

***SECTOR J***  
***APPENDIX***  
***River Law***

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**APPENDIX: RIVER LAW**  
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## 1. OUTLINE

In Japan, the River Law was first enacted and promulgated in 1896, and was replaced by a new one to accommodate changes in order to cover all aspects of river administration, namely; flood control and damage mitigation, water resources utilization and development, land and river water administration, including river zone and water use permission systems. Further, it was modified in 1997, to add the stipulation of fluvial environment conservation in the objective of the river administration. The River Law in 1997 is supported by corresponding government ordinance, former Ministry of Construction, (presently Ministry of Land, Infrastructure and Transport) and other orders and regulations.

## 2. COMPOSITION OF THE RIVER LAW

The River Law is composed of the following contents:

Table Composition of the River Law

| Chapter   | Section  | Article           |
|---|--|-------------------|
| 1 General Provision                                   | -  | Article 1 – 8     |
| 2 The Administration of Rivers                        | 1. General Rules                                       | Article 9 – 15    |
|   | 2. River Works   | Article 16 - 22   |
|   | 3. Regulation and Restrictions for River and River Use | Article 23 – 53   |
|   | 4. The River Conservation Zone                         | Article 54 – 55   |
|   | 5. The Projected River Zone                            | Article 56 – 58   |
| 2-2 The Spatial River                                 | -  | Article 58 (2-7)  |
| 3 Financial Responsibility for River Administration   | -  | Article 59 – 74   |
| 4 Supervision   | -  | Article 75 - 79   |
| 5 The River Council and the Prefectural River Council | -  | Article 80 - 86   |
| 6 Miscellaneous Provisions                            | -  | Article 87 - 101  |
| 7 Penal Provisions                                    | -  | Article 102 - 109 |
| Supplementary Provisions                              |  |                   |

## 3. MAJOR CONTENTS OF THE RIVER LAW

### 3.1 GENERAL PROVISIONS (CHAPTER I)

In general provisions, the following statements are provided:

- (1) Purpose of the River Law (Article 1)
- (2) Principles of river administration (Article 2)
- (3) The river and the river administration facilities (Article 3)
- (4) Class A rivers (Article 4)

- (5) Class B rivers (Article 5)
- (6) The river zone (Article 6)
- (7) The river administrator (Article 7)
- (8) River Works (Article 8)

Among these statements, the followings are specified:

**1) Purpose of the River Law (Article 1)**

The purpose of this Law is to contribute to land conservation and the development of the country; and thereby maintain public security and promote public welfare, by administrating rivers comprehensively to prevent occurrence of damage due to floods, high tides, etc., utilize rivers properly, maintain the normal functions of the river water by maintaining and conserving the fluvial environment.

**2) Principles of River Administration (Article 2)**

A river is public property and its conservation, utilization, and other forms of administration shall be properly performed so as to attain the purposes stated in the preceding article.

Article 2 –2: The water of a river cannot be made the subject of private rights.

**3) The River and the River Administration Facilities (Article 3)**

The term “river” as used in this law means either a class A river or a class B river and includes the river administration facilities of the river.

**4) Class A Rivers (Article 4)**

The term a class A river as used in this Law means a river (involving public stream and water area; hereinafter the same) designated by the Minister of Construction (presently Minister of Land, Infrastructure and Transport), which belongs to such a water system especially important from the view of land conservation and/or national economy as is designated by Government Ordinance. (Omission of article 4-2 to 4-6)

**5) Class B Rivers (Article 5)**

The term a class B river as used in this Law means a river designated by the prefectural governor concerned, which belongs to such a water system other than those designated by Government Ordinance under Paragraph 1 of the preceding article as has an important bearing on public interests.

## **6) The River Zone (Article 6)**

The term river zone as used in this Law means an area given in one of the following items:

- (a) The area of land where the water of a river flows continuously and of the land where the topography, conditions of growth of vegetation and other conditions are similar to the conditions of the land where the water of a river flows continuously (including the land of the river-bank but excluding the land where such conditions exist temporarily owing to floods or other abnormal natural phenomena);
- (b) The area of land which is the site of a river administration facility;
- (c) Of the area of the land on the waterside of the bank (including such land similar to it as may be designated by Government Ordinance and such retarding basin as may be designated by the river administrator as an area whose administration must be performed unifiedly with the area mentioned in Item (a).

