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ACT ON PUBLIC-PRIVATE PARTNERSHIPS IN INFRASTRUCTURE

[Enforcement Date 26. Mar, 2024.] [Act No.20409, 26. Mar, 2024., Amendment by Other Act]

기획재정부 (민간투자정책과)044-215-5451



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CHAPTER I GENERAL PROVISIONS

Article 1 (Purpose) The purpose of this Act is to contribute to the development of the national economy by encouraging the creative and efficient expansion and operation of infrastructure, by promoting the investment of the private sector in such infrastructure.
[This Article Wholly Amended on Aug. 4, 2011]

Article 2 (Definitions) The definitions of terms used in this Act shall be as follows: <Amended on Mar. 31, 2011; Jun. 7, 2011; Sep. 16, 2011; Feb. 1, 2012; Dec. 18, 2012; Jan. 23, 2013; Jul. 30, 2013; Jan. 7, 2014; Jan. 14, 2014; Jan. 28, 2014; Jun. 3, 2014; Aug. 28, 2015; Jan. 27, 2016; Mar. 2, 2016; Mar. 29, 2016; May 29, 2016; Jan. 17, 2017; Mar. 21, 2017; Mar. 13, 2018; Mar. 31, 2020>

1. The term "infrastructure" means any of the following fundamental facilities which serve as the foundation of production, increase the efficiency of such facilities, and accommodate the convenience of users and in the lives of the public:
 - (a) Facilities that form the basis for economic activities, such as roads, railroads, harbors, sewerage systems, sewage, excreta, and waste disposal facilities, and reuse facilities;
 - (b) Facilities necessary for providing social services, such as kindergartens, schools, libraries, science museums, complex cultural facilities, and public health and medical facilities;
 - (c) Public facilities necessary for performing the duties of the State or local governments, such as public office buildings, memorial facilities, disaster prevention facilities, and barracks facilities, or public facilities provided for the use of the general public, such as lifetime sports facilities and recreational facilities;
2. Notwithstanding subparagraph 1, the following facilities that are likely to substantially harm the public interest when operated in the private sector shall be excluded from infrastructure referred to in subparagraph 1:
 - (a) Facilities handling military secrets under subparagraph 1 of Article 2 of the Military Secret Protection Act, which are determined by the Minister of National Defense;

- (b) Facilities necessary for military operations among facilities under subparagraph 1 (a) of Article 2 of the Act on National Defense and Military Installations Projects, which are determined by the Minister of National Defense;
 - (c) Diplomatic information and communications networks;
 - (d) Other facilities prescribed by Presidential Decree;
3. The term "infrastructure project" means projects involving work, such as construction, expansion, renovation or operation of infrastructure;
 4. The term "revertible facilities" means infrastructure whose ownership is vested in the State or local governments, as prescribed in each subparagraph (excluding subparagraph 4) of Article 4;
 5. The term "competent authority" means the head of an administrative agency in charge of the affairs concerning infrastructure projects pursuant to the related statutes;
 6. The term "public-private partnership project" means any project proposed by a private sector prescribed in Article 9, or any infrastructure project conducted by a concessionaire prescribed in subparagraph 8, in accordance with a master plan for a public-private partnership infrastructure project prescribed in Article 10; provided, a part that is constructed in excess (referring to the construction conducted in excess of the project expenditure of the relevant year but within the scope that has been agreed upon between the State and a party to the contract; hereinafter the same shall apply) among the Government-placed projects that are funded by continuing expenditures under Article 23 of the National Finance Act shall be deemed a public-private partnership project;
 7. The term "concession agreement" means a contract concluded between the competent authority and a potential concessionaire to implement a public-private partnership project concerning the conditions, etc. for the implementation of the project as prescribed in this Act;
 8. The term "concessionaire" means a corporation, other than those in the public sector, which is designated as a concessionaire under this Act, and which implements a public-private partnership project;
 9. The term "supplementary project" means any project falling under any subparagraph of Article 21 (1) which is implemented together with a public-private partnership project by a concessionaire;

10. The term "user fee" means the payment for the use of infrastructure by users to the concessionaire of relevant facilities, regardless of the titles, such as user fees, user charges, or fares, etc.;
11. The term "public sector" means the State, local governments and the following corporations:
 - (a) Agencies designated by the Minister of Economy and Finance from among public agencies under the Act on the Management of Public Institutions;
 - (b) Various public corporations incorporated pursuant to the special Acts;
12. The term "private sector" means corporations (including foreign corporations, and public and private joint corporations incorporated pursuant to subparagraph 13), other than those in the public sector;
13. The term "public and private joint corporation" means a corporation incorporated by joint investments from the public and private sectors, which is the concessionaire as referred to in subparagraph 8;
14. The term "related Acts" means the Acts under subparagraph 1 and the following Acts, which apply to public-private partnership projects in connection with the implementation of infrastructure projects:
 - (a) The Toll Road Act;
 - (b) The Act on Railroad Construction and Railroad Facilities Management;
 - (c) Deleted; <Mar. 29, 2016>
 - (d) The Telecommunications Business Act;
 - (e) The Radio Waves Act;
 - (f) The School Facilities Projects Promotion Act;
 - (g) The Housing Act;
 - (h) The National Land Planning and Utilization Act;
 - (i) The Creation and Management of Forest Resources Act;
 - (j) The Management of Mountainous Districts Act;
 - (k) The State Forest Administration and Management Act;
15. The term "other Acts" means Acts which prescribe matters, such as authorization and permission, etc. which are considered to have been granted pursuant to related Acts, and which a concessionaire requires in order to implement public-private partnership projects;

16. The term "national or public property" means any property owned by the State or a local government under the State Property Act or the Public Property and Commodity Management Act;

17. The term "financial institution" means:

(a) Banks established with authorization prescribed by the Banking Act;

(b) Deleted; <May 21, 2014>

(c) Korea Development Bank prescribed by the Korea Development Bank Act;

(d) Export-Import Bank of Korea prescribed by the Export-Import Bank of Korea Act;

(e) Industrial Bank of Korea prescribed by the Industrial Bank of Korea Act;

(f) Trust entities and merchant banks prescribed by the Financial Investment Services and Capital Markets Act;

(g) Insurance companies prescribed by the Insurance Business Act;

(h) National Agricultural Cooperative Federation's mutual finance business and NongHyup Bank established under the Agricultural Cooperatives Act;

(i) National Federation of Fisheries Cooperatives and Suhyup Bank prescribed by the Fisheries Cooperatives Act;

(j) Specialized credit finance business companies prescribed by the Specialized Credit Finance Business Act;

(k) Collective investment vehicles prescribed by Article 41;

(l) Persons engaged in industrial financing, prescribed by Presidential Decree.

[This Article Wholly Amended on Aug. 4, 2011]

Article 3 (Relationship to Related Acts) (1) As for public-private partnership projects, this Act shall prevail over other Acts.

(2) Except as otherwise provided in this Act, other provisions of this Act shall not apply to the part of overconstruction of the Government placed projects under the proviso of subparagraph 6 of Article 2. <Amended on Mar. 31, 2020>

[This Article Wholly Amended on Aug. 4, 2011]

Article 3-2 (Scope and Principles of Application of Government Procurement Agreements, etc.) (1) The scope of public-private partnership projects to which a government

procurement agreement or international agreement (hereinafter referred to as "government procurement agreement, etc.") applies shall be limited to the public-private partnership projects, conducted by a competent authority pursuant to this Act, whose total

project costs (referring to the sum of the costs incurred by infrastructure projects, as specified by Presidential Decree; hereinafter the same shall apply) are equal or higher than an amount determined and publicly notified by the Minister of Economy and Finance; provided, cases referred to in a government procurement agreement, etc. and prescribed by Presidential Decree shall be excluded from the scope of public-private partnership projects to which a government procurement agreement, etc. applies.

(2) The scope of a competent authority referred to in the main clause of paragraph (1) shall be prescribed by Presidential Decree pursuant to a government procurement agreement, etc.

(3) Where a competent authority carries out a public-private partnership project to which a government procurement agreement, etc. applies pursuant to the main clause of paragraph (1), it shall treat suppliers from the member countries of or party countries to a government procurement agreement, etc. equally with those from the Republic of Korea and shall not provide them with information related to the public-private partnership project on a discriminatory basis.

(4) Where it is prescribed by Presidential Decree to implement certain public-private partnership projects, excluded from the scope of application of government procurement agreements, etc. under the main clause of paragraph (1), as being subject to international bidding, given their purpose and nature, the competent authority may apply government procurement agreements, etc. in carrying out such public-private partnership projects.

[This Article Newly Inserted on Dec. 18, 2012]

Article 4 (Implementation Methods of Public-Private Partnership Projects) Public-private partnership projects shall be conducted in one of the following methods:

1. The mode (excluding cases falling under subparagraph 2) by which the ownership of the infrastructure shall be transferred to the State or a local government upon the completion of construction, and the concessionaire shall have the rights to manage and operate the infrastructure for a specified period;
2. The mode by which the ownership of the infrastructure shall be transferred to the State or a local government upon the completion of construction, and the concessionaire shall have the rights to manage and operate the infrastructure for a specified period, but the State or a local government, etc. shall rent them for a specified period as provided for in the agreement, and use them and make profits;

3. The mode by which the concessionaire shall assume ownership of the infrastructure for a specified period after the completion of construction, and the ownership shall be transferred to the State or a local government upon the termination of the concession period;
4. The mode by which the concessionaire shall assume ownership of the infrastructure upon the completion of construction;
5. Other than the modes as described in subparagraphs 1 through 4, a method presented by the private sector in proposing a public-private partnership project under Article 9 or in proposing a modification thereof under Article 12 and adopted by the competent authority as it deems reasonable;
6. Other modes by which the competent authority suggests in a master plan for public-private partnerships infrastructure project established in accordance with Article 10.

[This Article Wholly Amended on Aug. 4, 2011]

Article 5 (Establishment of Public-Private Partnerships Review Committee) In order to deliberate on the following matters concerning public-private partnership projects, the Public-Private Partnerships Review Committee (hereinafter referred to as the "Committee") shall be established under the control of the Minister of Economy and Finance: <Amended on Mar. 31, 2020>

1. Matters concerning the formulation of major policies concerning private sector investment in infrastructure;
- 1-2. Matters concerning the appropriateness of facilities subject to public-private partnership projects under subparagraph 1 of Article 2;
2. Matters concerning the establishment and modification of the master plans for public-private partnerships in infrastructure as prescribed in Article 7;
3. Matters concerning the designation of an expected public-private partnership project as prescribed in Article 8-2;
4. Matters concerning the establishment and modification of the master plans for infrastructure project as prescribed in main clause of Article 10 (2);
5. Matters concerning the designation of a concessionaire as prescribed in Article 13;
6. Matters concerning the implementation of supplementary projects as prescribed in Article 21 (5);

7. Matters concerning the disposition for public interests as referred to in the latter part of Article 47 (1);
8. Matters concerning the cancellation of designation of solicited projects as prescribed in Article 50;
9. Comprehensive evaluation on public-private partnership projects under Article 51-2 (3);
10. Other matters submitted by the Minister of Economy and Finance during a meeting of a public-private partnerships review committee for the promotion of active private participation in infrastructure projects.

