

○Ordinance for Enforcement of the Act on Regulation of the Transmission of Specified Electronic Mail

June 21, 2002

Ministry of Internal Affairs and Communications Ordinance No. 66

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Cabinet Office/MIC Ordinance No. 2

Based on the provisions of the Act on Regulation of the Transmission of Specified Electronic Mail (Act No. 26 of 2002), and to implement the same Act, the Ordinance for Enforcement of the Act on Regulation of the Transmission of Specified Electronic Mail is prescribed as follows.

(Terms)

Article 1 The terms used in this Order shall follow the example of the terms used in the Act on Regulation of the Transmission of Specified Electronic Mail (hereafter referred to as the “Act”).

(Method of Notification for Electronic Mail Addresses)

Article 2 The method of notification of one’s own Electronic Mail address to a sender or consignor of transmission pursuant to the provisions of Article 3 paragraph (1) item (ii) of the Act shall be a method of notification in writing. However, the method of notification when receiving Specified Electronic Mail listed in the following items shall be a discretionary method.

- (i) Specified Electronic Mail corresponding to any of the items listed in Article 6
 - (ii) One Specified Electronic Mail sent for acceptance of the notification under Article 3 paragraph (1) item (i) of the Act
- (2) Notwithstanding the provision of the preceding paragraph, when a Notification of Electronic Mail address to a sender or consignor of transmission based on the method of the same paragraph corresponds to a notification of a request not to send Specified Electronic Mail pursuant to the provisions of the text of Article 3 paragraph (3) of the Act (in cases where requesting said sender not to send Specified Electronic Mails pertaining to given matters, of the request), said notification shall not correspond to a notification of one’s own Electronic Mail address pursuant to the provisions of Article 3 paragraph (1) item (ii) of the Act.

(Method of Disclosure of One’s Own Electronic Mail Address)

Article 3 The method of disclosure of one’s own Electronic Mail address pursuant to the provisions of Article 3 paragraph (1) item (iv) of the Act shall be a method that creates conditions that enable a member of the general public to inspect his or her own Electronic Mail address by using the Internet. However, this shall not apply when conditions are created that enable a member of the general public to inspect, along with his or her own Electronic Mail address, a written text to request not to send Specified Electronic Mail, by using the Internet.

(Method for Maintaining Records Evidencing Consent etc.)

Article 4 The method for maintaining records to evidence a request to send or consent to send Specified Electronic Mail pursuant to the provisions of Article 3 paragraph (2) of the Act shall be one of the methods listed in the following items that enable the sender to present the record if necessary.

- (i) A record showing the time and method when said notification pertaining to the separate

Electronic Mail address of the person who made the notification in Article 3 paragraph (1) item (i) of the Act (limited to the address used as the address when transmitting Specified Electronic Mail) was received, and other status when said notification was received.

- (ii) A record that enables identification of the Electronic Mail address that may be assumed to be the address when transmitting Specified Electronic Mail, and, depending on the classification in the following cases, a record of matters pertaining to notification of the request or the consent to send Specified Electronic Mail pursuant to the provisions of Article 3 paragraph (1) item (i) of the Act that are among the matters listed in the respective said classification
 - (a) When the notification in Article 3 paragraph (1) item (i) of the Act was received by a person presenting or delivering a document (including when presenting the document by using a facsimile machine), the typical matters described in said document
 - (b) When the notification in Article 3 paragraph (1) item (i) of the Act was received by a person sending Specified Electronic Mail, the typical matters included in the text of said Specified Electronic Mail
 - (c) In addition to the case listed in (b), when the notification in Article 3 paragraph (1) item (i) of the act was received by a person sending a message using the Internet, the typical matters included in said transmission text
- (2) Depending on the classification of cases listed in the following items, the retention period for the records in the preceding paragraph shall be the period specified respectively in those items.
 - (i) When a person does not send Specified Electronic Mail pertaining to said record (referred to below in this paragraph as “said transmission”), until the day the person was assumed to not send said transmission
 - (ii) When a person made said transmission, until the day when one month has elapsed calculating from the day said transmission was last sent. However, in cases when an order pursuant to the provisions of Article 7 of the Act was received, when the order corresponds to any of the classifications of cases listed below, depending on said classification, until the day specified respectively in said classifications
 - (a) When said transmit was sent during the period until the day when one year has elapsed calculating from the day the order pursuant to the provisions of Article 7 of the Act was received, the day until one year has elapsed calculating from the day said transmission was last sent during said period, or the day until one year has elapsed calculating from the day said transmission was last sent, whichever day is later
 - (b) When an order pursuant to the provisions of Article 7 of the Act was received during the period until the day when one month has elapsed calculating from the day said transmission was last sent, until the day when one year has elapsed calculating from the day said transmission was last sent