## **3.2 THE ADMINISTRATION OF RIVERS (CHAPTER II)**

### **3.2.1 General Rules (Section 1)**

As for the general rules in administration of rivers, the following statements are provided:

- (1) Administration of Class A Rivers (Article 9)
- (2) Administration of Class B Rivers (Article 10)
- (3) Administration of Class B rivers on the prefecture boundaries (Article 11)
- (4) River ledgers (Article 12)
- (5) Structural Standard for river administration facilities (Article 13)
- (6) Operation regulations for river administration facilities (Article 14)
- (7) Consultation among river administrators (Article 15)

Among these statements, the followings are specified:

#### **1) Administration of Class A Rivers (Article 9)**

The administration of a class A river shall be performed by the Ministry of Construction (presently the Ministry of Land, Infrastructure and Transport).

#### **2) Administration of Class B Rivers (Article 10)**

The administration of a class B river shall be performed by the prefecture Governor governing the prefecture where the river concerned is located.

### **3) Consultation Among River Administrators (Article 15)**

If it is feared, when the river administrator intends to establish or change the operation regulations mentioned in the preceding Article, or execute a river work, or take an official action in accordance with any of the provisions of Articles 23 through 29 (including the official action of Article 75 taken in connection with such action), that operation based on the operation regulations, or the river work concerned, or the work or other act connected with the official action concerned may have a marked effect on a river administered by another river administrator, the river administrator shall, in advance, consult with the other river administrator.

#### **3.2.2 River Works (Section 2)**

As for the river works in administration of rivers, the following statements are provided:

- (1) The fundamental river management policy (Article 16)
- (2) The river improvement plan (Article 16-2)
- (3) River works by municipalities (Article 16-3)
- (4) Joint use structures (Article 17)
- (5) Works by person who has necessitated such works (Article 18)
- (6) Appurtenant works (Article 19)
- (7) River works by persons other than the river administrator (Article 20)
- (8) Compensation for loss caused by river works (Article 21)
- (9) Emergency measures to be taken during floods, etc (Article 22)
- (10) Restoration of high standard levees on third party land (Article 22-2)

Among these statements, the followings are specified:

##### **1) The Fundamental River Management Policy (Article 16)**

A river administrator shall, for the rivers administered, determine the design flood discharge and other matters, which will be the basis for policy (hereinafter referred to as "fundamental river management policy") of river works and river maintenance (hereinafter referred to as "river improvement").

##### **2) The River Improvement Plan (Article 16-2)**

River administrators shall establish a plan to improve the river concerned (hereinafter referred to as the river improvement plan) for the section for which river improvement shall be implemented deliberately in accordance with the fundamental river management policy.

### **3) Emergency Measures to be taken during Floods, etc (Article 22)**

In case danger from floods, high tides, etc. impends, if it is of urgent necessity to take steps to prevent a flood disaster or minimize damage which may be caused by it, the river administrator may, at the site, use the required land, use or compulsorily purchase earth and stone, trees and bamboo or other materials, use rolling stock and other vehicles or tools, and dispose of structures or other obstacles.

2. In case it is urgently necessary in taking any of the steps provided for in the preceding paragraph, the river administrator may make persons living in the neighborhood or persons at the site engage in the work which the step involves.

### **3.2.3 Regulation and Restriction for the River and River Use (Section 3)**

#### **1) General Provisions (Subsection 1)**

The following articles are included in the general provisions:

- (a) Permission for River Water Use (Article 23)
- (b) Permission for Land Occupancy (Article 24)
- (c) Permission for Taking earth, stone, etc. (Article 25)
- (d) Permission for construction of structures (Article 26)
- (e) Permission for land excavation (Article 27)
- (f) Prohibition, restrictions, and permission for floating down trees/bamboo and navigation of boats/ships (Article 28)
- (g) Prohibition, restrictions and permission for act likely to hinder river administration (Article 29)
- (h) Use of permitted structures (Article 30)
- (i) Restoration orders (Article 31)
- (j) Charges for the use of river water, etc. (Article 32)
- (k) Succession of status (Article 33)
- (l) Transfer of rights (Article 34)
- (m) Consultation with the concerned administrative organization (Article 35)
- (n) Consultation with the prefectures and municipalities (Article 36)
- (o) Entrusting of construction of permitted works to river administrators (Article 37):  
Among these provisions, the following are specified

**i) Permission for River Water Use (Article 23)**

Any person who intends to use the water of a river shall obtain the permission of the river administrator as may be provided for in detail by Ministry of Construction Ordinance (presently Ministry of Land, Infrastructure and Transport).

