item (viii)-2 to (viii)-4.

Article 73-3 (1) Any person who, for the purpose of uttering, forges or alters a residence card shall be punished by imprisonment with work for not less than 1 year nor more than 10 years.

(2) The preceding paragraph shall also apply to a person who utters a forged or altered residence card.

(3) Any person who, for the purpose of uttering, offered a forged or altered residence card or received it shall be punished also as in the paragraph (1).

(4) Attempt of the crimes set forth in the preceding three paragraphs shall be punished.

Article 73-4 Any person who, for the purpose of uttering, possesses a forged or altered residence card, shall be punished by imprisonment with work for not more than 5 years or by a fine of not exceeding 500,000 yen.

Article 73-5 Any person who, for the purpose of use in for the commission of a criminal act, prepares equipments or materials shall be punished by imprisonment with work for not more than 3 years or by a fine of not exceeding 500,000 yen.

Article 73-6 (1) A person, who falls under any of the following items, shall be punished by imprisonment with work for not more than 1 year or by a fine of not exceeding 200,000 yen.

(i) A person who uttered a residence card bearing the name of another person.

(ii) A person who, for the purpose of uttering, offers a residence card bearing the name of another person, receives or possesses it.

(iii) A person who, for the purpose of uttering, offers a residence card bearing the name of himself/herself.

(2) Attempt of the crimes set forth in the preceding paragraph (except for the part pertaining to possession) shall be punished.

Article 74 (1) Any person who has had collective stowaways who are under his/her control(meaning groups of foreign nationals who have been assembled for the purpose of landing in Japan without obtaining permission for landing from an immigration inspector, or of landing and obtaining permission for landing from an immigration inspector by deceit or other wrongful means; the same shall apply hereinafter) enter into Japan or land in Japan shall be punished with imprisonment with work for not more than 5 years or a fine not exceeding 3 million yen.

(2) In cases where the person has committed the crime set forth in the preceding paragraph for the purpose of profit, he/she shall be punished with imprisonment with work for not less than 1 year nor more than 10 years and a fine not exceeding 10 million yen.

(3) Attempts of the crimes set forth in the preceding two paragraphs (limited to the part

pertaining to the act of having the stowaways land) shall be punished.

Article 74-2 (1) Any person who has transported collective stowaways who are under his/her control destined for Japan, or who has transported them to a place of landing in the territory of Japan, shall be punished with imprisonment with work for not more than 3 years or a fine not exceeding 2 million yen.

(2) In cases where the person has committed the crime set forth in the preceding paragraph for the purpose of profit, he/she shall be punished with imprisonment with work for not more than 7 years and a fine not exceeding 5 million yen.

Article 74-3 Any person who has prepared vessels or aircraft for criminal use with the intention of committing the crime set forth in Article 74, paragraph (1) or (2), or the preceding Article shall be punished with imprisonment with work for not more than 2 years or a fine not exceeding 1 million yen. The same shall be applied to any person who knowingly provided vessels or aircraft for criminal use.

Article 74-4 (1) Any person who has received, from another person who committed the crimes set forth in Article 74, paragraph (1) or (2), all or some of the foreign nationals aided in landing, or who has transported, harbored, or enabled the foreign nationals received to escape, shall be punished with imprisonment with work for not more than 5 years or a fine not exceeding 3 million yen. Any person who subsequently receives all or some of the foreign nationals from the person who originally received them, or who has transported, harbored or has enabled the foreign nationals received to escape after receiving them, shall be punished in the same manner.

(2) In cases where the person has committed the crime set forth in the preceding paragraph for the purpose of profit, he/she shall be punished with imprisonment with work for not less than 1 year nor more than 10 years and a fine not exceeding 10 million yen.

(3) Attempts of the crimes set forth in the preceding two paragraphs shall be punished.

Article 74-5 Any person who has made preparations with the intention of committing the crimes set forth in the preceding Article, paragraph (1) or (2), shall be punished with imprisonment with work for not more than 2 years or a fine not exceeding 1 million yen.

Article 74-6 Any person who has facilitated the acts prescribed in Article 70, paragraph (1), item (i) or (ii) (hereinafter referred to as "illegal entry or landing") for the purpose of profit shall be punished with imprisonment with work for not more than 3 years or a fine not exceeding 3 million yen, or shall be subject to the cumulative imposition of imprisonment and a fine.

Article 74-6-2 (1) A person falling under any of the following items shall be punished with imprisonment with work for not more than 3 years or a fine not exceeding 3 million yen, or

shall be subject to the cumulative imposition of imprisonment with work and a fine.

- (i) A person who, for the purpose of aiding another to commit illegal entry or landing, has received a refugee travel document, travel certificate, crew member's pocket-ledger or re-entry permit issued by an authorized organization of Japan using deceit or other wrongful means.
  - (ii) A person who has possessed, offered or received the following documents for the purpose of aiding another to commit illegal entry or landing.
    - (a) Documents that have been falsified to serve as a passport (except for passports prescribed in Article 2, items (i) and (ii) of the Passport Act and travel certificates prescribed in Article 19-3, paragraph (1) of the same act; hereinafter the same shall apply in this paragraph), crew member's pocket-ledger or re-entry permit.
    - (b) A passport, crew member's pocket-ledger, or re-entry permit that is invalid for the person who commits the illegal entry or landing.
  - (iii) A person who, for the purpose of violating the provisions of Article 70, paragraph (1), item (i) or (ii), has received a refugee travel document, travel certificate, crew member's pocket-ledger or re-entry permit issued by an authorized organization in Japan by deceit or other wrongful means.
  - (iv) A person who has possessed or received the following documents for the purpose of violating the provisions of Article 70, paragraph (1), item (i) or (ii).
    - (a) Documents that have been falsified to serve as a passport, crew member's pocket-ledger or re-entry permit.
    - (b) A passport, crew member's pocket-ledger or re-entry permit that is invalid for the possessor.
- (2) Any person who has committed the crime set forth in the provisions of item (i) or (ii) of the preceding paragraph for the purpose of profit shall be punished with imprisonment with work for not more than 5 years and a fine not exceeding 5 million yen.

