

Act on Promotion of Private Finance Initiative

(Act No. 117 of July 30, 1999)

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Chapter I General Provisions

(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 the public facility etc., through utilization of private finance, management abilities

and technical capabilities, thereby contributing healthy development of the national economy.

(Definitions)

- Article 2 (1) The term "public facility, etc." as used in this Act means the following facilities (including equipment):
- (i) public facilities 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 accommodations;
 - (iii) public interest facilities such as leased 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) transportation facilities such as vessels, aircraft, etc., and artificial satellites (including the facilities necessary for operation of these facilities); and
 - (vi) other facilities equivalent to the facilities set forth in the above items, as specified by Cabinet Order.
- (2) The term "qualified project" as used in this Act means a project (including an urban redevelopment project, a land readjustment project, or other urban development project) involving the provision, etc., of a public facility, etc. (which means construction, manufacturing, rehabilitation, maintenance or operation of a public facility, etc., or planning thereof, and includes provision of services to the citizens; the same applies hereinafter), which is carried out more efficiently and effectively by utilizing private finance, management abilities, and technical capabilities.
- (3) The term "administrator of the public facility, etc." as used in this Act means the following persons:
- (i) the head of each ministry and national agency who is an administrator of a 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 applies hereinafter), or ministers having administrative jurisdiction over a qualified project;
 - (ii) the head of a local government, who is an administrator of a public facility, etc., or the head of a local government who is going to implement a qualified project; and
 - (iii) an independent administrative agency, a corporation having a special status, and any other public corporation (including any association formed to

- carry out an urban redevelopment project, a land readjustment project, or any other urban development project; hereinafter referred to as a "public corporation") in charge of the provision, etc., of a public facility, etc.
- (4) The term "selected project" as used in this Act means a qualified project selected pursuant to the provisions of Article 7.
- (5) The term "appointed business" as used in this Act means a person appointed to implement a selected project pursuant to the provisions of paragraph (1) of Article 8.
- (6) The term "public facility, etc. operating project" as used in this Act means the qualified project in which, upon establishment of the right to operate the public facility, etc., under the provisions of Article 16, the administrator, etc. of the public facility, etc., conducts operation, etc. (which means the operation, maintenance, and planning pertaining thereto and includes provision of services to the citizens; the same applies hereinafter.) of the public facility, etc. (limited to the facilities that charge usage fees (which mean fees for usage of the public facility, etc.)) in which the administrator, etc. of the public facility, etc. has the ownership (excluding the ownership of the premises of the buildings and other structures that constitute the public facility, etc.; the same applies in Article 29, paragraph (4)) and for which usage fees are received as its own income.
- (7) The term "right to operate the public facility, etc." as used in this Act means the right to implement the public facility etc., operating project.

(Basic Principles)

- Article 3 (1) In implementing a project for the provision, etc. of a public facility, etc., its implementation is to be entrusted to private businesses as much as possible, if the project is suitable for entrustment. In deciding the suitability of entrusting those projects, consideration is to 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 applies in this article and Article 77), on the one hand, and private businesses on the other hand; efficient use of public funds; improvement in efficiency of public administration, or efficient utilization of assets owned by the national and local governments, and; whether the revenue 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 businesses, on the other hand, must be clearly defined, profitability of the project must be maintained, and interference with private businesses from the national government and local governments must be kept to a minimum in order to fully utilize the technology and managerial resources and innovation,

etc., of private businesses, for the purpose of providing affordable and good services to the citizens.