[This Article Wholly Amended on Aug. 4, 2011]

Article 6 (Composition and Operation of Committee) (1) The Committee members shall be composed of the Minister of Economy and Finance, the vice ministers of administrative ministries in charge of the affairs concerning infrastructure, and eight or fewer members from the private sector with knowledge and experience in private investment, and commissioned by the Minister of Economy and Finance.

(2) The Minister of Economy and Finance shall be the chairperson of the Committee.

(3) If it is deemed that professional or technical advice is necessary for efficiency in the operation of the Committee, the chairperson may establish and operate a Public-Private Partnership Advisory Committee composed of experts in the related fields.

(4) If it is deemed necessary for facilitating private investment projects, the head of the competent authority may establish and operate autonomously a deliberation committee of each competent authority in order to deliberate matters concerning public-private partnership projects.

(5) The operation, procedures of, and other necessary matters for the Committee and the deliberation committees of competent authorities shall be prescribed by Presidential Decree.

[This Article Wholly Amended on Aug. 4, 2011]

CHAPTER II INFRASTRUCTURE PROJECTS

SECTION 1 Master Plan for Public-Private Partnerships in Infrastructure

Article 7 (Formulation and Public Announcement of Master Plans for Public-Private

Partnerships in Infrastructure) (1) The Government shall formulate and publicly announce

(including cases where announcement is made through the Internet) master plans for public-private partnerships in infrastructure to accommodate greater public convenience, raise the competitiveness of the industries of Korea, and encourage a balanced development of the national territory. The same shall apply to any modification of the master plan publicly announced.

(2) The Government shall formulate the master plans for public-private partnerships in infrastructure as prescribed in paragraph (1) with due consideration for national investment priorities and mid-to long-term plans for infrastructure. The plan shall be conducive to the creativity and efficiency of the private sector while ensuring the function of infrastructure in serving the public interest.

(3) Matters necessary for the formulation and modification of the master plans for public-private partnerships in infrastructure and the procedures for its confirmation shall be prescribed by Presidential Decree.

[This Article Wholly Amended on Aug. 4, 2011]

Article 7-2 (Resolution on Aggregate Ceiling of Public-Private Partnership Projects, etc. by

National Assembly) (1) The Government shall submit the aggregate ceiling and limit amount by object project of a public-private partnership project under subparagraph 2 of Article 4 (hereinafter referred to as "build-transfer-lease project") to be conducted in the following year and the reserve limit amount (hereinafter referred to as "aggregate ceiling, etc.") to meet unexpected expenditures in the process of promoting the project to the National Assembly no later than 120 days before the fiscal year begins, and the National Assembly shall make resolution thereon no later than 30 days before the fiscal year begins.
<Amended on May 28, 2013>

(2) The reserve limit amount under paragraph (1) shall be an amount within 20/100 of the total of limit amounts of the national projects and local government projects subsidized by the National Treasury.

(3) When the Government submits the aggregate ceiling, etc. of build-transfer-lease projects under paragraph (1) to the National Assembly, it shall also submit the details of use of reserve limit amount by object facility disbursed in the previous year.

(4) Matters necessary for the aggregate ceiling, etc. of build-transfer-lease projects under paragraph (1) shall be prescribed by Presidential Decree.

[This Article Wholly Amended on Aug. 4, 2011]

Article 7-3 (Modification of Aggregate Ceiling) (1) The Government may modify the aggregate ceiling by prior resolution of the National Assembly.

(2) The Government may modify (it shall not exceed the reserve limit amount) the limit amount by object facility within 20/100, and when the competent authority intends to modify the limit amount by object facility, it shall consult with the Minister of Economy and Finance in advance.

[This Article Wholly Amended on Aug. 4, 2011]

Article 7-4 (Agreement to Increase in Limit Amount) When the National Assembly intends to increase the aggregate ceiling of a build-transfer-lease project submitted by the Government, or to add a new object facility, it shall obtain prior approval of the Government.

[This Article Wholly Amended on Aug. 4, 2011]

Article 8 (Details of Master Plans for Public-Private Partnerships in Infrastructure) The master plans for public-private partnerships in infrastructure as prescribed in Article 7 (1) shall include the following:

1. Matters concerning private investment policy orientation for each category of infrastructure;
2. Matters concerning the scope of investment, methods, and requirements of each public-private partnership project or each potential public-private partnership project under Article 8-2;
3. Matters concerning the management and operation of private investment projects;
4. Matters concerning support for public-private partnership projects;
5. Other matters concerning policies regarding private investment projects.

[This Article Wholly Amended on Aug. 4, 2011]

Article 8-2 (Designation of Potential Public-Private Partnership Project) (1) Where the competent authority intends to implement an infrastructure project by means of private investment, it shall designate the project as a potential public-private partnership project (hereinafter referred to as the "solicited project") on condition that the project meets the following requirements:

1. The project shall be in accord with mid-to long-term plans for infrastructure and national investment priorities;

2. The project shall have such profitability as to stimulate private participation.

(2) With respect to infrastructure projects of the specified scale as prescribed by Presidential Decree or larger, the competent authority shall designate them as solicited projects after the analysis of their feasibility and the deliberation by the Committee thereon, and submit the summary of the analysis to the relevant standing committee of the National Assembly and the Special Committee on Budget and Accounts of the National Assembly.

(3) In cases of designation of a solicited project, the competent authority shall, without delay, provide a public notification (including the case where publication is made through the Internet) of the fact of such designation in the Official Gazette.

[This Article Wholly Amended on Aug. 4, 2011]

Article 9 (Unsolicited Project Proposal by Private Sector) (1) The private sector may propose a public-private partnership project, not included in the solicited project list, to be implemented as an unsolicited project. <Amended on Mar. 2, 2016>

(2) Any person who intends to propose a project under paragraph (1) shall draw up a written proposal and submit it to the competent authority as prescribed by Presidential Decree.

(3) When the competent authority has decided to promote the project proposed under paragraph (1) as a public-private partnership project, it shall notify the proponent of such project of its decision, and publicly announce the outlines of such proposal to enable a third person, other than the proponent, to make a proposal.

(4) The competent authority shall designate a potential concessionaire from among persons who have submitted proposals, after reviewing and evaluating the written proposal submitted by the initial proponent under paragraph (2) and a written proposal by a third person under paragraph (3), as prescribed by Presidential Decree. In such cases, the initial proponent may be treated favorably as prescribed by Presidential Decree.

(5) The provisions of Article 13 (3) through (5) shall govern conclusion, etc. of a concession agreement with a potential concessionaire designated under paragraph (4).

(6) Matters concerning the procedural details of projects proposed under paragraph (1) shall be prescribed by Presidential Decree.

[This Article Wholly Amended on Aug. 4, 2011]

SECTION 2 Implementation of Infrastructure Projects

Article 10 (Formulation and Public Notice of Master Plans for Public-Private Partnership Infrastructure Project)

(1) The competent authority shall, when it is deemed necessary to secure the investment from the private sector in order to proceed infrastructure projects, formulate a master plan for public-private partnership infrastructure project (hereinafter referred to as "master plan for infrastructure project") in accordance with the master plan for public-private partnerships in infrastructure, within one year from the date of its designation as a solicited project; provided, if deemed inevitable, the period may be extended up to one year.

(2) When a master plan for infrastructure project is formulated under paragraph (1) which meets the requirements specified in Presidential Decree, it shall undergo prior deliberation by the Committee. The same shall apply where a modification is required; provided, this shall not apply to cases of minor modifications prescribed by Presidential Decree.

(3) Where the competent authority formulates or modifies a master plan for facilities project under paragraphs (1) and (2), it shall make a public notice thereon as prescribed by Presidential Decree.

(4) Where the project proposal under Article 13 (1) is not submitted after the master plan for infrastructure project has been publicly notified as prescribed in paragraph (3), the competent authority may make another public notice of the master plan only once more. In such cases, the master plan for infrastructure project shall be publicly notified again within six months starting from the last permissible date for submission of project proposal pursuant to the master plan for infrastructure project as outlined in the initial notice.

(5) Where the competent authority provides a notice or re-notice the master plan for infrastructure project for solicited projects prescribed by Presidential Decree in accordance with paragraph (3) or (4), it shall make their basic design drawings and the data on the analysis of their feasibility accessible to the private sector.

[This Article Wholly Amended on Aug. 4, 2011]

Article 11 (Specifics for Master Plan for Infrastructure Project) (1) The master plan for infrastructure project shall include the followings:

1. Matters concerning the estimated investment amount of solicited projects, and matters concerning construction, such as the duration, location, and scale thereof;
2. Matters concerning the result of preliminary feasibility study and of feasibility study of the solicited project;
3. Matters concerning the profits of the concessionaire, such as the user fee, and supplementary projects;
4. Matters concerning the implementation method involved in a public-private partnership project, including the designation or non-designation of a facility as a revertible facility;
5. Matters concerning the State or local government subsidies, such as the amount and the method thereof;
6. Matters concerning the management and operation of the infrastructure which were constructed through a public-private partnership project;
7. Matters concerning the eligibility of the concessionaire;
8. Other matters which the competent authority deems necessary.

(2) In formulating the master plan for infrastructure project, the competent authority shall give consideration to small and medium enterprises so that they may actively participate in public-private partnership projects.

[This Article Wholly Amended on Aug. 4, 2011]

Article 12 (Proposal for Modification of Master Plan for Infrastructure Project by Private

Sector) The private sector may propose a modification of the master plan for infrastructure project formulated under Article 10 under conditions prescribed by Presidential Decree.

[This Article Wholly Amended on Aug. 4, 2011]

Article 13 (Designation of Concessionaire) (1) A person who intends to conduct a public-private partnership project shall prepare a project proposal as specified by Presidential Decree, pursuant to the master plan for infrastructure projects publicly notified under Article 10 (3), and submit it to the competent authority.

(2) The competent authority shall designate one of the proposers as a potential concessionaire after reviewing and evaluating the project proposal submitted under paragraph (1) as prescribed by Presidential Decree. In such cases, the person who has submitted a project proposal that offers long-term investment fund of higher public interests or enables the competent authority to smoothly implement the relevant project

may be treated favorably when evaluating project proposals.

(3) The competent authority shall designate a concessionaire by making a concession agreement with the potential concessionaire designated under paragraph (2), including the conditions for project implementation, such as the total project cost and the concession period. Matters regarding the designation of a concessionaire who meets the requirements prescribed by Presidential Decree shall undergo a prior deliberation by the Committee.
<Amended on Dec. 18, 2012>

(4) A person designated as a concessionaire as prescribed in paragraph (3) shall be deemed a concessionaire under the related Acts.

(5) A person designated as a concessionaire shall apply for approval of a detailed implementation plan prescribed in Article 15 (1) within the period specified by Presidential Decree from the date of its designation, and if the concessionaire fails to apply for a detailed implementation plan within the given period, the designation of the concessionaire shall cease to have effect; provided, when deemed inevitable, the competent authority may extend such period only once by a further period of up to one year.

