

# Act on Promotion of Private Finance Initiative

(Act No. 117 of July 30, 1999)

## (Purpose)

Article 1 The purpose of this Act is to improve the social infrastructure efficiently and effectively and to ensure the provision of affordable and good service to the citizens by taking measures for promotion of provision etc., of Public Facility etc. through utilization of private finance, management abilities and technical capabilities, thereby contributing healthy development of the national economy.

## (Definition)

Article 2 (1) The term "Public Facility etc." as used in this Act means the following facilities (including equipments):

- (i) Public facility such as roads, railways, ports and harbors, airports, rivers, parks, water services, sewage systems, and industrial water supplies;
- (ii) Official facilities such as government buildings and accommodation;
- (iii) Public interest facilities such as public housing, educational and cultural facilities, waste treatment facilities, medical facilities, social welfare facilities, offender rehabilitation facilities, parking, and underground malls;
- (iv) Information and communications facilities, heat supply facilities, new energy facilities, recycling facilities (excluding waste treatment facilities), tourist facilities, and research facilities;
- (v) Other facilities equivalent to facilities listed in items (i) to (iv) inclusive, as specified in a Cabinet Order.

(2) The term "Qualified Project" as used in this Act means a project (including an urban redevelopment project, a land readjustment project, and another urban development project) involving the provision etc. of Public Facility etc. (which mean construction, rehabilitation, maintenance or operation of Public Facility etc, or planning of them, and include provision of services to the citizens; the same shall apply hereinafter), which is carried out more efficiently and effectively by utilizing private finance, management abilities and technical capabilities.

(3) The term "Administrator of Public Facility etc." as used in this Act means following persons:

- (i) The head of each ministry and national agency, who is an administrator of Public Facility etc. (the Chairperson of the House of Representatives, the Chairperson of the House of Councilors, the Chief Justice of the Supreme Court, the President of the Board of Audit, and ministers, the same shall

- apply hereinafter), or ministers having jurisdiction over a Qualified Project.
- (ii) The head of a local government, who is an administrator of Public Facility etc., or the head of a local government who is going to implement a Qualified Project.
  - (iii) An independent administrative agency, a corporation having a special status, and another public corporation (including an association formed to carry out an urban redevelopment project, a land readjustment project, and another urban development project; hereinafter referred to as "Public Corporation") in charge of the provision etc. of Public Facility etc.
- (4) The term "Selected Project" as used in this Act means a Qualified Project selected pursuant to the provision of Article 6.
- (5) The term "Appointed Business Operator" as used in this Act means a person appointed to implement a Selected Project pursuant to the provision of paragraph (1) of Article 7.

(Basic Principles)

Article 3 (1) In implementing a project for the provision etc. of Public Facility etc., its implementation shall be entrusted to private business operators as much as possible, if the project is suitable for such entrustment. In deciding the suitability of entrusting such projects, consideration shall be given to factors such as: appropriate division of roles between the national government and local governments (including a Public Corporation pertaining to governments; hereinafter the same shall apply in this article and Article 18), on the one hand, and private business operators on the other hand; efficient use of public funds; improvement on efficiency of public administration, or efficient utilization of assets owned by the national and local governments, and; whether the income generated by the project will prove sufficient to pay the costs involved.

(2) When a Qualified Project is implemented, the sharing of responsibility between the national government and local governments, on the one hand, and private business operators, on the other hand shall be clearly defined, profitability of the project shall be maintained, and interference with private business operators from the national government and local governments shall be kept to a minimum in order to fully utilize the technology and managerial resources and innovation etc. of private business operators, for the purpose of providing affordable and good services to the citizens.

(The Basic Policy, etc.)

Article 4 (1) The Prime Minister shall formulate the basic policy for the implementation of Qualified Projects (hereinafter referred to as the "Basic Policy") in accordance with the basic principles.

