CRIMINAL STATUTES II

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II

(Translation)

MINISTRY OF JUSTICE
JAPAN

CONTENTS

THE JUVENILE LAW

(Law No. 168 of 1948, as amended by Law No. 252 of 1948, Law Nos. 143, 212 and 246 of 1949, Law Nos. 96, 98 and 204 of 1950, Law No. 59 of 1951, Law No. 268 of 1952, Law No. 86 of 1953, Law No. 126 of 1954 and Law No. 163 of 1954)

Chapter I. General Provisions

(*The Object of this Law*)

Article 1. The object of this Law is, with a view to the wholesome rearing of juveniles, to carry out protective measures relating to the character correction and environmental adjustment of delinquent juveniles and also to take special measures with respect to the criminal cases of juveniles and adults who are harmful to the welfare of juveniles.

(*Juvenile, adult and guardian*)

Article 2. The term "juvenile" as used in this Law shall mean any person under 20 years of age, and the term "adult" shall mean any person of 20 years of age or over.

2. The term "guardian" as used in this Law shall mean any person who is legally responsible to a juvenile for his custody and education or who actually has a juvenile in custody.

Chapter II. Juvenile Cases

Section I. General Provisions

(*Juveniles subject to the jurisdiction of the Family Court*)

Article 3. The Family Court shall have jurisdiction over the following juveniles:

(1) Any juvenile who is alleged to have committed an offense;

(2) Any juvenile under 14 years of age who is alleged to have violated any criminal law or ordinance;

(3) Any juvenile who is prone to commit an offense or violate a criminal law or ordinance in view of his character or environments, because of the existence of the following reasons;

(a) That he habitually does not subject himself to the reasonable control of his guardian;

(b) That he stays away from his home without good reason;

(c) That he associates with a person of criminal propensity or of immoral character or frequents places of evil reputation;

(d) That he has the propensity to commit acts harmful to the moral character of his own or of others.

2. The Family Court shall have jurisdiction over a juvenile who comes under Item 2 of the preceding paragraph, or a juvenile less than 14 years who comes under Item 3 of the preceding paragraph, only when the Prefectural Governor or Chief of the Child Guidance Center refers him to the Court.

(*Power of an assistant judge*)

Article 4. An assistant judge shall have the power to render any decision at his own discretion, except the decision provided for in Art. 20.

(*Territorial jurisdiction*)

Article 5. Territorial jurisdiction over juvenile cases shall be determined by the place of an act done by the juvenile, the place of domicile or residence of the juvenile or the place where he is at present.

2. The Family Court may, when it deems particularly necessary for the proper protection of the juvenile, transfer the case to another competent Family Court.

3. The Family Court shall, if it finds a case not falling under its jurisdiction, transfer the case to the competent Family Court.

Section II. Investigation and Hearing

(*Information*)

Article 6. Any person who has discovered a juvenile who should be subject to the jurisdiction of the Family Court shall inform the Court to that effect.

2. In case a police officer or a guardian deems that measures under the Child Welfare Law (Law No. 164 of 1947) will be more advisable for a juvenile under Item 3 of Para. 1 of Art. 3 than directly referring him or reporting his case to the Family Court, he may directly inform the Child Guidance Center of his case.

3. In case the Prefectural Governor or chief of the Child Guidance Center deems it necessary to take such compulsory measures, for a juvenile to whom the Child Welfare Law is applicable, as restricting the freedom of his conduct or depriving him of liberty, he shall refer the juvenile to the Family Court, except when such measures are authorized under Art. 33 or 47 of the said Law.

(*Family Court Pre-sentence Investigator's reports*)

Article 7. A Family Court Pre-sentence Investigator shall, if he has discovered a juvenile who should be subject to the jurisdiction of the Family Court, report the case to a judge.

2. The Family Court Pre-sentence Investigator may, prior to the report mentioned in the preceding paragraph, inquire the juvenile and his guardians about the circumstances of the case.

(*Investigation of cases*)

Article 8. The Family Court shall, when it considers, as a result of information or report as stated in the preceding two articles, that the juvenile is subject to its jurisdiction, make an investigation into the case. The same shall apply when a juvenile case which is subject to the jurisdiction of the Family Court has been sent from a Public Prosecutor, judicial police officer, Prefectural Governor or the chief of Child Guidance Center.

2. The Family Court may order a Family Court Pre-sentence Investigator to inquire a juvenile, his guardians or other persons concerned and to conduct other necessary investigations.

(*Principle of investigation*)

Article 9. In making investigations stated in the preceding article, every effort shall be made to make efficient use of medical, psychological, pedagogical, sociological and other technical knowledge, especially the result of the physical and mental examination conducted in the Juvenile Classification Home, in regard to the conduct, career, temperament and environment of the juvenile, his guardians or of other persons concerned.

(*Attendant*)

Article 10. A juvenile and his guardians may, with the approval of the Family Court, select an attendant. However, in case a lawyer is going to be selected as an attendant, the approval of the Family Court shall not be needed.

2. A guardian may become an attendant with the approval of the Family Court.

(*Summons and warrants*)

Article 11. The Family Court may, when it deems it necessary for the investigation or hearing of a juvenile case, issue a summons to the juvenile or his guardians.

2. The Family Court may issue a warrant (*Dōkōjō*) against the person who disobeys the summons mentioned in the preceding paragraph without good reason.

(*Warrants to be issued in emergencies*)

Article 12. In case the Family Court finds it necessary for the welfare of a juvenile who is in urgent need of protection, it may issue a warrant against the juvenile irrespective of the provisions of Para. 2 of the preceding article.

(*Execution of a warrant*)

Article 13. A warrant shall be executed by a Family Court Pre-sentence Investigator.

2. The Family Court may order a police officer, a Probation Officer of the Probation Office or a court clerk to execute the warrant.

(*Examination of witnesses, evidence by expert witness, interpretation and translation*)

Article 14. The Family Court may examine witnesses or give orders for presentation of evidence by expert witnesses, interpretation or translation.

2. The provisions of the Code of Criminal Procedure (Law No. 131 of 1948) relating to the examination of witnesses, evidence by expert witnesses, interpretation and translation shall apply to the case of the preceding paragraph in so far as such application does not conflict with the nature of the juvenile proceedings.

(*Inspection of evidence, seizure and search*)

Article 15. The Family Court may conduct an inspection of evidence, or make seizure or search.

2. The provisions of the Code of Criminal Procedure relating to inspection of evidence, seizure and search shall apply to the case of the preceding paragraph in so far as such application does not conflict with the nature of the juvenile proceedings.

(*Assistance and co-operation*)

Article 16. A Family Court may order a police officer, a Probation Officer of the Probation Office, a Volunteer Probation Officer, a Child Welfare Officer or a Child Welfare Worker to render his help necessary for investigation and observation.

2. The Family Court may, when it is necessary for the discharge of its functions, ask for the co-operation of a public office, public or private agency, school, hospital, etc.

(*Supervision by Family Court Pre-sentence Investigator and other measures*)

Article 17. The Family Court may, when it is necessary for conducting hearing, take the following measures, by a ruling:

(1) To place a juvenile under supervision by a Family Court Pre-sentence Investigator;

(2) To commit a juvenile to the Juvenile Classification Home.

2. In regard to a juvenile brought to the Court under the warrant mentioned earlier, the measures mentioned in the preceding paragraph shall be taken within 24 hours after his arrival at the Court, at the latest. The same shall apply in the case where the Court has received a juvenile under arrest or detention from a Public Prosecutor or judicial police officer.

3. In regard to the measure mentioned in Item 2 of Para. 1, the term of detention in a Juvenile Classification Home shall not exceed two weeks. In case particular necessity exists for extension, the Court may, by a ruling, renew the term but once. However, if with respect to a case sent again from a Public Prosecutor, the measure mentioned in Item 2 of Para. 1 has already been taken or warrant of detention has been issued, the term of detention may not be renewed.

4. If the case with respect to which the measure mentioned in Item 1 of Para. 1 has been taken by a judge upon the request mentioned in Para. 1 of Art. 43, is sent to the Family Court that measure shall be regarded as the measure mentioned in Item 1 of Para. 1

5. If the case with respect to which the measure mentioned in Item 2 of Para. 1 has been taken by a judge upon the request mentioned in Para. 1 of Art. 43 is sent to the Family Count, that measure shall be regarded as the measure mentioned in Item 2 of Para. 1. In this case, the term mentioned in Para. 3 shall be calculated from the day when the Family Court received the case.

6. The measure mentioned in Para. 1 may be withdrawn or altered. However, in regard to the measure mentioned in Item 2 of Para. 1, the whole term of detention shall not exceed four weeks.

(*Provisional detention in case of commitment to the Juvenile Classification Home*)

Article 17-2. If in cases where a Family Court has taken the measure mentioned in Item 2 of Para. 1 of the preceding article, it finds it difficult to immediately detain a juvenile in the Juvenile Classification Home, it may temporarily detain him, by a ruling, in a place especially prepared for the purpose within the compound of the nearest Juvenile Training School or jail (excluding such institutions as substituted by Para. 3 of Art. 1 of Prison Law, Law No. 28, 1908), provided that the term of detention shall not exceed 72 hours from the time of his commitment.

2. The term of the provisional detention mentioned in the preceding paragraph shall be counted in the term of detention in the Juvenile Classification Home as provided by Item 2 of Para. 1 of the preceding article and the term mentioned in Para. 3 of the same article shall be calculated from the day of provisional detention in a Juvenile Training School or jail.

3. If, with respect to the case for which the request under Para. 1 of Art. 43 has been made, a judge has detained the juvenile under Para. 1 of this article, such detention shall be regarded as done under Para. 1 of this article when the case is sent to the Family Court.

(*Measures under Child Welfare Law*)

Article 18. When the Family Court deems it proper, upon investigation, to take measures under the Child Welfare Law, it shall refer the case to the competent Prefectural Governor or chief of Child Guidance Center, by a ruling.

2. In regard to the juvenile referred from the Pretectural Governor or the chief of Child Guidance Center under the provisions of Para. 3 of Art. 6, the Family Court may send the case, by a ruling, to the competent Prefectural Governor or chief of Child Guidance Center with instructions as to the type of care and other measures to be taken for him within a specific term it designates.

(*Dismissal*)

Article 19. When the Family Court deems it impossible or improper, after investigation, to put a case to hearing it shall render a ruling not to have a hearing.

