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**ENFORCEMENT DECREE OF THE ACT ON PUBLIC-PRIVATE
PARTNERSHIPS IN INFRASTRUCTURE**

[Enforcement Date 17. May, 2024.] [Presidential Decree No.34505, 14. May, 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 Decree is to prescribe matters mandated by the Act on Public-Private Partnerships in Infrastructure and those necessary for the enforcement thereof.

[\[This Article Wholly Amended on Nov. 4, 2011\]](#)

Article 1-2 Deleted. <Nov. 4, 2011>

Article 2 (Scope of Financial Institutions) "Persons ... prescribed by Presidential Decree" in subparagraph 17 (l) of Article 2 of the Act on Public-Private Partnerships in Infrastructure (hereinafter referred to as the "Act") means the Korea Federation of Community Credit Cooperatives under the Community Credit Cooperatives Act and the National Credit Union Federation of Korea under the Credit Unions Act. <Amended on Mar. 18, 2013; Sep. 29, 2020>

[\[This Article Wholly Amended on Nov. 4, 2011\]](#)

Article 2-2 (Calculation of Total Project Costs) "Costs ... , as prescribed by Presidential Decree" in the main sentence of Article 3-2 (1) of the Act means the following costs:

1. Survey costs: Measurement expenses and other survey expenses for project implementation (calculated based on the standards for prices for engineering projects referred to in Article 31 of the Engineering Industry Promotion Act);
2. Design costs: Costs incurred for executing construction works (calculated based on the standards for prices for engineering projects referred to in Article 31 of the Engineering Industry Promotion Act or the standards for fees referred to in Article 19-3 of the Certified Architects Act);
3. Construction costs: Total sum of material costs, labor costs, expenditure, general and administrative expenses and profits for executing construction works (calculated based

on the criteria for determination of projected price referred to in Article 9 of the Enforcement Decree of the Act on Contracts to Which the State Is a Party and based on the Government Standard Production Unit System and Government unit prices (referring to prices publicly notified by the Government, if any));

4. Compensation costs: Costs incurred for compensations for project implementation (referring to the costs incurred pursuant to Articles 70 through 75, 75-2, 76 through 78, 78-2 and 79 of the Act on Acquisition of and Compensation for Land, etc. for Public Works Projects);
5. Incidental costs: Various kinds of costs associated with project implementation, such as costs for feasibility analysis, environmental impact assessment, supervision, etc.;
6. Operating facilities costs: Prices of equipment, installation, and machinery and materials first invested to operate facilities;
7. Taxes and public charges of various kinds: Various taxes and public charges, such as acquisition tax and value-added tax related to the execution of construction works, completion and registration of the completed facilities, and ownership transfer, and various levies imposed by other statutes;
8. Reserves for operation: Essential expenses incurred by a public-private partnership corporation, such as costs for establishing and commencing business to operate facilities.

[This Article Newly Inserted on Mar. 18, 2013]

Article 2-3 (Scope of Application of Government Procurement Agreements) (1) "Cases ... prescribed by Presidential Decree" in the proviso to Article 3-2 (1) of the Act means:

1. Where infrastructure is related to fulfilling national security or defense goals and essential to protect crucial security interests;
2. Where necessary to maintain public order and safety.

(2) The scope of a competent authority referred to in Article 3-2 (2) of the Act shall be as specified in attached Table 1.

(3) "Where it is prescribed by Presidential Decree" in Article 3-2 (4) of the Act means:

1. Where necessary to prevent defective construction;
2. Where it is necessary to apply government procurement agreements or international agreements referred to in Article 3-2 (1) of the Act (hereafter referred to in Article 34-7 as "government procurement agreements, etc.") for safety improvement, technological development, etc.

[This Article Newly Inserted on Mar. 18, 2013]

Article 3 (Organization of Public-Private Partnerships Committee) (1) The vice ministers of administrative ministries in charge of the affairs concerning infrastructure referred to in Article 6 (1) of the Act shall be as follows: <Amended on Oct. 20, 2015>

1. The Vice Minister of Economy and Finance appointed by the Minister of Economy and Finance;
 2. The Vice Minister of Education;
 3. The Vice Minister of National Defense;
 4. The Vice Minister of Environment;
 5. The Vice Minister of Land, Infrastructure and Transport appointed by the Minister of Land, Infrastructure and Transport;
 6. The Vice Minister of Oceans and Fisheries;
 7. Other vice ministers of administrative ministries having jurisdiction over a public-private partnership project (a person designated by the head of the relevant agency where two or more vice ministers) which is on the agenda at the Public-Private Partnerships Review Committee referred to in Article 5 of the Act (hereinafter referred to as the "Committee").
- (2) The term of office for commissioned members of the Committee shall be two years, renewable for only one further term.
- (3) The Committee shall have an administrative secretary appointed by the chairperson of the Committee (hereinafter referred to as the "chairperson of the Committee") from among public officials of Grade III of the Ministry of Economy and Finance or members in general service of the Senior Executive Service under the control of the Ministry of Economy and Finance.

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

Article 4 (Operation of Committee) (1) The chairperson of the Committee shall represent the Committee and exercise general control over the affairs of the Committee.

(2) When the chairperson is unable to perform his or her duties for an inevitable cause, a member of the Committee appointed in advance by the chairperson of the Committee shall perform such duties on behalf of the chairperson of the Committee.

(3) The chairperson of the Committee shall convene and preside over meetings of the Committee.

(4) Meetings of the Committee shall be commenced upon the attendance of a majority of all members, and decisions shall be made with the consent of a majority of those present. Meeting of the Committee may be held by means of a remote video conference by which the members attend from different locations equipped with devices for sending and receiving video and audio signals in real time, and where there is insufficient time to convene a meeting of the Committee or it is otherwise deemed especially necessary by the chairperson of the Committee, the meeting may be replaced with a written resolution. <Amended on Oct. 20, 2015>

(5) The Committee may request experts in relevant fields to attend the meetings and state their opinions, or the relevant authorities and organizations to submit necessary documents and present their opinions, if necessary for the work of the Committee.

(6) Allowances and travelling expenses may be paid, within budgetary limits, to the commissioned members and experts who attend the meetings of the Committee.

(7) Article 34-8 (7) shall apply mutatis mutandis to the decommissioning of commissioned members of the Committee and Article 34-12 shall apply mutatis mutandis to the disqualification of, challenge to and refrainment by members of the Committee. <Newly Inserted on Mar. 18, 2013>

(8) Except as provided in this Decree, matters necessary for the management of the Committee shall be determined by the chairperson of the Committee subject to resolution by the Committee. <Amended on Mar. 18, 2013>

(9) Paragraphs (1) through (7) shall apply mutatis mutandis to the operation of the review committee of each competent authority under Article 6 (4) of the Act. <Amended on Mar. 18, 2013>

(10) Except as provided in paragraph (9), matters necessary for the composition, operation, and procedures of the review committee of each competent authority under Article 6 (4) of the Act shall be determined and publicly notified by the competent authority: Provided, That if the competent authority is the head of a local government, such matters shall be determined by municipal ordinance of the relevant local government. <Amended on Mar. 18, 2013>

[\[This Article Wholly Amended on Nov. 4, 2011\]](#)

CHAPTER II INFRASTRUCTURE PROJECTS

SECTION 1 Master Plan for Public-Private Partnerships in Infrastructure

- Article 5 (Procedures for Formulation of Master Plans for Public-Private Partnerships in Infrastructure)** (1) A master plan for public-private partnerships in infrastructure (hereinafter referred to as "master plan for public-private partnerships in infrastructure") under Article 7 (1) of the Act shall be formulated by the Minister of Economy and Finance through deliberation by the Committee in consultation with the heads of related central administrative agencies. The same shall apply to the modification thereto (excluding the modification of insignificant matters determined by the Committee). [<Amended on Nov. 4, 2011>](#)
- (2) Deleted. [<Mar. 8, 2005>](#)
- (3) The head of each related central administrative agency shall notify the Minister of Economy and Finance of any matters which he or she intends to include in a master plan for public-private partnerships in infrastructure by no later than October 31 of each year. [<Amended on Nov. 4, 2011>](#)