- (2) The Basic Policy shall set forth following matters regarding the implementation of Qualified Projects (as for Qualified Projects implemented by local governments, matters necessary for sound and efficient promotion of Qualified Projects):
- (i) Basic matters regarding the selection of a Qualified Project based on proposals from private business operators, and other basic matters regarding the selection of a Qualified Project;
  - (ii) Basic matters regarding the invitation and selection of a private business operator;
  - (iii) Basic matters to ensure the appropriate and reliable implementation of a project such as clarification of the responsibilities of the private business operator;
  - (iv) Basic matters regarding the legislative and tax measures, and fiscal and financial supports;
  - (v) Other basic matters regarding the implementation of a Qualified Project.
- (3) Basic Policy shall be determined in consideration of following matters:
- (i) As for the selection of a Qualified Project, it should bring effects such as efficient use of funds such as reduction of costs for the project, reform of public administration in service provision for citizens, and creation of business opportunity for private-sector, while ensuring their public nature and safety in provision of Public Facility etc. At the same time, due autonomy of private business operators shall be respected.
  - (ii) When selecting a private business operator, the transparent process such as open competition shall be taken and the innovation of private businesses shall be respected.
  - (iii) Fiscal support shall basically be the measures under the current system or shall be those equivalent thereto.
- (4) When the Prime Minister formulates the Basic Policy, the Prime Minister shall consult the heads of ministries and national agencies in advance, and obtain the decision of the Committee for the Promotion of the Private Finance Initiative.
- (5) When the Prime Minister has formulated the Basic Policy, the Prime Minister shall publicize it without delay, and shall send it to the heads of ministries and national agencies.
- (6) The provisions of the preceding two paragraphs of this article shall apply *mutatis mutandis* to a change in the Basic Policy.
- (7) Local governments shall take necessary measures for smooth implementation of Qualified Projects based on the basic principles and in consideration of the Basic Policy and matters listed in each item in paragraph (3) and using innovation of the region.

(Implementation Policy)

- Article 5 (1) An Administrator of Public Facility etc. shall determine the policy regarding implementation of a Qualified Project (hereinafter referred to as the "Implementation Policy") in accordance with the Basic Policy, when the administrator is to select a Qualified Project pursuant to Article 6 and to select a private business operator pursuant to paragraph (1) of Article 7.
- (2) The Implementation Policy shall specifically set forth the following matters on the Qualified Project:
- (i) The matters on the selection of the Qualified Project;
  - (ii) The matters on the invitation and selection of a private business operator;
  - (iii) The matters necessary to ensure the appropriate and reliable implementation of the project such as the clarification of the responsibilities of private business operators;
  - (iv) The matters on the location, size and allocation of the Public Facility etc;
  - (v) The matters on the measures to be taken when questions arise over the interpretation of the project plans or agreements provided in paragraph (1) of Article 10;
  - (vi) The matters on measures to be taken when difficulties arise in the continuation of the project;
  - (vii) The matters on necessary legislative and tax measures, and fiscal and financial supports;
  - (viii) Other matters necessary to enable the implementation of the Qualified Project.
- (3) When an Administrator of Public Facility etc. has determined the Implementation Policy, the administrator shall publicize it without delay.
- (4) The provision of the preceding paragraph shall apply mutatis mutandis to changes in an Implementation Policy.

(Selection of Qualified Project)

Article 6 An Administrator of Public Facility etc. may select a Qualified Project if the administrator finds that it is appropriate for the project to be implemented pursuant to the Basic Policy and the relevant Implementation Policy.

(Selection of Private Business Operator)

- Article 7 (1) When an Administrator of Public Facility etc. has selected a Qualified Project pursuant to the provision of the preceding article, the administrator shall select a private business operator which will implement the said Qualified Project by methods such as open invitation for participation.
- (2) Among the businesses which would be otherwise implemented by the Administrator of Public Facility etc. set forth in the preceding paragraph, the

private business operator selected pursuant to the provision of the same paragraph may implement the provision etc. of Public Facility etc. which has been determined to be implemented by the private business operator in the project plans or agreements provided in paragraph (1) of Article 10.

(Objective Evaluation)

Article 8 (1) The Administrator of Public Facility etc. shall carry out an objective evaluation (including evaluation on the effectiveness and efficiency of the Qualify Project) when it selects a Qualified Project pursuant to Article 6 and selects the private business operator pursuant to paragraph (1) of the preceding article, and shall publicize the results.

