5. If the mariner has become incapacitated for his duties by reason of injury or sickness.

6. If any unavoidable necessity arises from a reason not specified in any of the foregoing items.

Article 41.

A mariner may rescind the contract of engagement, in the case falling under any of the following items:

1. If the vessel has lost her nationality as of the time when the contract was concluded.

2. If the working conditions laid down in the contract have been found much at variance with the fact.

3. If he has become incapacitated for his duties by reason of injury or sickness.

4. If he is to be educated or trained as provided by ordinance.

If, in cases where the vessel has completed her voyage from a foreign port, a mariner on board the vessel has given not less than twenty-four hours' written notice to rescind the contract, the contract shall terminate in respect of the mariner on the expiration of the period.

If a seaman furnishes in his place such a person as the master may consider competent and reliable, he may rescind the contract of engagement.

Article 42.

A contract for an indefinite period shall terminate, if the shipowner or the mariner has given not less than twenty-four hours written notice to rescind the contract on the expiration of the period.

Article 43.

If there has been a change in the ownership of the vessel, a contract of engagement shall terminate, except when the change has happened by inheritance or any other case of general succession.

In the case contemplated in the preceding paragraph, it shall be deemed that, on and from the termination of the contract, a contract identical in its terms with the former contract exists between the mariner and the new owner. In such case, the mariner may rescind the contract according to the provision of the preceding article.

Article 44.

If a contract of engagement has terminated when the vessel is under way, the contract shall be deemed to continue in existence until the vessel has arrived at the next port and the unloading of cargo or the disembarkation of passengers at such port has been completed; and if the contract has terminated when the vessel is in port, the contract shall be so until the unloading of cargo or the disembarkation of passengers at the port has been completed.

If a contract of engagement terminates at a port where no competent mariner can be complemented, the shipowner may prolong the period of engagement of the mariner referred to until the vessel has arrived at a port where a competent mariner can be complemented and the unloading of cargo or the disembarkation of passengers has been completed. This shall not, however, apply in the case contemplated in items 1 to 3 inclusive, paragraph 1, Article 41.

Article 45.

If a contract of engagement has terminated in accordance with the provisions of Article 39, the shipowner shall pay a mariner once a month an unemployment allowance of the same amount as his salary or wages, for a period not exceeding two months, in respect of every day of his unemployment.

Article 46.

The shipowner (or the former shipowner in the case of item 4) shall without delay pay a mariner a discharge allowance of the same amount as his monthly salary or wages in the case falling under any of the following items:

1. If the shipowner has rescinded the contract of engagement in accordance with the provision of Article 40, item 6.

2. If the mariner has rescinded the contract of engagement in accordance with the provision of Article 41, paragraph 1, items 1 or 2.

3. If the shipowner has rescinded the contract of engagement in accordance with the provision of Article 42.

4. If the contract of engagement has terminated in accordance with the provision of Article 43, paragraph 1.

5. If the contract of engagement has been rescinded by reason of the mariner's inability to obtain a certificate of health provided in Article 81.

Article 47.

The shipowner shall, without delay and at his expense, take the mariner back to the port where he was engaged or to a place where the mariner desires to be taken to, or may substitute such repatriation for payment of the expenses of the repatriation, in the case falling under any of the following items:

1. If the contract of engagement has terminated in accordance with the provision of Article 39.

2. If the shipowner has rescinded the contract of engagement in accordance with the provision of Article 40, item 1 or 6.

3. If the shipowner or the mariner has rescinded the contract of engagement in accordance with the provision of Article 40, item 5, or Article 41, paragraph 1, item 3. This shall not, however, apply in a case where the injury or sickness which the mariner sustained or contracted without relation to his duties is due to a wilful act or gross default on his part.

4. If the mariner has rescinded the contract of engagement in accordance with the provision of Article 41, paragraph 1, item 1 or 2.

5. If the shipowner has rescinded the contract of engagement in accordance with the provision of Article 42.

6. If the mariner has rescinded the contract of engagement in accordance with the provision of Article 43, paragraph 2.

7. If the contract of engagement of a mariner has terminated by the expiration of the period of engagement at a place other than his own country.

8. If the contract of engagement has been rescinded by reason of the mariner's inability to receive a certificate of health as provided in Article 81.

Article 48.

The expenses for repatriating a mariner, which are to be borne by the shipowner, shall include the charges for transportation, accommodation and food of the mariner during the repatriation, and also charges for his accommodation and food from the time of the termination of the contract up to the time of his immediate departure.

Article 49.

The shipowner shall pay a mariner a repatriation allowances of the same amount as his salary or wages in respect of every day required for his repatriation. The same shall apply in cases where the expenses of repatriation are paid in lieu of repatriation.

The repatriation allowance mentioned in the preceding paragraph shall be paid once a month in case the shipowner takes back a mariner or at the time of payment of repatriation expenses in case the shipowner pays the same in lieu of repatriation.

Article 50.

A mariner shall hold a mariner's pocket ledger.

The master shall take charge of the pocket ledger of his seamen while the seamen are on board the vessel.

Necessary matters pertaining to the grant, correction, rewriting and return of a mariner's pocket ledger shall be prescribed by ordinance.

Article 51.

A seaman may demand the master to grant a certificate as to the quality of his work.

Chapter V - Salary, Wages or other Remunerations.

Article 52.

The salary, or wages or other remunerations of a mariner shall be fixed in consideration of the particular nature of maritime labor and according to his experience, capacity and service.

Article 53.

The salary, wages or other remunerations shall be paid direct to the mariner in currency and in full, unless otherwise provided by law, ordinance, or by collective agreement.

The salary, wages or other remunerations except those provided by ordinance shall be paid once or more each month on the fixed day, or days.

Article 54.

The shipowner shall without delay pay a mariner such salary, wages or any other remuneration provided for in paragraph 2 or the

preceding article even before the pay day in respect of every day of service, in the case falling under any of the following items:

1. If a mariner has been discharged, or has retired from his service.

2. If a mariner has demanded his salary, wages or any other remuneration to be paid in order that any of them may be used by the mariner, or by any of his relatives who is living with him or by a person who maintains his existence upon the income of such mariner, to meet the expense for marriage or funeral, childbirth or medical treatment, or the expense for the recovery from an unforeseen accident.

Article 55.

When the salary, wages or any other remuneration of a seaman is to be paid on board the vessel, the master himself shall deliver the same to the seaman. When an unavoidable necessity arises, however, the master may cause another officer to deliver the same.

Article 56.

The shipowner shall, if called upon by a mariner to do so, pay the salary, wages or any other remuneration of the mariner to one of his relatives who is living with him or to a person who maintains his existence upon the income of such mariner.

Article 57.

A mariner may, during the term of his engagement, demand his salary or wages and allowances provided for in ordinance even for the period during which he has not been in service by reason of injury or sickness, except where such injury of sickness is due to a wilful act or gross default on the part of the mariner.

Article 58.

In case where the remuneration is paid in percentage, the sum of such remuneration shall not be less than the amount fixed by the shipowner, even if the monthly sum computed in percentage does not amount to the fixed amount.

In the application of the provisions of Article 35 and the preceding article, the fixed amount of remuneration as provided for in the preceding paragraph shall be deemed to be salary or wages.

In cases where the remuneration of a mariner is paid in percentage, the amount fixed by the shipowner shall be deemed to be the mariner's monthly salary or wages, in the application of the provisions of Articles 45, 46, 49 and 78.

The amount mentioned in the preceding paragraph shall not be less than the fixed amount provided for in paragraph 1.

Article 59.

The competent authorities may, if they deem it necessary, fix the minimum amount of salary, wages or any other remuneration in accordance with the provisions of ordinance, with the consent of the Labor Commission organized under the Labor Union Law (hereinafter called the Mariners' Labor Commission).

The shipowner shall not employ a mariner at a salary, wage or any other remuneration lower than the minimum amount provided for in the preceding paragraph.

Chapter VI - Hours of Work, Rest Days and Manning.

Article 60.

The hours of work of the following persons whose time is to be divided into watches, shall not exceed eight in the day, nor shall they exceed fifty-six in the week, when they keep watch on board the vessel.

1. Deck officers, wireless operators and deck ratings on board the vessels of not less than 2,000 gross tons.
2. Engineer officers and ratings on board the vessels of not less than 700 gross tons.

The master, without prejudice to the provisions of the preceding paragraph, may extend the hours of work within the following limits:

1. Not more than one hour per day in respect of the hours of deck officers or wireless operators whose time is divided into watches.
2. In cases where the master has, out of special necessity, increased the number of deck officers or wireless operators whose time is divided into watches not more than four hours per day in respect of such increased persons.
3. Hours necessary for the regular alternation of watches for the throwing away of cinders in respect of the hours of work of engineer ratings whose time is divided into watches.

Article 61.

Sea watches shall be suspended while the vessel is in port, except within twelve hours before its scheduled time of clearance, or where the master deems it necessary for the safety of the vessel.

Article 62.

The hours of work at sea and on arrival and sailing days of those officers and ratings in the deck and engine room departments on board vessels of not less than 700 gross tons whose time is not divided into watches shall not exceed eight in the day nor shall they exceed forty-eight in the week.

Article 63.

The hours of work in port (except on arrival and sailing days; the same applying correspondingly to the following articles) of deck and engineer officers and wireless operators and of deck and engineer ratings shall not exceed eight in the day nor shall they exceed forty-eight in the week except in cases where their time is divided into watches in accordance with the proviso to Article 61.

The shipowner shall, while the vessel is in port, give at least one rest day per week to a seaman mentioned in the preceding paragraph.

When an unavoidable circumstance occurs, the master may, notwithstanding the provision of the preceding paragraph, cause a seaman mentioned in paragraph 1 to do a necessary work even on a rest day, provided, however, that the limit of forty-eight hours of work per week shall not be exceeded thereby.

Article 64.

Hours of rest at sea of ratings in the catering and clerical departments on board the vessel with a capacity of more than twelve passengers shall not be less than twelve in the day.

The hours of rest mentioned in the preceding paragraph shall include a rest of at least eight consecutive hours.

Article 65.

The hours of work at sea and on arrival and sailing days of ratings in the catering and clerical departments on board the vessels, excepting those mentioned in paragraph 1 of the preceding article, shall not exceed eight in the day. If the master deems it necessary, however, he may extend them within the limit of two hours per day.

Article 66.

The hours of work in port of ratings in the catering and clerical departments shall not exceed eight in the day, unless otherwise provided by the collective agreements.

Article 67.

When an urgent necessity arises, the master may cause any seaman to engage in work in excess of the limit hours provided for in Articles 60 and 62, Article 63, paragraph 1, the proviso of Article 63, paragraph 3, Article 65 and the preceding article, or may reduce the hours of rest mentioned in Article 64, paragraph 1, or shall not have to give a rest of eight consecutive hours notwithstanding the provision of paragraph 2 of the same article.

When the hours of work have been extended, or the hours of rest have been reduced, or the rest of eight consecutive hours has not been given under the provision of the preceding paragraph, the shipowner shall pay such overtime allowances as provided by ordinance.

The master shall, in accordance with the provisions of ordinance, keep on board the vessel a book in which an entry is to be made of matters connected with the overtime allowances, mentioned in the preceding paragraph.

Article 68.

The provisions of Article 60 and Articles 62 to 67 inclusive shall not apply in cases where seamen are engaged in any of the following works under the master's order:

1. An urgent work necessary for the safety of human life, the vessel or the cargo, or for the purpose of rendering assistance to persons or other vessels.

2. Fire, lifeboat and similar drills of the kind.

3. Extra work resulting from the reduction in the number of serviceable seamen due to injury, sickness, death, or any other unforeseen accident.

4. Extra work for the purpose of customs, quarantine or other health formalities.

5. Work for the determination of the position of the vessel at noon.

Article 69.

The shipowner, unless otherwise provided by ordinance, shall fix the minimum requirements as to manning and embark such seamen for service on board the vessel in order to comply with the provisions of Articles 60 to 66 inclusive.

If, in the course of a voyage, any reduction in the number of seamen has taken place, the shipowner shall, without delay, complement a necessary number thereof.

Article 70.

The minimum number of deck ratings whose time is to be divided into watches on board the vessels of not less than 700 gross tons shall be nine, and not less than three of them shall be available for each navigational watch. However, in the case of vessels of not more than 3,000 gross tons, six ratings shall be sufficient for the minimum number.

Included among the minimum number mentioned in the preceding paragraph shall be no ratings with less than one year's sea service on a deck, except as otherwise fixed by the collective agreement.

More than one half of the minimum number mentioned in the first paragraph must be over eighteen years of age and either have had at least three years' service on deck or have been granted a certificate issued by the competent authorities under the provisions of ordinance showing that their standard efficiency is equal to that of the average ratings who have had three years' sea service on deck.

Article 71.

The provisions of Article 60 to the preceding article inclusive shall not apply in respect of the following vessels:

1. A vessel of less than 1,000 gross tons which navigates within the partially smooth water area or the smooth water area and among domestic ports exclusively (excepting such a vessel as the competent authorities may designate through the deliberation of the Mariners' Labor Commission.

2. A sailing vessel.

3. A vessel engaged in fishing.

Article 72.

The provisions of Articles 60 to 70 inclusive shall not apply to the following persons:

1. Chief officers in the deck, engine room and wireless departments whose time is not divided into watches.

2. Doctors and staff exclusively engaged in compounding medicines or on nursing duties.

Article 73.

The competent minister may, if he deems it necessary, issue necessary orders regarding the hours of work, rest days and manning of mariners to whom the provisions of Articles 60 to 70 inclusive are not applied with the resolution of the Mariners' Labor Commission.

Chapter VII - Holidays With Pay.

Article 74.

If a mariner has had continous sea service of a year on board the same vessel, (including service while the vessel is being equipped or under repairs: the same applying correspondingly to the following articles), the shipowner shall, within one year from such duration of time, give the mariner holidays with pay. If the vessel is on a voyage, however, the shipowner may postpone bestowal of such holidays with pay for a period necessary for the voyage.

In cases where a mariner has left the service of one vessel for that of another engaged in the same kind of undertaking, the periods of service which precede and follow the change of vessels shall be deemed to have continued on board the same vessel.

If, in cases where the periods of sea service are interrupted, the interruption is not due to a wilful act or default on the part of the mariner and the period of interruption does not exceed a total of six weeks, such interruption shall not be deemed to break the continuity of the periods of service which precede and follow it.

Article 75.

Every mariner shall be granted twenty-five days off with pay after every year of continuous service and additional five days for every additional three months of continuous service.

Every mariner on board the vessel navigating within the partially smooth water area or the smooth water area and among domestic ports exclusively, shall be granted twelve days off with pay after every year of continuous service, and additional two days for every additional three months of continuous service, without prejudice to the provisions of the preceding paragraph.

Article 76.

In cases where the shipowner grants a mariner any time off for weekly rest days and public and customary holidays or holidays in lieu thereof, such time shall not be included in the holidays with pay mentioned in the preceding article.

The same shall apply in respect to interruptions of sea service due to the mariner's injury or sickness.

Article 77.

The time when and the port where a mariner is to be given holidays with pay shall be fixed by mutual agreement of the mariner and the shipowner.

The period of holidays with pay may, in accordance with the provisions of the collective agreement, be given in parts.

Article 78.

The shipowner shall pay a mariner salary or wages and allowances and food expenses provided for in ordinance during the full period of the holidays with pay.

The shipowner shall pay a mariner who is discharged or retired from his service before the mariner has taken a holiday due to him, the salary or wages and allowance and food expense provided for in the preceding paragraph, in respect of every holiday due to him.

Article 79.

The provisions of this chapter shall not apply in respect to the following vessels:

1. Vessels engaged in fishing.

2. Vessels on which only members of the same family with the shipowner are employed.

Chapter VIII - Food and Sanitation.

Article 80.

The shipowner shall, in accordance with the provisions of ordinance, provide food to a mariner during the period of his sea service.

The mariner on board the vessel of not less than 700 gross tons which navigates within the ocean going area or the coasting area or on board such a fishing vessel as is provided for in ordinance, shall

be provided with food according to the food table fixed by the competent minister.

Article 81.

The shipowner shall not take into sea service any person who does not possess a certificate of health whereby a doctor designated by the competent authorities proves that he is fitted for sea service. This shall not, however, apply to a case where an unavoidable necessity arises.

In the case contemplated in the proviso of the preceding paragraph, the shipowner shall without delay take a procedure in order that such a person may obtain a certificate of health at a port reached thereafter. In such case, the shipowner shall not continue to employ a person who is unable to receive a certificate of health.

Necessary matters connected with certificates of health shall be provided by ordinance.

Article 82.

The shipowner shall see that a vessel of not less than 5,000 gross tons which navigates within the ocean going area or a vessel with a maximum capacity of not less than 100 persons which navigates within the ocean going area or the coasting area will carry a doctor or doctors.

However, if, in cases where an unavoidable necessity arises, approval has been obtained from the competent authorities, it is not necessary to carry such doctor for a certain fixed period.

Article 83.

The shipowner shall see that a vessel which navigates within the ocean going area, the coasting area or the partially smooth water area or a fishing vessel provided for in ordinance will carry on board such medicines, other health requirements and medical books as the competent minister prescribes.

Chapter IX - Juvenile Mariners and Women Mariners.

Article 84.

No miner shall become a mariner without obtaining the consent of his legal representatives.

A minor who has obtained the consent mentioned in the preceding paragraph, shall have the same competency as an adult in respect of a contract of engagement.

Article 85.

