

SUBVERSIVE ACTIVITIES PREVENTION ACT

LAW No 240 of 1952

ANALYSIS

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Chapter 1 General Provisions

(Purposes of this Act)

Article 1. The purposes of this Act shall be to prescribe necessary actions to control organizations which shall have carried on any terroristic subversive activity by way of their activity and to provide penalties for terroristic subversive activities, thereby contributing to the securing of public safety.

(Interpretation and application of this Act)

Art. 2. This Act, having a grave bearing upon the fundamental human rights of the people, shall be applied only within the limits of the minimum necessity for the securing of public safety, and shall not be subject to any extended interpretation at all.

(Standards of control)

Art. 3. Any control action and investigation for control under this Act shall be taken and conducted only within the limits of the minimum

necessity to achieve the purposes as specified in Article 1, and shall not under any circumstances whatever be carried out, in deviation from the prescribed authority, to unlawfully infringe freedoms of thought, worship, assembly, association, expression and learning, the right of laborers to unite and act collectively or any other liberty or right of the people which is guaranteed by the Japanese Constitution.

2. The control and investigation for control under this Act shall not on any account whatever be improperly carried out to restrict or interfere with any lawful activity by labor unions and other organizations.

(Definitions)

Art. 4. In this Act, the term "terroristic subversive activity" means:

(1) (i) To perform the act as referred to in Article 77 (internal disturbance) of the Penal Code (Law No. 45 of 1907), Article 78 (the preliminaries or plot of internal disturbance), Article 79 (aid of internal disturbance and other offences), Article 81 (inducement of foreign incursion), Article 82 (aid of foreign incursion), Article 87 (attempted inducement or aid of foreign incursion) or Article 88 (the preliminaries or plot of inducement or aid of foreign incursion) of said Code;

(ii) To incite to any of the acts as referred to in (i) above;

(iii) To instigate to the act as referred to in Article 77, 81 or 82 of the Penal Code, with a view to causing such act to be carried out;

(iv) With a view to causing the act as referred to in Article 77, 81 or 82 of the Penal Code to be carried out, to print, distribute to a number of persons or post openly, any document or drawing claiming the propriety or necessity of the carrying out of such act; or

(v) With a view to causing the act as referred to in Article 77, 81 or 82 of the Penal Code to be carried out, to communicate by wireless or by wire broadcasting any assertion of the propriety or necessity of the carrying out of such act.

(2) With a view to promoting, supporting or opposing any political doctrine or policy, to perform any of the following acts:

- (i) the act as referred to in Article 106 of the Penal Code (riot);
- (ii) the act as referred to in Article 108 (wilful setting on fire of occupied houses or buildings) or Article 109 paragraph 1 (wilful setting on fire of unoccupied houses or buildings) of said Code;
- (iii) the act as mentioned in the former part of the provisions of Article 117 paragraph 1 of said Code (criminal explosion of high explosives);
- (iv) the act as referred to in Article 125 of said Code (endangering of traffic of trains, electric trains, street cars and so forth);
- (v) the act as referred to in Article 126 paragraph 1 or 2 (overturning of trains, electric trains, street cars and so forth) of said Code;
- (vi) the act as referred to in Article 199 of said Code (murder);
- (vii) the act as referred to in Article 236 paragraph 1 of the same Code (robbery);
- (viii) the act as referred to in Article 1 of the Penal Regulations to control explosives (Cabinet Ordinance No. 32 of 1884) (criminal use of explosives);
- (ix) the act as referred to in Article 95 of the Penal Code (interference with exercise of official duties or exaction of exercise of official duties) and performed collectively by carrying any deadly weapon or poison against any person engaged in procuratorial or police duties, any assistant to such official, any person who guards or escorts persons detained by law, or any person engaged in investigation under this Act; and
- (x) to incite to work out the preliminaries or plot of any of the acts as referred to in (i) to (ix) above, or to instigate to any such act with a view to causing such act to be carried out.

2. In this Act the term "instigate" means, with a view to causing any particular act to be carried out, to cause a person or persons, by means of any document, drawing, speech or action, to make a resolution to carry

out such act, or to give an impetus having such force as shall promote a resolution already in process of making.