(2) When an Administrator of Public Facility etc. selects a private business operator pursuant to the paragraph (1) of the preceding article, the administrator must evaluate the operator principally by the price, the quality of the services provided to citizens, and other conditions, in order to fully utilize the technology and managerial expertise and innovation of the private business operator and to provide affordable and good services to citizens.

(Resolution by Local Council)

Article 9 When a local government enters into a contract pertaining to a Qualified Project, a resolution by its local council shall be obtained in advance, provided that the type and cost of the project fall within the criteria set forth in the relevant Cabinet Order.

(Consideration for Designation of the Designated Administrator etc.)

Article 9-2 A local government shall, in the case where the provision of paragraph (3) of Article 244-2 of the Local Government Act (Act No. 67 of 1947) applies to administration of Public Facility etc. provided pursuant to this Act, consider matters provided in the paragraphs (4) to (6) inclusive of the article in order to promote the smooth implementation of the Qualified Project, and also shall endeavor to clarify in advance how to treat the Qualified Project in the case where paragraph (11) of the article applies.

(Implementation of Qualified Project)

Article 10 (1) A Selected Project shall be carried out in accordance with its project plan or the agreement jointly formulated by the Administrator of Public Facility etc. and the Appointed Business Operator, or with its business plan formulated by the Appointed Business Operator alone (including cases the Appointed Business Operator is the administrator of the facilities), pursuant to the Basic Policy and the relevant Implementation Policy.

(2) When the Appointed Business Operator is a juridical person whose capital

injection or contribution was made by the national government or a local government (including a juridical person whose capital contribution or funding was made by such publicly-funded juridical person), special care must be taken to ensure that the responsibilities of the said Appointed Business Operator are clear, and the share of responsibility between the Appointed Business Operator and the Administrator of Public Facility etc. shall be clearly defined in the business plan or the agreement set forth in the preceding paragraph.

(The National Government Debt Burden)

Article 11 In the case where the national government incurs a debt arising from a Selected Project, the debt shall be paid off within 30 years from the relevant fiscal year.

(Lease of Administrative Assets)

Article 11-2 (1) Notwithstanding the provision of paragraph (1) of Article 18 of the National Property Act (Act No. 73 of 1948), the national government may lease, when it finds necessary, to an Appointed Business Operator, an administrative asset (meaning an administrative asset provided in paragraph (2) of Article 3 of the National Property Act; the same shall apply to the following paragraph to paragraph (5) inclusive of this article and to the paragraphs (1) to (4) inclusive of the following article) for use in the relevant Selected Project.

(2) In addition to leases prescribed in the preceding paragraph, in the case where an Appointed Business Operator is to own all or part of one building a part of which is the Public Facility etc. of the said Selected Project (hereinafter referred to as "Specified Building" in this article), the national government may lease, when it finds necessary, to the said Appointed Business Operator the relevant land which is an administrative asset notwithstanding the provision of paragraph (1) of Article 18 of the National Property Act to the extent that the lease does not prevent the original usage or purpose of the asset.

(3) In addition to the leases prescribed in to provisions of preceding two paragraphs, in the case where an Appointed Business Operator who has leased the land which is an administrative asset pursuant to the provision of the preceding paragraph is to continue to own the Specified Building (excluding the portion which is used as Public Facility etc. of the relevant Selected Project) (hereinafter referred to as the "Specified Private Facility" in this article) after the termination of the Selected Project (including the termination due to early termination of the contract which was entered into to implement the said Selected Project; hereinafter the same shall apply in this article and the following article), the national government may, when it finds necessary,

continue to lease to the lessee the said land which is an administrative asset (provided that, in the case of early termination of the contract which was entered into to implement the said Selected Project, the lessee is a person who is recognized by the Administrator of Public Facility etc. to be appropriate for the administration of the said Public Facility etc. pertaining to the property that was the Specified Private Facility; hereinafter the same shall apply in paragraph (8)) notwithstanding the provision of paragraph (1) of Article 18 of the National Property Act to the extent that the lease does not prevent the original usage or purpose of the asset.

