

LAW CONCERNING SPECIAL PROVISIONS FOR THE NARCOTICS AND PSYCHOTROPICS CONTROL LAW, ETC. AND OTHER MATTERS FOR THE PREVENTION OF ACTIVITIES ENCOURAGING ILLICIT CONDUCTS AND OTHER ACTIVITIES INVOLVING CONTROLLED SUBSTANCES THROUGH INTERNATIONAL COOPERATION

(Law No. 94 of October 5, 1991)

(Purpose)

Article 1. This law shall, in addition to the provisions of the Narcotics and Psychotropics Control Law (Law No. 14 of 1953), the Cannabis Control Law (Law No. 124 of 1948), the Opium Law (Law No. 71 of 1954), and the Stimulants Control Law (Law No. 252 of 1951), set forth special provisions for these Laws and other relevant laws and other necessary matters, in the light of the importance of eliminating, through international cooperation, major factors contributing to the commission of illicit conducts involving controlled substances, by confiscating drug offense proceeds derived from drug offences, and with a view to preventing activities encouraging illicit conducts and other activities involving controlled substances, and to ensure the due implementation of the international covenants in this respect.

(Definitions)

Article 2. In this Law, a “controlled substance” means any narcotic or psychotropic designated in the Narcotics and Psychotropics Control Law, any cannabis designated in the Cannabis Control Law, any opium or poppy straw designated in the Opium Law and any stimulant designated in the Stimulants Control Law.

2. In this Law, a “drug offense” means any offense enumerated in the following.

- (1) an offense specified in Article 5, Article 8 or Article 9
- (2) an offense specified in Article 64, Article 64-2, Article 65, Article 66, Article 66-3, Article 66-4, Article 68-2 or Article 69-5 of the Narcotics and Psychotropic Control Law
- (3) an offense specified in Article 24, Article 24-2 or Article 24-7 of the Cannabis Control Law
- (4) an offense specified in Article 51, Article 52 or Article 54-3 of the Opium Law
- (5) an offense specified in Article 41, Article 41-2 or Article 41-11 of the Stimulants Control Law
- (6) an offense specified in Article 67 or Article 69-2 of the Narcotics and Psychotropics Control Law, in Article 24-4 of the Cannabis Control Law, in Article 53 of the Opium Law or in Article 41-6

of the Stimulants Control Law

(7) an offense specified in Article 68 or Article 69-4 of the Narcotics and Psychotropics Control Law,

in Article 24-6 of the Cannabis Control Law, in Article 54-2 of the Opium Law or in Article

41-9 of the Stimulants Control Law

3. In this Law, “drug offense proceeds” mean any property obtained through the action of a drug

offense or obtained in reward for such criminal conduct, or any money involved in an offense referred

to in Item (7) of the preceding paragraph.

4. In this Law, “property derived from drug offense proceeds” means any property obtained as the

fruit of or in exchange for drug offense proceeds or any property obtained in exchange for such

property so obtained, or any other property obtained through the possession or disposition of drug

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offense proceeds.

5. In this Law, “drug offense proceeds or the like” mean drug offense proceeds, property derived

from drug offense proceeds or any other property in which any drug offense proceeds or property

derived from drug offense proceeds is mingled with other property.

(Special Provisions for Landing Procedures)

Article 3. When a foreigner suspected to be a person designated in Paragraph 1 (6) of Article 5 of the

Immigration Control and Refugee Recognition Law (Cabinet Ordinance No.319 of 1951; hereinafter

referred to as the “Immigration Control Law”) makes an application provided for in Paragraph 2 of

Article 6 of the Immigration Control Law, the immigration inspector may, notwithstanding the

provision of Paragraph 1 of Article 9 of the Immigration Control Law, issue a stamp of landing

permission provided for in Paragraph 1 of Article 9 of the Immigration Control Law on such

foreigner’s passport upon the examination specified in Paragraph 1 of Article 7 of the Immigration

Control Law of matters other than those specified in Paragraph 1 (6) of Article 5 of the Immigration

Control Law, if the immigration inspector has been informed by the Minister of Justice that there has

been notice from a public prosecutor or a request from a judicial police official (limited to narcotics

control officers, prefectural narcotics control officials, police officers or maritime safety officers; the same shall apply in the succeeding paragraph and Paragraph 1 of the succeeding article) that it is necessary to have such foreigner land for the investigation of a drug offense and that it is deemed that a sufficient surveillance system has been established to prevent the loss of any controlled substance involved and the escape of such a person.