2. When it is found as the result of the investigation that the person is 20 years of age or over, the Family Court shall, by a ruling, send the case to a Public Prosecutor of the Pubilc Prosecutors Office situated at the locality of the competent District Court.

(*Sending of cases to a Public Prosecutor*)

Article 20. If, with respect to the case involving an offense punishable with death penalty, or imprisonment with or without forced labor, the Family Court finds it proper, after investigation, to put the offender to criminal proceedings in light of the nature and circumstances of the offense, it shall, by a ruling, send the case to a Public Prosecutor of the Public Prosecutors Office situated at the locality of the competent District Court. However, if the offense has been committed by a juvenile who are under 16 years of age at the time of sending, it may not send such case to a Public Prosecutor.

(*Order to proceed to hearing*)

Article 21. If the Family Court finds it proper to hear a case after investigation, it shall render a ruling to that effect.

(*Methods of hearing*)

Article 22. Hearing shall be conducted in a mild atmosphere with warm consideration.

2. Hearing shall not be opened to the public.

(*Cases not to be subject to protective measures after hearing*)

Article 23. If the Family Court finds after hearing that a case comes under Art. 18 or 20, it shall render a ruling as provided therein, respectively.

2. If the Family Court finds it impossible or unnecessary after hearing to order protective measure to a juvenile, it shall render a ruling to that effect.

3. The provision of Para. 2 of Art. 19 shall apply mutatis mutandis when it is found after hearing that the person is over 20 years of age.

(*Protective measures*)

Article 24. The Family Court shall, by means of a ruling take one of the following protective measures with respect to a case in which it has conducted a hearing except in the cases stated in the preceding article:

(1) To place the juvenile under the probationary supervision of the Probation Office;

(2) To commit the juvenile to a Child Education and Training Home (*Kyogo-in*) or a Home for Dependent Children;

(3) To commit the juvenile to a Juvenile Training School.

2. In the case of the protective measures mentioned in Items 1 and 3 of the preceding paragraph, the chief of the Probation Office may be caused to take steps concerning the adjustment of the family affairs and other environments of the juveniles.

(*Confiscation*)

Article 24-2. In case a Family Court renders the ruling mentioned in Art. 18, Art. 19, Para. 2 of Art. 23 or Para. 1 of the preceding article as regards juveniles mentioned in Item 1 or 2 of Para. 1 of Art. 3, it may, by a ruling, confiscate the articles listed below:

(1) Articles the use of which has constituted an act in violation of any criminal law or ordinance;

(2) Articles which have been used for committing an act in violation of any criminal law or ordinance, or which have been intended to be used for committing such act;

(3) Articles originating from or acquired by an act in vilolation of any criminal law or ordinance, or acquired as a reward for such act;

(4) Articles received in exchange for articles mentioned in the preceding item.

2. Articles may be confiscated only if they do not belong to persons other than the juveniles concerned. However, if, after the committal of the act violating criminal law or ordinance, persons other than the juvenile concerned have knowingly taken possession of any of the articles, they may be confiscated, even if such articles belong to persons other than the juveniles.

(*Supervision by a Family Court Pre-sentence Investigator*)

Article 25. In case a Family Court deems it necessary for determining the protective measures mentioned in Para. 1 of the preceding article, it may place, by a ruling, the juvenile under the supervision of a Family Court Pre-sentence Investigator for a reasonable term.

2. When ordering the supervision mentioned in the preceding paragraph, the Family Court may take the following measures:

(1) To fix the conditions and order the observation thereof;

(2) To return the juvenile to his guardian under such conditions as determined by the Court;

(3) To commit the juvenile to a suitable institution, agency or individual for his guidance.

(*Execution of rulings*)

Article 26. In case the Family Court has rendered the rulings mentioned in Item 2 of Para. 1 of Art. 17, Para. 1 of Art. 17-2, Arts. 18 and 20, Para. 1 of Art. 24, it may cause a Family Court Pre-sentence Investigator, court clerk, secretary and instructor of the Ministry of Justice, police officer, Probation Officer of the Probation Office or Child Welfare Officer to execute such rulings.

2. In case the Family Court finds it necessary for executing the rulings mentioned in Item 2 of Para. 1 of Art. 17, Para. 1 of Art. 17-2, Arts. 18 and 20, and Para. 1 of Art. 24, it may issue a summons to the juvenile.

3. The Family Court may issue a warrant against the person who fails to comply with the summons mentioned in the preceding paragraph without good reason.

4. In case the Family Court finds it necessary for the welfare of a juvenile who is in urgent need of protection, it may issue a warrant against the juvenile irrespective of the provision of preceding paragraph.

5. The provisions of Article 13 shall apply mutatis mutandis to the warrants provided in the preceding two paragraphs.

(*Temporary Continuation of detention in the Juvenile Classification Home*)

Article 26-2. In case the Family Court renders the rulings mentioned in Arts. 18 to 20, Para. 2 of Art. 23 or Para. 1 of Art. 24 in regard to the case for which the measures as prescribed in Item 2 of Para. 1 of Art. 17 have been taken, the Court may, if it considers it necessary, by a ruling, continue to detain the juvenile in the Juvenile Classification Home for a reasonable term. However, such term shall not exceed seven days.

(*Temporary detention in carrying out a warrant*)

Article 26-3. In carrying out a warrant mentioned in Paras. 3 and 4 of Art. 26, a juvenile for whom the ruling mentioned in Item 3 of Para. 1 of Art. 24 has been rendered, may be temporarily detained in the nearest Juvenile Classification Home if necessary.

(*Adjustment of concurrent dispositions*)

Article 27. In case a judgment of guilty has become final against an individual in the course of execution of a protective measure, the Family Court which has taken such protective measure may, if it deems it proper, withdraw such measure, by means of a ruling.

2. In case a new protective measure has been taken in the course of execution of the protective measure, the Family Court which has taken such new protective measure may withdraw, by a ruling, either of the measures after hearing the opinion of the Family Court which has taken the old one.

(*Revocation of protective measures*)

Article 27-2. In case a Family Court, in the course of execution of a protective measure, has found new data proving the fact that the Family Court had no jurisdiction over the juvenile, or it has taken the measure for the juvenile under 14 years of age without necessary procedure of reference by the Prefectural Governor or the chief of Child Guidance Center, the Family Court which had ordered the protective measure shall revoke it by means of a ruling.

2. In case the chief of a Probation Office, a Child Education and Training Home, a Home for Dependent Children or a Juvenile Training School has found reasonable data for revocation mentioned in the preceding paragraph concerning juveniles placed under protective measure they shall notify the Family Court that ordered the protective measure to that effect.

3. The provisions of Para. 1 of Art. 18 and Para. 2 of Art. 19 shall apply in case the Family Court has revoked the protective measure in accordance with the provision of Para. 1.

4. In case the Family Court has revoked the protective measure of an inmate in the Juvenile Training School in accordance with the provision of Para. 1, it may, by a ruling, continue his detention in the Juvenile Training School, if necessary. The period of his detention, however, shall not exceed three days.

(*Presentation of reports and opinions*)

Article 28. In case a Family Court has made the ruling mentioned in Art. 24 or 25, it may request the institution, agency, individual, Probation Office, Child Welfare Agency or Juvenile Training School to present a report or an opinion about the juvenile.

(*Payment of expenses for commitment*)

Article 29. When the Family Court commits a juvenile to a suitable institution, agency or individual for his guidance as a measure mentioned in Item 3 of Para. 2 of Art. 25, it may pay to them the whole or a part of the expenses incurred thereby.

(*Expenses of witnesses, etc.*)

Article 30. The provisions of laws and ordinances relating to the costs of criminal suits shall apply to the amount of travelling expenses, daily allowances, lodging and other expenses to be paid to witnesses, expert witnesses, translators or interpreters.

2. "*Sankōnin*", who is a person summoned to the court for reference information, not as a witness, may demand travelling expenses, daily allowances and lodging expenses.

3. Expenses to be paid to the person above shall be regarded as expenses to be paid to a witness and be governed by the provision of Para. 1.

(*Payment of expenses for help*)

Article 30-2. In case the Family Court has had a Volunteer Probation Officer or Child Welfare Worker render his help necessary to investigation and supervision under Para. 1 of Art. 16, it may pay the whole or a part of the expenses as determined by the Supreme Court.

(*Collection of expenses*)

Article 31. The Family Court may collect from the juvenile himself or from the person who has the duty to support him the whole or a part of the expenses which were paid to witnesses, expert witnesses, interpreters, translators or "*sankonin*" or those who were entrusted with the guidance of the juvenile as travelling expenses, daily allowances, lodging and other expenses, and of the expenses incurred in the Juvenile Classification Home or Juvenile Training School.

2. The provisions of Art. 208 of the Law of Procedure in Non-contentious Matters (Law No. 14 of 1898) shall apply to the collection of the expenses under the preceding paragraph.

Section III. Appeal

(*Appeal*)

Article 32. The juvenile himself or his legal representative or attendant may appeal within two weeks against the ruling of protective measures only on the ground that there has been a violation of law or ordinance which has influenced the ruling or there are material errors in the finding of facts or that the measure taken is remarkably improper. However, the attendant shall not appeal against the clearly expressed will of the guardian who selected him as attendant.

(*Decision in the appellate instance*)

Article 33. In case an appeal has been made in violation of the provisions concerning its procedure or it is unfounded, it shall be dismissed.

2. When the appeal is well-founded, the original ruling shall be reversed and the case shall be remanded to the original court or transferred to other Family Courts.

(*Suspension of execution*)

Article 34. An appeal shall have no effect to suspend the execution of the ruling of protective measure. However, the original court or the appellate court may, by a ruling, suspend its execution.

(*Second appeal*)

Article 35. The juvenile himself or his legal representative or attendant may again appeal to the Supreme Court within two weeks against the ruling having dismissed the appeal, only on the ground that the ruling is in violation of the provisions of the Constitution or it includes an error in the interpretation of the Constitution or a judgment contrary to the judicial precedents of the Supreme Court or High Court which has been the court of appeal. However, the attendant shall not appeal against the clearly expressed will of the guardian who selected him as attendant.

2. The provision of Art. 34 shall apply to the case of the preceding paragraph.

(*Other matters*)

Article 36. Matters other than those provided for in this law which are necessary to the juvenile proceedings shall be provided for by the Supreme Court.