3. In this Act the term "organization" means a continuous association of persons, or a federation of such associations, organized to achieve an particular common objective. Any agency, branch, chapter or subsidiary body of an organization, if it comes within the purview of this definition shall be subject to control under this Act.

Chapter 2 Control of Subversive Organizations

(Restriction on organization activity)

Art. 5. Whenever the Public Security Examination Commission shall have sufficient ground to find that there is clear danger of an organization which has performed any terroristic subversive activity by way of its activity to perform again in the future any such subversive activity continuously or repeatedly by way of the activity of the organization, the Commission may take any of the following actions to such organization Provided, however, that such action shall not exceed the necessary and reasonable limits for the elimination of such danger:

(1) in the case such terroristic subversive activity has been performed in a mass demonstration or procession or public gathering, to prohibit the carrying out of any demonstration, procession or public gathering in any place fixed for a period not exceeding six months;

(2) in the case such terroristic subversive activity has been performed by means of any organ journal of the organization (any publication continuously issued by the organization to advocate, communicate or propagate the objective, doctrine or policy of the organization), to prohibit for a period fixed not exceeding six months to continue to print or distribute to a number of persons such organ journal; and

(3) to prohibit for a period fixed not exceeding six months to cause any particular officer, official (the representative, executive officer or any other person engaged in the business of the organization: hereinafter the same) or member of the organization who shall have taken part

in such terroristic subversive activity to perform any act in the interest of the organization.

2. After any action under the preceding paragraph becomes effective, no person shall perform any act against the objective of such action in the capacity of the officer, official or member of such organization: Provided, however, that this shall not apply, in the case of effectuation of the action as laid down in (3) of the same paragraph, to any act by any officer, official or member of the organization concerned which is ordinarily deemed necessary for litigation involving the validity of such action.

(Prohibition of evasion)

Art. 6. Any officer, official or member of any organization to which any action under paragraph 1 of the preceding article has been taken shall not under any name whatever perform any act to evade the prohibition as laid down in paragraph 2 of the same article.

(Declaration of dissolution)

Art. 7. The Public Security Examination Commission may take action to declare any organization coming under any of the following categories to be dissolved, if there is sufficient ground to find that there is clear danger of such organization to perform again in the future any terroristic subversive activity continuously or repeatedly by way of the activity of the organization and in the opinion of the Commission any action under Article 5 paragraph 1 will be unable to effectively eliminate such danger

(1) organizations which have performed by way of their activity any such terroristic subversive activity as referred to in Article 4 paragraph 1 (1);

(2) organizations which have performed by way of their activity any such terroristic subversive activity as mentioned in Article 4 paragraph 1 (2) (i) to (ix) inclusive or which have started but not accomplished such activity, or have incited or, with a view to causing such activity to be carried out, instigated persons to such activity and caused them to perform such activity; and

(3) organizations to which any action under Article 5 paragraph 1 has been taken and which have again performed any terroristic subversive activity by way of their activity.

(Prohibition of acts to be performed in the interest of organization)

Art. 8. After any action under the preceding article shall become effective, any person who shall have been an officer, official or member of the organization concerned on and after the date on which the terroristic subversive activity occasioning such action shall have been carried on shall not perform after the date on which such action shall become effect any act in the interest of the organization: Provided, however, that this shall not apply to any act which is ordinarily deemed necessary for litigation involving the validity of such action or for the liquidation or winding up of the property or affairs of the organization.

(Prohibition of evasion)

Art. 9. Any such person as referred to in the preceding article shall not under any name whatever perform any act to evade the prohibition under the same article.

(Liquidation of property)

Art. 10. Whenever with regard to an incorporated organization the action as laid down in Article 7 becomes final and any application through legal proceedings for withdrawal or variation of such action can not be made, such organization shall dissolve.

2. Whenever the action as mentioned in Article 7 becomes final and any application through legal proceedings for withdrawal or variation of such action can not be made, the organization concerned shall promptly liquidate its property.

3. When the liquidation of property under the preceding paragraph has been completed, any person who has been officer or official of the organization concerned shall make a full report thereon to the Director of the Public Security Investigation Agency.