- Article 5-2 (Submission to National Assembly of Aggregate Ceiling of Build-Transfer-Lease Projects)** (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 of the Act (hereinafter referred to as "build-transfer-lease project"), the reserve limit amount (hereafter in this Article referred to as "aggregate ceiling, etc.") to meet unexpected expenditures in the process of promoting the project, and the details of use of reserve limit amount by object facility disbursed in the previous year to the National Assembly with approval from the President. [<Amended on Sep. 29, 2020>](#)
- (2) The Minister of Economy and Finance may notify the head of each central administrative agency of necessary matters, such as the establishment of the aggregate ceiling, etc. on build-transfer-lease projects and guidelines on the details of use of the reserve limit for each object facility disbursed in the preceding year. [<Amended on Sep. 29, 2020>](#)
- (3) In cases of a public-private partnership project which is implemented by mixing it with a build-transfer-lease project under subparagraph 1 of Article 4 of the Act (hereinafter referred to as "mixed public-private partnership project"), the aggregate limit, etc. and the details of the use of the reserve limit amount by object facility disbursed in the previous

year shall be submitted to the National Assembly with respect to the portion corresponding to the build-transfer-lease project.<Newly Inserted on Sep. 29, 2020>

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

Article 6 (Solicited Projects to be Deliberated by Committee) "Infrastructure projects of the specified scale as prescribed by Presidential Decree or larger" in Article 8-2 (2) of the Act means infrastructure projects which require a total project cost (referring to the total project cost calculated under Article 13 (2); hereinafter the same shall apply) of 200 billion won or over (100 billion won for projects conducted by the methods referred to in subparagraph 2 of Article 4 of the Act).

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

Article 7 (Implementation Process for Projects Proposed by Private Sector) (1) A written proposal under Article 9 (2) of the Act shall include the following matters:

1. Outcomes of the feasibility study of the proposed project;
2. Details of the project proposal;
3. Details of total project cost and fundraising plan;
4. Details regarding determination of free use period, and ownership and profit-making period (limited to revertible facilities);
5. Facility management and operation plan;
6. Income and expenditure plan including such items as the user fee, etc.;
7. Details of and reasons for the implementation of supplementary projects, if any;
8. Other matters which the proposer deems necessary for the implementation of the project concerned.

(2) The competent authority may, where the items referred to in paragraph (1) to be entered in the project proposal submitted under Article 9 (2) of the Act are omitted or their details are obscure, request the proponent to supplement them within a specified period, and where the authority concludes that a case falls under any of the following subparagraphs, it may return the project proposal within 30 days from the date of receipt:

1. Where it concludes that it fails to conform with statutes or regulations and the policies of the competent authority;
2. Where it has been implementing basic design for the same details of the proposed project by appointing it as a potential public-private partnership project under Article 8-2 (1) of the Act or implementing it as a financial project.

(3) Where the competent authority deems that the project proposal submitted under Article 9 (2) of the Act meets the formal requisites and conforms with statutes or regulations and the policies of the competent authority, it shall request the head of any of the following institutions to review the details of the project proposal before deciding upon whether the proposed project is to be implemented as a public-private partnership project: Provided, That with respect to a project for which at least 30 billion won is provided from the national finance among projects that require a total project cost of at least 50 billion won or a project whose total project cost is at least 200 billion won, such request shall be made to the head of an institution falling under subparagraph 1 or 2: <Amended on May 7, 2019>

1. The Public and Private Infrastructure Investment Management Center established under Article 23 (1) of the Act (hereinafter referred to as "Public and Private Infrastructure Investment Management Center");
2. A specialized institution designated under Article 8-2 (1) of the National Finance Act to conduct a preliminary feasibility study under Article 38 (1) of that Act;
3. Other specialized institutions deemed capable of reviewing the proposed project and thus designated and publicly notified by the Minister of Economy and Finance, which have organizations and professional human resources to review project proposals, and have a track record of performing affairs relating to the analysis of feasibility and the value for money test.

(4) The competent authority shall request the review of the details of a project proposal pursuant to paragraph (3) within 30 days from the date of receipt of the project proposal such as where a request for supplementation is made under paragraph (2) unless there is a compelling reason not to do so, and if it is impossible to request such review within the said period, the competent authority shall notify the proponent of the reasons therefor and the scheduled date for requesting the review. <Newly Inserted on May 7, 2019>

(5) The head of an institution falling under the subparagraphs of paragraph (3) may, where the related data required for the review of the details of a project proposal requested under paragraph (3) are incomplete, request the competent authority to supplement them within a specified period. <Amended on May 7, 2019>

(6) With respect to a project which requires a total project cost of at least 200 billion won, from among the proposed projects requested for review under paragraph (3), the head of an institution falling under paragraph (3) 1 or 2 shall conduct the value for money test

including the following details. In such cases, the matters referred to in subparagraphs 1 and 2 may be excluded in any case falling under the subparagraphs of Article 38 (2) of the National Finance Act where the Committee determines that there is less need to make economic and policy decisions on a proposed project: <Amended on May 7, 2019>

1. Analysis of economic feasibility;
2. Analysis of policy necessity;
3. Analysis of the appropriateness of the method of public-private partnership compared with the implementation of the relevant project as a financial project.

(7) The head of an institution falling under the subparagraphs of paragraph (3) shall hear opinions from a proponent of a project before reviewing the relevant project proposal or commencing the value for money test. <Newly Inserted on May 7, 2019>

(8) The head of an institution falling under any of paragraph (3) shall submit his or her opinion about the relevant project proposal to the competent authority and the Minister of Economy and Finance within 60 days after the receipt of the request for review of the proposal from the competent authority, except for inevitable circumstances such as where the supplementation requested under paragraph (5) is delayed or the value for money test is to be conducted under paragraph (6), and if it is deemed that the project is appropriate for being implemented as a public-private partnership project, he or she may present different opinions from those stated in the original project proposal about various conditions on the implementation of the project, such as appropriate project costs, user fees, profit rates, etc. <Amended on May 7, 2019>

(9) The competent authority shall, in consideration of the opinion, etc. of the head of an institution falling under any of paragraph (3), notify the proponent of its opinion on the relevant project proposal, including whether the proposed project is to be implemented as a public-private partnership project, in writing within 60 days after the receipt of the opinion of the head of such institution, except in inevitable circumstances, and if the notification cannot be made within the said period, it shall notify the proponent of the reasons therefor and the scheduled date of the notification. In such cases, if it intends to implement a proposed project falling under any subparagraph of Article 8 as a public-private partnership project, it shall submit the proposed details, etc. to the Committee for deliberation in advance. <Amended on May 7, 2019>

(10) Where the competent authority publicly announces the outline of a proposal pursuant to Article 9 (3) of the Act, it shall publish it in the Official Gazette, three or more daily

newspapers, and on its own website by specifying a period for proposal by a third party of not less than 30 days. In such cases, the competent authority may publicly announce such outline, including matters different from details of the relevant proposal about various conditions on the implementation of the project, such as appropriate project costs, user fees, profit rates, etc., and the initial proponent may submit a modified proposal within the time limit set in the public announcement.

(11) Article 13 shall apply *mutatis mutandis* to the review and evaluation by the competent authority under the former part of Article 9 (4) of the Act. In such cases, "business plan" shall be construed as "project proposal".

(12) When designating a potential concessionaire under the former part of Article 9 (4) of the Act, the competent authority shall do two or more potential concessionaires by setting priorities unless there is a compelling reason not to do so.

(13) The competent authority may grant preferential treatment to the initial proponent pursuant to the latter part of Article 9 (4) of the Act within the scope defined in any of the following subparagraphs: <Amended on May 7, 2019>

1. Where the initial proponent fails to submit the amended proposal: Ten percent of the total evaluation score;
2. Where the competent authority publicly announces matters different from the details proposed by the initial proponent pursuant to the latter part of paragraph (10), and the initial proponent submits the amended proposal accordingly: Five percent of the total evaluation score.

(14) If no other proposal is made within the period specified in the public announcement under paragraph (10), the competent authority shall designate the initial proponent as the potential concessionaire. <Amended on May 7, 2019>

(15) No competent authority shall, with respect to the project proposal submitted under Article 9 (2) of the Act, disclose to the public the detailed matters of such proposal contrary to the proponent's wishes from the date of acceptance of the relevant project proposal until the public announcement of the details of such proposal under paragraph (10) is issued, and shall include in the details of the public announcement, at the time of such announcement under paragraph (10), any matters which infringe on the proponent's interests, except for the matters necessary for a proposal by any third party. <Amended on May 7, 2019>

(16) The competent authority shall partially subsidize the expenses incurred in the preparation of a project proposal to unsuccessful proponents under the conditions prescribed in the master plan for public-private partnerships in infrastructure.