Chapter III. Adult Criminal Cases

(*Prosecution*)

Article 37. The following adult cases shall be prosecuted in the Family Court:

(1) Offenses against the Law for Prohibition of Smoking for Minors (Law No. 33 of 1900);

(2) Offenses against the Law for Prohibition of Drinking of Liquors for Minors (Law No. 20 of 1922);

(3) Offenses against the following articles of the Labour Standard Law (Law No. 49 of 1947): Art. 118 relating to Art. 56 or Art. 64 concerning juveniles; Item 1 of Art. 119 relating to Para. 2 or 3 of Art. 60, Art. 62 or 63 (excluding Para. 3) concerning juveniles or Art. 72; Item 1 of Art. 120 relating to Arts. 57 to 59 inclusive or Art. 68 concerning juveniles (including enterprisers' offenses as prescribed by Art. 121 concerning these offenses);

(4) Offenses against Art. 60 of the Child Welfare Law or offenses against Para. 2 of Art. 62 relating to Para. 1 of Art. 30 of the said Law;

(5) Offenses against Art. 90 or 91 of the School Education Law (Law No. 26 of 1947).

2. In case the offenses mentioned in the preceding paragraph are in the same connection as is provided for in Para. 10 of Art. 54 of the Penal Code (Law No. 45 of 1907) with other offenses, the provisions of the preceding paragraph shall apply only if such case is to be punished with the penalties for offenses mentioned in the preceding paragraph.

(*Notification of case*)

Article 38. When the Family Court finds any case provided for in the preceding article in the course of the investigation or hearing of a juvenile case, it shall notify a Public Prosecutor or judicial police officer of that case.

(*Transfer to a District Court*)

Article 39. Deleted.

Chapter IV. Juvenile Criminal Cases

Section I. General Provisions

(*Applicable provisions*)

Article 40. Except as otherwise provided in this Law, the procedure concerning ordinary criminal cases shall apply to juvenile criminal cases.

Section II. Procedure

(*Sending of cases from a judicial police officer*)

Article 41. In case a judicial police officer believes, upon investigation of a suspected juvenile case, that there is suspicion of an offense punishable with a fine or a lesser penalty, he shall send the case to a Family Court. This shall apply in cases where he believes there are grounds that the case is subject to the jurisdiction of the Family Court, even if there is no suspicion of an offense.

(*Sending of cases from a Public Prosecutor*)

Article 42. In case a Public Prosecutor believes, upon investigation of a suspected juvenile case, that there is suspicion of an offense, he shall send the case to a Family Court, unless it is the case prescribed in the main part of Item 5 of Art. 45. This shall apply in cases where he believes there are grounds that the case is subject to the jurisdiction of the Family Court even if there is no suspicion of an offense.

(*Measures substituted for jail detention*)

Article 43. In regard to a suspected juvenile case, a Public Prosecutor may request a judge for the measure mentioned in Para. 1 of Art. 17 instead of requesting for jail detention. However, the request for the measure mentioned in Item 1 of Para. 1 of Art. 17 must be made to a judge of a Family Court.

2. Any judge who has received the request mentioned in the preceding paragraph shall have the same power as a Family Court, in regard to the measures mentioned in Para. 1 of Art. 17.

3. In regard to a suspected juvenile case, a Public Prosecutor shall not request the judge to detain him in jail unless unavoidable circumstances exist.

(*Validity of measures substituted for jail detention*)

Article 44. In case the judge has taken the measure mentioned in Item 1 of Para. 1 of Art. 17 upon the request mentioned in Para. 1 of the preceding article, and a Public Prosecutor does not send the case to a Family Court as the result of investigation, he shall request the judge to withdraw such measure without delay.

2. In case the judge is to take the measure mentioned in Item 2 of Para. 1 of Art. 17 upon the request mentioned in Para. 1 of the preceding article, he shall do it with a warrant.

3. The measure mentioned in the preceding paragraph shall be valid for ten days after the request was made therefor.

(*Handling of cases sent to a Public Prosecutor*)

Article 45. The following provisions shall apply in cases where a Family Court has sent a case to a Public Prosecutor under the provisions of Art. 20:

(1) The measure mentioned in Item 1 of Art. 17 shall lose effect unless the case is prosecuted within ten days from the date when the Public Prosecutor received the case, except in cases where the Public Prosecutor has again sent the juvenile case to the Family Court. If the case has been prosecuted, the Court may, either upon request of the Public Prosecutor or of its own motion, withdraw such measure at any time;

(2) In case a warrant of detention has been issued in the course of the measure mentioned in the preceding item, such measure shall forthwith lose effect;

(3) The measure mentioned in Item 1 above shall remain in force even after the juvenile has become 20 years of age;

(4) The measure mentioned in Item 2 of Para. 1 of Art. 17 shall be regarded as detention, and the term for such detention shall be calculated from the day when the Public Prosecutor received the case. In such case, if a warrant of detention has already been issued for the case, the term for detention may not be extended;

(5) In case a Public Prosecutor believes that there is suspicion of an offense sufficient to prosecute the case which has been sent from a Family Court, he must prosecute it. However, this shall not apply in cases where it is deemed improper to prosecute the case because there is no suspicion of the offense sufficient to prosecute in a part of the case he has received or there has been discovered new facts which are material to the extenuation of the criminal circumstances, and also in cases where it is deemed improper to prosecute the case because the circumstances have changed after the sending of the case;

(6) An attendant who is a lawyer shall be regarded as defense counsel.

(*Application of the preceding article*)

Article 45-2. The provisions of Items from 1 to 4 of the preceding article shall apply to the sending of a case to a Public Prosecutor mentioned in Para. 2 of Art. 19 or Para. 3 of Art. 23.

(*Validity of a protective measure*)

Article 46. In case the protective measures mentioned in Para. 1 of Art. 24 have been taken for a juvenile who committed an offense, he shall neither be prosecuted nor be brought to proceedings in a Family Court for the same case for which he has been tried. However, the same shall not apply in cases where the protective measure has been revoked in accordance with the provision of Art. 27–2.

(*Suspension of limitations*)

Article 47. The statutory limitations for prosecution shall stop running until the final decision of protective measure becomes binding, either after the rendition of the ruling mentioned in Art. 21 in the case of the first part of Para. 1 of Art. 8, or after the sending of the case to the Court in the case of the latter part of Para. 1 of Art. 8.

2. The provisions of the preceding paragraph shall also apply in cases where the juvenile has become 20 years of age subsquent to the rendition of the ruling mentioned in Art. 21 or the sending of his case.

(*Detention*)

Article 48. A warrant of detention shall not be issued to a juvenile unless unavoidable circumstances exist.

2. In case a juvenile is to be datained, he may be confined in a Juvenile Classification Home.

3. Even after he has become 20 years of age, the provisions of the preceding paragraph may continue to apply.

(*Separation of handling*)

Article 49. As far as possible, a juvenile suspect or an accused juvenile shall be separated from other suspected or accused persons so that he may not be in contact with them.

2. Even in cases where an accused juvenile case is connected with other accused cases, the proceedings for the juvenile criminal case shall be separated in so far as the separation does not obstract the trials.

3. Juveniles shall be separated from adults in a jail for unconvicted detention, etc.

(*Principle of trial*)

Article 50. Trials for juvenile criminal cases shall be conducted in compliance with the purport of Art. 9.

Section III. Disposition

(*Mitigation of death penalty and penalty for life*)

Article 51. In case a person who is under 18 years of age at the time of commission of an offense is to be punished with death penalty, he shall be sentenced to a penalty for life, and in case he is to be punished with the latter he shall be sentenced to imprisonment with or without forced labor for not less than 10 years nor more than 15 years.

(*Indeterminate sentence*)

Article 52. In case a juvenile is to be punished with imprisonment with or without forced labor of which maximum period is more than three years, he shall be given a sentence which prescribes the maximum and minimum periods within the limit of said penalty. However, in case he is to be punished with a penalty of which minimum period is more than five years, the minimum period shall be reduced to five years.

2. A penalty imposed according to the provisions of the preceding paragraph shall not exceed five years in the minimum and 10 years in the maximum.

3. The provisions of the preceding two paragraphs shall not apply when the execution of his penalty is suspended.

(*Number of days of detention in a Juvenile Classification Home*)

Article 53. In case the measure mentioned in Item 2 of Para. 1 of Art. 17 has been taken, the number of days of detention in a Juvenile Classification Home shall be regarded as the number of days of unconvicted detention.

(*Prohibition of a disposition substituted for penalty*)

Article 54. No juvenile shall be sentenced to confinement in a work house in lieu of payment of a fine.

(*Transfer of cases to the Family Court*)

Article 55. In case the criminal court deems it proper, as the result of the examination of facts, that an accused juvenile shall be subject to a protective measure, it shall, by a ruling, transfer the case to a Family Court.

(*Execution of sentence of imprisonment with or without forced labor*)

Article 56. In regard to a juvenile who is sentenced to imprisonment with or without forced labor, his sentence shall be executed in prisons specially established for the purpose, or in special compartments provided in prisons.

2. Even after he has become 20 years of age, the execution may be continued under the provisions of the preceding paragraph until he becomes 26 years of age.

(*Execution of sentence and protective measure*)

Article 57. In case a sentence of imprisonment with or without forced labor, or of penal detention has become final in the course of execution of a protective measure, that sentence shall first be executed. The same shall apply in cases where a protective measure has been taken before the execution of a sentence of imprisonment with or without forced labor, or of penal detention which has become final.

(*Parole*)

Article 58. Parole may be granted to a person sentenced to imprisonment with or without forced labor when he was a juvenile, after the lapse of the following periods:

(1) Seven years in case of a penalty for life;

(2) Three years in case of a penalty for a fixed term imposed under the provisions of Art. 51;

(3) One-third of minimum period in case of a penalty imposed under the provisions of Paras. 1 and 2 of Art 52.

(*Expiration of the term of parole*)

Article 59. In case a person sentenced to a penalty for life while he was a juvenile has been paroled and 10 years have passed since the parole without its rescission, he shall be regarded as having served his sentence.

2. In case a person sentenced to a penalty for a fixed term while he was a juvenile under the provisions of Art. 51 or Paras. 1 and 2 of Art. 52, has been paroled and the same length of term as that for which he served the penalty before parole or the penal term mentioned in Art. 51 or the maximum term of penalty mentioned in Paras. 1 and 2 of Art. 52 has passed since the parole without its rescission, he shall be regarded as having served his sentence at the time when the shortest of the above has passed.

