

Act on Preventing Environmental Pollution of Mercury

Act No. 42 of June 19, 2015

Chapter I General Provisions

(Purpose)

Article 1 In light of the fact that it is characteristic of mercury to circulate while remaining in the environment and to accumulate inside living beings, and that it is a substance capable of damaging human health and the living environment, this Act, in combination with the Waste Management and Public Cleaning Act (Act No. 137 of 1970; hereinafter referred to as the "Waste Management Act") and other acts providing for the control of mercury and mercury compounds, aims to control the emissions of mercury and mercury compounds into the environment, thereby helping to protect human health and to maintain the integrity of the living environment, by taking measures to regulate primary mercury mining, the manufacture and distribution in commerce of mercury-using products, the use of mercury or mercury compounds in specified manufacturing processes, the extraction of gold using mercury and mercury compounds, the storage of specified mercury and mercury compounds, and the management of mercury-containing recyclable resources, and by taking other measures needed to ensure the reliable and smooth implementation of the Minamata Convention on Mercury (hereinafter referred to as "the Convention"), cooperating on an international level in order to prevent mercury from polluting the environment.

(Definitions)

Article 2 In this Act, the term "mercury-using product" means a product in which mercury or a mercury compound is used, and the term "specified mercury-using product" means a mercury-using product whose manufacture is specified by Cabinet Order as being particularly in need of regulation.

(2) In this Act, the term "mercury-containing recyclable resource" means mercury or mercury compounds, or a material containing these substances (but only if it meets the requirements provided by order of the competent ministry as a material for which measures need to be taken to prevent environmental pollution), which is disposed of or is intended to be disposed of through disposal operations as set forth in Annex IV B of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal (other than waste prescribed in Article 2, paragraph (1) of the Waste Management Act, radioactive materials, and objects polluted by radioactive materials), and which is useful.

Chapter II National Implementation Plan for Preventing Environmental Pollution of Mercury and Mercury Compounds

Article 3 The competent minister is to formulate a national implementation plan for preventing environmental pollution of mercury and mercury compounds in order to comprehensively and systematically advance policies for preventing environmental pollution from mercury and mercury compounds as well as ensuring reliable and smooth implementation of the Convention.

(2) The plan referred to in the preceding paragraph prescribes:

- (i) the fundamentals for preventing environmental pollution from mercury and mercury compounds;
- (ii) the fundamentals of measures to be taken by the national government, local governments, businesses, and the citizens, in order to prevent environmental pollution of mercury and mercury compounds and

- (iii) other material concerns for ensuring the reliable and smooth implementation of the Convention.
- (3) The competent minister must first consult with the heads of the relevant administrative organs as well as hearing the opinions of the Central Environment Council and the Industrial Structure Council before beginning to formulate the plan referred to in paragraph (1).
- (4) The competent minister must announce the plan as referred to in paragraph (1) to the public without delay, when the minister formulated it.
- (5) The provisions of the preceding two paragraphs apply mutatis mutandis to any revision of the plan referred to in paragraph (1).

Chapter III Prohibition of Primary Mercury Mining

Article 4 No one may conduct primary mercury mining.

Chapter IV Measures Related to the Manufacture and Distribution in Commerce of Mercury-Using Products

(Prohibition of Manufacturing Specified Mercury-Using Products)

Article 5 No one may manufacture specified mercury-using products; provided, however, that this does not apply if a person that has been licensed as referred to in paragraph (1) of the following Article (hereinafter referred to as a "licensed manufacturer") is manufacturing the specified mercury-using products that the license referred to in that paragraph is for (or that a modified license is for, if the manufacturer has received permission for a modification under Article 9, paragraph (1); the same applies in Article 12).

(License to Manufacture Specified Mercury-Using Products)

Article 6 A person seeking to manufacture specified mercury-using products must be licensed by the competent minister for each type of product.

- (2) A person seeking licensing as referred to in the preceding paragraph must submit a written application containing the following information to the competent minister, as provided by order of the competent ministry:
 - (i) the person's name and address; and the name of its representative, if the person is a corporation;
 - (ii) the types and quantities of the specified mercury-using products the person seeks to manufacture;
 - (iii) the intended use of the specified mercury-using products the person seeks to manufacture; and
 - (iv) other information prescribed by order of the competent ministry.
- (3) The competent minister is to set the valid period for a license as referred to in paragraph (1), when granting the license.

