

Construction Business Act

(Act No. 100 of May 24, 1949)

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Chapter I General Provisions

(Purpose)

Article 1 The purpose of this Act is to ensure the proper execution of construction work and the protection of the orderers as well as promote the sound development of the construction industry through improving the integrity of persons operating construction businesses and ensuring proper contracts for construction work, and thereby contribute to the furtherance of the public welfare.

(Definitions)

Article 2 (1) The term "construction work" as used in this Act means the civil engineering and construction work listed in the left column of the Appended Table 1.

(2) The term "construction business" as used in this Act means a business to

undertake the completion of construction work, regardless of whether it is a main contract, a subcontract, or falls under any other designation.

- (3) The term "construction business operator" as used in this Act means a person who operates a construction business under the license specified in Article 3, paragraph (1).
- (4) The term "subcontract" as used in this Act means a contract concluded between a person operating a construction business that has undertaken the construction work from another party and another person operating another construction business for all or a part of the construction work.
- (5) The term "orderer" as used in this Act shall mean a person who orders construction work (excluding a person who undertakes the work from another party), "main contractor" as used in this Act means a person who is the operator of a construction business and the order placer under subcontracts, and "subcontractor" as used in this Act means the contractor under subcontracts.

Chapter II Construction Business License

Section 1 General Provisions

(Construction Business License)

- Article 3 (1) A person who seeks to operate a construction business, in accordance with the following classification and pursuant to the provisions of this Chapter, must obtain a license from the Minister of Land, Infrastructure, Transport and Tourism when the person establishes business offices (head office, branch offices or an equivalent office specified by Cabinet Order; the same applies hereinafter) in the areas of two or more prefectures, or from the prefectural governor having jurisdiction over the location of the office when the person establishes a business office in the areas of only one prefecture; provided, however, that this does not apply to operators who only undertake simple construction work that are provided for by Cabinet Order:
- (i) a person who seeks to operate a construction business who is not listed in the following item;
- (ii) a person who seeks to operate a construction business and in operating construction business, seeks to perform the work by concluding subcontracts for all or a part of the construction work the person has directly undertaken from an orderer and the amount of the subcontract payment (total amount of subcontract payments when there are two or more subcontracts related to the work) exceeds the amount specified by Cabinet Order.
- (2) The license set forth in the preceding paragraph is to be granted for each type of construction work listed in the right column of the Appended Table 1 respectively for each classification of the construction business listed in the left

column of the same table.

- (3) The license in paragraph (1) ceases to be effective if not renewed every five years.
- (4) When the application for renewal provided for in the preceding paragraph has been made and the disposition in response to that application has not been made by the date of expiry of the period under the same paragraph (hereinafter referred to as "validity period of the license"), the previous license remains in force after the expiry of the validity period of license until the disposition is made.
- (5) In the case referred to in the preceding paragraph, when a license has been renewed, the validity period of the license is to be calculated from the day following the date of expiry of the validity period of the previous license.
- (6) When a person who obtained a license for the persons specified in paragraph (1), item (i) (including the renewal of license provided for in paragraph (3); hereinafter referred to as "ordinary construction business license") obtains a license for the persons specified in paragraph (1), item (ii) for construction business concerning the ordinary construction business license (including the renewal of license provided for in paragraph (3); hereinafter referred to as "special construction business license") the ordinary construction business license for the construction business of that person ceases to be effective.

(Licensing Conditions)

- Article 3-2 (1) The Minister of Land, Infrastructure, Transport and Tourism or a prefectural governor may make the license provided for in paragraph (1) of the preceding Article subject to conditions and may amend the conditions.
- (2) The conditions in the preceding paragraph must be limited to the minimum conditions necessary to ensure the proper execution of construction work and the protection of orderers, and must not impose unreasonable obligations on the operator obtaining the license.

(Incidental Work)

- Article 4 When undertaking construction work for the licensed construction business, the construction business operator may undertake construction work for another construction business incidental to that construction work.

Section 2 Ordinary Construction Business License

(Application for License)

- Article 5 Pursuant to the provisions of Order of the Ministry of Land, Infrastructure, Transport and Tourism, a person who seeks to obtain an ordinary construction business license (excluding that for Article 8, item (ii)

and item (iii); hereinafter referred to as "license" in this Section) must submit a license application form stating the following matters, to the Minister of Land, Infrastructure, Transport and Tourism when the person seeks to establish business offices in the areas of two or more prefectures and to the prefectural governor having jurisdiction over the location of office when the person seeks to establish a business office in the areas of only one prefecture:

- (i) trade name or name;
- (ii) name and address of the business office;
- (iii) when the applicant is a corporation, the amount of stated capital (including total amount of contribution; the same applies hereinafter) and the names of officers;
- (iv) when the applicant is an individual, the name of that person and the name of the manager when applicable;
- (v) the construction business for which a license is sought; and
- (vi) when another business is operated, the category of the business.

(Documents to be Attached to License Application Form)

Article 6 (1) Pursuant to the provisions of Order of the Ministry of Land, Infrastructure, Transport and Tourism, an applicant must attach the following documents to the license application form provided for in the preceding Article:

- (i) record of construction work;
- (ii) documents stating the amount of construction work executed in each of the previous three business years;
- (iii) documents stating the number of employees;
- (iv) documents pledging that the applicant seeking the license (when the applicant is a corporation, the corporation, its officers and employees provided for by Cabinet Order and when the applicant is an individual, that person and employees provided for by Cabinet Order) and that the statutory agent is not disqualified under the provisions of each item of Article 8;
- (v) documents proving compliance with the criteria set forth in item (i) and item (ii) of the following Article; and
- (vi) other documents as provided for by Order of the Ministry of Land, Infrastructure, Transport and Tourism in addition to those set forth in each of the preceding items.

(2) Notwithstanding the provisions of the preceding paragraph, an applicant for renewal of a license is not be required to attach the documents set forth in items (i) through (iii) of that paragraph.

(Licensing Criteria)

Article 7 The Minister of Land, Infrastructure, Transport and Tourism or a prefectural governor may not grant a license unless the applicant is found to

conform to the following criteria:

- (i) when the person is a corporation, one full-time officer (meaning a member who executes business, a board director, an executive officer, or an equivalent person; the same applies hereinafter) and when the applicant is an individual, that the person or one of the managers falls under one of the following persons:
 - (a) a person who has five years or more experience of being responsible for the management of construction work related to construction business for which the applicant seeks to be licensed;
 - (b) a person certified by the Minister of Land, Infrastructure, Transport and Tourism as a person that possesses abilities equivalent or higher than those set forth in sub-item (a);
- (ii) the person has posted a full-time employer who falls under one of the following items in each business office:
 - (a) a person who has business experience in construction work related to the construction business for which license is sought for not less than five years following graduation from a senior high school or a secondary school under the School Education Act (Act No. 26 of 1947) (including vocational schools under the former Secondary School Order, Imperial Order No. 316 of 1943; the same applies hereinafter) or a person who has business experience in construction work related to the construction business for which license is sought for not less than three years after graduation from a university (including universities under the former University Order, Imperial Order No. 388 of 1918; the same applies hereinafter) or a vocational training school (including vocational training schools under the former Vocational Training School Order, Imperial Order No. 61 of 1903; the same applies hereinafter) with credit in the subjects specified by Order of the Ministry of Land, Infrastructure, Transport and Tourism;
 - (b) a person who has business experience in the construction work related to the construction business for which license is sought for not less than ten years;
 - (c) a person who has been certified by the Minister of Land, Infrastructure, Transport and Tourism as a person that possesses knowledge or skills equivalent to or higher than those persons set forth in sub-item (a) or (b);
- (iii) when the applicant is a corporation, the corporation, its officers and the employees specified in Cabinet Order, or when the applicant is an individual, the individual or their employees, are not likely to perform a wrongful or dishonest act with regard to any contract for work;
- (iv) the person does not lack sufficient financial basis or financial credibility to perform contracts for work (excluding simple construction work as provided by Cabinet Order under the proviso of Article 3, paragraph (1)).

Article 8 The Minister of Land, Infrastructure, Transport and Tourism or a prefectural governor must not grant a license when the applicant falls under any of the following items (item (i) or items (vii) through (xi) when applying for a renewal of license), when there are false entries concerning significant items in the license application form or the attached documents, or when material facts have not been stated:

- (i) an adult ward, a person under curatorship, or a bankrupt that has not obtained a restoration of rights;
- (ii) a person who has had an ordinary construction business license or a special construction business license rescinded due to falling under the provisions of Article 29, paragraph (1), item (v) or item (vi) and when five years have not elapsed since the date of rescission
- (iii) a person who, from the date the notice under the provisions of Article 15 of the Administrative Procedure Law (Act No. 88 of 1993) related to the disposition of rescinding an ordinary construction business license or a special construction business license was given as a result of falling under Article 29, paragraph (1), item (v) or item (vi) until the date of the disposition or the date of the decision not to take the disposition, has filed a notification under the provisions of Article 12 stating that the person falls under item (v) of the same Article, and when five years have not elapsed since the date of the notification;
- (iv) when a notification under the provisions of Article 12 stating that the person falls under item (v) of the same Article has been filed within the period provided for in the preceding item and the person was an officer or an employee under the provisions of Cabinet Order of the corporation related to the notification, or an employee under the provisions of Cabinet Order of the individual related to the notification, within 60 days prior to the notification under the preceding paragraph and when five years have not elapsed since the date of the notification;
- (v) a person who has been ordered to suspend business pursuant to the provisions of Article 28, paragraph (3) or paragraph (5) and when the term of the suspension has not been completed;
- (vi) a person who has been prohibited from conducting business in the construction business for which license is sought pursuant to the provisions of Article 29-4 and when the term of the prohibition has not been completed;
- (vii) a person who has been sentenced to a punishment of imprisonment without work or a severer punishment and for whom five years have not elapsed since the day the execution of the sentence was completed or since the day when the person ceased to be subject to the execution of the sentence;

- (viii) a person who has been sentenced to a fine for violating the provisions of this Act or under the provisions of laws and regulations concerning the execution of construction work or the employment of laborers engaged in construction work specified by Cabinet Order or under the provisions of the Act on Prevention of Unjust Acts by Organized Crime Group Members (Act No. 77 of 1991) (excluding the provisions of Article 32-2, paragraph (7) of the same Act), or who has committed a crime under Article 204, Article 206, Article 208, Article 208-3, Article 222 or Article 247 of the Penal Code (Act No. 45 of 1907) or a crime under the Act on Punishment of Physical Violence and Others (Act No. 60 of 1926) and for whom five years have not elapsed since the day the execution of the sentence was completed or since the day when the person ceased to be subject to the execution of the sentence;
- (ix) a person who is a minor who does not have the same capacity to act with regard to business as an adult and whose statutory agent falls under any of the preceding items;
- (x) a person that is a corporation which has any officers or employees specified by Cabinet Order who falls under items (i) through (iv) or items (vi) through (viii) (for a person that falls under item (ii), excluding one who was an officer or employee specified by Cabinet Order of the corporation in the construction business prior to the rescission of license under the provisions of Article 29; for a person that falls under item (iii) or item (iv), excluding one who was an officer or employee specified by Cabinet Order of the corporation in the construction business prior to filing of a notification under Article 12 stating that the person falls under item (v) of the same Article; and for a person that falls under item (vi), excluding one who was an officer or employee specified by Cabinet Order of the corporation in the construction business prior to the prohibition to conduct business pursuant to the provisions of Article 29-4);
- (xi) a person who is an individual that has any employees specified by Cabinet Order who falls under any of items (i) through (iv) or items (vi) through (viii) (for a person that falls under item (ii) excluding one who was an employee specified by Cabinet Order of the individual in the construction business prior to the rescission of license under the provisions of Article 29; for a person who falls under item (iii) or item (iv), excluding one who was an employee specified by Cabinet Order of the individual in the construction business prior to filing of a notification under Article 12 stating that the person falls under item (v) of the same Article; and for a person who falls under item (vi), excluding one who was an employee specified by Cabinet Order of the individual in the construction business prior to the prohibition to conduct business pursuant to the provisions of Article 29-4).

(Validity of Former License in Cases of License Change)

Article 9 (1) If a licensed construction business operator comes to fall under any of the following items and seeks to continue to conduct the licensed construction business after obtaining a license, when the operator receives a license from the Minister of Land, Infrastructure, Transport and Tourism or a prefectural governor pursuant to the provisions of Article 3, paragraph (1), the person's former license issued by the Minister or the prefectural governor ceases to be effective:

- (i) when the person who obtained a license from the Minister of Land, Infrastructure, Transport and Tourism has come to have business offices in the areas of only one prefecture;
 - (ii) when the person who obtained a license from a prefectural governor closes the business office in the prefecture concerned and establishes a business office in another prefecture;
 - (iii) when the person who obtained a license from a prefectural governor has come to have business offices in the areas of two or more prefectures.
- (2) The provisions of Article 3, paragraph (4) apply mutatis mutandis when there has been an application under the provisions of Article 5 by a construction business operator who falls under any of the preceding items seeking to continue to conduct the licensed construction business, and the provisions of Article 6, paragraph (2) apply mutatis mutandis to that applicant.

(Registration and License Tax and License Fee)

Article 10 A person who seeks to obtain a license from the Minister of Land, Infrastructure, Transport and Tourism must pay the registration and license tax provided for in the Registration and License Tax Act (Act No. 35 of 1967) or the licensing fee provided for by Cabinet Order in accordance with the following classification:

- (i) the registration and license tax for a person seeking to obtain a license who is a person other than those listed in the following item; and
- (ii) the license fee for a person seeking to receive a renewal of license under Article 3, paragraph (3) and a person who has already received a license from the Minister of Land, Infrastructure, Transport and Tourism with regard to another construction business.

(Notification of Change)

Article 11 (1) When there have been any changes to the matters listed in Article 5, items (i) through (iv), the licensed construction business operator must submit a written notification of change to the Minister of Land, Infrastructure, Transport and Tourism or a prefectural governor within thirty days as provided for by Order of the Ministry of Land, Infrastructure, Transport and Tourism.

- (2) A licensed construction business operator must submit documents listed in Article 6, paragraph (1), item (i) and item (ii) as of the end of each business year and other documents as provided for by Order of the Ministry of Land, Infrastructure, Transport and Tourism to the Minister of Land, Infrastructure, Transport and Tourism or a prefectural governor within four months after the end of each business year.
- (3) When there have been any changes to the matters to be stated in the documents listed in Article 6, paragraph (1), item (iii) or other documents as provided for by Order of the Ministry of Land, Infrastructure, Transport and Tourism, the licensed construction business operator must notify the Minister of Land, Infrastructure, Transport and Tourism or a prefectural governor to that effect within four months after the end of each business year.
- (4) When there is a person that will replace the officer in the case of a corporation and the manager in the case of an individual, who was certified as conforming to of Article 7, item (i), sub-item (a) or (b) that has left or ceased to conform to sub-item (b) of the same item, or the person assigned to the office who was certified as falling under of item (ii), sub-item (a), (b) or (c) of the same Article is no longer assigned to the office or no longer conforms to sub-item (c) of the same item, the licensed construction business operator must submit the documents listed in Article 6, paragraph (1), item (v) concerning that person to the Minister of Land, Infrastructure, Transport and Tourism or a prefectural governor within two weeks as provided by Order of the Ministry of Land, Infrastructure, Transport and Tourism.
- (5) When the licensed construction business operator has come to no longer conform to the criteria set forth in Article 7, item (i) or item (ii) or when the operator comes to fall under any of Article 8, item (i) or items (vii) through (xi), the operator must notify the Minister of Land, Infrastructure, Transport and Tourism or a prefectural governor to that effect in writing within two weeks as provided by Order of the Ministry of Land, Infrastructure, Transport and Tourism.