(*Application of laws and ordinances concerning the qualifications of a person*)

Article 60. In case a person sentenced to a penalty for an offense he has committed while he was a juvenile has served out his term of sentence or has had the execution of his sentence remitted, he shall be regarded thereafter as not having been sentenced to a penalty, for the purpose of the laws or ordinances relating to the qualifications of a person.

2. Any person who has been sentenced to a penalty for an offense he has committed while he was a juvenile but who has received a pronouncement suspending the execution of the penalty shall be governed by the provisions of the preceding paragraph during the period of such suspension, the execution of his sentence being regarded as having been completed.

3. If, in the case of the preceding paragraph, the pronouncement suspending the execution of penalty has been rescinded, he shall be regarded as having been sentenced to a penalty at the time of its rescission, for the purpose of applying the laws or ordinances relating to the qualifications of a person.

Chapter V. Miscellaneous Provisions

(*Prohibition of publication of accounts, etc.*)

Article 61. In respect to a juvenile who has been brought to proceedings in a Family Court or a person prosecuted of an offense that he committed while he was a juvenile, such accounts or photographs as contain his name, age, occupation, dwelling, looks, etc., which may identify the said person of the case, shall not be published on newspapers or other publications.

THE MINOR OFFENSES LAW

(Law No. 39 of 1948)

Article 1. A person who comes under any of the following items shall be punished with penal detention or minor fine:

(1) A person who, without good reason, conceals himself in an uninhabited and unguarded residence, building or vessel;

(2) A person who, without good reason, surreptitiously carries on his person a sharp instrument, iron rod, or other implement which can be used to take human life or to inflict serious bodily injury;

(3) A person who, without good reason, surreptitiously carries on his person a pass-key, chisel, glasscutter, or other tool which can be used to break into the residence or building of any other person;

(4) A person who, having no means of support but possessing the physical ability to work, nevertheless lacks the inclination to follow a trade or occupation and prowls about without fixed residence;

(5) A person who, through extremely vulgar or disorderly word or conduct, annoys a members of the audience or a customer at a public hall, theater, restaurant or refreshment house, dance hall or a place of public amusement, or who annoys a passenger on a railroad train, electric car, bus, vessel, airplane or other public conveyance;

(6) A person who, without good reason, extinguishes beacons belonging to another person or lights in streets, thoroughfares or places of assembly;

(7) A person who wantonly leaves a boat or raft on a water-way, or does any other act which will obstruct traffic on a water-way;

(8) A person who, without good reason, at the time of a hurricane, flood, earthquake, fire, traffic accident, the commission of a crime or any other emergency, refuses to follow the directions of a public official or his assistant in regard to the entering or leaving of the scene (of such emergency), or who does not comply with the requests for assistance made by a public official;

(9) A person who, without due caution, lights a fire in the vicinity of a building, forest or other inflammable object or who uses a fire close to gasoline or any other readily inflammable substance;

(10) A person who, without due caution, uses or plays with fire arms, gunpowder, boilers or any other explosive objects;

(11) A person who, without due caution, throws, pours, or shoots an object into a place where there is a danger of injuring the body or property of another;

(12) A person who, without good reason, releases dogs or other animals or birds which are clearly of a disposition to harm human beings or domestic animals, or allows them to escape by neglecting to guard them;

(13) A person who, through extremely vulgar or disorderly words or conduct, annoys persons in a public place, or who through a display of force or intimidation, forces into or disturbs a queue waiting for a railroad train, electric car, bus, vessel, other public conveyance, theater or other performance, a queue waiting for a distribution of a rationed commodity, a queue waiting to purchase tickets for such conveyance or performance, or waiting to obtain such coupons in connection with the distribution of the said objects;

(14) A person who, in defiance of the restraints of a public official disturbs the peace and tranquility and annoys the neighborhood through unusually loud noises emitted by the human voice, musical instruments, the radio or other means;

(15) A person who pretends to hold a government office, a court rank, a decoration, an academic degree, or other title provided by statute or ordinance or those of a foreign country corresponding thereto, as well as a person who, in spite of a lack of authority, makes use of a uniform, medal, badge or any other emblem which is provided by statute or ordinance, or a thing made in imitation thereof;

(16) A person who makes a report to a public official regarding a fabricated crime or disaster;

(17) A person who causes an untrue item to be entered in a record used in connection with the pawn, sale, purchase, or exchange of secondhand articles, concerning name, place or

residence, occupation or other items to be recorded in accordance with the provisions of a statute or an ordinance;

(18) A person who, knowing that in a place under his custody there is an old, young, crippled, sick, or injured person who required aid, a corpse or a foetus, does not report the fact promptly to a public official;

(19) A person who, without good reason, changes the position of a foetus or the corpse of a person who has met with an unnatural death;

(20) A person who brazenly exposes his things, hips, or other parts of his body at a place exposed to public view in such a manner as to cause disgust to the public;

(21) A person who maltreats a cow, horse or other animal by beating, abusing, failing to provide necessary food or drink or by some other method;

(22) A person who begs or causes another to beg;

(23) A person who, without good reason, stealthily peeps into a house, a bath house, a dressing room, a water-closet, or other place where normally clothes are not worn or are in disarray;

(24) A person who mischievously or otherwise interferes with or obstructs a public or a private ceremony;

(25) A person who commits an act which would obstruct the flow of a river, a ditch or other waterway;

(26) A person who spits, urinates or defecates, or causes another to commit such act, on a road, in a park or at any place of public assembly;

(27) A person who wantonly throws away the carcass of bird or animal or other filth or rubbish, to the prejudice of the public interest;

(28) A person who blocks the way of, or crowds another and refuses to move; or who follows another in such a manner as to cause uneasiness or annoyance;

(29) A person who conspires to inflict an injury on the person of another, when any member of the conspiracy makes a preparatory act in furtherance of the conspiracy;

(30) A person who sets a dog or other animal on another person or animal, or who frightens a horse or cow, and causes it to run away;

(31) A person who mischievously or otherwise interferes with or obstructs another's business affairs;

(32) A person who, without good reason, goes into a place which is forbidden to be entered, or a rice paddy or other cultivated field;

(33) A person who wantonly places a bill or poster on a house or other structure of another person, or who removes a signboard, a notice of prohibition or other sign belonging to another person, or who defaces such structure or sign;

(34) A person who, when selling or distributing objects to the general public, or when furnishing services, makes an advertisement which asserts a deceiving or misleading fact.

Article 2. The punishment of a person who commits an offense provided in the preceding Article may, according to the circumstances, be remitted or detention and minor fine may be imposed together.

Article 3. A person who instigates another to commit an offense provided in Article 1, or lends assistance, shall be regarded as a principal.

Article 4. In applying the present Law, caution shall be taken to prevent unlawful infringement of the rights of the people and it shall not be applied for any other purposes in deviation from its primary objectives.

LAW FOR TEMPORARY MEASURES

CONCERNING FINES

(Law No. 251 of 1948, as amended by Law 61 of 1972)

Article 1. In view of the changing economic situation, the exceptional rules concerning the amount, etc. of fines and minor fines shall be set forth by this Law on a temporary basis.

Article 2. A fine shall be not less than 4,000 yen, regardless of the provisions of Article 15 of the Penal Code (Law No. 45 of 1907) and Article 20 of the Law for Enforcement of the Penal Code (Law No. 29 of 1908). However, in case the penalty is to be mitigated, the amount of a fine may be lowered to 4,000 yen or less.

2. A minor fine shall be not less than 20 yen and under 4,000 yen, regardless of the provisions of Article 17 of the Penal Code and Article 20 of the Law for Enforcement of the Penal Code.

Article 3. As regards the fines stipulated for the offenses mentioned below, the maximum amounts in the relevant laws shall be made 200 times as much as the maximum amount for each offense, respectively:

(1) Offenses in the Penal Code, except those in Article 152;

(2) Offenses in the Law for the Punishment of Acts of Violence, etc. (Law No. 60 of 1926);

(3) Offenses in the Law for the Adjustment of Penal Regulations concerning Economic Affairs (Law No. 4 of 1944).

2. In Article 152 of the Penal Code, "not more than 1 yen" shall be made "not more than 200 yen."

Article 4. Among the fines stipulated for offenses (excluding offenses stipulated in by-laws) other than those mentioned in each item of paragraph 1 of the preceding Article, a fine of which the maximum amount is less than 8,000 yen shall be made 8,000 yen in the maximum, and a fine of which the minimum amount is less than 4,000 yen shall be made 4,000 yen in the minimum. However, this shall not apply to an offense for which the amount of a fine is calculated by multiplying a given amount by a given number.

2. If, in applying the proviso to the preceding paragraph, the amount of a fine calculated falls short of 4,000 yen, it shall be made 4,000 yen.

3. Among the minor fines stipulated for offenses in paragraph 1, a minor fine of which the amount is specifically fixed shall be deemed to have no such fixed amount. However, this shall not apply to an offense for which the amount of a minor fine is calculated by multiplying a given amount by a given number.

Article 5. If, in cases where any law authorizes an order or ordinance to provide for a fine, the maximum amount which can be prescribed, based on such authorization, falls short of 8,000 yen, it shall be made 8,000 yen.

Article 6. In Article 25 of the Penal Code, "a fine of not more than 5,000 yen" shall be made "a fine of not more than 200,000 yen."

Article 7. In Article 60 paragraph 3, Article 199 paragraph 1 and Article 217 of the Code of Criminal Procedure (Law No. 131 of 1948), "a fine of not more than 500 yen" shall be made "a fine of not more than 100,000 yen", for offenses in the laws mentioned in each item of Article 3 paragraph 1, and "a fine of not more than 8,000 yen", for all other offenses.

2. "a fine of not more than 5,000 yen" in Articles 284 and 390 of the Code of Criminal Procedure shall be made "a fine of not more than 200,000 yen", for offenses in the laws mentioned in each item of paragraph 1 of Article 3, and "a fine of not more than 20,000 yen", for all other offenses, and "a fine of more than 5,000 yen" in paragraph 2 of Article 285 of the same Code shall be made "a fine

of more than 200,000 yen", for offenses in the laws mentioned in each item of paragraph 1 of Article 3, and "a fine of more than 20,000 yen", for all other offenses.

3. In Article 461 of the Code of Criminal Procedure, "a fine of not more than 5,000 yen" shall be made "a fine of not more than 200,000 yen."