**ii) Permission for Land Occupancy (Article 24)**

Any person who intends to occupy land within a river zone (excluding land administered by a person other than the river administrator on the basis of his title; hereinafter the same in the following article) shall obtain the permission of the river administrator as may be provided for in detail by Ministry of Construction Ordinance.

**iii) Prohibition, Restrictions and Permission for Act likely to hinder River Administration (Article 28)**

Unless provided for in any of the articles from 23 through the preceding article 29-1), acts which are likely to hinder river administration by affecting the course, cleanliness, discharge, width, depth, etc., of the water of a river may be prohibited or restricted, or obtaining permission of the river administrator for such acts may be made obligatory, by Government Ordinance.

**iv) Charges for the Use of River Water, etc. (Article 32)**

The prefectural governor may collect charges for use of river water, charges for occupancy of land, charges for taking earth and stone and charges for taking other river products (hereinafter referred to as charges for use of river water etc.) from the persons who have received the permission of Article 23, Article 24 or Article 25 with respect to the rivers located in the area of the prefecture concerned.

**v) Consultation with the concerned Administrative Organization**

In the case where there is an application for approval as stipulated in Article 23, Article 24 or Article 26 Paragraph 1, or authorization as stipulated in Paragraph 1 of the preceding article with regard to water use (exclusive use of river water, or construction or reconstruction of a structure stipulated in Article 26 Paragraph 1 for the exclusive use of river water; hereinafter the same), the Minister of Construction must consult with the heads of concerned administrative organizations when dealing with the application with the exception of the case where the application is in regard to the exclusive use of river water stipulated in

Government Ordinances. This shall also apply when the Minister of Construction deals with applications for approval under these provisions in accordance with the provisions of Article 75, or deals with an application lodged by a prefectural governor under Article 79 Paragraph 2 Item (4).

## **2) Water Use Conciliation (Subsection 2)**

The following articles are included in the Water Use Conciliation:

- (a) Notification upon receipt of application for water use (Article 38)
- (b) Submission of opinion by concerned river users (Article 39)
- (c) Criteria for the permission of water use (Article 40)
- (d) Compensation for loss related to water use (Article 41)
- (e) Consultation on compensation for loss (Article 42)
- (f) Restriction of storing and taking river water (Article 43)

Among these provisions, the following are specified:

### **a) Criteria for the Permission of Water Use (Article 40)**

In the case where a river administrator seeks to grant permission as stipulated in Article 23 or Article 26 Paragraph 1 with regard to water use and in the event that concerned river users who will suffer loss as a result of the water use related to the said permission lodge an objection as stipulated in the preceding article, the river administrator must not grant permission unless one of the following items is applicable, except in the case where all concerned river users assent to the said water use.

- (i) When the public benefit from the undertaking related to the said water use is significantly greater than the benefit from the undertaking related to the river use by the concerned river users.
- (ii) When it is judged that there will be no hindrance to the undertaking related to the river use by the concerned river users if the necessary facilities to prevent loss (hereinafter referred to as loss prevention facilities) are established.

In the case where a river administrator judges that Item (1) of the preceding paragraph is applicable and seeks to grant permission as stipulated in Article 23 or Article 26 Paragraph 1 with regard to water use, the Minister of Construction must first consult with the River council.

**b) Compensation for loss related to water use (Article 41)**

In the event that a person suffers loss as a result of permission as stipulated in Article 23 or Article 26 41-2) Paragraph 1 with regard to water use, the person who received the said permission for water use must pay compensation for the loss.