2. When an application provided for in Paragraph 1 of Article 14, Paragraph 1 or Paragraph 2 of Article 15 or Paragraph 1 of Article 16 of the Immigration Control Law is made in respect to a foreigner suspected to fall under Paragraph 1 (6) of Article 5 of the Immigration Control Law, the immigration inspector may permit the landing of such a foreigner upon the examination of matters other than those specified in Paragraph 1 (6) of Article 5 of the Immigration Control Law, if the immigration inspector has been informed by the Minister of Justice that there has been notice from a public prosecutor or a request from a judicial police official that it is necessary to have such foreigner land for the investigation of a drug offense and that it is deemed that a sufficient surveillance system has been established to prevent the loss of any controlled substance involved and the escape of such a person.

3. If an immigration inspector is informed by the Minister of Justice that the Minister considers it inappropriate to have a foreigner, to whom a stamp of landing permission has been issued pursuant to the provision of Paragraph 1 of this article or landing permission has been given pursuant to the provision of the preceding paragraph, continue to stay in the territory of Japan, the immigration inspector shall promptly examine whether such foreigner fell under the provision of Paragraph 1 (6) of Article 5 of the Immigration Control Law at the time of said foreigner's landing in the territory of Japan.

4. If the immigration inspector finds as a result of the examination pursuant to the provision of the preceding paragraph that a foreigner designated in the preceding paragraph fell under Paragraph 1 (6)

of Article 5 of the Immigration Control Law, the immigration inspector shall revoke the stamp of

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landing permission under the provision of Paragraph 1 of this article or the landing permission under the provision of Paragraph 2 of this article.

(Special Provisions for Customs Procedures)

Article 4. When it is found through the inspection of a cargo pursuant to the provisions of Article 67

(including *mutatis mutandis* application of such provisions in Article 75; the same shall apply

throughout this paragraph) of the Customs Law (Law No. 61 of 1954), that any controlled substance

is concealed in such cargo, a director-general of customs may take the following measures to meet the

request of the public prosecutor or the judicial police official that it is necessary for such controlled

substances to be shipped abroad or to be delivered into the territory of Japan for the investigation of a

drug offense, and if the director-general of customs considers that a sufficient surveillance system has

been established to prevent the loss of such controlled substances; provided that this shall not apply if

it is deemed inappropriate in the light of the purposes of the laws relating to customs to take such

measures

(1) to issue permission as applied, in accordance with the provisions of Article 67 of the Customs

Law in respect to such cargo (except for the controlled substance concealed in such cargo) and

(2) other necessary measures to meet the request.

2. The provision of the preceding paragraph (except for Item (1)) shall apply *mutatis mutandis* when

it is found through the inspection of an object other than a letter contained in the mail pursuant to the

proviso of Paragraph 1 of Article 76 of the Customs Law that any controlled substance is concealed in

such object other than a letter. In this case, the provision of Article 74 of the same Law shall not apply

to such a controlled substance.

(Professionally Conducted Illicit Importing, etc.)

Article 5. Any person who professionally engages in one or more of the activities enumerated below

(including any person who professionally engages in any activity constituting an offense specified in

Article 8 as well as such conduct) shall be imprisoned with hard labor for an indefinite term or not

less than five years and fined not more than ten million yen.

(1) to commit an act constituting an offense specified in Article 64, Article 64-2 (except for

possession), Article 65, Article 66 (except for possession), Article 66-3 or Article 66-4 (except

for possession) of the Narcotics and Psychotropics Control Law

(2) to commit an act constituting an offense specified in Article 24 or Article 24-2

(except for

possession) of the Cannabis Control Law

(3) to commit an act constituting an offense specified in Article 51 or Article 52 (except for

possession) of the Opium Law

(4) to commit an act constituting an offense specified in Article 41 or Article 41-2

(except for

possession) of the Stimulants Control Law

(Concealment of Drug Offense Proceeds or the Like)

Article 6. Any person who disguises facts concerning the acquisition or disposition of drug offense proceeds

or the like or conceals drug offense proceeds or the like shall be imprisoned with hard labor not

exceeding five years or fined not more than three million yen, or both. The same shall apply to any

person who disguises facts concerning the source of drug offense proceeds or the like.

2. Attempt of an offense specified in the preceding paragraph shall be punishable.

3. Any person who with intent to commit an offense specified in Paragraph 1 of this article prepares

to commit such an offense shall be imprisoned with hard labor not exceeding two years or fined not

more than five hundred thousand yen.