Chapter II The Basic Policy

- Article 4 (1) The government must determine 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 is to set forth the following matters regarding the implementation of qualified projects (for qualified projects implemented by local governments, the matters necessary for sound and efficient promotion of qualified projects):
- (i) basic matters regarding utilization of private finance, management abilities and technical capabilities in accordance with the purpose of the provisions of paragraph (1) of the preceding Article in the business regarding the provision, etc. of the public facility, etc.;
 - (ii) basic matters regarding the selection of a qualified project based on proposals from private businesses and other basic matters regarding the selection of a qualified project;
 - (iii) basic matters regarding the call and selection of a private business;
 - (iv) basic matters to ensure the appropriate and reliable implementation of a project such as clarification of the responsibilities of the private business;
 - (v) basic matters regarding the right to operate the public facility, etc.;
 - (vi) basic matters regarding the legislative and tax measures, and fiscal and financial supports; and
 - (vii) other basic matters regarding the implementation of a qualified project.
- (3) The basic policy must be determined in consideration of the following matters:
- (i) the selection of a qualified project should bring effects such as efficient use of funds, reduction of costs for the project, reform of public administration in the provision of services for citizens, and creation of business opportunities for the private-sector, while ensuring the public nature and safety in provision of the public facility etc., and, at the same time, respecting the autonomy of private businesses;
 - (ii) selection of a private business, is to be carried out in a transparent process, such as by open competition, while respecting the innovation of private businesses; and
 - (iii) fiscal support is to be measures based upon the current system or the equivalent thereto.
- (4) The Prime Minister must request a cabinet decision on drafts of the basic policy.
- (5) When a cabinet decision under the provisions of the preceding paragraph has

been made, the Prime Minister must publicize the basic policy without delay, and must send it to the heads of ministries and national agencies.

- (6) The provisions of the preceding two paragraphs applies mutatis mutandis to a change in the basic policy.
- (7) Local governments are to take necessary measures for smooth implementation of qualified projects based on the basic principles and in consideration of the basic policy and the matters set forth in each item in paragraph (3) while making the most of regional innovations.

Chapter III Implementation of the Qualified Project

(Implementation Policy)

Article 5 (1) An administrator of the public facility etc. may 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 the provisions of Article 7 and to select a private business pursuant to the provisions of paragraph (1) of Article 8.

(2) The implementation policy specifically sets forth the following matters on the qualified project:

- (i) the matters on the selection of the qualified project;
- (ii) the matters on the call and selection of a private business;
- (iii) the matters necessary to ensure the appropriate and reliable implementation of the project, such as the clarification of the responsibilities of private businesses;
- (iv) the matters on the location, size, and allocation of the public facility
- (v) the matters on the measures to be taken when questions arise over the interpretation of the project contracts (which means the contracts entered into by the administrator, etc. of the public facility, etc. and the appointed business in order to implement the selected project (excluding the public facility, etc. operating project); the same applies hereinafter.);
- (vi) the matters on measures to be taken when difficulties arise in the continuation of the project; and
- (vii) the matters on legislative and tax measures, and fiscal and financial supports.

(3) When an administrator, etc. of the public facility, etc. has determined the implementation policy, the administrator, etc. is to endeavor to publicize it without delay.

(4) The provisions of the preceding paragraph applies mutatis mutandis to changes in the implementation policy.

(Proposals to Formulate the Implementation Policy)

- Article 6 (1) A private business that intends to implement a qualified project may propose that an administrator, etc. of the public facility, etc. determine an implementation policy for the qualified project. In this case, the private business must attach proposals of the qualified project, documents indicating the result of the evaluation on the impact and efficiency of the qualified project, and other documents specified by Cabinet Office Order.
- (2) An administrator, etc. of the public facility, etc. who has received a proposal under the preceding paragraph must take the proposal into consideration and notify the private business of the result thereof without delay.

(Selection of Qualified Project)

- Article 7 When an administrator, etc. of the public facility etc. has publicized an implementation policy pursuant to the provisions of Article 5, paragraph (3) (including the case where it applies mutatis mutandis in paragraph (4) of that Article), the administrator, etc. may select a qualified project for which, pursuant to the basic policy and the relevant implementation policy, the administrator, etc. finds implementation to be appropriate.

(Selection of a Private Business)

- Article 8 (1) When an administrator, etc. of the public facility etc. has selected a qualified project pursuant to the provisions of the preceding Article, the administrator, etc. is to select a private business which will implement that qualified project by methods such as public offerings for participation.
- (2) Among the projects which would normally be implemented by the administrator, etc. of the public facility etc. as set forth in the preceding paragraph, the private business selected pursuant to the provisions of that paragraph may implement the provision, etc. of a public facility, etc. which has been determined to be implemented by the private business in the project contracts (if the right to operate the public facility, etc. has been established pursuant to the provisions of Article 16, operation, etc. of the public facility, etc. pertaining to the right to operate the public facility, etc.).

