

# THE SABO LAW

(30 March 1897, Law No.29)

## Chapter I General Provisions

### (Definitions of Sabo Facilities and Sabo Works)

Article 1 The term “sabo facilities” as used in this Law means facilities which shall be constructed for the purpose of sabo from a flood-control viewpoint in the area designated by the Minister of Land, Infrastructure and Transport, and the term “sabo works” likewise means works undertaken for sabo facilities.

### (Designated Area)

Article 2 The Minister of Land, Infrastructure and Transport shall designate the area where sabo facility is necessary or the area where certain acts shall be prohibited or restricted for the purpose of sabo from a flood-control viewpoint.

### (Application Mutatis Mutandis of This Law Outside of the Designated Area)

Article 3 The matters provided in this Law may, subject to provisions of Government Ordinance, apply mutatis mutandis to a construction outside of the area designated by the Minister of Land, Infrastructure and Transport for the purpose of sabo from a flood-control viewpoint.

### (Application Mutatis Mutandis of This Law to Natural Riverbank)

Article 3-2 The matters provided in this Law, which may be concerned with sabo facilities, shall apply mutatis mutandis, subject to the provision of Government Ordinance, to a natural riverbank as may be provided in Government Ordinance, which exists in the area designated by the Minister of Land, Infrastructure and Transport subject to Article 2 and is necessary for disaster restoration (insofar as of substantial collapse of bury) for the purpose of sabo from a flood-control viewpoint.

## Chapter II Restriction of Area and Sabo Facilities

### (Prohibition and Restriction of Specified Actions)

Article 4 Prefectural governor may, for the purpose of sabo from flood-control viewpoint, prohibit or restrict specified actions within the area designated by the Minister of Land, Infrastructure and Transport subject to Article 2.

When prohibition or restriction subject to the preceding Paragraph is necessary for preservation of other prefecture's benefit, or interests thereof are not limited within one prefecture, the Minister of Land, Infrastructure and Transport may conduct the competence stipulated in the preceding Paragraph.

(Responsibility of Prefectural Governor)

Article 5 Prefectural governor shall have duties of supervision of the area, within his/her jurisdiction, designated by the Minister of Land, Infrastructure and Transport subject to Article 2, of management of sabo facility within his/her jurisdiction, and of execution and maintenance of construction thereof.

(Direct management by the Minister of Land, Infrastructure and Transport)

Article 6 When sabo facility is necessary for preservation of other prefecture's benefit, interests thereof are not limited within one prefecture, the construction is considerably difficult, or construction cost is considerably expensive, the Minister of Land, Infrastructure and Transport may conduct the management, execution of construction and maintenance thereof.

In case of the preceding Paragraph, the Minister of Land, Infrastructure and Transport may order the government of public body which is especially benefited by the sabo facility to undertake construction or maintenance thereof.

In case of this Article, the Minister of Land, Infrastructure and Transport may conduct directly the competence which prefectural governor is entitled on the basis of this Law.

(Execution by the Government of Public Body)

Article 7 Prefectural governor may order the government of public body within his/her jurisdiction to undertake construction of sabo works or maintenance of sabo facilities.

(Execution by Person Who Has Caused Necessity)

Article 8 When different construction, work or other acts has necessitated execution of sabo works, prefectural governor may order the person who conducted the act to execute construction or maintenance of the sabo facility.

(Prohibition of Contract by Government)

Article 9 Government shall not become a contractor of sabo works.

(Restriction of Contract)

Article 10 Restriction of contract of sabo works shall be provided by decree.

(Reduction and exemption of land taxes over designated land)

Article 11 Land tax and other official levy may be reduced or exempted for the area designated by the Minister of Land, Infrastructure and Transport subject to Article 2, as may be provided in Royal Decree(at present ;Law or Government Ordinance).

(Preparation and Custody of Sabo Ledgers)

Article 11-2 Prefectural governor shall prepare and keep the sabo ledgers as may be provided in the Ordinance of Ministry of Land, Infrastructure and Transport.

The set of sabo ledgers shall comprise a register of sabo designated areas and a register of sabo facilities.

### Chapter III Financial Responsibility, Right and Duty of Landowner, Revenue and Others

#### (Cost Sharing of Prefecture)

Article 12 The expenses necessary for supervision of the area designated by the Minister of Land, Infrastructure and Transport subject to Article 2, management and maintenance of sabo facility and sabo works shall be borne by the prefecture.

#### (Cost Sharing of the National Government)

Article 13 Half of the expenses necessary for sabo works shall be borne by the National Government as may be provided for by Government Ordinance. However, when those works fall under the emergency sabo project executed to meet with the dangerous situation of mudslide etc. caused by disaster, the rate shall be two-thirds, and when those sabo works, other than the emergency sabo project executed to meet with the dangerous situation of mudslide etc. caused by disaster, are executed to prevent another disaster, or are executed in the mountain characterized by volcanic strata or piedmont of volcano or in the area susceptible of substantial damages caused by volcanic phenomena, the rate shall be eleven-twentieth.