[This Article Wholly Amended on Aug. 4, 2011]

Article 14 (Incorporation of Public-Private Partnership Project Corporation) (1) A person who intends to conduct a public-private partnership project by incorporating a corporation shall include a corporate incorporation plan when submitting the project proposal prescribed in Article 13 (1).

(2) When the competent authority intends to designate a person who submitted the project proposal as prescribed in paragraph (1) as a concessionaire, the designation shall be made under the condition that the corporation shall be incorporated.

(3) The person who has been granted with the conditional designation pursuant to paragraph (2) shall incorporate the corporation which will conduct the public-private partnership project before applying for approval of the detailed implementation plan prescribed in Article 13 (5).

(4) No corporation incorporated pursuant to paragraph (3) shall engage in businesses other than those acknowledged by the competent authority at the time of designation of the concessionaire; provided, this shall not apply to businesses deemed minor by the competent authority after the concessionaire has been designated.

[This Article Wholly Amended on Aug. 4, 2011]

Article 15 (Approval or Approval of Modification of Specific Implementation Plan) (1) The concessionaire shall prepare a detailed implementation plan and obtain the approval thereof from the competent authority as prescribed by Presidential Decree before implementing the project concerned. The same shall apply when the concessionaire intends to modify the contents of the approved plan; provided, this shall not apply to the modification of minor matters prescribed by Presidential Decree.

(2) The competent authority shall give a public notice of its approval upon authorizing the implementation or modification of the detailed implementation plan pursuant to paragraph (1).

[This Article Wholly Amended on Aug. 4, 2011]

Article 16 (Divisional Implementation of Public-Private Partnership Projects) (1) The competent authority may have the private sector conduct infrastructure projects in parts.

(2) The competent authority may allow public-private partnership projects to be conducted in parts according to the different functions, facilities, or sections.

[This Article Wholly Amended on Aug. 4, 2011]

Article 17 (Legal Fiction of Authorization and Permission under Other Acts) (1) If a competent authority has provided a public notice of a detailed implementation plan as provided in Article 15 (2), the authorization, and permission, etc. prescribed in the Acts related to the relevant private investment, and the authorization, permission, etc. deemed granted under other Acts pursuant to the related Acts, shall be deemed obtained and the public notice or public announcement pursuant to the related Acts and other Acts shall be deemed given.

(2) If a competent authority intends to approve the implementation or modification of the detailed implementation plan pursuant to Article 15 (1), it shall have a prior consultation with the head of the related administrative agency on the compatibility with other Acts as prescribed in paragraph (1).

(3) Upon receipt of a request for consultation, the head of the related administrative agency shall present his/her opinion in writing, stating the reasons and grounds therefor within 20 days from the date he/she has received such request; if he/she fails to present his/her opinions within the given period, the consultation shall be deemed conducted.

<Amended on Dec. 18, 2012>

(4) A competent authority may establish a grand consultative council to consult with the head of the related administrative agency under paragraph (2). <Newly Inserted on Dec. 18, 2012>

(5) Specific matters concerning the organization and operation of a grand consultative council referred to in paragraph (4) and other details shall be prescribed by Presidential Decree. <Newly Inserted on Dec. 18, 2012>

(6) Except as provided in paragraphs (1) through (5), Articles 24 through 26 of the Framework Act on Administration shall apply mutatis mutandis to the standards, effects, etc. of the legal fiction of authorization, permission, etc. <Newly Inserted on Mar. 26, 2024>

[This Article Wholly Amended on Aug. 4, 2011]

Article 18 (Access to Land) Where a concessionaire intends to enter or temporarily use another person's land, or alter or remove any obstacle therein in order to implement a public-private partnership project, the provisions of Articles 130 and 131 of the National Land Planning and Utilization Act shall apply mutatis mutandis.

[This Article Wholly Amended on Aug. 4, 2011]

Article 19 (Restriction on Disposal of State or Public Property) (1) A concessionaire shall make a prior consultation with the head of the related administrative agency about the use of land belonging to the State or a local government located in an area designated for a public-private partnership project and is needed for the implementation of public-private partnership project, and such land shall not be sold for any other purpose than the project concerned after the date of the public notice (in the case of the project proposed pursuant to Article 9 (1), it refers to the date of public announcement of the detail of proposal) of the instruction for proposal.

(2) Notwithstanding the State Property Act and the Public Property and Commodity Management Act, any national or public property located in an area designated for a public-private partnership project for which the consultation as referred to in paragraph (1) has been made may be sold to the concessionaire through conclusion of a private contract.

(3) Notwithstanding the State Property Act and the Public Property and Commodity Management Act, the concessionaire may use free of charge and benefit from any national

or public property located in the area designated for a private investment project, if it is necessary for the implementation of such project, from the date of public notice of the detailed implementation plan pursuant to Article 15 (2) until the date of confirmation of construction completion pursuant to Article 22; provided, in the case of construction projects of revertible facilities, the concessionaire may use free of charge and benefit from such national or public property until the date of expiration of a certain period fixed under Article 25 (1) or (2).

(4) Notwithstanding the State Property Act and the Public Property and Commodity Management Act, where the competent authority deems it necessary for the execution of the public-private partnership project, the competent authority may purchase land located in the designated area and let the concessionaire use the land free of charge and benefit from it from the date of the public notice of the detailed implementation plan pursuant to Article 15 until the date of confirmation of the completion thereof pursuant to Article 22; provided, in the case of construction projects of revertible facilities, the authority may let the concessionaire use such land free of charge and benefit from it until the date of expiration of a certain period fixed under Article 25 (1) or (2).

(5) Notwithstanding the State Property Act and the Public Property and Commodity Management Act, if it is necessary for the execution of a private investment project, a concessionaire may be permitted to use or benefit from national or public property to construct buildings or other permanent facilities, without the precondition that the concessionaire shall contribute such facilities to the State or local governments.

[This Article Wholly Amended on Aug. 4, 2011]

Article 20 (Expropriation or Use of Land) (1) If deemed necessary for the execution of a private investment project, the concessionaire may expropriate or use the land, things, or rights as prescribed in Article 3 of the Act on the Acquisition of and Compensation for Land, etc. for Public Works (hereinafter referred to as the "land, etc.").

(2) In applying paragraph (1), if the detailed implementation plan is publicly notified as prescribed in Article 15 (2), the authorization of the project and the public notice of such authorization pursuant to Articles 20 (1) and 22 of the Act on Acquisition of and Compensation for Land, etc. for Public Works Projects shall be deemed granted, and the request for the rulings may be made within the implementation period of the project as determined by the detailed implementation plan, notwithstanding Articles 23 (1) and 28 (1)

of the same Act.

(3) The concessionaire may entrust the competent authority or the head of the relevant local government with the tasks of land purchase, compensation for loss, resettlement of local residents, etc. concerning the expropriation and use of land, etc. as prescribed by the Presidential Decree. In such cases, the fee for the entrustment shall be prescribed by Presidential Decree.

(4) Except as otherwise provided by this Act or related Acts, the Act on the Acquisition of and Compensation for Land, etc. for Public Works shall apply mutatis mutandis to the expropriation or use of land, etc. and other matters as referred to in paragraph (1).

[This Article Wholly Amended on Aug. 4, 2011]

Article 21 (Implementation of Supplementary Project) (1) If deemed necessary for a concessionaire which implement private investment projects to secure the investment cost, administer a smooth operation of the infrastructure concerned, improve user convenience, such as reducing user fees, or ease the financial burden of the competent authority, the competent authority may allow the concessionaire to implement any of the following supplementary projects jointly with the public-private partnership project concerned:
<Amended on Apr. 14, 2011; Jan. 6, 2016; Feb. 8, 2017>

1. Housing construction projects as prescribed by the Housing Act;
2. Housing site development projects as prescribed by the Housing Site Development Promotion Act;
3. Urban/Gun planning facility projects as prescribed by the National Land Planning and Utilization Act;
4. Urban development projects as prescribed by the Urban Development Act;
5. Urban redevelopment projects as prescribed by the Act on the Maintenance and Improvement of Urban Areas and Dwelling Conditions for Residents;
6. Industrial complex development projects as prescribed by the Industrial Sites and Development Act;
7. Tourist accommodation business, tourist entertainment facility business, and business for the development of tourist destinations and resort complexes as prescribed by the Tourism Promotion Act;
8. Logistics terminal businesses as prescribed by the Act on the Development and Management of Logistics Facilities;

9. Port transport businesses as prescribed by the Harbor Transport Business Act;
 10. Superstore (excluding market places), wholesale delivery business, or joint collection and delivery complex business as prescribed by the Distribution Industry Development Act;
 11. Business for the establishment and operation of an off-road parking lot as prescribed by the Parking Lot Act;
 12. Sports facilities business as prescribed by the Installation and Utilization of Sports Facilities Act;
 13. Cultural facilities establishment and operation projects as prescribed by the Culture and Arts Promotion Act;
 14. Natural recreation forest development projects as prescribed by the Forestry Culture and Recreation Act;
 15. Installment and operation business of outdoor advertisements and bulletin facilities as prescribed by the Act on the Management of Outdoor Advertisements, etc. and Promotion of Outdoor Advertisement Industry;
 16. New and renewable energy facilities installment and operation projects as prescribed by the Act on the Promotion of the Development, Use and Diffusion of New and Renewable Energy;
 17. Building establishment and operation business of Article 2 (1) 2 of the Building Act;
 18. Other necessary business for reducing user fees or easing financial burden as prescribed by the Presidential Decree.
- (2) When a concessionaire intends to implement a supplementary project, he/she shall include in his/her specific implementation plan as prescribed in Article 15 (1) matters concerning the supplementary project concerned.
- (3) When a concessionaire intends to implement a supplementary project after obtaining the approval for the specific implementation plan as prescribed in Article 15 (1), he/she shall apply for the approval for the modification of the specific implementation plan from the competent authority.
- (4) When a concessionaire conducting a public-private partnership project intends to implement a supplementary project, he/she shall prepare a supplementary project proposal and apply for the approval therefor from the competent authority.

(5) The competent authority, which received modification approval application or approval applications under paragraphs (3) and (4), shall determine whether it approves it or not, after reviewing the appropriateness of the purpose and conditions of implementing a supplementary project; where the total scale of the public-private partnership project and the supplementary project is more than the amount as prescribed by Presidential Decree under Article 8-2 (2), it shall undergo the deliberation by the Committee.

(6) A supplementary project included in the specific implementation plan that has been approved for modification or a supplementary project that has been approved as prescribed in paragraph (5), notwithstanding Article 14 (4), shall be deemed as a project approved by the competent authority.

(7) The competent authority shall give a public notice of its approval upon authorizing the implementation of the specific implementation plan pursuant to paragraph (5).