- (4) In addition to the leases prescribed in preceding three paragraphs, in the case where an Appointed Business Operator who has leased land which is administrative asset pursuant to the paragraph (2) of this article is to transfer the Specified Private Facility, the national government may lease, when it finds necessary, the land which is an administrative asset to the person who is to acquire the Specified Private Facility (provided that the assignee is a person who is recognized by the Administrator of Public Facility etc to be appropriate for the administration of the said Public Facility etc) notwithstanding the provision of paragraph (1) of Article 18 of the National Property Act to the extent that the lease does not prevent the original usage or purpose of the asset.
- (5) The provision of the preceding paragraph shall apply mutatis mutandis to the case where a person who has leased the land which is an administrative asset pursuant to the provision of paragraph (3) or the preceding paragraph (including the case where it is applied mutatis mutandis pursuant to this paragraph) is to transfer the said Specified Private Facility (including the facility that was a Specified Private Facility). In this case, the term "the Administrator of the said Public Facility etc.," in the preceding paragraph, shall be deemed to be replaced with "the Administrator of the Public Facility etc. pertaining to the said Specified Private Facility (in the case of transferring facility which was Specified Private Facility, 'the Administrator of the Public Facility etc. pertaining to the said facility that was a Specified Private Facility')"
- (6) Notwithstanding the provisions of the paragraph (1) of Article 238-4 of the Local Government Act (Act No. 67 of 1947), a local government may lease, when it finds necessary, to an Appointed Business Operator, an administrative asset (meaning the administrative asset provided in paragraph (3), Article 238-4 of the aforementioned Act, the same shall apply to in the paragraphs next to (10) of this article and (5) to (8) of the next article) to be used in Selected Projects.
- (7) In addition to the leases prescribed in the preceding paragraph, in the case where an Appointed Business Operator is to own all or part of a Specified

Building, a local government may lease, when it finds necessary, to the Appointed Business Operator the land which is administrative assets notwithstanding the provision of the paragraph (1) of Article 238-4 of the Local Government Act to the extent that the lease does not prevent the original usage or purpose of the asset.

- (8) In addition to the leases prescribed in the preceding two paragraphs, in the case where an Appointed Business Operator who has leased land which is an administrative asset in accordance with the provision of the preceding paragraph is to continue to own the Specified Building after the termination of the Selected Project, a local government may, when it finds necessary, continue to lease the said land which is an administrative asset to the operator notwithstanding the provision of the paragraph (1) of Article 238-4 of the Local Government Act, to the extent that the lease does not prevent the original usage or purpose of the asset.
- (9) In addition to the leases prescribed in preceding three paragraphs, in the case where an Appointed Business Operator who has leased land which is administrative asset pursuant to the paragraph (7) of this article is to transfer the Specified Private Facility, the local government may, when it finds necessary, lease the land which is an administrative asset to the person who is to acquire the Specified Private Facility (provided that the person is recognized by Administrator of Public Facility etc. to be appropriate for administration of the Public Facility etc.) notwithstanding the provision of the paragraph (1) of Article 238-4 of the Local Government Act, to the extent that the lease does not prevent the original usage or purpose of the asset.
- (10) The provision of the preceding paragraph shall apply mutatis mutandis to the case where a person who has leased land which is administrative asset pursuant to the provision of paragraph (8) or the preceding paragraph (including the case where it is applied mutatis mutandis pursuant to this paragraph) is to transfer the said Specified Private Facility (including facility that was Specified Private Facility). In this case, the term "the Administrator of the said Public Facility etc." in the preceding paragraph, shall be deemed to be replaced with "the Administrator of the Public Facility etc. pertaining to the said Specified Private Facility (in the case of the transfer of facility which was Specified Private Facility, the Administrator of the Public Facility etc. pertaining to the facility that was the Specified Private Facility.)"
- (11) The provisions of Article 604 of the Civil Code (Act No. 89 of 1896) and the Articles 3 and 4 of the Act on Land and Building Lease (Act No. 90 of 1991) shall not apply to leases set forth in preceding paragraphs of this article.
- (12) The provisions of Articles 21 and 23 to 25 inclusive of the National Property Act shall apply mutatis mutandis to leases set forth in paragraphs (1) to (5) inclusive of this article. The provision of paragraph (2) of Article 238-2, and



paragraphs (3) to (5) inclusive of Article 238-5 of the Local Government Act shall apply mutatis mutandis to the leases set forth in paragraphs (6) to (10) inclusive of this article.