The shipowner shall not employ a young person under fifteen years of age as a mariner. This shall not, however, apply to vessels on which only members of the same family are employed.

The shipowner shall not employ a young person under eighteen years of age as a seaman who engages in carrying coal or in stoking.

The shipowner cannot employ a young person under eighteen years of age as a mariner unless the person has his pocket ledger attested by the competent authorities.

Necessary matters connected with the attestation mentioned in the preceding paragraph shall be provided by ordinance.

Article 86.

The shipowner, if so called upon by a woman whose confinement will probably take place within six weeks, shall not cause her to work on board a vessel.

The shipowner shall not take into sea service a woman unless six weeks' time has elapsed since her childbirth.

The shipowner, if so called by a pregnant woman, shall make her engage in other lighter work.

The provisions of the three preceding paragraphs shall not apply to a vessel on which only members of the same family are employed.

Article 87.

The shipowner, if so called upon by a woman who finds it very hard to work for menstrual days, shall not make her engage in work on board a vessel during her menstrual days.

Article 88.

The shipowner shall not cause a mariner under eighteen years of age or a female mariner to do any work during the period between 8 p.m. and 5 a.m. of the next morning. The same shall not apply in case provided by ordinance where the shipowner gives a nine consecutive hours' rest between other times before and after midnight.

The provisions of the preceding paragraph shall not apply to cases contemplated in items 1 and 3 of Article 68.

The provision of paragraph 1 shall not apply to a fishing vessel and to a vessel on which only members of the same family with the shipowner are employed.

Chapter X - Compensations For Accidents.

Article 89.

When a mariner has sustained an injury or contracted a sickness in the performance of his duties, the shipowner shall grant him medical benefits at the shipowner's expense or pay him the cost for necessary medical treatment until he has completely recovered from such injury or sickness.

When a mariner has during the term of his engagement, sustained an injury or contacted a sickness without relation to the performance of his duties, the shipowner shall grant him medical benefits at the shipowner's expense or pay him the cost of necessary medical treatment for a period of not exceeding three months, except in cases where such injury or sickness is due to a wilful act or gross default on the part of the mariner.

Article 90.

The medical benefits or treatment provided for in the preceding article shall include each of the following items:

1. Medical examinations.
2. Supply of drugs, medicines or medical appliances.
3. Surgical treatments, operations or other remedies.
4. Admission to hospitals or clinics or other places outside mariners' homes necessary for medical treatments (including supply of food).
5. Sick nursing.
6. Transportation.

Article 91.

When a mariner has sustained an injury or contacted a sickness in the performance of his duties, the shipowner shall pay him once a month, an injury or sickness allowance equivalent to the monthly amount of the remuneration provided for in ordinance (hereinafter called the standard remuneration) for a period not exceeding four months and until the mariner has completely recovered from such injury or sickness. In cases where the mariner has not completely recovered from such injury or sickness even after the lapse of the four months, the shipowner shall pay him, once a month an injury or sickness allowance equivalent to 60 percent of the monthly standard remuneration until he has completely recovered.

The shipowner shall, immediately after the mariner has completely recovered from the injury or sickness provided for in the preceding paragraph, pay him a convalescence allowance equivalent to 60 percent of the monthly standard remuneration.

The provisions of the two preceding paragraphs shall not apply in cases where the injury or sickness is due to wilful act or gross default on the part of the mariner.

Article 92.

If, in cases where a mariner has completely recovered from an injury or sickness which he sustained or contracted in the performance of his duties, he is still in a state of physical breakdown, the shipowner shall, immediately after the recovery, pay him an accident allowance equal to the monthly standard remuneration multiplied by the number of months mentioned in the appended list according to the degree of the breakdown. The same shall not, however, apply in cases where the injury or sickness is due to a wilful act or gross default on the part of the mariner.

Article 93.

When a mariner has died in the performance of his duties, the shipowner shall without delay pay a bereavement allowance equivalent to a monthly standard remuneration multiplied by thirty-six to the members of the bereaved family provided for by ordinance. The same shall apply in cases where a mariner has died from injury or sickness which he sustained or contracted in the performance of his duties.

Article 94.

When a mariner has died in the performance of his duties, the shipowner shall without delay pay a funeral expense equivalent to the monthly standard remuneration multiplied by two to a member of the bereaved family, provided for by ordinance, who holds the funeral services. The same shall apply in cases where a mariner has died from injury or sickness which he sustained or contracted in the performance of his duties.

Article 95.

If a person who is entitled, under the provisions of Articles 89 to the preceding article inclusive, to receive medical benefits or expenses of medical treatments, allowances or funeral expenses (hereinafter collectively called the compensations for accidents), has come to receive, for the same cause whereby he is entitled to receive such compensations for accidents, the insurance benefits provided for in the Mariners' Insurance Law or such benefits corresponding to the compensations for accidents as are provided for by ordinance the shipowner shall be relieved of his liability for such compensations for accidents.

Article 96.

When a person is dissatisfied with the ascertainment of injury, sickness or death caused by the performance of duties, with the method of medical benefits or treatments, with the decision of making compensations for accidents or with any other way of making compensations for accidents, he may call upon competent authorities for an examinations

or arbitration in the matter.

The competent authorities may, if they deem necessary, exercise their authority in examining or arbitrating in the matter.

The competent authorities shall not either examine or arbitrate in the matter without giving a hearing to the master or to other persons concerned.

The competent authorities may, if they deem necessary for examination and arbitration in the matter, cause a doctor to conduct a medical examination or an autopsy.

The call for the examination or the arbitration in the matter mentioned in paragraph 1 and the commencement of the examination or the arbitration in the matter mentioned in paragraph 2 shall be regarded as a demand by way of judicial proceedings, in respect of the interruption of prescription.

Chapter XI - Working Regulations.

Article 97.

A shipowner who regularly employs ten or more mariners shall, in accordance with the provisions of ordinance, formulate working regulations for the following particulars and report them to the competent authorities. The same shall apply in case where alterations are made therein:

1. Salary or wages and other remunerations.
2. Hours of work.
3. Days of rest and holidays.

When the shipowner mentioned in the preceding paragraph has formulated working regulations for the following particulars, he shall report them to the competent authorities. The same shall apply in cases where alterations are made therein:

1. Manning.
2. Food and sanitation.
3. Clothing and daily necessities.
4. Facilities on land of accomodation, recreation, medical treatment and amusement.
5. Compensations for accidents.
6. Unemployment allowances, discharge allowances and retiring allowances.

7. Repatriation.

8. Education.

9. Rewards and punishments.

10. Other working conditions.

An association which is a juridical person consisting of shipowners may formulate working regulations which are to apply to those constituent shipowners mentioned in paragraph 1 and make a report thereon. The same shall apply in cases where alterations are made therein.

In case the report thereon has been made in accordance with the provisions of the preceding paragraph, the shipowners provided therein are not required to make the said working regulations, make the report on the formulation or on the alteration thereof.

The report provided for in paragraphs1 to 3 inclusive shall accompany a document containing the opinions expressed under the provision of Article 98.

Article 98.

The shipowner or the juridical person provided for in the preceding article, paragraph 3, cannot make or alter the working regulations without giving a hearing to a labor union, if there is any that is organized by more than half of the mariners in the employ of the shipowner to whom the working regulations apply, or to the representatives of more than half of such mariners, if there is no labor union organized by more than half of the mariners.

Article 99.

The competent authorities may order alteration of the working regulations containing elements which are in conflict with laws, ordinances or collective agreements.

The competent authorities may, if they deem the working regulations to be inappropriate, order alterations thereof with the resolution of the Mariners' Labor Commission.

Article 100.

Such portion of a contract of engagement as contains provision for working conditions falling short of the standard fixed in the working regulations, shall be invalidated. In such case the contract shall, in respect of the portion thus invalidated, be deemed to contain provision for working conditions coming up to the standard fixed in the working regulations.

Chapter XII - Supervision.

Article 101.

The competent authorities may, if they consider that some act of a shipowner or a mariner is in conflict with this law, the Labor Standards Law (only the portions applying to mariners' labor relations: the same applying correspondingly to the following articles) or ordinances issued under this law, deal with the shipowner or the mariner in such a manner as they may deem necessary.

Article 102.

The competent authorities may exercise their good offices to settle troubles concerning labor relations (except the labor disputes provided for in Article 6 of the Labor Relations Adjustment Law) between the shipowner and the mariners.

Article 103.

The business which the competent authorities are required by this law to discharge shall, under the provisions of ordinance, be conducted by Japanese consuls in foreign countries.

Article 104.

The competent minister may cause the mayor of a city, or the headman of a town or a village to undertake the business which the competent authorities are required by this law to discharge.

Article 105.

The competent minister shall appoint Mariners' Labor Inspectors from among his subordinate officials and cause them to control matters connected with the enforcement of this law and the Labor Standards Law.

Article 106.

The Mariners' Labor Inspector may, if he deems necessary, warn or urge shipowners or mariners to observance of this law, the Labor Standards Law and ordinances issued under this law.

Article 107.

The Mariners' Labor Inspector may, if he deems necessary, make a search of the vessel or any other place of work or may order shipowners or mariners to call or produce books and documents or to make reports or may ask questions of such persons.

The mariners' labor inspector may, if he deems necessary, ask questions of a passenger or any other person on board the vessel.

In the cases contemplated in the two preceding paragraphs, the mariners'labor inspector shall carry with him an identification card testifying to his official status.

Article 108.

The mariners' labor inspector shall exercise the judicial police powers provided for in the Code of Criminal Procedure in respect of offenses under this law and the Labor Standards Law.

Article 109.

The mariners' labor inspector shall not break any secrets that he has learned in the performance of his duties. The same shall also apply in the case where he has left his office as a mariners' labor inspector.

Article 110.

The Mariners' Labor Commission shall, in addition to the exercise of the powers provided for in the Labor Union Law, investigate and deliberate, in response to request from the competent authorities, matters connected with the enforcement or revision of this law and the Labor Standards Law.

The Mariners' Labor Commission may present the competent authorities a recommendation concerning the mariners' working conditions.

Article 111.

The shipowner shall, in accordance with the provisions of ordinance, present a report to the competent authorities on the following particulars:

1. Number of mariners in his employ.
2. State in which salary, wages or other remunerations are paid.
3. State in which compensations are made for accidents.
4. Other matters provided for in ordinances.

Article 112.

If there is any fact which is in conflict with this law, the Labor Standards Law or ordinances issued under this law, a mariner may, in accordance with the provisions of ordinance, lodge a complaint respecting the fact with the competent authorities, the mariners' labor inspector or the Mariners' Labor Commission.

The shipowner shall not discharge a mariner or give him any other disadvantageous treatment because of the mariner's lodging the complaint mentioned in the preceding paragraph.

Chapter XIII - Miscellaneous Provisions.

Article 113.

The shipowner shall post at some noticeable place on board the vessel the documents containing this law, the Labor Standards Law, the ordinances issued under this law, the collective agreements and the working regulations or keep such documents on board the vessel.

Article 114.

In regard to the period during which the shipowner is required to pay at the same time any two or more out of salary, wages or other remuneration, unemployment allowance, repatriation allowance or injury or sickness allowance, it shall suffice him to pay any one whose amount is the largest of them all.

If, in the case where the shipowner is required to pay salary, wages or other remuneration, he is to pay either discharge allowance or convalescence allowance, he shall be relieved of his liability for such discharge allowance or convalescence allowance to the extent of his payment of such salary wages or other remuneration.

Article 115.

The right to receive the unemployment allowance, discharge allowance, repatriation expense or the compensation for accident shall be inalienable and shall not be liable to attachment. The same shall apply to the right to receive salary, wages or other remuneration (within the limit of the amount of the injury or sickness allowance) during the period in which the salary, wages or other remuneration and the injury or sickness allowance are to be paid at the same time.

Article 116.

In cases where the shipowner has committed any offense under Articles 45 to 47 inclusive, Article 49, Article 59, paragraph 2, Article 67, paragraph 2 or Article 78, he shall pay the mariner a penalty equivalent to the unpaid amount (in the case contemplated in Article 59, paragraph 2 the balance between the minimum amount provided for in the same article and the amount of salary, wages or other remuneration fixed by contract) when a demand is made as provided by paragraph 2 for the amount (or the repatriation expense in the case contemplated in Article 47) which the shipowner is required to pay in accordance with the above mentioned articles.

A mariner cannot demand payment of the penalty mentioned in the preceding paragraph without filing suit in a court. Such suit shall, however, be filed with the court within two years from the time of committing the offenses mentioned in the same paragraph.

Article 117.

Every claim of the mariner against the shipowner shall be barred by prescription, if it is not instituted within two years. The same shall apply to claims for the bereavement allowance and funeral expenses against the shipowner.

Article 118.

The provisions of Articles 31 to 34 inclusive, Article 84 paragraph 2 and Article 100 shall apply with necessary modifications to a contract for the employment of a reservist.

Article 119.

Any mariner, anyone who intends to become a mariner, any shipowner or master may, call upon a census official or his deputy to issue, free of charge, a census certificate for such mariner or a person who intends to become a mariner.

Article 120.

This law, the Labor Standards Law and the ordinance issued under this law shall apply to the State, Tokyo, Hokkaido, prefectures, cities, towns, villages and similar public entities.

Article 121.

No ordinance that is to be issued under this law shall be enacted unless an extensive hearing is given in respect of draft thereof to representatives of the mariners and of the shipowners and representatives for the public interests.

Chapter XIV - Penal Provisions.

Article 122.

If a master has, by abusing his power, compelled any person on board the vessel to do anything beyond the scope of such person's duty, or has obstructed any person in the exercise of his right, the master shall be liable to penal servitude for not more than two years.

Article 123.

If a master has contravened the provisions of Article 12, he shall be liable to penal servitude for not more than five years.

Article 124.

If a master has, in contravention of the provisions of Article 13, failed to take every possible means necessary for the salving of human life or vessel, he shall be liable to penal servitude for not more than three years or to a fine not more than ¥ 3,000.

Article 125.

A master shall be liable to penal servitude for not more than two years or to a fine not more than ¥ 2,000 in any of the following cases:

1. If he has contravened the provisions of Article 14.

2. If he has abandoned the vessel.

3. If he has deserted any seaman in a foreign country.

Article 126.

A master shall be liable to a fine of not more than ¥ 3,000 in any of the following cases:

1. If he has contravened the provisions of Articles 8, 10, 11, 16, Article 17, paragraph 1, Article 36, Article 50, paragraph 2, or Article 55.

2. If, in contravention of the provisions of Article 9, he has deviated from the predetermined route.

3. If, in contravention of the provisions of Article 13, he has failed to give any of the names.

4. If, in contravention of the ordinance issued under the provisions of Article 15, he has buried the body at sea.

5. If he has failed to keep aboard the documents provided for in Article 18, or if he has made no entry, or has made any false entry, of the required particulars in the documents provided for in items 2 to 4 inclusive of paragraph 1 of the same article.

6. If he has made no report, or has made a false report, provided for in Article 19.

7. If he has kept aboard no book provided for in Article 67, paragraph 3, or has made no entry, or has made any false entry of the required particulars.

Article 127.

If a seaman has done any violence or made any threat to his superior, he shall be liable to penal servitude for not more than three years or to a fine not exceeding ¥ 3,000.

Article 128.

A seaman shall be liable to penal servitude for not more than one year in any of the following cases:

1. If, in a case where there is an imminent danger to the vessel, he has left the vessel without the master's permission.

2. If, in the case contemplated in Articles 12 to 14 inclusive where the master takes means necessary to salve human life, the vessel or the cargo, he has refused to obey the orders of his superior.

3. If, in the case contemplated in Article 39, paragraph 3, he has failed to render services necessary for the emergency salving of human life, the vessel or the cargo.

4. If he has deserted from the vessel in a foreign country.

Article 129.

If a shipowner has contravened the provisions of Article 85, paragraphs 1 or 2, he shall be liable to a penal servitude for not more than one year or to a fine not exceeding ¥ 10,000.

Article 130.

If a shipowner has contravened the provisions of Article 33, Article 34, paragraph 1, Articles 35, 45 to 47 inclusive, Article 49, Article 50, paragraph 2, Article 63, paragraph 2, Article 67, paragraph 2, Articles 69, 70, 74, 78, 80, 82, 83, 86, 88, 89, 91 to 94 inclusive or Article 112, paragraph 2, or if he has contravened the provisions of the ordinance issued under the provisions of Article 73, he shall be liable to penal servitude for not more than six months or to a fine not exceeding ¥ 5,000.

Article 131.

A shipowner shall be liable to a fine of not more than ¥ 5,000 in any of the following cases:

1. If he has contravened the provisions of Article 32, Article 34, paragraph 2, Articles 53, 54, 56, Article 58, paragraph 1, Article 81, paragraph 1 or 2, Article 85 paragraph 3, Article 87, or Article 113.

2. If he has acted against the method of keeping or returning approved under the provisions of Article 34, paragraph 2.

3. If he has made no report, or has made false report, provided for in Article III.

Article 132.

A person shall be liable to a fine of not more than ¥ 5,000 in any of the following cases:

1. If he has failed to formulate the working regulations, or has made no report or has made false report thereon, provided for in Article 97.

2. If he has contravened the provisions of Article 98.

3. If he has contravened the ordinance issued under the provisions of Article 99.

4. If he has acted against the dealings provided for in Article 101.

5. If he has refused, obstructed or evaded the search or examination, or has refused to obey the orders of call, or has failed to make a statement, or has made a false statement, on the question of a mariners' labor inspector provided in Article 107.