**3) Provisions Related to Dams (Subsection 3)**

The following articles are included in the Provisions Related to Dams:

- (a) Maintenance of the existing functions of a river (Article 44)
- (b) Monitoring of hydrological situation (Article 45)
- (c) Report on the dam operation (Article 46)
- (d) Regulations for dam operation (Article 47)
- (e) Preventive measures for damage (Article 48)
- (f) Preparation and custody of operation record (Article 49)
- (g) Appointment of a chief superintendent for a dam (Article 50)
- (h) Exception for water utilization dams used as river administration facilities (Article 51)

**4) Steps to Be Taken During Emergencies (Subsection 4)**

The following articles are included in the Steps to Be Taken During Emergencies:

- (a) Instructions for flood control (Article 52)
- (b) Water use conciliation during droughts (Article 53)
- (c) Exceptional arrangement for water use during droughts (Article 53-2): Among these provisions, the following are specified:

**i) Instructions for Flood Control (Article 52)**

In case a disaster has been caused or there is a strong probability that a disaster will be caused by floods, if the river administrator deems it of urgent necessity for preventing or minimizing the disaster, he may instruct the owner of the water utilization dam that he should, on the basis of overall consideration of the conditions of the rivers belonging to the water system, take necessary steps in connection with the operation of the dam to prevent or minimize the disaster.

**ii) Water Use Conciliation during Droughts (Article 53)**

In case an unusual drought makes it difficult to adequately use the river water for the permitted utilization purposes or when such a situation is expected, the persons

who have obtained permissions to use the water ( hereinafter, permitted water users in this subsection) shall make efforts to consult with one another 53-3). In this case, river administrators shall exert himself/herself to provide necessary information for water use conciliation to achieve a smooth consultation.

#### **3.2.4 The River Conservation Zone (Section 4)**

The following articles are included in The River Conservation Zone (Section 4):

- (1) Designation of the river conservation zone (Article 54)
- (2) Restrictions within the river conservation zone (Article 55)

The statements of these articles are as follows:

##### **1) Designation of the River Conservation Zone (Article 54)**

When the river administrator deems it necessary for the conservation of the riverbanks or river administration facilities (excluding the fluvial woods zone, the same shall apply to Paragraph 3), he may designate an area adjacent to the river zone (excluding areas designated under the provision of Article 58-2 Paragraph 1; the same shall apply to Paragraph 3) as a river conservancy zone.

##### **2) Restrictions within the River Conservation Zone (Article 55)**

Any person who intends to do an act falling under any one of the following items shall obtain the permission of the river administrator as may be provided for in detail by Ministry of Construction Ordinance. However, the same shall not apply to the case involving an act fixed by Government Ordinance; (1) Excavation of land, banking, cutting or other act, which changes the configuration of land (2) Construction or reconstruction of a structure.

#### **3.2.5 The Projected River Zone (Section 5)**

The following articles are included in The River Conservation Zone (Section 4):

- (1) The projected river zone (Article 56)
- (2) Restrictions within the projected river zone (Article 57)
- (3) Projected river zone whose land title is acquired by the river administrator (Article 58)

The statements of these articles are as follows:

##### **1) The projected river zone (Article 56)**

In case the river administrator deems it necessary for execution of any river works, he may designate as a projected river zone any stretch of land which is to be included in the river

zone (excluding areas designated under the provision of Article 58-2 Paragraph 1) by execution of the river works.

## **2) Restrictions within the projected river zone (Article 57)**

A person who intends to do any of the acts mentioned in the following items shall obtain the permission of the *river administrator* as may be provided for in detail by Ministry of Construction Ordinance 57-1) 57-2). However, the same shall not apply to the case of an act fixed by Government Ordinance 57-3): (1) Excavation of land, banking, cutting or other act which changes the configuration of land and (2) Construction or reconstruction of a structure.

### **3.3 THE SPATIAL RIVER (CHAPTER II-2)**

The following articles are included in The Spatial River (Chapter II-2):

- (1) The spatial river zone (Article 58-2)
- (2) The spatial river conservation zone (Article 58-3)
- (3) Restrictions within the spatial river conservation zone (Article 58-4)
- (4) The projected spatial river zone (Article 58-5)
- (5) Restrictions within the projected spatial river zone (Article 58-6)
- (6) Spatial river zone whose land title is acquired by the river administrator 8Article 58-7)

### **3.4 FINANCIAL RESPONSIBILITY FOR RIVER ADMINISTRATION (CHAPTER III)**

The following articles are included in Financial Responsibility for River Administration (Chapter III.)