(8) If the competent authority has provided a public notice of a specific implementation plan as provided in Article 15 (2) or the implementation of a supplementary project as provided in paragraph (7), it shall be deemed that the authorization and permission, etc. prescribed in the following concerning the relevant supplementary project have been granted. <Amended on Jan. 6, 2016; Jan. 19, 2016; Feb. 8, 2017>

1. Registration prescribed in Article 4 of the Housing Act; approval prescribed in Article 5 (1) of the same Act, and authorization and permission, etc. considered to have been granted as prescribed in Article 19 (1) of the said Act;
2. Designation of a concessionaire of the housing site development project prescribed in Article 7 of the Housing Site Development Promotion Act, approval as prescribed in Article 9 of the same Act, and authorization and permission, etc. deemed granted as prescribed in Article 11 (1) of the said Act;
3. Designation of a concessionaire prescribed in Article 86 of the National Land Planning and Utilization Act, authorization of a specific implementation plan prescribed in Article 88 (2) of the same Act, and authorization and permission, etc. deemed granted as prescribed in Article 92 (1) of the said Act;
4. Designation of a concessionaire prescribed in Article 11 of the Urban Development Act, authorization of a detailed implementation plan prescribed in Article 17 of the same Act, and authorization and permission, etc. deemed granted as prescribed in Article 19 (1) of the said Act;

5. Designation of a designated developer prescribed in Article 27 (1) of the Act on the Maintenance and Improvement of Urban Areas and Dwelling Conditions for Residents and authorization of the implementation plan of project as prescribed in Article 50 of the same Act and Article 29 of the Act on Special Cases concerning Unoccupied House or Small-Scale Housing Redevelopment;
6. Designation of a concessionaire prescribed in Article 16 of the Industrial Sites and Development Act, approval as prescribed in Articles 17, 17-2, 18, 18-2, and 19 of the same Act, and authorization and permission, etc. considered to have been granted as prescribed in Article 21 (1) of the said Act;
7. Approval for a project proposal for tourist accommodation business and tourist-use facility business prescribed in Article 15 of the Tourism Promotion Act, designation of the tourist resort and resort complex as prescribed in Article 52 of the same Act, approval of the formation plan as prescribed in Article 54 of the same Act, and authorization and permission, etc. considered to have been granted as prescribed in Article 58 (1) of the said Act;
8. Registration as prescribed in Article 7 of the Act on the Development and Management of Logistics Facilities, authorization for construction as prescribed in Article 9 of the said Act, and authorization and permission, etc. deemed granted as prescribed in Article 21 (1) of the same Act;
9. Registration prescribed in Article 4 of the Harbor Transport Business Act;
10. Registration prescribed in Article 8 of the Distribution Industry Development Act, designation as prescribed in Article 29 of the same Act, and authorization and permission, etc. deemed granted as prescribed in Article 30 (1) of the same Act;
11. Approval prescribed in Article 12 of the Installation and Utilization of Sports Facilities Act; and authorization and permission, etc. deemed granted as prescribed in Article 28 of the same Act;
12. Designation as prescribed in Article 13 of the Forestry Culture and Recreation Act and approval as prescribed in Article 14 of the same Act;
13. Permission prescribed in Article 3 of the Act on the Management of Outdoor Advertisements, etc. and Promotion of Outdoor Advertisement Industry and registration prescribed in Article 11 of the same Act;

14. Permission as prescribed in Article 11 (1) of the Building Act and authorization and permission, etc. deemed granted as prescribed in Article 11 (5) of the said Act;
15. Designation, registration, approval, etc. and authorization and permission, etc. where Acts related to a supplementary project that is implemented as prescribed in paragraph (1) 18 include provisions that stipulate that a concessionaire is deemed granted designation, registration, approval, etc. and authorization and permission, etc.
- (9) When a competent authority intends to give approval or modification approval of a detailed implementation plan under Article 15 (1), which includes the matters referred to in the subparagraphs of paragraph (8), or authorize the implementation of the supplementary project under paragraph (5), it shall consult the head of the relevant administrative agency (where, under each of the subparagraphs of paragraph (8), authorization and permission, etc. are deemed granted, if the provisions stipulate that authorization and permission, etc. require consultation with the heads of other related administrative agencies, the heads of the relevant administrative agencies shall be included) or receive approval from him/her in advance.
- (10) The head of the relevant administrative agency who has been requested to carry out the consultation or give the approval prescribed in paragraph (9) shall present his opinion in writing, within 30 days after the request is made, stating in detail the reason and the grounds for his opinion. If the opinion is not presented within the said period, it shall be deemed that the consultation has been conducted or that the approval has been granted.
- (11) Except as provided in paragraphs (8) through (10), Articles 24 through 26 of the Framework Act on Administration shall apply mutatis mutandis to the standards, effects, etc. of the legal fiction of authorization, permission, etc. <Newly Inserted on Mar. 26, 2024>
- (12) Matters concerning the implementation of a supplementary project by a concessionaire which are not provided in this Act shall be subject to the provisions of the Acts related to such supplementary project. <Amended on Mar. 26, 2024>
- (13) A concessionaire conducting a housing site development project as a supplementary project as prescribed in paragraph (1) 2 shall be deemed as the State or a local government as prescribed in Article 7 (1) 1 of the Housing Site Development Promotion Act. <Amended on Mar. 26, 2024>

(14) The requirements for implementing supplementary projects as prescribed in paragraph (1) shall be as follows: <Amended on Mar. 26, 2024>

1. The cost required for the supplementary project shall be within the scope of the total private project cost (it refers to the amount obtained by excluding the subsidy granted by the State or local governments to the concessionaire pursuant to Article 53 from the total project cost);
2. The supplementary project shall be implemented in the vicinity of the relevant public-private partnership project site;
3. Other conditions prescribed by Presidential Decree.

(15) The competent authority shall use the profits from the supplementary project in reducing user fees, etc. as prescribed by Presidential Decree. <Amended on Mar. 26, 2024>
[This Article Wholly Amended on Aug. 4, 2011]

Article 21-2 (Support for Supplementary Project) The competent authority may support a concessionaire who conducts a supplementary project as following:

1. Permission for the use, use, permission for profit-making, or the conclusion of a loan contract of national or public property (referring to applying on someone's behalf such as permission for the person who has the right to grant permission, where there is a person who has a right to grant a permission regarding relevant national or public property).
2. Agents for purchasing land or facilities, etc. necessary for the relevant supplementary projects;
3. Other necessary matters for implementing supplementary projects as prescribed by Presidential Decree.

[This Article Newly Inserted on Aug. 4, 2011]

Article 22 (Confirmation of Construction Completion) (1) Where the concessionaire has completed the project pursuant to the detailed implementation plan which has been publicly notified as prescribed in Article 15 (2) or the supplementary project which has been publicly notified as prescribed in Article 21 (7), he/she shall, without delay, file a report on construction completion with the competent authority, and obtain the confirmation of the completion under the conditions prescribed by Presidential Decree.

(2) After receiving the application for the confirmation of construction completion as prescribed in paragraph (1), the competent authority shall inspect the construction completion and deliver the certificate of construction confirmation to the applicant.

(3) When the certificate of construction confirmation under paragraph (2) is delivered, the inspection or authorization of the construction completion of the concerned project attendant on authorization and permission, etc. prescribed in Articles 17 (1) and 21 (8) shall be deemed conducted or granted.

(4) If the competent authority gives the confirmation of construction completion under paragraph (2), or it is considered that the inspection or authorization on completion is conducted or granted as prescribed in paragraph (3), the competent authority shall consult in advance with the head of the related administrative agency.

(5) Land and infrastructure created or installed by a public-private partnership project shall not be used before the delivery of the certificate of construction completion as prescribed in paragraph (2); provided, this shall not apply to the case where the competent authority has granted the authorization for the use thereof before the completion of the construction.

[This Article Wholly Amended on Aug. 4, 2011]

Article 23 (Establishment of Public and Private Infrastructure Investment Management Center)

(1) In order to comprehensively conduct supporting affairs prescribed by Presidential Decree, such as the review of solicited projects, feasibility analysis, evaluation of project plans, etc., the public and private investment management center for infrastructure shall be established as annexed to the Korea Development Institute under the Act on the Establishment, Operation and Fostering of Government-Funded Research Institutions (hereinafter referred to as the "Public and Private Infrastructure Investment Management Center").

(2) Where deemed necessary for performing the affairs referred to in paragraph (1), the Executive Director of the Public and Private Infrastructure Investment Management Center may request the related administrative agency or relevant institutions to render cooperation.

(3) Where deemed necessary for appropriating the expenses incurred in performing the affairs referred to in paragraph (1), the Executive Director of the Public and Private Infrastructure Investment Management Center may receive fees from the related

institutions or organizations that benefit from the said affairs.

(4) Matters necessary for the organization and operation of the Public and Private Infrastructure Investment Management Center shall be prescribed by Presidential Decree.

[This Article Wholly Amended on Aug. 4, 2011]

SECTION 3 Management and Operation of Infrastructure

Article 24 (Management and Operation of Infrastructure) Land or infrastructure created or installed by a public-private partnership project shall be managed and operated in accordance with the provisions of the concession agreement.

[This Article Wholly Amended on Aug. 4, 2011]

Article 24-2 (Preparation of Estimates of Government Subsidies for Build-Transfer-Lease Projects) (1) Under Article 15, the Minister of Economy and Finance shall, every year, prepare an estimate of government subsidies for a build-transfer-lease project (hereinafter referred to as "estimate of government subsidies") that projects the scale of government subsidies falling under the period of more than 10 fiscal years starting from the relevant fiscal year, by years, by competent department, and by relevant facilities. <Amended on Mar. 31, 2020>

(2) When the Minister of Economy and Finance prepares an estimate of government subsidies, he/she shall analyze causes of expansion and contraction of the scale of government subsidies and include them in the estimate.

(3) Matters necessary for preparation, etc. of an estimate of government subsidies shall be prescribed by Presidential Decree.

[This Article Wholly Amended on May 17, 2010]

Article 25 (Use of Facilities) (1) When the construction of infrastructure is completed by the mode referred to in subparagraph 1 or 2 of Article 4, a concessionaire may use the infrastructure free of charge and benefit from them for a certain period after the completion of construction within the scope of the total private project cost determined through the open competition process stated in the concession agreement.

(2) When the construction of infrastructure is completed by the mode referred to in subparagraph 3 of Article 4, a concessionaire may own the infrastructure and benefit from

them for a certain period after the completion of construction within the scope of the total private project cost determined through the open competition process stated in the concession agreement.

(3) Necessary matters for the computation of the period of free use and the period of ownership and profit-making or the alteration of total project cost referred to in paragraphs (1) and (2) shall be prescribed by Presidential Decree; provided, the period of free use and the period of ownership and profit-making shall be not more than 50 years, and such period may be extended if necessary for public interest, such as fare reduction.
<Amended on Mar. 31, 2020>

(4) In order to enjoy the benefits under paragraphs (1) and (2), a concessionaire may permit other entities to use the relevant facilities and collect user fees, such as passage fees, rental, etc. In such cases, details of the user fees, the period of collecting the user fees and other charges shall be prescribed by Presidential Decree.

(5) Notwithstanding paragraphs (1) and (2), if a concessionaire completes the construction before the due construction period or saves construction costs stated in the concession agreement, the period of use or the charges thereof need not be adjusted.