(Grounds for Ineligibility)

Article 7 A person falling under one of the following items may not be licensed as referred to in paragraph (1) of the preceding Article:

- (i) a person that has been assessed a fine or a heavier punishment for violating the provisions of this Act or an order based on this Act, if it has not yet been three years since the date on which the person finished serving the sentence or ceased to be subject to its enforcement;
- (ii) a person that has had the licensing referred to in paragraph (1) of the preceding Article rescinded pursuant to the provisions of Article 10, if it has not yet been three years since the date of rescission;

- (iii) an adult ward; or
- (iv) a corporation that has a person falling under one of the three preceding items among the officers engaged in its business.

(Criteria for Licensing)

Article 8 The competent minister must not grant a license as referred to in Article 6, paragraph (1) without having found that the specified mercury-using products that the application for licensing referred to in that paragraph is for will definitely be manufactured for a purpose of use allowed under the Convention.

(Permission for Modifications)

Article 9 A licensed manufacturer must receive permission from the competent minister pursuant to order of the competent ministry before undertaking to modify the particular set forth in Article 6, paragraph (2), item (iii). The provisions of the preceding paragraph apply mutatis mutandis in this case.

- (2) A licensed manufacturer must file a notification with the competent minister pursuant to order of the competent ministry without delay if a particular as set forth in Article 6, paragraph (2), item (i) changes.

(Rescission of Licensing)

Article 10 The competent minister may rescind a license as referred to in Article 6, paragraph (1) if a licensed manufacturer:

- (i) comes to fall under Article 7, item (i), item (iii), or item (iv);
- (ii) has been licensed as referred to in Article 6, paragraph (1), or paragraph (1) of the preceding Article by wrongful means; or
- (iii) modifies a particular requiring permission pursuant to the provisions of paragraph (1) of the preceding Article without receiving the permission referred to in that paragraph.

(Succession)

Article 11 If a licensed manufacture becomes subject to an inheritance, merger, or split (but only one causing another person to assume all of the business of manufacturing specified mercury-using products for which the manufacturer was licensed), the heir (or any heir selected at the agreement of all the heirs as the one that will succeed to the business, if there are two or more heirs), the corporation surviving the merger, the corporation incorporated in the merger, or the corporation succeeding to the whole of that business in the split, succeeds to the status of licensed manufacturer.

- (2) A person who has succeeded to the status of a licensed manufacturer pursuant to the preceding paragraph must file a notification of this, accompanied by a document certifying this as a fact, with the competent minister without delay.

(Usage Restrictions on Specified Mercury-Using Products)

Article 12 No one may use a specified mercury-using product as a component in the manufacture of another product; provided, however, that this does not apply to a specified mercury-using product that is manufactured under a license referred to in Article 6, paragraph (1) or that is imported with the approval referred to in Article 52 of the Foreign Exchange and Foreign Trade Act (Act No. 228 of 1949), if it is being used for the purpose under the licensing or approval.

(Basic Principles for the Manufacture and Distribution in Commerce of Mercury-Using Products Not Covered by Any Known Use)

Article 13 It is prohibited to manufacture or distribute in commerce of a mercury-using product other than one of those that order of the competent ministry prescribes as being used for an existing purpose (hereinafter referred to as a "mercury-using product not covered by any known use"), unless the use of it contributes to protecting human health or to maintaining the integrity of the living environment.

(Evaluation on the Manufacture and Distribution in Commerce of Mercury-Using Products Not Covered by Any Known Use)

Article 14 A person seeking to manufacture or and distribute in commerce of a mercury-using product not covered by any known use (excluding one in whose manufacture another mercury-using product not covered by any known use is utilized as a component, if a notification under the following paragraph has been filed for the product that is being used as a component and that component is being used for the purpose given in the notification; the same applies hereinafter) must use a method prescribed by order of the competent ministry to conduct a self-evaluation, pursuant to order of the competent ministry, as to whether the use of the mercury-using product not covered by any known use contributes to protecting human health or maintaining the integrity of the living environment.

