

## **Proposed Law Concerning Protection of Personal Information**

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This Law was adopted in light of the dramatic expansion in the use of Personal Information in conjunction with the development of high-level information communication in modern society. It has the purpose of protecting the rights and welfare of individuals, while

considering the usefulness of Personal Information, by setting forth the basic philosophy and basic governmental policy with respect to the proper handling of Personal Information and the determination of matters which form the basis of measures concerning the protection of Personal Information. It also makes explicit the duties, etc., of the national government and local public entities, as well as set forth obligations, etc., to be upheld by businesses which handle Personal Information.

## Article 2 (Definitions)

1. The phrase “Personal Information” as used in this Law means information that relates to living individuals and which can be used to identify specific individuals by name, date of birth, or other description (including that which can be easily compared with other information and thereby used to identify specific individuals).

2. In this Law, the phrase “Personal Information Databases, Etc.” refers to the collection of information including Personal Information, as follows:

i. Information which is structurally constituted so as to be able to easily retrieve specific Personal Information by use of a computer;

ii. In addition to information described in the previous Sub-paragraph, that set forth by government ordinance as being structurally constituted so as to be able to easily retrieve specific Personal Information.

3. In this Law, the phrase a “Businesses Handling Personal Information” refers to a person who uses Personal Information Databases, Etc., for business operations, but excludes the following:

i. Organs of the national government;

ii. Local public entities;

iii. Independent administrative corporations, etc. (referring to hereinafter as independent administrative corporations, etc. as provided in the Law on Protection of Personal Information Held by Independent Administrative Corporations, Etc. (2003 Law No. \_\_\_), Article 2, Paragraph 1);

iv. Persons designated by government ordinance as being little or no threat to the rights or welfare of individuals from the standpoint of the quantity of Personal Information handled and the method of use.

4. In this Law, the phrase “Personal Data” refers to Personal Information which makes up a Personal Information Database, Etc.

5. In this Law, the phrase “Held Personal Data” refers to Personal Data over which a Businesses Handling Personal Information has the authority to disclose, to make corrections, additions, or deletions of content, to cease use, to eliminate, or to cease providing to third parties, and is other than information which has been set forth by government ordinance as

being information the exposure of the existence of which clearly threatens the public welfare or other welfare, or which is to be eliminated within a period of not more than one year as specified by government ordinance.

6. In this Law, the phrase “Principal” as used with respect to Personal Information refers to a specific individual identified by Personal Information.

### Article 3 (Basic Philosophy)

In view of the fact that Personal Information should be treated with care based on the philosophy of respect for personality of an individual, Personal Information must be treated appropriately.

## Chapter 2 Duties of National Government and Local Public Entities, Etc.

### Article 4 (Duties of National Government)

The national government shall have the duty to comprehensively devise and execute measures necessary to secure the appropriate handling of Personal Information in accordance with the spirit of this Law.

### Article 5 (Duties of Local Public Entities)

Local public entities shall have the duty to devise and execute measures necessary to secure the appropriate handling of Personal Information according to the characteristics of the regions under the jurisdiction of such local public entities in accordance with the spirit of this Law.

### Article 6 (Measures, Etc., under the Legislative System)

1. The Government, in light of the characteristics of the Personal Information held with respect to national administrative agencies, and the purpose of maintaining Personal Information and like factors, shall take measures under the legislative system and other measures as necessary in order to maintain the appropriate handling of Personal Information held by national administrative agencies.

2. The Government shall take measures under the legislative system and other measures as necessary to in order to maintain the appropriate handling of Personal Information held by independent administrative corporations, etc. in accordance with the character and operational content thereof.

3. The Government shall take measures under the legislative system and other measures as necessary, in addition to those set forth in the foregoing two Paragraphs, in light of the nature of, and method of using, Personal Information, with respect to Personal Information for which particularly strict execution of appropriate handling must be maintained in order to further protect individual rights and benefits, so that special measures are devised for the protection of such information.

## Chapter 3 Measures, Etc. for the Protection of Personal Information

### Subchapter 1: Basic Policy Concerning the Protection of Personal Information

#### Article 7

1. The Government must set forth a basic policy (hereinafter, the “Basic Policy”) concerning the protection of Personal Information in order to promote comprehensive and consistent measures concerning the protection of Personal Information.
2. The Basic Policy shall determine matters set forth in the following Sub-paragraphs:
  - i. Basic direction concerning the promotion of measures relating to the protection of Personal Information;
  - ii. Matters relating to measures for the protection of Personal Information to be implemented by the national government;
  - iii. Basic matters relating to measures for the protection of Personal Information to be implemented by local public entities;
  - iv. Basic matters relating to measures for the protection of Personal Information to be implemented by independent administrative corporations, etc.;
  - v. Basic matters relating to measures for the protection of Personal Information to be implemented by Businesses Holding Personal Information and Approved Personal Information Protecting Organizations as provided in Article 40, Paragraph 1;
  - vi. Matters relating to the efficient processing of grievances relating to the handling of Personal Information;
  - vii. Other important matters relating to the promotion of measures concerning the protection of Personal Information
3. The Prime Minister must, upon hearing the opinions of the Social Policy Council, devise a proposal for the Basic Policy, and request its adoption by the Cabinet.
4. The Prime Minister must publicly announce the Basic Policy without delay upon its adoption by the Cabinet pursuant to the previous Paragraph.
5. The provisions of the previous two Paragraphs shall be applicable to modifications of the Basic Policy.