4. In Article 495 paragraph 3 of the Code of Criminal Procedure, "20 yen" shall be made "800 yen."

Article 8. "a fine of not more than 50,000 yen" in paragraph 1 of Article 3 of the Law concerning Summary Trial Procedure for Traffic Offenses (Law No. 113 of 1954) shall be made "a fine of not more than 200,000 yen".

Supplementary Provisions (Law No. 61 of 1972.)

1. This Law shall come into force on and after July 1, 1972.
2. Those penal provisions stipulated in by-laws which are in force at the time of enforcement of this Law shall remain in force until one year elapses from the day of enforcement of this Law, regardless of the provisions of Article 2 as amended. The same shall apply, even after the lapse of said period, when these penal provisions are to be applied to acts committed before the lapse thereof.
3. The provisions of Article 4 as amended shall apply even to those penal provisions which are newly set forth or amended by laws, orders or ordinances established after the enforcement of the provisions of said Article before amended (including those laws, orders or ordinances not yet enforced at the time of enforcement of this Law).
4. The provisions of Article 6 as amended shall apply to acts committed before the enforcement of this Law as well.

THE HABEAS CORPUS LAW

(Law No. 199 of 1948)

Article 1. In accordance with the principle of the Constitution of Japan which guarantees the fundamental human rights, this Law aims at the rapid and easy restoration, by means of the judicial decision, of the physical freedom which has been unduly deprived.

Article 2. Any person who is physically restrained without due legal procedure may apply for its recovery in accordance with the provisions of this Law.

2. Any person may present the application referred to in the preceding paragraph on behalf of the person who is held under such restraint.

Article 3. The application mentioned in the preceding Article shall be made through a lawyer as the representative. However, in cases where there exist extraordinary circumstances, it can be made by the applicant himself.

Article 4. The application provided for in Article 2 may be made in writing or orally to the Hight Court or District Court which has jurisdiction over the place where the restrained person, the restrainer or the applicant resides.

Article 5. In making such application the following items shall be made clear, and necessary materials for presumptive proof shall be submitted:

(1) Name of the restrained person;
(2) Purport of the application;
(3) Fact of restraint;
(4) Restrainer known;
(5) Place of restraint known.

Article 6. The Court shall conduct trial without delay on the application under Article 2.

Article 7. The Court may, in cases where the application fails to fulfil the requirements or lacks the necessary presumptive proofs, dismiss it by means of a ruling.

Article 8. Upon receipt of the application provided for in Article 2, the Court may, on the request of the applicant or ex officio, transfer the case to another Court which has jurisdiction over it and is deemed proper.

Article 9. The Court may, except in the cases prescribed in the preceding two Articles, immediately make the necessary inquiry, in order to prepare for the examination at the time of trial, into the reason for the restraint and other matters by conducting a hearing on the statement made by the restrained person, the applicant and his representative and other interested parties.

2. The Court may cause the associate judge to make the preliminary inquiry mentioned in the preceding paragraph.

Article 10. In case of necessity, the Court may, in order to relieve the restrained person of the restraint temporarily, release him either under oath that he will present himself at any time when summoned or on the conditions deemed proper or otherwise take appropriate steps by means of a ruling, before it renders the judgment provided for in Article 16.

2. In case the restrained person referred to in the preceding paragraph has failed to appear, ignoring the summons, he may be arrested.

Article 11. The Court may dismiss the application by means of a ruling without going through due procedure of trial, when it has become evident through the preliminary inquiry that there exists no ground for the said application.

2. When the Court makes the ruling under the preceding paragraph, it shall rescind the disposal made before under the preceding Article and, causing the restrained person to present himself, deliver him to the restrainer.

Article 12. Except in the case of Article 7 or paragraph 1 of the preceding Article, the Court shall designate a certain date and place and summon for hearing the applicant or his representative, the restrained person and the restrainer.

2. The Court shall issue a habeas corpus to the restrainer ordering him to cause the person so restrained to appear at the designated date and place provided for in the preceding paragraph, and to submit a plea stating the date and place of, and the reason for, such restraint, by the day of trial in the preceding paragraph.

3. The habeas corpus mentioned in the preceding paragraph shall have the additional explicit statement in it to the effect that if the restrainer does not obey the said order, he may be arrested or detained until he obeys the order and a non-criminal fine not exceeding 500 yen for each day's delay may be imposed upon him.

4. There shall be a period of three days between the service of the said habeas corpus and the day of trial. The trial shall be held within one week from the date on which the application under Article 2 is made. However, in case there are special circumstances, these periods may be shortened or prolonged.

Article 13. The habeas corpus mentioned in the preceding Article shall be notified to the Court which has issued the warrant concerning the restraint and to the public prosecutor concerned.

2. The judges of the Court and the public prosecutor mentioned in the preceding paragraph may present themselves on the day of trial.

Article 14. The examination on the day of trial shall be conducted at an open court attended by the restrained person, the restrainer, the applicant and his representative.

2. When there is no such representative, the Court shall select one from among the qualified lawyers.

3. The representative under the preceding paragraph may request travelling expenses, daily allowances, hotel expenses and compensation.

Article 15. On the day of trial, the Court, upon hearing the statement of the applicant and the plea of the restrainer, shall examine the materials for presumptive proof.

2. The restrainer shall render credible the reason for the restraint.

Article 16. If the Court, upon examination, finds such application groundless, it shall dismiss it by a judgement, and deliver to the restrainer the person so detained.

2. In the case of the preceding paragraph, the provisions of Article 11 paragraph 2 shall apply mutatis mutandis.

3. In case the application is based on sufficient grounds, the Court shall immediately release the person under restraint by a judgement.

Article 17. In the case of trial provided for in Article 7, Article 11 paragraph 1 and in the preceding Article the restrainer or the applicant may be charged with the entire costs spent in the procedure or a part thereof.

Article 18. In case the restrainer has failed to obey the order mentioned in Article 12 paragraph 2, the Court may arrest him or keep him in custody until he obeys the order and impose on him a non-criminal fine not exceeding 500 yen per each day's delay.

Article 19. The restrainer, if notified by the person under restraint that he will engage a lawyer, shall immediately notify the lawyer nominated by the person under restraint to that effect.

Article 20. The Court which has received the application provided for in Article 2 or the Court to which the case has been transferred shall immediately notify the Supreme Court of the case and report to it on the progress and results of the steps taken in connection therewith.

Article 21. An appeal may be lodged at the Supreme Court within 3 days against the judgment made by the Inferior Court.

Article 22. The Supreme Court, if it finds such steps necessary, may cause the Inferior Court to transfer the pending case to it, irrespective of the stage of its proceedings and may deal with it.

2. In the case of the preceding paragraph, the Supreme Court may nullify or alter the decision or disposition made by the Inferior Court.

Article 23. The Supreme Court may make necessary rules governing application, hearing, decision and other matters.

Article 24. The court decision which has been rendered according to other laws and is unfavorable to the restrained person shall lose its validity so far as they conflict with the decision rendered in accordance with this Law.

Article 25. Those who have been relieved under this Law shall not be restrained on the same ground without the judgement of the Court.

Article 26. Any person who has removed or harbored, or interfered with the search of, the restrained person, or who has committed an act of preventing the relief under this Law, or intentionally made false entries in the plea mentioned in Article 12 paragraph 2 shall be punished with imprisonment at forced labor for not more than 2 years or a fine not exceeding 50,000 yen.

Supplementary Provision:

This Law shall come into force from the day when 60 days have elapsed counting from the date of its promulgation.

THE LAW FOR THE INQUEST OF PROSECUTION

(Law No. 147 of 1948 amended by Law No. 186 of 1949, Law Nos. 96 and 101 of 1950, Law No. 59 of 1951, Law Nos. 155, 265 and 268 of 1952, Law Nos. 126, 163, 164 and 187 of 1954, Law No. 148 of 1956, Law No. 91 of 1957, Law No. 19 of 1961, Law No. 27 of 1965, Law Nos. 77 and 111 of 1966 and Law No. 42 of 1971)

Chapter I. General Provisions

Article 1. For the purpose of safeguarding proper and fair exercise of the right of public action by reflecting the popular will, the Inquest of Prosecution shall be established at the location of the district court or its branch which shall be designated by Cabinet Order. However, the number of the Inquests shall not be less than 200, and there shall be no district court area without one Inquest at least.

2. The name and territorial jurisdiction of the Inquest of Prosecution shall be fixed by Cabinet Order.

Article 2. The Inquest of Prosecution shall be in charge of the following matters:

(1) Matters concerning the examination of whether or not the disposition of a public prosecutor that he will not institute a public action is proper.

(2) Matters concerning making proposals and giving advice with regard to the improvement of prosecution affairs.

2. In case the Inquest of Prosecution has received an application from the victim of a crime or a person other than such victim who has demanded prosecution or a person who has made a request for trial in a criminal case to be tried only upon such request or a person who has been injured by a crime, the Inquest shall conduct the examination referred to in item (1) of the preceding paragraph.

3. The Inquest of Prosecution may conduct, ex officio, the examination referred to in item (1) of paragraph 1 in case it decides by a majority of its meeting on the basis of the materials it has collected to carry out such examination.

Article 3. The Inquest of Prosecution shall be independent in the exercise of its authority.

Article 4. The Inquest of Prosecution shall consist of 11 members who shall be selected by lot from among the persons who have right to elect the members of the House of Representatives within the area under the jurisdiction of the Inquest.

Chapter II. Members of Inquest and Organization of Inquest

Article 5. The following persons shall not become members of the Inquest:

(1) Any person who has not finished the course of the primary school, provided that the same shall not apply to those persons who have knowledge equivalent to that which a person would have if he had finished the course of the primary school;

(2) Any person who has been adjudged bankrupt and has not yet been rehabilitated;

(3) Any person who is deaf, dumb or blind;

(4) Any person sentenced to a penalty not lighter than imprisonment at or without forced labor for one year.