Article 11-3 (1) In addition to leases prescribed in paragraphs (1) to (5) inclusive of the preceding article, the national government may, when it finds necessary, lease an administrative asset to be used for a project to establish a Specified Facility (meaning a facility which fall within facilities listed the items (iii) and (iv) of paragraph (1) of Article 2 (excluding public housings) (hereinafter referred to as "Item 3 and 4 Facilities" in this article) and facilities specified by the relevant Cabinet Order as assets equivalent to Item 3 and 4 Facilities among assets set forth in item (v) of paragraph (1) of the same article; hereinafter the same shall apply in this article) that is useful for the implementation of the relevant Selected Project (hereinafter referred to as a "Qualified Private Project" in this article) to the Appointed Business Operator who implements the Specified Private Project, notwithstanding the provision of paragraph (1) of Article 18 of the National Property Act to the extent that the lease does not prevent the original use or purpose of the asset.

(2) In addition to the leases prescribed in the preceding paragraph, in the case where an Appointed Business Operator who has leased administrative property pursuant to the provision of the preceding paragraph is to continue to own or use the Specified Facilities pertaining to the Specified Private Project after the termination of the Selected Project, the national government may, when it finds necessary, continue to lease to the lessee the said administrative assets (provided that, in the case of early termination of the contract which was entered into to implement the said Selected Project, the lessee is a person who is recognized to be appropriate for the administration of the said Public Facility etc. by the Administrator of Public Facility etc. pertaining to the facility that was the Public Facility etc. of the Selected Project; hereinafter the same shall apply in paragraph (6)) notwithstanding the provision of paragraph (1) of Article 18 of the National Property Act, to the extent that the lease does not prevent the original use or purpose of the asset.

(3) In addition to the leases prescribed in preceding two paragraphs , in the case where an Appointed Business Operator who has leased administrative property in accordance with the paragraph (1) of this article is to transfer the Specified Facility (including the right to utilize the Specified Facility; hereinafter the same shall apply in this paragraph), the national government may lease, when it finds necessary, the administrative asset to the person who is to acquire the Specified Facilities (provided that the person is recognized by the Administrator of Public Facility etc. pertaining to the said Selected Project to be appropriate for administration of the Public Facility etc.) notwithstanding

- the provision of paragraph (1) of Article 18 of the National Property Act, to the extent that the lease does not prevent the original use or purpose of the asset.
- (4) The provision of the preceding paragraph shall apply mutatis mutandis to the case where a person who have leased an administrative asset pursuant to the provision of paragraph (2) or the preceding paragraph (including the case where it is applied mutatis mutandis pursuant to this paragraph) is to transfer the said Specified Facilities (including the right to utilize the Specified Facility). In this case, the term "the Administrator of Public Facility etc. pertaining to the said Selected Project" in the preceding paragraph, shall be deemed to be replaced with "the Administrator of Public Facility etc. pertaining to the said Selected Project (in the case of the transfer after expiration of Selected Project, 'the Administrator of the Public Facility etc. pertaining to the facility which was the Public Facility etc. pertaining to the Selected Project')"
- (5) In addition to leases prescribed in paragraphs (6) to (10) inclusive of the preceding article a local government may lease, when it finds necessary, an administrative asset in use for a Specified Private Project to the Appointed Business Operator who implements the Specified Private Project, notwithstanding the provision of the paragraph (1) of Article 238-4 of the Local Government Act, to the extent that the lease does not prevent the original use or purpose of the asset.
- (6) In addition to the leases prescribed in the preceding paragraph, in the case where a person who has leased an administrative asset pursuant to preceding paragraph is to own or utilize the relevant Specified Facility used for the Specified Private Project after the termination of the relevant Selected Project, the local government may, when it finds necessary, lease the said administrative asset to the person, notwithstanding the provision of the paragraph (1) of Article 238-4 of the Local Government Act to the extent that the lease does not prevent the original usage or purpose of the asset.
- (7) In addition to the leases prescribed in preceding two paragraphs, in the case where an Appointed Business Operator who has leased administrative asset pursuant to with the paragraph (5) of this article is to transfer the Specified Facility used for the Specified Private Project (including the right to utilize the Specified Facility; hereinafter the same shall apply in this paragraph), the local government may, when it finds necessary, lease the administrative asset to the person who is to acquire the Specified Facility (provided that the person is recognized by the Administrator of Public Facility etc. pertaining to the Selected Project to be appropriate for administration of the Public Facility etc), notwithstanding the provision of the paragraph (1) of Article 238-4 of the Local Government Act to the extent that the lease does not prevent the original usage or purpose of the asset.