Chapter 3 Procedure For Control of Subversive Organizations

(Request for action)

Art. 11. The actions as laid down in Article 5 paragraph 1 and Article 7 shall be taken only on the request of the Director of the Public Security Investigation Agency.

(Notice)

Art. 12. In making request under the preceding article, the Director of the Public Security Investigation Agency shall beforehand fix the date and place for the organization concerned to explain itself with regard to the case involving it, and by seven days immediately before such date notify the organization of such date and place as well as the gist of the reasons for the contemplated request for action to the organization.

2. Any notice under the preceding paragraph shall be given by publishing it in the Official Gazette and shall be regarded as served on a lapse of seven days after the date of such publication.

3. In the case the place of residence or address of the representative or executive officer of the organization concerned is known, a written notice shall be sent to such person in addition to publication in the Official Gazette under the preceding paragraph.

(Proxy)

Art. 13. Any organization which has received the notice as laid down in paragraph 1 of the preceding article may choose a lawyer or lawyer or any other person or persons to represent the organization with regard to the case involving it.

(Expression of opinion and presentation of evidence)

Art. 14. Any officer, official, member and proxy of the organization concerned may, within the limits of five persons, appear on the date fixed for explanation, express opinions about the facts and evidence and produce favorable evidence to the official of the Public Security Investigation Agency who shall be designated by the Director of the Agency (hereinafter referred to as "the designated officer").

(Admission to hearing)

Art. 15. The organization concerned may choose not more than five persons as observers in the case involving it.

2. On choosing any such observer, such organization shall report his or her name to the Director of the Public Security Investigation Agency.

3. On the date fixed for the organization concerned to explain, any observer and person engaged in reporting for any public newspaper, information or broadcasting medium may attend at the proceedings of hearing

4. In the case any such person as specified in the preceding paragraph performs any act interfering with the hearing of explanation, the designated officer may expel such person.

(Unnecessary evidence)

Art. 16. Any evidence produced under Article 14, if unnecessary, shall not need to be taken: Provided, however, that the designated officer shall not abuse his power by unlawfully abridging the right of the organization concerned to a fair and full hearing of explanation.

(Documents of hearing)

Art. 17. The designated officer shall make a document of the proceeding of the hearing conducted on the date of explanation of an organization.

2. The person who has appeared under Article 14 shall be given an opportunity of expressing opinions about the contents of such document as laid down in the preceding paragraph, which shall be supplemented by indication of whether such person has any opinion about such contents and the gist of the opinion of such person, if any.

(Granting of copy of hearing document and documentary evidence)

Art. 18. The designated officer, if requested by the organization concerned, shall grant to such organization a copy of the hearing document and of documentary evidence taken.

(Notice of decision not to request action)

Art. 19. Whenever the Director of the Public Security Investigation Agency shall decide not to make request for action under Article 11 with regard to a case in which he has given the notice as mentioned in Article

12 paragraph 1, he shall promptly notify the organization concerned of such fact and publish it in the Official Gazette.

(Manner of request for action)

Art. 20. Any request for action under Article 11 shall be made by submitting to the Public Security Examination Commission a written request mentioning the facts which shall constitute the grounds for such request, the action to be taken pursuant to Article 5 paragraph 1 or Article 7 and other matters which shall be prescribed by the Commission by regulations.

2. Any written request for action shall be accompanied by such evidence as shall demonstrate the fact which shall constitute the ground for such request, all the evidence produced by the organization concerned and the document as laid down in Article 17.

3. Such evidence referred to in the preceding paragraph as shall demonstrate the fact which shall constitute the ground for the request for action shall be such about which the organization concerned shall have been given an opportunity of expressing its opinion.

(Delivery of copy of written request for action and presentation of brief)

Art. 21. Whenever the Director of the Public Security Investigation Agency has submitted a written request for action to the Public Security Examination Commission, he shall notify the organization concerned of the contents of such request.

2. Any notice under the preceding paragraph shall be given by publishing it in the Official Gazette and shall be regarded as served on a lapse of seven days after the date of such publication.

3. In the case the place of residence or address of the representative or executive officer of the organization concerned is known, a copy of the written request for action shall be served upon such person in addition to publication in the Official Gazette under the preceding paragraph.