## Subchapter 2. Measures of the National Government

### Article 8 (Assistance to Local Public Entities, Etc.)

The national government, in order to support measures devised and executed by local public entities relating to the protection of Personal Information as well as activities for ensuring the appropriate handling of Personal Information by citizens and businesses, shall provide information and devise policies for businesses so that such businesses can implement appropriate and effective measures as required.

### Article 9 (Measures for Processing Grievances)

The national government shall adopt measures necessary to achieve the fair and timely processing of grievances occurring between businesses and Principals in relation to the handling of Personal Information.

### Article 10 (Measures for the Securing of Appropriate Handling of Personal Information)

The national government shall adopt measures necessary to secure the appropriate handling of Personal Information by Businesses Handling Personal Information provided in the following Chapter through the appropriate sharing of responsibilities with local public entities.

## Subchapter 3. Measures of Local Public Entities

### Article 11 (Protection of Held Personal Information)

Local public entities, in light of the nature of Personal Information held by such entities, the purposes for which such Personal Information is held, and like factors, must make every effort to adopt measures necessary in order to secure the appropriate handling of Personal Information held by such entities.

### Article 12 (Assistance to Businesses and Other Persons within Jurisdiction)

Local public entities must make every effort to adopt measures necessary to assist businesses and residents within their areas of jurisdiction in order to secure appropriate handling of Personal Information.

### Article 13 (Mediation in the Processing of Grievances)

Local public entities must make every effort to mediate in the processing of grievances and adopt other necessary measures in order to achieve the appropriate and timely handling of grievances arising between businesses and Principals relating to the handling of Personal Information.

Subchapter 4. Cooperation between National Government and Local Public Entities

Article 14

The national government and local public entities shall mutually cooperate in the adoption of measures concerning the protection of Personal Information.

Chapter 4 Duties, Etc., of Businesses Handling Personal Information

Subchapter 1. Duties of Businesses Handling Personal Information

Article 15 (Specification of Purpose of Use)

1. A Business Handling Personal Information must specify to the extent possible the purpose of use in the handling of Personal Information (hereinafter, "Purpose of Use").

2. If a Business Handling Personal Information changes its Purpose of Use, such change must not exceed the scope reasonably recognized as having an appropriate connection with the original Purpose of Use.

Article 16 (Limitations on the Purpose of Use)

1. A Business Handling Personal Information shall not handle Personal Information to an extent beyond that necessary to achieve the Purpose of Use specified pursuant to the previous Article without obtaining the prior consent of the Principal.

2. A Business Handling Personal Information, if it acquires Personal Information due to succeeding to the business operations of another Business Handling Personal Information for reasons such as merger, shall not handle that Personal Information to an extent beyond that necessary in order to achieve the Purpose of Use prior to that succession without obtaining the prior consent of the Principal.

3. The provisions of the previous two Paragraphs shall not apply in any of the cases described in the following Sub-paragraphs:

- i. If pursuant to a law or ordinance;
- ii. If necessary for the protection of human life, safety, or property, and when it is difficult to obtain the consent of the Principal;
- iii. If necessary in particular in order to improve public hygiene or promote the health of children, and when it is difficult to obtain the consent of the Principal;
- iv. If cooperation is necessary in the execution of an operation set forth by law or ordinance by an institution of the national government, a local public

entity, or a person delegated thereby, and there is fear that the execution of that operation would be hindered by obtaining consent of the Principal.

Article 17 (Appropriate Acquisition)

A Business Handling Personal Information shall not acquire Personal Information by fraud or other unfair means.

Article 18 (Notification, Etc., of the Purpose of Use in Acquisition)

1. In acquiring Personal Information, a Business Handling Personal Information must promptly notify the Principal of, or publicly announce, the Purpose of Use, except where that Purpose of Use has already been publicly announced.

2. Notwithstanding the provisions of the previous Paragraph, if a Business Handling Personal Information acquires the Personal Information of a Principal described in a contract or other document (including records created in a format such as an electronic format, magnetic format, or other format that cannot be recognized by human senses; likewise hereinafter in this Paragraph) executed in conjunction with the execution of a contract with that Principal, or acquires the Personal Information of a Principal described directly in a document from that Principal, that Businesses Handling Personal Information must disclose its Purpose of Use to the Principal in advance; excluding, however, cases where urgently necessary for the protection of human life, safety, or property.

3. If a Business Handling Personal Information changes its Purpose of Use, it must either notify the Principal of or publicly announce the revised Purpose of Use.