(Receipt of Drug Offense Proceeds or the Like)

Article 7. Any person who knowingly receives drug offense proceeds or the like shall be imprisoned with

hard labor not exceeding three years or fined not more than one million yen or both; provided that this

shall not apply to a person who receives property offered for the performance of an obligation under a

law or regulation or offered for the performance of an obligation under a contract (limited to that

under which the obligee is to offer substantial property interest) at the time of the conclusion of which

the said person did not know that the obligation under such contract would be performed with drug

offense proceeds or the like.

(Import, etc. of Articles as Controlled Substances)

Article 8. Any person who with intent to commit any drug offense (limited to those involving import or export of any controlled substance.) imports or exports any drug or other article that the said person has received or acquired as a controlled substance, shall be imprisoned with hard labor not exceeding three years or fined not more than five hundred thousand yen.

2. Any person who with intent to commit any drug offense (limited to those involving transfer, receipt or possession of any controlled substance) transfers to or receives from another person any drug or other article as a controlled substance or possesses any drug or other article that the said person has received or acquired as a controlled substance, shall be imprisoned with hard labor not exceeding two years or fined not more than three hundred thousand yen.

(Incitement or Solicitation)

Article 9. Any person who publicly incites or solicits others to commit any drug offense (except for offenses specified in the preceding article and this article) or any offense specified in Article 6 or Article 7 or to abuse any controlled substance shall be imprisoned with hard labor not exceeding three years or fined not more than five hundred thousand yen.

(Extraterritorial Offense)

Article 10. Any offense specified in Article 5 through Article 7 and in the preceding article shall be subject to the provision of Article 2 of the Penal Code (Law No. 45 of 1907).

(Confiscation of Drug Offense Proceeds or the Like)

Article 11. Any property enumerated below shall be confiscated; provided that if any offense specified in Paragraph 1 or Paragraph 2 of Article 6 or in Article 7 involves any property in which drug offense proceeds or property derived from drug offense proceeds is mingled with any other property and if the confiscation of the whole of any property enumerated in the following Items (3) through (5) for such offense is deemed inappropriate, then a portion of such property may be confiscated.

- (1) any drug offense proceeds (except for those involved in an offense referred to in Paragraph 2 (6) or (7) of Article 2)
- (2) any property derived from drug offense proceeds (except for that obtained through the possession or disposition of drug offense proceeds involved in an offense referred to in paragraph 2 (6) or (7) of Article 2)

(3) any drug offense proceeds or the like involved in an offense specified in Paragraph 1 or Paragraph

2 of Article 6 or in Article 7

(4) any property yielded or obtained through or obtained in reward for the commission of an offense

specified in Paragraph 1 or Paragraph 2 of Article 6 or in Article 7

(5) any property obtained as the fruit of or in exchange for any property specified in the preceding

two items, any property obtained in exchange for any such property so obtained, and any other

property obtained through the possession or disposition of any property specified in the preceding two items

2. Notwithstanding the provision of the preceding paragraph, the confiscation of any property

specified in the preceding paragraph may be avoided if it is deemed to be inappropriate in light of the

nature of the property in question, the conditions of its use, the existence of rights to such property of

any person other than any of the parties to the offense and other circumstances.

3. Any property enumerated in the following may be confiscated

(1) any drug offense proceeds (only those involved in an offense referred to in Paragraph 2 (6) or (7)

of Article 2)

(2) any property derived from drug offense proceeds (only that obtained through the possession or

disposition of drug offense proceeds involved in an offense referred to in Paragraph 2 (6) or (7)

of Article 2)

(3) any drug offense proceeds or the like involved in an offense specified in Paragraph 3 of Article 6

(4) any property yielded or obtained through or obtained in reward for the commission of an offense

specified in Paragraph 3 of Article 6

(5) any property obtained as the fruit of or in exchange for any property specified in the preceding

two items, any property obtained in exchange for any such property so obtained, and any other

property obtained through the possession or disposition of any property specified in the preceding two items

(Confiscation, etc. of Property in which Drug Offense Proceeds or the Like Are Mingled)

Article 12. The provisions of Article 14 and Article 15 of the Law concerning the Punishment of

Organized Crimes and Control of Criminal Proceeds, etc. (Law No. 136 of 1999; hereinafter referred

to as the “Organized Crime Punishment Law”) shall apply mutatis mutandis to any confiscation under the provision of the preceding article. In this case, the term “items of Paragraph 1 of the preceding article” in Article 14 of the Organized Crime Punishment Law shall be read as “items of Paragraph 1 of Article 11 of the Law concerning Special Provisions for the Narcotics and Psychotropics Control Law, etc. and Other Matters for the Prevention of Activities Encouraging Illicit Conducts and Other Activities Involving Controlled Substances Through International Cooperation.”