[\[This Article Wholly Amended on Nov. 4, 2011\]](#)

SECTION 2 Implementation of Infrastructure Projects

Article 8 (Scope of Master Plan for Public-Private Partnership Infrastructure Project Requiring Deliberation by Committee) "Master plan for infrastructure project ... which meets the requirements specified Presidential Decree" in the main sentence of Article 10 (2) of the Act means a master plan for public-private partnership infrastructure project (hereinafter referred to as "master plan for infrastructure project") which falls under any of the following subparagraphs:

1. Infrastructure projects, the total project cost of which is 200 billion won or more;
2. Projects, the competent authorities of which are two or more, or projects, the site of which is located over two or more Special Metropolitan Cities, Metropolitan Cities, Dos, or Special Self-Governing Province: Provided, That the same shall not apply to projects which have two or more competent authorities which have reached agreement with regard to jurisdiction over the project;
3. Other projects for which the competent authority or the chairperson of the Committee acknowledges that deliberation of the Committee is necessary.

[\[This Article Wholly Amended on Nov. 4, 2011\]](#)

Article 9 (Insignificant Modification to Master Plan for Infrastructure Project) "Insignificant modifications prescribed by Presidential Decree" in the proviso to Article 10 (2) of the Act means any of the following subparagraphs:

1. Changes in the total project cost of the infrastructure project concerned by up to 30 percent;
2. Other modifications deemed insignificant by the Committee.

[\[This Article Wholly Amended on Nov. 4, 2011\]](#)

Article 10 (Public Notice of Master Plan for Infrastructure Project) Where the competent authority formulates or modifies the master plan for infrastructure project, it shall

announce the details in the Official Gazette and three or more daily newspapers under Article 10 (3) of the Act: Provided, That the same shall not apply where it is deemed that the modification thereto was made under Article 11 (3). <Amended on Nov. 24, 2020>

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

Article 10-2 (Solicited Projects Whose Basic Design Drawings, etc. Required to Be Offered for Inspection) "Solicited projects prescribed by Presidential Decree" in Article 10 (5) of the Act means other infrastructure projects than those in which the competent authority has the persons intending to perform such infrastructure projects or the persons designated as their concessionaires make the master design drawings to reduce the construction cost, to curtail the period of construction, or to introduce new technology or construction methods.

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

Article 11 (Proposal for Modification to Master Plan for Infrastructure Project by Private Sector)

(1) Where a party in the private sector intends to propose a modification to master plan for infrastructure project under Article 12 of the Act, it shall include an explanation of, the grounds for, and expected effects of such modifications in the project proposal pursuant to Article 13 of the Act and submit it to the competent authority.

(2) The competent authority shall make a written notification to the proponent of the result of its review of the proposal for amendment under paragraph (1) within three months from the date of its receipt. In such cases, the proposal for modification to the master plan for infrastructure project formulated and publicly notified through the deliberation by the Committee shall be adopted through prior consultation with the Minister of Economy and Finance.

(3) When the competent authority adopts a proposal for modification pursuant to paragraph (2), the master plan for infrastructure project shall be deemed to have been amended according to the specifications of the adopted proposal for modification.

(4) When the competent authority adopts the proposal for modification under paragraph (2), the competent authority may give a maximum of five percent bonus points to the relevant proponent at the time of review and evaluation of the project proposal under Article 13 (2) of the Act.

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

Article 12 (Submission of Project Proposal) Any party that intends to be designated as a concessionaire under Article 13 (1) of the Act shall submit a project proposal to the competent authority containing the following matters, along with the documents determined by the competent authority:

1. Contents of the project proposal (including the drawings and documents of a master plan);
2. Details of the total project expenses and fundraising plan;
3. Details regarding determination of a free use period, and ownership and profit-making period (limited to revertible facilities);
4. Facility management and operation plan;
5. Income and expenditure plan including such items as the user fee;
6. Details of and grounds for the implementation of supplementary projects, if any;
7. Details of and reasons for the request for a government subsidy, if any;
8. Details of and reasons for any modification to the master plan for infrastructure project, if any;
9. Other matters which the competent authority deems necessary.

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

Article 13 (Examination and Evaluation of Project Proposal) (1) When the competent authority examines and evaluates the project proposal submitted pursuant to Article 13 (2) of the Act, it shall make an accurate evaluation of the following matters:

1. Appropriateness of the composition of the parties who implement the project, including the form of composition of the concessionaires and the relationship, between the project investor and the concessionaire;
2. Feasibility of the project, including the total investment cost, the period, location, and content of construction;
3. Practicality of the fundraising plan including equity and loan procurement capacity;
4. Economic feasibility of the project, including the user fee, volume of use, free use period, ownership and profit-making period, discount rate, and scale of any supplementary project;

5. Necessary land acquisition ability such as acquisition of necessary land and feasibility of the acquisition plan;
6. Technological ability including satisfaction level of minimum technology requirements and whether high-end technology shall be applied;
7. Facility management ability, including the reasonability of any repair and management plan;
8. Contribution to social convenience such as the provision of convenience to the facility users, etc.;
9. Other matters which the competent authority deems necessary.

(2) The competent authority may properly adjust items to be evaluated under each subparagraph of paragraph (1) according to the different characteristics of each project and evaluate the items with different importance.

(3) In evaluating the project proposal under paragraphs (1) and (2), the competent authority shall establish and operate a project-proposal evaluation team. In such cases, a person designated by the Executive Director of the Public and Private Infrastructure Investment Management Center may participate in such team.

(4) When designating potential concessionaires pursuant to Article 13 (2), the competent authority shall designate two or more of them according to the order of priority by the results of project proposal assessment unless inevitable reasons exist.

[\[This Article Wholly Amended on Nov. 4, 2011\]](#)

Article 13-2 Deleted. <Mar. 18, 2013>

Article 14 (Designation of Concessionaire Requiring Deliberation by Committee) "Designation of a concessionaire who meets the requirements prescribed by Presidential Decree" in the latter part of Article 13 (3) of the Act means any of the following subparagraphs:

1. Designation of a concessionaire of an infrastructure project, the total project costs of which is 200 billion won or more (100 billion won in cases of a project conducted in the methods referred to in subparagraph 2 of Article 4 of the Act);
2. Designation of a concessionaire of a project, the deliberation by the Committee of which is deemed necessary by the competent authority or the chairperson of the Committee.

[\[This Article Wholly Amended on Nov. 4, 2011\]](#)

Article 15 (Application Period for Approval of Detailed Implementation Plan) "The period specified by Presidential Decree" in the main sentence of Article 13 (5) of the Act means a period of up to one year, unless otherwise specified by the competent authority.

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

Article 16 (Approval of Detailed Implementation Plan) (1) Where the concessionaire of a project intends to obtain approval for the detailed implementation plan or approval for modification thereto under the main sentence of Article 15 (1) of the Act, he or she shall submit to the competent authority an application for approval for the detailed implementation plan, including the following details:

1. Location and total area of the project site;
2. Method of construction and technical details of the project;
3. Implementation plan by work progress (in cases of construction conducted by section or stage, referring to the detailed implementation plan by stage);
4. Plan for acquisition and use of the necessary land;
5. The details and implementation plans of a supplementary project, if any;
6. Other matters which the competent authority deems necessary.

(2) Each application for approval of an implementation plan under paragraph (1) shall be accompanied by the following documents and drawings: <Amended on Jul. 20, 2012; Jan. 22, 2016; Jan. 5, 2021>

1. A location map;
2. Site maps prepared according to cadastral maps (referring to maps specifying the purpose of land);
3. Plans and detailed design documents (in cases of construction conducted by section or stage, referring to the detailed design documents by stage);
4. An explanatory note on the construction work and documents providing for the grounds for construction costs and fundraising plan;
5. Documents on the purchase of and compensation for land, buildings, or rights, etc. in the project site, and documents concerning the resettlement of residents;
6. Plans for free use, etc. of public facilities, land, etc.;
7. Documents containing the names and addresses of the owners of land, buildings, or rights to be used or expropriated, and of the related party under subparagraph 5 of Article 2 of the Act on Acquisition of and Compensation for Land, etc. for Public Works

Projects;

8. Documents containing the details of rights other than the location, lot number, classification, size, and ownership of buildings and land to be used or expropriated;
9. Environmental impact assessment reports (limited to a project subject to environmental impact assessment under Article 31 (2) and attached Table 3 of the Enforcement Decree of the Environmental Impact Assessment Act);
10. Traffic impact assessment reports and matters necessary for improvement thereof (limited to a project subject to traffic impact assessment under Article 13-2 (3) and attached Table 1 of the Enforcement Decree of the Urban Traffic Improvement Promotion Act);
11. Plans for use of energy (limited to projects subject to consultation on the plan for use of energy under Article 20 and attached Table 1 of the Enforcement Decree of the Energy Use Rationalization Act);
12. Other documents which the competent authority deems necessary.