6. If he has failed to produce the books or documents provided for in Article 107, or has produced books or documents containing false entries, or has failed to make a report or has made a false report.

7. If he has contravened the provisions of Article 109.

8. If, in the case contemplated in Article 113, paragraph 1, he has filed a false complaint.

Article 133.

A person shall be liable to a fine of not more than ¥ 3,000 in any of the following cases:

1. If he has failed to call, for certification of the contract of engagement in contravention of Article 37.

2. If he has had the contract of engagement certified by fraud or by any other unlawful means .

3. If he has thrown away or destroyed his own mariner's pocket ledger.

4. If he has contravened the ordinance issued under the provision of Article 50, paragraph 3.

5. If he has had his mariner's pocket ledger granted, revised or rewritten by fraud or by any other unlawful means.

6. If he has used the mariner's pocket ledger of some other person.

Article 134.

The provisions of this chapter which are to be applied to masters shall be applied to persons who perform the duties of masters in their place.

Article 135.

If any representative, agent, employee or any other worker of a shipowner has, in respect of the business of the shipowner, acted in contravention of the provisions of Articles 129 to 131 inclusive, Article 132, items 1 to 3 inclusive and 6 or Article 133, items 1 and 2, the fine provided for in the articles referred to shall be imposed upon the said shipowner in addition to the punishment meted out to the actual offender, except where the shipowner (or the representative in the case of a juridical person, or the legal representative in the case of a minor who does not have the same competency as an adult or of an incompetent; the same applying correspondingly to the following paragraphs of this article) has taken necessary measures for the prevention of such contravention.

If, in the case contemplated in the preceding paragraph, a shipowner has, in spite of his knowledge of the project for contravention, failed to take any necessary measures for the prevention thereof, or has failed, in spite of his knowledge of the act of contravention, to take necessary measures for the correction thereof or has instigated the contravention, the shipowner also shall be punished as an actual offender.

If the representative, agent, employee or any other worker of the association provided for in Article 97, paragraph 3 has acted in contravention of the provisions of Article 132, items 1 to 3 inclusive the provisions of the two preceding paragraphs shall be applied with necessary modifications.

Supplementary Provisions.

Article 136.

This law except the provisions of Chapter X shall come into force as from the date of its promulgation.

The date of enforcement of the provisions under Chapter X shall be designated by ordinance.

Article 137.

The Small-type Vessel Crew's Pocket Ledger Law shall be repealed.

Article 138.

The provisions of the proviso of Article 68, paragraph 3 of the former Mariners' Law shall still be effective even after the enforcement of this law.

Article 139.

The provisions of the former law shall be applied to matters which have occurred prior to the enforcement of this law.

Article 140.

The provisions of Article 18 shall not be applied to vessels of less than 20 gross tons or to those navigating within smooth water areas, for the period of six months from the date of enforcement of this law.

Article 141.

Such contracts of engagement of the persons who serve on board the vessels provided for in the preceding article as are existent at the time of enforcement of this law, shall be deemed to have been concluded at that time, in respect of the application of the provisions of Article 37.

Article 142.

The provisions of Articles 60 to 70 inclusive shall not be applied to those wartime standard vessels which the competent authorities have designated, with the resolution of the Mariner's Labor Commission, as not having sufficient accomodation to satisfy the minimum requirements as to manning provided for in Article 69.

Article 143.

The provisions of Article 83 shall not be applied to vessels navigating within partially smooth water areas, for the period of six months from the date of enforcement of this law.

Article 144.

When a young person under fifteen years of age is to be employed as a mariner, or a young person under eighteen years of age is to be employed as a seaman who engages in carrying coal or in stoking, in continuation of their employment before the enforcement of this law, the provision of Article 85 shall not be applied to them for the period of six months from the date of enforcement of this law.

Article 145.

The provisions of Article 67, paragraph 3, Articles 97 and 113 shall not be applied for the period of six months from the date of enforcement of this law.

Article 146.

The following partial amendments shall be made in the Commercial Code:

Article 708 shall be deleted.

Article 709. The master shall keep on board the vessel the inventory of the ship's appurtenances and the documents relating to contracts of carriage.

It may be provided by ordinance in respect of a vessel which is not a foreign going vessel that the inventory of the ship's appurtenances mentioned in the preceding paragraph need not be kept on board.

Article 710 shall be deleted.

Article 711 shall be deleted.

The provisions of Articles 708 to 711 inclusive shall still be effective in cases where the applications of those provisions are necessary in connection with the applications of other laws and ordinances.

Article 147.

The following partial amendments shall be made in the Law Concerning the Enforcement of the Commercial Code.

In Article 122 the term "the Minister of Communications" shall be revised to "the Minister of Transportation."

Article 130. The form of the inventory of the ship's appurtenances shall be fixed by the Minister of Transportation.

LABOR RELATIONS ADJUSTMENT LAW

~~Promulgated 13 October 1946.~~

LAW NO. 25, ~~1946.~~
25 September 1946, promulgated 13 October 1946

Chapter 1 - General Principles

Article 1.

The aim of this law shall be, in conjunction with the Trade Union Law, to promote a fair adjustment of labor relations and to prevent or settle labor disputes and thereby to contribute to the maintenance of industrial peace and to economic development.

Article 2.

The parties concerned with labor relations shall make special endeavors mutually to promote proper and fair labor relations, and fix by trade agreement matters relating to the establishment as well as management of regular agencies to adjust differences constantly, and in the event that labor disputes occur, to endeavor to settle them autonomously in all sincerity.

Article 3.

The Government shall assist the parties concerned with labor relations to find a settlement of the differences of their claims concerning labor relations in order thereby to prevent to the utmost the occurrence of the sets of dispute.

Article 4.

Nothing in this law shall be construed either to prevent the parties from determining for themselves their labor relations or from adjusting the differences of their claims concerning labor relations by direct negotiations or collective bargaining or to relieve the parties concerned with labor relations of their responsibility for making such endeavors.

Article 5.

In effecting any adjustment under this present law, the parties and the Labor Relations Committee and other organs concerned should as far as possible utilize every appropriate convenience to expedite the disposal of the case.

Article 6.

In this law labor dispute shall mean a disagreement of claims arising between the parties concerned with labor relations regarding

Appendix VII

labor relations resulting in either conditions with the occurrence of acts of dispute or conditions with the danger of their occurrence.

Article 7.

In this law act of dispute shall mean strike, soldiering, lock-out and other acts and counteracts, hampering the normal course of work of an enterprise, performed by the parties concerned with labor relations with the object of attaining their respective claims.

Article 8.

In this law public welfare work shall mean the following work which provides services essential to daily life of the general public:

a. Transportation work.

b. Post, telegraph or telephone work.

c. Work for supplying water, gas or electricity.

d. Medical treatment and public health work.

The competent minister shall have power to designate, other than the work in any clause of the preceding paragraph, any work the stoppage of which will seriously affect the national economy or seriously endanger the daily life of the general public for a specified period of time not exceeding one year in accordance with the decision of the Central Labor Relations Committee.

For the decision of the preceding paragraph, the agreement of a majority in each instance of the members representing the employers, workers and the neutral shall be required.

Immediately after the designation of public welfare works pursuant to the provision of the second paragraph, the competent minister shall be required to widely publicize the matter by appropriate means such as the newspaper and the radio, in addition to the notice in the Official Gazette.

Article 9.

When acts of dispute occur, the parties concerned should report thereon to the Labor Relations Committee or the administrative authority without delay.

Chapter II - Conciliation

Article 10.

The Labor Relations Committees shall each appoint and keep a panel of conciliators.

Article 11.

The conciliators shall be men of knowledge and experience who are capable of rendering assistance for the settlement of the labor dispute under the provisions of this chapter and need not reside where the Labor Relations Committee has jurisdiction.

Article 12.

In event of a dispute, upon the request of both or one of the parties or on his own initiative, the chairman of the competent Labor Relations Committee shall appoint a conciliator from the panel, except that with the approval of the committee a person not on the panel may be appointed by the chairman as a temporary conciliator.

Article 13.

The conciliator shall endeavor to contact both parties, ascertain their respective points of view and assist them in arriving at a settlement.

Article 14.

In the event that the conciliator has no prospect of effecting a settlement, he shall withdraw and report the salient facts of the case to the Labor Relations Committee.

Article 15.

Procedural matters concerning conciliation other than those provided in this chapter shall be fixed by an ordinance.

Article 16.

Nothing in this chapter shall be construed to prevent the settlement of a dispute by other means of conciliation than those fixed herein, either by mutual agreement or in accordance with the provisions of a trade agreement.

Chapter III - Mediation

Article 17.

Mediation by the Labor Relations Committee under the provisions of Article 27, paragraph 1, clause 3 of the Trade Union Law shall be carried out under the provisions of this chapter.

Article 18.

The Labor Relations Committee shall carry out mediation in any of the following cases:

(1) When a request for mediation has been made to the Labor Relations Committee by both parties concerned with the dispute.

(2) When both or either one of the parties requests mediation to the Labor Relations Committee in accordance with the provisions of a trade agreement.

(3) When in a case involving public welfare work, a request for mediation has been made by either party to the Labor Relations Committee and the Labor Relations Committee decide that mediation is necessary.

(4) When in a case involving public welfare work the Labor Relations Committee decided that it is necessary to carry out mediation at its own initiative.

(5) When in a case involving public welfare work or, in a case having great scope or involving work of a special nature and for these reasons seriously affecting the public welfare, a request for mediation has been made by the administrative authority to the Labor Relations Committee.

In the event that a mediation by either a local Labor Relations Committee or by a special Labor Relations Committee under the provisions of the preceding paragraph failed, the Central Labor Relations Committee shall have power to effect mediation either at the request of both or of one of the parties concerned or at its own initiative.

The mediation carried out by the Central Labor Relations Committee at its own initiative in accordance with the provisions of the preceding paragraph shall be confined to the cases under paragraph 1 (5).

Article 19.

The mediation by the Labor Relations Committee shall be carried out by setting up a Mediation Committee consisting of the members representing the employers, the members representing the workers and the neutral members.

Article 20.

The number of members representing the employer and employees shall be equal.

Article 21.

The members of the Mediation Committee shall be appointed by the chairman of the Labor Relations Committee from among the members of the Labor Relations Committee: provided, however, that outside members may be appointed by the chairman of the Labor Relations Committee as follows:

(1) For selecting employer representatives from outside, if agreed to by the employer members of the Labor Relations Committee.

(2) For selecting labor representatives from outside, if agreed to by the labor members of the Labor Relations Committee.

(3) For selecting neutral representatives from outside, if agreed to by a majority of each of both the employer and worker members of the Labor Relations Committee.

The members appointed in accordance with the provision of the preceding paragraph shall be regarded as staff members engaged in official business under laws and ordinance.

Article 22.

There shall be a chairman for the Mediation Committee. The said chairman shall be elected by the Mediation Committee from among the neutral members thereof.

Article 23.

The Mediation Committee shall be convoked by its chairman and the decisions of the Mediation Committee shall be made by a majority vote.

No meeting shall be held unless the members representing the employers and workers are present.

Article 24.

The Mediation Committee shall fix the date, request the presence of the parties concerned and request them to present their views.

Article 25.

The Mediation Committee shall have the power to exclude from the proceedings any persons other than the parties and relevant witnesses.

Article 26.

The Mediation Committee shall have the power to draft a proposal for settlement, present it to and recommend the parties concerned to accept it, and to publish the proposed settlement together with a statement of the reasons therefor.

If necessary, it may request the newspapers and the radio office for assistance in making them public.

Article 27.

Special expedition and precedence in consideration shall be given to all mediation cases involving public welfare work.

Article 28.

Nothing in this chapter shall be construed to prevent the settlement of a case by mediation by other means than those laid down here, either by mutual agreement of the parties or in accordance with the provisions of the trade agreement.

Chapter IV - Arbitration

Article 29.

The arbitration by the Labor Relations Committee in accordance with the provisions of the Trade Union Law, Article 27, paragraph (1), clause 3 shall be carried out according to the provisions of this chapter.

Article 30.

The Labor Relations Committee shall arbitrate in any one of the following cases:

(1) When a request for arbitration by the Labor Relations Committee has been made by both parties concerned with the dispute.

(2) When a request for arbitration by the Labor Relations Committee has been made by both or either one of the parties in a case where the trade agreement provides that application for arbitration by the Labor Relations Committee must be made.

Article 31.

The arbitration by the Labor Relations Committee shall be carried out without setting up a special committee, provided, however, that a special subcommittee may be established to determine the facts in the case. When so requested by the Labor Relations Committee, it must submit to the committee a draft award of arbitration.

Article 32.

In arbitration proceedings, the Labor Relations Committee shall have the power to exclude any persons other than the parties and relevant witnesses.

Article 33.

The arbitration award shall be made in writing, and the paper shall state the date the award goes into effect.

Article 34.

The award of arbitration shall have the same effect as a trade agreement.

Article 35.

Nothing in this chapter shall be construed to prevent the settlement of a case by other means of arbitration either by mutual agreement or in accordance with the provisions of the trade agreement.

Chapter V - Restriction or Prohibition of Certain Acts of Dispute

Article 36.

No act which hampers or causes the stoppage of maintenance or normal operation of safety accommodations at factories, mines and other places of employment shall be resorted to as an act of dispute.

Article 37.

In public welfare works, acts of dispute by the parties concerned should be disallowed until request for mediation under the provision of Article 18, paragraph 1, clause 1 - 3 has been made and 30 days elapsed from the day the said request has been made or from the day the decision under clause 4 of the same paragraph or request under clause 5 of the same paragraph has been made, provided, however, that such disallowance shall not apply to act of dispute at the works where acts of dispute have already been in progress even if the said works be designated as public welfare works pursuant to the provisions of Article 8, paragraph 2.

Article 38.

Police officers, firemen, those employed at prisons and those officials and employees engaged in the work of the national, prefectural and municipal government administration or judiciary, exclusive of public enterprises, shall be disallowed to resort to acts of dispute.

Article 39.

In case there is a contravention as under the preceding two paragraphs, the employer or his organization, or the laborers' organization or other persons or organization who are responsible for such contravention shall be subject to a fine not exceeding ¥ 10,000.

The regulations of the preceding paragraph shall, when such employer or such organization or such labor organization who are responsible are juridical persons, apply to the trustees or directors or other officials discharging official duties of a juridical person. In case such persons, parties or organizations are not juridical persons, the regulations shall apply to the representatives or some other officials discharging official duties.

The total fine imposed for one case of dispute shall not exceed ¥ 10,000.

When applying the regulations of paragraph 1, the dissolved juridical persons, or the employer's organization or the labor union who are not juridical persons, or organizations of the parties in dispute, or other bodies, shall be considered as still in existence.

Article 40.

The employer shall be disallowed to discharge or give discriminatory treatment to a worker for having performed acts of dispute or for the testimony he made at the proceedings of adjustment of labor dispute under this law, provided, however, that this shall not apply when agreed to by the Labor Relations Committee.

Article 41.

Those who contravene the provisions of the preceding article shall be liable to confinement not exceeding six months or a fine not exceeding ¥ 500.

Article 42.

The consideration of cases of contraventions arising under the provisions of Article 39 and of the preceding article may be initiated only at the request of the Labor Relations Committee.

Article 43.

The chairman of a Mediation Committee or the chairman of the Labor Relations Committee, in carrying out mediation or arbitration shall have power to order the withdrawal of anyone obstructing the fair progress of mediation or arbitration.

Chapter VI - Compensation

Article 44.

The members of the Labor Relations Committees, the conciliators under Article 12, and the members of the Mediation Committee, in accordance with the proviso of Article 21, paragraph 1, and those whose attendance has been requested for mediation or arbitration of a labor dispute by the Labor Relations Committee shall be compensated according to the provision of an imperial ordinance.

Supplementary Rules

The date of enforcement of this law shall be fixed by an imperial ordinance.

The Labor Disputes Mediation Law shall be abrogated.

The Trade Union Law shall be partially amended.

The Trade Union Law, Article 11, paragraph 1 shall be amended to read as follows:

The employer shall be disallowed to discharge or give a discriminatory treatment to a worker for his being member of a trade union, for having tried to form or join a trade union, or for having performed proper acts of a trade union.

EMPLOYMENT SECURITY LAW

Promulgated 30 November 1947.

LAW No. 141, 1947.

Chapter I - General Rules

Article 1.

This law is designed to contribute for the security of employment and the progress of the national economy by providing public employment services which in cooperation with other public and private bodies concerned, will provide people with opportunities to get suitable jobs and work towards the best possible organization of industrial and other employment.

Article 2.

Anyone may freely choose any available job provided it is in conformity with the public interest.

Article 3.

No one shall be discriminated against in employment exchange, vocational training, etc., because of race, nationality, sex, political or religious belief, social status, family origin, previous profession, affiliation or nonaffiliation with a labor union, etc.

The terms of agreements entered into between employers and unions in accordance with the Trade Union Law shall not be considered to be in conflict with the above provision.

Article 4.

The central government shall handle the following matters to accomplish the aim of this law.

a. By adjusting the demands for and the supplies of the nation's manpower and planning the most effective use of the nation's manpower resources.

b. By directing or supervising employment exchange, labor recruitment and labor supply project operated by any other persons than the Government, in such a manner as to promote the best interests of workers and the public.

c. By helping place in suitable jobs with a minimum of delay, applicants seeking work with employers seeking workers.

d. By providing job applicants with necessary vocational guidance or training.

e. By collecting and disseminating employment and unemployment informations and other labor market data concerning employment opportunities.

f. By collaborating with individuals, organizations, schools and local and central governmental agencies in developing and improving the services of the Public Employment Security Office.

g. By handling in the effective administration of unemployment ingurance and providing placement, vocational counseling and vocational training services for claimants.