4. The Provisions of the previous three Paragraphs shall not apply in any of the instances cited in the following Sub-paragraphs:

i. If there is fear that the life, safety, property, or other right or the welfare of the Principal or a third party would be harmed by notification to the Principal or public announcement of the Purpose of Use;

ii. If there is fear that the rights or fair profits of the Business Handling Personal Information would be harmed by notification to the Principal or public announcement of the Purpose of Use;

iii. If cooperation with the execution of an operation set forth by law or ordinance by an institution of the national government or a local public entity is necessary, and there is fear that the execution of that operation would be harmed by notification to the Principal or public announcement of the Purpose of Use;

iv. If the Purpose of Use is clear from the circumstances of acquisition.

Article 19 (Securing Accuracy of Data Content)

A Business Handling Personal Information must diligently/endeavor to maintain Personal Data in accurate and most up-to-date content to the extent necessary to achieve its Purpose of Use.

Article 20 (Security Control Measures)

A Business Handling Personal Information must adopt measures necessary and appropriate for preventing the unauthorized disclosure, loss or destruction of handled Personal Data and otherwise control the security of Personal Data.

Article 21 (Supervision of Employees)

If a Business Handling Personal Information allows an employee to handle Personal Data, it must provide necessary and appropriate supervision of that employee so as to achieve control of security of that Personal Data.

Article 22 (Supervision of Delegates)

If a Business Handling Personal Information delegates all or a portion of the handling of Personal Data, it must provide necessary and appropriate supervision of the person receiving delegation so as to achieve control of security of the Personal Data the handling of which has been so delegated.

Article 23 (Restrictions on Providing Information to Third Parties)

1. Businesses Handling Personal Information shall not provide to any third party Personal Data without first acquiring the consent of the Principal, except as set forth in the following Sub-paragraphs:

- i. If pursuant to a law or ordinance;
- ii. If necessary for the protection of human life, safety, or property, and when it is difficult to obtain the consent of the Principal;
- iii. If necessary in particular in order to improve public hygiene or promote the health of children, and when it is difficult to obtain the consent of the Principal;
- iv. If cooperation is necessary in the execution of an operation set forth by law or ordinance by an institution of the national government, a local public entity, or a person delegated thereby, and there is fear that the execution of that operation would be hindered by obtaining consent of the Principal.

2. If a Business Handling Personal Information, with respect to Personal Data provided to a third party, decides to cease providing to a third party Personal Data identifying a Principal in accordance with the request of that Principal, and it has notified the



Principal in advance of the matters set forth in the following Sub-paragraphs, or if the Principal is placed in circumstances in which such matters can be easily learned, such Business Handling Personal Information may provide that Personal Data to a third party notwithstanding the provisions of the previous Paragraph.

- i. The fact that providing the Personal Data to a third party is included in the Purpose of Use;
- ii. Categories of Personal Data provided to a third party;
- iii. Means and methods of providing Personal Data to a third party.
- iv. The fact that providing Personal Data identifying a Principal shall cease at the request of that Principal.

3. A Business Handling Personal Information, if revising matters set forth in Sub-paragraph 2 or Sub-paragraph 3 of the previous Paragraph, must first notify the Principal of the content changed, or place the Principal in circumstances in which the content changed can be easily learned.

4. In any case described in the following Sub-paragraphs, a person who has been provided with the Personal Data in question shall not be considered a third party with respect to the application of the provision of the previous three Paragraphs:

- i. If a Business Handling Personal Information delegates all or portion of the handling of Personal Data to the extent necessary to achieve the Purpose of Use;
- ii. If Personal Data is provided in accordance with succession to business operations for reasons such as merger;
- iii. If Personal Data is used jointly with a specified person, when the Principal is notified in advance of the fact of such joint use, the items of Personal Data to be used jointly, the range of jointly using person or persons, the Purpose of Use of the using person, and the name or title of the person responsible for the management of that Personal Data, or the Principal has been placed in circumstances whereby such matters can be easily learned.

5. If a Business Handling Personal Information changes the Purpose of Use provided in Sub-paragraph (iii) of the previous Paragraph, or the name or title of the person responsible for the management of Personal Data, it must notify the Principal in advance, or the Principal must be placed in circumstances whereby such matters can be easily learned.

Article 24 (Public Announcement, Etc., of Items Relating to Held Personal Data)

1. A Business Handling Personal Information must place the Principal in circumstances whereby matters set forth in the following Sub-paragraphs with respect to Held

Personal Data can be easily learned (including cases where response is made without delay to a request by a Principal).

- i. The name or title of the relevant Business Handling Personal Information;
- ii. The Purpose of Use of all Held Personal Data (excluding cases which fall under Sub-paragraph 1 through Sub-paragraph 3 of Article 18, Paragraph 4);
- iii. Procedures for responding to requests made pursuant to the provisions of the following Paragraph, Paragraph 1 of the following Article, Paragraph 1 of Article 26, or Paragraph 1 or Paragraph 2 of Article 27 (including the amounts of processing fees when the amount of the processing fee is set forth pursuant to the provisions of Article 30, Paragraph 2).
- iv. Matters designated by government ordinance as items necessary with respect to securing the appropriate handling of Held Personal Data in addition to those set forth in the previous three Sub-paragraphs.