(3) The competent authority shall notify the concessionaire in writing of its decision on whether it will approve the detailed implementation plan within three months from the date of receipt of the application for approval under paragraph (1), except in exceptional circumstances, and where it is impracticable to make the decision within the said period, it shall notify the concessionaire in writing of the grounds therefor and the scheduled date of the decision.

[\[This Article Wholly Amended on Nov. 4, 2011\]](#)

Article 17 (Insignificant Modification of Implementation Plan) (1) "Insignificant modification as prescribed by Presidential Decree" in the proviso to Article 15 (1) of the Act means any of the following subparagraphs:

1. A modification of the project area within the scope of 5/100 (only applicable where such modification does not affect the total project cost);
2. A modification of the duration of the project within a period of up to one year [only applicable where such duration does not exceed the construction period determined in the concession agreement (hereinafter referred to as the "concession agreement") under the former part of Article 13 (3) of the Act];
3. A modification of the location of any insignificant facility or equipment (only applicable where such modification does not affect the total project cost).

(2) In cases of modifications of any detailed implementation plan falling under any subparagraph of paragraph (1), the concessionaire shall notify, without delay, the competent authority in writing of the details of the modification.

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

Article 17-2 (Grand Consultative Council with Relevant Administrative Agencies) (1) A grand consultative council referred to in Article 17 (4) of the Act (hereinafter referred to as "council") shall be comprised of the competent authority of a public-private partnership project and the heads of related administrative agencies governing the affairs of authorization, permission, etc. related to the relevant public-private partnership project under Article 17 (1) of the Act (hereinafter referred to as "heads of related administrative agencies").

(2) In order to hold a council meeting, the competent authority shall notify the heads of related administrative agencies that such meeting is to be held by not later than seven days prior to the said meeting.

(3) The heads of related administrative agencies shall submit their opinions on authorization, permission, etc. to a council meeting: Provided, That where it is impracticable for any of them to present his or her opinion at the said meeting due to the need for the review of statutes or regulations, the verification of additional facts, etc., he or she may present his or her opinion within five days after the meeting is held.

(4) Except as provided in this Decree, matters necessary for operating a council shall be determined by each competent authority.

[This Article Newly Inserted on Mar. 18, 2013]

Article 18 (Entrustment of Tasks, such as Land Purchase) The concessionaire of a project, who seeks to entrust the task of land purchase, compensation for losses, resettlement of local residents, or other comparable matters to the competent authority or the head of the relevant local government according to Article 20 (3) of the Act, shall enter into an agreement with such authority or the head of the relevant local government specifying the contents, terms, and fees, etc. for the performance of such task.

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

Article 18-2 (Use of Profit of Supplementary Project) The competent authority shall spend the profit of a supplementary project under Article 21 (14) of the Act in reducing user fees

such as passage fees, rental, etc. as determined by the Minister of Economy and Finance and in reducing financial support, etc. under Article 37, taking into account of total project expenses, appropriate profit ratio, gratuitous use period, ownership, and profit-making period, etc. and specific details thereof shall be reflected in the concession agreement.

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

Article 19 (Confirmation of Construction Completion) The party seeking to obtain confirmation of construction completion of the project according to Article 22 (1) of the Act shall submit to the competent authority a report on construction completion required by the competent authority along with the documents stating matters falling under the following subparagraphs: <Amended on Jun. 1, 2015>

1. Construction completion report (including final plans and photographs);
2. Cadastral records report issued by the competent authority of cadastral records under subparagraph 18 of Article 2 of the Act on the Establishment, Management, etc. of Spatial Data;
3. Plans of land and facilities before and after construction completion;
4. Comparison charts of land and facilities before and after construction completion;
5. Other documents stating such details as required for the confirmation of construction completion.

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

Article 20 (Roles of Public and Private Infrastructure Investment Management Center) (1) The Public and Private Infrastructure Investment Management Center shall perform the following duties: <Amended on May 7, 2019>

1. Support for duties relating to the formulation of a master plan for public-private partnerships in infrastructure;
2. Support for duties relating to the formulation of a master plan for infrastructure project;
3. Support for duties relating to the designation of the concessionaire, such as the review and evaluation of the project proposal, and conclusion of a concession agreement under Article 13 (2) and (3) of the Act;
4. Review and evaluation of the project proposal by a party in the private sector under the provisions of Article 7 (2) through (9);

5. Vicarious works of various applications for authorization, permission, etc. regarding public-private partnership projects;
 6. Support services for foreign private investors, such as investment consultation and other activities to induce foreign investment in public-private partnership projects;
 7. Review of potential public-private partnership projects and feasibility studies thereof;
 8. Development and operation of training programs relating to the implementation of public-private partnership projects;
 9. Improvement of public-private partnership systems and research in related fields;
 10. Support for duties relating to finding potential public-private partnership projects;
 11. Other duties related to the implementation of public-private partnership projects.
- (2) The Executive Director of Public and Private Infrastructure Investment Management Center may outsource services to an outside specialized institution where necessary to perform the duties provided for in paragraph (1) 7.

[\[This Article Wholly Amended on Nov. 4, 2011\]](#)

Article 21 (Organization of Public and Private Infrastructure Investment Management Center)

- (1) The Executive Director of the Public and Private Infrastructure Investment Management Center shall be appointed by the President of the Korea Development Institute (hereinafter in this Article, referred to as the "President of the Korea Development Institute") under the attached Table of the Act on the Establishment, Operation and Fostering of Government-Funded Research Institutes from among experts in a field related to public investment management.
- (2) The Government may cover the costs necessary for the operation of the Public and Private Infrastructure Investment Management Center within budgetary limits.
- (3) The Executive Director of the Public and Private Infrastructure Investment Management Center shall submit a report on the results of its operation to the Minister of Economy and Finance each year.
- (4) Except as provided in this Decree, the President of the Korea Development Institute shall establish regulations in relation to the organization, the standards of business conduct, etc. of the Public and Private Infrastructure Investment Management Center after prior consultations with the Minister of Economy and Finance.

[\[This Article Wholly Amended on Nov. 4, 2011\]](#)

SECTION 3 Management and Operation of Infrastructure

Article 21-2 (Preparation and Submission of Written Estimation of Government Disbursement for Build-Transfer-Lease Projects)

(1) Pursuant to Article 24-2 (3) of the Act, the head of a central administrative agency shall prepare a written estimation of government disbursement for build-transfer-lease projects estimating the scale of the government disbursement (including analysis of causes of an increase and decrease in the scale of the government disbursement), by year and by facility, for not less than five fiscal years from the relevant fiscal year with respect to the national projects of the build-transfer-lease projects, the detailed implementation plan of which has been approved pursuant to Article 15 of the Act and local government projects subsidized by the National Treasury, and then submit the written estimation to the Minister of Economy and Finance by June 30 each year. <Amended on Sep. 29, 2020>

(2) The Minister of Economy and Finance may notify the head of each central administrative agency of the guidelines necessary for the preparation, etc. of a written estimation of government disbursement for build-transfer-lease projects under paragraph (1). <Amended on Sep. 29, 2020>

[This Article Newly Inserted on July. 9, 2010]

Article 22 (Gratuitous Use Period, etc.) (1) The gratuitous use period, and ownership and profit-making periods under Article 25 (1) and (2) of the Act shall be determined within the range of the total project expenses, taking into consideration the benefits obtained during such period, the estimated net profit obtained from any supplementary project, and effects of financial support under Article 37.

(2) The total project costs in the concession agreement concluded under Article 25 (3) of the Act shall not be amended except for the following grounds:

1. Adjustment of total project expenses as a result of changes in construction costs, etc. which markedly exceed or fall short of the rate of price fluctuations during the construction period;
2. Adjustment of total project expenses resulting from inevitable causes determined by the concession agreement.