Article 5.

The public employment exchange in this law is the medium through which hiring arrangements may be concluded between an applicant for workers and job seekers when so requested by both parties.

The vocational guidance in this law is to give necessary training practices, direction or advices to those persons who are in need, or special attention to facilitate their choice of suitable jobs and adaptability to the jobs they have chosen.

The vocational training in this law is to furnish instruction in the necessary knowledge or skill to facilitate the employment of those persons who need it in order to enter into jobs which call for such specific knowledge or skill.

The labor recruitment under this law consists of canvassing or recruiting of workers by employers directly for their own use or through the agency of other persons commissioned by employers.

The labor supply project as used in this law means the business or activity of making available the use of workers to employers according to a labor supply contract.

Chapter II - Employment Exchange, Vocational Guidance And Vocational Training By The Government

Article 6.

The Director of the Employment Security Bureau of the Ministry of Labor shall, under the supervision of the Minister of Labor supervise the chiefs of the branch offices of the Employment Security Bureau and prefectural governors in connection with the execution of this law, establish standards of administrative supervision of the local Public Employment Security Office, plan and carry out the recruitment programs for industries vital to the national welfare, accelerate planning and carrying out of the programs to alleviate

unemployment, determine the boundaries of the major labor market areas of the nation to adjust supply and demand of the labor force in each area, establish national policies for vocational guidance and vocational training, carry out any other functions which are necessary in the execution of this law and supervise the personnal under his jurisdiction.

When it is necessary, the Minister of Labor may establish branch offices of the Employment Security Bureau at such places as he designates when necessary to coordinate programs and operations covering several prefectures or to give adequate technical advice and direction to prefectural officials in their supervision of the operations of the Employment Security Offices.

Article 7.

The prefectural governor shall under the supervision of the Minister of Labor acting through the Director of Employment Security Bureau, manage such affairs concerning the enforcement of this law as control of the business of the Public Employment Security Office and the supervision of the chief and personnel therof.

Article 8.

The Government shall establish as free public services Public Employment Security Offices, for the purpose of administering employment exchange, vocational guidance, vocational training, unemployment insurance and other necessary functions to accomplish the purpose of this law.

The Public Employment Security Office system shall be under the supervision of the Minister of Labor.

The chief of a local Public Employment Security Office shall, under the supervision of the competent prefectural government, manage the affairs of the Public Employment Security Office and supervise the personnel in his jurisdiction.

The location, appellation, jurisdiction, functions, the definite number of personnel and other necessary matters of the Public Employment Security Offices shall be determined by the Minister of Labor.

Article 9.

In order to maintain an effective Employment Security Office system, all personnel responsible for the administration of this law, whether in national, branch, prefectural or local offices shall be appointed and hold tenure on the basis of special qualifications and experience as determined by the Minister of Labor.

All personnel for the administration of this law shall be in a single system for the purposes of calculating seniority and for

~~and the~~ promotion and reassignment of personnel.

The Minister of Labor shall appoint all personnel in the national and branch offices. Second class officials in the prefectural and local offices shall be appointed by the Minister of Labor upon recommendation of the prefectural governor. Third class officials and other personnel in the prefectural and local offices shall be appointed by the prefectural governor.

Article 10.

The liaison agents shall be attached to Public Employment Security Offices to assist the functioning thereof.

The liason agents shall be appointed by the prefectural governor.

Other necessary matters concerning the liason agents shall be provided for by ordinance.

Article 11.

Mayors or headmen of towns or villages (headman of wards in case of the municipality designated by ordinance hereafter) may, under the direction of the chief of the local Public Employment Security Office which serves those communities, manage the following affairs:

1. Acceptance for and transmission to the Public Employment Security Office of such applications for workers or jobs where direct submission to the Public Employment Security Office is difficult.

2. Investigation of the applicants for workers or jobs when requested by the chief of the Public Employment Security Office.

3. Publicizing of such job openings as informed by the chief of the Public Employment Security Office.

Article 12.

For the purpose of advising the important matters concerning the execution of this law as well as the programs and activities of the Public Employment Security Offices, the Minister of Labor shall appoint the national, prefectural and labor market area Employment Security Advisory Committee.

When it is deemed necessary based upon the application of the prefectural governor, the Minister of Labor may appoint additional advisory committees which have as their jurisdictional area a part of the prefectural jurisdiction, in addition to the Employment Security Advisory Committee stipulated in the preceding paragraph.

The national Employment Security Advisory Committee shall consult with the Minister of Labor, the labor market area Employment Security Advisory Committee shall consult with the Minister of Labor or the competent prefectural governor, and the prefectural and additional Employment Security Advisory Committee shall consult with the competent prefectural governor as to the matter stipulated in the paragraph 1, and may make a proposal to the appropriate administrative offices when it is deemed necessary to make a proposal.

The labor market area Employment Security Advisory Committee and additional Employment Security Advisory Committee shall consult with the chief of competent Public Employment Security Office.

The Employment Security Advisory Committee shall consist of the same number of representatives for workers, employers and public interest.

One or more members of the Employment Security Advisory Committee shall be women.

The member of the national committee shall be appointed by the Minister of Labor and the member of the prefectural, labor market area, and additional committee shall be appointed by the Minister of Labor upon recommendation of the appropriate prefectural governor.

The prefectural, labor market area and additional committee shall meet, at least monthly; the national committee, at least once every three months and additionally as it determines.

Members of the Employment Security Advisory Committee shall be provided with travelling expenses, daily allowances and hotel expenses.

The amounts of the travelling expenses, daily allowances and hotel expenses of the preceding paragraph shall be put to the vote of the national Diet, after deliberation at the joint Examination Meeting of the Labor Committees of both houses. The same shall apply to the change of the amounts.

Each committee in its advisory capacity may request reports of employment security programs and activities from national, prefectural government, and the Public Employment Security Office within the committee's jurisdiction.

Other matters concerning the functions and activities of the Employment Security Advisory Committees shall be provided for by ordinance.

Article 13.

The Director of the Employment Security Bureau shall establ

and maintain through its prefectural and local offices, a uniform system of reports on employment office operations and activities.

The prefectural government and the Public Employment Security Office shall submit for reports according to the uniform system stipulated by the preceding paragraph.

Article 14.

The Director of Employment Security Bureau shall maintain through its prefectural and local offices and effective labor market analysis and public issuance of information on employment and unemployment, labor market developments, and opportunities for employment.

Article 15.

The Director of The Employment Security Bureau shall institute and maintain an adequate occupational analysis and industrial services program to develop tools, procedures and standards to render assistance in connection with problems involving the recruitment, classification, selection, assignment, and transfer and promotion of workers. In this connection the bureau shall carry out necessary research and technical development for the adequate execution of the functions listed above.

The Director of Employment Security Bureau shall prepare standard job titles, job descriptions and occupational classifications to be utilized throughout the Public Employment Security Office system.

Article 16.

Public Employment Security Offices shall accept every employer for workers except where the application for workers is in violation of the law. Where orders for workers are deemed unsatisfactory in terms of prevailing local hiring specifications, wages, working conditions or other factors dealing with the employment offers, the Public Employment Security Office may reject them.

When necessary, the Public Employment Security Office may give advice or information to the applicant for workers regarding the need for adjustment in his specifications or limitations on the number of workers, the area of active recruitment, conditions affecting time or ability of workers to satisfy his requirements.

Article 17.

Public Employment Security Offices shall accept every application for work whatsoever it may be unless it is in violation of law.

When it is deemed necessary, the Public Employment Security Office may give information or advice to the job applicant regarding the limitations on the kinds of jobs available, working conditions, location, etc.

The Public Employment Security Office may apply trade tests and use other occupational tools to help determine the suitability of applicants for a particular job.

Article 18.

Employers seeking workers shall provide full information regarding the nature of the work to be performed, hours, wages, and other working conditions to the Public Employment Security Office, which, in turn, will make such information fully available to applicants for jobs.

Article 19.

The Public Employment Security Office shall refer and attempt to place workers in accordance with their occupational qualifications and the employer's hiring specifications.

The Public Employment Security Office shall attempt to place a worker locally before referring him to a job which may necessitate a change of residence.

In the event that an employer's order for workers cannot be filled from local employment office applicants, the Public Employment Security Office shall arrange to circulate these orders to nearby offices and, if in the event these are still unfilled, to place the orders in prefectural and, subsequently, national clearance.

Procedures for establishing and maintaining an adequate system for the recruitment and transfer of workers between areas within a prefecture or between prefectures will be laid down by ordinance.

Article 20.

The Public Employment Security Office, in order to maintain its neutrality in any labor dispute, shall not recommend job applicants to any working place in which there is a strike or lock out.

Further, in case the Labor Relations Committee notifies the Public Employment Security Office that a dispute which is likely to develop into a strike or lock out has arisen in a working place and that unlimited recommendation of job applicants would hamper the settlement of the dispute, the Public Employment Security Office shall not recommend applicants to the working place except those needed to maintain the number of workers normally employed prior to the

time the dispute came to exist.

Article 21.

Detailed procedures for the operation of employment exchanges shall be provided for by ordinance.

Article 22.

The Public Employment Security Office shall perform vocational guidance and counseling services especially for the physically handicapped, those persons who newly enter into jobs or others who are in need of special attention.

Article 23.

When necessary, the Public Employment Security Office may apply vocational aptitude tests to those persons who recieve the vocational guidance.

Article 24.

The Public Employment Offices shall cooperate with educational institution authorities which conduct vocational guidance for those who complete their course of study in the said educational institutions.

Article 25.

The procedures for carrying out vocational guidance and other necessary matters pertaining to this program shall be provided for by ordinance.

Article 26.

The vocational training operated under this law shall be conducted with regard to such kinds of vocational needs as the labor market situation indicates. For those persons who need special vocational training, care shall be taken in choosing the types and methods of training adapted to their individual circumstances.

Vocational training shall be construed to include on the job training in government-operated or government-subsided factories for giving employment and cooperative enterprises to unemployed workers.

Article 27.

Vocational training projects may be established by authority of the prefectural governors or its operation delegated to other agencies under the control of public authority.

In the event that a need for vocational training is determined and no action to provide same has been taken by a prefectural governor or the special need for taking the necessary steps by the Minister of Labor for the vocational training is determined, the Minister of Labor may take the necessary steps to initiate such a project or projects which he may operate or delegate the operation of it to other agencies under the control of public authority.

Article 28.

For the expenditures necessary for the operation of vocational training institutions by the prefectural or other agencies under the control of public authority, the government may subsidize them in part or whole from the National Treasury. The government may pay allowance to trainees in approved public or private vocational training establishments.

Article 29.

In reference to the vocational training executed by the prefectures or other public or private agencies under the control of public authority, The Minister of Labor shall establish necessary standards regarding the rise, scope, type, content and length of the vocational training courses. He shall provide assistance to those directing execution of vocational training projects in the compilation of textbooks and in securing necessary equipment, supplies, materials, etc., for the operation of the program.

Selection and referral of participants in vocational training courses described above shall be made through the Public Employment Security Offices.

Article 30.

The prefectural governor shall provide technical assistance to establishments desiring to carry out on the job training programs with the exception of apprenticeship training otherwise provided for in the Labor Standards Law.

Article 31.

Other necessary matters than those stipulated above regarding vocational training shall be provided for by ordinance.

Chapter III - Employment Exchange, Labor Recruitment And Labor Supply Project By any Other Persons Than The Government

Article 32.

No one shall conduct an employment exchange project for profit making or for charging a fee, except as hereinafter provided.

Fee charging or profit making agencies shall be licensed by the Minister of Labor only when recommended for approval by the National Employment Security Advisory Committee for individuals or agencies providing specialized services for artists, musicians, entertainers, and other highly specialized scientific or professional services.

The fee to be charged shall not be more than a reasonable amount, the limits of which shall be prescribed by the Minister of Labor.

Such licenses must be renewed annually.

Conditions under which licenses are granted shall be determined by the Minister of Labor as stipulated by ordinance.

Article 33.

No individual, private organization, or institution shall operate a nonfee charging employment exchange project without securing prior permission from the Minister of Labor upon the recommendation of the National Employment Security Advisory Committee. However, in case of Trade Unions as provided by Trade Union Law, the recommendation of the committee is unnecessary.

Licenses shall be renewed every two years.

Procedures necessary to obtain such authorizations shall be provided for by ordinance.

Article 34.

Provisions of Articles 16, 17, 18, 19, paragraph 1 and 20 with regard to worker application and placement shall apply mutatis mutandis without change to the operations of any nongovernmental employment exchanges project.

Operators of such projects shall establish and furnish such records of activities and operations as required by the competent minister.

Article 35.

Any person, company or organization which wishes to conduct labor recruitment by means of newspaper, or magazine advertising, bulletins, handbills, or other publicity devices, where such publicity is intended to recruit workers who will have to change their residence in order to be employed, shall give advance notice to the chief of the competent Public Employment Security Office.

Article 36.

An employer may freely recruit local workers to be employed in his local establishments by other means of labor recruitment than stipulated by the preceding paragraph. When direct recruitment of this type involves a change of residence by job applicants, permission for recruitment of such workers must be obtained from the Minister of Labor.

Article 37.

If an employer delegated authority to recruit workers other than to a person or persons in his own employ, he shall secure permission from the Minister of Labor and shall assume full responsibility for the action of those delegated to perform the recruitment.

The employer shall secure permission from the Minister of Labor for paying the charges to the person delegated the authority stipulated by the preceding paragraph.

Article 38.

When it is deemed necessary in order to maintain stable conditions in the local labor market and to adjust the demand for and supply of manpower, the chief of the competent Public Employment Security Office may restrict, by indicating the reasons for such restriction in writing, such publicity in particular areas at specific times.

The Minister of Labor in granting permission to delegate an employer's authority to recruit may require modification in the volume of recruitment desired from the location of the recruitment activity or the methods to be used.

Article 39.

Any individual, employer, or organization which proposes to conduct a labor recruitment program shall attempt to recruit workers who need not change residence and in case that it is difficult to secure workers from the said place, it shall be attempted to recruit workers from nearby place.

Article 40.

No fee charge or deduction for expenses shall be charged to

workers so recruited. The agencies authorized under Article 32 in acting for employers in the matter of recruitment as provided in Article 37 shall be permitted to collect a fee in accordance with the authorized scale of charges provided for by ordinance.

Article 41.

An employer shall not pay employees or others delegated to recruit for him according to the provisions of Articles 36 and 37 other than regular salary and incidental expenses in the case of employees, except the necessary reimbursement or charges permitted by the competent Minister.

Article 42.

Articles 18 and 20 shall apply mutatis mutandis to recruiting workers.

Article 43.

Procedures to obtain permission to conduct labor recruitment and other necessary matters in connection with it shall be provided for by ordinance.

Article 44.

No person, organization or agency, governmental or private, shall be allowed to conduct a labor supply project, except as provided in Article 45.

Article 45.

A bona fide labor union as determined by the statutory agencies of the national government may conduct a labor supply project limited for which no compensation shall be made by employer to its own members, provided it obtains permission from the Minister of Labor.

Article 46.

Articles 18 and 20 shall apply mutatis mutandis to the labor supply project by labor unions stipulated in Article 45.

Article 47.

The procedure to obtain the permission for a labor supply project and other necessary matters than stipulated in this section regarding the labor supply project shall be provided for by ordinance.

Chapter IV - Miscellaneous Rules

Article 48.

When necessary the administrative officials responsible for execution of this law may request information or reports from factories, establishments or other places of employment regarding the volume, nature and trends of employment, turnover, wages or working conditions, etc., affecting the establishment.

Article 49.

The administrative office responsible for execution of this law may request the submission of reports on the activities and operations of nongovernmental, public or private, operators engaged in employment exchange, labor recruitment or labor supply projects which have been authorized by the Minister of Labor and competent officials when properly identified may inspect such places of business and examine all pertinent documents, ledgers, etc.

In the inspection mentioned in the preceding paragraph, the competent officials shall carry the identity card with them.

Article 50.

When the Minister of Labor deems that persons who engage, with permission, in employment exchange project, labor recruitment or labor supply projects violate laws and ordinances of administrative measures based upon them, or that the projects or deeds are injurious to the public interests, he may suspend the projects or deeds, or cancel the permission.

Article 51.

All information concerning individual employers and workers secured from workers, employers or other persons or groups as an incident or the operation of the Public Employment Security Office, or employment exchange, labor recruitment project, or labor supply project which are conducted by any other persons than the Government is confidential and shall not be revealed in such a way as to disclose identity of an individual or employer except in accordance with direction of the Director of the Employment Security Bureau.

Article 52

The Government shall establish necessary procedures and facilities for the instruction and training of officials engaged in administering the employment exchange, vocational guidance, vocational training, labor market analysis and other activities contained within this law.

Article 53.

In order to provide necessary coordination among national governmental departments or units which are immediately concerned with employment exchange, vocational guidance, vocational training, labor market analysis or labor recruitment projects, and to consult on overall measures dealing with the most effective utilization of nation's labor resources. The Government may establish interdepartmental committees.

Article 54.

In order to improve personnel and employment practices and to stabilize the high level of employment by reducing tarnover and absenteeism and to improve and develop the efficiency of production, the Minister of Labor may cooperate with and give advice to management representatives of employers.