- (1) Principles (Article 59)
- (2) Prefectural share for cost for class A rivers (Article 60).
- (3) Subsidy for cost for a designated section of class A rivers (Article 61).
- (4) Subsidy for cost for class B rivers (Article 62).
- (5) Sharing of cost for class A and B rivers for the benefited prefectures (Article 63).
- (6) Payment and receipt of share (Article 64).
- (7) Sharing of cost for class B rivers on prefectural boundary (Article 65).
- (8) Sharing of cost for river works carried out by municipalities (Article 65-2).
- (9) Sharing of cost for joint structures (Article 66).
- (10) Sharing of cost of works carried out by a person necessitating river works (Article 67).

- (11) Sharing of cost of appurtenant works (Article 68).
- (12) Sharing of cost of works carried out by a person other than river administrator (Article 69).
- (13) Sharing of cost by beneficiaries (Article 70).
- (14) Sharing of cost by special river water users (Article 70-2).
- (15) Notification of amount of share and payment procedure (Article 71).
- (16) Vesting of shares collected (Article 72).
- (17) Sharing of cost to perform obligations (Article 73).
- (18) Compulsory collection of shares and charges (Article 74).

The statements of these articles are as follows:

**1) Principles (Article 59)**

Unless otherwise provided for in this Law or any other law, the expenses necessary for administering a class A river is borne by the national government and those necessary for administering a class B river is borne by the prefecture where the class B river is located.

**2) Sharing of cost of works carried out by a person necessitating river works (Article 67)**

The river administrator shall make the whole or a part of the expenses for river works and/or river maintenance necessitated by some other works or other act be borne by the person who has necessitated the river works and/or river maintenance within the limit of the expenses for the amount of works necessitated.

**3) Sharing of cost by beneficiaries (Article 70)**

In case any persons are greatly benefited by river works, the river administrator may make them bear a part of the expenses for the river works, within the limit of the benefit accruing to them from the river works.

**4) Compulsory collection of shares and charges (Article 74)**

In case a person fails to pay within the time-limit of payment the share, charge for use of river water, etc. (hereinafter referred to as share etc.) to be paid in accordance with any THE RIVER LAW with commentary by article of the provision of this Law, Government Ordinance or prefecture bylaw based on this Law or in accordance with an official action based on any of such provisions, the river administrator (the Minister of Construction in case the share etc. are to be included in the national revenues, or in case they are to be included in the revenues of a prefecture, the prefecture governor governing the prefecture; the same hereinafter in this article) shall urge the payment by designating a time limit.

### **3.5 SUPERVISION (CHAPTER IV)**

The following articles are included in Supervision (Chapter IV).

- (1) Supervisory measures and orders (Article 75).
- (2) Compensation for loss due to supervisory measures (Article 76).
- (3) River guards (Article 77).
- (4) Reporting from permittees and inspections by river administrators (Article 78).
- (5) Approval by the Minister of Construction (Article 79)

### **3.6 THE RIVER COUNCIL AND THE PREFECTURAL RIVER COUNCIL (CHAPTER V.)**

The following articles are included in the River Council and the Prefectural River Council (Chapter V).

- (1) Jurisdiction of the river council (Article 80).
- (2) Organization (Article 81).
- (3) Chairman (Article 82).
- (4) Special members (Article 83).
- (5) Subcommittees (Article 84).
- (6) Matters left to government ordinance (Article 85).
- (7) The prefecture river council (Article 86).

Among these articles, the followings are specified:

#### **1) Jurisdiction of River Council (Article 80)**

A River council shall be established within the Ministry of Construction (hereinafter referred to as the Council).

2. The Council shall make investigation and deliberation on the matters placed under its jurisdiction by this Law, and, in addition, make investigation and deliberation on other important matters concerning rivers as the request of the Minister of Construction.

3. The Council may express its opinions to the administrative agencies concerned concerning the matters referred to in the preceding paragraph.

### **3.7 MISCELLANEOUS PROVISIONS (CHAPTER VI.)**

The following articles are included in Miscellaneous Provisions (Chapter VI).

- (1) Transitory measures (Article 87).