(Reasons for Disqualification)

- Article 9 Any person that falls under any of the following items may not respond to the call of the private businesses to implement the qualified project:
- (i) any person that is not a corporation;
 - (ii) any corporation that has become subject to an order commencing bankruptcy proceedings and whose rights have not yet been restored, or any corporation treated in the same manner under the laws and regulations of a foreign country;

- (iii) any corporation which has had its right to operate a public facility, etc. rescinded pursuant to the provisions of Article 29, paragraph (1) (limited to the portion relating to item (i) of that paragraph; the same applies hereinafter) and five years have not elapsed from the date of the rescission;
- (iv) If a person that has the right to operate a public facility, etc. (hereinafter, the "operating right holder of the public facility, etc.") has had its right to operate the public facility, etc. rescinded pursuant to the provisions of Article 29, paragraph (1), any corporation which was at that time actually the parent company, etc. (which means a corporation specified by Cabinet Order as one whose affiliation enables it to substantially control the management of the corporation; same applies in item (7)) which is the operating right holder of a public facility, etc., at the time when the facts that caused that rescission arose, and a period of five years has not elapsed from the date of the rescission;
- (v) any corporation whose directors fall under any of the following:
 - (a) any person who is an adult ward or person under curatorship or treated in the same manner under the laws and regulations of a foreign country;
 - (b) any person who has become subject to an order commencing bankruptcy proceedings and whose rights have not yet been restored, or who is treated in the same manner under the laws and regulations of a foreign country;
 - (c) any person who has become subject to imprisonment without work or heavier punishment (including any punishment equivalent thereto under the laws and regulations of a foreign country) and a period of five years has not yet elapsed from the day on which the execution of punishment was completed, or the execution of punishment was suspended; or
 - (d) any person who is a member of an organized crime group specified in Article 2, item (vi) of the Act on Prevention of Unjust Acts by Organized Crime Group Members (Act No. 77 of 1991) (hereinafter, a "member of an organized crime group" in this Article), or for whom a period of five years has not yet elapsed from the day on which the person ceased to be a member of an organized crime group;
 - (e) If the operating right holder of a public facility, etc. has had its right to operate the public facility, etc., rescinded pursuant to the provisions of Article 29, paragraph (1), any person who was a director of the operating right holder of a public facility, etc. within the thirty day period prior to the date of the rescission and a period of five years has not yet elapsed from the date of rescission; or
 - (f) any person who is a minor that does not have the same capacity for sales as an adult, whose legal representative falls under any of the items (a) through (e);
- (vi) any corporation whose business activities are controlled by a person who is

- a member of an organized crime group or for whom a period of five years has not yet elapsed from the day on which the person ceased to be a member of an organized crime group; or
- (vii) any corporation whose parent company, etc. falls under any of the items (ii) through (vi).

(Technical Proposals)

- Article 10 (1) An administrator, etc. of the public facility, etc. must endeavor to seek proposals related to technology or creativity for a qualified project (hereinafter, "technical proposals" in this Article) from those who intend to respond to the call prior to the selection of a private business under Article 8, paragraph (1).
- (2) When technical proposals are made, an administrator, etc. of the public facility, etc. is to conduct appropriate examinations and evaluations therefor.
- (3) For technical proposals, the provisions of Article 15, the main clause of paragraph (5), Article 16, the first sentence of Article 17, paragraph (1), Article 18, paragraph (1) and paragraph (2), and Article 19 of the Act on Promoting Quality Assurance in Public Works (Act No. 18 of 2005) applies mutatis mutandis. In this case, necessary technical replacement is to be specified by Cabinet Order.

(Objective Evaluation)

- Article 11 (1) The administrator, etc. of the public facility, etc. must carry out an objective evaluation (including evaluation of the effectiveness and efficiency of the qualify project) when it selects a qualified project pursuant to Article 7 and selects the private business pursuant to Article 8, paragraph (1) , and must publicize the results therefor.
- (2) When an administrator, etc. of the public facility etc. selects a private business pursuant to Article 8, paragraph (1), the administrator, etc. 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 and to provide affordable and good services to citizens.