(Method for Notifications of a Request not to Send Specified Electronic Mails)

Article 5 The method for notification of a request not to send Specified Electronic Mails pursuant to the provisions of the text in Article 3 paragraph (3) of the Act (in cases where requesting a sender not to send Specified Electronic Mails pertaining to given matters, of the request, and, in cases where requesting a sender to not send Specified Electronic mails during a given period of time, of the request and for that period of time) shall be a method to clarify the Electronic Mail address of the person requesting that Specified Electronic Mails not to sent, and send Electronic Mails by some

other discretionary method.

(Exceptions to the Prohibition of Transmission to Persons Who Refuse to Receive Specified Electronic Mail)

Article 6 The cases specified by a Ministry of Internal Affairs and Communications (hereinafter referred to as “MIC”) ordinance or Cabinet Office ordinance under the proviso to Article 3 paragraph (3) of the Act shall be the cases listed in any of the following items.

- (i) When advertising is sent incidentally with Electronic Mail that is sent to notify a person who applied for or signed a contract of matters concerning the application, contents or execution of said contract
- (ii) In cases where Electronic Mail is sent to a person who receives Electronic Mail using an Electronic Mail Service that is provided subject to the condition advertising will be sent, when advertising is sent incidentally with that Electronic Mail by the person providing said Electronic Mail Service
- (iii) In addition to the cases listed in the preceding two items, when advertising is sent incidentally with Electronic Mail (limited to Electronic Mail that is not sent against the wishes of the recipient) which is sent mainly for purposes other than advertising

(Method of Labeling etc.)

Article 7 The method to display the matters specified in each item of Article 4 of the Act that must be displayed shall be, depending on the classification of the matters listed in the following items, the method to display the items in the location prescribed in those items.

- (i) For matters specified in Article 4 items (i) and (ii) of the Act, an arbitrary location in the Specified Electronic Mail that enables the recipient of said Specified Electronic Mail to recognize said matters easily
 - (ii) For matters specified in Article 4 item (iii) of the Act (limited to the matters specified in Article 9 item (i)), directly before or directly after the location where the matters specified in Article 4 item (ii) of the Act were displayed (when notification of text in Article 3 paragraph (3) of the Act may be made by sending Electronic Mail to an address a Specified Electronic Mail recipient has provided as the E-mail address to be used for sending said Specified Electronic Mail, an arbitrary location in the Specified Electronic Mail that enables the recipient of said Specified Electronic Mail to recognize said matters easily)
 - (iii) For matters specified in Article 4 item (iii) of the Act (limited to the matter specified in Article 9 items (ii) and (iii)), an arbitrary location (when said matters are displayed in a location other than the Specified Electronic Mail, information showing the location shall be displayed in an arbitrary location in said Specified Electronic Mail)
- (2) The matters listed in each of the preceding items shall be displayed by encoding them using the same character-codes used in the message text (for the matters listed in item (ii) of the same paragraph, limited to when the matters are displayed in the arbitrary location pertaining to said Specified Electronic Mail). However, matters repeatedly encoded using another encoding method within the scope necessary for transmission of the Specified Electronic Mail shall be deemed matters that have been encoded using the character-code before the repeated encoding.

(Coding Symbols to Identify Telecommunications Facilities)

Article 8 The codes, including characters, numerical characters and marks, for identifying the telecommunications facilities that are specified by the applicable MIC ordinance and Cabinet Office ordinance in Article 4 item (ii) of the Act shall be the costs in either of the following items.