(Notification of Discontinuance of Business)

Article 12 When the licensed construction business operator comes to fall under one of the following items, the person listed in each item must notify the Minister of Land, Infrastructure, Transport and Tourism or a prefectural governor to that effect within thirty days.

- (i) when the licensed construction business operator dies, the heir;
- (ii) when a corporation has ceased to exist due to merger, a person who was its officer;
- (iii) when a corporation is dissolved due to an order to commence bankruptcy proceedings, the bankruptcy trustee;

- (iv) when a corporation is dissolved for a reason other than merger or an order to commence bankruptcy proceedings, the liquidator; and
- (v) when the licensed construction business has been discontinued, the individual who was the licensed construction business operator or an officer of the corporation which was the licensed construction business operator.

(Public Inspection of Submitted Documents)

Article 13 Pursuant to the provisions of Cabinet Order, the Minister of Land, Infrastructure, Transport and Tourism or a prefectural governor must establish an inspection room for public inspection of documents provided for in Article 5, Article 6, paragraph (1), and Article 11, paragraphs (1) through (4) or copies of those documents.

(Delegation to Order of the Ministry of Land, Infrastructure, Transport and Tourism)

Article 14 Beyond what is provided for in this Section, necessary matters concerning applications for licenses are prescribed by Order of the Ministry of Land, Infrastructure, Transport and Tourism.

Section 3 Special Construction Business License

(Licensing Criteria)

Article 15 The Minister of Land, Infrastructure, Transport and Tourism or a prefectural governor must not grant a license unless the applicant for a special construction business license is found to conform to the following criteria:

- (i) the person falls under Article 7, item (i) and item (iii);
- (ii) the person has assigned a full-time worker who complies with any of the following items in each business office; provided, however, that for a person who seeks to obtain a license for a construction business specified by Cabinet Order in consideration of the comprehensive nature of construction technology (meaning the expert knowledge needed to properly carry out construction work in accordance with drawings and specifications and the ability to apply the knowledge; the same applies hereinafter), the dissemination status of construction technology and other circumstances (hereinafter referred to as "specified construction business"), the full time worker to be assigned to each business office must be a person who falls under sub-item (a) or a person the Minister of Land, Infrastructure, Transport and Tourism finds to possess abilities equivalent to or higher than the persons listed in sub-item (a) pursuant to the provisions of sub-item (c):
 - (a) a person who has passed the technical certification examination under the provisions of Article 27, paragraph (1) or examinations pursuant to the

provisions of other laws and regulations provided for by the Minister of Land, Infrastructure, Transport and Tourism in accordance with the type of the construction business license is sought, or a person who has obtained a license under the provisions of other laws and regulations provided for by the Minister of Land, Infrastructure, Transport and Tourism in accordance with the type of construction business license sought;

- (b) a person who falls under Article 7, sub-item (a), (b) or (c) who has two or more years of business experience of providing instruction and supervision for construction work related to the construction business for which license is sought, and the construction work is undertaken directly from an orderer and the amount of the contract fee exceeds the amount provided for by Cabinet Order;
- (c) a person who the Minister of Land, Infrastructure, Transport and Tourism finds to possess abilities equivalent to or higher than the persons listed in sub-item (a) or (b);
- (iii) the person has a sufficient financial basis to perform contracts with orderers when the amount of the contract fee exceeds the amount provided for by Cabinet Order.

(Restrictions on the Conclusion of Subcontracts)

Article 16 Only the holder of a special construction business license may conclude a subcontract that falls under any of the following items in order to execute construction work directly undertaken from an orderer:

- (i) a subcontract whose amount of the subcontract fee related to the subcontract exceeds the amount provided for by Cabinet Order under Article 3, paragraph (1), item (ii) for one contract;
- (ii) a subcontract for which the total amount of the subcontract fees for all other subcontracts in order to execute the construction work exceeds the amount provided for by Cabinet Order under Article 3, paragraph (1), item (ii) with the conclusion of the subcontract.

(Mutatis Mutandis Application)

Article 17 The provisions of Article 5, Article 6, and Articles 8 through 14 apply mutatis mutandis to a special construction business license and the holder of a special construction business license (hereinafter referred to as "special construction business operator"). In such case, the term "item (i) and item (ii) in the following Article" in Article 6, paragraph (1), item (v) is deemed to be replaced with "Article 7, item (i) and Article 15, item (ii)"; the terms "item (ii), sub-item (a), (b) or (c) of the same Article" and "the sub-item (c) of the same item" in Article 11, paragraph (4) are deemed to be replaced with "Article 15, item (ii), sub-item (a), (b), or (c) " and " sub-item (a), (b), or (c) of the same

item," respectively; and the term "Article 7, item (i) or item (ii)" in paragraph (5) of the same Article is deemed to be replaced with "Article 7, item (i) or Article 15, item (ii)."

Chapter III Contracts for Construction Work

Section 1 General Provisions

(General Rules for Contracts for Construction Work)

Article 18 The parties to a contract for construction work must conclude the contract fairly based on agreement made on terms of equality and perform the contract sincerely and in good faith.

(Content of Contracts for Construction Work)

Article 19 (1) The parties to a contract for construction work must enter the following matters in documents, write their signature or affix their name and seal to the documents, and each party must keep a copy of the document when concluding the contract, based on the purport of the preceding Article:

- (i) the content of the construction work;
- (ii) the amount of the contract fee;
- (iii) the date for the commencement of the construction work and the date for the completion of the construction work;
- (iv) when agreements are made concerning the prepayment of all or a part of the contract fee or payments to be made on completed parts of construction, the date and the method of the payment;
- (v) provisions regarding changes to the period of construction, changes to the amount of the contract fee, and payment of damages, and the method of calculation for those amounts in the case one of the parties proposes design changes, postponement to the commencement of construction or suspension of all or a part of the construction work;
- (vi) provisions regarding changes to the period of construction due to natural disasters and other force majeure, or the payment of damages and the method for calculating the amount of damages;
- (vii) changes in the amount of the contract fee or the content of the construction work based on fluctuations or changes in prices, etc., (refers to prices, etc., provided for in Article 2 of the Prices Control Order (Imperial Order No. 118 of 1946));
- (viii) provisions regarding the payment of compensation in the case of losses or damage to a third party caused by the execution of the construction work;
- (ix) provisions regarding the details and the method used when the order placer supplies materials used in the construction work or leases construction machinery and other machinery;

- (x) the date and method for the order placer to conduct an inspection in order to confirm the total or partial completion of the construction work and the date of transfer;
 - (xi) the date and method for payment of the contract fee after completion of the construction work;
 - (xii) when provisions on concluding a guarantee insurance contract or on other measures are provided regarding liability for defects in the object of the construction work and the performance of the liability, the content of the agreement or measures;
 - (xiii) delayed interest, penalty for breach of contract and other damages for delays in performance by either party or non-performance of other obligations; and
 - (xiv) the method of resolution for disputes concerning the contract.
- (2) When there are changes to the content of the contract for work regarding the matters listed in the preceding paragraph, the parties to the contract must enter the changes in documents, write their signature or affix their name and seal, and each party must keep a copy of the document.
- (3) As specified by Cabinet Order, a party to a contract for construction work may obtain the consent of the other party to the contract and employ methods using the electronic data processing system or other information and communications technology that are specified as equivalent to the measures under each of the relevant paragraphs by Order of the Ministry of Land, Infrastructure, Transport and Tourism, in lieu of the measures under the preceding two paragraphs. In this case, a person who takes measures specified by Order of the Ministry of Land, Infrastructure, Transport and Tourism is deemed to have taken the measures under each of the relevant paragraph.

(Notice Concerning Appointment of On-Site Agents)

- Article 19-2 (1) When assigning an on-site agent to a construction site in relation to performance of contract for work, the contractor must notify the order placer in writing of the matters regarding the authority of the on-site agent and the method for reporting the opinions of the order placer concerning the acts of the on-site agent to the contractor (referred to as "matters concerning the on-site agent" in paragraph (3)).
- (2) When assigning a supervisor to a construction site in relation to performance of a contract for work, the order placer must notify the contractor in writing of the matters regarding the authority of the supervisor and the method for reporting the opinions of the contractor concerning the acts of the supervisor to the order placer (referred to as "matters concerning the supervisor" in paragraph (4)).
- (3) As specified by Cabinet Order, in lieu of the written notice provided for in

paragraph (1), the contractor may obtain the consent of the order placer specified in the same paragraph and give notice of matters concerning the on-site agent by employing methods using the electronic data processing system or other information and communications technology provided by Order of the Ministry of Land, Infrastructure, Transport and Tourism. In this case, the contractor is deemed to have given the written notice.

- (4) As specified by Cabinet Order, in lieu of the written notice provided for in paragraph (2), the order placer may obtain the consent of the contractor in the same paragraph and give notice of matters concerning the supervisor, by employing methods using the electronic data processing system or other information and communications technology provided by Order of the Ministry of Land, Infrastructure, Transport and Tourism. In this case, the order placer is deemed to have given the written notice

(Prohibition of Unreasonably Low Contract Fees)

Article 19-3 The order placer must not wrongfully use their position in transactions to conclude a contract for the amount of contract fee that is under the generally required cost to complete the ordered construction work.

(Prohibition of Unreasonable Compulsory Purchase of Materials)

Article 19-4 After concluding a contract, an order placer must not wrongfully use their position in transactions to specify the supplier of materials or machinery to be used in the ordered construction work and force the contractor to purchase them to the disadvantage of the contractor.

(Recommendations to Orderers)

Article 19-5 When an orderer who has concluded a contract with a construction business operator (excluding business operators provided in Article 2, paragraph (1) of the Act on Prohibition of Private Monopolization and Maintenance of Fair Trade (Act No. 54 of 1947)) has violated the provisions of the preceding two Articles, the Minister of Land, Infrastructure, Transport and Tourism or the prefectural governor who has given a license the construction business operator may make the necessary recommendations to the orderer when finding it particularly necessary.

(Estimate for Construction Work)

Article 20 (1) In concluding a contract for construction work, a construction business operator must endeavor to make an estimate of the construction work by clarifying the breakdown of material expenses, labor expenses, and other expenses for each type of construction in accordance with the content of the work.

- (2) When requested by an order placer of the construction work, a construction business operator must present a written estimate for the construction work before the contract is completed.
- (3) The order placer of construction work must, prior to the conclusion of the contract when the contract method is by a negotiated contract and prior to the submission of bids when the contract method is competitive bidding, present the details of the matters listed in Article 19, paragraph (1), item (i), and items (iii) through (xiv) as concretely as possible and set the specified period provided for by Cabinet Order needed for the construction business operator to make an estimate for the construction work in the period between the presentation of the details and conclusion of the contract or the bidding.

(Contract Guaranty)

Article 21 (1) When a contract for construction work has provisions on prepayment of all or a part of the contract fee, the order placer may request the construction business operator to establish a guarantor before the pre-payment is made; provided, however, that this does not apply to construction work covered by the guaranty of surety companies provided for under Article 2, paragraph (4) of the Act On Guaranty Service Related to Advance Payment of Public Works (Act No. 184 of 1952) or simple construction work specified by Cabinet Order.

- (2) A construction business operator who has received the request set forth in the preceding paragraph must establish a guarantor as specified in one of the following items:
 - (i) a guarantor for payment of delayed interest in the case of default or damages for breach of contract by the construction business operator, or any other damages; and
 - (ii) an another construction business operator who will guarantee the completion of the construction work in lieu of the construction business operator.
- (3) If the construction business operator does not establish a guarantor despite being requested to do so under the provisions of paragraph (1), the order placer may decline to make the prepayment regardless of the provisions of the contract.

(Prohibition of Lump-Sum Subcontract)

Article 22 (1) A construction business operator must not have another business operator undertake all of the construction work they have contracted, regardless of the means used.

- (2) A person who conducts a construction business must not undertake all of the construction work that the construction business operator has undertaken from

the construction business operator.

- (3) When the construction work under the preceding two paragraphs is a construction work other than for a facility utilized by a large number of people or significant construction work related to a building provided for by Cabinet Order, these provisions do not apply when the main contractor for the construction work has obtained the written consent of the orderer in advance.
- (4) As specified by Cabinet Order, in lieu of the written consent provided for in the preceding paragraph, the orderer may obtain the consent of the main contractor specified in the same paragraph and give notice of the consent specified in the same paragraph by employing means using the electronic data processing system or other information and communications technology specified by Order of the Ministry of Land, Infrastructure, Transport and Tourism. In this case, the orderer is deemed to have given the written consent.

(Request for Replacement of Subcontractor)

- Article 23 (1) When the order placer finds that a subcontractor is considerably unsuitable for the execution of the construction work, the order placer may request the contractor to replace the subcontractor; provided, however, that this does not apply to subcontractors selected with the advance written consent of the order placer.
- (2) As specified by Cabinet Order, in lieu of the written consent provided for in the proviso of the preceding paragraph, the order placer may obtain the consent of the person selecting the subcontractor specified in the proviso of the same paragraph and give notice of the consent specified in the proviso of the same paragraph employing means using the electronic data processing system or other information and communications technology specified by Order of the Ministry of Land, Infrastructure, Transport and Tourism. In this case, the order placer is deemed to have given the written consent.

(Reporting of Construction Supervision)

- Article 23-2 A contractor who has been requested to execute a contracted construction project in line with a design drawing from an architect pursuant to the provisions of Article 18, paragraph (3) of the Act on Architects and Building Engineers (Act No. 202 of 1950) must immediately report the reason to the order placer using the means of notice provided for in Article 19-2, paragraph (2) when there is a reason not to follow the design drawing.

(Cases Deemed to Be Contract for Work)

- Article 24 A contract concluded for the purpose of completing construction work for remuneration regardless of the name it is given such as consignment or any other name, is deemed to be a contract for construction work, and the

provisions of this Act apply.

Section 2 Duties of the Main Contractor

(Hearing the Opinion of Subcontractors)

Article 24-2 The main contractor must hear the opinions of subcontractors in advance, when deciding matters necessary for them in executing the contracted construction work, such as the details of the work process and the method of work.

(Payment of Subcontracting Fees)

Article 24-3 (1) After receiving payment for the work completed or payment after the completion of all work, the main contractor must pay a subcontracting fee to the subcontractor that executed the construction work for which the payment has been made corresponding to rate of the amount paid to the main contractor and corresponding to the amount of work completed by the subcontractor within one month and within as short a period as possible after receiving the payment.

(2) After receiving prepayment, the main contractor must give adequate consideration to making an advance payment to the subcontractor for expenses necessary to commence the construction work, such as the purchase of materials and the recruitment of workers.

(Inspection and Transfer)

Article 24-4 (1) After receiving notice from the subcontractor that the construction work it has undertaken has been completed, the main contractor must make an inspection in order to confirm the completion of the work within twenty days and within as short a period as possible from the date when the notice was received.

(2) After confirming the completion of the construction work based on the inspection provided for in the preceding paragraph, the main contractor must accept transfer of the subject matter of the construction work immediately upon request of the subcontractor; provided, however, that this does not apply when the subcontract contains a special provision stating that the transfer is to be made on a specified date before the twentieth day after the completion of the work.

(Date of Payment for Subcontracting Fees by Special Construction Business Operator)

Article 24-5 (1) The date of payment for subcontracting fees for subcontracts (excluding cases in which the contractor in a subcontract is a special

construction business operator or a corporation with capital exceeding the amount specified by Cabinet Order; hereinafter the same applies in this Article) when a special construction business operator is the order placer, must be fixed to a date within fifty days before the date of the offer specified in paragraph (2) of the preceding Article (the specified date in the case of the proviso of the same paragraph; hereinafter the same applies in this Article) and within as short a period as possible.