Article 6. The following persons may not assume the office of the member of the Inquest:

(1) Emperor, Empress, Grand Empress Dowager, Empress Dowager and Imperial Heir;

(2) Minister of State;

(3) Judge;

(4) Public Prosecutor;

(5) Auditor of the Board of Audit;

(6) Secretary-General of the Supreme Court, private secretary to the President of the Supreme Court, private secretary to judges of the Supreme Court, instructor of the Legal Training and Research Institute, instructor of the Research and Training Institute for Court Clerks, instructor of the Research and Training Institute for Family Court Pre-sentence Investigators, private secretary to the President of the High Court, research official of the court, secretary of the court, court clerk, assistant court clerk, court stenographer, assistant court stenographer, family court pre-sentence investigator, assistant family court pre-sentence investigator, technical official of the court, marshal and bailiff;

(7) Official of the National Offenders Rehabilitation Commission, Regional Parole Board and Probation Office;

(8) Official of the Ministry of Justice;

(9) Private secretary to the Public Prosecutor-General, secretary of the Public Prosecutors Office, technical official of the Public Prosecutors Office and any other official of Public Prosecutors Office;

(10) Secretary of the Inquest of Prosecution;

(11) Member of the National Public Safety Commission, member of the prefectural Public Safety Commissions and police officials;

(12) Persons who discharges the duties of judicial police official;

(13) Member of the Defence Corps;

(14) Prison official;

(15) Economic Investigator;

(16) Tax-collector, customs-officer, official of the Monopoly Bureau;

(17) Person who engages in the enterprises such as mail, telegram, telephone, railway or tramway, and mariner;

(18) Governor of prefecture, and mayor of the city, town or village;

(19) Lawyer and patent agent;

(20) Notary public and judicial scrivener.

Article 7. In the following cases the member of the Inquest shall be excluded from the exercise of his functions:

(1) Where he is the suspect or injured party;

(2) Where he is or has been a relative of the suspect or injured party;

(3) Where he is the representative of the suspect or injured party designated by the law, supervisor of his guardian or his curator;

(4) Where he lives with the suspect or injured party or is an employee of the latter;

(5) Where he has lodged a demand for prosecution or made a request regarding the case;

(6) Where he has become a witness or expert witness in the case;

(7) Where he has become a representative or defence counsel of the suspect in the case;

(8) Where he has discharged his duties as a public prosecutor or judicial police official in the case.

Article 8. Any of the following persons may decline to assume the office of the member of the Inquest:

(1) Person who is not less than 60 years old;

(2) Member of the Diet or assembly of the local public entity. However, this shall apply during the session of the Diet or such assembly only;

(3) Official of the Diet, state government official, local government official, and school teacher;

(4) School student;

(5) Person who has obtained the Inquest's approval not to assume the office because of his serious illness, travelling overseas and other unavoidable circumstances.

Article 9. The chief of the Secretariat of Inquest shall allot the number of candidates for the members of the Inquest to each city, town or village which is located within the area under the jurisdiction of the Inquest in question on or before the 20th of December every year and shall inform the Election Administration Committee of the city, town or village to that effect.

2. The candidates for the members of each Inquest shall be divided in four panels (the first panel to the fourth panel) and the number of persons on each panel shall be 100.

Article 10. In case the Election Administration Committee of city, town or village has received the information under preceding Article, it shall select by lot, from the Election List of the House of Representatives, the candidates for the candidature for the members of the Inquest who shall belong to the first to fourth panel in double the number allotted in accordance with the provision of the same Article, examine their qualification for the member of the Inquest and select by lot from the qualified candidates for the candidature the candidates for the members of the Inquest to belong to the first to fourth panel in the number allotted in accordance with the provision of the same Article.

2. In case the qualified candidates for the candidature come short of the allotted numbers of candidates for the member of the Inquest as the result of examination under the preceding paragraph, the provision of the preceding paragraph shall apply mutatis mutandis to the filling up of the vacancy.

3. The Election Administration Committee of city, twon or village shall give notice of the place where and the date when the selection by lot shall be conducted at least 3 days prior to the day on which the selection by lot is to be conducted according to the provisions of paragraph 1 or 2.

4. In case the selection by lot is to be conducted according to the provision of paragraph 1 or 2, persons who have the right to elect members of the House of Representatives may be present thereat; Provided that at least 3 such persons must be present, if the selection is to be attended by any such persons.

5. The Election Administration Committee of the city, town or village shall make up a list of the candidates for the members of the Inquest in which the names, addresses and dates of birth shall be entered of the candidates for the members of the Inquest selected according to the provisions of paragraphs 1 and 2.

Article 11. The Election Administration Committee of the city, town or village shall send the list of candidates for the members of the Inquest not later than the 15th of January to the Secretariat of the Inquest which has jurisdiction over it.

2. In case the Election Administration Committee of the city, town or village has entered persons in the list of candidates for the members of the Inquest it shall notify them to that effect and shall publicly announce the full names of such persons.

Article 12. If any of the candidates has died, lost the right to elect the members of the House of Representatives or fallen under any of the items of Article 5 or 6, after the list of candidates for the members of the Inquest has been sent in accordance with the provisions of the preceding Article, the Election Administration Committee of the city, town or village shall, without delay, notify the Secretariat of the Inquest having the jurisdiction over it to that effect.

Article 13. The chief of the Secretariat of Inquest shall elect by lot, five members of the Inquest and their alternates from the first panel of candidates on the 31st of January every year; six such members and their alternates from the second panel of candidates on the 30th of April; five such members and their alternates from the third panel of candidates on the 31st of July; six such members and their alternates from the fourth panel of candidates on the 31st of October.

2. If the date mentioned in the preceding paragraph falls on Sunday, the selection by lot referred to in the preceding paragraph shall be conducted on the previous day.

3. The selection by lot referred to in the first paragraph shall be conducted in the presence of a judge of the District Court, a public prosecutor of the District Public Prosecutors Office and an official of the city, town or village concerned. In this case, the above persons present shall certify the selection of the members of the Inquest and their alternates.

Artile 14. The term of office of the members of the Inquest and their alternates shall be six months.

Article 15. Everytime when the members of the Inquest and their alternates have been selectd in accordance with the provisions of Article 13 paragraph 1, the meeting of the Inquest shall be held and the president of the Inquest shall be elected by mutual vote. In this case, until the president of the Inquest is elected by mutual vote, the chief of the Secretariat of the Inquest shall perform the duties of the president.

2. The president of the Inquest shall be the chairman of the meeting of the Inquest, administer the affairs of the Inquest and direct and supervise the secretaries of the Inquest.

3. The term of office of the president of the Inquest shall be until the time when the next selection is conducted in accordance with the provisions of paragraph 1 of Article 13.

4. The provisions of paragraph 1 shall apply mutatis mutandis in the case where the post of the president of the Inquest is vacant or he is suspended from discharging his duties.

5. Excepting the case provided for in the preceding paragraph, if the president of the Inquest is hindered from discharging his duties, another member of the Inquest shall temporarily discharge the duties of the president in the order previously fixed by the Inquest.

Article 16. The chief judge of the District Court or a judge serving in the Branch of the District Court shall, prior to the opening of the meeting of the Inquest referred to in paragraph 1 of the preceding Article, give the members of the Inquest and their alternates instruction to follow in discharging their duties and have them take the oath.

2. The oath shall be administered in a written oath.

3. The written oath shall have the statement that the member or alternate member of the Inquest swears that he will discharge the duties fairly and faithfully according to his conscience.

4. The chief judge of the District Court or judge serving in the Branch of the District Court shall stand up and read the written oath aloud and cause the members of the Inquest and their alternates to sign and impress their seals thereon.

Article 17. Any member of the Inquest shall, if he has been indicted on the charge of an offence punishable with penalty not lighter than imprisonment without forced labor, be suspended from discharging his duties until the judgment becomes irrevocable.

Article 18. In case the post of any member of the Inquest has become vacant or such person has been suspended from discharging his duties, the president of the Inquest shall select by lot a member to fill that vacancy from among the alternate members.

2. The selection by lot provided for in the preceding paragraph shall be conducted in the presence of a secretary of the Inquest.

Chapter III. Secretariat of Inquest and Secretary of Inquest

Article 19. There shall be a Secretariat in the Inquest of Prosecution.

Article 20. There shall be secretaries of the Inquest in each Inquest of Prosecution.

2. The secretaries of the Inquest shall be appointed by the Supreme Court from among the secretaries of the court, and the Inquest in which they are to serve shall be determined by each District Court according to the prescription of the Supreme Court.

3. The Supreme Court shall appoint one of the secretaries of each Inquest to the chief of the Secretariat of the Inquest.

4. The chief of the Secretariat of the Inquest and other secretaries of the Inquest shall take charge of the business of the Inquest under the direction and supervision of the president of the Inquest.

Chapter IV. Meeting of Inquest

Article 21. The Inquest of Prosecution shall hold its meeting on the 15th days of March, June, September and December every year.

2. The president of the Inquest may convene the meeting of the Inquest at any time if he deems it especially necessary.

3. The provision of Article 13 paragraph 2 shall apply mutatis mutandis in the case provided for in paragraph 1.

Article 22. The summonses to the meeting of the Inquest shall be issued by the president of the Inquest to all the members and alternate members of the Inquest.

Article 23. The summonses issued to the members and alternate members of the Inquest shall contain the date when and place where they shall be present and the statement to the effect that they may be punished with non-criminal fine if they do not comply with the summonses.

Article 24. The member or alternate member of the Inquest may be excused from his duties at the date of the meeting, in case he is unable to comply with the summons because of his illness or other unavoidable circumstances. In such case, he shall make the reason therefor credible by an explanation in writing.

Article 25. The Inquest of Prosecution shall not hold its meeting and make decisions unless all the members of the Inquest are present.

2. In case any member of the Inquest is not present at the date of meeting or in case a decision of exclusion has been made in accordance with the provisions of Article 34 the president of the Inquest shall select by lot a person who is temporarily to discharge the duties of the member of the Inquest from among the alternate members.

3. The provisions of Article 18 paragraph 2 shall apply mutatis mutandis in the case provided for in the preceding paragraph.

Article 26. The meeting of the Inquest of Prosecution shall not be open to the public.

Article 27. The matters taken up by the Inquest of Prosecution shall be decided by a majority of its members; Provided that in order to make a decision to the effect that it is proper to prosecute a person, concurrence of not less than eight of the members is necessary.

Article 28. The record of the meeting shall be made regarding the matters taken up by the meeting of the Inquest.

2. The record of the meeting shall be made by the secretaries of the Inquest.

Article 29. Travelling expenses, daily allowances and expenses for lodging as fixed by Cabinet Order shall be paid to the members of the Inquest and their alternates. However, the amount of these expenses and allowances shall not be less than the amount to be paid to witnesses, in accordance with the provisions of the Law concerning the Costs, etc. of Criminal Suits (Law No. 41 of 1971).