- (i) Codes, including characters, numerical characters and marks, for identifying on the Internet, those telecommunications facilities (referred to as “specific telecommunications facilities” in the following article) for sending telecommunications (excluding the sending of telecommunications for direct reception by the general public) for receipt by unspecified persons that are supplied to receive the notifications in the text of Article 3 paragraph (3) of the Act (limited to codes, including codes to save required electromagnetic records, to enable a recipient of Specified Electronic Mail to make said notification easily, by provision of the information necessary to make said notification using clear, simple expressions or by other method; referred to below in this article as the “acknowledgement portion”)
- (ii) Codes, including characters, numerical characters and marks, related to the codes specified in the preceding item, which enable recipients of Specified Electronic Mail to use said codes to connect to the acknowledgement portion from a communications terminal that uses the codes

(Other Matters that Require Labeling)

Article 9 The matters specified by the MIC ordinance and Cabinet Office ordinance in Article 4 item (iii) of the Act shall be the following matters. However, this shall not apply when sending Specified Electronic Mail in the cases listed in any of the items under Article 6.

- (i) It shall be possible to make notification of a request not to send Specified Electronic Mails, using the method specified in Article 5, by sending an Electronic Mail to the Electronic Mail address listed in Article 4 item (ii) of the Act or by using the codes, including characters, numerical characters and marks, provided in the preceding article.
- (ii) Address of the sender stipulated in Article 4 item (i) of the Act
- (iii) Telephone numbers and Electronic Mail addresses for accepting complaints, inquiries etc. concerning transmission of Specified Electronic Mail, or the codes, including characters, numerical characters and marks, to identify on the Internet the unit at specific telecommunications facilities for accepting complaints, inquiries etc. or the codes, including characters, numerical characters and marks, related to these, that enable recipients of Specified Electronic Mail to use said codes to connect to said unit from a communications terminal that uses the codes

(Procedure for Petitions to the Minister for Public Management, Home Affairs, Posts and Telecommunications or to the Consumer Affairs Agency Secretary-General)

Article 10 A person wishing to petition the Minister for Public Management, Home Affairs, Posts and Telecommunications or the Consumer Affairs Agency Secretary-General under the provisions of Article 8 paragraph (1) of the Act shall submit the petition that includes the following matters.

- (i) Petitioner’s personal name or legal name, and address and individual to contact
 - (ii) Matters concerning the sender or consignor of transmission that is the subject of the petition
 - (iii) Matters displayed on the communications terminal display screen pertaining to the Specified Electronic Mail or reception of Electronic Mails using false sender related to the petition
 - (iv) Reason for the petition
 - (v) Other matters serving as a reference
- (2) Petitions submitted pursuant to the preceding paragraph shall use the Appendix Form 1.

- (3) A person wishing to petition the Minister for Public Management, Home Affairs, Posts and Telecommunications pursuant to the provisions of Article 8 paragraph (3) of the Act shall submit a petition describing the following matters.
- (i) Petitioner's personal name or legal name, and address and individual to contact
 - (ii) Matters concerning the sender or consignor of transmission that is the subject of the petition
 - (iii) Matters concerning the status of transmission of Electronic Mails sent to Fictitious Electronic Mail Addresses related to the petition
 - (iv) Reason for the petition
 - (v) Other matters serving as a reference
- (4) Petitions submitted pursuant to the preceding paragraph shall use the Appendix Form 2.

(Application for Registration)

Article 11 A person wishing to obtain registration under Article 14 paragraph (1) of the Act shall submit a request describing the following matters to the Minister for Public Management, Home Affairs, Posts and Telecommunications and the Consumer Affairs Agency Secretary-General.