- (2) For subcontracts in which a special construction business operator is the order placer, the date of the offer specified in paragraph (2) of the preceding Article when the date of payment for the subcontracting fee is not fixed, or the fiftieth day from the date of the offer specified in paragraph (2) of the preceding Article when the date of payment is fixed in violation of the preceding paragraph is deemed to be the fixed date of payment for the subcontracting fees.
- (3) When a special construction business operator makes a payment for subcontracting fees related to a subcontract in which the special construction business operator is the order placer, the special construction business operator must not deliver negotiable instruments found difficult to be provided a discount from an ordinary financial institution (meaning an organization which accepts deposits or savings and engages in financing) before the payment date for the subcontracting fees.
- (4) The special construction business operator must pay subcontracting fees concerning subcontracts in which the special construction business operator is the order placer by the payment date specified under the provisions of paragraph (1) or the payment date provided for in paragraph (2). When the special construction business operator does not make the payment, the special construction business operator must pay to the subcontractor an amount equivalent to the unpaid amount multiplied by the rate specified by Order of the Ministry of Land, Infrastructure, Transport and Tourism for the period from the fiftieth day after the offer specified in paragraph (2) of the preceding Article until the date of actual payment of the subcontracting fees concerned as delayed interest.

(Instructions from Special Construction Business Operator to Subcontractors)

Article 24-6 (1) A special construction business operator who has undertaken construction work directly from an orderer must make efforts to instruct the subcontractors so that they do not violate the provisions of this Act and the provisions of Cabinet Orders based on laws and regulations concerning the execution of construction work and the employment of workers who execute construction work with regard to the construction work of the subcontract concerned.

- (2) When the special construction business operator provided for in the preceding paragraph finds that the subcontractor for the contracted construction work has violated the provisions specified in the same paragraph, the business operator is to indicate the fact that the operator of the construction business is violating the provisions and make efforts to request rectification of the violation.
- (3) When the special construction business operator under paragraph (1) has requested rectification pursuant to the provisions of the preceding paragraph and the operator of the construction business has not rectified the violation, the special construction business operator must promptly inform the fact to the Minister of Land, Infrastructure, Transport and Tourism or the prefectural governor who granted the license when the person conducting the construction business concerned is a construction business operator, or the prefectural governor who has jurisdiction over the site of the construction work concerned when the person conducts other construction business.

(Preparation of Work Ledger and Work Plan)

- Article 24-7 (1) When directly undertaking construction work from an orderer and when the amount of the subcontracting fee in the subcontract concluded in order to execute the construction work exceeds the amount specified by Cabinet Order (the total amount of the contract fees when there are two or more subcontracts), the special construction business operator must prepare a work ledger for the construction work pursuant to Order of the Ministry of Land, Infrastructure, Transport and Tourism, which states the trade name or the name of the subcontractor, the content of the construction work with regard to the subcontractor, the period of the work and other matters specified by Order of the Ministry of Land, Infrastructure, Transport and Tourism, in order to ensure the proper execution of the construction work, and keep such work ledger in each construction site.
- (2) As specified by Order of the Ministry of Land, Infrastructure, Transport and Tourism, when the subcontractor for construction work in the preceding paragraph has subcontracted the contracted construction work to another person operating a construction business, the subcontractor must notify the special construction business operator under the same paragraph of the trade name or the name of the other person operating a construction business, the content of the construction work the person has undertaken, the period of construction, and other matters specified by Order of the Ministry of Land, Infrastructure, Transport and Tourism.
- (3) The special construction business operator under paragraph (1) must, when requested by the orderer under the same paragraph, make the work ledger kept pursuant to the provisions of the same paragraph available for inspection

by the orderer.

- (4) The special construction business operator under paragraph (1) must prepare a work plan showing the distribution of work among each subcontractor for the construction work and place the work plan in an easily visible location at the construction site as specified by Order of the Ministry of Land, Infrastructure, Transport and Tourism.

Chapter III-2 Dispute Resolution of Contracts for Construction Work

(Establishment of a Committee for Adjustment of Construction Work Disputes)

Article 25 (1) A Committee for Adjustment of Construction Work Disputes is to be established in order to resolve disputes concerning contracts for construction work.

- (2) A Committee for Adjustment of Construction Work Disputes (hereinafter referred to as "Committee") is to have the authority to conduct mediation, conciliation, and arbitration (hereinafter referred to as "dispute resolution procedures") of disputes concerning contracts for construction work (hereinafter referred to as "disputes") pursuant to the provisions of this Act.

- (3) Committees consist of the Central Committee for Adjustment of Construction Work Disputes (hereinafter referred to as "Central Committee") and Prefectural Committees for Adjustment of Construction Work Disputes (hereinafter referred to as "Prefectural Committees"). The Central Committee is established in the Ministry of Land, Infrastructure, Transport and Tourism and the Prefectural Committees are established in each prefecture.

(Organization of the Committee)

Article 25-2 (1) The Committee consists of up to fifteen committee members.

- (2) The committee members are appointed by the Minister of Land, Infrastructure, Transport and Tourism for the Central Committee and by the prefectural governor for the Prefectural Committee from among persons of high moral character and with deep insight.
- (3) The Central Committee and the Prefectural Committees are to respectively have a chairperson who is elected from among the committee members.
- (4) The chairperson is in charge of the affairs of the Committee.
- (5) If the chairperson is unavailable, a committee member selected in advance from among the committee members performs the duties of the chairperson on their behalf.

(Term of Office of Committee Members)

Article 25-3 (1) The term of office of committee members is to be two years; provided, however, that the term of office of committee members appointed to

- fill a vacancy is to be the remaining term of office of the predecessor.
- (2) Committee members may be reappointed.
 - (3) Committee members are to carry out their duties until their successors are appointed.
 - (4) Committee members are to serve on a part-time basis.

(Disqualification of Committee Members)

Article 25-4 A person who falls under any of the following items may not be a committee member:

- (i) a bankrupt whose rights have not been restored; or
- (ii) a person who has been sentenced to a term of imprisonment without work or a severer punishment and for whom five years have not elapsed since the completion of the sentence or since the person ceased to be subject to the sentence.

(Dismissal of Committee Members)

Article 25-5 (1) The Minister of Land, Infrastructure, Transport and Tourism or a prefectural governor must dismiss a committee member they have appointed, who has come to fall under any of the items of the preceding Article.

- (2) The Minister of Land, Infrastructure, Transport and Tourism or a prefectural governor may dismiss a committee member they have appointed, who falls under any of the following items:
 - (i) when a committee member is found to be unable to execute duties due to mental or physical impairment; or
 - (ii) when a committee member is found to have violated an obligation in the course of their duties or committed other misconduct unbecoming to the member.

(Meetings and Resolutions)

Article 25-6 (1) The chairperson convenes a committee meeting.

- (2) The Committee may not hold a meeting or pass a resolution unless a majority of committee members are in attendance in addition to the chairperson or the person who acts on behalf of the chairperson under the provisions of Article 25-2, paragraph (5).
- (3) The proceedings of the Committee are decided by a majority of those in attendance. In the case of a tie, the chairperson makes a decision.

(Special Committee Members)

Article 25-7 (1) Special committee members may be appointed to the Committee in order to have them participate in dispute resolution.

- (2) The term of office of special committee members is to be two years.

- (3) The provisions of Article 25-2, paragraph (2), Article 25-3, paragraph (2) and paragraph (4), Article 25-4, and Article 25-5 apply mutatis mutandis to special committee members.
- (4) Beyond what is provided for in this Act, necessary matters related to special committee members are prescribed by Cabinet Order.

(Status of Prefectural Committee Members as Local Public Employees in Regular Service)

Article 25-8 Committee members and special committee members of a Prefectural Committee are to be deemed as local public employees in regular service under the provisions of Article 3, paragraph (2) of the Local Public Service Act (Act No. 261 of 1950) for the application of the provisions of Article 34, Article 60, item (ii), and Article 62.

(Jurisdiction)

- Article 25-9 (1) The Central Committee has jurisdiction over dispute resolution in the cases listed in each of the following items:
- (i) when both parties are construction business operators licensed by the Minister of Land, Infrastructure, Transport and Tourism;
 - (ii) when both parties are construction business operators and different administrative authorities have granted the license; or
 - (iii) when only one party is a construction business operator licensed by the Minister of Land, Infrastructure, Transport and Tourism.
- (2) A Prefectural Committee has jurisdiction over dispute resolution in the cases listed in each of the following items:
- (i) when both parties are construction business operators licensed by the governor of the prefecture concerned;
 - (ii) when only one party is a construction business operator licensed by the governor of the prefecture concerned;
 - (iii) when both parties are operating a construction business without a license, and the construction work site related to the dispute is located in an area within the prefecture concerned;
 - (iv) in addition to the cases listed in item (iii) of the preceding paragraph and item (ii) above, when one of the parties only is operating a construction business without a license, and the construction work site related to the dispute is in an area within the prefecture concerned.
- (3) Notwithstanding the provisions of the preceding two paragraphs, the parties may determine the competent Committee based on mutual agreement.

(Application for Dispute Resolution)

Article 25-10 An application for dispute resolution must be made in writing as

specified by Cabinet Order to the Minister of Land, Infrastructure, Transport and Tourism for application to the Central Committee and through the governor of the prefecture concerned for application to a Prefectural Committee.

(Commencement of Mediation or Conciliation)

Article 25-11 When a dispute has arisen, the Committee conducts mediation or conciliation in cases that fall under one of the following items:

- (i) when both or one of the parties has requested the Committee to conduct a mediation or conciliation; or
- (ii) for a dispute concerning a public facility or a building provided for by Cabinet Order, when the Committee has resolved that it is necessary to conduct a mediation or conciliation based on its authority.

(Mediation)

Article 25-12 (1) Mediation by the Committee is to be conducted by mediation committee members.

(2) Mediation committee members are to be appointed by the chairperson of the Committee for each case from among the committee members or the special committee members.

(3) Mediation committee members must mediate between the parties, clarify the main points of the claims of both parties, and make efforts to resolve the case.

(Conciliation)

Article 25-13 (1) Conciliation by the Committee is to be conducted by three conciliation committee members.

(2) The conciliation committee members are to be appointed by the chairperson of the Committee for each case from among the committee members or the special committee members.

(3) When the Committee finds it necessary for conciliation, it may request the parties to make an appearance and hear their opinions.

(4) The Committee may prepare a conciliation proposal and recommend that the parties accept the proposal.

(5) The proposal set forth in the preceding paragraph must be prepared based on the opinions of a majority of the conciliation committee members.

(Cases in which Mediation or Conciliation is Not Conducted)

Article 25-14 When the Committee finds that the dispute is unsuitable for mediation or conciliation due to its nature or that the parties have requested mediation or conciliation for unjust purposes without due cause, it is not to conduct mediation or conciliation.

(Discontinuance of Mediation or Conciliation)

Article 25-15 (1) When the Committee finds that there is no prospect of resolving the dispute for which mediation or conciliation is used through mediation and conciliation, it may discontinue the mediation or conciliation.

(2) When the Committee has discontinued the mediation or conciliation pursuant to the provisions of the preceding paragraph, it must notify the parties to that effect.

(Renewal of Prescription)

Article 25-16 When mediation or conciliation has been discontinued pursuant to the provisions of paragraph (1) of the preceding Article, and the party that requested the mediation or conciliation filed an action related to the request that was the purpose of the mediation or conciliation within one month from the date of receiving the notice in paragraph (2) of the preceding Article, the action is deemed to have been filed at the time of the request for mediation or conciliation with regard to the renewal of prescription.

(Suspension of Court Proceedings)

Article 25-17 (1) When litigation between the parties regarding the dispute is pending, the court in charge of the case may decide to suspend the court proceedings for a fixed period of no longer than four months when any of the reasons listed in the following items exist and there is a joint petition from the parties.

(i) mediation or conciliation related to the dispute is being conducted between the parties by the Committee; or

(ii) in addition to the case referred to in the preceding item, there is an agreement between the parties to resolve the dispute through mediation or conciliation by the Committee.

(2) The court in charge of the case may revoke the decision set forth in the preceding paragraph at any time.

(3) No appeal may be entered against a decision to dismiss the petition under paragraph (1) or a decision to revoke the decision under paragraph (1) pursuant to the provisions of the preceding paragraph.

(Commencement of Arbitration)

Article 25-18 When a dispute has arisen, the Committee conducts an arbitration when the case falls under any of the following items:

(i) there has been a request to the Committee for arbitration from both parties; or

(ii) when there has been a request for arbitration to the Committee from one of the parties based on an agreement to apply for arbitration pursuant to the

provisions of this Act.

(Arbitration)

Article 25-19 (1) Arbitration by the Committee is carried out by three arbitration committee members.

(2) The arbitration committee members are appointed by the chairperson of the Committee out of the persons selected based on the agreement of the parties from among the committee members or special committee members; provided, however, that when there is no selection based on the agreement of the parties, the chairman of the Committee appoints the arbitration committee members from among the committee members or the special committee members.

(3) At least one of the arbitration committee members must be qualified as an attorney-at-law under the provisions of Chapter II of the Attorney Act (Act No. 205 of 1949).

(4) With regard to the arbitration conducted by the Committee, except as otherwise provided for by this Act, the provisions of the Arbitration Law (Act No.138 of 2003) apply by deeming the arbitration committee members to be the arbitrators.

(Submission of Documents and Objects)

Article 25-20 (1) When the Committee finds it necessary in conducting an arbitration, upon application by the party concerned, the Committee may have the other party submit documents and objects possessed by them that pertain to the contract for work.

(2) When the other party fails to submit the documents and objects referred to in the preceding paragraph without legitimate grounds, the Committee may recognize the claims of the complainant with regard to the documents or objects as true.

(On-Site Inspection)

Article 25-21 (1) When the Committee finds it necessary in conducting an arbitration upon application by the party concerned, the Committee may enter construction sites and other places owned by the other party that are related to the case and conduct an inspection on the cause of the dispute.

(2) When conducting an inspection pursuant to the provisions of the preceding paragraph, the Committee may have one of the arbitration committee members conduct the inspection.

(3) When the opposite party refuses the inspection provided for in paragraph (1) without legitimate grounds, the Committee may recognize the claims of the complainant with regard to the facts as true.

(Non-disclosure of Conciliation or Arbitration Proceedings)

Article 25-22 Conciliation and arbitration proceedings conducted by the Committee are not to be opened to the public; provided, however, that the Committee may permit the attendance of persons it finds appropriate.

(Required Expenses for Dispute Resolution Proceedings)

Article 25-23 (1) The expenses required for dispute resolution proceedings are to be paid by each of the parties unless otherwise specified.

(2) The Committee is to order the prepayment of expenses for acts related to the allegations of the parties.

(3) When the Committee orders prepayment of expenses pursuant to the provisions of the preceding paragraph and the party concerned fails to prepay the expenses, the Committee may choose not to conduct the acts under the preceding paragraph.

(Application Fee)

Article 25-24 An applicant to the Central Committee for dispute resolution must pay the application fee specified by Cabinet Order.

(Report on Status of Dispute Resolution)

Article 25-25 The Central Committee must report on the status of dispute resolution to the Minister of Land, Infrastructure, Transport and Tourism, and a Prefectural Committee must report on the status of dispute resolution to the governor of the prefecture concerned, as specified by Order of the Ministry of Land, Infrastructure, Transport and Tourism.

(Delegation to Cabinet Order)

Article 25-26 Beyond what is provided for in this Chapter, the necessary matters related to dispute resolution proceedings and the expenses for them are prescribed by Cabinet Order.