2. If a Business Handling Personal Information has been requested by a Principal to provide notification of Held Personal Data identifying that Principal, it must without delay provide that Principal with notification; excluding, however, instances falling under any of the following Sub-paragraphs:

- i. If the Purpose of Use of the Held Personal Data identifying that Principal is made clear by the provisions of the previous Paragraph;
- ii. In any case falling under Sub-paragraph 1 through Sub-paragraph 3 of Article 18, Paragraph 4.

3. If a Business Handling Personal Information has decided not to provide notification of the Purpose of Use of Held Personal Data requested under the provisions of the previous Paragraph, it must notify the Principal of that decision without delay.

#### Article 25 (Disclosure)

1. If a Business Handling Personal Information has been requested by a Principal to disclose Held Personal Data identifying that Principal (including notification of nonexistence of Held Personal Information in such cases where Held Personal Data identifying that Principal does not exist), it must promptly disclose that Held Personal Data to the Principal in accordance with a method specified by governmental ordinance without delay. However, all or a portion of such information need not be disclosed where as a result of disclosure any of the following Sub-paragraphs apply:

- i. If there is fear that the life, safety, property, or other right or the welfare of the Principal or a third party would be harmed;

ii. If there is fear that the appropriate execution of business operations of the relevant Business Handling Personal Information would be markedly impaired;

iii. If another law or ordinance would be violated.

2. If a Business Handling Personal Information decides not to disclose all or portion of Held Personal Data requested pursuant to the provisions of the previous Paragraph, it must notify the Principal of that decision without delay.

3. If the provisions of another law or ordinance provide that all or portion of Held Personal Data identifying a Principal shall be disclosed to that Principal by a method equivalent to a method provided in the main text of Paragraph, the provisions of that Paragraph shall not apply to the relevant entirety or portion of Held Personal Data.

#### Article 26 (Correction, Etc.)

1. If a Business Handling Personal Information is requested by a Principal to correct, supplement, or delete (hereinafter referred to as “Correction, Etc.” in this Article) the content of Held Personal Data identifying that Principal on the grounds that such content is not correct, except where special procedures have been adopted pursuant to the provisions of another law or ordinance in relation to the Correction, Etc. of the content thereof, such Business Handling Personal Information must carry out the necessary investigation to the extent necessary to achieve the Purpose of Use without delay, and based upon the results thereof, must perform Correction, Etc. of the content of the relevant Held Personal Data.

2. If a Business Handling Personal Information has performed Correction, Etc., of all or portion of the content of Held Personal Data as requested pursuant to the provisions of the previous Paragraph, or has decided not to perform Correction, Etc., it must notify the Principal of that fact (including the content of Correction, Etc. if performed) without delay.

#### Article 27 (Cease Use, Etc.)

1. If a Business Handling Personal Information is requested by a Principal to cease using or to delete (hereinafter referred to as “Cease Use, Etc.”) in this Article) Held Personal Data identifying that Principal on the grounds that that Held Personal Data was used in violation of the provisions of Article 16, or on the grounds that that Held Personal Data was acquired in violation of the provisions of Article 17, and such Business Handling Personal Information finds that there are grounds for this request, that business must without delay Cease Use, Etc., of the Held Personal Data in question to the extent necessary to correct such violation. However, this provision shall not apply if excessive expense is required to Cease Use, Etc. of that Held Personal Data, or there is extreme difficulty required to Cease Use, Etc. for some other reason, and substitute measures necessary to protect the rights and welfare of the Principal are taken.

2. If a Business Handling Personal Information is requested by a Principal to cease providing Held Personal Data identifying that Principal to a third party on the grounds of providing that Held Personal Data to a third party is in violation of the provisions of Article 23,

Paragraph 1, and it is clear that there are grounds for this request, such Business Handling Personal Information shall cease providing that Held Personal Data to the third party in question without delay. However, this provision shall not apply if excessive expense is required to cease providing that Held Personal Data to a third party, or for some other reason there is extreme difficulty involved in ceasing to provide that data to a third party, and substitute measures necessary to protect the rights and welfare of the Principal are taken.

3. If a Business Handling Personal Information has Ceased Use, Etc., of all or portion of Held Personal Data as requested, or has decided not to Cease Use, Etc. thereof, pursuant to the provisions of Paragraph 1, or has ceased to provide to a third party all or a portion of Held Personal Data as requested, or has decided not to cease providing such information to a third party, pursuant to the provisions of the previous Paragraph, such Business Handling Personal Information must promptly notify the Principal.

#### Article 28 (Explanation of Reasons)

Pursuant to Article 24 Paragraph 3, Article 25 Paragraph 2, Article 26 Paragraph 2, or the previous Article of Paragraph 3, if a Business Handling Personal Information notifies a Principal that it does not plan to take all or a portion of the measures requested by the Principal, or notifies the Principal that it has decided to take measures different from those requested by the Principal, such Business Handling Personal Information must use its best efforts to provide the Principal with an explanation of its reasons for that decision.