Even if costs of the works may be under the estimate after the settlement of accounts, the money already rendered may not be returned.

This Article shall not apply to the expenses necessary for sabo works necessitated by disaster.

#### (Cost Sharing under the Direct Management of the Minister of Land, Infrastructure and Transport)

Article 14 When the Minister of Land, Infrastructure and Transport conducts the management and maintenance of sabo facility or executes the sabo works, the expenses thereof shall be borne by the National Government.

In case of preceding Paragraph, the Minister of Land, Infrastructure and Transport shall order the prefecture to bear one-thirds of the expenses as provided in the preceding Paragraph.

#### (Cost Sharing of Public Body)

Article 15 Prefectural governor may order the public body in his/her jurisdiction to bear a part of the expenses necessary for sabo.

#### (Cost Sharing of Person Who Has Caused Necessity)

Article 16 When sabo works are necessitated by different construction, operation or other acts, expenses thereof may,

to the extent of necessity of works, be ordered to bear to the person who bears expense concerning the construction, operation or other acts to be the cause thereof. However, this shall not apply in case of Article 68 of the River Law.

(Cost Sharing of Benefited Body)

Article 17 When sabo works benefit substantially other prefecture or public body within other prefecture, that prefecture or public body within prefecture thereof may be ordered to bear a part of the expenses.

(Responsibility of a Person under the Order)

Article 18 The expenses necessary for observation of matters ordered by the authority in accordance with this Law or decree issued subject to this Law shall be borne by the person under the order, unless otherwise provided for by a special regulation.

The expenses necessitated in realizing, directly by the Minister of Land, Infrastructure and Transport or prefectural governor, or through a third party, of duty which shall be performed by obligee may be collected from the obligee.

(Contribution)

Article 19 Public body may make a contribution for the expenses concerning sabo works or sabo.

(Subsidy)

Article 20 Public body may render a subsidy to private person or public body in its jurisdiction for the expenses concerning sabo.

(Uneven Levies)

Article 21 Public body may impose uneven levies in its jurisdiction according to standards of degree of interests for the expenses concerning sabo.

(Cooperation of Landowner and Forest Owner)

Article 22 Prefectural governor may, when it is necessary for sabo works, order the landowner and forest owner in his/her jurisdiction to supply soil, gravel, grass, bamboo, timber and carrying tool in their possession with money offering of current price as compensation. However, if no agreement can be reached concerning current price, or the owner or the address is not identified, prefectural governor may order the supply stipulated in this Article with depositing such amount of money as he/she deems appropriate.

(Right of Entry, etc.)

Article 23 The authority may, when it is necessary for sabo, enter the area designated by the Minister of Land, Infrastructure and Transport subject to Article 2 or the area adjacent to area thereof, or use the area as material depository, or if it is inevitable, may remove the existing obstacles.

A person who has suffered damage through application of the proceeding Paragraph may claim compensation within three months from the use or removal.

(Obligation of Patience on the Side of Owners)

Article 24 Landowner of the area designated by the Minister of Land, Infrastructure and Transport subject to Article 2 or the related parties may not reject the authority or a private person directed thereby to execute sabo works or to maintain sabo facilities in the area.

(Duty of Indemnity by Violator of the Laws)

Article 25 A person who caused damages through management of works, facilities or construction in violation of law, decree or conditions attached to the permission or approval shall indemnify the damages.

(Cost Sharing of Compensation etc.)

Article 26 Compensation or Indemnity which shall be offered by the authority shall be borne by public body in the direct jurisdiction of the said authority.

(Assignment of Revenue)

Article 27 Revenue out of sabo facility shall be assigned to prefecture. However, prefectural governor may donate the revenue to landowner of the area designated by the Minister of Land, Infrastructure and Transport subject to Article 2 or owner of forest in the said area or constructor of the sabo facility.

(Donation of Facility after Abolition of Public Use)

Article 28 When public use of a sabo facility is abolished, prefectural governor may donate the said facility to landowner or forest owner where the facility is located.

#### Chapter IV Police, Supervision and Compulsory Procedure

(Annulment of Permission etc.)

Article 29 The Minister of Land, Infrastructure and Transport or prefectural governor may, when he/she deems it necessary in case he/she has obliged the permission to be obtained on a certain matter, annul the permission, suspend its validity or change the conditions, or order modification of the facility, restoration of the original state or construction necessary to prevent harms caused by the matter of vested permission.

(Correction of Facts)

Article 30 A person who has contravened the law, decree or conditions attached to the permission shall, according to the direction of authority, correct the state caused by the contravention and make facilities necessary to prevent the

harms anticipated from the contravention.