Article 55.

The national government shall provide the sufficient fund for the maintenance of adequate Public Employment Security Office services and other services provided under law for which the Minister of Labor is responsible.

Allocation of funds for the operation of these services shall be determined by the Minister of Labor upon the recommendation of the prefectural governors in accordance with budgetary standards issued by the Minister of Labor.

Prefectural governors or other local governmental units may provide additional funds of services for the improvement or the expansion of prefectural or local activities operated under the provision of the law.

Article 56.

In the event the Minister of Labor shall, at any time determine that there has been a failure on the part of the prefectural governor to comply with the provisions of this law or with the provision of any ordinance or order issued by authority thereof, the Minister of Labor shall, by written order, notify the prefectural governor thereof. The written order shall specify with particularity wherein there has been a failure of compliance and shall direct the prefectural governor to remedy the situation within a time specified, which shall not be more than 30 days following receipt of the order.

Article 57.

In the event of failure on the part of the prefectural governor to take appropriate remedial action within the time specified, the

Minister of Labor may petition the high court, within the jurisdiction of which the subject prefecture is, for an order directing compliance with the order of the competent minister.

Written notice of the filling of the petition shall be given forth with by the petitioner to the prefectural governor and the petitioner shall certify to the high court the time, place and manner of giving of such notice.

The high court shall designate the date for hearing which shall be within 20 days after the filling of said petition and shall cause the petitioner and the respondent to be notified of the date of such hearing.

If the high court shall find that the specified failure of compliance has in fact existed, it shall order the prefectural governor to remedy the situation within a time specified, in no event to exceed 20 days.

Article 58.

In the event of the failure on the part of the prefectural governor to take remedial action in accordance with the order of the court of the fourth paragraph of the preceding article, the Minister of Labor may petition the court of the first paragraph of the preceding article to ascertain the subject facts.

If, thereafter, upon representation of the Minister of Labor the court shall determine that the respondent prefectural governor has failed to comply with the order of the court, the Minister of Labor may, if he deems fit, assume direct control over all offices and agencies established within the subject prefecture under the provisions of this law, and may delegate the competence of the prefectural governor in this law to the national officials who was appointed by the Minister of Labor.

At any time thereafter the respondent prefectural governor or his successor may secure revocation of such authorization after hearing and upon presentation of satisfactory evidence that the situation alleged in the petition has been remedied.

Article 59.

The respondent prefectural governor may appeal to the supreme court by such rules as the said court shall deem appropriate.

No appeal or any question of law shall stay the operation of an order issued by the high court.

Proceedings under the foregoing articles shall be governed by such rules as the supreme court shall deem appropriate.

Article 60.

In undertaking proceedings under the foregoing articles the Minister of Labor, if he deems necessary, shall receive the cooperation and the assistance of the Minister of Justice.

Article 61.

The executive authority vested in the Minister of Labor may be delegated by him to the administrative office responsible for execution of this law according to provisions provided for by ordinance.

Article 62.

This law shall not apply to seamen who come under the provision of Article 1 of Seamen's Law.

Chapter V - Penal Rules

Article 63.

Any person who is convicted after due procedure of any of the following offenses shall be subject to penal servitude for not more than ten years and not less than one year or a fine not more than ¥ 30,000 and not less than ¥ 2,000.

a. One who conducts or engages in a labor exchange project, labor recruitment or labor supply project in such a way as to cause a worker to be employed by means of violence, intimidation, imprisonment or any other restraint on his mental or physical freedom.

b. One who conducts or engages in a labor exchange project, labor recruitment or labor supply project for the purpose of soliciting jobs with an intention of inducing workers to do works injurious to the public health or morals.

Article 64.

Any person who is convicted after due procedure of any of the following offenses shall be subject to a penal servitude not more than one year or a fine not more than ¥ 10,000.

a. One who violates the provisions of Article 32, paragraph 1 or conducts a profit making or fee charging employment exchange project without permission of the Minister of Labor.

b. One who vilates the provision of Article 33, paragraph 1.

c. One who violates the provisions of Article 36 or 37.

d. One who conducts the labor supply project violating the provision of Article 44.

e. One who conducts a labor supply project without permission of the Minister of Labor or conducts a fee charging labor supply project violating the provision of Article 45.

Article 65.

Any person who is convicted after due procedure of any of the following offenses shall be subject to a penal servitude not more than six months or a fine not more than ¥ 5,000.

a. One who violates the provision of Article 37, paragraph 2.

b. One who violates the restrictions of Article 38.

c. One who violates the provisions of Article 40 or 41.

d. One who conducts or engages in labor exchange project, labor recruitment or labor supply project by making a false advertisement or giving a false information as regards the labor conditions.

e. One who conducts or engages in labor exchange project, labor recruitment or labor supply project for the purpose of placing workers to factories or establishments where the working condition infringe the regulation of laws and ordinances.

Article 66.

One who is convicted after due procedure of any of the following items shall be subject to a fine not more than ¥ 5,000.

a. One who wilfully fails to establish or funish records stipulated in the provision of Article 34, paragraph 2 or establish and wilfully furnish false records of activities and operations.

b. One who wilfully fails to make a report after repeated request or knowingly makes a false report violating the provision of Article 48.

c. One who wilfully fails to make a report after repeated request, makes a false report, does not submit documents and ledgers, submits false documents or ledgers or refuses or interrupts search and inspection in violation of the provision of Article 49.

Article 67.

In case a person who perpetrates the violation of this law is a deputy, hired person or other employee who acts on behalf of a corporation or a person concerning a corporation's business or a person's business, the corporation or the person shall also be fined according to the regulations of each article in addition to the perpetrator, if the corporation or person in the exercise of reasonable diligence, should have knowledge of the violation.

A corporation or a person who knows of intention to violate any of the above provision and yet does not take necessary measures to prevent it, who knows the violation and yet does not take necessary measures to correct it or who instigated the violation shall be subject to the same punishment as the perpetrator.

Supplementary Rules

This law shall come into force on 1 December 1947.

One who conducts the labor exchange project and labor supply project with permission at the date of enforcement of this law may continue to conduct the same for the period of three months after the enforcement of this law.

The Employment Exchange Law shall be abrogated as from the date of enactment of the law.

MARINERS' EMPLOYMENT SECURITY LAW

Promulgated 10 July 1948.

LAW NO. 130, 1948.

Chapter I - General Provisions

Article 1.

The objective of this law shall be to promote the adequate supply of labor power to the maritime enterprise by fairly and properly giving every person according to his ability and qualification, full opportunity to become a mariner.

Article 2.

Every person shall have a free choice of mariner's jobs on a proper vessel having regard to his ability, the certificate or license in his possession, or the qualification to be determined by the training he has received or by his experience.

Article 3.

A shipowner (meaning a ship's husband in case of co-ownership, a lessee in case of lease and in case any other person than a shipowner, a ship's husband or a lessee intends to employ mariners, such person: The name shall apply correspondingly to the following articles) shall have free choice of persons whom he intends to employ as mariners. The terms of agreements, however, entered into between shipowners or organizations formed thereby and unions in accordance with the provisions of the Trade Union Law shall not be deemed to be in conflict with the above provision. (Law No. 51, 1945.)

Article 4.

No one shall be discriminated against in employment exchange, seamen's vocational training, etc., because of race, nationality, religious belief, sex, social status, family origin, previous progression, affiliation or nonaffiliation with a labor union, etc. The terms of agreements, however, entered into between shipowners or organizations formed thereby and unions in accordance with the provisions of the Trade Union Law shall not be deemed to be in conflict with the above provision.

Article 5.

The Government shall handle the following matters to accomplish the objective of Article 1:

Appendix I

1. To adequately adjust demand and supply of maritime labor power, and formulate plans necessary for the most effective use of the maritime labor power.

2. To direct and supervise mariners' employment exchange, recruitment of mariners or mariners' labor supply service operated by any other persons than the Government in order to promote the best interests of mariners and the public.

3. To give assistance in finding suitable mariners job for the applicants seeking work, as soon as possible.

4. To conduct vocational guidance or seamen's vocational training for applicants seeking work if necessary.

5. To collect offer disseminate information concerning demand and supply of maritime labor power and other data.

6. To improve the management of the services of the Public Mariners' Employment Security Agency with the cooperation of individuals, organizations, schools or necessary government agencies.

7. To conduct employment exchange, vocational guidance or seamen's vocational training for persons who should be paid unemployment insurance benefits in accordance with the Mariners' Insurance Law (Law No. 73, 1939) and hereby perform the sound operation of the unemployment insurance system.

Article 6.

"The mariner" in this law is a mariner as provided for in the Mariners Law (Law No. 100, 1947) or a person not falling thereunder who gets on board any vessel other than Japanese vessels.

"The mariners' empoyment exchange" in this law is the medium through which mariners' hiring arrangements may be concluded by between an applicant for workers and job seekers when so requested by both parties.

"The vocational guidance" in this law is to give necessary direction or advice to those persons intending to be mariners in order to facilitate their choice of suitable jobs and adaptability to the jobs they have chosen.

"The seamen's vocational training" in this law is to furnish those persons intending to be ordinary seamen with basic practical knowledge and skill required for service at sea, such as lowering of lifeboats, firing boilers, first aid, sea terms and discipline on board, with a view to facilitating the materialization of their purposes.

"The recruitment of mariners" under this law means that employers who wish to employ mariners canvassed, by themselves or through other persons they entrust, those persons intending to be mariners so that they may be their employeers.

"The labor supply of mariners" under this law means to entrust other persons with employing some persons as mariners in accordance with the terms of the contract for supply.

Chapter II - Mariners' Employment Exchange Services, Vocational Guidance and Seamen's Vocational Guidance which are Conducted by the Government

Article 7.

The Chief of the Maritime Department, Ministry of Transportation (hereinafter referred to as the Chief of Maritime Department) shall, under the supervision of the Minister of Transportation, supervise the directors of the Maritime Bureaus in connection with the enforcement of this law, establish standards of administrative supervision of the Public Mariners' Employment Security Agency, plan and carry out the mariners' recruitment programs for the maritime enterprise, accelerate planning and carrying out the programs to alleviate unemployment, adjust supply and demand of the maritime labor power, establish policies for vocational guidance and vocational training, carry out any other functions which are necessary in the enforcement of this law and supervise the personnel under his jurisdiction.

Article 8.

The Public Mariners' Employment Security Agencies shall be established within the Maritime Bureaus which shall serve the public free of charge and shall perform such business as employment exchange, vocational guidance, the affairs which were transferred to under their jurisdiction according to the provisions of the Mariners' Insurance Law, and other necessary functions to accomplish the objective of this law.

The name, location and jurisdiction of the Public Mariners' Employment Security Agencies, the fixed number of personnel thereof and other necessary matters connected with the same agencies shall be provided for by orders.

Article 9.

The Minister of Transportation may designate Public Mariners' Employment Security Liaison Agencies from among Public Mariners'

Employment Security Agencies in paragraph 1 of the preceding article.

The same Liaison Agency shall, in relation to the conditions of demand and supply of maritime labor power within the jurisdiction of the Maritime Bureau to which it belongs, manage the business of making liaison between the Public Mariners' Employment Security Agencies.

Article 10.

In order to make effective the function of the Public Mariners' Employment Security Agency, government officials or other personnel to engage exclusively in the duties of the enforcement of this law shall have such qualifications or experiences as shall be established by the Ministry of Transportation.

Article 11.

The Public Mariners' Employment Security Agency shall, in regard to the services of the Public Employment Security Office, cooperate therewith.

Article 12.

The Government shall, when deemed necessary in conducting mariners' employment exchange service, establish accommodation, dining saloons, bathrooms and other facilities.

Article 13.

The chief of Maritime Department shall collect the material concerning the employment and unemployment of mariners receiving from the Public Mariners' Employment Security Agency based on investigation reports on the demand and supply of maritime labor power, make public the results of such studies and investigations, and further, make efforts to adjust the demand and supply of maritime labor power augmenting the amount of employment on the basis of the aforesaid result of studies and investigations.

Article 14.

The chief of the Maritime Department shall, when he has been asked for guidance from shipowners concerning the recruitment, selection, assignment, transfer, etc. of mariners, offer the data, procedures and standards as based on the results of investigations on the jobs of mariners necessary for disposing of the above and shall, hereby, make efforts for the development of the maritime enterprise.

Article 15.

The chief of the Public Mariners' Employment Security Agency may entrust the following affairs to the Public Employment Security Office:

1. Acceptance and conveyance to the Public Mariners' Employment Security Agency of such applications for jobs as in cases where the applicants find it difficult to present themselves at the same agency.

2. Investigation of the identity, qualification, etc. of the applicants for jobs.

3. Publication of information on seeking for help or for employment.

In case where, in entrusting the affairs mentioned in the above mentioned items, there is no Public Employment Security Office within the district concerned or bordering district thereof, the chief of the Public Employment Security Office may request the headmen of towns or villages within the district concerned to manage the affairs mentioned in any of the preceding items.

Article 16.

The Public Mariners' Employment Security Agency shall accept any application for help or for employment. In cases, however, where the contents of an application for help or for employment violate any law or order, or where the working conditions constituting the contents of such application for help, such as wages, working hours, etc., are deemed tobe extremely inappropriate in comparison with normal working conditions, the agency may refuse to accept such application.

The Public Mariners' Employment Security Agency may, when deemed necessary, guide the persons seeking for help, in respect of the number of mariners whose help is sought for, working conditions and other conditions of the seeking for help, and may guide the persons seeking for employment, in respect of positions, labor conditions, vessels on board which intending mariners are to be manned and other conditions of finding employment.

Article 17.

Employers seeking workers shall provide full information regarding the nature of the work to be performed, hours, wages and other working conditions to the Public Mariners' Employment Security Agency,

which, in turn, will make such information fully available to applicants for jobs.

Article 18.

The Public Mariners' Employment Security Agency shall make efforts to find such employment for the applicants for help or for the applicants for employment as conforms with such applicants' request.

Article 19.

The employment exchange shall, in case where the application for help and that for employment stand on equal conditions, be conducted according to the order of acceptance of such application.

In case where a job applicant, however, refuses to enter for a certain number of times determined by ordinance into a suitable job presented by the Public Mariners' Employment Security Agency, his application shall be construed as newly accepted at the time of his last refusal in respect of the order of exchange.

Article 20.

The Public Mariners' Employment Security Agencies shall make efforts to exercise actively the service of finding employment according to the circumstances surrounding the demand and supply of maritime labor power.

Article 21.

To maintain a neutral stand in labor disputes the Public Mariners' Employment Security Agency shall not refer job applicants to any ship where a strike, lockout or laid up reserve is actually taking place.

Besides, in case the Labor Relations Committee has reported to the Public Mariners' Employment Security Agency that labor disputes which are likely to lead to a strike, lockout or laid up reserve are taking place on board a vessel and that the settlement of the disputes are feared to be interrupted by referring the applicants beyond limit, the Public Mariners' Employment Security Agency shall not refer any job applicant to the ship concerned.

The provisions of this paragraph, however, shall not apply to the cases where the job applicants are referred to the shipowner regularly employed until such disputes took place.

Article 22.

Procedures of mariners' employment exchange and other necessary matters concerning the mariners' employment exchange conducted by the Government shall be established by orders.

Article 23.

The Public Mariners' Employment Security Agency shall perform vocational guidance for those persons who intend newly to enter into jobs of mariners or others who intend to seek mariners' job when execution of special guidance is deemed necessary.

Article 24.

The Public Mariners' Employment Security Agency may, when deemed necessary, carry out quality tests of adaptability to the mariners' job as regards those persons who get vocational guidance for their physical strength, mental faculties, character, etc.

Article 25.

The Public Mariners' Employment Security Agency shall cooperate with educational institutions which conduct vocational guidance as regards those who complete their course of study.

Article 26.

The procedures for the carrying out of vocational guidance and other necessary matters pertaining thereto shall be provided for by orders.

Article 27.

Seamen's vocational training shall be conducted concerning necessary kinds of ratings in proportion to the conditions of demand and supply of maritime labor power. As for minors and other persons who are in need of special vocational training, such items and methods of training shall be selected as will be suitable for their abilities.

The training to be conducted by the Ministry of Transportation in accordance with the provision of this law shall be limited to that which has a direct relation to the specialized job activities of maritime workers. The Ministry of Transportation will not offer courses of training in subjects, except technical subjects, that are offered by schools under the School Education Law (Law No. 26, 1947). The Ministry of Transportation will emphasize particularly on-the-job training with the minimum of classroom instruction.

Article 28.

Seamen's vocational training shall be executed by seamen's training institutes as are designated by the Ministry of Transportation.

Article 29.

The Public Mariners' Employment Security Agency shall cooperate with the seamen's training institutes of the preceding paragraph in selection of the vocational trainees.

Article 30.

The Minister of Transportation shall fix the kind and methods of the seamen's vocational training and other necessary matters relative to the selection of the vocational trainees.

The term of the seamen's vocational training shall not exceed a three-month period.

Article 31.

The Government may pay allowances to the vocational trainees.

Article 32.

Other necessary matters regarding the seamen's vocational training other than those provided for in this section shall be established by orders.

Chapter III - Mariners' Employment Exchange Service, Recruitment of Mariners and Mariners' Labor Supply Service which are Conducted by Other Persons than the Government.

Article 33.

Anyone other than the Government shall not, except in the case provided for in the provisions of Article 34, engage in the mariners' employment exchange service.