- (2) A person seeking to manufacture or distribute in commerce of a mercury-using product not covered by any known use must first file a notification with the competent minister, pursuant to order of the competent ministry, as to the type and purpose of use of the product, the results of the evaluation referred to in the preceding paragraph, the investigational and analytical methods used in the evaluation, and other information prescribed by order of the competent ministry.
- (3) The competent minister is to send a copy of the documents associated with a notification under the preceding paragraph to the Minister of the Environment without delay upon receipt of the notification.
- (4) The Minister of the Environment may, if necessary, express an opinion about a particular in the notification to the competent minister referred to in the preceding paragraph within a period provided by Order of the Ministry of the Environment from the perspective of protecting human health and maintaining the integrity of the living environment, when the minister is sent documents under the preceding paragraph.

(Recommendations for Mercury-Using Products Not Covered by Any Known Use)

Article 15 The competent minister may issue the necessary recommendations concerning the manufacture and distribution in commerce of a mercury-using product not covered by any known use to a person that has filed a notification under paragraph (2) of the preceding Article (hereinafter referred to as the "filer of a notification regarding a mercury-using product not covered by any known use") on finding it to be necessary to do so in order to ensure that the use of the product contributes to protecting human health or to maintaining the integrity of the living environment. In this case, the competent minister must take opinions of the Minister of the Environment as referred to in paragraph (4) of the preceding Article into consideration, if the minister has expressed an opinion.

(Responsibility of the National Government)

Article 16 The national government must endeavor to provide technical advice and to take other necessary measures to allow the municipalities to collect disposed-of mercury-using products in an environmentally sound manner.

(Responsibility of Municipalities)

Article 17 A municipality must endeavor to take the necessary measures to collect waste mercury-using products in an environmentally sound manner in its jurisdiction, in line with the socioeconomic conditions of the region.

(Responsibility of Businesses)

Article 18 A person engaged in the business of manufacturing or importing a mercury-using product must endeavor to indicate the use of mercury or mercury compounds on the product and to provide any additional information that contributes to ensuring consumers' appropriate sorting and discharge of mercury-using products.

Chapter V Measures Related to Manufacturing Processes in Which Mercury or Mercury Compounds Are Used

Article 19 No one may use mercury or mercury compounds in the manufacturing process of an industrial chemical product or other product whose use of mercury or mercury compounds is specified by Cabinet Order as being particularly in need of regulation.

Chapter VI Prohibition of Gold Extraction Using Mercury and Mercury Compounds

Article 20 No one may, in the course of trade, extract gold from gold ore through a method that uses mercury and mercury compounds.

Chapter VII Measures Related to the Storage of Mercury and Mercury Compounds

(Guidelines on Storage)

Article 21 The competent minister is to establish and make public technical guidelines for the measures that must be implemented by a person storing mercury or mercury compounds (but only one whose storage is provided by Cabinet Order as being particularly in need of regulation; this excludes mercury-containing recyclable resources and the wastes provided for in Article 2, paragraph (1) of the Waste Management Act; the same applies hereinafter in the rest of this chapter) (hereinafter referred to as a "person storing mercury or mercury compounds") in order to prevent environmental pollution from stored mercury or mercury compounds.

- (2) The competent minister may issue the necessary recommendations to a person storing mercury or mercury compounds regarding the measures that must be taken to prevent environmental pollution from mercury or mercury compounds in consideration of the technical guidelines, upon finding that it is necessary to do so in order to prevent environmental pollution after those technical guidelines have been made public pursuant to the preceding paragraph.
- (3) The Minister of the Environment and the Minister of Economy, Trade and Industry may express their opinions to the competent minister referred to in the preceding paragraph with regard to the implementation of recommendations under that paragraph.

(Reporting on Storage)

Article 22 A person storing mercury or mercury compounds must regularly report the information prescribed by order of the competent ministry regarding the storage of mercury or mercury compounds to the competent minister, pursuant to order of the competent ministry, if the quantity of mercury or mercury compounds that the person stores falls under what is prescribed by order of the competent ministry.

- (2) The competent minister is to send a copy of the documents connected with a report under the preceding paragraph to the Minister of the Environment and the Minister of Economy, Trade and Industry without delay, when the report has been filed.