- (8) The provision of the preceding paragraph shall apply mutatis mutandis to the case where a person who has leased an administrative asset pursuant to the provision of paragraph (6) or the preceding paragraph (including the case where applied mutatis mutandis pursuant to this paragraph) is to transfer the said Specified Facility (including the right to utilize the Specified Facility). In this case, the term "the Administrator of the Public Facility etc. pertaining to the said Selected Project" in the preceding paragraph, shall be deemed to be replaced with "the Administrator of the Public Facility etc. pertaining to the said Selected Project (in the case of the transfer after termination of the Selected Project, 'the Administrator of the Public Facility etc. pertaining to the facility which was the Public Facility etc. pertaining to the Selected Project')"
- (9) The provisions of paragraphs (11) and (12) of the preceding article shall apply mutatis mutandis to leases pursuant to respective preceding paragraphs of this article. In this case, "paragraphs (1) to (5) inclusive" in paragraph (12) of the preceding article shall be deemed to be replaced with "paragraphs (1) to (4) inclusive of Article 11-3," and "paragraphs (6) to (10) inclusive" of the preceding article shall be deemed to be replaced with "paragraphs (5) to (8) inclusive of Article 11-3".

(Free Use of National Property etc.)

- Article 12 (1) The national government may, when it finds necessary, allow the use of national properties (meaning national properties provided in paragraph (1) of Article 2 of the National Property Act) by an Appointed Business Operator, as long as such properties are used for the Selected Project, either free of charge or at a cost lower than market price.
- (2) A local government may allow, when it finds necessary, the use of public properties (meaning public property provided in the paragraph (1) of Article 238 of the Local Government Act) by an Appointed Business Operator, as long as such properties are used for the Selected Project, either free of charge or at a cost lower than market price.

(Loan without Interest)

- Article 13 (1) The national government may make loans without interest to an Appointed Business Operator to be used as a fund for a Qualified Project that is, the government finds, to highly promote public benefit, within the limit of the budget.
- (2) The national government may use the credit screening capability and loan finance capability of Development Bank of Japan, the Okinawa Development Finance Corporation, other governmental financial institutions, etc, when it provides loans without interest pursuant to the provision of the preceding paragraph.

(Consideration to Ensuring Funds and Local Bonds)

Article 14 The national government or local governments, as the case may be, shall endeavor for obtainment of fund necessary for implementation of Selected Projects, or for arrangement of loans, or to take special consideration for issuance of local bonds within the limits under laws and regulations.

(Consideration to Acquisition of Land etc.)

Article 15 In order to facilitate the acquisition or use of land etc. by an Appointed Business Operator for use in a Selected Project, appropriate consideration should be made for acquisition of the land through expropriation of the land pursuant to the Compulsory Purchase of Land Act (Act No. 219 of 1951) or other permission under related laws and regulations.

(Supports)

Article 16 (1) In addition to supports provided in Articles 11-2 to 15 inclusive, in order to promote the implementation of Qualified Projects, the national government and local governments shall take the necessary legislative and tax measures in light of the Basic Policy and Implementation Policies, and offer Appointed Business Operators necessary financing and fiscal supports.  
(2) The measures and supports set forth in the preceding paragraph shall be flexible and adaptable in order to accord with the nature and location etc., of the facilities to be provided, and attention shall be paid to ensure that local governments and Public Corporations are able to fully exercise their autonomy.