#### Article 29 (Procedures for Responding to Request for Disclosure, Etc.)

1. A Business Handling Personal Information may set forth the methods by which requests are received with respect to requests made pursuant to the provisions of Article 24 Paragraph 2, Article 25 Paragraph 1, Article 26 Paragraph 1, or Article 27 Paragraph 1 or Paragraph 2 (hereinafter, "Request for Disclosure, Etc."), as determined by governmental ordinance. In such cases, a Principal must make a Request for Disclosure, Etc., in accordance with that method.

2. A Business Handling Personal Information shall have the right to request a Principal to disclose items sufficient for specifying the subject Held Personal Data with respect to a Request for Disclosure, Etc. In such cases, the Business Handling Personal Information must take suitable measures to provide information which contributes to the specification of relevant Held Personal Data and otherwise in light of the convenience to the Principal, so that the Principal is able to make the Request for Disclosure, Etc. easily and accurately.

3. A Request for Disclosure, Etc., may be made by an agent or attorney as provided by governmental ordinance.

4. A Business Handling Personal Information shall take into consideration the avoidance of placing an excessive burden on the Principal in determining procedures for responding to Requests for Disclosure, Etc. pursuant to the provisions of the previous three Paragraphs.

Article 30 (Processing Fees)

1. A Business Handling Personal Information may charge a processing fee with respect to measures implemented if a request is made for notification of Purpose of Use pursuant to the provisions of Article 24 Paragraph 2 or for disclosure pursuant to the provisions of Article 25 Paragraph 1.

2. A Business Handling Personal Information, in charging a processing fee pursuant to the provisions of the previous Paragraph, must set the amount of the processing fee so as to be within a range considered reasonable in light of actual expenses.

Article 31 (Processing of Grievances by Businesses Handling Personal Information)

1. A Business Handling Personal Information must use its best efforts to process grievances relating to the handling of Personal Information appropriately and promptly.

2. A Business Handling Personal Information must use its best efforts to establish a system required to achieve the purposes of the previous Paragraph.

Article 32 (Collection of Reports)

The State Minister in Charge may require a Business Handling Personal Information to report on such handling of Personal Information to the extent necessary for the enforcement of this Subchapter.

Article 33 (Advice)

The State Minister in Charge may provide a Business Handling Personal Information with necessary advice with respect to the handling of Personal Information to the extent necessary for the enforcement of this Subchapter.

Article 34 (Admonishments and Orders)

1. The State Minister in Charge may, upon finding it necessary for the protection of individual rights or welfare where a Business Handling Personal Information has violated a provision of Article 16 through Article 18, or Article 20 through Article 27 or Article 30 Paragraph 2, admonish such Business Handling Personal Information to cease such violative conduct or otherwise to take measures necessary to correct such violation.

2. The State Minister in Charge may, upon finding that the violation of an important individual right or the endangerment of an individual benefit is imminent, and where without a reasonable grounds measures have not been taken by a Business Handling Personal Information which has been admonished pursuant to the provisions of the previous Paragraph the State Minister in Charge may order that Businesses Handling Personal Information to implement the measures related to that admonishment.

3. The State Minister in Charge may, upon finding that measures are urgently necessary due to the fact that an important individual right or welfare has been violated where a Business Handling Personal Information has violated a provision of Article 16, Article 17, Article 20 through Article 22, or Article 23 Paragraph 1, notwithstanding the provisions of the previous two Paragraphs, order such Business Handling Personal Information to cease such violative conduct or otherwise take measures necessary to correct such violation.

Article 35 (Limitations to Exercising State Minister in Charge's Authority)

1. In the event that the State Minister in Charge collects reports from or issues advice, admonishment, or an order to a Business Handling Personal Information pursuant to the provisions of the previous three Articles, the State Minister in Charge shall not infringe upon freedom of expression, academic freedom, freedom of religion or freedom of political activity.

2. In view of the provisions of the previous Paragraph, the State Minister in Charge shall not exercise authority over a Business Handling Personal Information for providing Personal Information to a person set forth in one of the Sub-paragraphs of Article 50 Paragraph 1 (only in the event that such person handles Personal Information for purposes set forth in the respective Sub-paragraphs).

Article 36 (State Minister in Charge)

1. The State Minister in Charge in the provisions of this Subchapter shall be as follows. However, if found by the Prime Minister to be necessary to promote the efficient implementation of the provisions of this Subchapter, the Prime Minister may designate a specific minister or a committee of the National Public Safety Commission (hereinafter, a "Minister, Etc.") as the State Minister in Charge with respect to specific matters in handling of Personal Information performed by a Business Handling Personal Information.

i. With respect to the handling of Personal Information performed by a Business Handling Personal Information pertaining to the management of employment, the Minister of Health, Labor and Welfare (in the case of that pertaining to management of employment of seamen, the Minister of Land, Infrastructure and Transport shall be the State Minister in Charge) and the Minister, Etc. who has jurisdiction over the business activities of that Business Handling Personal Information shall be the State Minister in Charge.

ii. With respect to matters other than those described in the previous Sub-paragraph in the handling of Personal Information performed by Businesses Handling Personal Information, the Minister, Etc. that has jurisdiction over the business activities of that Business Handling Personal Information.

2. The Prime Minister must publicly disclose when designating a State Minister pursuant to the proviso of the previous Paragraph.