Chapter IV Securing of Construction Technology

(Securing of Construction Technology)

Article 25-27 (1) Construction business operators must make efforts to secure construction technology.

(2) The Minister of Land, Infrastructure, Transport and Tourism must implement training, provide materials, and take other measures as needed to contribute to the securing of the construction technology set forth in the preceding paragraph.

(Assignment of Chief Engineer and Managing Engineer)

- Article 26 (1) When executing construction work that a construction business operators has undertaken, the construction business operator must assign a person who conforms to Article 7, item (ii), sub-item (a), sub-item (b) or sub-item (c) with regard to the construction work and who takes charge of the management of construction technology at the construction site (hereinafter referred to as "chief engineer").
- (2) Notwithstanding the provisions of the preceding paragraph, when a specified construction business operator has undertaken construction work directly from an orderer and the amount of the subcontract fee in the subcontract concluded in order to execute the construction work (the total contract fee when there are two or more subcontracts) exceeds the amount provided for by Cabinet Order under Article 3, paragraph (1), item (ii), the special construction business operator must assign a person who conforms to Article 15, item (ii), sub-item (a), sub-item (b), or sub-item (c) (when the construction business is a designated construction business, a person who falls under sub-item (a) or a person certified by the Minister of Land, Infrastructure, Transport and Tourism as having abilities equivalent to or higher than a person listed under sub-item (a) pursuant to the provisions of sub-item (c)) with relation to the construction work and who takes charge of the management of construction technology for the construction work at the construction site (hereinafter referred to as "managing engineer").
- (3) For significant construction work related to public facilities or buildings, or facilities or buildings utilized by a large number of people, specified by Cabinet Order, the chief engineer or managing engineer that must be assigned under the provisions of the preceding two paragraphs must be a full-time employee for each construction site.
- (4) The managing engineer who must be a full-time employee pursuant to the provisions of the preceding paragraph must be appointed from persons who have received a managing engineer qualification certificate under the provisions of Article 27-18, paragraph (1) and who have undergone the training registered by the Minister of Land, Infrastructure, Transport and Tourism pursuant to the provisions of Articles 26-4 through 26-6.
- (5) A managing engineer appointed pursuant to the provisions of the preceding paragraph must present the managing engineer qualification certificate when requested to do so by the orderer.

Article 26-2 (1) When a person who conducts a civil engineering business or a construction business executes general civil engineering work or general building work and also executes construction work other than general civil engineering or general building work (except for simple construction work

provided for in Cabinet Order under the proviso of Article 3, paragraph (1)), the person must have the construction work executed by a construction business operator who has received a license for the construction business to which the construction work relates, in addition to cases in which the person executes the work themselves by assigning a person who falls under Article 7, sub-item (a), sub-item (b), or sub-item (c) in relation to the construction work to take charge of the management of the construction technology for the construction work at the construction site.

- (2) When executing other construction work incidental to the construction work for which the construction business is licensed (except for simple construction work provided for by Cabinet Order under the proviso of Article 3, paragraph (1)), the construction business operator must have the construction work executed by a construction business operator who has obtained a license in the construction business related to the construction work, in addition to cases in which the construction business operator executes the work themselves by assigning a person who falls under Article 7, item (ii), sub-item (a), sub-item (b), or sub-item (c) in relation to the construction work to take charge of the management of the construction technology for the construction work at the construction site.

(Duties of Chief Engineer and Managing Engineer)

Article 26-3 (1) The chief engineer and the managing engineer must sincerely perform the duties of preparing construction plans for the construction work, managing the work process and quality control and other technical matters as well as providing technical direction and supervision to workers engaged in the construction work, in order to properly implement the construction work at the construction site.

- (2) Workers engaged in the execution of construction work at the construction site must follow the directions given by the chief engineer and the managing engineer as part of their duties.

(Registration)

Article 26-4 The registration under Article 26, paragraph (4) is granted upon application by a person who seeks to conduct the training under the same paragraph.

(Disqualification Clause)

Article 26-5 Training conducted by a person who falls under any of the following items may not obtain registration under Article 26, paragraph (4):

- (i) a person who has violated this Act or orders based on this Act and has been sentenced to a fine or a heavier punishment, and for whom two years have

- not elapsed since the execution on the sentence was completed or since the person ceased to be subject to the sentence;
- (ii) a person who has had the registration of the training under Article 26, paragraph (4) rescinded pursuant to the provisions of Article 26-15, and for whom two years have not elapsed since the date of rescission; or
- (iii) a corporation that has any officer conducting the training under Article 26, paragraph (4) who falls under either of the preceding items.

(Requirements for Registration)

Article 26-6 (1) When an application for the training filed pursuant to the provisions of Article 26-4 conforms to all of the following requirements, the Minister of Land, Infrastructure, Transport and Tourism must grant registration. In this case, the necessary procedures for registration are specified by Order of the Ministry of Land, Infrastructure, Transport and Tourism:

- (i) the following subjects are provided:
 - (a) the legal system related to construction work;
 - (b) preparation of construction plans for construction work, process management, quality control and other technical management;
 - (c) the latest materials, equipment and techniques related to construction work;
- (ii) for the subjects listed under sub-item (b) and sub-item (c) of the preceding item, a person who falls under one of the following is engaged in the work of training as an instructor:
 - (a) a person with experience as a managing engineer;
 - (b) a person who has experience as a teacher of the subjects listed in the Appended Table 2 at a senior high school, secondary school, university, a college of technology or a vocational school under the School Education Act;
 - (c) a person who has abilities equivalent to or higher than those persons listed in sub-item (a) or sub-item (b);
- (iii) the person does not fall under any of the following as a person controlled by a construction business operator:
 - (a) if the applicant for the registration under the provisions of Article 26-4 (hereinafter referred to as "applicant for registration") is a stock company, its parent company (meaning parent company as provided for in Article 879, paragraph (1) of the Companies Act (Act No. 86 of 2005); the same applies in Article 27-31, paragraph (2), item (i)) is a construction business operator
 - (b) the officers or employees of a construction business operator (including those who have been officers or employees of the construction business operator within the past two years) account for more than one half of the

- officers (employees who execute business in the case of a membership company (meaning membership company as provided for in Article 575, paragraph (1) of the Companies Act; the same applies in Article 27-31, paragraph (2), item (ii))) of the registration applicant;
- (c) the registration applicant (the officer with the right of representation in the case of a corporation) is an officer or employee of a construction business operator (including a person who has been an officer or employee of the construction business operator within the past two years).
- (2) Registration is to be made by entering the following matters in the training registration ledger:
- (i) the date of registration and the registration number;
 - (ii) the name and the address of the entity that conducts the training which has received the registration under Article 26, paragraph (4) (hereinafter referred to simply as "registered training institution"), and the name of the representative in the case of a corporation; and
 - (iii) the location of the office where the registered training institution conducts training.

(Renewal of Registration)

- Article 26-7 (1) The registration under Article 26, paragraph (4) ceases to be effective upon expiration of the period, unless it is renewed for each period of not less than three years specified by Cabinet Order.
- (2) The provisions of the preceding three Articles apply mutatis mutandis to the registration set forth in the preceding paragraph.

(Obligations related to the Implementation of Training)

- Article 26-8 A registered training institution must conduct training impartially and in compliance with the requirements listed in Article 26-6, paragraph (1), item (i) and item (ii) and the standards specified by Order of the Ministry of Land, Infrastructure, Transport and Tourism.

(Notification of Changes to Registered Matters)

- Article 26-9 When a registered training institution seeks to change the matters listed in Article 26-6, paragraph (2), item (ii) or item (iii), it must notify the Minister of Land, Infrastructure, Transport and Tourism to this effect at least two weeks before the scheduled date of the change.

(Training Rules)

- Article 26-10 (1) A registered training institution must establish rules concerning training (hereinafter referred to as "training rules") and notify the Minister of Land, Infrastructure, Transport and Tourism before the

commencement of training. The same applies when it seeks to change the training rules.

- (2) The training rules must provide for the method of conducting training, the charges for the training, and other matters specified by Order of the Ministry of Land, Infrastructure, Transport and Tourism.

(Suspension and Discontinuance of Training)

Article 26-11 When a registered training institution seeks to suspend or discontinue all or a part of the training, it must notify the Minister of Land, Infrastructure, Transport and Tourism to that effect in advance, as specified by Order of the Ministry of Land, Infrastructure, Transport and Tourism.

(Keeping and Inspection of Financial Statements)

Article 26-12 (1) Within three months from the end of each business year, a registered training institution must prepare an inventory of assets, a balance sheet, a profit and loss statement, an income and expenditure statement, and a business report for that business year and keep them at its office for five years (when electronic or magnetic records (meaning records prepared using electronic, magnetic or other means that cannot be perceived by the human senses, which are provided for information processing by a computer; hereinafter the same applies in this Article) are prepared instead, including those electronic or magnetic records; referred to as "financial statements, etc.," in the following paragraph and in Article 54).

- (2) Construction business operators and other interested parties may make the following requests at any time during the business hours of the registered training institution; provided, however, that the expenses set by the registered training institution must be paid in order to make the requests under item (ii) or item (iv):
- (i) when financial statements, etc., have been prepared as documents, a request for inspecting or copying the documents;
 - (ii) a request for transcript or extract of the documents under the preceding item.
 - (iii) when financial statements, etc., have been prepared as electronic or magnetic records, a request for inspecting or copying something that indicates the matters recorded in electronic or magnetic records in a manner specified by Order of the Ministry of Land, Infrastructure, Transport and Tourism.
 - (iv) a request for the provision of the matters recorded in the electronic or magnetic record under the preceding item using the electronic or magnetic means specified by Order of the Ministry of Land, Infrastructure, Transport and Tourism or a request for issuing documents that states those matters.

(Order to Comply)

Article 26-13 The Minister of Land, Infrastructure, Transport and Tourism may, when finding that the training no longer conforms with the provisions of Article 26-6, paragraph (1), order that the registered training institution take the necessary measures in order to conform with the provisions of that paragraph.

(Order for Improvement)

Article 26-14 The Minister of Land, Infrastructure, Transport and Tourism may, when finding that the registered training institution has violated the provisions of Article 26-8, order the registered training institution to conduct training under the provisions of the same Article, or to take the necessary measures for improving the method of its training and improving other operations.

(Rescission of Registration)

Article 26-15 When any of the following items applies to a registered training institution, the Minister of Land, Infrastructure, Transport and Tourism may rescind the registration of the training that the registered training institution conducts or order the discontinuance of all or a part of the training for a fixed period.

- (i) when it has come to fall under Article 26-5, item (i) or item (iii);
- (ii) when it has violated the provisions of Article 26-9 through 26-11, Article 26-12, paragraph (1), or the following Article;
- (iii) when it refuses a request under the provisions in each of the items of Article 26-12, paragraph (2) without legitimate grounds;
- (iv) when it has violated an order under the provisions of the preceding two Articles; or
- (v) when it has obtained registration under Article 26, paragraph (4) by wrongful means.

(Entry in Books)

Article 26-16 As provided for by the Order of the Ministry of Land, Infrastructure, Transport and Tourism, the registered training institution must prepare books, record the matters specified by the Order of the Ministry of Land, Infrastructure, Transport and Tourism in them and keep them.

(Implementation of Training by the Minister of Land, Infrastructure, Transport and Tourism)

Article 26-17 (1) The Minister of Land, Infrastructure, Transport and Tourism

may personally conduct all or part of the training, when there is no entity to conduct training, when there has been a notification of suspension or discontinuation of all or a part of the training under the provisions of Article 26-11, when registration under Article 26, paragraph (4) is rescinded pursuant to the provisions of Article 26-15, or the registered training institution has been ordered to discontinue all or part of the training, when it has become difficult for the registered training institution to conduct all or a part of the training due to natural disaster or other causes, or when the Minister finds it necessary.

- (2) When the Minister of Land, Infrastructure, Transport and Tourism personally conducts all or a part of the training pursuant to the provisions of the preceding paragraph, matters related to handing over the training and other necessary matters are specified by Order of the Ministry of Land, Infrastructure, Transport and Tourism.

(Fees)

Article 26-18 A person who seeks to undergo the training conducted by the Minister of Land, Infrastructure, Transport and Tourism pursuant to the provisions of paragraph (1) of the preceding Article must pay the fees determined by Cabinet Order in consideration of the actual cost to the government.

(Collection of Reports)

Article 26-19 The Minister of Land, Infrastructure, Transport and Tourism may, to the extent necessary for the enforcement of this Act, have the registered training institution report on the status of its operations and accounting.

(On-Site Inspections)

- Article 26-20 (1) The Minister of Land, Infrastructure, Transport and Tourism may, to the extent necessary for the enforcement of this Act, have the Ministry's employee enter the office of the registered training institution and inspect the status of its operations, books, documents and other objects.
- (2) When employees conduct an on-site inspection pursuant to the provisions of paragraph (1), they must carry an identification card and present it to the parties concerned.
- (3) The authority to conduct an on-site inspection under the provisions of paragraph (1) must not be construed as having been granted for the purposes of a criminal investigation.

(Public Notice)

Article 26-21 In the following cases, the Minister of Land, Infrastructure,

Transport and Tourism must make a public notice in the Official Gazette:

- (i) when the registration under Article 26, paragraph (4) has been granted;
- (ii) when the notification pursuant to the provisions of Article 26-9 has been given;
- (iii) when the notification pursuant to the provisions of Article 26-11 has been given;
- (iv) when the registration under paragraph (4) has been rescinded pursuant to the provisions of Article 26-15 or when discontinuance of the training has been ordered; or
- (v) when it has been decided by the Minister of Land, Infrastructure, Transport and Tourism to personally conduct all or part of the training pursuant to the provisions of Article 26-17 or when it has been decided not to conduct all or a part of the training the Minister had personally conducted.

(Technical Certification Examination)

Article 27 (1) In order to improve construction technology, the Minister of Land, Infrastructure, Transport and Tourism may conduct technical certification examination for persons who engage in or seek to engage in the construction work executed by construction business operators as specified by Cabinet Order.

- (2) The certification examination set forth in the preceding paragraph consists of a written examination and a practical examination.
- (3) The Minister of Land, Infrastructure, Transport and Tourism issues a certificate to a person who has passed the examination provided for in paragraph (1).
- (4) A person who has been issued with a certificate may apply for reissuance of the certificate when the certificate has been lost or damaged.
- (5) Those who have passed the examination provided for in paragraph (1) may assume the title specified by Cabinet Order.

(Designation of Designated Examining Body)

Article 27-2 (1) The Minister of Land, Infrastructure, Transport and Tourism may delegate all or a part of the affairs related to the implementation of the written examination and the practical examination (hereinafter referred to as "examination affairs") to a person the Minister designates (hereinafter referred to as "designated examining body").

- (2) The designation set forth in the preceding paragraph is to be made upon application by the person who seeks to conduct examination affairs.
- (3) When delegating examination affairs to a designated examining body, the Minister of Land, Infrastructure, Transport and Tourism will not conduct the examination affairs.

(Standards for Designation)

Article 27-3 (1) The Minister of Land, Infrastructure, Transport and Tourism must not grant the designation under the provisions of paragraph (1) of the preceding Article unless the application under the provisions of paragraph (2) of the same Article conforms to each of the following items:

- (i) the plans on implementation of examination affairs concerning the employees, facilities, method of conducting the examination affairs, and other matters are appropriate for the proper and reliable implementation of examination affairs;
- (ii) the applicant possesses the adequate financial and technological basis needed for the proper and reliable implementation of the plans on the implementation of examination affairs under the preceding item; and
- (iii) when an operation other than examination affairs is conducted, there is no risk of causing unfairness to the examination affairs by conducting the operation.