Chapter V. Application for Examination

Article 30. In case the victim of a crime or any person other than such victim who has demanded prosecution or a person who has demanded prosecution in a case which shall be tried only on the demand of a specified person or a person who has sustained a damage or injury from a crime is not satisfied with the public prosecutor's disposition that he will not institute a public action

in the criminal case concerned, he may apply to the Inquest of Prosecution having jurisdiction over the place where the Public Prosecutors Office to which the said public prosecutor belongs is situated for the examination as to whether or not the disposition is proper; Provided that the same shall not apply in the case provided for in item (4) of Article 16 of the Court Organization Law and in the case connected with the crimes violating the provisions of the Law concerning the Prohibition of Private Monopoly and the Methods of Preserving Fair Trade.

Article 31. The application for the examination shall be made in writing and the reason therefor shall be cleary indicated.

Article 32. When a decision has been rendered by the Inquest of Prosecution as to whether or not the disposition of a public prosecutor that he will not institute a public action is proper, further application for examination of the same case shall not be made.

Chapter VI. Procedure of Examination

Article 33. The order of examinations to be conducted upon application shall be according to the order of the application therefor; Provided that the president of the Inquest may change the order if he considers it especially urgently necessary to change it.

2. The order of examinations to be conducted ex officio shall be determined by the president of the Inquest.

Article 34. The president of the Inquest shall notify the members of the Inquest of the name, occupation and residence of the suspected person and ask them whether or not there exists any reason for keeping them from discharging their duties.

2. In case the member of the Inquest deems there exists any reason for his exclusion, he shall state to that effect.

3. In case the meeting of the Inquest deems there exists any reason for exclusion, it shall make a decision of exclusion.

Article 35. The public prosecutor shall, when he is requested by the Inquest of Prosecution, present materials necessary for examination or be present at the meeting and state his opinion.

Article 36. The Inquest of Prosecution may make inquiries with public offices or organizations public or private and request for report on necessary matters.

Article 37. The Inquest of Prosecution may summon the person who has made the application for examination or the witnesses and interrogate him.

2. The Inquest of Prosecution may, in case a witness does not comply with such summons, demand the Summary Court having jurisdiction over the area where the Inquest in question is located to summon the witness.

3. In case the demand referred to in the preceding paragraph has been made, the court shall issue a writ of summons.

4. To the court summons referred to in the preceding paragraph the Code of Criminal Procedure shall apply mutatis mutandis.

Article 38. The Inquest of Prosecution may request the presence of the person deemed proper and ask technical advice regarding laws and other matters.

Article 39. Travelling expenses, daily allowances and expenses for lodging as fixed by Cabinet Order shall be paid to witnesses and those whose advice has been sought in accordance with the provisions of the preceding Article. However, the amount of these expenses and allowances shall not be less than the amount to be paid to witnesses in accordance with the provisions of the Law concerning the Costs, etc. of Criminal Suits.

Article 40. The Inquest of Prosecution shall, when it has made a decision as a result of examination, prepare a written decision containing the reasons therefor, send its copies to the Chief of the District Public Prosecutors Office who directs and supervises the public prosecutor concerned and to the Committee for Examination of Qualification of Public Prosecutors, put up notice of the gist of the decision on the bulletin board of the secretariat of the Inquest for seven days after such decision has been made, and in case a person has made an application in accordance with the provisions of Article 30, he shall be notified of the gist of the decision of the case in which he has made the application.

Article 41. The chief prosecutor of the District Public Prosecutors Office shall, in case a copy of the decision has been sent to him in accordance with the provisions of the preceding Article, take proceedings for an indictment, if he deems, after consideration of the decision, a public action should be instituted.

Chapter VII. Proposal and Advice

Article 42. The Inquest of Prosecution may, at any time, make proposals and give advice to the Chief prosecutor of the District Public Prosecutors Office regarding the improvement of prosecution business.

Chapter VIII. Penal Provisions

Article 43. In the following cases, the member or alternate member of the Inquest of Prosecution shall be liable to a non-criminal fine not exceeding 10,000 yen:

(1) Where he does not comply with the summons to the meeting of the Inquest without due reason;

(2) Where he has refused to take oath.

2. The same shall apply in the case where a witness who has been summoned by the court in accordance with the provisions of Article 37 paragraph 3 does not comply with the summons without due reason.

Article 44. In case the member of the Inquest has disclosed the proceedings of the meeting, the opinion of a member or the number of the persons holding an opinion, he is liable to a fine not exceeding 10,000 yen.

2. In case any of the matters mentioned in the preceding paragraph appear in the newspaper or any other publication, the editor and the publisher in the case of a newspaper and the writer and the publisher in the case of any other publication shall be liable to a fine not exceeding 20,000 yen.

Article 45. Any person who has solicited any member of the Inquest to misuse or abuse his position regarding the duties provided for in Article 2 paragraph 1 item (1) shall be liable to imprisonment at forced labor for a period not more than one year or a fine not exceeding 20,000 yen.

Chapter IX. Supplementary Rules

Article 46. The expenses for the Inquest of Prosecution shall be appropriated as part of the expenses for Courts in the national budget.

Article 47. In the case of the city specified in Article 255–19 paragraph 1 of the Local Autonomy Law, the provisions regarding the city in this law shall apply to the ward (KU).

Article 48. Matters necessary for the enforcement of this Law shall be provided for by Cabinet Order.

Supplementary Provisions:

1. This law shall come into force as from the day of its promulgation.
2. The first selection of members and alternate members of the Inquest after this law comes into effect shall be conducted on the 31st of January 1949. In this case, the number of the members of the Inquest and their alternates shall be 11 respectively and the term of office for 6 out of the 11 members and alternate members respectively shall be three months and that for the remaining 5 shall be six months and who shall be the six or the five shall be determined by lot on the occasion of the selection of the members and alternate members of the Inquest.

THE CRIMINAL COMPENSATION LAW

(Law No. 1 of 1950, as amended by Law No. 208 of 1952, Law No. 68 of 1953 Law No. 58 of 1954, Law Nos. 71 and 86 of 1964, and Law No. 75 of 1968)

(*Requisites for compensation*)

Article 1. In case any person who has been acquitted by a decision rendered in the ordinary procedure, the retrial proceedings, or the procedure of extraordinary appeal as stipulated in the Code of Criminal Procedure (Law No. 131 of 1948), had been placed under arrest, or detention in pendency according to the said Code, the Juvenile Law (Law No. 168 of 1948), or the Economic Investigation Agency Law (Law No. 206 of 1948), he may claim against the Government for the compensation for such arrest or detention.

2. In case any person who has been rendered a decision of "not guilty" in the appeal after the recovery of right to appeal, the retrial proceedings, or the procedure of extraordinary appeal, had already suffered the penalty imposed by the original judgment, or had been confined pursuant to the provisions of Article 11 paragraph 2 of the Penal Code (Law No. 45 of 1907), he may claim against the Government for the compensation for such execution of penalty or confinement.

3. Arrest under a writ of commitment as prescribed in Article 484 to Article 486 inclusive of the Code of Criminal Procedure (including cases wherein these provisions apply mutatis mutandis under Article 505 of the said Code), detention pursuant to the provision of Article 481 paragraph 2 of the said Code (including cases wherein this provision applies mutatis mutandis under Article 505 of the said Code), and arrest and detention under a warrant of arrest pursuant to Article 41 of the Offenders Rehabilitation Law (Law No. 142 of 1949) or Article 10 of the Law for Probationary Supervision of Persons under Suspension of Execution of Sentence (Law No. 58 of 1954), shall be deemed to be the execution of penalty or the confinement for death penalty, in regard to the application of the provisions of the preceding paragraph.

(*Claim for compensation by successor*)

Article 2. In case a person entitled to claim the compensation in

accordance with the provisions of the preceding Article died without making such claim, his successor may make such claim for the compensation.

2. In case a decision of "not guilty" in the retrial proceedings, or the procedure of extraordinary appeal has been rendered to the person who already died, such decision of "not guilty" shall be deemed to be rendered at the time of his death in regard to the claim for compensation.

(*Cases not compensated*)

Article 3. The whole or a part of the compensation may, at the proper discretion of the court, be denied in the following cases:

(1) Where it is deemed that the person in question has come to be prosecuted, arrested, detained, or convicted by making false confession for the purpose of misleading investigations or trials, or by forging other evidences for such conviction;

(2) Where he has been rendered a decision of "not guilty" for a portion of his concurrent offenses, but convicted in others by a decision.

(*Substance of compensation*)

Article 4. With regard to the compensation for arrest or detention the amount of compensation at the rate of not less than 600 yen nor more than 1,300 yen shall be paid according to the number of days thereof, except for the cases as provided for in the preceding Article and paragraph 2 of the following Article. The same shall apply to the compensation for the execution of imprisonment with or without forced labor, or penal detention, or confinement for death penalty.

2. The court shall, when determining the amount of compensation as stipulated in the preceding paragraph, take into consideration the kind of physical restraint and the length thereof, damages on property of the person in question, loss of benefits which were to be obtained by him, his spiritual suffering and physical injuries as well as the existence or non-existence of the intention or negligence on the part of the police, prosecution or judicial authorities, and all other circumstances.

3. With regard to the compensation for the execution of death penalty, the court shall pay such amount of compensation within the limit of 3,000,000 yen as the court may deem reasonable: Provided that, in case damages on property caused by the death of the person in question have been proved, the amount of compensation shall be within the amount of the above damages plus 3,000,000 yen.

4. The court shall, when determining the amount of compensation as mentioned in the preceding paragraph, take into consideration, in addition to the amount of damages proved under the proviso to the same paragraph, the age, health, earning capacity of the person in question and other circumstances.

5. With regard to the compensation for the execution of fine or minor fine, the compensation equivalent to the amount of fine or minor fine already collected plus the amount computed at the rate of five per cent per annum for the period from the next day of the collection thereof to the day of the ruling on compensation shall be paid. In case detention in a working place has been executed, the provisions of paragraph 1 shall apply mutatis mutandis.

6. With regard to the compensation for the execution of confiscation, the confiscated articles shall, if not disposed of, be returned, and in case the confiscated articles have already been disposed of, the compensation equivalent to the current price thereof shall be paid, and as to the forfeit already collected, the compensation equivalent to the amount of the forfeit plus the amount computed at the rate of five per cent per annum for the period from the next day of the collection thereof to the day of the ruling on compensation shall be paid.