4. The organization concerned may, within fourteen days after service of the notice as laid down in paragraph 1 of this article, present its brief about the request for action to the Public Security Examination

Commission.

(Decision by Commission)

Art. 22. The Public Security Examination Commission shall examine the written request for action, evidence and hearing documents submitted by the Director of the Public Security Investigation Agency and the brief presented by the organization concerned. In such case, the Commission may make necessary inquiries for such examination.

2. In order to make examination under the preceding paragraph, the Public Security Examination Commission may take the following actions:

(1) To require persons concerned or witnesses to voluntarily appear before the Commission and examine such persons, or to seek opinions or reports from such persons;

(2) To require any owner, possessor or keeper of books, documents or other things to produce any such article voluntarily, or to place in the custody of the Commission any such article voluntarily produced;

(3) With the consent of the care-taker or tenant or any other proper substitute, to inspect the office of the organization concerned or any other necessary place and examine the conduct of business or any book, document or other thing; and

(4) To request any public office or organization, public or private to submit any necessary report or material.

3. The Public Security Examination Commission, in case it shall deem it appropriate to do so, may cause any member or official of the Commission to take any of the actions as laid down in the preceding paragraph

4. In taking any of the actions as specified in Paragraph 2, any member or official of the Public Security Examination Commission, if demanded by any person concerned, shall present his credentials indicating his official status.

5. The Public Security Examination Commission shall, on the basis of the result of examination made under Paragraph 1, make any of the following decisions on the case brought before the Commission:

- (1) To reject any request for action if such request is found unlawful;
- (2) To dismiss any request for action if such request is found groundless; or
- (3) To carry out the action requested if the request is found reasonable.

6. Even if the Public Security Examination Commission is unable to take the action as mentioned in Article 7 in a case involving any request for dissolution action, if the organization concerned comes under Article 5 paragraph 1, the Commission shall decide on any of the actions as specified in Article 5 paragraph 1, notwithstanding the provisions of (2) of the preceding paragraph.

(Manner of decision)

Art. 23. Any decision by the Commission shall be made in writing. Such decision shall be accompanied by the statement of the reason therefor and bear the signatures and seals of the chairman and members of the Commission who have taken part in the determination of such decision.

(Notice and publication of decision)

Art. 24. The Director of the Public Security Investigation Agency and the organization concerned shall be notified of the decision made by the Commission.

2. The notice as mentioned in the preceding paragraph shall be given by serving a copy of the written decision upon the Director of the Public Security Investigation Agency and the organization concerned.

3. Any Commission decision shall be published in the Official Gazette.

(Time when Commission decision comes into effect)

Art. 25. Any decision by the Commission shall become effective ---

- (1) In the case of the decision to reject or dismiss a request for action, upon service of a copy of the Commission's written decision on the Director of the Public Security Investigation Agency; or
- (2) In the case of the decision to take any action under Article 5 paragraph 1 or Article 7, upon publication of such decision in the Official

Gazette under Paragraph 3 of the preceding article.

2. Against any decision mentioned in the preceding paragraph an application may be made for stay of execution of action by filing a suit with the court, pursuant to the provisions of the Law for Special Regulations concerning the Procedure of Administrative Litigations (Law No. 81 of 1948), to seek the withdrawal of variation of such decision.

3. The court shall try to promptly commence the trial of such suit as mentioned in the preceding paragraph and pass judgement thereon within a hundred days reckoning from the date of acceptance of such suit, regardless of the order of trial of the other cases.

(Detailed regulations covering procedure for action)

Art. 26. Except for the provisions of this Chapter, detailed regulations covering the proceedings in the Public Security Examination Commission shall be established by the Commission.

Chapter 4 Investigation

(Investigative power of public security investigator)

Art. 27. The public security investigator shall be empowered to conduct necessary investigations with regard to control under this Act within the limits of the standards as laid down in Article 3.

(Inspection of documents and evidence)

Art. 28. The public security investigator may, in case of need for investigation with regard to control under this Act, request any public prosecutor or judicial police official to let him inspect the documents, papers and evidence regarding any related case.

2. Unless any request under the preceding paragraph interferes with performance of his duties, the public prosecutor or judicial police official shall comply with such request.