(2) When the person that has filed an application provided for in paragraph (2) of the preceding Article falls under one of the following items, the Minister of Land, Infrastructure, Transport and Tourism must not grant the designation under the provisions of paragraph (1) of the same Article.

- (i) a person other than a general incorporated association or a general incorporated foundation;
- (ii) a person who has been sentenced to a punishment for violation of the provisions of this Act and for whom two years have not elapsed since the execution on the sentence was completed or since the person ceased to be subject to the sentence;
- (iii) a person whose designation has been canceled pursuant to the provisions of Article 27-14, paragraph (1) or paragraph (2) and for whom two years have not elapsed since the date of the rescission;
- (iv) a person any of whose officers fall under one of the following items:
 - (a) a person who falls under item (ii);
 - (b) a person who has been dismissed by an order under Article 27-5, paragraph (2) and for whom two years have not elapsed since the date of the dismissal.

(Public Notice of Designation)

Article 27-4 (1) When the Minister of Land, Infrastructure, Transport and Tourism has granted a designation under the provisions of Article 27-2, paragraph (1), the Minister must issue public notice of the name of the person who has received the designation, the location of the person's principal office, and the date on which the designation was granted.

- (2) When the designated examining body seeks to change its name or the location of its principal office, it must notify the Minister of Land, Infrastructure, Transport and Tourism to that effect no later than two weeks before the scheduled date of the change.
- (3) When a notification set forth in the preceding paragraph has been made, the Minister of Land, Infrastructure, Transport and Tourism must issue public notice to that effect.

(Appointment and Dismissal of Officers)

- Article 27-5 (1) The appointment and dismissal of the officers of a designated examining body does not become effective without the approval of the Minister of Land, Infrastructure, Transport and Tourism.
- (2) When an officer of a designated examining body has committed an act in violation of this Act (including orders and disciplinary measures based on this Act) or the rules on examination affairs under Article 27-8, paragraph (1), or has committed an extremely inappropriate act concerning examination affairs, the Minister of Land, Infrastructure, Transport and Tourism may order the designated examining body to dismiss the officer.

(Examination Committee Members)

- Article 27-6 (1) A designated examining body must appoint examination committee members from among persons who satisfy the requirements specified by Order of the Ministry of Land, Infrastructure, Transport and Tourism and have them prepare examination questions and mark examination papers.
- (2) A designated examining body must notify the Minister of Land, Infrastructure, Transport and Tourism without delay when it has appointed or dismissed examination committee members set forth in the preceding paragraph.
 - (3) The provisions of paragraph (2) of the preceding Article apply mutatis mutandis to the dismissal of examination committee members under paragraph (1).

(Duty of Confidentiality)

- Article 27-7 (1) The officers and employees (including the examination committee members under paragraph (1) of the preceding Article; the same applies in the following Article) of a designated examining body or persons who have held one of those positions must not divulge any secret learned concerning examination affairs.
- (2) Officers and employees of a designated examining body engaged in examination affairs are deemed to be employees engaged in public services

pursuant to laws and regulations, with respect to the application of the Penal Code and other penal provisions.

(Rules on Examination Affairs)

Article 27-8 (1) A designated examining body must establish rules on examination affairs with regard to matters related to the implementation of examination affairs specified by Order of the Ministry of Land, Infrastructure, Transport and Tourism and must obtain approval from the Minister of Land, Infrastructure, Transport and Tourism. The same applies when it seeks to change the rules.

(2) When the Minister of Land, Infrastructure, Transport and Tourism finds that the rules on examination affairs approved pursuant to the provisions of the preceding paragraph have become inappropriate for the proper and reliable implementation of examination affairs, the Minister may order the designated examining body to change the rules.

(Business Plan)

Article 27-9 (1) A designated examining body must prepare a business plan and an income and expenditure budget each business year and obtain approval of the Minister of Land, Infrastructure, Transport and Tourism before the beginning of the business year concerned (for the business year in which the designation under the provisions of Article 27-2, paragraph (1) was obtained, without delay after obtaining the designation). The same applies when the designated examining body seeks to change the business plan and the income and expenditure budget.

(2) A designated examining body must prepare a business report and a statement of accounts each business year and submit them to the Minister of Land, Infrastructure, Transport and Tourism within three months from the end of the business year concerned.

(Keeping of Books)

Article 27-10 A designated examining body must prepare books stating the matters related to examination affairs that are specified by Order of the Ministry of Land, Infrastructure, Transport and Tourism and keep the books.

(Supervision Order)

Article 27-11 The Minister of Land, Infrastructure, Transport and Tourism may issue a supervision order to a designated examining body with regard to examination affairs when the Minister finds it necessary for ensuring the proper implementation of examination affairs.

(Reporting and Inspection)

- Article 27-12 (1) The Minister of Land, Infrastructure, Transport and Tourism may, when the Minister finds it necessary for ensuring the proper implementation of examination affairs, request the necessary reports concerning the status of examination affairs from a designated examining body and have the Ministry's employee enter the office of a designated examining body to inspect the status of examination affairs, or the facilities, books and documents, and other objects.
- (2) The employee who conducts an on-site inspection pursuant to the provisions of the preceding paragraph must carry an identification card and present it when requested to do so by the person concerned.
- (3) The authority to conduct on-site inspections under the provisions of paragraph (1) must not be construed as being approved for criminal investigation.

(Suspension and Discontinuance of Examination Affairs)

- Article 27-13 (1) The designated examining body may not suspend or discontinue all or a part of its examination affairs unless it receives permission from the Minister of Land, Infrastructure, Transport and Tourism.
- (2) The Minister of Land, Infrastructure, Transport and Tourism may not grant the permission set forth in the preceding paragraph unless the Minister finds that there is no risk that the suspension or discontinuance of the examination affairs by the designated examining body will hinder the proper and reliable implementation of examination affairs.
- (3) When the Minister of Land, Infrastructure, Transport and Tourism has granted the permission under the provisions of paragraph (1), the Minister must issue public notice to that effect.

(Rescission of Designation)

- Article 27-14 (1) The Minister of Land, Infrastructure, Transport and Tourism must rescind the designation of a designated examining body when it comes to fall under one of the items of Article 27-3, paragraph (2) (excluding item (iii)).
- (2) When a designated examining body falls under one of the following items, the Minister of Land, Infrastructure, Transport and Tourism may rescind the designation of the designated examining body or order the suspension of all or a part of the examination affairs for a fixed period.
- (i) when the designated examining body is found to no longer conform to one of the items of Article 27-3, paragraph (1);
- (ii) when the designated examining body has violated the provisions of Article 27-4, paragraph (2), Article 27-6, paragraph (1) or paragraph (2), Article 27-9, Article 27-10, or paragraph (1) of the preceding Article;

- (iii) when the designated examining body has violated an order under the provisions of Article 27-5, paragraph (2) (including as applied mutatis mutandis pursuant to Article 27-6, paragraph (3)), Article 27-8, paragraph (2), or Article 27-11;
 - (iv) when the designated examining body has not conducted examination affairs in accordance with the rules on examination affairs that have been approved pursuant to the provisions of Article 27-8, paragraph (1); or
 - (v) when the designated examining body obtained designation under the provisions of Article 27-2, paragraph (1) through wrongful means.
- (3) When the Minister of Land, Infrastructure, Transport and Tourism has rescinded the designation pursuant to the provisions of the preceding two paragraphs or has ordered the suspension of all or a part of the examination affairs pursuant to the provisions of the preceding paragraph, the Minister must issue public notice to that effect.

(Implementation of Examination Affairs by the Minister of Land,
Infrastructure, Transport and Tourism)

- Article 27-15 (1) Notwithstanding the provisions of Article 27-2, paragraph (3), the Minister of Land, Infrastructure, Transport and Tourism is to conduct all or part of the examination affairs when a designated examining body has suspended all or a part of the examination affairs pursuant to the provisions of Article 27-13, paragraph (1), when the Minister has ordered a designated examination body to suspend all or a part of the examination affairs pursuant to the provisions of paragraph (2) of the preceding Article, or when it has become difficult for a designated examining body to implement all or a part of the examination affairs as a result of a natural disaster or other reasons and the Minister finds it necessary.
- (2) The Minister of Land, Infrastructure, Transport and Tourism must issue public notice in advance when the Minister has decided to conduct examination affairs pursuant to the provisions of the preceding paragraph or has decided not to conduct examination affairs that the Minister is conducting pursuant to the provisions of the same paragraph.
- (3) The handing over of examination affairs and other necessary matters when the Minister of Land, Infrastructure, Transport and Tourism has decided to conduct examination affairs pursuant to the provisions of paragraph (1), permitted the discontinuance of examination affairs pursuant to the provisions of Article 27-13, paragraph (1), or rescinded the designation pursuant to the provisions of paragraph (1) or paragraph (2) of the preceding Article are specified by Order of the Ministry of Land, Infrastructure, Transport and Tourism.

(Fees)

- Article 27-16 (1) A person who seeks to take the written examination or the practical examination or a person who seeks to receive certification or reissuance of certification for passing the examination must pay the fees specified by Cabinet Order in consideration of the actual costs to the government (a person seeking to take an examination conducted by a designated examining body pays the fees to the designated examining body).
- (2) Fees paid to the designated examining body pursuant to the provisions of the preceding paragraph are the revenue of the designated examining body.

(Request for Investigation Concerning Dispositions Taken by the Designated Examining Body)

- Article 27-17 Requests for investigation under the Administrative Complaint Review Act (Act No. 160 of 1962) on dispositions or inactions concerning examination affairs carried out by a designated examining body may be made to the Minister of Land, Infrastructure, Transport and Tourism.

(Issuance of Managing Engineer Qualification Certificate)

- Article 27-18 (1) Based on the application by a person with a managing engineer qualification (meaning a person who has passed the examination prescribed by the Minister of Land, Infrastructure, Transport and Tourism pursuant to the provisions of Article 15, item (ii), sub-item (a); a person who has received the license prescribed by the Minister pursuant to the provisions of sub-item (a) of the same item, has business experience or has completed the subjects provided for in Article 7, item (ii), sub-item (a) or (b) or has the certification of the Minister pursuant to the provisions of sub-item (c) of the same item and has business experience provided for in Article 15, item (ii), sub-item (b), or has been certified by the Minister as having abilities equivalent to or higher than the persons listed in sub-item (a) or (b) of the same item pursuant to the provisions of sub-item (c) of the same item, in accordance with the type of construction business; the same applies hereinafter), the Minister of Land, Infrastructure, Transport and Tourism is to issue a managing engineer qualification certificate (hereinafter referred to as "qualification certificate") to the person.
- (2) The qualification certificate is to state the name of the person to be issued the certificate, the date of issuance, the managing engineer qualification held by the person to be issued the certificate, the type of construction business and other matters specified by Order of the Ministry of Land, Infrastructure, Transport and Tourism.
- (3) In the case referred to in paragraph (1), when the applicant has two or more managing engineer qualifications, a qualification certificate that states all

those managing engineer qualifications is to be issued.

- (4) The validity period of the qualification certificate is to be five years.
- (5) The validity period of the qualification certificate is to be renewed based on application.
- (6) The provisions of paragraph (4) apply mutatis mutandis to the validity period of the renewed qualification certificate.

(Designated Qualification Certificate Issuing Organization)

- Article 27-19 (1) The Minister of Land, Infrastructure, Transport and Tourism may delegate the issuance of qualification certificates and the affairs for the renewal of the effective period of qualification certificates (hereinafter referred to as "certification affairs") to a person the Minister designates (hereinafter referred to as "designated qualification certificate issuing organization").
- (2) Designation pursuant to the provisions of the preceding paragraph is to be granted upon application by the person who seeks to conduct certification affairs.
 - (3) The Minister of Land, Infrastructure, Transport and Tourism must not grant the designation under the provisions of paragraph (1) when a person who has filed an application pursuant to the provisions of the preceding paragraph falls under any of the following items:
 - (i) a person other than a general incorporated association or a general incorporated foundation; or
 - (ii) a person who has had a designation rescinded pursuant to the provisions of Article 27-14, paragraph (1) or paragraph (2) as applied mutatis mutandis pursuant to paragraph (5) and for whom two years have not elapsed since the date of the rescission.
 - (4) The Minister of Land, Infrastructure, Transport and Tourism does not conduct certification affairs when the Minister has a designated qualification certificate issuing organization conduct the certification affairs.
 - (5) The provisions of Article 27-4, Article 27-8, Article 27-12, Article 27-13, Article 27-14 (except for paragraph (2), item (i) of the same Article), Article 27-15, and Article 27-17 apply mutatis mutandis to a designated certificate issuing organization. In such a case, the term "Article 27-2, paragraph (1)" in Article 27-4, paragraph (1) and Article 27-14, paragraph (2), item (v) is deemed to be replaced with "Article 27-19, paragraph (1)," "rules on examination affairs" in Article 27-8 and Article 27-14, paragraph (2), item (iv) with "rules on certification affairs," "examination affairs" in Article 27-12, paragraph (1), Article 27-13, paragraph (1) and paragraph (2), Article 27-14, paragraph (2) and paragraph (3), Article 27-15, and Article 27-17 with "certification affairs," "one of the items of Article 27-3, paragraph (2) (except for item (iii))" in Article 27-14, paragraph (1) with "Article 27-19, paragraph (3), item (i)," "Article 27-6,

paragraph (1) or paragraph (2), Article 27-9, Article 27-10 or paragraph (1) of the preceding Article" in paragraph (2), item (ii) of the same Article with "paragraph (1) of the preceding Article or Article 27-20," "Article 27-5, paragraph (2) (including as applied mutatis mutandis pursuant to Article 27-6, paragraph (3)), Article 27-8, paragraph (2), or Article 27-11" in item (iii) of the same paragraph with "Article 27-8, paragraph (2)," and "Article 27-2, paragraph (3)" in Article 27-15, paragraph (1) with "Article 27-19, paragraph (4)."

(Business Plan)

Article 27-20 (1) A designated qualification certificate issuing organization must prepare a business plan and an income and expenditure budget each business year and submit them to the Minister of Land, Infrastructure, Transport and Tourism as specified by Order of the Ministry of Land, Infrastructure, Transport and Tourism. The same applies when the designated qualification certificate issuing organization seeks to change the business plan and the income and expenditure budget.

(2) A designated qualification certificate issuing organization must prepare a business report and a statement of accounts each business year and submit them to the Minister of Land, Infrastructure, Transport and Tourism as specified by Order of the Ministry of Land, Infrastructure, Transport and Tourism.

(Fees)

Article 27-21 (1) A person who seeks to be issued a qualification certificate or a renewal of the validity period of a qualification certificate must pay the fees specified by Cabinet Order in consideration of the actual cost to the government (a person who seeks to receive a qualification certificate or a renewal of the validity period of a qualification certificate from a designated qualification certificate issuing organization must pay the fees to the designated qualification certificate issuing organization).

(2) The fees paid to a designated qualification certificate issuing organization pursuant to the provision of the preceding paragraph are the revenue of the designated certificate issuing organization.

(Delegation to Order of the Ministry of Land, Infrastructure, Transport and Tourism)

Article 27-22 Beyond what is provided for in this Chapter, the necessary matters related to the registration and participation in training courses under Article 26, paragraph (4), and the qualification certificates under Article 27-18, paragraph (1) are prescribed by Order of the Ministry of Land, Infrastructure,

Transport and Tourism.