(Resolution by Local Council)

- Article 12 When a local government enters into a project contract the type and cost of which fall under the criteria specified by Cabinet Order, a resolution by its local council must be obtained in advance.

(Consideration for Designation of the Designated Administrator)

- Article 13 If the provision of Article 244-2, paragraph (3) of the Local Autonomy

Act (Act No. 67 of 1947) A local government is to apply to administration of the public facility, etc. provided pursuant to this Act, consider matters provided in the paragraphs (4) through (6) of the Article in order to promote the smooth implementation of the qualified project, and also is to endeavor to clarify in advance how to treat the qualified project if paragraph (11) of the Article applies.

(Implementation of Selected Project)

Article 14 (1) A selected project is to be carried out in accordance with its project contract (which means, if the right to operate the public facility, etc. is established pursuant to the provisions of Article 16, the agreement on the operation rights of a public facility, etc. pertaining to the right to operate the public facility, etc. (which means the agreement on the operation rights of a public facility, etc., provided in Article 22, paragraph (1)); the same applies in the following paragraph) pursuant to the basic policy and the relevant implementation policy.

(2) When the appointed business is a juridical person whose capital injection or contribution has been made by the national government or a local government (including a juridical person whose capital contribution or funding has been made by a publicly-funded juridical person), special care must be taken to ensure that the responsibilities of the appointed business are clear, and the share of responsibility between the appointed business and the administrator, etc. of the public facility, etc. must be clearly defined in the project contract .

(Publication of the Prospects of Formulation of the Implementation Policy)

Article 15 (1) As provided by Cabinet Office Order, an administrator, etc. of the public facility, etc. must each fiscal year publicize the matters regarding the prospect of formulation of the implementation policy for that business year, specified by Cabinet Office Order; provided, however, that this does not apply, if there is no prospect for that fiscal year.

(2) If an administrator, etc. of the public facility, etc. changes the matters regarding the prospect in the preceding paragraph, the administrator, etc. must publicize the matters after the change pursuant to the provisions of Cabinet Office Order;

(3) If an administrator, etc. of the public facility, etc. enters into a project contract, the administrator, etc. must publicize the contents of the project contract (limited to the name and location of the public facility, etc., the trade name or name of the selected business, contents of the provision, etc. of the public facility, etc., contract period, matters regarding the measures when the continuation of the project becomes difficult and other matters specified by Cabinet Office Order) without delay, pursuant to the provisions of Cabinet

Office Order;

- (4) The provisions of the preceding three paragraphs are not prevent local governments from providing the necessary provisions by Prefectural or Municipal Ordinance on the publication of information regarding the prospect of formulation of the implementation policy and the contents of the project contract other than the matters provided in the preceding three paragraphs.

(Confirmation of Interpretation and Application)

- Article 15-2 (1) An administrator, etc. of the public facility, etc. (excluding the persons set forth in Article 2, paragraph (3), item (i); hereinafter the same applies in this Article 15-2, paragraph (6)) or any private business that implements or intends to implement a qualified project, may request from the Prime Minister a confirmation regarding the contents of supporting measures for the qualified project that the administrator, etc. or the private business implements or intends to implement, and the construction of the provisions of the law governing the regulations on that qualified project (including the orders (including public notices) based on the law; the same applies in paragraph (2) and (3)), and whether or not the supporting measures or the provisions apply to the qualified project (hereinafter collectively referred to as "contents, etc. of supporting measures" in the paragraph (2) and (3)).
- (2) The Prime Minister, who has received a request under the preceding paragraph, is to respond to the person who made the request without delay, if the confirmation of the contents, etc. of supporting measures regarding the request is relating to the affairs or the laws under the Prime Minister's jurisdiction.
- (3) The Prime Minister, who has received a request under the provisions of paragraph (1), is to request a confirmation from the head of a relevant administrative organ (if the administrative organ is the one based on the council system, that administrative organ; the same applies in this paragraph and Article 85) without delay, if the confirmation of the contents, etc. of supporting measures for that request is related to the affairs under the administrative jurisdiction or the laws under the jurisdiction of the head of other relevant administrative organ. In this case, the head of the relevant administrative organ, who has received the request for confirmation, is to respond to the Prime Minister without delay.
- (4) The Prime Minister, who has received a response under the provisions of the preceding paragraph, is to notify the person that made the request, under the provisions of paragraph (1) pertaining to the response, of the contents of the response without delay.
- (5) When making the response under the provisions of the paragraph (2), or the notification under the provisions of the preceding paragraph, the Prime

Minister is to report the contents to the Public Private Partnership / Private Finance Initiative Promotion Committee.