(Exchange of information between Public Security Investigation Agency and Police)

Art. 29. The Public Security Investigation Agency, National Rural

Police and autonomous police shall exchange with each other information or material with regard to enforcement of this Act.

(Witnessing by public security investigator)

Art. 30. The public security investigator may, in case of need for investigation with regard to control under this Act, witness the seizure of property, search and inspection by the judicial police official in an offence involving any terroristic subversive activity.

(Placing articles in custody)

Art. 31. The public security investigator may place in his custody any article produced by any person concerned or witness voluntarily. In such case, the public security investigator shall prepare an inventory of such articles and deliver it to the person who has produced such articles.

(Custody of articles)

Art. 32. If any of such articles as placed in the custody of the public security investigator under the preceding article is inconvenient for transit or custody, he may assign a guard to such article or cause the owner of such article or any other competent person to keep it with the consent of such person.

(Restitution of articles)

Art. 33. If any of such articles as placed in the custody of the public security investigator under Article 31 is unnecessary to keep in his custody, he shall return such article to the person who has produced it.

2. In such case as mentioned in the preceding paragraph, if the article is unable to be returned because the address of the person to whom the article is to be returned is unknown or for any other reason, the public security investigator shall publish such fact in the Official Gazette.

3. If within six months after the date of publication in the Official Gazette there is no claim for restitution, any such article shall vest in the national treasury.

4. Even within the period as laid down in the preceding paragraph, such articles as have little or no value may be scrapped, or such as are

inconvenient for custody may be sold by public auction and the proceeds kept in custody.

(Presentation of credentials)

Art. 34. In performing his official duties, the public security investigator shall, if demanded by any person concerned, present his credentials indicating his official status.

Chapter 5 Miscellaneous Provisions

(Publication of court decisions)

Art. 35. Whenever all or part of any decision of the Public Security Examination Commission to take any action under Article 5 paragraph 1 or Article 7 is reversed by the court, the Director of the Public Security Investigation Agency shall publish such fact in the Official Gazette.

(Report to Diet)

Art. 36. The Attorney General shall report to the Diet once a year through the Prime Minister on control of organizations under this Act.

(Enforcement regulations)

Art. 37. Except for such matters as specifically laid down in this Act, detailed regulations necessary for the enforcement of this Act shall be made by the Attorney General's Office ordinance.

Chapter 6 Penalties

(Incitement to offences involving internal disturbance, inducement and aid of foreign incursion, and other offences)

Art. 38. Whoever shall incite to the offence as referred to in Article 77, 81 or 82 of the Penal Code or instigate to such offence with a view to causing such offence to be committed shall be imprisoned with or without hard labor for a period not exceeding seven years.

2. Any person shall be liable to imprisonment with or without hard labor for a term not exceeding five years ---

(1) who shall incite to the offence as referred to in Article 78, 79 or 88 of the Penal Code;

(2) who, with a view to causing the offence as referred to in Article 77, 81 or 82 of the Penal Code to be committed, shall print, distribute to a number of persons or post openly, any document or drawing claiming the propriety or necessity of the commission of such offence; or

(3) who, with a view to causing the offence as referred to in Article 77, 81 or 82 of the Penal Code to be committed, shall communicate by wireless or by wire broadcasting any assertion of the propriety or necessity of the commission of such offence.

3. In the case any person who shall have committed any of the offences as referred to in the preceding two paragraphs with reference to the offence as referred to in Article 77, 78 or 79 of the Penal Code shall surrender himself before the disturbance takes shape, the sentence to be imposed upon such person shall be commuted or remitted.

(Preliminaries of arson for political purposes and other offences)

Art. 39. Any person who, with a view to promoting, supporting or opposing any political doctrine or policy, works out the preliminaries or plot, or incites, to commit the offence mentioned in Article 108, 109 paragraph 1, the former part of 117 paragraph 1, 126 paragraph 1 or 2, 199 or 236 paragraph 1 of the Penal Code, or instigates to commit such offence with a view to causing such offence to be committed, shall be liable to imprisonment with or without hard labor for a period not exceeding five years.