[\[This Article Wholly Amended on Nov. 4, 2011\]](#)

Article 23 (User Fee) (1) The user fee under Article 25 (4) of the Act shall be determined in the concession agreement, taking into consideration the total project expenses, appropriate profit ratio, gratuitous use period, and ownership and profit-making periods of the infrastructure project.

(2) When the concessionaire intends to collect the user fee prescribed under paragraph (1) from the user of the facility concerned, he or she shall submit to the competent authority the following documents 60 days before the period of collection of user fees: Provided, That the same shall not apply where it is intended to collect rental fees from the State or a local government with respect to a facility which is concerned with the project implemented in a manner prescribed in subparagraph 2 of Article 4 of the Act:

1. Method of use and the rate of user fees;
2. Basic materials for the calculation of user fees;
3. Method of collection of user fees;
4. Reduction and exemption of user fees or extra charges and the parties to which they shall apply;
5. Level of user fees for similar facilities;
6. Other necessary matters with regard to user fees.

(3) The user fees determined under paragraph (1) may be adjusted by the methods and procedures outlined in the concession agreement for causes determined by the concession agreement, such as price fluctuations.

[\[This Article Wholly Amended on Nov. 4, 2011\]](#)

Article 24 (Registration of Infrastructure Management and Operation Rights) The Decree on Registration of Port Facilities Management Right shall apply mutatis mutandis with regard to the registration under Articles 26 (2) and 28 (1) of the Act.

[\[This Article Wholly Amended on Nov. 4, 2011\]](#)

Article 25 (Management and Maintenance of Facilities) (1) The competent authority may establish and apply standards for the management and maintenance of the facility under subparagraphs 1 through 3 of Article 4 of the Act during the gratuitous use period, and ownership and profit-making periods.

(2) The concessionaire shall submit management and maintenance plans under paragraph (1) to the competent authority under the terms determined by the concession agreement.

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

Article 26 (Change in Details of Use of Facilities) (1) "Where ... such use is prescribed by Presidential Decree" in the proviso to Article 29 (1) of the Act means where the competent authority acknowledges that common or public use of the facility concerned is noticeably necessary for the public interest, and the objectives of the project can not be achieved by any other means than change in the details of use of the facilities: Provided, That any change in the details of use of facilities of a project falling under any subparagraph of Article 14 shall undergo deliberation by the Committee.

(2) When the competent authority compensates a concessionaire for any loss incurred under Article 29 (2) of the Act, the following losses shall be compensated for through negotiation with the concessionaire:

1. Loss from failure in recovering the total project expenses due to the change in the details of use of the facilities, measured as at the time of such change;
2. Other losses incurred in relation to the change in the details of use of the facilities.

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

SECTION 4 Infrastructure Credit Guarantee Fund

Article 27 (Operation Standard for Management Institution) The Credit Guarantee Fund under Article 30 (2) of the Act (hereinafter referred to as the "management institution") shall establish a standard for its operation to promote efficiency in the management of the Fund (hereinafter referred to as the "Fund"), and submit it to the Minister of Economy and Finance.

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

Article 28 (Management of Fund) "Other purposes as prescribed by Presidential Decree" in subparagraph 5 of Article 32 of the Act means any of the following purposes:

1. Deposit in financial institutions, etc.;
2. Purchasing State bonds, local government bonds, and special bonds under Article 4 (3) of the Financial Investment Services and Capital Markets Act, or bonds guaranteed by the

Government or financial institution, etc.;

3. Underwriting or purchase of stocks (including investment certificates), debentures, or other securities deemed necessary by the Minister of Economy and Finance;
4. Other purposes which the Minister of Economy and Finance deems necessary for the execution of public-private partnership projects.

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

Article 28-2 (Object of Guarantee) "Persons who are prescribed by Presidential Decree" in Article 34 (1) 1 of the Act means foreign financial institutions that manage financial business in foreign countries established by foreign statutes or regulations.

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

Article 29 (Limit of Guarantee) (1) The limit on the total amount of credit guarantee under Article 34 (3) of the Act shall be the amount equivalent to 20 times the sum of the reserves under Article 33 (5) of the Act and the capital investment under Article 31 (1) 1 and 2 of the Act.

(2) The limit on the total amount of credit guarantee which the management institution may provide for the same public-private partnership project at the Fund's expense pursuant to Article 34 (4) of the Act shall be as follows:<Amended on May 14, 2014; Oct. 20, 2015; May 7, 2019; Nov. 1, 2022; Dec. 19, 2023>

1. In cases of credit guarantee for pecuniary obligations (excluding pecuniary obligations referred to in subparagraph 2): One trillion won;
2. In cases of credit guarantee for pecuniary obligations incurred by the concessionaire in raising finances in advance to pay compensation costs under subparagraph 4 of Article 2-2: 300 billion won.

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

Article 30 (Guarantee Fees) (1) The guarantee fees under Article 36 (1) of the Act shall be determined by the management institution within the scope of 15/1000 per annum on the guaranteed amount.

(2) If the concessionaire, etc. who has been granted credit guarantee under Article 34 (1) of the Act fails to perform his or her guarantee obligations within the time given, the management institution may collect guarantee fees from the relevant concessionaire, etc. within the scope of 20/1000 per annum on the portion of the amount unpaid,

notwithstanding the provisions of paragraph (1).

[\[This Article Wholly Amended on Nov. 4, 2011\]](#)

Article 31 (Claim for Performance of Guarantee Obligation) "If the cause prescribed by Presidential Decree takes place, such as the concessionaire's default of obligation" in Article 38 (1) of the Act means any of the following:

1. If six months have passed since the concessionaire, etc., whose pecuniary obligation had been guaranteed under Article 34 (1) 1 or 3 of the Act, failed to perform his or her obligation within a given time limit (including where the benefit of time was lost);
2. If the concessionaire etc. whose pecuniary obligation had been guaranteed under Article 34 (1) 2 of the Act, has failed to repay the principal or interest on the bond within a given time limit.

[\[This Article Wholly Amended on Nov. 4, 2011\]](#)

Article 32 (Scope of Subordinate Obligation) "Subordinate obligation prescribed by Presidential Decree" in Article 38 (2) of the Act means the total sum of the following amounts:

1. The amount of interest which is calculated by the interest rate applied during the period contracted for the principal obligation, until the management institution performs the guarantee obligation after the date for performance of principal obligation falls due;
2. Costs determined by the management institution from among the expenses that the financial institution, etc. disbursed to recover bonds.

[\[This Article Wholly Amended on Nov. 4, 2011\]](#)

Article 33 (Amount of Losses) The amount of losses under Article 39 of the Act shall be calculated by multiplying the interest rate determined by the management institution, taking into consideration the loan rate by the amount performed by the management institution.

[\[This Article Wholly Amended on Nov. 4, 2011\]](#)

SECTION 5 Collective Investment Vehicle for Infrastructure

Article 34 (Capital of Company Specializing in Investing and Financing for Infrastructure) (1)

"Amount as prescribed by Presidential Decree" in Article 41-2 (1) of the Act means one

billion won.

(2) "Amount prescribed by Presidential Decree" in Article 41-2 (2) of the Act means the amount pursuant to the following classifications:

1. Where six months have not passed since the registration of the relevant company specializing in investments and financing for infrastructure (hereinafter referred to as a "infrastructure fund") under Article 41 (1) of the Act: One billion won;
2. Where six months have passed since the registration of the relevant infrastructure fund: Five billion won.

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

Article 34-2 (Explanatory Note for Investment and Stock Application Form) (1) With respect to the items to be included in the explanatory note for investments, the method of provision thereof, etc. prescribed in Article 41-4 (1) of the Act, Articles 123 and 124 of the Financial Investment Services and Capital Markets Act shall apply mutatis mutandis.

(2) "Important details prescribed by Presidential Decree" in the latter part of Article 41-4 (2) of the Act shall exclude the following subparagraphs from the explanatory note for investments:

1. Matters altered pursuant to any amendment to statutes or regulations or to any order made by the Financial Services Commission;
2. Other minor changes in the wording of the explanatory note for investments.