- (2) Notification by de facto permittees (Article 88).
- (3) Entry into third party land for river administration (Article 89).
- (4) Conditions for permission (Article 90).
- (5) Administration of disused river site (Article 91).
- (6) Exchange of disused river site (Article 92).
- (7) Transfer of disused river site of class B rivers (Article 93).
- (8) Administrative cost and revenue of disused river site (Article 94).
- (9) Special arrangement for use of rivers by the national government (Article 95).
- (10) Special arrangement for Hokkaido region (Article 96).
- (11) Filling of complaints (Article 97).
- (12) Delegation of powers (Article 98).
- (13) Commitment of business to local public body (Article 99).
- (14) Locally designated rivers (Article 100).
- (15) Matters left to government ordinance (Article 101).

Among these articles, the followings are specified:

**1) Transitory Measures (Article 87)**

A person who, on the basis of the competency and as of the day of the designation of a class A river, class B river, river zone, river conservancy zone, projected river zone, spatial river conservancy zone or projected spatial river zone is doing an act for which permission according to the provisions of this Law must be obtained or setting up a structure for which permission according to the provisions of this Law must be obtained shall be deemed to have obtained the permission according to this Law concerning the act or the setting up of the structure on the same condition as before. The same shall apply to a person who, on the basis of the competency and as of the day of the enforcement of a Government Ordinance referred to in Article 25, Article 27 Paragraph 1, Article 55 Paragraph 1, Article 57 Paragraph 1, Article 58-4 Paragraph 1 or Article 58-6 Paragraph 1 or a Government Ordinance to amend or abolish such a Government Ordinance, is doing an act or setting up a structure for which it becomes necessary to obtain new permission as a result of the enforcement of the Government Ordinance.

**2) Entry into Third Party Land for River Administration (Article 89)**

The Minister of Construction, the prefecture governor concerned, or a person who has been given order or authorized by the Minister of Construction or the prefecture governor may, in case it is imperative for making investigation for designation of a class A river, class B river, river zone, river conservancy zone, projected river zone, spatial river conservancy zone or projected spatial river zone or for performing river administration including river works and river maintenance, enter land occupied by another person or temporarily use as a material yard or workshop land of another person which is not being used for any specific use.

**3) Filing of complaints (Article 97)**

No complaint under the Administrative Complaint Reinvestigation Law (Law No.169 of 1952) shall be raised concerning a disposition or other exercise of public power according to the provision of Article 22 Paragraph 1 or 2.

**4) Matters left to government ordinance (Article 101)**

Matters necessary for enforcement of this Law not provided for in this Law shall be fixed by Government Ordinance.

**3.8 PENAL PROVISIONS (CHAPTER VII)**

The following articles are included in Miscellaneous Provisions (Chapter VI).

- (1) Acts subject to penal servitude not more than 1 year or a fine of not more than 500,000 yen (Article 102).
- (2) Acts subject to penal servitude not more than 6 months or a fine of not more than 300,000 yen (Article 103).
- (3) Acts subject to penal servitude not more than 3 months or a fine of not more than 200,000 yen (Article 104).
- (4) Acts subject to a fine of not more than 300,000 yen (Article 105).
- (5) Acts subject to a fine of not more than 200,000 yen (Article 106).
- (6) Liability of employer and a juristic person (Article 107).
- (7) Acts subject to a fine of not more than 50,000 yen (Article 108).
- (8) Establishment of penal provisions in government ordinance or prefectural regulations (Article 109).

Among these articles, the followings are specified:

**1) Acts subject to penal servitude not more than 1 year or a fine of not more than 500,000 yen (Article 102)**

A person to whom one of the following items applies shall be punished with penal servitude for not more than one year or a fine of not more than five hundred thousand yen;

(1) A person who used the flowing water of a river exclusively in violation of the provisions of Article 23, (2) A person who constructed, reconstructed or removed a structure in violation of the provisions of Article 26 Paragraph 1, and (3) A person who excavated, banked or cut land or carried out any other act that altered the shape of land or planted or cut trees in violation of the provisions of Article 27 Paragraph 1.

**2) Establishment of penal provisions in government ordinance or prefectural regulations (Article 109)**

Government Ordinances 109-1)~ 109-6) or prefectural regulations established on the basis of the provisions of Article 28 or Article 29 Paragraph 1 or 2 may establish the necessary penalties.