Chapter VIII Measures Related to the Management of Mercury-Containing Recyclable Resources

(Guidelines on Management)

Article 23 The competent minister is to establish technical guidelines and to make them public for the measures that must be implemented by persons managing mercury-containing recyclable resources (hereinafter each person is referred to as a "manager of mercury-containing recyclable resources") in order to prevent environmental pollution from mercury-containing recyclable resources.

- (2) The competent minister may issue the necessary recommendations to a manager of mercury-containing recyclable resources regarding the measures that must be taken to prevent environmental pollution from mercury-containing recyclable resources in consideration of the technical guidelines, upon finding that it is necessary to do so in order to prevent environmental pollution after those technical guidelines have been made public pursuant to the preceding paragraph.
- (3) The Minister of the Environment and the Minister of Economy, Trade and Industry may express their opinions to the competent minister referred to in the preceding paragraph with regard to the implementation of recommendations under that paragraph.

(Reporting on Management)

Article 24 A manager of mercury-containing recyclable resources must regularly report the information prescribed by order of the competent ministry regarding the management of mercury-containing recyclable resources to the competent minister, pursuant to order of the competent ministry.

- (2) The provisions of Article 22, paragraph (2) apply mutatis mutandis to the reporting under the preceding paragraph.

Chapter IX Miscellaneous Provisions

(Collection of Reports)

Article 25 The competent minister may have a licensed manufacturer, the filer of a notification regarding a mercury-using product not covered by any known use, a person storing mercury or mercury compounds, or a manager of mercury-containing recyclable resources report on its business, to the extent necessary for the enforcement of this Act.

(Spot Inspections)

Article 26 The competent minister may have ministry officials enter the office, plant, workplace, store, or warehouse of a licensed manufacturer, filer of a notification regarding a mercury-using product not covered by any known use, person storing mercury or mercury compounds, or manager of mercury-containing recyclable resources to inspect books, documents, and other items; to question the persons concerned; or to remove samples without compensation, but only such as need to be removed for examination, to the extent necessary for the enforcement of this Act.

- (2) When conducting a spot inspection, questioning, or removal pursuant to the preceding paragraph, an official must carry identification and present it to the persons concerned.
- (3) The authority for spot inspection, questioning, and removal under paragraph (1) must not be construed as having been accorded for the purpose of a criminal investigation.

(Demanding Submission of Reference Materials)

Article 27 The competent minister may ask a person involved in the manufacture, export, or import of mercury-using products in the course of trade; a person storing mercury or mercury compounds;

or a manager of mercury-containing recyclable resources to submit and explain the necessary reference materials upon finding those materials to be necessary in order to achieve the purpose of this Act.

(Competent Minister)

Article 28 The competent minister as mentioned in this Act is as follows:

- (i) the competent minister for the formulation and publication of a national implementation plan under Article 3, paragraphs (1) and (4) (including as applied *mutatis mutandis* pursuant to paragraph (5) of that Article) is the Minister of the Environment; the Minister of Economy, Trade and Industry; and the ministers with jurisdiction over businesses that manufacture specified mercury-using products, businesses that manufacture and distribute in commerce of mercury-using products not covered by any known use, businesses conducted by persons storing mercury or mercury compounds, and businesses conducted by managers of mercury-containing recyclable resources;
 - (ii) the competent minister for licenses as referred to in Article 6, paragraph (1) or Article 9, paragraph (1); rescission of licenses under Article 10; acceptance of notifications under Article 9, paragraph (2), Article 11, paragraph (2), and Article 14, paragraph (2); recommendations under Article 15, Article 21, paragraph (2), and Article 23 paragraph (2); acceptance of reports under Article 22, paragraph (1) and Article 24 paragraph (1); collection of reports under Article 25; and spot inspections, questioning, and removals under Article 26, paragraph (1) is the ministers with jurisdiction over businesses that manufacture specified mercury-using products, businesses that manufacture and distribute in commerce of mercury-using products not covered by any known use, businesses conducted by persons storing mercury or mercury compounds, and businesses conducted by managers of mercury-containing recyclable resources;
 - (iii) the competent minister for the formulation and publication of the guidelines under Article 21, paragraph (1) or Article 23, paragraph (1) is the Minister of the Environment; the Minister of Economy, Trade and Industry; and the ministers with jurisdiction over businesses conducted by persons storing mercury or mercury compounds and businesses conducted by managers of mercury-containing recyclable resources; and
 - (iv) the competent minister for requests to submit and explain materials under the preceding Article is the Minister of the Environment; the Minister of Economy, Trade and Industry; and the minister with jurisdiction over the businesses conducted by persons subject to those requests.
- (2) Order of the competent ministry as mentioned in this Act is as follows:
- (i) an order of the competent ministry as referred to in Article 2, paragraph (2) is an order issued by the Minister of the Environment and the Minister of Economy, Trade and Industry;
 - (ii) an order of the competent ministry as referred to in Article 6, paragraph (2) or Article 9, paragraph (1) or paragraph (2) is an order issued by the minister with jurisdiction over businesses manufacturing specified mercury-using products;
 - (iii) an order of the competent ministry as referred to in Article 13 or Article 14, paragraph (1) or paragraph (2) is an order issued by the Minister of the Environment; the Minister of Economy, Trade and Industry; and the minister with jurisdiction over businesses manufacturing and distributing in commerce of mercury-using products not covered by any known use;
 - (iv) an order of the competent ministry as referred to in Article 22, paragraph (1) is an order issued by the Minister of the Environment; the Minister of Economy, Trade and Industry; and the minister with jurisdiction over the businesses conducted by persons storing mercury or mercury compounds;