(*Relation with compensation for damages*)

Article 5. This Law shall not preclude any person entitled to receive compensation from claiming for compensation for damages in accordance with the provisions of the State Redress Law (Law No. 125 of 1947), and other laws.

2. In case the person entitled to receive compensation has been compensated for damages on the same cause by virtue of other laws, no compensation shall be paid if such compensation for damages is equal to or exceeds the amount of compensation to be paid under

this Law. In case such compensation for damages is less than the amount of compensation to be paid under this Law, the amount of compensation shall be determined by subtracting the amount of compensation for damages therefrom.

3. In case a person entitled to receive compensation for damages under other laws has already been compensated in accordance with this Law for the same cause, the court shall fix the amount of such compensation for damages by subtracting the amount compensated therefrom.

(*Competent court*)

Article 6. Application for compensation shall be made to the court rendering the decision of "not guilty."

(*Period of application for compensation*)

Article 7. Application for compensation shall be made within three years from the day on which a decision of "not guilty" has become final and conclusive.

(*Substantiation of successor*)

Article 8. In case the successor makes application for compensation, he shall submit data sufficient to make credible his relationship with the person in question and existence or non-existence of other successor or successors in the same rank.

(*Application by proxy for compensation*)

Article 9. Application for compensation may be made by proxy.

(*Application for compensation by successor in the same rank*)

Article 10. In case there exist two or more successors in the same rank entitled to make application for compensation, the application therefor made by any of them shall be deemed to have been made for the whole amount on behalf of all.

2. In the case of the preceding paragraph, the successors other than the person who made the application may participate in the proceedings as joint applicants.

(*Notification to successor in the same rank*)

Article 11. Upon receipt of an application for compensation from a successor or successors, the court shall, when becoming aware of the fact that there are other successors in the same rank, forthwith notify such successors in the same rank to the effect that an application for compensation has been filed.

(*Cancellation of application for compensation by successors in the same rank*)

Article 12. In case there exist two or more successors in the same rank entitled to make application for compensation, the person who has applied for compensation cannot cancel his application without the consent of the other successors.

(*Effect of cancellation of application for compensation*)

Article 13. In case a person applied for compensation cancels his application, he cannot apply again for compensation.

(*Decision on application for compensation*)

Article 14. The court shall, when an application for compensation is submitted, make ruling thereon after seeking the opinion of the public prosecutor and the applicant. The transcript of such ruling shall be served upon the public prosecutor and the applicant.

(*Ruling on turning down of application for compensation*)

Article 15. In case the procedure for compensation taken is in contravention of the forms as prescribed in laws or ordinances, and cannot be corrected, or the applicant does not comply with the order for correction by the court, or an application for compensation was made after the expiration of the period as stipulated in Article 7, the court shall make a ruling to turn down the application.

(*Ruling for compensation or dismissal of application*)

Article 16. The court shall, in case an application for compensation is supported by reasons, make a ruling in favor of compensation. In case it is not supported with reason, the court shall make a ruling to dismiss the application.

(*Effect of ruling to successors in the same rank*)

Article 17. In case there are two or more successors in the same rank entitled to make application for compensation, such ruling as mentioned in the preceding Article made to any one of them shall be deemed to have been rendered to all the members therein.

(*Interruption or taking over of proceedings for application for compensation*)

Article 18. In case the person who applied for compensation dies, or loses the status of a successor in the course of the proceedings,

and there is no other applicant, the proceedings therefor shall be interrupted. In this case, the successor of the person who has applied therefor or any successor in the same rank with the person who applied may take over the proceedings within two months.

2. With regard to the person entitled to take over the proceedings in accordance with the provisions of the preceding paragraph and known to the court, the court shall notify him to the effect that he may take over the proceedings within the period as stipulated in the said paragraph.

3. The court shall, in case an application for taking over the proceedings has not been filed within the period as specified in paragraph 1 above, turn down the application for compensation by a ruling.

(*Immediate Kokoku-appeal or objection*)

Article 19. The applicant or any successor thereof in the same rank may make the immediate Kokoku-appeal with regard to the ruling as provided for in Article 16; Provided that, if the court that has made a ruling is a High Court, an application for objection may be filed with the said High Court.

2. In regard to the ruling made on the immediate Kokoku-appeal or the objection as mentioned in the precedig paragraph, a Kokoku-appeal may, in case there exist such causes as set forth in each item of Article 405 of the Code of Criminal Procedure, be made especially to the Supreme Court.

3. The provisions of Article 9 to Article 15 inclusive, and of Article 17 and the preceding Article shall apply mutatis mutandis in the cases of the preceding two paragraphs.

(*Application for payment of compensation*)

Article 20. The application for payment of compensation shall be made to the court that has rendered such ruling in favor of compensation.

2. In case there are two or more persons entitled to receive the payment of compensation, an application for payment of compensation filed by any one of them shall be deemed to have been made for the whole amount on behalf of all the persons who obtained such ruling in favor of compensation.

3. The provisions of Article 11 shall apply mutatis mutandis in such cases as the court has received an application for payment of compensation.

(*Effect of payment of compensation*)

Article 21. In case there are two or more persons entitled to receive the payment of compensation, the payment thereof made to any one of them shall be deemed to have been made for all.

(*Prohibition of transfer or attachment of right to claim*)

Article 22. Right to claim for compensation shall not be transferred, nor be attached. The same shall also apply to the right to claim for the payment of compensation.

(*Mutatis mutandis application*)

Article 23. Unless as otherwise prescribed in this Law, the provisions of the Code of Criminal Procedure shall apply mutatis mutandis to the ruling, immediate Kokoku-appeal, objection, and Kokoku-appeal as specified in Article 19 paragraph 2 in this Law. As to the period, the same shall apply thereto.

(*Publication of ruling on compensation*)

Article 24. The court shall, in case the ruling on compensation has become final and conclusive, forthwith make public its gist in the Official Gazette and in not more than three different kinds of newspapers chosen by the applicant for more than once on each occasion upon application of the person who obtained such ruling.

2. Such application as mentioned in the preceding paragraph shall be made within two months after the ruling in favor of compensation has become final and conclusive.

3. In case such publication as mentioned in paragraph 1 above has been made, the application as stipulated in the said paragraph shall not be made again.

4. The provisions of the preceding three paragraphs shall apply mutatis mutandis in cases wherein the ruling on the dismissal of the application for compensation by the reasons as provided for in the former part of Article 5 paragraph 2 has become final and conclusive.

(*Compensation in the case of acquittal or dismissal of public prosecution*)

Article 25. Any person who obtained the decision of acquittal or dismissal of public prosecution as prescribed in the Code of Criminal Procedure may, in case there exist sufficient causes to believe that the decision of "not guilty" should have been rendered if there had been no reasons to render the decision of acquittal, or dismissal of public prosecution, apply to the Government for the compensation for arrest or detention, or the execution of penalty or the confinement for death penalty.

2. With regard to the compensation as prescribed in the preceding paragraph, the provisions concerning the compensation for persons who obtained the decision of "not guilty" shall apply mutatis mutandis. The same shall also apply to the publication of ruling in favor of compensation.

(*Compensation in the case of extradition of fugitive offenders*)

Article 26. In case Japan has requested a foreign country for the extradition of a fugitive offender in accordance with an extradition treaty, the arrest or detention executed by that country for the extradition shall be deemed to be the arrest or detention as stipulated in the Code of Criminal Procedure.

THE REGULATIONS FOR SUSPECT'S COMPENSATION

(The Ministry of Justice Instruction No. 1 of 1957, as amended by Ministry of Justice Instruction No. 3 of 1964, and Ministry of Justice Instruction No. 4 of 1968)

The following is enacted as the Regulations for Suspect's Compensation:

The Regulations for Suspect's Compensation

(*General Provisions*)

Article 1. These Regulations provide for the criminal compensation of persons who have been arrested or detained as suspects.

2. These Regulations shall be reasonably administered in accordance with the principle of respecting human rights and taking into account individual circumstances.

(*Conditions of Compensation*)

Article 2. When a public prosecutor makes a disposition not to institute a prosecution against a person who has been arrested or detained and there are sufficient reasons to find that that person has not committed the crime, the public prosecutor may compensate him for his arrest or detention.

(*Method of Compensation*)

Article 3. Compensation shall be made by giving the person an amount not exceeding 1,300 yen per day for the period of his arrest or detention.

2. When the person has died the compensation money may be given to his successor or any other person deemed proper, in case of necessity.

(*Criteria for Discretionary Determination*)

Article 4. In determining the necessity and the amount of compensation the public prosecutor shall take into consideration the following factors and other circumstances:

(1) Mental and material damages;

(2) Whether or not any other facts which were investigated during the arrest or detention constitute any other crime;

(3) The desires of the person with respect to compensation.

2. There shall be no compensation in the following cases unless there exist particular circumstances justifying it:

(1) When the act of the person is rendered not punishable under the provisions in Article 39 to 41 of the Penal Code, inclusive;

(2) When it is found that the person has caused his own arrest or detention by making a false confession or otherwise fabricating incriminating evidence for the purpose of misleading the investigation or trial.

(*Public Prosecutor in Charge*)

Article 5. The decision on compensation shall be rendered by the public prosecutor of the public prosecutors office to which the public prosecutor who has decided not to institute the prosecution belongs. However, if such public prosecutors office is a local public prosecutors office, a public prosecutor of the district public prosecutors office superior to it shall make such decision.

(*Decision on Compensation*)

Article 6. In deciding a case concerning compensation the public prosecutor shall prepare a written decision on compensation.

2. When a decision to make compensation has been rendered or when a decision not to make compensation has been rendered upon an application for compensation, the person who is entitled to receive the compensation or the applicant shall be notified of the gist of the decision.

(*Limited Period for Receiving Compensation*)

Article 7. If the person who is to receive the compensation fails to apply for the receipt of the money within six months of the day of his receiving the notification under the preceding Article, the public presecutor shall not give him the amount.

(*Publication of Compensation*)

Article 8. If the person who has received compensation money applies for the publication of the compensation within thirty days of the day of his receiving the money, the public prosecutor shall publicize the gist of the decision awarding compensation in the Official Gazette and a newspaper deemed proper, or in either of them.

END