

Law Governing the Use of Information and Communications Technology in the Preservation of Documents that Private Businesses Perform

Article 1: Purpose

This law, by stipulating common terms regarding the document preservation that private businesses carry out under statutory provisions that will allow it to be implemented according to a method that utilizes electronic information processing organizations and other methods that utilize information and communications technology (hereinafter, electromagnetic methods), endeavors to improve public convenience through the alleviation of the burdens associated with document preservation while promoting information processing by electromagnetic methods, with the object of contributing to improvements in the lives of the people and the sound development of the nation's economy.

Article 2: Definitions

In this law, the significance of the terms cited in any of the following paragraphs shall be based on context as set forth in the various aforesaid paragraphs.

1. *Private Businesses* shall refer to private businesses and other parties deemed to be those who must carry out the preservation of documents or electromagnetic records under statutory provisions. The parties listed below, however, are to be excluded.
 - a) National organizations
 - b) Local public entities and their agencies
 - c) Those listed in Items D through H in Article 2.2 of the Law Governing the Use of Information and Communications Technology in Administrative Proceedings (Law No. 151, 2002)
2. *Statutes* shall refer to laws and directives based on laws.
3. *Documents* shall refer to documents, papers, writings, transcripts, extracts, originals, duplicates, multiple copies, papers and other tangible entities on which are inscribed information such as texts and figures that can be recognized through human perception.
4. *Electromagnetic records* are records that are produced in an electronic form, electromagnetic form, or some other form that cannot be recognized through human perception, and shall refer to those that are made available for use in information processing by an electronic computer.
5. *Storage* shall refer to the act of saving, maintaining, administering, providing,

making provision for, being equipped with, or always having available, documents or electromagnetic records on the part of private businesses. However, those executed during a proceeding on the basis of statutory provisions pertaining to judicial proceedings and other proceedings in a court of law as well as criminal investigations or criminal law investigations stipulated by government decree (hereinafter, “judicial proceedings” under these conditions) are to be excluded.

6. *Preparation* shall refer to the act of creating, writing down, recording, or drawing up documents or electromagnetic records on the part of private businesses. However, those executed during judicial proceedings are to be excluded.

7. *Signings* shall refer to the act of inscribing a signature, registering, signing, cosigning, apposing a seal or inscribing some other name or title onto a document.

8. *Inspections* shall refer to the act of inspecting or making available for inspection the particulars that are recorded in a document or electromagnetic record, or having them duplicated, on the part of private businesses. However, those executed during judicial proceedings are to be excluded.

9. *Deliveries* shall refer to the act of delivering, presenting or providing the items that are recorded in a document or electromagnetic record on the part of private businesses. However, those executed during a judicial proceeding or those executed as an application as set forth in Article 2.6 of the Law Governing the Use of Information and Communications Technology in Administrative Proceedings are to be excluded.

10. *Preservation* shall refer to storage, preparation, inspections, or deliveries.

Article 3: Storage by means of electromagnetic records

With regard to those of the items to be stored for which it is deemed that storage must be implemented in writing under individual statutory provisions relating to the storage in question (limited to those stipulated in competent ministerial ordinances), private businesses may, regardless of the provisions of the law concerned, on the basis of matters stipulated in the competent ministerial ordinances, carry out the storage of electromagnetic records pertaining to the aforesaid documents in lieu of document storage.

2. With regard to storage carried out under the provisions in the preceding paragraphs, it shall be considered to be that which is carried out in writing as stipulated in the statutory provisions relating to storage for which the storage in question must be carried out in writing, and the statutory provisions relating to the storage in question will be applied.

Article 4: Preparation by means of electromagnetic records

With regard to those of the items to be prepared for which it is deemed that preparation must be carried out in writing under individual statutory provisions relating to the preparation in question (which are those for which it is deemed that documents and/or originals, transcripts, extract copies, or copies pertaining to the preparation in question must be stored under statutory provision, and is limited to those stipulated in competent ministerial ordinances), private businesses may, on the basis of matters stipulated in the competent ministerial ordinances, prepare electromagnetic records relating to the aforesaid documents in lieu of document preparation, regardless of the aforesaid other statutory provisions.