Chapter IV-2 Evaluation of Management Matters of Construction Business Operators

(Business Evaluation)

- Article 27-23 (1) A construction business operator who seeks to directly undertake construction work related to public facilities or buildings specified by Cabinet Order from an orderer must undergo an evaluation of objective matters related to the business as specified by Order of the Ministry of Land, Infrastructure, Transport and Tourism.
- (2) The evaluation under the preceding paragraph (hereinafter referred to as "business evaluation") is to be conducted through a numerical evaluation of the following matters:
- (i) business conditions; and
 - (ii) the size of business, its technical capabilities and objective matters other than those listed in the preceding item.
- (3) Beyond what is provided for in the preceding paragraph, the items and standards for the business evaluation are determined by the Minister of Land, Infrastructure, Transport and Tourism upon hearing the opinion of the Central Council on Construction Contracting Business.

(Business Analysis)

- Article 27-24 (1) The analysis of the matters listed in paragraph (2), item (i) of the preceding Article (hereinafter referred to as "business analysis") is to be conducted by a person who has obtained registration from the Minister of Land, Infrastructure, Transport and Tourism pursuant to the provisions of Article 26-5 as applied mutatis mutandis pursuant to Article 27-31 and Article 27-32 (hereinafter referred to as "registered business analysis organization").
- (2) An application for business analysis must be made by submitting an application form stating the matters specified by Order of the Ministry of Land, Infrastructure, Transport and Tourism to a registered business analysis organization.
- (3) The application form set forth in the preceding paragraph must be attached with the documents specified by Order of the Ministry of Land, Infrastructure, Transport and Tourism as documents proving the facts necessary for business analysis.
- (4) When a registered business analysis organization finds it necessary for business analysis, the organization may request the construction business operator who has applied for the analysis to submit reports or materials.

(Notice of Results of Business Analysis)

Article 27-25 When a registered business analysis organization has conducted a business analysis, the organization must notify the construction business operator who has applied for the analysis of the numerical results of the analysis without delay as specified by Order of the Ministry of Land, Infrastructure, Transport and Tourism.

(Evaluation of Business Size)

Article 27-26 (1) Evaluation of the matters listed in Article 27-23, paragraph (2), item (ii) (hereinafter referred to as "evaluation of business size, etc.") is to be conducted by the Minister of Land, Infrastructure, Transport and Tourism or a prefectural governor.

(2) An application for an evaluation of business size, etc., is to be made to the Minister of Land, Infrastructure, Transport and Tourism or the prefectural governor who licensed the construction business, by submitting an application form stating the matters specified by Order of the Ministry of Land, Infrastructure, Transport and Tourism.

(3) The application form set forth in the preceding paragraph must be attached with documents specified by Order of the Ministry of Land, Infrastructure, Transport and Tourism as documents proving the facts necessary for the evaluation of business size, etc.

(4) The Minister of Land, Infrastructure, Transport and Tourism or a prefectural governor may, when they find it necessary for the evaluation of business size, etc., request the construction business operator who has applied for the evaluation of business size, etc., to submit reports or materials.

(Notice of the Results of the Evaluation of Business Size)

Article 27-27 The Ministry of Land, Infrastructure, Transport and Tourism or a prefectural governor must notify the construction business operator who has applied for the evaluation of business size, etc., of the numerical results of the evaluation of business size, etc., as specified by Order of the Ministry of Land, Infrastructure, Transport and Tourism.

(Request for Reevaluation)

Article 27-28 A construction business operator who has an objection to the results of the evaluation of business size, etc., may make a request for a reevaluation to the Minister of Land, Infrastructure, Transport and Tourism or the prefectural governor who conducted the evaluation of business size, etc.

(Notice of Comprehensive Evaluation Values)

Article 27-29 (1) When a request is made by the construction business operator

who has applied for the evaluation of business size, etc., the Minister of Land, Infrastructure, Transport and Tourism or a prefectural governor must notify the construction business operator of the comprehensive evaluation values (meaning the numerical results of comprehensive evaluation of all the objective matters calculated using the figures related to the results of the business analysis and the figures related to the results of the evaluation of business size, etc.; the same applies hereinafter) as specified by Order of the Ministry of Land, Infrastructure, Transport and Tourism without delay.

- (2) The request under the preceding paragraph must be made by submitting the figures related to the results of the business analysis notified by the registered business analysis organization pursuant to the provisions of Article 27-25 to the Minister of Land, Infrastructure, Transport and Tourism or the prefectural governor who has licensed the construction business of the construction business operator.
- (3) When a request is made by an orderer of the construction work under Article 27-23, paragraph (1), the Minister of Land, Infrastructure, Transport and Tourism or a prefectural governor must notify the orderer of the comprehensive evaluation values related to the construction business operator in the same paragraph (when there has been a request from the orderer for the figures related to the results of the business analysis and the figures related to the results of the evaluation of business size, etc., of the construction business operator in the same paragraph, including those figures) as specified by Order of the Ministry of Land, Infrastructure, Transport and Tourism without delay; provided, however, that when the request is made by an orderer related to a construction business operator who has not made a request pursuant to the provisions of paragraph (1), it will be sufficient to notify only the figures related to the results of the evaluation of business size, etc. for that construction business operator.

(Fees)

Article 27-30 A person who seeks to make an application under Article 27-26, paragraph (2) or a request under paragraph (1) of the preceding Article to the Minister of Land, Infrastructure, Transport and Tourism must pay the fees specified by Cabinet Order in consideration of the actual cost to the government pursuant to the provisions of Cabinet Order.

(Registration)

- Article 27-31 (1) The registration under Article 27-24, paragraph (1) is to be granted upon application by the person who seeks to conduct business analyses.
- (2) The Minister of Land, Infrastructure, Transport and Tourism must grant registration when the person who has applied for registration pursuant to the

provisions of the preceding paragraph (hereinafter referred to as "registration applicant") possesses a computer (including input-output device) and programs required for the business analysis (meaning commands given to a computer which are combined to obtain a certain result) and does not fall under any of the following items as an entity controlled by the construction business operator required to undergo business evaluation pursuant to the provisions of Article 27-23, paragraph (1). In this case, necessary procedures for registration are specified by Order of the Ministry of Land, Infrastructure, Transport and Tourism.

- (i) if the registration applicant is a stock company, its parent company is a construction business operator;
 - (ii) officers or employees of the construction business operator (including those who have been officers or employees of the construction business operator within the past two years) account for more than one half of the officers (employees with the right to execute business in the case of a membership company) of the registration applicant; and
 - (iii) the registration applicant (the officer with the right of representation in the case of a corporation) is an officer or employee of the construction business operator (including a person who has been an officer or employee of the construction business operator within the past two years).
- (3) Registration is to be made by entering the following matters in the registry of registered business analysis organizations:
- (i) the date of registration and the registration number;
 - (ii) the name and the address of the registered business analysis organization, and the name of its representative in the case of a corporation; and
 - (iii) the location of the office where the registered business analysis organization conducts analyses.

(Mutatis Mutandis Application)

Article 27-32 The provisions of Article 26-5, Articles 26-7 through 26-16, and Articles 26-19 through 26-21 apply mutatis mutandis to the registered business analysis organization. In this case, the terms set forth in the middle column of the following table listed provided in the provisions set forth in the left column of that table are deemed to be replaced with the terms set forth in the right column of that table.

Article 26-5	Training conducted by a person who falls under	A person who falls under
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Article 26-5; Article 26-7, paragraph (1); Article 26-15, item (v); and Article 26-21, item (i) and item (iv)	Article 26, paragraph (4)	Article 27-24, paragraph (1)
Article 26-5, item (ii) and Article 26-21, item (iv)	Article 26-15	Article 26-15 as applied mutatis mutandis pursuant to Article 27-32
Article 26-5, item (ii)	training under Article 26, paragraph (4)	Article 27-24, paragraph (1)
Article 26-5, item (iii)	training under Article 26, paragraph (4)	operations of the business analysis
Article 26-7, paragraph (2)	The preceding three Articles	Article 26-5 as applied mutatis mutandis pursuant to Article 27-31 and Article 27-32
Heading of Article 26-8	related to the Implementation of Training	of the Business Analysis
Article 26-8	requirements listed in Article 26-6, paragraph (1), item (i) and item (ii) and the standards specified by Order of the Ministry of Land, Infrastructure, Transport and Tourism	the standards specified by Order of the Ministry of Land, Infrastructure, Transport and Tourism
Article 26-8 and Article 26-16	training	business analysis
Article 26-9	Article 26-6, paragraph (2), item (ii) or item (iii)	Article 27-31, paragraph (3), item (ii) or item (iii)
Article 26-10 (including the heading)	Training Rules	Business Analysis Rules
Article 26-10, paragraph (1)	concerning training	concerning business analysis operations
	training	business analysis operations
Article 26-10, paragraph (2) and Article 26-14	conducting training/method of its training	conducting business analysis/method of its business analysis
Article 26-10, paragraph (2)	for the training	for the business analysis
Article 26-11 and Article 26-21, item (iv) and item (v)	training	business analysis operations

Article 26-12, paragraph (2)	Construction business operators	Construction business operators provided for in Article 27-31, paragraph (2)
Article 26-13	training	registered business analysis organization
	Article 26-6, paragraph (1)	Article 27-31, paragraph (2)
Article 26-14	the registered training institution ...Article 26-8	the registered business analysis organization ...Article 26-8 or Article 27-33 as applied mutatis mutandis pursuant to Article 27-32
	training under the provisions of the same Article	business analysis operations under these provisions
Article 26-15	the registration of the training that the registered training institution conducts	the registration
	all... of the training	all... of the business analysis operations
Article 26-15, item (i)	Article 26-5, item (i) or item (iii)	Article 26-5, item (i) or item (iii) as applied mutatis mutandis pursuant to Article 27-32
Article 26-15, item (ii) and Article 26-21, item (ii)	Article 26-9	Article 26-9 as applied mutatis mutandis pursuant to Article 27-32
Article 26-15, item (iii)	each of the items of Article 26-12, paragraph (2)	each of the items of Article 26-12 as applied mutatis mutandis pursuant to Article 27-32
Article 26-15, item (iv)	the preceding two Articles	Article 26-13 or the preceding Article as applied mutatis mutandis pursuant to Article 27-32
Article 26-21, item (iii)	Article 26-11	Article 26-11 as applied mutatis mutandis pursuant to Article 27-32
Article 26-21, item (v)	Article 26-17	Article 27-35

(Duty to Conduct Business Analysis)

Article 27-33 When requested to conduct a business analysis, the registered business analysis organization must conduct a business analysis without delay except when there are legitimate grounds for not doing so.

(Duty of Confidentiality)

Article 27-34 The officers and employees or former officers and employees of the registered business analysis organization must not divulge any secret they have learned in connection with business analysis.

(Implementation of Business Analysis by the Minister of Land, Infrastructure, Transport and Tourism or Prefectural Governor)

Article 27-35 (1) The Minister of Land, Infrastructure, Transport and Tourism or a prefectural governor may personally conduct all or a part of the business analysis, when there is no person that has obtained the registration under Article 27-24, paragraph (1), when there has been a notification for suspension or discontinuance of all or a part of the business analysis under the provisions of Article 26-11 as applied mutatis mutandis pursuant to Article 27-32, when registration under Article 27-24, paragraph (1) is rescinded pursuant to the provisions of Article 26-15 as applied mutatis mutandis pursuant to Article 27-32, when a registered business analysis organization has been ordered to discontinue all or part of the business analysis, when it has become difficult for the registered business analysis organization to conduct all or a part of the business analysis due to natural disaster or other causes, or when the Minister finds it necessary.

- (2) When it has been decided that a prefectural governor will conduct a business analysis pursuant to the provisions of the preceding paragraph or when the reason for a prefectural governor to conduct the business analysis pursuant to the provision of the same paragraph no longer exists, the Minister of Land, Infrastructure, Transport and Tourism must promptly notify the prefectural governor to that effect.
- (3) When the Minister of Land, Infrastructure, Transport and Tourism or a prefectural governor personally conducts all or a part of the business analyses pursuant to the provisions of paragraph (1), the handing over of business analysis and other necessary matters are specified by Order of the Ministry of Land, Infrastructure, Transport and Tourism.
- (4) The provisions of Article 27-30 apply mutatis mutandis to a person who seeks to undergo a business analysis conducted by the Minister of Land, Infrastructure, Transport and Tourism pursuant to the provisions of paragraph (1).
- (5) When a prefectural governor decides to personally conduct all or a part of the

business analysis pursuant to the provisions of paragraph (1), or decides not to conduct all or a part of the business analysis which the governor has been personally conducting, the governor must publicly notify the fact in the Official Gazette of the relevant prefecture.

(Delegation to Order of the Ministry of Land, Infrastructure, Transport and Tourism)

Article 27-36 Beyond what is provided for in this Chapter, necessary matters related to the business evaluation and the reevaluation under Article 27-28 are prescribed by Order of the Ministry of Land, Infrastructure, Transport and Tourism.

Chapter IV-3 Construction Trade Associations

(Notification)

Article 27-37 Incorporated associations and foundations provided for by Order of the Ministry of Land, Infrastructure, Transport and Tourism with the objective of ensuring the proper execution of construction work through surveys, research and guidance related to the construction business and promoting the sound development of the construction business (hereinafter referred to as "construction trade associations") must notify the Minister of Land, Infrastructure, Transport and Tourism or a prefectural governor the of the matters prescribed by Order of the Ministry of Land, Infrastructure, Transport and Tourism pursuant to Order of the Ministry of Land, Infrastructure, Transport and Tourism.

(Reports)

Article 27-38 The Minister of Land, Infrastructure, Transport and Tourism or a prefectural governor may request the construction trade association which has made the notification under the preceding Article to report on the necessary matters to ensure the proper execution and promote the sound development of the construction business.

Chapter V Supervision

(Instructions and Suspension of Business)

Article 28 (1) If a licensed construction business operator falls under one of the following items or has violated the provisions of this Act (excluding Article 19-3, Article 19-4 and Articles 24-3 through 24-5, and including Article 24-7, paragraph (4) which is applied pursuant to Article 13, paragraph (3) of the Act for Promoting Proper Tendering and Contracting for Public Works (Act No. 127

of 2000; hereinafter referred to as the "Act for Promoting Proper Tendering and Contracting"); the same applies in paragraph (4)) or Article 13, paragraph (1) or paragraph (2) of the Act for Promoting Proper Tendering and Contracting, or Article 3, paragraph (6), Article 4, paragraph (1), Article 7, paragraph (2), Article 8, paragraph (1) or paragraph (2), or Article 10 of the Act on Assurance of Performance of Specified Housing Defect Warranty (Act No. 66 of 2007; hereinafter referred to as "Performance Assurance Act" in this Article), the Minister of Land, Infrastructure, Transport and Tourism or a prefectural governor may issue necessary instructions to the construction business operator. The same applies if a special construction business operator does not follow the recommendations under the provisions of Article 41, paragraph (2) or paragraph (3) and it is found necessary to do so.