- (i) Personal name or legal name and address, and if a corporation, the representative's name
 - (ii) The name and address of the office that will provide the services for proper transmission of Specified Electronic Mail, etc.
 - (iii) The date for start of services for proper transmission of Specified Electronic Mail, etc.
- (2) The following documents shall be attached to the application in the preceding paragraph.
- (i) The following documents when the applicant is a corporation
 - (a) A certified copy of the Articles of Incorporation and a Certificate of Registered Matters
 - (b) A document evidencing the decision of intention concerning the application for registration
 - (c) A document describing the directors' names and brief histories
 - (ii) A copy of the certificate of residence when the applicant is an individual (if a non-Japanese, a copy of the Certificate of Alien Registration)
 - (iii) A document explaining the applicant is not a person who falls under any of the items under Article 15 of the Act
 - (iv) A document describing the name and brief history of the person who fulfills the requirements under Article 16 paragraph (1) item (i) of the Act
 - (v) The name of the full-time administrator assigned to the unit specified in Article 16 paragraph (1) item (ii) (a) of the Act (referred to in the following article item (ii) as "the unit to implement the services")
 - (vi) The following documents as the documents specified in Article 16 paragraph (1) item (ii) (b) of the Act
 - (a) A document describing plans concerning implementation of the activities listed in Article 14 paragraph (1) item (iii) of the Act
 - (b) A document describing the method concerning management of the services for proper transmission of Specified Electronic Mail, etc.
 - (c) A document describing education and training concerning the services for proper transmission of Specified Electronic Mail, etc.
 - (vii) A document explaining that the dedicated unit specified in Article 16 paragraph (1) item (ii) (c) of the Act (referred to in the next article item (ii) as the "business management unit") has been created

(Implementation Standards for Services for Proper Transmission of Specified Electronic Mail, etc.)

Article 12 The standards specified by the applicable MIC ordinance or Cabinet Office ordinance under Article 18 of the Act shall be the following standards.

- (i) A person who fulfills the requirements provided for in Article 16 paragraph (1) item (i) of the Act shall always be engaged in services for proper transmission of Specified Electronic Mail, etc.
- (ii) The business management unit shall be independent of the business execution unit
- (iii) The person engaged in the activities provided for in Article 14 paragraph (1) item (i) of the Act shall respond appropriately to questions concerning the contents of the Act.
- (iv) Investigations on facts provided for in Article 14 paragraph (1) item (ii) of the Act shall be conducted promptly, by a method to collect and verify information or other appropriate method, concerning the matters provided for in each item under Article 10 paragraph (1) or each item Article 10 paragraph (3), and the results shall be reported to the Minister for Public Management, Home Affairs, Posts and Telecommunications or the Consumer Affairs Agency Secretary-General who requested said investigation
- (v) The activities provided for in Article 14 paragraph (1) item (iii) of the Act shall be implemented according to a plan described in the document provided for in paragraph 2 item (vi) (a) of the preceding article.

(Description Matters for Operational Rules and Procedures)

Article 13 The matters specified by the applicable MIC ordinance or Cabinet Office ordinance in Article 20 paragraph 2 of the Act shall be the following matters.

- (i) Matters concerning the times and non-work days when services for proper transmission of Specified Electronic Mail, etc. are carried out
- (ii) Matters concerning the method for implementing the activities listed in each item under Article 14 paragraph (1) of the Act
- (iii) Matters concerning the management of documents concerning services for proper transmission of Specified Electronic Mail, etc.
- (iv) Matters concerning acceptance of requests of preparation of financial statements, etc. and access, etc. thereto pursuant to the provisions of Article 22 of the Act
- (v) Other necessary matters concerning implementation of services for proper transmission of Specified Electronic Mail, etc.

(Notification of Suspension and Discontinuation of Services for Proper Transmission of Specified Electronic Mail, etc.)

Article 14 A Registered Agency for Proper Transmission shall, when it will suspend or discontinue all or part of its services for proper transmission of Specified Electronic Mail, etc. based on the provisions of Article 21 of the Act, submit a document describing the following matters to the Minister for Public Management, Home Affairs, Posts and Telecommunications and the Consumer Affairs Agency Secretary-General.

- (i) The scope of services for proper transmission of Specified Electronic Mail, etc. that it will suspend or discontinue
- (ii) The date when it will suspend or discontinue services and, when it will suspend services, the period

- (iii) The reason for suspension or discontinuation

(Preparation Using Electromagnetic Records)

Article 15 A Registered Agency for Proper Transmission may, when preparing the financial statements etc. specified in Article 22 paragraph (1) of the Act by using electromagnetic records based on the provisions of Article 3 paragraph (1) of the Act on Utilization of Telecommunications Technology in Document Preservation, etc. Conducted by Private Business Operators, etc. (Act No. 149 of 2004), prepare the statements by recording, in files prepared by computer pertaining to the use of a Registered Agency for Proper Transmission, or in media that can reliably record certain information using magnetic disks or equivalent method (referred to below as “magnetic disks etc.”), the electromagnetic records that were created using a scanner (including image reading systems equivalent to this) to read matter described in documents.