(6) Beyond the provisions of paragraph (2) and (4), in order to promote smooth and efficient implementation of a qualified project, the Prime Minister may provide necessary advice at the request of an administrator, etc. of the public facility, etc. or any private business that implements or intends to implement the qualified project.

(7) If the Prime Minister finds it necessary when providing advice under the preceding paragraph, the Prime Minister may request opinions from the Public Private Partnership / Private Finance Initiative Promotion Committee.

(Collection of Reports)

Article 15-3 If the Prime Minister finds it to be necessary in order to ensure the appropriate and reliable implementation of the qualified project, the Prime Minister may request reports, or provide advice or recommendations to the administrator, etc. of the public facility, etc. for matters provided in the implementation policy or other matters pertaining to the implementation of the qualified project;

Chapter IV The Right to Operate the Public Facility

(Establishment of the Right to Operate the Public Facility)

Article 16 An administrator, etc. of the public facility, etc. may establish the right to operate the public facility, etc. for a selected business.

(Addition of the Matters Listed in the Implementation Policy on the Right to Operate the Public Facility)

Article 17 When selecting the private business for whom the right to operate the public facility, etc. will be established, etc., an administrator, etc. of the public facility, etc. is to determine the following matters beyond the matters set forth in the items of Article 5, paragraph (2) in the implementation policy:

(i) that the right to operate the public facility, etc. will be established for the appointed business;

(ii) contents of the operation, etc. of the public facility, etc. pertaining to the right to operate the public facility, etc.;

(iii) duration of the right to operate the public facility, etc.;

(iv) when collecting expenses pursuant to the provisions of Article 20, that effect (if the amount to be collected is determined in advance, the fact that the expense will be collected and the amount thereof);

(v) the matters to be provided in the agreement on the operation rights of a public facility, etc. provided in Article 22, paragraph (1), and the matters

regarding the measures when any doubt arises in connection with the interpretation thereof ; or
(vi) the matters regarding the usage fee.

(Municipal Ordinances on the Implementation Policy)

Article 18 (1) When providing the matters in the implementation policy pursuant to the provisions of the preceding Article, an administrator, etc. of the public facility, etc. (limited to the head of the local government) is to determine the implementation policy pursuant to the provisions of Prefectural or Municipal Ordinance.

(2) In the Prefectural or Municipal Ordinance in the preceding paragraph, procedures for selecting the private business, criteria and scope of business of the operation, etc. of the public facility, etc. conducted by the operating right holder of the public facility, etc., matters pertaining to the usage fees, and other necessary matters are to be provided.

(Timing of the Establishment of the Right to Operate the Public Facility)

Article 19 (1) When an administrator, etc. of the public facility, etc. has determined the matters set forth in the items of Article 17 in the implementation policy pursuant to the provisions of that Article and has selected a private business pursuant to the provisions of Article 8, paragraph (1), the administrator, etc. of the public facility, etc. is to establish without delay the right to operate the public facility, etc. for the selected business pursuant to the implementation policy (if the qualified project provided in the implementation policy includes any project relating to construction, manufacturing or rehabilitation of the public facility, etc., immediately after completion of the construction, manufacturing or rehabilitation).

(2) Establishment of the right to operate the public facility, etc. must be conducted after clarifying the following matters:

(i) the name, location, and scale and layout of the public facility, etc.; or

(ii) the matters set forth in Article 17, item (ii) and (iii).