Article 74-6-3 Attempts to commit the crimes set forth in the preceding Article (except for the part pertaining to possession) shall be punished.

Article 74-7 Crimes set forth in Article 73-2, paragraph(1), items (ii) and (iii), Article 73-3 to 73-6, Article 74-2 (except for the part pertaining to transportation within Japanese territory), Article 74-3 and the preceding three Articles shall comply with the cases set forth in Article 2 of the Penal Code.

Article 74-8 (1) Any person who has harbored or enabled foreign nationals who fall under Article 24, item (i) or item (ii) to escape for the purpose of allowing them to avoid deportation, shall be punished with imprisonment with work for not more than 3 years or a fine not exceeding 3 million yen.

(2) In cases where a person has committed the crime set forth in the preceding paragraph for the



purpose of profit, he/she shall be punished with imprisonment with work for not more than 5 years and a fine not exceeding 5 million yen.

(3) Attempts to commit the crimes set forth in the preceding two paragraphs shall be punished.

Article 75 Any person who has failed to appear without a justifiable reason, refused to testify or swear an oath or who has given false testimony in violation of the provisions of Article 10, paragraph (5) (including cases where it is applied mutatis mutandis pursuant to Article 48, paragraph (5)) shall be punished with a fine not exceeding 200,000 yen.

Article 75-2 Any person who falls under any of the following items shall be punished by imprisonment with work for not more than 1 year or by a fine of not exceeding 200,000 yen.

(i) Any person who does not receive a residence card in violation of the provisions of Article 23, paragraph (2).

(ii) Any person who refused to submit his/her residence card in violation of the provisions of Article 23, paragraph (3).

Article 75-3 Any person who does not carry a residence card on himself/herself in violation of the provisions of Article 23, paragraph (2) shall be punished by a fine of not exceeding 200,000 yen.

Article 76 Any person who falls under any of the following items shall be punished with a fine not exceeding 100,000 yen.

(i) A person who violates the provisions of Article 23, paragraph (1).

(ii) A person who has refused to present a passport, a crew member's pocket-ledger or permit in violation of the provisions of Article 23, paragraph (3).

(Concurrent Impositions)

Article 76-2 In cases where the representative of a juridical person, the agent of a juridical or natural person, the employee of a juridical or natural person, or any other person working for a juridical or natural person, has committed any of the crimes set forth from Article 73-2 or Article 74 to 74-6, any of the crimes or attempts to commit the crimes set forth in Article 74-6-2 (except for paragraph (1), items (iii) and (iv)) , or the crimes set forth in Article 74-8 in relation to the business of the juridical or natural person, such juridical or natural person, along with the person who has committed the crime, shall be punished with the relevant fine under each of the aforementioned provisions.

(Non-penal Fines)

Article 77 Any person who falls under any of the following items shall be punished with a non-penal fine not exceeding 500,000 yen.

(i) A person who has refused to undergo or has obstructed an examination or any other duty

- executed by an immigration inspector in violation of the provisions of Article 56.
- (i)-2 A person who, in violation of the provisions of Article 56-2, has allowed foreign nationals to enter Japan without checking their passports, crew member's pocket-ledgers, or re-entry permits.
  - (ii) A person who fails to report or falsely reports in violation of the provisions of Article 57, paragraph (1) or (2), fails to report in violation of the provisions of paragraph (3) of the same Article, or fails to report or falsely reports in violation of the provisions of paragraph (4) or (5) of the same Article.
  - (iii) A person who has failed to take preventive measures against landing in violation of the provisions of Article 58.
  - (iv) A person who has neglected to send back a foreign national in violation of the provisions of Article 59.

Article 77-2 When a person listed in each items of Article 61-9-3, paragraph (2), in violation of the provisions of the same paragraph, does not make a notification pursuant to the provision of Article 19-7, paragraph (1), Article 19-8, paragraph (1), Article 19-9, paragraph (1) or Article 19-10, paragraph (1), does not receive a residence card which is returned pursuant to the provisions of Article 19-7, paragraph (2) (including the case applied mutatis mutandis in Article 19-8, paragraph (2) and Article 19-9, paragraph (2)) or issued under the provisions of Article 19-10, paragraph (2) (including the case applied mutatis mutandis in Article 19-11, paragraph (3), Article 19-12, paragraph (2) and Article 19-13, paragraph (4)) or does not make an application pursuant to the provisions of Article 19-11, paragraph (1), Article 19-12, paragraph (1) or Article 19-13, paragraph (3) shall be punished with a non-penal fine not exceeding 50,000 yen.

(Confiscation)

Article 78 Any vessel, aircraft or vehicle used in the commission of a criminal act prescribed in Article 70, paragraph (1), item (i), Article 74, Article 74-2 or Article 74-4 which is owned or possessed by an offender shall be confiscated. However, this shall not apply if the vessel, aircraft or vehicle is owned by a person other than the offender and falls under any of the following:

- (i) If it is recognized that the person had no advance knowledge that the crime set forth in Article 70, paragraph (1), item (i), Article 74, Article 74-2 or Article 74-4 would be committed, and continued to own the vessel, aircraft or vehicle since the crime was committed.
- (ii) If it is recognized that the person came to acquire the vessel, aircraft, or vehicle after a crime prescribed in the preceding item was committed, without the knowledge that it had been used in the commission of a crime.