2. With regard to the preparations carried out under the provisions in the preceding paragraphs, they shall be considered to be those that are carried out in writing as stipulated in the statutory provisions relating to preparation for which the preparation in question must be carried out in writing, and the statutory provisions relating to the preparation in question will be applied.
3. In the situation in Paragraph 1, private businesses may, with regard to those for which it is deemed that signings must be conducted under other statutory provisions relating to the preparation in question, replace the signings with other measures of indicating a name or title that are stipulated in competent ministerial ordinances regardless of the statutory provisions in question.

Article 5: Inspections by means of electromagnetic records

With regard to those of the items to be inspected for which it is deemed that inspections must be conducted in writing under individual statutory provisions relating to the inspections in question (limited to those stipulated in competent ministerial ordinances), private businesses may, on the basis of matters stipulated in competent ministerial ordinances, conduct inspections of the items recorded in electromagnetic records or the documents in which the items in question are printed out in place of a document inspection, regardless of the statutory provisions in question.

2. The inspections carried out under the provisions in the preceding paragraphs shall be considered to be those that are carried out in writing as stipulated in the statutory provisions regarding inspections for which the inspections in question must be carried out in writing, and the statutory provisions relating to the inspections in question will be applied.

Article 6: Deliveries by means of electromagnetic records

With regard to those of the items to be delivered for which it is deemed that deliveries must be carried out in writing under individual statutory provisions relating to the deliveries in question (which are those for which it is deemed that documents and/or originals, transcripts, extract copies, or copies pertaining to the preparation in question must be stored under statutory provision, and is limited to those stipulated in competent ministerial ordinances), private businesses may carry out the deliveries of the particulars listed in electromagnetic records pertaining to the documents in question with those that are an electromagnetic method and stipulated in competent ministerial ordinances in place of delivery of documents, obtaining the consent of the other party to the delivery in question under matters stipulated by government decree, regardless of the other statutory provisions in question.

2. The deliveries carried out under the provisions in the preceding paragraphs shall be considered to be those that are carried out in writing as stipulated in the statutory provisions regarding deliveries for which the deliveries in question must be carried out in writing, and the statutory provisions relating to the deliveries in question will be applied.

Article 7: Promoting the use of information and communications technology as it relates to document preservation based on the ordinances

Local public entities must capture the spirit of this law and strive to take the necessary steps with regard to the preservation of documents based on the ordinances or regulations and to implement other necessary measures for promoting the use of information and communications technology in the preservation of documents that private businesses and other parties perform on the basis of the ordinances and regulations.

2. The nation must strive to provide information and take other necessary steps to promote the utilization of information and communications technology in the preservation of documents that private businesses and other parties carry out based on the ordinances or regulations.

Article 8: Transitional measures accompanying the amendment or abolishment of government decrees and competent ministerial ordinances

In the event that they establish, improve, or eliminate government decrees or competent ministerial ordinances on the basis of the provisions of this law, the

necessary transitional measures (including transitional measures relating to penalties) may be prescribed by government decree or competent ministerial ordinance, respectively, within limits that are deemed to be reasonably necessary pursuant to their establishment, improvement, or elimination.

Article 9: Competent ministerial ordinances

The competent ministerial ordinances under this law shall be the Cabinet Office regulations or ministerial ordinances of each ministry that holds jurisdiction over the laws and regulations specified with regard to the preservation in question (the regulations of the Board of Audit, National Personnel Authority, Fair Trade Commission, National Public Safety Commission, Environmental Disputes Coordination Commission, Public Security Examination Commission, Central Labor Arbitration Commission, and Central Labour Relations Commission for Seafarers are excluded). However, with regard to preservation based upon the statutory provisions under the jurisdiction of the Board of Audit, National Personnel Authority, Fair Trade Commission, National Public Safety Commission, Environmental Disputes Coordination Commission, Public Security Examination Commission, Central Labor Arbitration Commission, or Central Labour Relations Commission for Seafarers, they shall be the regulations of the Board of Audit, National Personnel Authority, Fair Trade Commission, National Public Safety Commission, Environmental Disputes Coordination Commission, Public Security Examination Commission, Central Labor Arbitration Commission, or Central Labour Relations Commission for Seafarers.

Supplementary provisions

This law shall take effect from April 1, 2005.