(Staff Members for Supervision and Management)

Article 31 Prefectural governor shall appoint officials for supervision of the area designated by the Minister of Land, Infrastructure and Transport subject to Article 2 and for management of sabo facilities.

(Supervisory Authorities)

Article 32 The Minister of Land, Infrastructure and Transport may give the government of public body necessary instructions concerning administration of sabo.

Prefectural governor may give the government of public body in his/her jurisdiction necessary instructions according to the provision of Government Ordinance.

The matters for which approval by the Minister of Land, Infrastructure and Transport or prefectural governor shall be necessary, from among the matters stipulated in this Law, shall be fixed by Government Ordinance.

The matters stipulated in Article 19 and Article 20 and the competences empowered to authorities may be restricted by decree.

(Procedure to Make Other Prefectures etc. Share the Cost)

Article 33 Procedure necessary to make other prefectures or public bodies or private persons within other prefectures share the cost may be fixed by Government Ordinance.

Article 34 and Article 35 .....Deleted

(Indirect Compulsion)

Article 36 In case a private person has neglected his/her duty by this Law or decree issued under this Law, the Minister of Land, Infrastructure and Transport or prefectural governor may order performance thereof, fixing a certain time and warning that, if the person would not render the performance within the time or the rendered performance would be inadequate, the person shall be punished with a penalty fixed not more than five hundred yen.

(Disposal of Deposit)

Article 37 When deposit has been obliged to furnish concerning the matter stipulated in this Law or decree issued subject to this Law, the authority may directly make appropriation of it for the purpose of punishment or for penalty. The deposit referred in the preceding Paragraph cannot be seized for another claim.

(Compulsory Collection)

Article 38 Expenses to be borne or penalties by this Law or decree issued subject to this Law may, following the examples of recovering national taxes in arrears, be collected by the authority except when civil procedure may

especially be allowed in this Law.

As for the expenses and penalties referred in the preceding Paragraph, the authority shall have preferential rights next to national taxes and local taxes.

(Compulsory Measures by Administrative Acts)

Article 39 The powers conferred to authorities by this Law or decrees subject to this Law may be forced through administrative acts.

This Article and preceding Article shall be applied mutatis mutandis to the conditions attached to administrative permission or approval.

(Police Power of Supervisory Officials of Sabo)

Article 40 With regards to the matters stipulated in this Law or decree issued pursuant to this Law, officials to whom duties of sabo supervision are assigned may be empowered to execute the whole or a part of the competences of police officers.

(Mandate of Penal Provisions)

Article 41 With regards to the duties of private persons stipulated in this Law, penal provisions of fine not more than two hundred yen or confinement not more than one year may be fixed by decree.

## Chapter V Miscellaneous Provisions

Article 42 (Deleted.)

(Action)

Article 43 Any person who is dissatisfied with a compensation to be rendered subject to the provisions of Article 22 or Article 23 may, by an action, demand the increase of the amount within three months from the day of notification of compensational amount of money by the authority.

Prefecture shall be defendant in the action of the preceding Paragraph. However, the State shall be defendant in case the sabo facility is managed by the Minister of Land, Infrastructure and Transport or the construction has been executed by him/her.

(Delegation of Powers)

Article 44 A part of the powers of the Minister of Land, Infrastructure and Transport under this Law may be delegated to the Director Generals of Regional Development Bureaus or the Director General of Hokkaido Development Bureau.

(Categories of Function)

Article 45 Following functions, from among functions for which local public body shall be responsible by the provisions of this Law, shall be Item 1 delegated functions subject to Article 2 Paragraph 9 Item 1 of the Local Autonomy Law (1947, Law No.67):

- (1) Functions for which prefectures shall be responsible subject to Article 4 Paragraph 1, Article 5, Article 6 Paragraph 2, Article 7, Article 8, Article 11-2 Paragraph 1, Article 15 through 17, Article 18 Paragraph 2, Article 22, Article 23 Paragraph 1, Article 28 through 30, Article 32 Paragraph 2, Article 36 and Article 38
- (2) Functions for which municipalities shall be responsible subject to Article 6 Paragraph 2, Article 7 and Article 23 Paragraph 1

The functions for which prefectures shall be responsible subject to this Law and Government Ordinance pursuant to this Law concerning management of the area designated by the Minister of Land, Infrastructure and Transport subject to Article 2 shall be Item 1 delegated functions.

Article 46 (Deleted.)

## Chapter VI Supplementary Provisions

(Date of Enforcement, Mandate to Decree)

Article 47 This Law shall come into force as from 1 April 1897.

The regulation for enforcement of this Law shall be fixed by decree.

(The Former Sabo)

Article 48 With regards to the former sabo existing in the area designated by the Minister of Land, Infrastructure and Transport subject to Article 2, this Law shall be applied except in case a special regulation may be established by Royal Decree.

(Transitory Provisions on Finance since 1985)

Article 49 to 52 (omitted.)