(3) If an administrator, etc. of the public facility, etc. establishes the right to operate the public facility, etc. pursuant to the provisions of paragraph (1), the administrator, etc. must publicize those facts and the name, location and the matters set forth in the item (ii) of the preceding paragraph pertaining to the public facility, etc. pertaining to the right to operate the public facility, etc.

(4) If an administrator, etc. of the public facility, etc. intends to establish the right to operate the public facility, etc. pursuant to the provisions of the paragraph (1), the administrator, etc. (limited to the heads of local governments) must obtain the resolution at the local council in advance.

(Collection of Expenses)

Article 20 Pursuant to the implementation policy, an administrator, etc. of the public facility, etc. may collect all or part of the amount equivalent to the expenses required for the construction, manufacturing, or rehabilitation from the operating right holder of the public facility, etc. (limited to the operating right holder of the public facility, etc. who has not conducted construction, manufacturing, or rehabilitation of the public facility, etc. pertaining to the right to operate a public facility, etc.)

(Obligations to Start the Public Facility Operating Project)

Article 21 (1) An operating right holder of the public facility, etc. must start the public facility, etc., operating project within the period specified by the administrator, etc. of the public facility, etc.

(2) An administrator, etc. of the public facility, etc. may extend the period of the preceding paragraph if there has been a request from the operating right holder of the public facility, etc., and if the administrator, etc. finds that there are legitimate grounds therefor.

(3) If an operating right holder of the public facility, etc. starts a public facility, etc., operating project, the operating right holder must file a notification thereof with the administrator, etc. of the public facility, etc. without delay.

(The Agreement on the Operation Rights of a Public Facility)

Article 22 (1) An operating right holder of a public facility, etc. must enter into a contract that includes the following matters with the administrator, etc. of the public facility, etc. as specified by Cabinet Office Order, (hereinafter referred to as an "the agreement on the operation rights of a public facility, etc.") before starting the public facility, etc., operating project, pursuant to the implementation policy:

(i) the method of operation, etc. of the public facility, etc.;

(ii) the matters regarding the measures to be taken if it becomes difficult to continue the public facility, etc., operating project;

(iii) when providing the general conditions for use of the public facility, etc., the decision-making procedures and publication method thereof;

(iv) when causing any dispatched official (which means the official dispatched from the national government provided in Article 78, paragraph (1) and the official dispatched from local governments provided in Article 79, paragraph (1), hereinafter the same applies in this item.) to be engaged in the business, the contents of the business and the period for which the dispatched official is caused to be engaged in the business and any other matters necessary for causing the dispatched official to be engaged in the business; and

(v) other matters specified by Cabinet Office Order.

- (2) Having entered into an agreement on the operation rights of a public facility, etc., an administrator, etc. of the public facility, etc. must publicize without delay the contents (limited to the trade name or name of the operating right holder of a public facility, etc., the matters set forth in item (ii) in the foregoing paragraph, and other matters specified by Cabinet Office Order) of the contract to implement the right to operate the public facility, etc., as specified by Cabinet Office Order.
- (3) The provisions of the preceding paragraph do not prevent local governments from providing provisions necessary under Prefectural or Municipal Ordinance regarding publication of information related to the agreement on the operation rights of a public facility, etc. other than the matters provided in that paragraph.

(Usage Fees of a Public Facility)

- Article 23 (1) An operating right holder of the public facility, etc. is to receive usage fees as its own income.
- (2) The usage fees are to be provided by the operating right holder of the public facility, etc. pursuant to the implementation policy. In this case, the operating right holder of the public facility, etc. must file a notification with the administrator, etc. of the public facility, etc. in advance of the usage fees.
 - (3) If a public facility, etc. pertaining to the right to operate the public facility, etc. is a facility for public welfare as specified in Article 244, paragraph (1) of the Local Autonomy Act (hereinafter referred to as simply "facilities for public welfare" in this paragraph and Article 26, paragraph (5)) and an operating right holder of the public facility, etc. administers the facility for public welfare as a designated administrator specified in Article 244-2, paragraph (3) of that Act (hereinafter referred to simply as a "designated administrator" in Article 26, paragraph (5)) (limited to the case where the period specified by the provisions of Article 244-2, paragraph (5) of that Act does not exceed the duration of the operating right of the public facility, etc.), when the usage fees of the public facility, etc. specified by the provisions of the preceding paragraph conform to the matters for the usage fees provided by Prefectural or Municipal Ordinance in Article 18, paragraph (1) (limited to Prefectural or Municipal Ordinance that provides the scope of the usage fees and/or other matters specified by Cabinet Office Order as necessary to protect users' interests for the usage fees) and when it conforms to the provisions provided by Municipal Ordinance in Article 244-2, paragraph (9) to specify the usage fees of the public facility, etc. as the usage fees for the facilities for public welfare, etc. under Article 244-2 paragraph (8) of that Act, the provisions of the second sentence in paragraph (9) of Article 244-2 do not apply for specifying the usage fees of the public facility, etc. as the usage fees for the facilities for public welfare under