(3) The promoters of the infrastructure fund under Article 41-4 (3) of the Act shall prepare a stock application form stating the following matters and provide it to a person who intends to apply to the acceptance of stocks:

1. Objectives, trade name, and location of the infrastructure fund;
2. Class and number of stocks to be issued by the infrastructure fund;
3. Total number and issuing price of stocks to be issued at the time of establishing the infrastructure fund;
4. Amount of minimum net assets to be maintained by the infrastructure fund;
5. Methods for publicly announcing by the infrastructure fund;
6. Duration of existence or reasons for dissolution, if included in the articles of incorporation;
7. Provision that transfer of stocks shall be subject to the approval of the board of directors, if so determined;

8. Name and address of a collective investment business entity;
 9. Methods of allocating the stocks to be issued and the date when the subscription price is to be paid;
 10. Financial institutions in charge of the subscription price paid and the place of payment;
 11. Names and addresses of prospective directors and auditor.
- (4) "Ratio as prescribed by Presidential Decree" in Article 41-4 (4) of the Act shall be 10/100 of the equity capital to be fulfilled by an infrastructure fund.

[\[This Article Wholly Amended on Nov. 4, 2011\]](#)

Article 34-3 (Borrowing of Funds and Issuance of Bonds) "Ratio as prescribed by Presidential Decree" in the main sentence of Article 41-5 (1), with the exception of its subparagraphs, of the Act shall be 30/100.

[\[This Article Wholly Amended on Nov. 4, 2011\]](#)

Article 34-4 (Reporting on Assets of Collective Investment Vehicle) (1) With respect to the preparation and submission of a business report on the assets of an investment and financing collective investment vehicle under Article 41-6 (2) of the Act, Article 90 (1) of the Financial Investment Services and Capital Markets Act and Article 94 (1) of the Enforcement Decree of that Act shall apply mutatis mutandis. In such cases, "Association" shall be construed as "Ministry of Economy and Finance".

(2) Where an investment and financing collective investment vehicle (hereinafter referred to as "collective investment vehicle") under Article 41 (2) of the Act submits to the Financial Services Commission a business report on its assets under Article 90 of the Financial Investment Services and Capital Markets Act, a business report under Article 41-6 (2) of the Act shall be deemed to have been submitted to the Financial Services Commission.

[\[This Article Wholly Amended on Nov. 4, 2011\]](#)

Article 34-5 (Conditions on Issuing New Stocks or Additional Profit-Making Securities)

"Methods prescribed by Presidential Decree" in Article 41-7 of the Act means the methods of calculating the base price of collective investment securities under Article 238 (6) of the Financial Investment Services and Capital Markets Act: Provided, That the issuing price of new stocks or additional profit-making securities calculated by the said methods may be determined, taking into consideration a price at which the stocks or profit-making securities of the relevant investment and financing collective investment vehicle are traded

on the securities market (including multilateral-trade contracting companies under Article 8-2 (5) of the Financial Investment Services and Capital Markets Act) if they are listed on the securities market under Article 8-2 (4) 1 of the same Act, and the fair value of such stocks of profit-making securities if not listed. <Amended on Aug. 27, 2013>

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

Article 34-6 (Purchase Limit on Bonds or Corporate Bills) "The limit as prescribed by Presidential Decree" in Article 43 (3) 3 of the Act means the total sum of the deposit into financial institutions, etc. and the purchase price of national or public bonds by the collective investment vehicle concerned.

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

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

Article 34-7 (Subject-Matter of Objection) "Matters prescribed by Presidential Decree" in Article 44-2 (1) 4 of the Act means any of the following:

1. Matters, other than those provided for in Article 44-2 (1) 1 through 3 of the Act, which violate government procurement agreements, etc.;
2. Matters related to any disposition or order issued by the competent authority under this Act.

[This Article Newly Inserted on Mar. 18, 2013]

[Previous Article 34-7 moved to Article 34-8 <Mar. 18, 2013>]

Article 34-8 (Composition of Committee for Mediation of Public-Private Partnership Project Disputes) (1) Members representing the Government under Article 44-4 (1) of the Act (hereafter in this Section referred to as "Government member") shall be appointed by the Minister of Economy and Finance from among members of the Senior Executive Service under the control of the Ministry of Economy and Finance or under the control of central administrative agencies in charge of infrastructure projects. <Amended on Mar. 18, 2013>
(2) Members representing the concessionaire under Article 44-4 (1) of the Act (hereafter in this Section referred to as "concessionaire member") shall be commissioned by the Minister of Economy and Finance from among the persons falling under any of the

subparagraphs of Article 44-4 (2) of the Act, recommended by the concessionaire.
<Amended on Mar. 18, 2013>

(3) Members representing the public interest under Article 44-4 (1) of the Act (hereafter in this Section referred to as "public interest member") shall be commissioned by the Ministry of Economy and Finance from among the persons falling under any of the subparagraphs of Article 44-4 (2) of the Act. <Amended on Mar. 18, 2013>

(4) "The requirements prescribed by Presidential Decree" in Article 44-4 (2) 3 of the Act means that public interest members shall satisfy all the following: <Amended on Mar. 18, 2013>

1. For former public officials, three years have passed since their retirement;
2. They shall not be executive officers or employees of the entity involving design, construction, fundraising or operation of the public-private partnerships in infrastructure.

(5) The term of office of concessionair members or public interest members shall be two years: Provided, That where the Minister of Economy and Finance dissolves the Dispute Mediation Committee because the Minister of Economy and Finance deems that it has achieved the purpose of organizing the Dispute Mediation Committee for Public-Private Partnership Projects under Article 44-3 (1) of the Act (hereafter in this Section referred to as the "Dispute Mediation Committee"), the term of office shall expire when the Dispute Mediation Committee is dissolved. <Amended on Dec. 19, 2023>

(6) Deleted. <Dec. 19, 2023>

(7) The Minister of Economy and Finance may decommission a concessionaire member or public interest member where he or she falls under any of the following cases: <Amended on Mar. 18, 2013>

1. When he or she becomes unable to perform his or her duties due to mental or physical disorders;
2. When he or she is deemed unfit to serve as a member on the grounds of neglect of duty, loss of dignity or such;
3. When he or she is prosecuted in a criminal case relating to his or her duties;
4. When he or she compromises the fairness of the deliberation by failing to file an abstention when he or she is found to fall under any of the subparagraphs of Article 34-12 (1).

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

[Moved from Article 34-7; previous Article 34-8 to Article 34-9 <Mar. 18, 2013>]

Article 34-9 (Grounds for Disqualification) No person who falls under any of the following subparagraphs shall be a member of the Dispute Mediation Committee. <Amended on March 18, 2013, on December 3, 2019, December 19, 2023>

1. A person declared bankrupt and not yet reinstated;
2. A person under adult guardianship;
3. A person disqualified by a court decision or pursuant to statutes;
4. A person for whom three years have not elapsed since his or her imprisonment without labor or a heavier punishment declared by a court was completely executed (including where the execution of such sentence was deemed completed) or exempted;
5. A person who is under suspension of the execution of his or her imprisonment without labor or a heavier punishment declared by a court.

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

[Moved from Article 34-8; previous Article 34-9 to Article 34-10 <Mar. 18, 2013>]

Article 34-10 (Duties of Chairperson) (1) The Chairperson of the Dispute Mediation Committee (hereinafter referred to as "Chairperson") shall exercise overall control over and represent the Dispute Mediation Committee.
(2) If the Chairperson is unable to perform his or her duties due to any unavoidable grounds, a member designated in advance by the Chairperson shall act on his or her behalf.

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

[Moved from Article 34-9; previous Article 34-10 moved to Article 34-11 <Mar. 18, 2013>]

Article 34-11 (Meetings of Dispute Mediation Committee) (1) The Chairperson shall convoke meetings of the Dispute Mediation Committee.
(2) Meetings of the Dispute Mediation Committee shall be commenced upon the attendance of a majority of incumbent members, and the resolutions thereof shall be passed with the consent of a majority of those present.

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

[Moved from Article 34-10; previous Article 34-11 moved to Article 34-12 <Mar. 18, 2013>]

Article 34-12 (Disqualification of, Challenge to, or Refrainment by Member) (1) Any member of the Dispute Mediation Committee (hereinafter referred to as "member") who falls under any of the following subparagraphs shall be disqualified from an examination and mediation of a pending case (hereinafter referred to as "case"):

1. If the member or his or her spouse or ex-spouse is a disputing party to the case or is in a relationship of a joint right-holder or obligor with the disputing party;
2. If the member is or was a relative of a disputing party to the case;
3. If the member has testified or given an expert opinion on the case;
4. If the member has ever been involved or is involved in the case as the agent or a party to the case;

5. If the member has been involved in a disposition or omission that gave rise to the case.
(2) If grounds for disqualification of a member exists, the Dispute Mediation Committee shall make a decision on such disqualification, ex officio or upon the request of a party.