Article 34.

Such associations who represent shipowners and/or mariners or such juridical or nonjuridical persons associated for public interest, as, at the same time, satisfy all the following items may conduct mariners' employment exchange service with permission of the Minister of Transportation:

1. That the mariners' employment exchange conducted by those associations charge no fee and their service do not aim at profit-making.

2. That the mariners' employment exchange service is conducted without being subsidized from the National Treasury.

The Minister of Transportation shall, in case where he has received any application for permission agreeable to the conditions mentioned in the preceding paragraph, give permission to the same.

Article 35.

Any person shall not change the location of the mariners' employment exchange agency or its facilities engaged in mariners' employment exchange service or increase the number of mariners' employment exchange agencies unless he has reported in advance to the Minister of Transportation.

Article 36.

The Minister of Transportation may, when it is deemed that any facilities of the mariners' employment exchange agency or the operation of services thereof are inappropriate in respect of the management of mariners' employment exchange service, recommend the association conducting the above service to improve the facilities concerned or take other necessary measures.

Article 37.

Any employee of a mariners' employment exchange service shall not, under any pretext, receive or cause any other person to receive for their service any profit of property, beyond their wages, salaries or other remunerations corresponding thereto.

Article 38.

Anyone engaged in mariners' employment exchange service and anyone employed by the same shall not pursue the following business except in cases where the former has obtained an approval of the Minister of Transportation for the business mentioned in items 4 to 6.

1. Money exchange.
2. Pawnbroker.
3. Sale of intoxicants.
4. Operation of eating house.
5. Sale of daily necessities.
6. Operation of lodging house.

Anyone engaged in mariners' employment exchange service or anyone employed by him may not pursue profits conspiring with those engaged in a business mentioned in any of the preceding items.

Article 39.

Anyone other than those intending to be engaged in mariners' employment exchange service in accordance with the provisions of Article 34 shall not use the letters in their name or in the name of their facilities indicative of the agent engaging in mariners' employment exchange service.

Article 40.

Anyone engaged in mariners' employment exchange service under the provision of Article 34 shall prepare such books and documents of the business as shall be provided for by orders, and keep them in his office.

Article 41.

The provisions of Articles 16 to 23 inclusive, shall apply with necessary modifications to the mariners' employment exchange service which is to be conducted under the provisions of Article 34.

Article 42.

Other necessary matters regarding the mariners' employment exchange service other than those provided for in this section shall be established by orders.

Article 43.

Those who intend to recruit mariners by means of advertisement in newspapers, magazines or other publications or by means of publishing notices or distributing papers or by broadcasting shall report the details of the recruitment to chiefs of Public Mariners' Employment Security Agencies.

Article 44.

Those who intend to recruit mariners by other methods than those prescribed in the preceding article shall, except in cases as provided for by orders, obtain the permission of the Minister of Transportation.

Those who need not obtain the permission of the Minister of Transportation in accordance with the provisions of the preceding paragraph, shall in advance submit a report concerning the contents of the recruitment to the chief of the Public Mariners' Employment Security Agency.

Article 45.

In cases where a shipowner intends to recruit mariners by entrusting persons other than the employees thereof he shall obtain the permission of the Minister of Transportation.

In cases where a shipowner intends to give remuneration to other persons than his employees as mentioned in the preceding paragraph

for their service in engaging in the recruitment of mariners, he shall obtain the permission of the Minister of Transportation.

Those who engage in the recruitment of mariners under the provisions of Article 45, paragraph 1 shall not simultaneously engage in the recruitment for more than one shipowner.

Article 46.

The chief of a Public Mariners' Employment Security Agency may, when deemed necessary for the adjustment of demand and supply of maritime labor power, set limits to the area or time of recritment in respect of the recruitment as provided for in Article 42 by means of documents stating the reason therefor.

Article 47.

The Minister of Transportation may, when permitting the recruitment as prescribed in Article 44, give necessary instructions in respect of the method of recruitment such as the number of mariners to be recruited or the area of recruitment.

Article 48.

Shipowners, employees engaging in the recruitment of mariners or those who engage therein according to the provisions of Article 45, shall not receive any financial benefits from applicants for recruitment under any pretext.

Article 49.

Any shipowner shall not give money or goods for the service of the employees engaged in the recruitment under any pretext.

Article 50.

The employees who engage in the recruitment of mariners and those who engage, under the provisions of Article 45, paragraph 1, in the recruitment of mariners shall not entrust the recruitment to other persons.

Article 51.

The provisions of Articles 17 and 21 shall apply with necessary modifications to those who recruit mariners.

Article 52.

Necessary matters concerning the recruitment of mariners other than those provided for in this section shall be provided for by orders.

"In case they make a visit and inspection in accordance with the provisions of the preceding paragraph" shall read "in case they perform their functions provided for in the two preceding paragraphs; the same paragraph shall become paragraph"; the following shall be added as paragraph 2 of the same article.

The Minister of Transportation, when he deems it necessary for the investigation of operative conditions of Article 53, may cause competent officials to visit the office and other establishments, and to request the submission of books and documents or put questions to a shipowner or mariners.

Article 53.

No person shall, except in the case prescribed in Article 54, conduct labor supply service, nor employ as mariners such persons as are supplied by those who conduct the mariners' labor supply service.

Article 54.

The labor union bases on the Trade Union Law may, in case where it has obtained the permission of the Minister of Transportation, conduct the mariners' labor supply service free of charge.

Article 55.

The provisions of Articles 17 and 21 shall apply with necessary modifications to the mariners' labor supply service conducted by the Labor Union in the preceding articles.

Article 56.

The procedure for application for permission regarding the mariners' labor supply service and other necessary matters relative to the same service shall be provided for by orders.

Chapter IV - Mariners' Employment Security Council

Article 57.

The Mariners' Employment Security Councils shall be established in order to deliberate on matters concerning the enforcement of this law.

There shall be two kinds of Mariners' Employment Security Councils, namely a Central Mariners' Employment Security Council and Local Mariners' Employment Security Councils.

Besides the Mariners' Employment Security Councils as prescribed in the preceding paragraph, the Minister of Transportation may establish the Special District Mariners' Employment Security Councils which govern the district extending to the jurisdictional area of more than two maritime bureaus or part of the area under jurisdiction of the Maritime Bureau.

The Central Mariners' Employment Security Council and the Special District Mariners' Employment Security Councils which govern the districts extending to the jurisdictional areas of more than two maritime bureaus may, in response to the inquiries of the Minister of Transportation, and the Local Mariners' Employment Security Councils and the Special District Mariners' Employment Security Councils which govern part of the area under jurisdiction of the Maritime Bureau may, in response to the inquiries of the directors of maritime bureaus, not only conduct investigation and deliberation in relation to the affairs provided for in paragraph 1, but also make proposals, if necessary, to the competent administrative authorities.

The Minister of Transportation or the director of the Maritime Bureau shall ask for opinions of the Mariners' Employment Security Councils about all important matters pertaining to the enforcement of this law.

The Mariners' Employment Security Council may, when it is deemed necessary to conduct their services, request the Minister of Transportation or the director of Maritime Bureau to make reports on the matters concerned.

Members of the Mariners' Employment Security Council shall be appointed from among representatives of shipowners or mariners, and men of learning or experience. The members of the Central Mariners' Employment Security Council and the special district Mariners' Employment Security Council which governs the district extending to the jurisdictional areas of more than two maritime bureaus shall be appointed by the Minister of Transportation and the members of the Local Mariners' Employment Security Council and the Special District Mariners' Employment Security Council which governs part of the area under jurisdiction of the Maritime Bureau, by the director of the Maritime Bureau.

The number of council members who are appointed from among those persons representing shipowners, those representing mariners and those appointed from among men of learning or experience shall be equal.

The Central Mariners' Employment Security Council shall be convened once or more every three months and the Local and Special District Councils, once or more per month, respectively.

Necessary matters concerning the Mariners' Employment Security Councils other than those provided for in the preceding paragraphs shall be established by orders.

Chapter V - Miscellaneous Provisions

Article 58.

The chiefs of the Public Mariners' Employment Security Agencies may, when deemed necessary, cause shipowners to make reports on the employment and discharge of mariners.

Article 59.

The Minister of Transportation may cause those who engage, with permission, in the mariners' employment exchange service, in the recruitment of mariners or in mariners' labor supply service to make reports or submit necessary documents or books on their businesses or services, or may cause competent officials to inspect at their offices the business conditions, books, documents or any other articles.

The competent officials shall, in case they make a visit and inspection in accordance with the provisions of the preceding paragraph, carry with them certificates proving their official status.

Article 60.

In cases where the Minister of Transportation deems that those who engage in the mariners' employment exchange service, in the recruitment of mariners or in mariners' labor supply service, have violated any laws or orders or dispositions made by the Minister of Transportation or by the director of the Maritime Bureau based thereupon or that their business or service threatens public benefit, the said minister may suspend such business or cancel the permission.

Any person whose permission has been cancelled under the provisions of the preceding paragraph shall not be granted the permission for mariners' employment exchange service again.

Article 61.

The personal information of any mariner or shipowner which has come to knowledge from mariners, shipowners or other persons, in

regard to the business of the Public Mariners' Employment Security Agencies or in regard to mariners' employment exchange service, recruitment of mariners or mariners' labor supply service which are conducted by persons other than the Government, shall be kept in secret, and no person shall be allowed to divulge such secrecy. This shall, however, not apply to the cases where such information is published under the direction of the chief of the Maritime Department.

Article 62.

The Government shall formulate plans and establish necessary facilities for educating or training officials who shall engage in such service of mariners' employment exchange, vocational guidance or any other service relating to the enforcement of this law as shall be conducted by the Government.

Article 63.

The authority of the Minister of Transportation provided for in this law may be delegated to the director of the Maritime Bureau in accordance with the provisions of orders.

Chapter VI - Penal Provisions

Article 64.

Those who come under any of the following items shall be subject to imprisonment not less than one year and not exceeding ten years or a fine not less than ¥ 2,000 and not exceeding ¥ 30,000:

1. Those who have conducted employment exchange service for mariners, recruited mariners or who have engaged in mariners' labor supply service by means of violence, intimidation, confinement, or undue restraint on the mental or physical freedom.

2. Those who have rendered employment exchange service for mariners or recruited mariners' labor supply service or who have engaged in such business, for the purpose of causing mariners to engage in the business harmful to public health or morality.

Article 65.

Those who come under any of the following items shall be subject to imprisonment not exceeding one year or to a fine not exceeding ¥ 10,000:

1. Those who have violated the provisions of Article 33.

2. Those who have violated the provisions of Article 38.

3. Those who have violated the provisions of Article 44, paragraph 1.

4. Those who have violated the provisions of Article 45, paragraph 1.

5. Those who have violated the provisions of Article 53.

Article 66.

Those who fall under any of the following items shall be subject to imprisonment not exceeding six months or to a fine not exceeding ¥ 5,000.

1. Those who have violated the provisions of Article 37.

2. Those who have violated the provisions of Article 45, paragraph 2 or 3.

3. Those who have infringed the limits provided for in Article 46 or neglected the instructions provided for in Article 47.

4. Those who have violated the provisions of Article 48.

5. Those who have violated the provisions of Article 49.

6. Those who have violated the provisions of Article 50.

7. Those who have rendered employment exchange service for mariners or recruited them, or rendered mariners' labor supply service, or who have engaged in such business, by making false advertisements, posting or distributing false documents, by false broadcasting or by indicating false working conditions.

8. Those who have rendered employment exchange service or recruitment of mariners or rendered mariners' labor supply service or who have engaged in such business, for the purpose of employing the mariners to make them serve on board those vessels or at other working places where working conditions are in contravention of laws or orders.

Article 67.

Those who come under any of the following items shall be subject to a fine not exceeding ¥ 5,000.

1. Those who have failed to prepare books or documents as mentioned in the provisions of Article 40, or failed to provide them or those who have made false books or documents.

2. Those who have failed, without justifiable reasons, to make reports, or who have made false reports to Public Mariners' Employment Agencies, in defiance of the request of the agencies as provided for in Article 58.

3. Those who have failed, without justifiable reasons, to make reports, or made false reports, or failed to submit books or documents, or submitted books or documents with false entry or refused, interfered or evaded the official inspection or investigation, in violation of the provisions of Article 59, item 1 or 2.

Article 68.

Those who come under any of the following items shall be subject to a fine not exceeding ¥ 3,000:

1. Those who have violated the provisions of Article 35.

2. Those who have violated the provisions of Article 39.

3. Those who have violated the provisions of Article 43.

4. Those who have violated the provisions of Article 44, paragraph 2.

Article 69.

In cases where the person who has violated this law is a proxy, employee, or other worker of or for a natural or juridical person, and in the event that the natural person or the representative of the juridical person concerned could be aware of such violation with ordinary care, not only the violator himself but also such natural person or the representative of the juridical person shall be subject to the monetary penalty as provided for in the respective articles.

In cases where a natural person or the representative of a juridical person has neglected to take necessary measures for the suppression of the plot for offenses, notwithstanding the fact that such person has been aware of such plot, or failed to take appropriate measures for correcting the unlawful acts notwithstanding the fact that such person has been aware of such act, or instigated an offense, such natural person or such representative of the juridical person shall also be punished as an offender.

Supplementary Provisions

The date of enforcement of this law shall be fixed by a Cabinet order not later than 120 days from the day of its promulgation.

The Mariners' Employment Exchange Law (Law No. 38, 1922) shall hereby be repealed.

Those who are actually engaging in the mariners' employment exchange service with the permission of the Minister of Transportation at the time of the enforcement of this law may, within the limit of three months following its promulgation, continue their service.

Part of the Mariners' Insurance Law shall hereby be revised as follows:

The "Mariners' Employment Exchange Agency" shall read as "Public Mariners' Employment Security Agency."

Part of the Employment Security Law (Law No. 141, 1947) shall hereby be revised as follows:

In Article 62, "Article 1 of the Mariners Law" shall read as "Article 6, paragraph 1 of the Mariners' Employment Security Law."

UNEMPLOYMENT ALLOWANCE LAW

Promulgated 1 December 1947

LAW No. 145, 1947

Article 1.

The object of this law is to grant an unemployment or an unemployment insurance benefit to the insured person when he is out of a job.

The unemployment insurance benefit mentioned in the preceding paragraph shall be paid in accordance with the provision of this law, irrespective of the provisions of the Unemployment Insurance Law.

Article 2.

In case the insured person under the Unemployment Insurance Law suffices the following conditions, the Government shall pay an unemployment allowance until 30 April 1948 and an unemployment insurance benefit after that date to the insured who comes under the following items.

1. Those who had been employed for more than six months before they became unemployed (continuously with the same working place for employment prior to 1 November 1947) in the working place mentioned in the provisions of the Unemployment Insurance Law, and

2. Those who became unemployed during the periods 1 November 1947 to 30 April 1948 and who qualified in covered employment for unemployment allowances, and do not come under the provisions of Article 15, paragraph 1 of the Unemployment Insurance Law.

In case the person who is entitled to receive the unemployment allowance (including unemployment insurance benefit mentioned in the preceding paragraph hereinafter, except in the case of Article 16) according to the provision of the preceding paragraph is again unemployed after being employed in the course of the benefit year mentioned in Article 6, he is eligible for unemployment allowance, irrespective of the conditions mentioned in the preceding paragraph.

Article 3.

The term "unemployment" in this law signifies the condition in which a worker is out of a job and cannot be employed in spite of his will and ability to work.

Appendix XI

The term "separation" in this law signifies the condition in which the employment relationship of a worker has terminated.

Article 4.

A person who meets the provision of Article 2 (hereinafter called a qualified recipient) shall have to take the following procedures to receive the unemployment allowance:

1. To present the document which certifies him as the qualified recipient stipulated in the provision of Article 2, paragraph 1 and other necessary documents to the Public Employment Security Office.

2. To present himself to the Public Employment Security Office to apply for a job and receive the recognition of his unemployment according to the provisions of Cabinet order.

Article 5.

The unemployment allowance shall be calculated on the basis of the quotient of the total amount of wages divided by the number of all days during the two previous months of covered employment for which wage were paid, last month and the month prior to that month before the separation in which the claimant was paid for 11 or more days of employment. (In the case of being separated on the last day of the month, that month shall be used together with the next prior month of a minimum of 11 days of covered employment in the calculation). However, in case the wage paid in the last completed month is higher than that of the previous month on account of the wage raised according to laws, ordinance, orders, etc., or labor contracts or rules of employment, unemployment allowance shall be calculated on the basis of the quotient of the total amount of the wage paid in the last completed month divided by the number of all days during that period.

In case the amount determined by the preceding method does not equal the amount calculated on the basis of the following paragraph, irrespective of the provisions of the preceding paragraph, the unemployment allowance shall be paid as follows:

1. In case the wage is computed by labor days, or labor hours, or defined by piece rate or other contract price 70 percent of the quotient obtained by dividing the total sum of wages by the number of the labor days during that period, or

2. In case a part of the wage is defined by month, week, or any other fixed period, aggregate of the quotient obtained by dividing

the total sum of these parts by the number of all days during that period and the sum of these computed by the foregoing period.

The unemployment allowance shall be a fixed amount which shall be stated in relation to wages grouped into wage classes in a table of benefits issued by the Minister of Labor. However, the maximum amount of wages on which unemployment allowance shall be calculated shall be fixed at ¥ 170 per diem.