(Preliminaries of riot for political purposes and other offences)

Art. 40. Any person who, with a view to promoting, supporting or opposing any political doctrine or policy, works out the preliminaries or plot of, or incites to, any of the following offences, or instigates to such offence with a view to causing such offence to be committed, shall be liable to imprisonment with or without hard labor for a term not exceeding three years:

(1) the offence as referred to in Article 106 of the Penal Code;
(2) the offence as referred to in Article 125 of said Code; or
(3) the offence as referred to in Article 95 of the same Code, by carrying any deadly weapon or poison and acting collectively against any person engaged in procuratorial or police duties, any assistant to such official, any person who guards or escorts persons detained by law or any person engaged in investigation under this Act.

) (Incitement)

Art. 41. Nothing of the provisions of this Act on incitement shall exclude that part of the General Provisions of the Penal Code which refers to incitement from application to any offence committed by any person incited to the commission. In such case, the pertinent sentences as provided for in said Code and this Act shall be compared and the heavier sentence shall be imposed.

(Violation of prohibition of acts to be performed in the interest of organizations)..

Art. 42. Any person who contravenes Article 8 or 9 shall be liable to imprisonment at hard labor for a period not exceeding three years or to a fine not exceeding fifty thousand yen.

(Violation of action of restriction on organization activity)

Art. 43. Any person who contravenes Article 5 paragraph 2 or Article 6 shall be liable to imprisonment at hard labor for a period not exceeding two years or to a fine not exceeding thirty thousand yen.

(Offence of violation of order of expulsion)

Art. 44. Whoever shall act against the order of expulsion under Article 15 paragraph 4 shall be liable to a fine not exceeding thirty thousand yen.

(Offence of abuse of powers by public security investigator)

Art. 45. Whenever the public security investigator shall abuse his powers by forcing any other person to do anything which such person shall be under no obligation to do or by interfering with the right of such person to do anything, such official shall be imprisoned with or without

hard labor for a term not exceeding three years.

Supplementary Provisions

1. This Act shall become effective as from the date of its promulgation.

2. The following Cabinet Ordinances shall be rescinded:

(1) The Organizations Control Order (Cabinet Order No. 64 of 1949).

(2) The Cabinet Order concerning the Custody and Disposition, etc. of the Properties of Dissolved Organizations (Cabinet Order No. 238 of 1948).

(3) The Order concerning the Sales Commission of Dissolved Organizations' Properties (Cabinet Order No. 285 of 1948).

3. The application of the penal provisions of the ordinance mentioned in (1) or (2) of the preceding paragraph to unlawful acts performed before the enforcement of this Act shall remain the same as before.

4. Such matters shall be transacted in the same manner as before as the administration and disposition (including repayment of liabilities under Article 14 of the Cabinet Order concerning the Custody and Disposition, etc. of the Properties of Dissolved Organizations) of the property of any organization dissolved under Article 4 of the Organizations Control Order (including organizations laid down in Article 23 of the Cabinet Order concerning the Custody and Disposition etc. of the Properties of Dissolved Organizations) which has vested in the national treasury prior to the enforcement of this Act, and punishment for any violation of the foregoing orders. In this case, the business of the Sales Commission of Dissolved Organizations' Properties shall be conducted by the Attorney General.

5. The Law for Establishment of Attorney General's Office (Law No. 193 of 1947) is partly amended as follows:

a. Cross out that part of Article 1 paragraph 3 providing "matters concerning prohibition, etc. from formation of political parties, associations and other bodies, made in accordance with the provisions of the

Organizations Control Order (Cabinet Order No. 64, 1949), matters concerning the custody, etc. of the properties which have been vested in the National Treasury in accordance with the provisions of the Cabinet Order concerning the Custody and Disposition, etc. of the Properties of Dissolved Organizations (Cabinet Order No. 238, 1948)" and insert instead "-----and matters pertaining to control of subversive organizations under the Subversive Activities Prevention Act (Law No. _____ of 1952)."

b. Cross out (8) of Paragraph 3 of Article 8 and change (9) to (8).

6. The Criminal Procedure Code (Law No. 131, 1890) is amended in part as follows:

Add, immediately after "Article 193 to 196 of the Penal Code" in the provisions of Article 262 Paragraph 1, the words "or Article 45 of the Subversive Activities Prevention Act (Law. No. _____, 1952"