(3) If a party to the case has any grounds to believe that it is impracticable to expect impartial review or mediation of a member, the party to the case may file a challenge against such member with the Dispute Mediation Committee; and if the Dispute Mediation Committee deems that the challenge is reasonable, it shall make a decision to exclude the member from review or mediation of such case.

(4) If a member falls under any of the cases falling under paragraph (1) or (3), he or she may voluntarily refrain from review and mediation of the case.

(5) Where a challenge is filed under paragraph (3), the Dispute Mediation Committee shall suspend the mediation process until the decision upon the challenge is made.

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

[Moved from Article 34-11; previous Article 34-12 to Article 34-13 <Mar. 18, 2013>]

Article 34-13 (Prepayment and Accurate Account of Expenses) (1) Where the Dispute Mediation Committee intends to collect in advance the expenses required for appraisal, diagnosis, test, etc. for dispute mediation pursuant to Article 44-11 (2) of the Act, it shall notify a person obligated to pay such expenses in writing of such collection, specifying the required expenses, particulars, and prepayment place and fixed period. <Amended on Mar. 18, 2013>

(2) Where a person, upon receipt of a notice of the payment in advance of expenses under paragraph (1), fails to pay such expenses in advance within the fixed period, the Dispute

Mediation Committee may defer mediation on the relevant dispute.

(3) If the Dispute Mediation Committee has collected in advance the expenses under Article 44-11 (2) of the Act, it shall prepare a statement of accounts concerning the paid amount and expenses as referred to in paragraph (1) and notify it to the requesting person within five days after it prepared a mediation proposal on the dispute and presents it to the party, or after it notifies a refusal or suspensions of mediation. <Amended on Mar. 18, 2013>

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

[Moved from Article 34-12; previous Article 34-13 moved to Article 34-14 <Mar. 18, 2013>]

Article 34-14 (Request for Appraisal, etc.) (1) If deemed necessary for examining cases for which mediation of a dispute is requested, the chairperson may request the relevant specialized institution to conduct any appraisal, diagnosis, test, etc..

(2) Any institution requested to conduct an appraisal, diagnosis, test, etc. under paragraph (1), shall submit the findings thereof within 20 days after receiving a request. In such cases, if it is impracticable to submit such findings within 20 days due to an unforeseen circumstance, the institution shall notify the Dispute Mediation Committee of such circumstance and the period for submission thereof.

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

[Moved from Article 34-13; previous Article 34-14 moved to Article 34-15 <Mar. 18, 2013>]

Article 34-15 (Administrative Secretary) The Dispute Mediation Committee shall have one administrative secretary, who shall be appointed by the Minister of Economy and Finance from among public officials of the Ministry of Economy and Finance.

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

[Moved from Article 34-14, previous Article 34-15 moved to Article 34-16 <Mar. 18, 2013>]

Article 34-16 (Allowances) Allowances may be paid within budgetary limits to members who appear at meetings of the Dispute Mediation Committee: Provided, That no allowance shall be paid to members who are public officials directly related to the affairs concerned.

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

[Moved from Article 34-15; previous Article 34-16 to Article 34-17 <Mar. 18, 2013>]

Article 34-17 (Detailed Guidelines for Operation) Except as provided for in Article 34-8 through 34-16, matters necessary for the operation and operational procedure, etc. of the Dispute Mediation Committee shall be determined by the Chairperson of the Dispute Mediation Committee, subject to a resolution by the Dispute Mediation Committee.

<Amended on Mar. 18, 2013>

[\[This Article Newly Inserted on Nov. 4, 2011\]](#)

[Moved from Article 34-16 <Mar. 18, 2013>]

CHAPTER III SUPERVISION

Article 35 (Supervision or Order) "Cases prescribed by Presidential Decree" in Article 45 (1) of the Act means any of the following cases, other than those under any subparagraph of Article 46 of the Act and Article 47 (1), with the exception of its subparagraphs, of the Act:

1. Where the competent authority deems it necessary for the prevention of defective construction or for the normal operation of the facilities;
2. Where it is judged that the concessionaire of a project under subparagraphs 1 through 3 of Article 4 of the Act was negligent in maintaining and managing the facilities to an extent which is substantially detrimental to the convenience and interest of the users.

[\[This Article Wholly Amended on Nov. 4, 2011\]](#)

Article 35-2 (Restrictions on Eligibility of Unlawful Business Entities Participating in Public-Private Partnership Projects) (1) The competent authority shall, under the former part of Article 46-2 of the Act, restrict, without delay, the eligibility to participate in public-private partnership projects of participants in public-private partnership projects falling under any of the following subparagraphs [including concessionaires, investors of concessionaires (including would-be investors of concessionaires), persons participating in the relevant public-private partnership projects in terms of design, construction and operation, etc. and their representative (where there exist several representatives, referring to such representative in charge of the duties regarding the relevant public-private partnership project), agents, managers, and other employers; hereafter the same shall apply in this Article and Article 35-3)], after the relevant event occurs: <Amended on May 22, 2014>

1. A person who has in advance agreed upon various conditions on the implementation of the project, including appropriate project costs, user fees, profit ratio, etc. or has colluded

for the designation of a certain participant in the public-private partnership project as a potential concessionaire, with those who submitted a business plan (including a project proposal; hereafter the same shall apply in this Article) in the evaluation for designating potential concessionaires;

2. A person who has inflicted considerable damage to the competent authority or contracting authority for a service contract by unfaithfully conducting a feasibility study, such as forecasting demand, by intention or gross negligence in conducting a feasibility study pursuant to Article 81 of the Enforcement Decree of the Construction Technology Promotion Act relating to the public-private partnership project;
3. A person who has forged, altered or fraudulently used any document regarding the public-private partnership project, such as documents regarding an evaluation for designating potential concessionaires or negotiation for the designation of a concessionaire, or has submitted a false document;
4. A person who has failed to comply with any negotiation for designating a concessionaire with sincerity without any justifiable reason after he or she was designated as a potential concessionaire, or has failed to submit documents under Article 12 without justifiable grounds;
5. A person who has offered bribe, including money, valuables and entertainment, etc. to the relevant public officials or members of the Committee with regard to the designation of a public-private partnership project, potential concessionaire, or concessionaire.

(2) Detailed criteria for a period for restrictions on the eligibility for participation under paragraph (1) shall be listed in the attached Table.

(3) Where a person whose eligibility for participating in a public-private partnership project has been restricted under paragraphs (1) and (2) happens to be a small and medium enterprises cooperative under the Small and Medium Enterprise Cooperative Act, the provisions of paragraphs (1) and (2) shall also apply to the member of the cooperative who directly caused such restriction.

(4) Where a person whose eligibility is restricted under paragraphs (1) through (3) is appointed as a representative, and such representative is engaged in a public-private partnership project, paragraphs (1) and (2) shall also apply to the employer of such representative.

(5) In order to prevent a person whose eligibility is restricted pursuant to paragraphs (1) through (4) from participating in a public-private partnership project during a period for restriction by means of changing its trade name or representative, the competent authority shall identify the corporate registration number of a participant in a public-private partnership project, its licenses or registration numbers pursuant to the relevant statutes or regulations, the resident registration number of its representative, etc.

(6) The competent authority shall not allow any participant in a public-private partnership project whose eligibility for participating in the project is restricted under paragraphs (1) through (4) before the concession agreement is concluded.

[\[This Article Wholly Amended on Nov. 4, 2011\]](#)

Article 35-3 (Evaluation of Results of Promoting Public-Private Partnership Projects) (1) The Minister of Economy and Finance shall disclose reports submitted under the provisions of Article 51-2 (1) of the Act on website, etc. of the Ministry: Provided, That he or she may choose not to disclose the matters falling under any subparagraph of Article 9 (1) of the Official Information Disclosure Act.

(2) The Minister of Economy and Finance may, if necessary for conducting a comprehensive evaluation pursuant to Article 51-2 (3) of the Act, request the competent authority to submit the relevant data, organize and run a supporting organization for evaluating performances of the promotion of public-private partnership projects, or utilize institutions, etc. specializing in public-private partnership projects or performance evaluation.