The medium amount of unemployment allowance shall be fixed at approximately 55 percent of the wage which is calculated according to the provisions of the preceding paragraph of this article and falls in wage classes of 40 or more yen and less than ¥ 80. In case the wage falls in wage classes of ¥ 80 or more and up to and including ¥ 170, the benefit shall be a gradually decreasing percentage of the wage amounting down to approximately 35 percent of the ¥ 170 maximum. In case the wage falls in wage classes of less than ¥ 40 and down to ¥ 10 (including all per diem wages of less than ¥ 10), the benefit shall be a gradually increasing percentage amounting up to approximately 75 percent of ¥ 10.

When the qualified recipient has earned some income by his labor during a period of unemployment for which he has received recognition by the Public Employment Security Office, in accordance with the provisions of Article 16, he shall be permitted to receive the amount of allowance necessary to bring his earning to approximately 80 percent of the normal wage on which is allowance was calculated. The specific amount of allowance in such case shall be specified by Cabinet order.

In case the qualified recipient receives a sickness allowance in accordance with the provisions of Article 55 of the Health Insurance Law, only that part of the unemployment allowance in excess of the sickness allowance shall be paid.

Article 6.

The benefit year in which a qualified recipient is eligible for receiving unemployment allowance shall be one year as from the following day of the date of separation.

Article 7.

The unemployment allowance shall not be paid unless a qualified recipient has been unemployed for a period of 30 days in total after his first application for a job to the Public Employment Security Office after he became unemployed. In case, however, the person who had become eligible to receive the unemployment allowance is again unemployed in the course of the benefit year stipulated in the preceding article, he shall not have to serve an additional waiting period.

Article 8.

The unemployment allowance shall not be paid for more than one hundred and twenty days in total in the benefit year mentioned in Article 6.

Article 9.

In case the qualified recipient qualified for the benefits under the provision of Article 15, paragraph 1 of the Unemployment Insurance Law, the unemployment allowance shall not be paid to him thereafter.

Article 10.

In case qualified recipient refuses to accept the job to which he is referred by the Public Employment Security Office or does not obey the direction of the same concerning vocational training, the unemployment allowance shall not be paid to him. However, in case a person comes under any of the following items, this shall not be applicable.

1. In case it is found that the job to which he is referred or the job in reference to which vocational training is recommended is unsuitable as compared with the ability of the qualified recipient.

2. In case the movement of domicile or temporary domicile for the purpose of accepting the job for which he is qualified.

3. In case the wage is unreasonably lower than the prevailing wage of other workers of the same kind and skill in the locality.

4. In case the qualified recipient is referred in violation of the provisions of Article 20 of the Employment Security Law to the working places where a labor dispute is arising.

5. In case there are other justifiable reasons.

The Public Employment Security Office must determine whether or not the qualified recipient comes under any of the items of the preceding paragraph according to the standards set by the Minister of Labor, after consulting with the Unemployment Insurance Advisory Committee.

Article 11.

In case the person stipulated in the provision of Article 2, paragraph 1 is discharged due to his grave misconduct or other reasons which fall on his responsibility or in case he resigns on

his own request without sufficient reason to justify that, the unemployment allowance shall not be paid to him.

The Public Employment Security Office must determine whether or not the unemployment of a qualified recipient is caused by any of the facts mentioned in the preceding paragraph according to the standards set by the Minister of Labor after consulting with the Unemployment Insurance Advisory Committee.

Article 12.

In case a qualified recipient receives or attempts to receive an unemployment allowance by means of a false statement or other unfair conduct the unemployment allowance shall not be paid to him.

In case the fact mentioned in the preceding paragraph happens, the Government may order the person who thus received the unemployment allowances or his successor to refund the sum corresponding to the amount of unemployment allowance received.

Article 13.

Unemployment allowance shall be paid once a week for the seven preceding day's amount (excluding the amount for the days which a qualified recipient did not have the recognition of unemployment) at the Public Employment Security Office. However, when the Minister of Labor deems it necessary, he may establish standards for the payment of the unemployment allowance in a different manner after consultation with the Unemployment Insurance Advisory Committee.

The day for the payment of the unemployment allowance shall be decided for each claimant by the Public Employment Security Office and shall be made known to each claimant.

Article 14.

The right to receive the unemployment allowance shall not be transferred nor be impounded.

Article 15.

No taxes nor duties shall be levied on unemployment allowance.

Article 16.

The expenses for the unemployment allowance shall be wholly borne by the National Treasury, while one third of the expenses for the unemployment insurance benefit stipulated in Article 2, paragraph 1 shall be borne by the National Treasury and two third of it by the insurance premium paid according to the provisions of the Unemployment Insurance Law.

Article 17.

Any person who is dissatisfied with a decision with regard to payment of unemployment allowance may request a hearing by the Unemployment Allowance Referee. When dissatisfied with the decision thus given he may request a hearing by the Unemployment Allowance Appeal Board. When dissatisfied with the decision given by the latter he may institute a lawsuit in an ordinary court.

Request for hearing stipulated in the preceding paragraph shall be regarded as a juridical demand in connection with the interruption of prescription.

Article 18.

The Unemployment Allowance Referee shall be appointed by the Minister of Labor and his duties shall be as defined by this law.

The Unemployment Allowance Referee may make investigations with authority whenever he deems necessary.

When it is deemed necessary for investigation, the Unemployment Allowance Referee may ask the opinion of the Government officials who have decided upon the payment of unemployment allowance or may direct the qualified recipient or the employer to make reports or to present themselves in the office.

Article 19.

The Unemployment Allowance Appeal Board shall consist of the same number of members representing workers, employers and the public interest respectively and shall be appointed by the Minister of Labor.

Article 20.

The Unemployment Allowance Referee or the Unemployment Allowance Appeal Board may, when considered necessary for investigation, question witnesses or expert witnesses and make other evidence examination.

As for the evidence examination, provisions concerning evidence examination of the Civil Procedure Law and the provisions of Articles 9, 11, 12 and 13 of the Civil Procedure Expenses Law shall be applied mutatis mutandis. In reference to the evidence examination made by the Unemployment Allowance Referee or the Unemployment Allowance Appeal Board. However, no fine may be imposed nor custody ordered.

Article 21.

Request for hearing or institution of lawsuit shall be made within sixty days from the date of receipt of written decision. In this case, the provisions of Article 8, paragraph 2 of the Petition Law shall be applied mutatis mutandis to the request for hearing, and the provisions of Article 158, paragraph 2 and Article 159 of the Civil Procedure Law to the institution lawsuit.

Article 22.

Matters of an administration nature other than stipulated in the foregoing five articles, regarding the Unemployment Allowance Referee and the Unemployment Allowance Appeal Board shall be provided for by Cabinet order.

Article 23.

The right to receive Unemployment shall be avoided by prescription after the lapse of one year.

As for the interruption, suspense and other matters of prescription mentioned in the preceding paragraph, the provision of the civil code concerning prescription shall be applied mutatis mutandis.

Article 24.

Stamp duty shall not be imposed on documents concerning Unemployment Allowance.

Article 25.

The administrative office may, as provided for by ordinance, direct the employer who hired qualified recipient or the qualified recipient himself to take reports or to submit documents concerning changes of employment, wage of the qualified recipient and other necessary matters concerned with the enforcement of this law, or to direct the qualified recipient to present himself at the office.

The unemployed insured may request the employer to certify the information necessary to determine the eligibility for allowance which will be specified by ordinance. The employer must, when so requested, certify regarding the information concerned.

Article 26.

The administrative office may, when deemed necessary, have the competent officials enter the working places where potential claimant or qualified recipients were employed, question the person concerned

or investigate the pertinent document and ledgers, relating to unemployment and earnings.

In case of the preceding paragraph, the officials shall bear the identification cards to show their authority.

Article 27.

An employer stipulated in Article 25, a person concerning stipulated Article 26, or a qualified recipient who comes under any of the following items shall be subject to imprisonment of not more than six months or to a fine not exceeding ¥ 10,000 for willful violation.

1. In case the employer refuses to certify in violation of Article 25, paragraph 2.

2. In case he fails to make a report, make a false report, fails to submit documents, submit false documents or fails to present himself in the office in violation of the provisions of this law.

3. In case he fails to make an answer or make a false answer to a question or refuses, interrupts or evades the inspection of the competent officials in violation of the provision of this law.

Article 28.

In case the conduct of a representative of a juridical person, or an agent of a juridical or natural person, an employed, etc., concerning the business of a juridical or natural person comes under the provisions of the preceding article, the said juridical or natural person shall be subject to a fine stipulated in that article besides the conductor himself is punished.

Supplementary Regulations

This law shall be applicable as of 1 November 1947.

The calculation of the period of days mentioned in Article 5 shall be started from the date of the promulgation of this law for those who became unemployed during the period of 1 November 1947 to the day before the promulgation of this law.

UNEMPLOYMENT INSURANCE LAW

Promulgated 1 December 1947.

LAW NO. 146, 1947.

Chapter I - General Regulations.

Article 1.

The object of unemployment insurance is to grant an unemployment benefit to the insured person when he is out of a job for the purpose of stabilizing his livelihood.

Article 2.

The undertaking of unemployment insurance shall be managed by the Government.

Article 3.

The term "unemployment" in this law signifies the condition in which an insured person is out of a job and cannot be employed in spite of his will and ability to work.

The term "separation" in this law signifies the condition in which the employment relationship of an insured person has terminated.

Article 4.

In this law the wage is defined as the wage, salary allowance, bonus and all other payments to the worker from the employer as remuneration for labor under whatever name these may be called. However, wages do not include "extraordinary" wages, wages which are paid periodically at longer than three months intervals and wages which are paid by anything other than money that is not regulated by ordinance.

It is hereby provided, that in the preceding paragraph, when wages are paid by anything other than money, the method necessary to determine their value shall be defined by ordinance.

Article 5.

The amount of premium and insurance benefit shall be calculated on the basis of the wage of the insured.

Appendix XII

Chapter II - The Insured Person.

Article 6.

All workers who are employed in the working place corresponding to any of the following items shall be regarded as the insured persons in this law:

1. Working places of enterprised listed below in which not less than five workers are habitually employed:

   (a) Enterprises engaging in manufacturing, rebuilding, improving, repairing, cleaning, sorting, packing and decoration, finishing, tailoring for the purpose of selling, destruction or breaking up of goods and alteration of material. (This included enterprises which generate, transform, and transmit electricity, gas and various forms of power and also water works.)

   (b) Mining, sand mining, stone cutting, and other extraction of gravel or minerals.

   (c) Enterprise engaging in the transportation of freight and passengers by roads, railroads, streetcar lines, cable lines, vessels and airplanes.

   (d) Enterprises engaging in the handling of freight at docks, on vessels, at jetties, piers, railroad stations and warehouses.

   (e) Enterprises engaging in the selling, delivery, storing and lending of commodities.

   (f) Banking, insurance, agency, brokerage, bill collection, information and advertising enterprises.

   (g) Enterprises engaging in incineration, cleaning and butchery.

Offices of juridical persons in which not less than five workers are habitually employed.

Governmental and other public offices or enterprises which do not come under any of the foregoing items.

Article 7.

The employees of the national, prefectural, municipal, town or village government agencies or others of similar kind shall be excluded from coverage under this law, irrespective of the preceding article, according to the provision of Cabinet order, provided

they are eligible for pension, retirement allowance or other benefits of a similar kind according to laws, ordinances, orders, etc., in case they are out of a job, which are substantially equal as a minimum to the benefits provided under this law.

Article 8.

Employers of working places not designated in Article 6 may apply for the sanction of the Minister of Labor to have their workers insured as a whole under unemployment insurance.

The approval of more than one half of the number of persons to be insured is necessary to apply for the sanction mentioned in the preceding paragraph.

When more than on half of the number of persons to be insured wishes to be insured, the employer shall have to apply for the sanction mentioned in paragraph 1.

When the sanction mentioned in paragraph 1 is granted, the workers of the said working place shall be regarded as persons insured under unemployment insurance.

Article 9.

In case the working place designated in Article 6 ceases to meet the provisions of the said article, the employees of the said working place shall be regarded as insured under the provisions of the preceding article.

Article 10.

Irrespective of the provisions of Articles 6 and 9, persons who come under any of the following items shall not be insured persons. However, in case a person who comes under item 1 has been continuously employed by the same employer for more than one month or in case a person who come under item 2 or 3 has been continuously employed by the same employer for a period longer than stipulated in each item, this shall not applied.

1. Workers who are employed on the day basis.

2. Workers who are employed for a specific term of employment which is less than two months.

3. Workers who are employed in a seasonal enterprise with a term of employment which is less than four months.

4. Insured persons under the Seamen's Insurance.

5. Workers who are employed on probation for a period not longer than 14 days.

6. Workers who are employed in enterprises which have no definite location.

Article 12.

An insured person shall lose his qualification as from the day following the date of his death or unemployment or as from the day following the date of his coming under any of the items of Article 10. However, in case he comes under the provision of the preceding article on the very day when the facts happen, he shall lose his qualification on the day of happening.

Article 13.

The employer of the insured persons mentioned in Article 8 may apply for the sanction of the Minister of Labor to abolish the qualification as a whole of the insured persons who acquired the qualification according to the provision of the said article.

The approval of more than three fourths of the number of the insured persons is necessary to apply for the sanction mentioned in the preceding paragraph.

The insured persons shall lose their qualification as from the next day of the sanction.

Article 14.

The insured period shall be calculated by the month. In case the labor days (in case the wage is defined by month, week, or any other fixed period, the days to be paid are 11 or more) the month shall be counted as a completed month.

In case the days are 10 or less than a month, the same shall not be counted.

Article 15.

In case an insured person is unemployed after he has been insured for more than six months in total during the year proceeding the date of separation, he is eligible for unemployment insurance benefits.

In case a person who is authorized to receive unemployment insurance benefits according to the provision of the preceding paragraph is again unemployed after being employed in the course of the benefit year stipulated in Article 18, he is eligible for unemployment insurance benefits according to the previous qualification.

irrespective of the provision of the preceding paragraph, if he is not eligible on the basis of a new calculation according to the last paragraph.

Article 16.

To receive unemployment insurance benefits a person who comes under the provisions of the preceding article (hereinafter called a qualified recipient) must present himself in the Public Employment Security Office to apply for a job and receive the recognition of his unemployment according to the provisions of Cabinet order.

Article 17.

The unemployment insurance benefit shall be calculated on the basis of the quotient of the total amount of wages, divided by the number of all days during the two previous months of covered employment for which wages were paid, that is the last month and the month prior to that month in which the claimant was paid for 11 or more days of employment. (In the case of being separated on the last day of the month, that month shall be used together with the next prior month of a minimum of 11 days of covered employment in the calculation). However, in case the wages paid in the last completed month are higher than that of the previous month on account of a wage raise according to laws, ordinances, order, etc., or labor contracts or rules of employment, unemployment insurance benefits shall be calculated on the basis of the quantity of the total amount of the wages paid in the last completed month divided by the number of all days during that period.

In case the amount determined by the preceding method does not equal the amount calculated on the basis of the following method, irrespective of the provisions of the preceding paragraph, the unemployment insurance benefit shall be paid as follows:

1. In case the wages are computed by labor days or labor hours, or defined by piece-rate or other contract price, 70 percent of the quotient obtained by dividing the total sum of wages by the number of the labor days during that period.

2. In case a part of the wages are defined by month, week, or any other fixed period, aggregate of the quotient obtained by that period and the sum of these computed by the foregoing period, in the last completed month divided by the number of all days during that period.

In case the amount determined by the preceding method does not equal the amount calculated on the basis of the following paragraph,

irrespective of the provisions of the preceding paragraph, the unemployment allowance shall be paid as follows:

1. In case the wages are computed by labor days, or labor hours, or defined by piece-rate or other contract price, 70 percent of the quotient obtained by dividing the total sum of wages by the number of the labor days during that period.

2. In case a part of the wage is defined by month, week, or any other fixed period, aggregate of the quotient obtained by dividing the total sum of these parts by the number of days during that period and the sum of those computed by the foregoing period.

The unemployment allowance shall be fixed amount which shall be stated in relation to wages grouped into wage classes in a Table of Benefits issued by the Minister of Labor. However, the maximum amount of wages on which unemployment allowance shall be calculated shall be fixed at ¥ 170 per diem.

The wage which falls in wage classes specified in the preceding paragraph shall be changed in the new Table of Benefits in the same proportion that average wages have changed. Benefit rates as percentages shall remain the same.

When a new Table of Benefits is issued, benefits specified therein shall be paid regardless of the provisions of the preceding paragraphs from the date of the promulgation of the new Table of Benefits.

When the qualified recipient has earned some income by his labor during a period of unemployment for which he has received recognition by the Public Employment Security Office, in accordance with the provisions of Article 16, he shall be permitted to receive the amount of benefits necessary to bring his earnings to approximately 80 percent of the normal wage on which his benefit was calculated. The specific amount of benefits in such cases shall be specified by Cabinet order.

In case the qualified recipient receives a sickness allowance in accordance with the provisions of Article 55 of the Health Insurance Law, only that part of the insurance benefit in excess of the sickness allowance shall be paid.

Article 18.

The benefit year in which a qualified recipient is eligible for receiving unemployment insurance benefits shall be one year as

from the day following the date of the first separation when he comes under the provision of Article 15, paragraph 1.

The unemployment insurance benefit shall be a fixed amount which shall be stated in relation to wages grouped into wage classes in a Table of Benefit issued by the Minister of Labor. However, the maximum amount of wages on which unemployment insurance benefits shall be calculated shall be fixed at ¥ 170 per diem.