- (v) an order of the competent ministry as referred to in Article 24, paragraph (1) is an order issued by the Minister of the Environment; the Minister of Economy, Trade and Industry; and the minister with jurisdiction over the businesses conducted by managers of mercury-containing recyclable resources; and
- (vi) an order of the competent ministry as referred to in paragraph (1) of the following Article is an order issued by the competent minister referred to in that paragraph.

(Delegation of Authority)

Article 29 The authority of the competent minister under Article 22, paragraphs (1) and (2) (including as applied mutatis mutandis pursuant to Article 24, paragraph (2)); Article 24, paragraph (1); Article 25; and Article 26, paragraph (1) may be delegated to the heads of local branch bureaus and departments, pursuant to order of the competent ministry.

(2) The authority of the Minister of the Environment under Article 21, paragraph (3); Article 22, paragraph (2) (including as applied mutatis mutandis pursuant to Article 24, paragraph (2)); and Article 23, paragraph (3) may be delegated to the Directors General of the Regional Environmental Affairs Offices, pursuant to Order of the Ministry of the Environment.

(Transitional Measures)

Article 30 When an order is established, revised, or abolished pursuant to this Act, the necessary transitional measures (including transitional measures for penal provisions) may be prescribed in that order, to the extent that is judged to be reasonably necessary for the establishment, revision, or abolition of that order.

Chapter X Penal Provisions

Article 31 A person violating the provisions of Article 4 is subject to imprisonment for up to five years, a fine of up to three million yen, or both.

Article 32 A person falling under one of the following items is subject to imprisonment for up to three years, a fine of up to one million yen, or both:

- (i) a person violating the provisions of Article 5;
- (ii) a person licensed as referred to in Article 6, paragraph (1) or Article 9, paragraph (1) through deception or by other wrongful means;
- (iii) a person violating the provisions of Article 12;
- (iv) a person violating the provisions of Article 19; and
- (v) a person violating the provisions of Article 20.

Article 33 A person falling under one of the following items is subject to a fine of up to three hundred thousand yen:

- (i) a person failing to file or falsely filing a notification under Article 14, paragraph (2) and then manufacturing or distributing in commerce of mercury-using products not covered by any known use;
- (ii) a person failing to file or falsely filing a report under Article 22, paragraph (1);
- (iii) a person failing to file or falsely filing a report under Article 24, paragraph (1);
- (iv) a person failing to file or falsely filing a report under Article 25; and
- (v) a person refusing, obstructing, or evading an inspection or removal under Article 26, paragraph (1) or failing to answer or falsely answering a question under that paragraph.

Article 34 If the representative of a corporation or the agent, employee, or other worker of a corporation or individual commits a violation referred to in one of the three preceding Articles in connection with the business of the corporation or individual, in addition to the offender being subject to punishment, the corporation or individual is subject to the fine referred to in the relevant Article.