(Forfeiture)

Article 13. When any property to be confiscated under the provision of Paragraph 1 of Article 11 is not confiscable or is not confiscated in accordance with the provision of Paragraph 2 of the same article, any of the offenders in question shall be subject to forfeiture of an amount of money equivalent to the value of such property.

2. When any property specified in Paragraph 3 of Article 11 is not confiscable or the confiscation of such property is deemed to be inappropriate in light of the nature of the property in question, the conditions of its use, the existence of rights to such property of any person other than any of the parties to the offense or other circumstances, any of the offenders in question may be subject to forfeiture of an amount of money equivalent to the value of such property.

(Presumption of Drug Offense Proceeds)

Article 14. With respect to drug offense proceeds involved in the offenses designated in Article 5, any property obtained by any offender of any such offense during a period in which the offender in question was professionally engaged in any of the activities enumerated in the items of Article 5 shall be presumed to be drug offense proceeds if the value of the property in question is deemed to be disproportionately large in light of the circumstances of such offender’s work or such offender’s receipt of any benefit under any law or regulation during such period.

(Penalties against Employers, etc.)

Article 15. When any representative of a corporation, or any agent, servant or other employee of a corporation or a natural person commits any offense designated in Article 5 through Article 9 in connection with the business of such corporation or natural person, the fine specified in the relevant

article shall be imposed on the corporation or natural person in addition to the punishment of the perpetrator.

(Confiscation Procedures for a Third Party's Property, etc.)

Article 16. When any credit, etc. (meaning any property other than immovables and movables. The same shall apply in Article 18.) which falls under property enumerated in the items of Paragraph 1 or of Paragraph 3 of Article 11 belongs to any person other than the defendant (hereinafter in this article referred to as the "third party"), the court may not order the confiscation unless such third party is permitted to intervene in the proceeding of the defendant's case.

2. When any property that is the subject of any superficies, hypothec or other right of any third party is to be confiscated pursuant to the provisions of this Law, the Narcotics and Psychotropics Control Law or any other law or regulation for any drug offense or any offense designated in Article 6 or Article 7 (hereinafter referred to as "drug offense, etc."), the same as provided for in the preceding paragraph shall apply unless such third party is permitted to intervene in the proceeding of the defendant's case.

3. When any property that is the subject of any superficies, hypothec or other right of any third party is to be confiscated, the provisions of Paragraph 3 through Paragraph 5 of Article 18 of the Organized Crime Punishment Law shall apply *mutatis mutandis* if such right is to be maintained pursuant to the provisions of Paragraph 2 of Article 15 of the Organized Crime Punishment Law which is applied *mutatis mutandis* by Article 12.

4. Except as otherwise provided for in this Law, the provisions of the Law on Temporary Measures

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concerning Confiscation Procedures for Confiscation in Criminal Proceedings of Things Owned by Third Persons (Law No. 138 of 1963) shall apply *mutatis mutandis* to the procedures for confiscation of property specified in Paragraph 1 and Paragraph 2 of this article.

(Disposition, etc. of Confiscated Credits, etc.)

Article 17. The provision of Article 19 of the Organized Crime Punishment Law shall apply *mutatis mutandis* to any confiscation under Article 11 and the provision of Article 20 shall be applied

likewise to any case where a request is made to a relevant authority for a registration of transfer of any right pursuant to a judicial decision of confiscation of any property whose transfer requires registration. In this case, the term “Part 1 of the succeeding article” shall be read as “Chapter V of the Law concerning Special Provisions for the Narcotics and Psychotropics Control Law, etc. and Other Matters for the Prevention of Activities Encouraging Illicit Conducts and Other Activities Involving Controlled Substances Through International Cooperation.”

(Special Provision for Criminal Compensation)

Article 18. The provision of Paragraph 6 of Article 4 of the Criminal Compensation Law (Law No. 1 of 1950) shall apply *mutatis mutandis* to the contents of the compensation made under the said Law for the execution of the confiscation of credits, etc.

(Securing Order for Confiscation)

Article 19. A court may, either at the request of a public prosecutor or *ex officio*, prohibit the disposition of any property involved in a criminal proceeding for any drug offense, etc. pending before it by issuing a securing order for confiscation if the court finds that there is probable cause to deem such property confiscable under the provisions of this Law, the Narcotics and Psychotropics Control Law, or any other law or regulation (hereinafter referred to as “property subject to confiscation”), and that such a measure is necessary for the confiscation of the said property.