3. State Ministers in Charge must maintain close mutual contact and cooperation in the enforcement of the provisions of this Subchapter.

Subchapter 2. Promotion of the Protection of Personal Information by Private Organizations

Article 37 (Approval)

1. Juridical persons, for the performance of operations cited in the following Sub-paragraphs for the purpose of securing appropriate handling of Personal Information by a Business Handling Personal Information (including those organizations which are not juridical persons where there are provision concerning representatives or managers; likewise in Sub-item (iii)(b) of the following Article), may be approved by the State Minister in Charge.

i. The processing of grievances pursuant to Article 42 in relation to the appropriate handling of Personal Information by Businesses Handling Personal Information that is the subject of the operations of such Businesses Handling Personal Information (hereinafter, "Subject Businesses");

ii. The providing of information to Subject Businesses with regard to matters contributing to achievement of appropriate handling of Personal Information;

iii. Operations necessary with respect to the achievement of appropriate handling of Personal Information by Subject Businesses other than those cited in the previous two Sub-paragraphs.

2. Persons desiring to receive approval under the previous Paragraph must apply to the State Minister in Charge as provided by governmental ordinance.

3. Upon granting approval pursuant to Paragraph 1, the State Minister in Charge must publicly announce that such approval has been granted.

Article 38 (Conditions for Disqualification)

Persons falling under any of the following Sub-paragraphs may not be granted approval pursuant to Paragraph 1 of the previous Article.

i. Persons who have been subject to criminal penalties pursuant to the provisions of this Law, where two years have not elapsed from the date upon which execution of such penalty was completed or the person ceased to be subject to the execution thereof.

ii. Persons for whom approval has been canceled pursuant to the provisions of Article 48 Paragraph 1, where two years has not elapsed since the date of such cancellation.

iii. Officers who have engaged in the operations of a Business Handling Personal Information (including representatives and managers in the case of an organization which is not a juridical person where there are provisions concerning representatives or managers; likewise hereinafter in this Article), and who fall under any of the following Sub-items:

(a) Persons who have been punished with at least a penalty of imprisonment, or who have been punished under provisions of this Law, where two years has not elapsed from the day on which the execution thereof was ended or the person ceased to be subject to the execution thereof;

(b) Persons who were directors of juridical persons which have suffered cancellation of approval pursuant to the provisions of Article 48 Paragraph 1, at any time during the period within 30 days prior to the date of that cancellation, where two years has not elapsed since the date of that cancellation.

#### Article 39 (Standards for Approval)

The State Minister in Charge shall not grant approval unless an application for approval under Article 37 Paragraph 1 conforms to each of the following Sub-paragraphs:

i. The applicant has established a method for implementing operations necessary to carry out the operations set forth in each Sub-paragraph of Article 37 Paragraph 1 appropriately and accurately.

ii. The applicant has the knowledge and ability and an accounting basis sufficient to carry out the operations set forth in each Sub-paragraph of Article 37 Paragraph 1 appropriately and accurately.

iii. If the applicant is engaged in operations other than those set forth in each Sub-paragraph of Article 37, Paragraph 1, there is no danger that such operations would make the operations set forth in the aforementioned Sub-paragraphs unfair.

#### Article 40 (Notification of Abandonment)

1. If an organization granted approval pursuant to Article 37 Paragraph 1 (hereinafter, "Approved Personal Information Protection Organization") desires to abandon the operations so approved (hereinafter, "Approved Operations"), it must file a notification regarding that fact in advance to the State Minister in Charge as provided by governmental ordinance.

2. The State Minister in Charge upon receiving a report pursuant to the previous Paragraph shall publicly announce the facts therein.

#### Article 41 (Subject Businesses)

1. An Approved Personal Information Protection Organization must treat as Subject Businesses, Businesses Handling Personal Information that are constituent members of that Approved Personal Information Protection Organization or Businesses Handling Personal Information which have given consent with respect to becoming the object of Approved Operations.

2. An Approved Personal Information Protection Organization must publicly announce the names or titles of Subject Businesses.



Article 42 (Processing of Grievances)

1. When an Approved Personal Information Protection Organization has received a petition for resolution of a grievance in relation to the handling of Personal Information by a Subject Business from a Principal or other such person, it must, pursuant to consultations with the petitioner, provide the petitioner with necessary advice, investigate the circumstances relating to the grievance, notify the relevant Subject Business of the content of that grievance, and pursue the prompt resolution thereof.

2. An Approved Personal Information Protection Organization, when it finds it necessary with respect to the resolution of a grievance relating to a petition described in the previous Paragraph, shall have the authority to request written or oral explanations or shall request the submission of materials from the relevant Subject Business.

3. A Subject Business shall not refuse a request made by an Approved Personal Information Protection Organization pursuant to the provisions of the previous Paragraph without reasonable grounds.

Article 43 (Personal Information Protection Policy)

1. An Approved Personal Information Protection Organization shall make every effort to devise and publicly announce a policy in conformity with the spirit of the provisions of this Law, with respect to the specification of Purposes of Use, measures for security control, and procedures responding to the needs of the Principal (hereinafter, a “Personal Information Protection Policy”), in order to achieve the appropriate handling of Personal Information by Subject Businesses.