(2) The period of prescription for a fine imposed on a corporation or individual pursuant to the provisions of the preceding paragraph for a violation under Article 31 is the same as that for the offense referred to in that Article.

Article 35 A person failing to file or falsely filing a notification under Article 9, paragraph (2) or Article 11, paragraph (2) is subject to a civil fine of up to one hundred thousand yen.

Supplementary Provisions

(Date of Enforcement)

Article 1 This Act comes into effect from the date on which the Convention comes into force for Japan; provided, however, that the provisions set forth in the following items come into force from the date prescribed in the relevant item:

- (i) Articles 16 through 18: the date provided by Cabinet Order, within a period not exceeding one year and six months from the date of promulgation; and
- (ii) Articles 5 through 12, Article 25 (limited to the part involving licensed manufacturers), and Article 26 (limited to the part involving licensed manufacturers) (including the penal provisions related to these provisions), and Article 3 of the Supplementary Provisions: the date provided by Cabinet Order for the period up to December 31, 2020.

(Transitional Measures)

Article 2 Notwithstanding the provisions of Article 4, a holder of mining rights that has received a license establishing the right to engage in primary mercury mining pursuant to the provisions of Article 21, paragraph (1) of the Mining Act (Act No. 289 of 1950) and that is actually mining mercury ore at the time this Act comes into effect (including a person that has obtained the relevant holder's mining rights pursuant to the provisions of Article 51-3 of the Mining Act after the enforcement of this Act) may mine mercury ore for up to fifteen years after the date of enforcement of this Act. In that case, the person must self-supply the mercury and mercury compounds obtained from the mined mercury ore for the purpose of manufacturing any mercury-using products other than specified mercury-using products (other than those for which the person has been licensed as referred to in Article 6, paragraph (1) (or which the person has a modified license for, if the person has received permission for a modification under Article 9, paragraph (1)) or those which have been approved for import as referred to in Article 52 of the Foreign Exchange and Foreign Trade Act) and for the purpose of use in a manufacturing process other than the manufacturing process prescribed by the Cabinet Order set forth in Article 19, or the person must transfer it to a person using them solely for the purposes of use or disposal as waste (meaning waste as provided in Article 2, paragraph (1) of the Waste Management Act), or the person must entrust the disposal to another person.

Article 3 Whenever specified mercury-using products are manufactured or imported prior to the date of enforcement of Article 12, if they are used as components for manufacturing other products with the approval of the minister with jurisdiction over a business manufacturing or importing

those specified mercury-using products on the grounds that their use conforms to the purposes of use allowed under the Convention, the provisions of that Article do not apply.

(Delegation to Cabinet Order)

Article 4 Beyond what is prescribed in these Supplementary Provisions, the transitional measures necessary for the enforcement of this Act are provided by Cabinet Order.

(Partial Amendment of the Mining Act)

Article 5 The Mining Act is partially amended as follows: ", mercury ore" in Article 3, paragraph (1) is deleted.

(Transitional Measures Accompanying the Partial Amendment of the Mining Act)

Article 6 Mining rights for primary mercury mining established prior to the enforcement of this Act pursuant to the provisions of Article 21, paragraph (1) of the Mining Act lose effect one day prior to the date of enforcement of this Act; provided, however, that the amended Mining Act as under in the previous Article applies to persons mining mercury ore pursuant to the provisions of Article 2 of the Supplementary Provisions within the period provided by that Article, as their mining rights are deemed to be existing rights.

(2) After the date of enforcement of this Act, applications that have already been filed with the Minister of Economy, Trade and Industry to establish rights pursuant to the provisions of Article 21, paragraph (1) of the Mining Act involving primary mercury mining, and which are pending on the date of enforcement of this Act, are deemed not to have been filed.

(Transitional Measures for Penal Provisions Accompanying the Partial Amendment of the Mining Act)

Article 7 Prior laws continue to govern the applicability of penal provisions to conduct engaged in prior to the enforcement of Article 5 of the Supplementary Provisions.

(Review)

Article 8 The national government is to review the status of implementation of this Act once five years have passed since the date of enforcement, and upon finding it necessary, take the necessary measures based on the results of the review.