[This Article Wholly Amended on Aug. 4, 2011]

Article 26 (Rights to Manage and Operate Infrastructure) (1) Where a concessionaire who has implemented an infrastructure project by the mode referred to in subparagraph 1 or 2 of Article 4 has received the confirmation of the completion of the construction prescribed in Article 22, the competent authority may grant the concessionaire the rights to manage and operate the infrastructure and to collect the user fee (hereinafter referred to as "management and operation rights") for a certain period for gratuitous use and benefit as prescribed in Article 25 (1).

(2) If a concessionaire has been granted the management and operation rights as prescribed in paragraph (1), he shall register the matter at the competent authority, under the conditions as prescribed by Presidential Decree.

(3) A concessionaire who has made the registration of management and operation rights pursuant to paragraphs (1) and (2) shall be responsible for the proper maintenance and management of the facilities concerned.

(4) Details necessary for the maintenance and management as referred to in paragraph (3) shall be prescribed by Presidential Decree.

[This Article Wholly Amended on Aug. 4, 2011]

Article 27 (Nature of Management and Operation Right) (1) Except as otherwise provided for by this Act, management and operation rights shall be considered as property rights, and the provisions of the Civil Act concerning real estate shall apply mutatis mutandis.
(2) A concessionaire shall receive prior approval from the competent authority before sharing, consolidating, or making a disposition of its management and operation rights.
[This Article Wholly Amended on Aug. 4, 2011]

Article 28 (Change of Rights) (1) Any settlement, change, extinction, and restriction on disposal of the management and operation rights or a mortgage for the purpose of obtaining such rights, shall take effect only by registering it in the registry of management and operation rights which is kept by the competent authority.
(2) Matters necessary for the registration of management and operation rights pursuant to paragraph (1) shall be prescribed by Presidential Decree.
[This Article Wholly Amended on Aug. 4, 2011]

Article 29 (Change in Details of Facilities Use) (1) The competent authority shall not change the details of facilities use prescribed in Articles 25 (1) and (2); provided, where the State or local governments require it for any direct official or public use, and such use is prescribed by Presidential Decree, the competent authority may change the details of use of the relevant infrastructure after consulting with the relevant concessionaire.
(2) If the concessionaire incurs any loss due to the change in the details of facilities use as referred to in the proviso to paragraph (1), the administrative agency which has used the relevant infrastructure shall compensate him for the loss under conditions prescribed by Presidential Decree.
[This Article Wholly Amended on Aug. 4, 2011]

SECTION 4 Infrastructure Credit Guarantee Fund

Article 30 (Establishment and Management of Infrastructure Credit Guarantee Fund) (1) The Infrastructure Credit Guarantee Fund (hereinafter referred to as the "Fund") may be established in order to facilitate securing public-private partnership project fund and guarantee the pecuniary obligations falling under the subparagraphs of Article 34 (1).

(2) The Fund shall be managed and operated by the Credit Guarantee Fund (hereinafter referred to as the "management institution") pursuant to the Credit Guarantee Fund Act. [This Article Wholly Amended on Aug. 4, 2011]

Article 31 (Establishment of Fund) (1) The Fund shall be financed in the following ways:

1. Investment from the Government and local governments;
2. Investment from entities other than those in subparagraph 1;
3. Revenue from guarantee fees;
4. Revenue from managing the Fund;
5. Loans from financial institutions, etc. or other funds.

(2) The method, time, and any other matters concerning the investment under paragraph (1) shall be prescribed by Presidential Decree.

(3) The method of loan, ceiling on loan, and any other necessary matters concerning the loan from financial institutions, etc. or other funds shall be prescribed by Presidential Decree.

[This Article Wholly Amended on Aug. 4, 2011]

Article 32 (Management of Fund) The Fund shall be used for the following purposes:

1. Guarantee of loan obligations;
2. Repayment of principal and interest on loans under Article 31 (1) 5;
3. Expenses for the establishment, operation and management of the Fund;
4. Research and development for the promotion of the Fund and the development of the private investment system;
5. Other purposes as prescribed by Presidential Decree.

[This Article Wholly Amended on Aug. 4, 2011]

Article 33 (Accounting and Settlement of Fund) (1) The fiscal year of the Fund shall be the same as that of the Government.

(2) The management institution shall administer the accounts of the Fund separately from other accounts.

(3) The management institution shall prepare a plan for the management of the Fund for each fiscal year including its gross revenue and expenses, and submit it to the Minister of Economy and Finance who shall approve it no later than the date of commencement of the current fiscal year. The same shall apply to the modification of the plan.

(4) The management institution shall prepare a statement of account, submit it to the Minister of Economy and Finance within 2 months after the lapse of the fiscal year, and publish matters on management under Article 11 of the Act on the Management of Public Institutions.

(5) If any profit accrues from the settlement of the Fund, the total amount thereof shall be reserved.

(6) If any loss is incurred as a result of the settlement of the Fund, it shall be covered by the amount of the reserve referred to in paragraph (5), and if such reserve is insufficient, the Government shall offset it in accordance with the conditions of the budget.

[This Article Wholly Amended on Aug. 4, 2011]

Article 34 (Object and Limit of Guarantee) (1) The management institution may guarantee, at the Fund's expense, the pecuniary obligations falling under the following subparagraphs. In such cases, the management institution shall fairly and faithfully investigate the management conditions, business prospects, credit conditions, etc. of the concessionaire, persons who conduct the construction in excess of the Government placed project expenditure, and persons who issue the infrastructure bonds (herein after referred to as "concessionaire, etc.") in accordance with Article 58:

1. Pecuniary obligations under which a concessionaire, or a person who conducts the construction in excess of the Government placed project expenditure is to pay by getting loans and payment, etc. (hereinafter referred to as "loans, etc.") for public-private partnership project fund from financial institutions or persons who are prescribed by Presidential Decree (hereinafter referred to as "loan institution");
2. Pecuniary obligations under which concessionaire, etc. are to pay by issuing the infrastructure bonds in accordance with Article 58;
3. Pecuniary obligations under which concessionaire, etc. are to pay by getting loans from loan institutions in accordance with Article 58 in order to pay principal and interest on bonds concerned.

(2) In operating the Fund, the management institution shall give priority with regard to the provision of the credit guarantee to small and medium enterprises with weak security capacities.

(3) The limit on the total amount of credit guarantees to be given from the Fund by the management institution shall be prescribed by Presidential Decree, within the scope of 20

times the total amount of the capital investment as prescribed in Article 31 (1) 1 and 2 and the reserve as prescribed in Article 33 (5).

(4) The maximum permissible amount of credit guarantee to be given from the Fund by the management institution to the public-private partnership project (referring to each project conducted in part in cases of the project that is conducted in part under Article 16 (2)) shall be prescribed by Presidential Decree.

(5) The concessionaire, etc. shall not use the loan obtained by guarantee under paragraph (1) or the price paid by the Government in accordance with excess construction for any other purpose, and the management institution may cancel or put a limitation on the guarantee in cases of violations.

[This Article Wholly Amended on Aug. 4, 2011]

Article 35 (Establishment of Guarantee Relation) (1) In giving guarantee under Article 34, the management institution shall conclude a contract with a loan institution, etc. to guarantee, at the Fund's expense, the credit of concessionaire, etc. who intend to get loan for a public-private partnership project.

(2) The guarantee relation between the management institution and the loan institution, etc. shall be deemed to have been established if the management institution examines the application of the concessionaire, etc. who intend to receive the loan for a public-private partnership project and notifies the loan institution with which the contract as prescribed in paragraph (1) was concluded; provided, the effect of such guarantee relation shall be considered as effective from the date when the loan institution concerned pays the public-private partnership project fund.

(3) Notwithstanding paragraph (2), no guarantee relation shall be deemed to have been established, if the loan institution concerned fails to make the actual payment of the loan to the concessionaire, etc. who have applied for the loan for public-private partnership project, or fails to notify the applicant of the approval of the loan, etc. within 60 days after the notification as referred to in paragraph (2).

[This Article Wholly Amended on Aug. 4, 2011]

Article 36 (Guarantee Fee) (1) The management institution shall collect a fee for guarantee from the concessionaire, etc. who receive guarantee, taking into consideration of the scale, financial condition, credit standing, etc. of the concessionaire, etc. as prescribed by

Presidential Decree.

(2) If the concessionaire, etc. fail to pay the guarantee fee within the payment period given, the management institution shall collect the guarantee fee in arrears equivalent to the rate of 10/100 per annum on the guarantee fee unpaid.

[This Article Wholly Amended on Aug. 4, 2011]

Article 37 (Duty of Notification) The domestic or foreign financial institution shall, upon receiving notification as prescribed in Article 35 (2), notify the management institution thereof without delay in the following cases:

1. Where a relation of principal obligation has been established;
2. Where all or part of the principal obligation has expired;
3. Where the obligor has failed to perform the obligation;
4. Where the obligor has lost the benefit of deadline;
5. Where the guarantee relation has not yet been established for the reason under Article 35 (3);
6. Where any other cause which may have an effect on the guarantee obligation has taken place.

[This Article Wholly Amended on Aug. 4, 2011]

Article 38 (Discharge of Guarantee Obligation) (1) Loan institution, etc. or a holder of an infrastructure bond issued under Article 58 may request the payment of the obligation guaranteed to the management institution, if the cause prescribed by Presidential Decree takes place, such as the concessionaire's default of obligation.

(2) The management institution shall, upon the request to discharge the guarantee obligation under paragraph (1), reimburse at the Fund's expense the principal obligation and such other subordinate obligations prescribed by Presidential Decree.

[This Article Wholly Amended on Aug. 4, 2011]

Article 39 (Losses) If the management institution has discharged the guarantee obligation at the Fund's expense, it shall collect losses from the concessionaire, etc. within the limit of 25/100 per annum on the actual amount discharged from the Fund, under conditions prescribed by Presidential Decree.

[This Article Wholly Amended on Aug. 4, 2011]

Article 39-2 (Liability for Compensation of Executive Officer and Employee) (1) Executive officers of the management institution shall be jointly liable for any loss that the fund sustains due to his/her violation of any statute or articles of association or negligence while carrying his/her duty.

(2) Where an employee in charge of credit guarantee duty for the Fund at the management institution has caused losses to the Fund during the performance of his/her duty on purpose or by gross negligence, he/she shall be held responsible for compensation for such losses. In such cases, his/her responsibility can be mitigated except in cases where he/she has intentionally caused the losses.

[This Article Newly Inserted on Aug. 4, 2011]

Article 40 (Rights of Indemnity) (1) If the management institution has discharged the guarantee obligation at the Fund's expense, it shall take any necessary measures for the exercise of the rights of indemnity.

(2) If the concessionaire, etc. for whom the guarantee obligation is discharged at the Fund's expense fall under any of the following subparagraphs, the management institution may reserve the exercise of the rights of indemnity against the relevant concessionaire, etc.:

1. When it is deemed that nothing will remain of the property of the concessionaire, etc., if he/she makes up for the expenses for the exercise of the rights of indemnity;
2. When it is deemed that reserving the exercise of the rights of indemnity can increase the ability of the concessionaire, etc. to repay the financial obligation in the future.