(Deregulation)

Article 17 In order to promote the implementation of Qualified Projects, the national government and local governments shall promptly promote the abolition or relaxation of their regulations that hinder the full utilization of the technical expertise and innovation of private business operators.

(Cooperation)

Article 18 In order to promote smooth implementation of Qualified Projects, the national government and local governments and private business operators shall mutually cooperate with one another, through such means as setting up systems for cooperation.

(Enlightening Activities and Technical Assistance, etc.)

Article 19 (1) The national government and local governments shall promote activities such as dissemination of knowledge of, and provision of information on, implementation of Qualified Projects, and at the same time, promote

enlightening activities to gain understanding, consents and cooperation of local residents.

- (2) In order to promote smooth and efficient implementation of Qualified Projects, the national government and local governments shall give consideration necessary for provision of technical assistance to private business operators. They shall also give special consideration for use of technology by private business operators, by means such as arrangement for use of patented technologies.

(Use of Collateralized Real Estate)

Article 20 (1) In the case where an Appointed Business Operator has acquired real estate subject to security interests in order to implement a Qualified Project, and the holder company of relevant security interest on the real estate, a company that has provided the real estate as a collateral or a company who owns the real estate has posted losses, an amount equal to the said losses may be appropriated as deferred assets in the balance sheet of the company at the end of the fiscal year. In this case amortization shall be made by an amount which is not less than evenly split figures at the end of each fiscal year within 10 years after the fiscal year when the acquisition was made.

- (2) As for application of the provision of paragraph (2) of Article 461 of the Company Code (Act No. 87 of 2005) in the case where the preceding paragraph applies, "the amount obtained by subtracting the sum of " therein shall be deemed to be replaced with "and, in the cases prescribed in the relevant Cabinet Office Ordinance, the amount obtained by subtracting the sum of the amount prescribed in the Cabinet Office Ordinance which has been appropriated in the part of asset of the balance sheet pursuant to paragraph (1) of Article 20 of the Act on Promotion of Private Finance Initiative."

(The Committee for the Promotion of the Private Finance Initiative)

Article 21 (1) The Committee for the Promotion of Private Finance Initiatives (hereinafter referred to as the "Committee") will be set up within the Cabinet Office.

- (2) The Committee shall study and deliberate matters that fall within its authority pursuant to the provision of this Act. In addition, it shall also study and deliberate situations regarding the formulation of Implementation Policies, selection of Qualified Projects, objective evaluation of those projects, and other matters pertaining to provision etc of national Public Facility etc. through utilization of private finance etc.
- (3) Private business operators etc. may submit to the Committee their opinions on provision etc. of national Public Facility etc. through use of private finance etc.

- (4) The Committee, when it finds necessary, in the course of performing its duties set forth in preceding two paragraphs, may state its opinions to the Prime Minister and heads of relevant administrative organs, in order to facilitate and coordinate the provision etc. of Public Facility etc. through the utilization of private finance etc.
- (5) The Prime Minister and heads of relevant administrative organs shall report to the Committee measures taken as a result of the receipt of the Committee's opinions set forth in the preceding paragraph.
- (6) The Committee, when it finds necessary for performing its duties, may request heads of relevant administrative organs, heads of relevant local governments, and other relevant bodies to provide necessary cooperation such as submission of data, expression of opinions, and explanations. In this case, the Committee shall take measures necessary for publication of documents which were submitted or collected for performance of its duty.

(The Organization of the Committee)

Article 22 (1) The Committee consists of nine persons with relevant knowledge and experience appointed by the Prime Minister.

- (2) Expert advisors may be appointed to the Committee if such members are necessary for studying and deliberating specialized matters.
- (3) The Committee may set up sub-committees, as necessary.
- (4) In addition to what is provided for in the preceding three paragraphs, necessary matters relating to organization and operation of the Committee shall be determined by a Cabinet Order.

(The Authorization of Cabinet Order)

Article 23 In addition to what is provided for in this Act, matters that are necessary for its implementation shall be prescribed by Cabinet Orders.