- (i) when harm was caused to the public because a construction business operator did not execute the construction work properly, or when there is significant risk of harm;
- (ii) when a construction business operator has committed a dishonest act with regard to a contract for work;
- (iii) when a construction business operator (if the construction business operator is a corporation, the corporation and its officers) or its employees specified by Cabinet Order have violated other laws or regulations (excluding the Act for Promoting Proper Tendering and Contracting, the Performance Assurance Act and orders based on them) concerning their business and are found unsuitable as construction business operators;
- (iv) when a construction business operator has violated the provisions of Article 22;
- (v) when the chief engineer or the managing engineer provided for in Article 26, paragraph (1) or paragraph (2) is extremely inappropriate for the management of the construction work, and it is found necessary in the public interest to replace them;
- (vi) when a construction business operator has violated the provisions of Article 3, paragraph (1) by concluding a subcontract with a person operating a construction business without obtaining a license under the same paragraph;
- (vii) when a construction business operator has concluded a subcontract with a person operating a construction business other than a special construction business operator and the amount of the subcontract fee exceeds the amount provided for by Cabinet Order under Article 3, paragraph (1), item (ii).
- (viii) when a construction business operator has knowingly concluded a subcontract with a person who has been ordered to suspend business under the provisions of paragraph (3) or a person who has been prohibited to conduct business under the provisions of Article 29-4, paragraph (1) within

- the scope of the suspended or prohibited business; or
- (ix) when a construction business operator has violated the provisions of Article 3, paragraph (1), Article 5, or Article 7, paragraph (1) of the Performance Assurance Law.
- (2) A prefectural governor may issue necessary instructions if a person operating a construction business who has not obtained a license under the provisions of Article 3, paragraph (1) and who is executing construction work within the area under the governor's jurisdiction falls under any of the following items:
- (i) when harm was caused to the public because the person operating the construction business did not execute the construction work properly or when there is significant risk of harm: or
- (ii) when the person operating the construction business has committed a dishonest act with regard to a contract for work.
- (3) When a licensed construction business operator falls under any of the items of paragraph (1) or does not follow the instructions based on the provisions of the same paragraph or the following paragraph, or a person operating a construction business falls under any of the items of the preceding paragraph or does not follow the instructions under the provisions of the same paragraph, the Minister of Land, Infrastructure, Transport and Tourism or the prefectural governor that granted the license may order that person to suspend all or a part of their business for a fixed period of no more than one year.
- (4) A prefectural governor may issue necessary instructions to a construction business operator who has obtained a license from the Minister of Land, Infrastructure, Transport and Tourism or from another prefectural governor and is operating a business within an area in the prefecture when the construction business operator falls under one of the items in paragraph (1) in relation to business in the prefecture or has violated the provisions of this Act or the provisions of Article 13, paragraph (1) or paragraph (2) of the Act for Promoting Proper Tendering and Contracting, or the provisions of Article 3, paragraph (6), Article 4, paragraph (1), Article 7, paragraph (2), Article 8, paragraph (1) or paragraph (2), or Article 10 of the Performance Assurance Act.
- (5) A prefectural governor may order a construction business operator who has obtained a license from the Minister of Land, Infrastructure, Transport and Tourism or from another prefectural governor and is operating a business within the area of the prefecture to suspend all or a part of the business for a fixed period of no more than one year when the construction business operator falls under any of the items of paragraph (1) with relation to business in the area of the prefecture or does not follow the instructions under the provisions of the same paragraph or the preceding paragraph.
- (6) When a prefectural governor has rendered the disposition under the preceding two paragraphs, a prefectural governor must report this to the

Minister of Land, Infrastructure, Transport and Tourism without delay when the construction business operator obtained a license from the Minister of Land, Infrastructure, Transport and Tourism, and to the other prefectural governor when the construction business operator obtained a license from the other prefectural governor.

- (7) The Minister of Land, Infrastructure, Transport and Tourism or a prefectural governor may, when issuing instructions to a construction business operator who falls under item (i) or item (iii) of paragraph (1) or a person operating a construction business without the license under Article 3, paragraph (1) who falls under item (i) of paragraph (2), make recommendations to the order placer that appropriate measures should be taken if it is found particularly necessary.

(Rescission of License)

Article 29 (1) When a licensed construction business operator falls under one of the following items, the Minister of Land, Infrastructure, Transport and Tourism or the prefectural governor who granted the license must rescind the construction business operator's license:

- (i) when a construction business operator with a general construction business license no longer meets the requirements listed in Article 7, item (i) or item (ii) and when a special construction business operator no longer meets the requirements listed in item (i) of the same Article or Article 15, item (ii);
- (ii) when a construction business operator has come to fall under any of the provisions of Article 8, item (i) or items (vii) through (xi) (including as applied mutatis mutandis pursuant to Article 17);
- (ii)-2 when a construction business operator falls under one of the items of Article 9, paragraph (1) (including as applied mutatis mutandis pursuant to Article 17) and does not obtain a general construction business license or a special construction business license;
- (iii) when a construction business operator has not commenced business within one year after obtaining a license or when a construction business operator continues to suspend business for one year or more;
- (iv) when a construction business operator comes to fall under one of the items of Article 12 (including as applied mutatis mutandis pursuant to Article 17);
- (v) when a construction business operator obtained the license under Article 3, paragraph (1) through wrongful means (including the renewal of license under paragraph (3) of the same Article); or
- (vi) when a construction business operator falls under one of the items of paragraph (1) of the preceding Article and the circumstances are particularly serious, or when a construction business operator has violated the disposition of suspension of business under the provisions of paragraph (3) or paragraph (5) of the same Article.

- (2) where a licensed construction business operator has violated the conditions attached pursuant to the provisions of Article 3-2, paragraph (1), the Minister of Land, Infrastructure, Transport and Tourism or the prefectural governor who granted the license may rescind the construction business operator's license.

Article 29-2 (1) When the location of the business office of a construction business operator cannot be ascertained or when the whereabouts of the construction business operator (meaning the whereabouts of the officers in the case of a corporation and including the whereabouts of the manager in the case of an individual) cannot be ascertained, the Minister of Land, Infrastructure, Transport and Tourism or a prefectural governor is to publicly notify the fact in the Official Gazette or the prefectural bulletin and if there is no response from the construction business operator within thirty days from the day of the public notice, may rescind the construction business operator's license.

- (2) The provisions of Chapter III of the Administrative Procedure Act do not apply to dispositions pursuant to the provisions of the preceding paragraph.

(Measures for Construction Work in the Event of License Rescission)

Article 29-3 (1) If a construction business license ceases to be effective pursuant to the provisions of Article 3, paragraph (3), the person who was the construction business operator in relation to the license or their general successor, and if suspension of business has been ordered pursuant to the provisions of Article 28, paragraph (3) or paragraph (5) or if the construction business license has been rescinded pursuant to the provisions of the preceding two Articles, the person who was rendered the disposition or their general successor may execute the construction work limited to the construction work contracted before the license ceased to be effective or contracted before being rendered the disposition. In such case, these persons must notify the order placer of the construction work to that effect within two weeks after the license ceased to be effective or after being rendered the disposition.

- (2) If a person who was a special construction business operator or their general successor or the general successor of a special construction business operator executes construction work pursuant to the provisions of the preceding paragraph, the provisions of Article 16 do not apply.
- (3) Notwithstanding the provisions of paragraph (1), the Minister of Land, Infrastructure, Transport and Tourism or a prefectural governor may order prohibition of the execution of the construction work they find it to be necessary in the public interest.
- (4) A person executing construction work under the provisions of paragraph (1) who was a construction business operator or their general successor is deemed

to be a construction business operator within the scope of the purpose of completing the construction work.

- (5) The order placer of construction work may cancel a contract for construction work within thirty days of the date of receiving the notice pursuant to the provisions of paragraph (1) or from the date when they became aware of the fact that the license under the same paragraph ceased to be effective or that the disposition under the same paragraph had been rendered.

(Prohibition of Business)

Article 29-4 (1) When ordering a construction business operator or a person operating other construction business to suspend business pursuant to the provisions of Article 28, paragraph (3) or paragraph (5), the Minister of Land, Infrastructure, Transport and Tourism or a prefectural governor must prohibit the officers and the employees specified by Cabinet Order who have substantial responsibility for the facts comprising the cause of the disposition (including persons who were officers or employees specified by Cabinet Order within 60 days of the day of the disposition; the same applies in the following paragraph) if the operator is a corporation, and the individual and their employees specified by Cabinet Order who have substantial responsibility for the facts comprising the cause of the disposition if the operator is an individual, from commencing a new business related to the business for which suspension has been ordered by fixing a period that is the same period as the period of the suspension (including becoming an officer of the corporation that conducts business related to the business for which suspension was ordered).

- (2) When rescinding the license of a construction business operator as a result of a construction business operator falling under Article 29, paragraph (1), item (v) or item (vi), the Minister of Land, Infrastructure, Transport and Tourism or a prefectural governor must prohibit the officers and the employees specified by Cabinet Order who have substantial responsibility for the facts comprising the cause of the disposition if the construction business operator is a corporation, and the employees specified by Cabinet Order who have substantial responsibility for the facts comprising the cause of the disposition if the construction business operator is an individual, from commencing a new business in the construction business related to the rescission for five years (excluding undertaking only simple construction work provided for by Cabinet Order under the proviso of Article 3, paragraph (1)).

(Public Notice of Supervisory Dispositions)

Article 29-5 (1) When having rendered the dispositions under the provisions of Article 28, paragraph (3) or paragraph (5), Article 29, or Article 29-2, paragraph (1), the Minister of Land, Infrastructure, Transport and Tourism or

a prefectural governor must issue public notice to that effect as specified by Order of the Ministry of Land, Infrastructure, Transport and Tourism.

- (2) A construction business operator supervisory disposition record is to be kept at the Ministry of Land, Infrastructure, Transport and Tourism and in prefectures.
- (3) When a licensed construction business operator receives instruction under Article 28, paragraph (1) or paragraph (4) or is ordered to suspend business under the provisions of paragraph (3) or paragraph (5) of the same Article, the Minister of Land, Infrastructure, Transport and Tourism or a prefectural governor who granted the license must put the date of the disposition, the details of the disposition, and other matters specified by Order of the Ministry of Land, Infrastructure, Transport and Tourism in the construction business operator supervisory disposition record.
- (4) The construction business operator supervisory disposition record must be made available for public inspection in the reading room provided for in the provisions of Article 13 (including as applied *mutatis mutandis* pursuant to Article 17).

(Reporting of Illegal Acts)

Article 30 (1) When a construction business operator falls under any of the items of Article 28, paragraph (1), the interested person may report the fact to the Minister of Land, Infrastructure, Transport and Tourism or the prefectural governor who granted the license to the construction business operator or the prefectural governor having jurisdiction over the area where the construction work is conducted, and request that appropriate measures be taken.

- (2) Where a person operating a construction business without obtaining a license under the provisions of Article 3, paragraph (1) falls under any of the items of Article 28, paragraph (2), the interested person may report the fact to the prefectural governor having jurisdiction over the area where the person operating the construction business is executing the construction work, and request that appropriate measures be taken.

(Reporting and Inspections)

Article 31 (1) When the Minister of Land, Infrastructure, Transport and Tourism finds it particularly necessary for all persons operating a construction business and a prefectural governor finds it particularly necessary for persons operating a construction business within the prefecture under their jurisdiction, the Minister and the governor may collect the necessary reports concerning business, assets and the status of construction work or have the ministerial or prefectural employees enter business offices and other locations related to the business to inspect books and documents and other objects.

- (2) When conducting an on-site inspection pursuant to the provisions of the preceding paragraph, the ministerial or prefectural employees must carry an identification card and present it when requested to do so by the person concerned.
- (3) Necessary matters related to the qualifications of the ministerial or prefectural employees are prescribed by Cabinet Order.

(Hearing Opinions of Witnesses)

Article 32 (1) The presiding official of the hearing concerning the rescission of a license under the provisions of Article 29 must hear the opinion of witnesses when the official finds it necessary.

- (2) The provisions of the preceding paragraph apply mutatis mutandis when the Minister of Land, Infrastructure, Transport and Tourism or a prefectural governor grants an opportunity for defense concerning dispositions under the provisions of Article 28, paragraphs (1) through (5) or Article 29-4, paragraph (1) or paragraph (2).

Chapter VI Central Council on Construction Contracting Business

Article 33 Deleted

(Establishment of the Central Council on Construction Contracting Business)

Article 34 (1) The Central Council on Construction Contracting Business is to be established in the Ministry of Land, Infrastructure, Transport and Tourism in order to preside over matters related to the authority under this Act, the Act on Guaranty Service Related to Advance Payment of Public Works, and the Act for Promoting Proper Tendering and Contracting.

- (2) The Central Council on Construction Contracting Business is to prepare the general conditions of standard contract for construction work, requirements concerning the qualifications of bidding participants, and standards concerning miscellaneous expenses other than material costs and service costs for which target price is set, and may recommend their implementation.

(Organization of the Central Council on Construction Contracting Business)

Article 35 (1) The Central Council on Construction Contracting Business is to consist of no more than twenty members.

- (2) The members of the Central Council on Construction Contracting Business are to be appointed by the Minister of Land, Infrastructure, Transport and Tourism from among people with relevant expertise, users of construction work, and construction business operators.
- (3) The number of members to be appointed from the users of construction work

and construction business operators are to be equal, and the number of these members may not exceed two thirds of the total number of members.

(Provisions Applied Mutatis Mutandis)

Article 36 The provisions of Article 25-3, paragraph (1), paragraph (2), and paragraph (4), and Article 25-4 apply mutatis mutandis to the members of the Central Council on Construction Contracting Business.

(Expert Advisors)

Article 37 (1) Expert advisors may be assigned to the Central Council on Construction Contracting Business in order to study and deliberate the technical matters concerning the construction business.

(2) Expert advisors are to be dismissed when the study and deliberation concerning the technical matters are finished.

(3) The provisions of Article 25-3, paragraph (4), Article 25-4, and Article 35, paragraph (2) apply mutatis mutandis to expert advisors.

(Chairperson of the Central Council on Construction Contracting Business)

Article 38 (1) The Central Council on Construction Contracting Business is to have a chairperson. The chairperson is to be elected from among the members with relevant expertise.

(2) The chairperson is to preside over the affairs of the council.

(3) If the chairperson is unavailable, a person elected in advance from among the members with relevant expertise performs the duties of the chairperson on their behalf.

(Delegation to Cabinet Order)

Article 39 Beyond what is provided for in this Chapter, the affairs under the jurisdiction of the Central Council on Construction Contracting Business and other necessary matters related to the Central Council on Construction Contracting Business are prescribed by Cabinet Order.

(Prefectural Council on Construction Contracting Business)

Article 39-2 (1) Prefectures may establish a Prefectural Council on Construction Contracting Business in order to have the Council study and deliberate the significant matters concerning the improvement of the construction business in response to consultations by the prefectural governor as specified by Prefectural Ordinance.

(2) Necessary matters concerning the Prefectural Council on Construction Contracting Business are specified by Prefectural Ordinance.

(Study and Deliberation by the Council for Social Infrastructure Development)

Article 39-3 (1) The Council for Social Infrastructure Development studies and deliberates the significant matters concerning the improvement of the construction business in response to consultations by the Minister of Land, Infrastructure, Transport and Tourism.

(2) The Council for Social Infrastructure Development may state its opinions on matters related to the construction business to related ministries and agencies.

Chapter VII Miscellaneous Provisions

(Procedural Exceptions Related to Computer Processing)

Article 39-4 (1) Submission of license application forms to the Minister of Land, Infrastructure, Transport and Tourism or a prefectural governor and other procedures provided for by the provisions of this Act (including designated business analysis organizations) which are prescribed by Order of the Ministry of Land, Infrastructure, Transport and Tourism (hereinafter referred to as "specified procedures") may be made by submitting magnetic disks (includes media that can reliably record certain information using equivalent means; the same applies hereinafter) as specified by Order of the Ministry of Land, Infrastructure, Transport and Tourism.

(2) Specified procedures taken pursuant to the provisions of the preceding Article are deemed to be submission of documents provided for by the provisions of this Act which prescribes that the specified procedures are to be taken by submission of documents, and the provisions of this Act (including the relevant penal provisions) apply. In such case, recording on a magnetic disk is deemed to be entries in a document.