(3) When the management institution reserves the exercise of the rights of indemnity under paragraph (2) 2, it may send an executive officer or an employee to the concessionaire, etc. and have him or her participate in the management concerned.

[This Article Wholly Amended on Aug. 4, 2011]

SECTION 5 Collective Investment Vehicle for Infrastructure

Article 41 (Purposes of Establishment of Collective Investment Vehicle) (1) A company which specializes in investing and financing for infrastructure (hereinafter referred to as a "infrastructure fund") may be established for the purpose of investing its assets in an infrastructure project to distribute benefits accruing therefrom to shareholders or an

infrastructure investment trust (hereinafter referred to as a "infrastructure investment trust") may be established for the purpose of distributing its benefits accruing therefrom to beneficiaries.

(2) An infrastructure fund and an infrastructure investment trust (hereinafter referred to as "collective investment vehicle") shall be deemed to be an investment company and an investment trust respectively pursuant to the Financial Investment Services and Capital Markets Act.

(3) A collective investment vehicle shall be a repurchase prohibition collective investment institution pursuant to Article 230 (1) of the Financial Investment Services and Capital Markets Act.

(4) Except as otherwise provided in this Act, the Financial Investment Services and Capital Markets Act shall be applicable to a collective investment vehicle.

(5) The person who is not a collective investment vehicle under this Act shall not use the titles of collective investment vehicle, infrastructure fund, or infrastructure investment trust or similar titles thereto.

[This Article Wholly Amended on Aug. 4, 2011]

Article 41-2 (Equity Capital of Infrastructure Fund) (1) The equity capital of an investment and loan company shall be more than the amount as prescribed by Presidential Decree within the scope not exceeding 10 billion won on the basis of the time of application for registration.

(2) The minimum net assets of an investment and loan company shall be more than the amount prescribed by Presidential Decree within the scope not exceeding five billion won.

[This Article Wholly Amended on Aug. 4, 2011]

Article 41-3 (Acceptance and Payment for Stocks by Promoters in Case of Promoted Establishment) When promoters of an infrastructure fund have accepted the total number of stocks to be issued at the time of incorporation of an infrastructure fund, they shall immediately pay in cash the total amount of the said acceptance value on each stock.

[This Article Wholly Amended on Aug. 4, 2011]

Article 41-4 (Subscription for Acceptance of Stocks in Case of Recruited Establishment) (1) Where promoters of an investment and financing company have failed to accept the total number of stocks to be issued at the time of incorporation of a company and to persuade

a subscription for acceptance of stocks, they shall provide the counterpart with an explanatory note on investment. Matters concerning items to be included in explanatory notes and the method of provision, etc. shall be prescribed by Presidential Decree.

(2) When promoters of an infrastructure fund have prepared an explanatory note on investment as referred to in paragraph (1), they shall submit it to the Financial Services Commission prior to providing it to the counterpart. The same shall also apply to the time of altering important details prescribed by Presidential Decree.

(3) Promoters of an infrastructure fund shall provide a subscription note for stocks to a person intending to subscribe for the acceptance of stocks as prescribed by Presidential Decree, and any person intending to subscribe for an acceptance of stocks shall state the types, number and address on two copies of the subscription note, and print his name and seal or sign thereon.

(4) Even if promoters of an infrastructure fund have failed to accept the total number of stocks to be issued at the time of incorporation of a company and have persuaded a subscription for acceptance of stocks, they shall accept the stocks of more than the amount equivalent to the ratio as prescribed by Presidential Decree within the scope of not exceeding 10/100 of the equity capital to be fulfilled by an infrastructure fund as referred to in Article 41-2 (1).

[This Article Wholly Amended on Aug. 4, 2011]

Article 41-5 (Loans of Funds and Issuance of Bonds) (1) A collective investment vehicle may borrow or issue bonds for the purposes of raising operational funds and funds for a temporary investment purpose within the scope not exceeding the ratio of the following subparagraphs within the limits of a ration prescribed by Presidential Decree; provided, when a collective investment vehicle borrows or issues the bonds for the purposes of raising operational funds, it shall obtain the approval of the general stockholders' meeting or the general beneficiaries' meeting.

1. For an infrastructure fund, 30/100 of the equity capital;
2. For an infrastructure investment trust, 30/100 of the total amount of profit-making securities.

(2) The limit of borrowing or issuing the bonds referred to in paragraph (1) shall not apply to a collective investment vehicle corresponding to a privately placed fund as referred to in Article 9 (19) of the Financial Investment Services and Capital Markets Act.

[This Article Wholly Amended on Aug. 4, 2011]

Article 41-6 (Notification of Registration of Collective Investment Vehicle) (1) Where the Financial Services Commission receives a registration application of a collective investment vehicle under Article 182 (3) of the Financial Investment Services and Capital Markets Act, it shall send copies of all attached documents including the registration application and collective investment agreement to the Minister of Economy and Finance within the fifth business day from the date of submission, and notify the Minister of Economy and Finance whether the registration has been successful without delay in accordance with Article 182 (4) of the same Act. <Amended on Mar. 29, 2016>

(2) A collective investment vehicle shall, as prescribed by Presidential Decree, submit a quarterly business report on its assets to the Minister of Economy and Finance and the Financial Services Commission.

[This Article Wholly Amended on Aug. 4, 2011]

[Title Amended on Mar. 29, 2016]

Article 41-7 (Conditions on Issuing New Stocks and Profit-Making Securities) Where an infrastructure fund issues new stocks after its incorporation or an infrastructure investment trust additionally issues profit-making securities after its establishment, the value of new stocks or profit-making securities issued shall be computed pursuant to methods prescribed by Presidential Decree on the basis of net assets of the property owned by the relevant collective investment vehicle.

[This Article Wholly Amended on Aug. 4, 2011]

Article 41-8 (Listing Stocks or Profit-Making Securities) (1) When a collective investment business entity of an infrastructure fund and an infrastructure investment trust meet listing requirements pursuant to securities listing regulations under Article 390 (1) of the Financial Investment Services and Capital Markets Act, they shall immediately take procedures for listing their stocks or profit-making securities on the securities exchange.

(2) When a collective investment business entity of an infrastructure fund and an infrastructure investment trust has failed to progress procedures for listing to the securities exchange referred to in paragraph (1), without any justifiable grounds, the Minister of Economy and Finance may order it to make the said implementation within a fixed term.

[This Article Wholly Amended on Aug. 4, 2011]

Article 41-9 (Supervision and Inspection of Collective Investment Vehicle) (1) The Minister of Economy and Finance and the Financial Services Commission may demand a collective investment vehicle or a collective investment business entity, a trust business entity, or a general administration company of the relevant collective investment vehicle to submit data or file a report on the business and property of the company concerned which are related to the business of the collective investment vehicle.

(2) When the Financial Services Commission deems it necessary concerning financial supervision, it may have its subordinate staff members or the Governor of the Financial Supervisory Service referred to in Article 24 of the Act on the Establishment, etc. of Financial Services Commission inspect the businesses of a collective investment vehicle or a collective investment business entity, a trust business entity, or a general administration company of the relevant collective investment vehicle.

[This Article Wholly Amended on Aug. 4, 2011]

Article 42 (Prohibition on Concurrent Conduct) A collective investment vehicle shall not concurrently conduct businesses other than investing funds under Article 43.

[This Article Wholly Amended on Aug. 4, 2011]

Article 43 (Scope of Asset Management) (1) A collective investment vehicle may perform the following businesses: <Amended on Mar. 29, 2016>

1. Acquisition of stocks, shares, and bonds issued by corporations with the purpose of implementing infrastructure projects;
2. Loans to and acquisition of loans against corporations with the purpose of implementing infrastructure projects;
3. Investments in a corporation (excluding the collective investment vehicle) with the purposes of investing by the mode of subparagraph 1 or 2 in the corporation with the purposes of implementing infrastructure projects;
4. Other investments approved as necessary for achieving the purposes under subparagraphs 1 through 3 by the Financial Services Commission.

(2) When deemed necessary for running business under each subparagraph of paragraph (1), a collective investment vehicle may offer its assets as security or make guarantees.

(3) A collective investment vehicle may manage its surplus funds as follows:

1. Deposit in financial institutions, etc.;
2. Purchase of national or public bonds;
3. Purchase of bonds of the same credit rating as national or public bonds or corporate bills within the limit as prescribed by Presidential Decree.

[This Article Wholly Amended on Aug. 4, 2011]

Article 44 (Relationship to Other Statutes) (1) Articles 81, 83, 86, 87, 183, 186 (2) (limited to where Article 87 of the Financial Investment Services and Capital Markets Act applies mutatis mutandis) and 194 (5), the latter part of Article 196 (5), and Articles 230 (2) through (4) and 238 (7) of the Financial Investment Services and Capital Markets Act shall not apply to a collective investment vehicle.

(2) Where an infrastructure fund falls under a holding company defined in subparagraph 7 of Article 2 of the Monopoly Regulation and Fair Trade Act, Article 18 (2) 2 of the same Act shall not apply. <Amended on Dec. 29, 2020>

[This Article Wholly Amended on Aug. 4, 2011]

SECTION 6 Formal Objections and Committee for Mediation of Public-Private Partnership Project Disputes

Article 44-2 (Raising Objection) (1) A person who has suffered a disadvantage due to any of the following matters in the course of implementing a public-private partnership project may file an objection with the competent authority for the purpose of cancelling or correcting acts related to the relevant matters:

1. Matters related to the scope to which a government procurement agreement, etc. applies pursuant to Article 3-2;
2. Matters related to the notification referred to in Article 9 (3) of a public-private partnership project proposed by the private sector and the public notice referred to in Article 10 (3) of a master plan for an infrastructure project;
3. Matters related to the selection of a potential negotiating party or concessionaire referred to in Articles 9 (4) and 13 (2);
4. Other matters prescribed by Presidential Decree, such as the violation of a government procurement agreement, etc.

(2) An objection referred to in paragraph (1) shall be filed with the relevant competent authority within 30 days from the date a person with an objection commits an act constituting a ground for objection or within 10 days from the date a person with an objection becomes aware of the existence of such act.

(3) Upon receipt of an objection filed under paragraph (2), the competent authority shall examine the objection, take necessary measures, such as cancellation, and notify the person who has raised such objection of the outcomes thereof within 10 days from the date the objection was filed.