The median amount of insurance benefits shall be fixed at approximately 60 of the wage which is calculated according to the provisions of this article and falls in wage classes of ¥ 40 or more and less than ¥ 80.

In case the wages fall in wage classes of ¥ 80 or more and up to and including ¥ 170, the benefit shall be a gradually decreasing percentage of the wages amounting down to approximately 40 percent of the ¥ 170 maximum.

In case the wages fall in wage classes of less than ¥ 40 and down to ¥ 10 (including all per diem wages of less than ¥ 10), the benefit shall be a gradually increasing percentage amounting up to approximately 80 percent of ¥ 10.

When the Minister of Labor finds that a change amounting to percent or more has occurred in average wages paid to workers in manufacturing industries as determined by the Cabinet Bureau of Statistic's index of wages in manufacturing industry compared with the average wages computed by the same index for the month in which the Table of Benefits took effect, he shall issue a new Table of Benefits fixing new benefit amounts for new wage classes.

1. In case a qualified recipient is again unemployed after being employed during the course of the benefit year and newly meets the provision of Article 15, paragraph 1, the benefit year stipulated in the preceding paragraph shall newly be calculated as from the date of the separation.

Article 19.

The unemployment insurance benefit shall not be paid unless a qualified recipient has been unemployed for a period of seven days in total after his first application for a job to the Public Employments Security Office after he became unemployed.

In case, however, the person who has become eligible to receive the unemployment insurance benefit is again unemployed in the preceding article, he shall not have to serve an additional waiting period.

Article 20.

The unemployment insurance benefits shall not be paid for more than one hundred and eighty days in total in one benefit year stipulated in Article 18.

In case a qualified recipient comes under the provision of Article 18, paragraph 2, the unemployment insurance benefits according to the previous qualification shall not be paid to him.

Article 21.

In case a qualified recipient refuses to accept the job to which he is referred by the Public Employment Security Office or does not over the direction of the same concerning vocational training, the unemployment insurance benefit shall not be paid to him for one month after the date. However, in case a person comes under any of the following items, this shall not be applicable.

1. In case it is found that the job to which he is referred or the job in reference to which vocational training is recommended is unsuitable as compared with the ability of the qualified recipient.

2. In case the movement of domicile or temporary domicile for the purpose of accepting the job to which he is referred is difficult.

3. In case the wage is unreasonably lower than the prevailing wage of other workers of the same kind in the locality.

4. In case the qualified recipient is referred in violation of the provisions of Article 20 of the Employment Security Law to the working places where a labor dispute is arising.

5. In case there are other justifiable reasons.

The Public Employment Security Office must determine whether or not the qualified recipient comes under any of the items of the preceding paragraph according to the standards set by the Minister of Labor after consulting with the Unemployment Insurance Advisory Committee.

Article 22.

In case an insured person is discharged due to his grave misconduct or other reasonswhich fall on his responsibility or in case he resigns on his own request without sufficient reason to justify that, the unemployment insurance benefit shall not be paid to him

for the term not less than one month and not more than two months after the lapse of the waiting period stipulated in Article 19 as directed by the Public Employment Security Office.

The Public Employment Security Office must determine whether or not the unemployment of a qualified recipient is caused by any of the items mentioned in the preceding paragraph according to the standards set by the Minister of Labor after consulting with the Unemployment Insurance Advisory Committee.

Article 23.

In case a qualified recipient receives or attempts to receive unemployment insurance benefits by means of a false statement or other unfair conduct, the unemployment insurance benefits shall not be paid to him.

In case the fact mentioned in the preceding paragraph happens the Government may order the person who thus received the unemployment insurance benefits or his successor to refund the sum corresponding to the amount of the benefits received.

Article 24.

Insurance benefits shall be paid once a week for the seven preceding day's amount (excluding the amount for the days which a qualified recipient did not have the recognition of unemployment) at the Public Employment Security Office.

However, when the Minister of Labor deems it necessary, he may establish standards for the payment of the unemployment insurance benefits in a different manner after consultation with the Unemployment Insurance Advisory Committee.

The day for the payment of the unemployment insurance benefit shall be decided for each claimant by the Public Employment Security Office and shall be made known to each claimant.

Article 25.

The right to receive unemployment insurance benefits shall not be transferred nor be impounded.

Article 26.

No taxes nor duties shall be levied on unemployment insurance benefits.

Article 27.

In case a qualified recipient agrees to remove his domicile or temporary domicile to engage in a job placed by Public Employment Security Office, the expenses required for removal of the qualified recipient and his dependents may be paid by the Government in accordance with the provisions of ordinance.

Necessary matters concerning the payment of expenses as provided for by the preceding paragraph shall be fixed by the Minister of Labor after consulting with the Unemployment Insurance Advisory Committee.

The provision of Article 23 shall be applied mutatis mutandis to the case when the qualified recipient received the expenses for travel by means of a false statement or other unfair conduct.

Chapter IV - Expenses.

Article 28.

The National Treasury shall bear one third of the amount of the expenses necessary for insurance benefits.

The National Treasury shall bear the expenses necessary for the administration of the unemployment insurance program within the annual budget, besides the expenses prescribed in the preceding paragraph.

Article 29.

The Government shall collect the premium for the purpose of meeting the expenses required for the unemployment insurance program.

Article 30.

The premium rate during the first six months after the enforcement of this law shall be 1.1 percent for the employer and 1.1 percent for the insured person.

In accordance with the provisions of a Cabinet order, the Minister of Labor shall, after consultation with the Unemployment Insurance Advisory Committee, recommend the changing of the premium rate to the Diet. In case of emergency the premium rate may be changed by the Minister of Labor after consulting with the Unemployment Insurance Advisory Committee when after balancing the amounts of premiums and benefits of the preceding six months at the end of

March and September of every year, the total amount of the reserve fund of the Unemployment Insurance Special Account is found to be smaller than the anticipated benefit payment for the next four months.

In case of the latter sentence of the preceding paragraph, the Minister of Labor shall recommend changing the premium rate at the next session of the Diet. Unless the new rate is confirmed by the Diet, it shall revert to the rate fixed in the first paragraph at the end of one year.

Article 31.

The monthly amount of premium shall be a definite sum based on the wage which was paid during the month multiplied by the premium rate in accordance with a Table of Premium issued by the Minister of Labor based on wage classes.

The maximum amount of wages on which premiums shall be calculated shall be fixed at ¥ 5,100 per month.

The provision of Article 17, paragraphs 5 and 6 shall be applied mutatis mutandis to the change of the maximum amount of wages fixed by the preceding paragraph.

The insured person and employer shall pay equal amount of premium.

Article 32.

An employer shall be responsible for paying the portion of the premium to be borne by the insured person whom he is employing.

Article 33.

The employer may deduct the employee's portion of the premium which he is responsible for paying for the insured from the wage, according to the provision of the preceding article.

In such cases the employer must maintain records and inform the insured of the amount of all such deductions.

Article 34.

Premiums shall be payable monthly.

The due date for collection shall be provided for by Cabinet order.

Article 35.

In case a person fails to pay the premium, the Government shall urge him to pay it specifying a time limit for the payment.

In urging the payment in accordance with the provision of the preceding paragraph, the Government shall send out a notice of demand to the person responsible for the payment. In this case the charge for demand shall be collected in accordance with the provisions of Cabinet order.

When a person who is urged to pay in accordance with the provision of paragraph 1 fails to pay the premium within the designated period, the Government may dispose of him in accordance with the procedure for disposition of national taxes in arrear or may request such disposition to the municipality, town or village (including special ward hereinafter) in which the delinquent lives or his property lies.

In case the Government requests disposition by the municipality, town or village according to the provision of the preceding paragraph, the latter shall dispose of the case in the way similar to local taxes. In this case, the Government shall pay four percent of the amount collected to the municipality, town or village.

Article 36.

When urging of payment is thus made according to the provisions of the preceding article, the Government shall, at the rate of four sen per ¥ 100 per diem, collect interest for delay calculated by the number of days from the following day of the date designated for payment to the day before the date of full payment of assessments or of impounding of the property. In case, however, the assessments and charges for demand are paid in full within the term mentioned in the notice of demand or in other cases designated by Cabinet order, the above provision shall not be applied.

Article 37.

The order of preference of the premium and other assessments prescribed in this law shall be next to that of assessments of municipalities, towns, villages or others of a similar kind, and shall procedure other public imposts.

Article 38.

The provisions of Articles 4 (7) and 4 (8) of the National Tax Collection Law shall be applicable mutatis mutandis to the forwarding of documents concerning the premium and other assessments prescribed in this law.

Chapter V - The Unemployment Insurance Advisory Committee

Article 39.

The Unemployment Insurance Advisory Committee shall be organized for the purpose of deliberating on important matters concerning unemployment insurance.

The Minister of Labor must determine important matters concerning the administration of the unemployment insurance program after consulting with the Unemployment Insurance Advisory Committee.

When deemed necessary, the Unemployment Insurance Advisory Committee may make suggestions to the administrative agencies concerned, or may request necessary reports concerning the administration of the unemployment insurance program in order to consult more effectively with the Minister of Labor.

The Unemployment Insurance Advisory Committee shall consist of the same number of members representing the insured, employers and the public interest respectively, and shall be appointed by the Minister of Labor.

Matters of an administrative nature other than stipulated in the preceding paragraphs regarding the Unemployment Insurance Advisory Committee shall be provided for by Cabinet order.

Chapter VI - Request For Hearing, Petition and Lawsuit.

Article 40.

Any person who is dissatisfied with a decision with regard to payment of unemployment insurance benefits may request a hearing by the Unemployment Insurance Referee. When dissatisfied with the decision thus given, he may request a hearing by the Unemployment Insurance Appeal Board.

When dissatisfied with decision given by the latter, he may institute a lawsuit in an ordinary court.

Request for hearing stipulated in the preceding paragraph shall be regarded as juridical demand in connection with the interruption of prescription.

Article 41.

The Unemployment Insurance Referee shall be appointed by the Minister of Labor and his duties shall be as defined is this law.

The Unemployment Insurance Referee may make investigation with authority whenever he deems necessary.

When it is deemed necessary for investigation, the Unemployment Insurance Referee may ask the opinion of the government officials who have decided upon the payment of unemployment insurance benefits or may direct the qualified recipients or employers to make reports or to present themselves in the office.

Article 42.

In case a person is dissatisfied with the imposition or procedure of collection of a premium or other assessments under the provisions of this law, he may institute a petition to the Minister of Labor. The Minister of Labor shall be obliged to give his decision concerning the above petition through the investigation of the Unemployment Insurance Appeal Board.

Article 43.

The Unemployment Insurance Appeal Board shall consist of the same number of members representing the insured employers, and the public interest respectively, and shall be appointed by the Minister of Labor.

Article 44.

The Unemployment Insurance Referee or the Unemployment Insurance Appeal Board may, when considered necessary for investigation, question witnesses or expert witnesses and make other evidence of examination.

As for the evidence examination, provisions concerning evidence examination of the Civil Procedure Law and the provisions of Articles 9, 11, 12 and 13 of the Civil Procedure Expenses Law shall be applied mutatis mutandis. In reference to the evidence examination made by the Unemployment Insurance Referee or the Unemployment Insurance Appeal Board, however, no fine may be imposed nor custody be ordered.

Article 45.

Request for hearing institution of a lawsuit or petition shall be made within 60 days from the date of receipt of written decision. In this case, the provisions of Article 8 paragraph 3 of the Petition Law shall be applied mutatis mutandis to the request for hearing, and provisions of Article 158, paragraph 2 and Article 159 of the Civil Procedure Law to the institution of a lawsuit.

Article 46.

Matters of an administrative nature other than those stipulated in this chapter regarding the Unemployment Insurance Referee and the Unemployment Insurance Appeal Board shall be provided for by cabinet order.

Chapter VII - Miscellaneous Regulation.

Article 47.

The right to collect premiums and other assessments under the provisions of this law and those to receive unemployment insurance benefits shall be voided by prescription after the lapse of two years.

As for the interruption, suspense, and other matters of prescription mentioned in the preceding paragraph, the provisions of the Civil Code concerning prescription shall be applied mutatis mutandis.

Notices for collecting premiums and other assessments made by the administrative offices according to the provision of ordinance shall have the effect of interrupting prescription irrespective of the provision of Article 153 of the Civil Code.

Article 48.

Stamp duties shall not be imposed on documents concerning unemployment insurance.

Article 49.

The administrative office may, as provided for by ordinance, direct the employer who hires insured persons to make reports or to submit documents concerning the changes of employment, wage of the insured persons and other necessary matters concerned with the enforcement of this law.

The unemployed insured may request the employer the certied information necessary to determine his eligibility for insurance benefits which information will be specified by ordinance. The employer must, when so requested, certify regarding the information concerned.

Article 50.

The administrative office may direct an insured person or a qualified recipient to make reports or to submit documents necessary for the enforcement of this law, or to present himself in the office.

Article 51.

The administrative office may, when deemed necessary, have the competent officials enter the working place where insured persons are employed or qualified recipients were employed, question the person concerned or investigate the pertinent documents and ledgers, relating to employment and earnings.

In case of the preceding paragraph, the officials shall bear identification cards to show their authority.

Article 52.

The Minister of Labor may, according to the provisions of ordinance, delegate his competence prescribed in this law to the administrative offices which are responsible for the enforcement of this law.

Chapter VIII - Penal Regulations.

Article 53.

An employer who comes under any of the following items shall be subject to imprisonment of not more than six months or to a fine not exceeding ¥ 10,000 for willful violation:

1. In case he violates the provision of Article 8, paragraph 3.

2. In case he fails to pay premiums when due which he has deducted from the insured person's wages as provided for in Article 32.

3. In case he refuses to certify in violation of Article 49, paragraph 2.

4. In case he fails to make a report, makes a false report, fails to submit documents, submits false documents, or fails to present himself in the office in violation of the provisions of this law.

5. In case he fails to make an answer or makes a false answer to a question or refuses, interrupts or evades the inspection of the competent officials in violation of the provisions of this law.

Article 54.

An insured person, a qualified recipient or other person concerned who comes under any of the following items shall be subject

to imprisonment of not more than six months or to a fine not exceeding ¥ 5,000 for willful violation.

1. In case he fails to make a report, makes a false report, fails to submit documents, submits false documents or fails to present himself in the office in violation of the provisions of this law.

2. In case he fails to make an answer or makes a false answer to a question or refuses, interrupts or evades the inspection of the competent officials in violation of the provisions of this law.

Article 55.

In case the conduct of a representative of a juridical person, an agent of a juridical or natural person, an employee, etc. concerning the business of a juridical or natural person comes under the provisions of the two preceding articles, the said juridical or natural person shall be subject to a fine as stipulated in these articles, besides the conductor himself is punished.

Supplementary Regulations.

This law shall be applicable as of 1 November 1947.

In case the qualified recipient stipulated in Article 2 of the Unemployment Allowance Law receives the employment allowance or the unemployment insurance benefit according to the provisions of the same law, no part of the period of being an insured person during the period calculated as part of the previous base period mentioned in paragraph 1, item 1 of the same article shall be calculated again as part of a new base period of Article 15, paragraph 1 of this law.

In case a qualified recipient who is receiving an unemployment allowance in accordance with the provisions of the Unemployment Allowance Law receives unemployment insurance benefits on or after 1 May 1948 according to the provision of Article 2, paragraph 1 of the same law, the unemployment insurance benefit shall be the same amount of as the unemployment allowance and shall not be paid for a longer period up to the maximum 130 days minus the period for which he has already received an unemployment allowance.

LETTER, SUPREME COMMANDER FOR THE ALLIED POWERS TO PRIME MINISTER HITOSHI ASHIDA, 22 July 1948

"Tokyo, Japan.
July 22, 1948

"Dear Mr. Prime Minister:

"I have reviewed the conclusions drawn from the joint studies conducted between representatives of your government and this headquarters into the adequacy of the National Public Service Law as a solution to the problems now existing with respect to the Public Service of Japan. I am in general accord with these conclusions as to existing inadequacies which must be corrected.

"It was the purpose of the National Public Service Law to provide for the installation of a democratic and efficient public service in the government of Japan. The plan envisioned a modern type personnel system which recruits public employees from the entire public by competitive test and promotes them on the basis of merit, providing scientific supervision over their classification, compensation, training, evaluation, health, safety, welfare, recreation and retirement. The system provides a grievance procedure for employees and assures them fair and equitable treatment in administration. Enforced by a quasi-judicial administrative authority and supplemented by emergency provisions aimed at immediate reform where urgency demands it, it constitutes a constructive program for dealing with the hazards which old bureaucratic practices present to the success of democracy in Japan.

"The pattern of personnel administration as here inaugurated views the entire people as exercising sovereignty and control over the employees of government through the National Diet which, functioning through a National Public Service Authority, applies principles of scientific personnel management and standardizes the public service, its recruitment, compensation, discipline, benefits and other factors incident to employment. Such a system in accordance with democratic concepts, is designed to regard the faithful administration of the law and the efficient conduct of the government's business as a prime duty without yielding to the pressure of politics or privilege.

"The studies, now completed, of various laws relating to this subject matter, reveal omissions to deal adequately with the situation. They fail to afford positive safeguards against minority pressure upon the authority and integrity of government and they fail to apply the law to many classifications of governmental employees who clearly are entitled to civil service benefits and protection and subject to its restrictions. Throughout there is a noticeable failure to distinguish between employee relationships in government and labor relations in private enterprise.

Appendix XIII