- (2) The provisions in Article 22 paragraph (2) of the Act (limited to the portions pertaining to items (iii) and (iv)) shall apply mutatis mutandis to the cases in the preceding paragraph.
- (3) When preparing the financial statements etc. in paragraph (1) using electromagnetic records, the statements etc. shall be prepared so they may, as necessary, be displayed clearly on paper or on an output device display monitor using a computer and other equipment at the registered agency for proper transmission.

(Method for Displaying Matters Recorded on Electromagnetic Records etc.)

Article 16 The manners stipulated in the applicable MIC ordinance and Cabinet Office ordinance in Article 22 paragraph (2) item (iii) of the Act shall be a method for displaying matters recorded on said electromagnetic records on paper or on an output device display monitor.

- (2) The manner stipulated in the applicable MIC ordinance and Cabinet Office ordinance in Article 22 paragraph (2) item (iv) of the Act shall be the method prescribed by the registered agency for proper transmission from among the following methods
 - (i) A method for using an electronic data processing system connected by telecommunication lines to a computer for use by a registered agency for proper transmission and a computer for use of the requesting person, employing a manner by which information is sent through said telecommunication lines and said information is recorded in a file prepared on the computer for use by the requesting person
 - (ii) A method of delivering media that recorded information in files prepared as magnetic disks etc.
- (3) The methods document listed in each of the preceding items shall enable the requesting person to prepare a document by outputting the records on the file

(Record Book Descriptions)

Article 17 The matters specified by the applicable MIC ordinance or Cabinet Office ordinance in Article 26 of the Act shall be the following matters.

- (i) The date when the instructions or advices specified in Article 14 paragraph (1) item (i) of the Act were given, the other party and the contents
- (ii) The result of investigations on facts specified in Article 14 paragraph (1) item (ii) of the Act
- (2) When the matters listed in each of the preceding items are recorded on files or magnetic disks etc. that were prepared on a computer and are, as necessary, displayed clearly on paper or on an output device display monitor using a computer and other equipment at the registered agency for proper

transmission, it shall be possible to substitute said record for the description in the ledger specified in Article 26 of the Act.

- (3) A registered agency for proper transmission shall maintain the record book provided for in Article 26 of the Act (including the files or magnetic disks etc. in the preceding paragraph that were recorded pursuant to the provisions of the same paragraph) for three years from the day instructions or advices were given or the day the investigation was concluded.

Supplementary Provisions

This ministerial ordinance shall come into force as from the day of enforcement (July 1, 2002) of the Act.

Supplementary Provisions (Ministry of Internal Affairs and Communications Ordinance No. 148 of October 26, 2005) Excerpt

(Effective Date)

- (1) This ministerial ordinance shall come into force as from the day of enforcement (November 1, 2005) of the Act to Partially Amend the Act on Regulation of the Transmission of Specified Electronic Mail (Act No. 46 of 2005).

Supplementary Provisions (Ministry of Internal Affairs and Communications Ordinance No. 121 of November 14, 2008) Excerpt

(Effective Date)

Article 1 This ministerial ordinance shall come into force as from the day of enforcement (December 1, 2008) of the Act to Partially Amend the Act on Regulation of the Transmission of Specified Electronic Mail (Act No. 54 of 2008).

Supplementary Provisions (Ministry of Internal Affairs and Communications Ordinance No. 126 of November 28, 2008) Excerpt

(Effective Date)

- (1) This ministerial ordinance shall come into force as from the day of enforcement (December 1, 2008) of the Act on General Incorporated Associations and General Incorporated Foundations.

Supplementary Provisions (Cabinet Office and Ministry of Internal Affairs and Communications ordinance of August 28, 2009, item (ii))

This order shall come into force as from the day of enforcement (September 1, 2009) of the Act to Establish a Consumer Affairs Agency and Consumer Commission (Act No. 48 of 2009).

Appendix Form 1 (Pertaining to Article 10 paragraph (2))

Appendix Form 2 (Pertaining to Article 10 paragraph (4))