(4) A person who is dissatisfied with the measures taken under paragraph (3) may file an application for dispute mediation with the Minister of Economy and Finance within 15 days from the date of receipt of such notice. <Amended on Jul. 18, 2023>

[This Article Newly Inserted on Dec. 18, 2012]

[Previous Article 44-2 moved to Article 44-3 <Dec. 18, 2012>]

Article 44-3 (Establishment of Committee for Mediation of Public-Private Partnership Project

Disputes) (1) Upon receipt of an application for dispute mediation concerning a public-private partnership project, the Minister of Economy and Finance shall establish and operate a Public-Private Partnership Project Dispute Mediation Committee (hereinafter referred to as the "Dispute Mediation Committee") without delay. <Amended on Jul. 18, 2023>

(2) The Dispute Mediation Committee shall review and mediate a dispute concerning the implementation of public-private partnership projects upon a request of either or both parties to the dispute. In such cases, the parties may file an application for dispute mediation with the Minister of Finance and Economy without undergoing the procedures for a formal objection referred to in Article 44-2. <Amended on Dec. 18, 2012; Jul. 18, 2023>

(3) Upon receipt of an application under paragraph (2) or Article 44-2 (4), the Minister of Economy and Finance shall refer the relevant case to the Dispute Mediation Committee organized pursuant to paragraph (1). <Newly Inserted on Jul. 18, 2023>

[This Article Newly Inserted on Aug. 4, 2011]

[Title Amended on Jul. 18, 2023]

[Moved from Article 44-2; previous Article 44-3 moved to Article 44-4 <Dec. 18, 2012>]

Article 44-4 (Composition of the Dispute Mediation Committee) (1) The Dispute Mediation Committee shall be comprised of not exceeding nine members, including one chairperson, who represent the Government, the concessionaire and the public interest.

(2) Members who represent the concessionaire and the public interest under paragraph (1) shall fall under any of the following:

1. A person who has served for at least five years as an assistant professor or higher in rank who have taught law, business administration, economics, accounting or engineering at a school under the Higher Education Act;
2. A person who has passed a bar examination and has worked as a judge, prosecutor, or attorney-at-law for at least five years;
3. A person who has profound learning and experience in planning, constructing, or raising funds for, or operating public-private partnership projects and who satisfies the requirements prescribed by Presidential Decree.

(3) A chairperson of the Dispute Mediation Committee shall be appointed by the Minister of Economy and Finance.

[This Article Newly Inserted on Aug. 4, 2011]

[Moved from Article 44-3; previous Article 44-4 moved to Article 44-5 <Dec. 18, 2012>]

Article 44-5 (Notification of Application for Mediation of Disputes) (1) Upon receipt of an application for mediation of a dispute from a party to the dispute, the Dispute Mediation Committee shall notify the other party of the details of such application.

(2) The other party in receipt of notification under paragraph (1) shall notify the Dispute Mediation Committee as to whether he/she or it will respond to mediation.

(3) Notwithstanding paragraph (2), if the notified party is the State or a local government, it shall respond to mediation.

[This Article Newly Inserted on Aug. 4, 2011]

[Moved from Article 44-4; previous Article 44-5 moved to Article 44-6 <Dec. 18, 2012>]

Article 44-6 (Rejection and Suspension of Mediation) (1) If the Dispute Mediation Committee deems it is inappropriate to settle a dispute by mediation of the Dispute Mediation Committee in light of the nature of the dispute or an application for mediation has been filed for any unjust purpose, it may reject the application for mediation. In such cases, it shall notify the applicant of the grounds for rejection of the application for mediation and

other related matters.

(2) If a party to a dispute rejects mediation, the Dispute Mediation Committee shall notify the other party of the details of mediation, the grounds for rejection of mediation and other related matters in writing.

(3) If a party to a dispute files a lawsuit, the Dispute Mediation Committee shall suspend the mediation proceedings and notify the parties thereof.

[This Article Newly Inserted on Aug. 4, 2011]

[Moved from Article 44-5; previous Article 44-6 moved to Article 44-7 <Dec. 18, 2012>]

Article 44-7 (Processing Period) (1) The Dispute Mediation Committee shall prepare a mediation proposal after examining the case referred pursuant to Article 44-3 (3) within 90 days from the date of referral with respect to a case referred pursuant to Article 44-3 (3); provided, in unavoidable circumstances, the period may be extended by a resolution of the Dispute Mediation Committee by up to 60 days. <Amended on Jul. 18, 2023>

(2) When the Dispute Mediation Committee extends the processing period pursuant to the proviso to paragraph (1), it shall notify the party of the grounds for the extension of such period and other matters concerning the extension of such period.

[This Article Newly Inserted on Aug. 4, 2011]

[Moved from Article 44-6; previous Article 44-7 moved to Article 44-8 <Dec. 18, 2012>]

Article 44-8 (Inspection and Hearing of Opinions) (1) If deemed necessary, the Dispute Mediation Committee may direct the members of the Dispute Mediation Committee or public officials of the Ministry of Economy and Finance to inspect the related documents or to visit and inspect the related places of business.

(2) If deemed necessary, the Dispute Mediation Committee may require parties to a dispute or the relevant experts to appear at a Dispute Mediation Committee's meeting and state their opinions.

[This Article Newly Inserted on Aug. 4, 2011]

[Moved from Article 44-7; previous Article 44-8 moved to Article 44-9 <Dec. 18, 2012>]

Article 44-9 (Agreement Prior to Mediation) When both parties to a dispute agree on mediation of the dispute, the Dispute Mediation Committee shall suspend mediation of the dispute, immediately prepare a written agreement in accordance with the details that the parties agreed on, and the chairperson and the respective parties shall place their

signatures and seals on such agreement.

[This Article Newly Inserted on Aug. 4, 2011]

[Moved from Article 44-8; previous Article 44-9 moved to Article 44-10 <Dec. 18, 2012>]

Article 44-10 (Effect of Mediation) (1) When the Dispute Mediation Committee completes a mediation proposal, it shall present the proposal to the parties without delay.

(2) Upon receipt of a mediation proposal under paragraph (1), the parties shall notify the Dispute Mediation Committee as to whether they will accept the proposal within 15 days from the date the proposal was issued.

(3) Where the parties accept the mediation proposal, the Dispute Mediation Committee shall immediately prepare a mediation protocol, and the chairperson of the Dispute Mediation Committee and the parties shall place their signatures and seals thereon.

(4) Where the parties accept a mediation protocol in accordance with paragraph (3), they shall be deemed to have reached agreement on terms and conditions with the same effect as the mediation protocol.

[This Article Newly Inserted on Aug. 4, 2011]

[Moved from Article 44-9; previous Article 44-10 moved to Article 44-11 <Dec. 18, 2012>]

Article 44-11 (Liability for Expenses) (1) A person who applies for mediation of a dispute shall pay the expenses incurred in appraisal, examination, testing, etc. for mediation of the dispute; provided, if the parties have agreed on such matters, they shall be governed in accordance with the agreement.

(2) If deemed necessary, the Dispute Mediation Committee may require the parties to pay the expenses under paragraph (1) in advance.

[This Article Newly Inserted on Aug. 4, 2011]

[Moved from Article 44-10; previous Article 44-11 moved to Article 44-12 <Dec. 18, 2012>]

Article 44-12 (Service of Documents)

Articles 174 through 197 of the Civil Procedure Act shall apply mutatis mutandis to the service of documents related to dispute mediation. [This Article Newly Inserted on Aug. 4, 2011]

[Moved from Article 44-11; previous Article 44-12 moved to Article 44-13 <Dec. 18, 2012>]

Article 44-13 (Operation of Dispute Mediation Committee) Except as provided for in Articles 44-3 through 44-12, matters necessary for the composition, operation of the Dispute Mediation Committee and the mediation procedures, etc. shall be prescribed by Presidential Decree. <Amended on Dec. 18, 2012>

[This Article Newly Inserted on Aug. 4, 2011]

[Moved from Article 44-12 <Dec. 18, 2012>]

CHAPTER III SUPERVISION

Article 45 (Supervision and Order) (1) The competent authority may supervise matters related to the public-private partnership project of concessionaire and issue orders necessary for such supervision, only in cases prescribed by Presidential Decree, to the extent such supervision does not interfere with the free management of the concessionaire.

(2) The Minister of Economy and Finance may supervise the management institution in the management of the Fund and issue necessary orders for such supervision.

[This Article Wholly Amended on Aug. 4, 2011]

Article 46 (Disposition of Violation, etc. of Statutes) In cases falling under any of the following subparagraphs, the competent authority may revoke or change an order or disposition made under this Act, suspend or alter infrastructure work, remodel, alter, transfer, remove or restore the original state of any facilities or things thereof, or take any other necessary dispositions to the violator:

1. Where the designation, approval, or confirmation, etc. pursuant to this Act is granted in any false or other unlawful means;
2. Where this Act, or an order or a disposition under this Act is violated;
3. Where the concessionaire fails to commence construction work within the period determined by the detailed implementation plan without justifiable grounds, or where it is deemed that the execution of the project is impossible because of the concessionaire's delay or avoidance of project implementation after the commencement of construction;
4. Where the corporation incorporated as prescribed in Article 14 (3) violates the provisions of Article 14 (4).

[This Article Wholly Amended on Aug. 4, 2011]

Article 46-2 (Limitation of Qualification for Participation in Public-Private Partnership Project on Unjust Concessionaire) The competent authority shall put limitation of qualification for participation in the public-private partnership project within the extent of two years on a person who is apprehended to harm the impartial competition or appropriate execution of concession agreement, or any other person recognized as inappropriate to allow participation in the public-private partnership project, under conditions prescribed by Presidential Decree, and shall immediately notify other competent authorities thereof. In such cases, the competent authorities that have been notified shall put limitation of qualification for participation in the public-private partnership project on the relevant person under conditions prescribed by Presidential Decree.

[This Article Wholly Amended on Aug. 4, 2011]

Article 47 (Disposition for Public Interest) (1) In the following cases, the competent authority may implement the disposition prescribed in Article 46 against a party who has obtained designation, approval, or confirmation under the conditions as prescribed by this Act. In this case, the project designated by going through a deliberation by the Committee shall go through a deliberation by the Committee:

1. Where it is necessary for public interest such as efficient operation of the infrastructure or a change of circumstances;
2. Where it is required for the efficient implementation of the infrastructure works;
3. Where force majeure such as war or natural disaster takes place.

(2) If there is any concessionaire who suffers loss due to the disposition as referred to in paragraph (1), the competent authority shall make compensation for such loss. In this case, the competent authority shall consult with the concessionaire about the compensation for loss, and if the two fail or are unable to reach an agreement with each other, they may request a ruling to the concerned land expropriation committee under the conditions as prescribed by Presidential Decree.

[This Article Wholly Amended on Aug. 4, 2011]

Article 48 (Hearing) The competent authority shall hold a hearing, if it intends to take the following dispositions:

1. Disposition pursuant to the provisions of Article 46;

2. Disposition pursuant to the provisions of Article 47 (1).

[This Article Wholly Amended on Aug. 4, 2011]

Article 49 (Measures concerning Cancellation of Concessionaire Designation) If the competent authority cancels the designation of the concessionaire as prescribed in Articles 46 and 47, it may directly implement the public-private partnership project concerned or may designate a new concessionaire under Article 13 to continue the implementation of the project.

[This Article Wholly Amended on Aug. 4, 2011]

Article 50 (Cancellation of Designation of Such Solicited Project) (1) The competent authority may cancel the designation of the solicited project pursuant to Article 8-2 (2) through the deliberation of the Committee in the following cases:

1. When the master plan for infrastructure project is not publicly notified within the period specified in Article 10 (1);
 2. When the master plan for infrastructure project is publicly re-notified as prescribed in Article 10 (4) but the project proposal pursuant to Article 13 has not been submitted.
- (2) The competent authority may cancel the designation of solicited projects other than those under Article 8-2 (2), if they fall under the subparagraphs of paragraph (1).
- (3) The competent authority shall make a public notice, without delay, in the Official Gazette on the cancellation of the designation of the solicited project as prescribed in paragraphs (1) and (2).