(Posting of Signs)

Article 40 A construction business operator must post a sign in each retail store and construction site as specified by Order of the Ministry of Land, Infrastructure, Transport and Tourism in a location that is clearly visible to the public which states the name of the licensed construction business based on the classifications in the right column of Appended Table 1, whether it is a general construction business or a special construction business, and other matters provided for by Order of the Ministry of Land, Infrastructure, Transport and Tourism.

(Restrictions on Signs)

Article 40-2 A person operating a construction business must not post a sign with relation to the construction business which is clearly likely to cause misunderstanding that the construction business operator has received a

license provided for in Article 3, despite not having received the license.

(Keeping of Books)

Article 40-3 Pursuant to Order of the Ministry of Land, Infrastructure, Transport and Tourism, a construction business operator must prepare books that state the matters concerning the business specified by Order of the Ministry of Land, Infrastructure, Transport and Tourism in each business office and keep the books and documents concerning the business specified by Order of the Ministry of Land, Infrastructure, Transport and Tourism.

(Guidance, Advice and Recommendations to Persons Operating Construction Businesses and Construction Business Trade Associations)

Article 41 (1) The Minister of Land, Infrastructure, Transport and Tourism or a prefectural governor may give necessary guidance, advice, and recommendations to a person operating a construction business or a construction business trade association that has given a notification under Article 27-37, in order to ensure the proper execution of construction work and the sound development of the construction business.

(2) When a person operating another construction business executes all or a part of the construction work that a special construction business operator has directly undertaken from an orderer and there are arrears in the payment of wages to the workers employed for the execution of the construction work, the Minister of Land, Infrastructure, Transport and Tourism or the prefectural governor who granted the license to the special construction business operator may, when the Minister or the governor finds it necessary, recommend that the special construction business operator make the payment of the amount equivalent to the wages found to be adequate as compensation for the work on the construction work out of the wages in arrears on behalf of the person and take other appropriate measures.

(3) When a person operating another construction business executing all or a part of the construction work a special construction business operator has undertaken directly from an orderer has caused injury or damage to a third party with relation to the execution of the construction work, the Minister of Land, Infrastructure, Transport and Tourism or the prefectural governor who granted the license to the special construction business operator may, when found necessary, recommend that the special construction business operator make the payment of the amount found to be adequate for the injury or damage incurred by the third party on behalf of the person and take other appropriate measures.

(Request for Measures to the Fair Trade Commission)

Article 42 (1) When a licensed construction business operator has acted in violation of the provisions of Article 19-3, Article 19-4, Article 24-3, paragraph (1), Article 24-4, or Article 24-5, paragraph (3) or paragraph (4) and it is found that the action is a violation of the provisions of Article 19 of the Act on Prohibition of Private Monopolization and Maintenance of Fair Trade, the Minister of Land, Infrastructure, Transport and Tourism or a prefectural governor may request the Fair Trade Commission to take the appropriate measures in accordance with the provisions of the same Act.

(2) When the Minister of Land, Infrastructure, Transport and Tourism or a prefectural governor has requested measures to be taken pursuant to the provisions of the preceding Article with regard to a subcontractor who is a small and medium-sized business operator (meaning small and medium-sized business operators provided for in Article 2, paragraph (1) of the Small and Medium-sized Enterprise Basic Act, Act No. 154 of 1963; the same applies in the following Article) and a principal contractor who has concluded a subcontract, the Minister and the governor must notify the Commissioner of the Small and Medium Enterprise Agency to that effect without delay.

Article 42-2 (1) When the Commissioner of the Small and Medium Enterprise Agency finds it particularly necessary for the protection of subcontractors who are small and medium-sized business operators, the Commissioner may have the main contractor or the subcontractor make a report concerning the transaction or have the Agency's employees enter the business offices and other places related to the business of the main contractor or the subcontractor and examine books and documents, and other objects.

(2) When employees conduct the on-site inspection pursuant to the provisions of the preceding paragraph, they must carry an identification card and produce it when requested to do so by the person concerned.

(3) When it is found that the subcontractor who is a small or medium-sized business operator and the main contractor who has concluded a subcontract have acted in violation of the provisions of Article 19-3, Article 19-4, paragraph (1) of Article 24-3, Article 24-4, or paragraph (3) or paragraph (4) of Article 24-5 as a result of the report or the inspection under the provisions of paragraph (1), and it is found that the action is in violation of the Article 19 of the Act on Prohibition of Private Monopolization and Maintenance of Fair Trade, the Commissioner of the Small and Medium Enterprise Agency may request the Fair Trade Commission to take appropriate measures in accordance with the provisions of the same Act.

(4) When requesting the measures pursuant to the provisions of the preceding Article, the Commissioner of the Small and Medium Enterprise Agency must notify the Minister of Land, Infrastructure, Transport and Tourism or the

prefectural governor who granted the license under Article 3, paragraph (1) to the main contractor of the fact without delay.

(Payment of Expenses by Prefectures)

Article 43 The prefecture concerned must pay the necessary expenses for the prefectural governor to enforce this Act.

(Right of Witnesses to Claim Expenses)

Article 44 Witnesses who have appeared to give testimony pursuant to the provisions of Article 32 may claim for travel expenses, daily allowance, and other expenses as specified by Cabinet Order.

(Transitional Measures)

Article 44-2 In the event of the enactment, amendment or repeal of orders based on the provisions of this Act, the necessary transitional measures (including transitional measures for penal provisions) may be provided for by the orders to the extent considered reasonably necessary to for the enactment, amendment or repeal.

(Delegation of Authority)

Article 44-3 The authority of the Minister of Land, Infrastructure, Transport and Tourism provided for by this Act may be partially delegated to the Director-General of the Regional Development Bureau or the Director-General of the Hokkaido Regional Development Bureau as specified by Order of the Ministry of Land, Infrastructure, Transport and Tourism.

(Application through the Prefectural Governor)

Article 44-4 A person, a construction business operator, and a person listed in each of the items of Article 12 who seeks to obtain the license in Article 3, paragraph (1) must apply through the prefectural governor specified by Order of the Ministry of Land, Infrastructure, Transport and Tourism in the submission of license application forms and other documents provided for by Order of the Ministry of Land, Infrastructure, Transport and Tourism to the Minister of Land, Infrastructure, Transport and Tourism pursuant to this Act or orders based on this Act.

(Classification of Administrative Affairs)

Article 44-5 The administrative affairs to be handled by prefectures pursuant to the provisions of the preceding Article are to be classified as Type 1 statutory entrusted functions prescribed in Article 9, paragraph (1), item (i) of the Local Autonomy Act (Act No. 67 of 1947).

Chapter VIII Penal Provisions

Article 45 (1) A registered business analysis organization (or its officers if the organization is a corporation) or its employees engaged in business analysis operations is subject to imprisonment with work for no more than three years when a bribe related to their duties is received, demanded or promised. If they commit an unlawful act or fail to conduct an appropriate act due to the bribe, they are subject to imprisonment with work for no more than seven years.

(2) Persons who were persons formerly prescribed in the preceding paragraph who, while in office, responded to a request and committed an unlawful act or took a bribe for not conducting an appropriate act in relation to their duties, or who demanded or received the promise of a bribe, are subject to imprisonment with work for no more than three years.

(3) Persons prescribed in paragraph (1) who in response to a request had a third party furnish a bribe or promised to furnish a bribe related to their duties are subject to imprisonment with work for no more than three years.

(4) A bribe received from an offender or a third party with a knowledge of the circumstances is confiscated. When all or part of the bribe cannot be confiscated, an equivalent value is collected.

Article 46 (1) A person who furnishes, requests, or promises a bribe as provided in paragraphs (1) through (3) of the preceding Article is subject to imprisonment with work for no more than three years or a fine of no more than two million yen.

(2) When a person who committed an offense set forth in the preceding paragraph surrenders to the authorities, the punishment may be reduced or waived.

Article 47 (1) Persons falling under any of the following items is subject to imprisonment with work for no more than three years or a fine of no more than three million yen:

(i) a person operating a construction business without a license in violation of the provisions of Article 3, paragraph (1);

(i)-2 a person who has concluded a subcontract in violation of the provisions of Article 16;

(ii) a person who has operated a construction business in violation of business suspension penalties under the provisions of Article 28, paragraph (3) or paragraph (5);

(ii)-2 a person who has operated a construction business in violation of disposition that prohibits business under the provisions of Article 29-4,

- paragraph (1); or
- (iii) a person who has obtained the license under Article 3, paragraph (1) (including the renewal of license under paragraph (3) of the same Article) based on false or wrongful information.
- (2) Both imprisonment with work and a fine may be imposed on a person who has committed the offenses set forth in the preceding paragraph, in light of the circumstances.

Article 48 Persons who have violated the provisions of Article 27-7, paragraph (1) or Article 27-34 is subject to imprisonment with work for no more than one year or a fine of no more than one million yen.

Article 49 When a registered training institution, a designated examining body, a designated qualification certificate issuing organization or a registered business analysis organization has acted in violation of an order to suspend training, examination affairs, certification work or business analysis under the provisions of Article 26-15 (including as applied mutatis mutandis pursuant to Article 27-32) or Article 27-14, paragraph (2) (including as applied mutatis mutandis pursuant to Article 27-19, paragraph (5)), the registered training institution (if it is a corporation, its officers) or its employees, the officers or the employees of the designated examining body or the designated qualification certificate issuing organization, or the registered business analysis organization (if it is a corporation, its officers) or its employees (referred to as "officers or employees of the registered training institution, etc.," in Article 51) are subject to imprisonment with work for no more than one year or a fine of no more than one million yen.

Article 50 (1) Persons that fall under any of the following items are subject to imprisonment with work for no more than six months or a fine of no more than one million yen:

- (i) a person who has made false entries in the license application form under the provisions of Article 5 (including as applied mutatis mutandis pursuant to Article 17) or documents under the provisions of Article 6, paragraph (1) (including as applied mutatis mutandis pursuant to Article 17) and has submitted them;
- (ii) a person who has failed to submit the documents under the provisions of Article 11, paragraphs (1) through (4) (including as applied mutatis mutandis pursuant to Article 17) or who has made false entries and submitted them;
- (iii) a person who has failed to give the notification under the provisions of Article 11, paragraph (5) (including as applied mutatis mutandis pursuant to

- Article 17); or
- (iv) a person who has made false entries in the application form under Article 27-24, paragraph (2) or Article 27-26, paragraph (2), or the documents under Article 27-24, paragraph (3) or Article 27-26, paragraph (3), and submitted them.
- (2) Both imprisonment with work and a fine may be imposed on a person who has committed the offenses set forth in the preceding paragraph, in light of the circumstances.

Article 51 If a registered training institution, etc., falls under any of the following items, the officers or employees of the registered training institution, etc., that committed the violation are subject to a fine of no more than 500,000 yen.

- (i) when it has discontinued all of the training or operations for business analysis without giving the notification specified in Article 26-11 (including as applied mutatis mutandis pursuant to Article 27-32) or has discontinued all testing or certification affairs without the permission specified in Article 27-13, paragraph (1) (including as applied mutatis mutandis pursuant to Article 27-29, paragraph (5));
- (ii) when it has failed to prepare books, failed to make entries in the books, made false entries in the books, or failed to keep books in violation of the provisions of Article 26-16 (including as applied mutatis mutandis pursuant to Article 27-32) or Article 27-10; or
- (iii) when it has failed to report or made a false report when required to make a report, under the provisions of Article 26-19 (including as applied mutatis mutandis pursuant to Article 27-32) or Article 27-12, paragraph (1) (including as applied mutatis mutandis pursuant to Article 27-19, paragraph (5); hereinafter the same applies), or has refused, obstructed or evaded an inspection under the provisions of Article 26-20 (including as applied mutatis mutandis pursuant to Article 27-32) or Article 27-12, paragraph (1).

Article 52 Persons who fall under any of the following items is subject to a fine of no more than one million yen:

- (i) a person who has not assigned a chief engineer or a managing engineer specified under the provisions of Article 26, paragraphs (1) through (3);
- (ii) a person who has violated the provisions of Article 26-2;
- (iii) a person who has not given notice under the provisions of the second sentence of Article 29-3, paragraph (1);
- (iv) a person who has failed to make a report under the provisions of Article 27-4, paragraph (4) or Article 27-26, paragraph (4), or who has failed to submit materials, who has submitted a false report, or who has submitted false

- materials,
- (v) a person who has failed to make a report under the provisions of Article 31, paragraph (1) or Article 42-2, paragraph (1), or who has made a false report, or
 - (vi) a person who has refused, obstructed or evaded the inspection under the provisions of Article 31, paragraph (1) or Article 42-2, paragraph (1).

Article 53 When the representative of a corporation, or the agent, employee, or other worker of a corporation or an individual has committed violation provided for in any of the following items with regard to the business or assets of the corporation or the individual, not only the offender is subject to punishment but also the corporation is subject to the fine in the relevant items, and the individual is subject to the fine in the relevant Articles:

- (i) Article 47: a maximum fine of up to 100 million yen; and
- (ii) Article 50 and the preceding Article: the fine provided for in each Article.

Article 54 A person who fails to prepare financial statements, etc., in violation of the provision of Article 26-12, paragraph (1) (including as applied mutatis mutandis pursuant to Article 27-32), who fails to enter the matters that are to be entered in financial statements, etc., or who makes false entries, or a person who refuses a request under the provisions of each of the items of Article 26-12, paragraph (2) (including as applied mutatis mutandis pursuant to Article 27-32) without legitimate grounds is subject to a civil fine of no more than 200,000 yen.

Article 55 Persons that fall under any of the following items is subject to a civil fine of no more than 100,000 yen:

- (i) a person who has failed to give the notification under the provisions of Article 12 (including as applied mutatis mutandis pursuant to Article 17);
- (ii) a person who has failed to respond to a request to appear under the provisions of Article 25-13, paragraph (3) without legitimate grounds;
- (iii) a person who has failed to post the signs provided for in Article 40;
- (iv) a person who has violated the provisions of Article 40-2; or
- (v) a person who has failed to prepare books, make entries in the books, who has made false entries in the books or who has failed to keep books or documents, in violation of the provisions of Article 40-3.

Appended Table 1

General civil engineering work	Civil engineering business
General building work	Construction business
Carpentry work	Carpentry business

Plastering work	Plastering business
Scaffolding work, earth work and concret work	Scaffolding and earthwork business
Masonry work	Masonry business
Roofing work	Roofing business
Electrical construction	Electrical construction business
Plumbing work	Plumbing business
Tile, brick and concrete block work	Tile, brick and concrete block business
Steel structure work	Steel structure construction business
Steel reinforcement work	Steel reinforcement business
Paving work	Paving business
Dredging work	Dredging business
Sheet metal work	Sheet metal business
Glazing work	Glazing business
Painting work	Painting business
Waterproofing work	Waterproofing business
Interior finishing work	Interior finishing business
Machinery and equipment installation work	Machinery and equipment installation business
Heat insulation work	Heat insulation business
Telecommunications engineering	Telecommunication engineering business
Landscaping work	Landscaping business
Well drilling work	Well drilling business
Fittings work	Fittings business
Water and sewerage facilities work	Water and sewerage facilities business
Fire protection facilities work	Fire protection facilities business
Sanitation facilities work	Sanitation facilities business

Appended Table 2 (Re: Article 26-6)

- (1) Subjects related to civil engineering (including those related to agricultural engineering, mining engineering, forestry engineering, erosion control, forest conservation, afforestation or landscaping)
- (2) Subjects related to urban engineering
- (3) Subjects related to sanitation engineering
- (4) Subjects related to transport engineering
- (5) Subjects related to architecture
- (6) Subjects related to electrical engineering
- (7) Subjects related to telecommunications engineering
- (8) Subjects related to mechanical engineering
- (9) Subjects related to forestry
- (10) Subjects related to mining engineering