2. When a Personal Information Protection Policy has been publicly announced pursuant to the provisions of the previous Paragraph, the Approved Personal Information Protection Organization must make every effort to provide advice, admonishment and other measures necessary for Subject Businesses to conform to that Personal Information Protection Policy.

Article 44 (Prohibition of Use for Improper Purposes)

An Approved Personal Information Protection Organization shall not use information learned in the performance of Approved Operations for any purpose other than use for the Approval Operations.

Article 45 (Restrictions on Use of Title)

Any person that is not an Approved Personal Information Protection Organization shall not use the title of an Approved Personal Information Protection Organization or any similar title.

Article 46 (Collection of Reports)

The State Minister in Charge shall have the authority to require an Approved Personal Information Protection Organization to submit reports concerning Approved Operations to the extent necessary for the enforcement of the provisions of this Subchapter.

Article 47 (Orders)

The State Minister in Charge shall have the authority to order an Approved Personal Information Protection Organization to reform methods of carrying out Approved Operations, change its Personal Information Protection Policy, or carry out other necessary measures to the extent necessary for the enforcement of the provisions of this Subchapter.

Article 48 (Cancellation of Approval)

1. The State Minister in Charge shall have the authority to cancel approval if an Approved Personal Information Protection Organization:

- i. Falls under Article 38, Sub-paragraph 1 or Sub-paragraph 3.
- ii. Is not subject to the application of any Sub-paragraph of Article 39.
- iii. Violates a provision of Article 44.
- iv. Fails to obey an order according to the previous Article.
- v. Has acquired approval under Article 37, Paragraph 1 by unfair means.

2. The State Minister in Charge must publicly announce when canceling approval pursuant to the previous Paragraph.

Article 49 (State Minister in Charge)

1. The State Minister in Charge, under the provisions of this Subchapter, shall be as follows. However, when the Prime Minister finds it necessary for the efficient enforcement of the provisions of this Subchapter, the Prime Minister may designate a specified Minister, Etc. as the State Minister in Charge with respect to specified persons among those seeking approval pursuant to the provisions of Article 37 Paragraph 1.

i. With respect to Approved Personal Information Protection Organizations for which formation has been permitted or approved (including those seeking to receive approval under Article 37 Paragraph 1; likewise in the next Sub-paragraph), the Minister Etc., that has granted permission or approval of the formation thereof;

ii. With respect to Approved Personal Information Protection Organizations other than those cited in the previous Sub-paragraph, the Minister Etc.

having jurisdiction over the operations performed by the Subject Businesses of that Approved Personal Information Protection Organization.

2. The Prime Minister must publicly announce when designating a State Minister in Charge pursuant to the proviso of the previous Paragraph.

## Chapter 5 Miscellaneous Provisions

### Article 50 (Exclusions)

1. The provisions of the previous Chapter shall not be applicable to Businesses Handling Personal Information which fall under the following Sub-paragraphs in the event that all or a portion of the purpose of handling of Personal Information is as provided in the respective Sub-paragraphs.

i. Broadcast organs, newspapers, news agencies, or other reporting organs (including individuals who are engaged in reporting by trade): the purpose is for reporting;

ii. Individuals who are writers by trade: the purpose is for writing;

iii. Universities and other organs or organizations having the purpose of scholarly research or individuals belonging thereto: the purpose is for scholarly research;

iv. Religious bodies: the purpose is for religious activities (including attendant activities);

v. Political organizations: the purpose is for political activities (including attendant activities).

2. “Reporting” as provided in Sub-paragraph 1 in the previous Paragraph refers to the act of communicating objective fact as fact to an unspecified mass (including expressing thoughts and opinions based on the facts).

3. Businesses Handling Personal Information cited in the Sub-paragraphs of Paragraph 1 must make every effort to adopt measures appropriate and necessary for the secure control of Personal Data, and measures necessary to achieve processing of grievances relating to the handling of Personal Information and the appropriate handling of Personal Information, and to publicly disclose the contents of such measures.

### Article 51 (Operations Performed by Local Public Entities)

Operations under the authority of the State Minister in Charge provided under this Law may be performed by the head of a local public entities or other administrative institutions as provided by governmental ordinance.

Article 52 (Delegation of Authority and Operations)

Matters relating to the authority and operations of the State Minister in Charge pursuant to this Law may be delegated to personnel of that Minister's agency as provided by governmental ordinance.

Article 53 (Public Disclosure of State of Enforcement)

1. The Prime Minister shall have the authority to demand reporting concerning the status of enforcement of this Law from the heads of relevant administrative agencies (agencies placed in the cabinet pursuant to this Law (excluding the Cabinet Office), agencies placed under the jurisdiction of the Cabinet, Cabinet Office, Imperial Household Agency, institutions provided under Article 49 Paragraph 1 and Paragraph 2 of the Cabinet Office Establishment Law (1999 Law No. 89), and institutions provided under Article 3 Paragraph 2 of the National Administrative Organization Law (1948 Law No. 120); likewise hereinafter).