[This Article Wholly Amended on Aug. 4, 2011]

Article 51 (Reporting and Inspection) (1) If deemed necessary for supervision, the competent authority may take necessary measures, such as requesting the concessionaire to make a report necessary for the management and operation of the infrastructure, or dispatching any public official under its control to visit the site or inspect documents.

(2) A public official who visits the site or inspects documents as prescribed in paragraph (1) shall carry a certificate indicating his power and present it to the relevant party.

[This Article Wholly Amended on Aug. 4, 2011]

Article 51-2 (Submission and Evaluation of Actual Results of Promotion of Public-Private Partnership Projects) (1) The competent authority shall submit a report on the conditions

of operation, actual results of promotion, etc. for each implementation method of public-private partnership projects under Article 4 to the Minister of Economy and Finance on a yearly basis.

(2) The Minister of Economy and Finance shall open to the public the report that has been submitted under paragraph (1) and submit it the Special Committee on Budget and Accounts under the jurisdiction of the National Assembly by May 31 every year.

(3) After the Minister of Economy and Finance conducts comprehensive evaluation of public-private partnership projects and comes to a conclusion through deliberation and resolution of the Committee, he shall reflect the result of evaluation in the establishment, etc. of major policies on public-private partnership project.

(4) Matters necessary for the submission and opening to the public of the report, and for the comprehensive evaluation under paragraphs (1) through (3) shall be prescribed by Presidential Decree.

[This Article Wholly Amended on Aug. 4, 2011]

Article 51-3 (Disclosure of Information on Concession Agreements) (1) The competent authority shall disclose information on the details, modifications, etc. of a concession agreement that is concluded with a concessionaire to improve the transparency of public-private partnership projects; provided, information corresponding to business or trade secrets of the concessionaire may not be disclosed.

(2) Matters necessary for the scope of and methods and procedures for information disclosure under paragraph (1) shall be prescribed by Presidential Decree.

[This Article Newly Inserted on Mar. 31, 2020]

CHAPTER IV SUPPLEMENTARY PROVISIONS

Article 52 (Investment by Public Sector) (1) Where the public sector invests in a public and private joint corporation (including a joint corporation to be newly incorporated; hereinafter the same shall apply) conducting infrastructure projects promoted in the mode as referred to in subparagraph 4 of Article 4, the share of the total amount of investment by the public sector shall be less than 50 percent, except cases where it is prescribed by Presidential Decree.

(2) Where the public sector invests in a public and private joint corporation as prescribed in paragraph (1), it shall not exercise voting rights, notwithstanding the provisions of Article 369 (1) of the Commercial Act, except cases where it is prescribed by Presidential Decree.

(3) The State or a local government may, if deemed necessary, contribute in kind the following property to a public and private joint corporation, notwithstanding the provisions of the State Properties Act and the Public Property and Commodity Management Act:

1. General properties as prescribed in Article 6 (3) of the State Properties Act and Article 5 (3) of the Public Property and Commodity Management Act;
2. Movable property annexed to the general properties referred to in subparagraph 1 which are prescribed in Article 2 (1) of the Commodity Management Act and subparagraph 2 of Article 2 of the Public Property and Commodity Management Act;
3. Management and operation rights;
4. Other properties as prescribed by Presidential Decree.

(4) The value of the management and operation rights contributed to a public and private joint corporation as prescribed in paragraph (3) shall be calculated, taking into consideration the amount invested in the new construction, extension, improvement or operation of the infrastructure by the State and the local governments and the profitability thereof.

[This Article Wholly Amended on Aug. 4, 2011]

Article 53 (Financial Support) If it is necessary for the efficient implementation of construction projects of revertible facilities, the State or a local government may grant a subsidy or extend a long-term loan to the concessionaire, only where prescribed by Presidential Decree.

[This Article Wholly Amended on Aug. 4, 2011]

Article 54 (Introduction of Foreign Loan) The concessionaire may have a foreign loan introduced under the conditions as prescribed by the Foreign Exchange Transactions Act and the Foreign Investment Promotion Act.

[This Article Wholly Amended on Aug. 4, 2011]

Article 55 (Special Case of Dividends) In the payment of dividends of a public and private joint corporation, the public sector which has invested in the public and private joint corporation may additionally provide all or part of the public sector's dividends to the

shareholders in the private sector, notwithstanding the provisions of Article 464 of the Commercial Act, if it is deemed necessary for the protection of small and medium-enterprises or minor shareholders.

[This Article Wholly Amended on Aug. 4, 2011]

Article 56 (Reduction or Exemption of Charges) (1) Where it is required to divert any farmland or mountainous district in an area designated for the implementation of a public-private partnership project, a concessionaire may be given a discount or an exemption of the farmland preservation charges or the afforestation of substitute forest resources expenses under conditions prescribed by the Farmland Act or the Management of Mountainous Districts Act.

(2) When a concessionaire conducts a public-private partnership project, he/she may be given a discount or an exemption of development charges or overpopulation charges under conditions prescribed by the Restitution of Development Gains Act or the Seoul Metropolitan Area Readjustment Planning Act.

[This Article Wholly Amended on Aug. 4, 2011]

Article 57 (Reduction or Exemption of Tax) The State or local governments may reduce or exempt the taxes to promote private investment under conditions prescribed by the Restriction of Special Taxation Act and the Restriction of Special Local Taxation Act.

[This Article Wholly Amended on Aug. 4, 2011]

Article 58 (Issuance of Infrastructure Bond) (1) A concessionaire or a corporation specializing in the business of asset-backed securitization under the Asset-Backed Securitization Act, or a financial institution, etc. prescribed by Presidential Decree may issue bonds (hereinafter referred to as "Infrastructure Bond") under conditions prescribed by Presidential Decree in order to procure funds necessary for the execution of a public-private partnership project or to discharge an obligation assumed in connection with a public-private partnership project.

(2) Funds raised through the infrastructure bond pursuant to paragraph (1) shall not be used for purposes, other than for a public-private partnership project.

[This Article Wholly Amended on Aug. 4, 2011]

Article 59 (Grant of Purchase Claim) If a concessionaire of a revertible facility is unable to construct, manage, or operate infrastructure due to inevitable circumstances prescribed by Presidential Decree, including natural calamities, he may request the State or a local government to purchase the relevant project (including supplementary projects) as prescribed by Presidential Decree.

[This Article Wholly Amended on Aug. 4, 2011]

Article 60 (Deliberation on Design and Construction Project Management with Regard to Revertible Facilities) (1) The feasibility of design, safety, and propriety of construction work of revertible facilities shall be subject to the deliberation by the Committee for Deliberation on Construction Technology under Article 5 of the Construction Technology Promotion Act or the Consultative Committee on Technology under Article 6 of the said Act. <Amended on May 22, 2013>

(2) The management of construction projects of revertible facilities shall be conducted in accordance with the provisions of Article 39 (2) of the Construction Technology Promotion Act. <Amended on May 22, 2013>

[This Article Wholly Amended on Aug. 4, 2011]

[Title Amended on May 22, 2013]

Article 61 (Delegation of Authority) The competent authority may delegate a part of the authority as prescribed by this Act to the head of an administrative agency under its jurisdiction, the head of a local government, or the head of the local government in the area under its jurisdiction.

[This Article Wholly Amended on Aug. 4, 2011]

Article 61-2 (Legal Fiction as Public Officials for Purposes of Penalty Provisions) Any person who is not a public official among the members of the Deliberation Committee and Dispute Mediation Committee shall be deemed a public official in applying Articles 129 through 132 of the Criminal Act.

[This Article Newly Inserted on Aug. 4, 2011]

Article 61-3 (Duties in Functions) The competent authority and a person in charge of an infrastructure project of the administrative agency shall be responsible for the duties to prevent the financial waste and loss in the State or a local government in performing

business activities related to a public-private partnership project (including a supplementary project under Article 21).

[This Article Newly Inserted on Aug. 4, 2011]

CHAPTER V PENALTY PROVISIONS

Article 62 (Penalty Provisions) A person who falls under any of the following subparagraphs shall be punished by imprisonment with labor for not more than three years or by a fine not exceeding 30 million won:

1. A person who has been designated as a concessionaire as prescribed in Article 13 by fraud or other improper means;
2. A person who has obtained approval or approval for modification of the detailed implementation plan as prescribed in Article 15 (1) and authorization of the implementation of a supplementary project under Article 21 (5) by fraud or other improper means;
3. A person who conducts any public-private partnership project without obtaining approval for the detailed implementation plan and the modification thereof as prescribed in Article 15 (1);
4. A person who manages assets in violation of Article 43.

[This Article Wholly Amended on Aug. 4, 2011]

Article 63 (Penalty Provisions) A person who falls under any of the following subparagraphs shall be punished by imprisonment with labor for not more than one year or by a fine not exceeding 10 million won:

1. A person who uses land or infrastructure without obtaining the confirmation of construction completion as prescribed in Article 22 (2);
2. A person who uses the title of a collective investment vehicle, an infrastructure fund, an infrastructure investment trust or that similar thereto in violation of Article 41 (5);
3. A person who fails to offer an explanatory note for investment as prescribed in Article 41-4 (1), or offers an explanatory note for investment prepared in falsity;
4. A person who borrows the fund or issues the bonds in violation of the purpose or limit as referred to in the provisions of Article 41-5;

5. A person who violates a disposition against the violation of statutes as prescribed in Article 46;
6. A person who acts in contravention of a disposition for the public interest as prescribed in Article 47 (1).

[This Article Wholly Amended on Aug. 4, 2011]

Article 64 (Joint Penalty Provisions) If a representative of a corporation, or an agent, servant or any other employee of a corporation or individual commits any offense under Article 62 or 63 in connection with the affairs of the corporation or the individual, not only shall the offender be punished accordingly, but the corporation or the individual shall also be punished by a fine as prescribed in the corresponding provisions; provided, this shall not apply where such corporation or individual has not neglected to supervise the relevant business with due care to prevent such offense.

[This Article Wholly Amended on Dec. 29, 2009]

Article 65 (Administrative Fines) (1) Any of the following persons shall be punished by an administrative fine not exceeding 10 million won:

1. A person who, without justifiable grounds, refuses to comply with or obstructs the relevant concessionaire from his/her access to the land, his/her temporary use or alteration of obstacle therein under Article 18;
2. A person who fails to implement an order for stock listing as prescribed in Article 41-8 (2);
3. A person who violates an order for supervision prescribed in Article 45;
4. A person who fails to submit a report as prescribed in Article 51 (1) or who submits a false report;
5. A person who refuses, interrupts, or avoids the inspection, etc. prescribed in Article 51 (1).

(2) Administrative fines as prescribed in paragraph (1) shall be imposed and collected by the competent authority, the Minister of Economy and Finance, or the head of a local government under conditions prescribed by Presidential Decree.

[This Article Wholly Amended on Aug. 4, 2011]