(3) The Minister of Economy and Finance may, within budgetary limits, pay costs and expenses or service fees incurred in organizing and running a supporting organization for evaluating performances of the promotion of public-private partnership projects or utilizing institutions, etc. specializing in public-private partnership projects or performance evaluation in accordance with paragraph (2).

(4) Except as provided in paragraphs (1) through (3), matters necessary for the submission and disclosure of reports and the comprehensive evaluation shall be determined by the Minister of Economy and Finance through deliberation by the Committee.

[\[This Article Wholly Amended on Nov. 4, 2011\]](#)

Article 35-4 (Disclosure of Information on Concession Agreements) (1) The competent authority shall disclose information on the details of a concession agreement concluded

with a concessionair pursuant to the main clause of Article 51-3 (1) of the Act, modified matters, etc. on the website, etc. of the competent authority and submit them to the Minister of Economy and Finance.

(2) The Minister of Economy and Finance shall compile the details of the concession agreement submitted pursuant to paragraph (1), modified matters, etc. and disclose them on the website, etc. established and operated by the Minister of Economy and Finance every year.

(3) The competent authority may, pursuant to the proviso of Article 51-3 (1) of the Act, disclose any of the following information that constitutes confidential business or trade secrets of a concessionaire pursuant to the proviso to Article 51-3 (1) of the Act:

1. The financial model attached to the concession agreement;
2. Information deemed by the competent authority to be likely to seriously undermine the managerial and business interests of the concessionaire if the information is disclosed;

(4) The Minister of Economy and Finance may request the head of the Public and Private Infrastructure Investment Management Center to provide support in order to establish and operate the website pursuant to paragraph (2).

[This Article Newly Inserted on Sep. 29, 2020]

CHAPTER IV SUPPLEMENTARY PROVISIONS

Article 36 (Investment by Public Sector) (1) "Where it is prescribed by Presidential Decree" in Article 52 (1) of the Act means where a project requires the investment of State and public property by the public sector for not less than 50 percent of its total investment cost or where the profitability is low that it is impracticable for the private sector alone to pursue the project.

(2) "Cases prescribed by Presidential Decree" in the proviso of Article 52 (2) of the Act means any of the following cases: <Amended on Sep. 29, 2020>

1. Cases concerning the dissolution or liquidation of a corporation (referring to a corporation prescribed in subparagraph 8 of Article 2 of the Act; hereinafter the same shall apply);
2. Cases concerning the transfer of the whole or an important part of the business;

3. Where the purpose of business prescribed in the articles of association has changed.

(3) "Other properties prescribed by Presidential Decree" in Article 52 (3) 4 of the Act means any of the following subparagraphs:

1. Harbor facility management right under the Harbor Act;
2. Toll roads management right under the Toll Road Act;
3. Other management rights with regard to infrastructure under related statutes.

[\[This Article Wholly Amended on Nov. 4, 2011\]](#)

Article 37 (Financial Support) (1) The State or a local government may grant any subsidy or long-term loan to the concessionaire during the construction or operation period of facility within budgetary limits after deliberation by the Committee, in any case of the following subparagraphs under the provisions of Article 53 of the Act: Provided, That where such subsidy or long-term loan is granted from the budget of a local government, or the project concerned is conducted by one of a local government to which a subsidy of less than 30 billion won is provided by the State, deliberation by the Committee shall not be required:

1. Where it is inevitable to prevent dissolution of the corporation;
2. Where it is inevitable to maintain the user fees at an appropriate level;
3. Where inducement of private capital is difficult due to decrease in the profitability of the project as a result of a considerable expenditure disbursed as compensation for the use of land;
4. Where the actual operational profit (referring to the amount obtained by multiplying the user fees by the demand for the facility concerned) falls considerably short of the estimated operational profit under the concession agreement, to such an extent that the operation of the facility is difficult;
5. Where it is difficult to actively conduct the public-private partnership project without a long-term loan or subsidy prior to conducting projects, the profitability of which is low, but which can considerably reduce the construction period or the cost of construction of other projects when conducted together with other public-private partnership projects;
6. Where the losses from exchange rate fluctuations occur, due to the excessive exchange rate fluctuation, in the borrowings in foreign currency for the construction funds which are raised by the concessionaire through outside capital.

(2) In granting a subsidy under the provisions of paragraph (1) 5, the State or a local government shall calculate the amount required for the implementation of the project concerned by applying mutatis mutandis the method of estimating the price and the method of adjusting the contract amount under Chapters II and V of the Enforcement Decree of the Act on Contracts to Which the State Is a Party, or Chapters II and V of the Enforcement Decree of the Act on Contracts to Which a Local Government Is a Party, and shall grant this within the limit of the amount calculated.

[\[This Article Wholly Amended on Nov. 4, 2011\]](#)

Article 38 (Issuance of Infrastructure Bond) (1) "Financial institution, etc. prescribed by Presidential Decree" in Article 58 (1) of the Act means an institution which falls under any of the following subparagraphs:

1. A bank established by obtaining authorization pursuant to the Banking Act;
2. The Korea Development Bank established under the Korea Development Bank Act;
3. The Industrial Bank of Korea established under the Industrial Bank of Korea Act;
4. Deleted. <Dec. 30, 2014>

(2) The bond prescribed in Article 58 (1) of the Act (hereinafter referred to as "infrastructure bond") shall be issued pursuant to related statutes including the Commercial Act, and the Asset-Backed Securitization Act and it shall be marked as an infrastructure bond.

(3) A person who has issued an infrastructure bond under paragraph (2) shall, within two months after the completion of each business year, report to the Minister of Economy and Finance matters concerning the issuance amount, terms, etc. of any infrastructure bonds issued during the previous year.

[\[This Article Wholly Amended on Nov. 4, 2011\]](#)

Article 39 (Grounds for Recognition of Buyout Right) The concessionaire of a revertible facility may request the State or local government to buyout the relevant facility (including supplementary facilities) under the provisions of Article 59 of the Act in the following cases:

1. Natural disasters, war, and other cases of force majeure by which construction is suspended for six months or longer or the total project cost increases by not less than 50 percent;

2. Natural disasters, war, and other cases of force majeure by which the operation of the facility is suspended for six months or longer, or where the repair cost or reconstruction costs exceed 50 percent of the total project cost originally planned;
3. Where the construction or operation of the facility has been suspended for six months or longer because the State or a local government has failed to perform its duty under the concession agreement for a year or longer after receiving the notification of the cause for the performance of its duties, or where the duties are simply not performed without any justifiable ground;
4. Where a cause determined by the concession agreement occurs, as the competent authority deems it reasonable to recognize the buyout right of the concessionaire.

[\[This Article Wholly Amended on Nov. 4, 2011\]](#)

Article 40 (Procedures for Exercise of Buyout Right) (1) When the concessionaire intends to exercise his or her rights to request purchase under Article 39, he or she shall notify the competent authority of the grounds for such request within 30 days after the occurrence of such ground. In such cases, the concessionaire shall prove that the ground determined by Article 39 has occurred.

(2) The competent authority shall review the request for purchase by the concessionaire under paragraph (1) and notify the concessionaire of whether the request has been accepted within 60 days after receipt of the request through deliberation of the Committee unless there exist any special reasons otherwise.

(3) Where the buyout rights are exercised under paragraphs (1) and (2), matters regarding the standard and method of calculating of the amount payable to the concessionaire and other necessary matters may be determined in the concession agreement, taking into consideration the appropriate value of the infrastructure (including other related operation facilities), supplementary facilities, and the operation rights of the relevant project as of the time of request.

[\[This Article Wholly Amended on Nov. 4, 2011\]](#)

Article 41 (Re-Examination of Regulations) The Minister of Economy and Finance shall examine the appropriateness of the capital, etc. of a company specializing in investment and financing for infrastructure under Article 34 every three years, counting from January 1, 2014 (referring to the period that ends on the day before January 1 of every third year)

and shall take measures, such as making improvements.

[This Article Wholly Amended on Mar. 3, 2020]

CHAPTER V PENALTY PROVISIONS

Article 42 (Standards for Imposing Administrative Fines) Standards for imposing administrative fines under Article 65 (1) of the Act shall be as specified in attached Table 3.

[This Article Newly Inserted on Oct. 20, 2015]