2. When a court issues or is going to issue a securing order for the confiscation of any property that is the subject of any superficies, hypothec or other right, the court may, at the request of a public prosecutor or *ex officio*, prohibit the disposition of such right by issuing a collateral securing order, separately, when the court finds that there is probable cause to deem that such right will be extinguished as a result of confiscation and that such a measure is necessary for the confiscation of the said property or finds that there is probable cause to deem that such right is false.

3. A judge may, at the request of a public prosecutor or a judicial police officer (limited to narcotics control officers, prefectural narcotics control officials, police officers or maritime safety officers,

among which police officers shall be limited to inspectors or superior officers designated by the National Public Safety Commission, or a prefectural public safety commission), take any measure specified in the preceding two paragraphs even before the institution of prosecution if the judge finds that there is cause and necessity provided for in the preceding two paragraphs.

4. Except as otherwise provided for in the preceding three paragraphs, the provisions concerning the prohibition of disposition by a securing order for confiscation and that by a collateral securing order of Chapter IV of the Organized Crime Punishment Law shall apply *mutatis mutandis* to any measures to be taken under the preceding three paragraphs.

(Securing Order for Forfeiture)

Article 20. A court may, at the request of a public prosecutor or *ex officio*, prohibit any defendant from disposing of any of the defendant's property by issuing a securing order for forfeiture, if the court finds that there is probable cause to deem that there is any property involved in a criminal proceeding for any drug offense, etc. pending before it which is to be subject to forfeiture pursuant to the provisions of Article 13, and that there is a possibility that the enforcement of a judicial decision of forfeiture may become impossible or be seriously hampered.

2. A judge may, at the request of a public prosecutor, take the measures specified in the preceding paragraph even before the institution of prosecution if the judge finds that there is cause and necessity as indicated in the said paragraph.

3. Except as provided for in the preceding two paragraphs, the provisions concerning the prohibition of disposition by a securing order for forfeiture in Chapter IV of the Organized Crime Punishment Law shall apply *mutatis mutandis* to any measures to be taken under the preceding two paragraphs.

(Implementation of Mutual Assistance)

Article 21. When there is a request, with respect to a criminal case in a foreign country involving any conduct constituting a drug offense, etc., from such foreign country pursuant to any treaty for assistance in the enforcement of a final decision of confiscation or forfeiture or in the securing of any property for the purpose of confiscation or forfeiture, such assistance shall be provided except in any

of the following cases.

(1) When it is found that under the laws and regulations of Japan no penalty may be imposed on the offense for which assistance is requested (meaning an offense which is alleged to have been

committed according to the request for assistance. The same shall apply hereinafter)

(2) When any criminal case involving the offense for which assistance is requested is pending before

a Japanese court or there has been a final decision by a Japanese court for such case

(3) As for assistance in the enforcement of a final decision of confiscation or in the securing for the

purpose of confiscation, when under the laws and regulations of Japan the property concerned is

not the kind of property for which any judicial decision of confiscation or securing for confiscation may be made with respect to the offense for which assistance is required

(4) As for assistance in the enforcement of a final decision of forfeiture or in the securing for the

purpose of forfeiture, when under the laws and regulations of Japan any judicial decision of

forfeiture or securing for forfeiture related to the request in question may not be made with

respect to the offense for which assistance is required

(5) When it is found that as for assistance in the enforcement of a final decision of confiscation, any

person for whom there is probable cause to be deemed to own the property concerned or have

any superficies, hypothec or other right to the said property, or as for assistance in the enforcement of a final decision of forfeiture, any addressee of such decision, was not able to

claim his/her right in the proceeding preceding the decision in question for any reason which is

not attributable to himself/herself

(6) As for assistance in the securing for confiscation or forfeiture, when it is found that there is no

cause provided for in Paragraph 1 of Article 19 or Paragraph 1 of Article 20, except when the

request in question is based on a judicial decision of securing for confiscation or forfeiture made

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by a judge or a court of the requesting country, or when the request in question is made after the

decision of confiscation or forfeiture in question has become final

(Confiscation Deemed to Be Forfeiture)

Article 22. When there is a request for assistance in the enforcement of a final decision that in lieu of

so far as such measures are deemed to be reasonably necessary in connection with such enactment, amendment, or repeal.