2. The Prime Minister shall each year summarize and publicly announce reports pursuant to the previous Paragraph.

Article 54 (Contact and Cooperation)

The Prime Minister and the heads of administrative agencies related to the enforcement of this Law must keep in close mutual contact and cooperation.

Article 55 (Delegation to Government Ordinance)

Items necessary to the enforcement of this Law other than those set forth in this Law shall be determined by governmental ordinance.

Chapter 6 Penalty Provisions

Article 56

A person who violates an order made pursuant to a provision of Article 34, Paragraphs 2 or 3 shall be subject to imprisonment for not more than six months or a fine of not more than 300,000 yen.

Article 57

A person who has failed to file a report pursuant to the provisions of Article 32 or Article 46 or has filed a false report thereunder shall be subject to a fine of not more than 300,000 yen.

Article 58

1. If the representative of a juridical person (including an organization that is not a juridical person where a representative or manager has been determined; likewise

hereinafter in this paragraph), or the agent, employee, or other personnel of a juridical person or natural person violates the previous two Articles with respect to the operations of that juridical person or person, in addition to punishment of the actor, the juridical person or person shall also be subject to a fine under each Article.

2. If the provisions of the previous Paragraph are applicable to an organization that is not a juridical person, the representative or manager thereof shall not only represent that organization which is not a juridical person with respect to legal procedures thereof, but shall also be subject to the provisions of laws relating to criminal prosecutions where a juridical person is a defendant or suspect.

#### Article 59

Persons falling under either of the following Sub-paragraphs shall be subject to a fine of not more than 100,000 yen.

- i. Persons who have failed to file a notification under the provisions of Article 40 Paragraph 1 or have filed a false notification thereunder;
- ii. Persons who have violated a provision of Article 45.

#### Supplementary Provisions

##### Article 1 (Date of Enforcement)

This Law shall be enforced from its date of promulgation. However, provisions from Chapter 4 through Chapter 6 and provisions from Article 2 through Article 6 of the Supplementary Provisions shall be enforced from the date determined by the governmental ordinances within a range that does not exceed two years counted from the date of promulgation.

##### Article 2 (Transitional Measures concerning the Consent of Principals)

Where consent of a Principal with respect to the handling of Personal Information has been given prior to the enforcement of this Law, if that consent is equivalent to the consent allowing Personal Information to be handled for a purpose other than the Purpose of Use specified under Article 15 Paragraph 1, then consent shall be deemed to have been given under Article 16 Paragraph 1 or Paragraph 2.

##### Article 3

Where consent of a Principal with respect to the handling of Personal Information has been given prior to the enforcement of this Law, if that consent is equivalent to the consent allowing Personal Data to be provided to a third party pursuant to Article 23 Paragraph 1, consent under that Paragraph shall be deemed to have been given.

Article 4 (Transitional Measures concerning Notification)

With respect to matters concerning which the Principal must be notified, or must be placed under circumstances in which such matters can be easily learned, pursuant to Article 23 Paragraph 2, if the Principal has been notified prior to the enforcement of this Law, such notification shall be deemed to have been made pursuant to the provisions of that Paragraph.

Article 5

With respect to matters concerning which the Principal must be notified, or must be placed under circumstances in which such matters can be easily learned, pursuant to Article 23 Paragraph 4 Sub-paragraph 3, if the Principal has been notified prior to the enforcement of this Law, such notification shall be deemed to have been made pursuant to the provisions of that Sub-paragraph.

Article 6 (Transitional Measures concerning Restrictions on the Use of Title)

With respect to persons actually using the title of an Approved Individual Information Protection Organization or a title similar thereto at the time of the enforcement of this Law, the provisions of Article 45 shall not apply for six months after the enforcement of the provisions of that Article.

Article 7 (Partial Amendment of the Cabinet Office Establishment Law)

The Cabinet Office Establishment Law shall be partially amended as follows:

The following Sub-paragraph shall be added following Sub-paragraph 38 in Article 4 Paragraph 3.

38-2 Concerning the formulation and promotion of a basic policy concerning protection of Personal Information (referring to that provided in Article 7 Paragraph 1 of the Law Concerning Protection of Personal Information (2003 Law No. \_\_\_\_)).

The words “and promotion of civic activity” in Article 38 Paragraph 1 Sub-paragraph 1 shall be amended to read “, promotion of civic activity, and achievement of the appropriate handling of Personal Information”, and the words “and the Law Concerning Protection of Personal Information” shall be added under the words “(1973 Law No. 121)” in Sub-paragraph 3 of the same Paragraph.

Reasons:

In light of the dramatic expansion in the use of Personal Information in conjunction with the development of high-level information communication in modern society, this proposed law has the purpose of protecting the rights and welfare of individuals while considering the usefulness of Personal Information by setting forth the basic philosophy and basic governmental policy with respect to the proper handling of Personal Information and the determination of matters which form the basis of measures concerning the protection of Personal Information. It

also makes explicit the duties, etc., of the national government and local public entities, as well as sets forth obligations, etc., to be upheld by businesses which handle Personal Information. These are the reasons for this proposed law.