paragraph (8) of Article 244-2.

(Nature)

Article 24 The right to operate the public facility, etc. is found to be a real right and unless otherwise provided in this Act, the provisions on real estate apply *mutatis mutandis*.

(Purpose of the Rights)

Article 25 The right to operate a public facility, etc. may not become the object of general succession including merger of a corporation, assignment, disposition of delinquency, compulsory execution, provisional seizure or provisional disposition, or the mortgage, or the object of any other rights.

(Restrictions on Disposition)

- Article 26 (1) The right to operate the public facility, etc. may not be split or consolidated.
- (2) The right to operate the public facility, etc. may not be transferred without obtaining the permission of an administrator, etc. of the public facility, etc.
- (3) When intending to provide the permission in the preceding paragraph, the administrator, etc. of the public facility, etc. must provide the permission after examining whether the transfer conforms to the following criteria:
- (i) the person to whom the right to operate the public facility, etc. will be transferred does not fall under any of the items in Article 9; and
 - (ii) the transfer of the right to operate the public facility, etc. is appropriate in light of the implementation policy.
- (4) When intending to provide the permission in paragraph (2), the administrator, etc. of the public facility, etc. (limited to the head of the local government) must obtain a resolution at the local council in advance; provided, however, that this does not apply if special provisions are provided by Prefectural or Municipal Ordinance.
- (5) If the public facility, etc. pertaining to the right to operate the public facility, etc. is a facility for public welfare, and the person who transferred the right to operate the public facility, etc. after obtaining the permission in paragraph (2), was administering the facility for public welfare as a designated administrator at the time of the transfer, when designating the person to whom the right to operate the public facility, etc. has been transferred as the designated administrator of the facility for public welfare (limited to where the special provisions in the proviso of the preceding paragraph are provided and the period specified by the provisions of Article 244-2, paragraph (5) of the Local Autonomy Act does not exceed the duration of the right to operate the public facility, etc.), for the application of the provisions of paragraph (6) of the same

Article, the term "must obtain the resolution at the local council in advance" in that paragraph is replaced as "must obtain the resolution at the local council in advance; provided, however, that this does not apply where special provisions are provided by the Prefectural or Municipal Ordinance in paragraph (3) and in this case, the head of local governments must report the designation to the local council without delay after the designation of the designated administrator." .

- (6) The right to operate the public facility, etc. for which the establishment of a mortgage is registered may not be waived without the consent of a mortgagee.
- (7) The transfer or waiver of the right to operate the public facility, etc. without obtaining the permission in paragraph (2) or the consent in the preceding paragraph has no effect.

(Registration)

Article 27 (1) Establishment, transfer, change, extinction, and restriction on disposition of the rights to operate the public facility, etc. and the mortgages of rights to operate the public facility, etc. and the suspensions and cancellations of suspensions of the exercise of the right to operate the public facility, etc. under Article 29, paragraph (1) are registered in the register of the right to operate the public facility, etc.

- (2) a registration in the relevant register under the provisions of the preceding paragraph is to replace the registration through registry.
- (3) Regarding the disposition for the registration in the relevant register under paragraph (1), provisions of Chapter II and Chapter IV of the Administrative Procedure Act (Act No. 88 of 1993) do not apply.
- (4) Regarding the register of the right to operate the public facility, etc., the provisions of the Act on Access to Information Held by Administrative Organs (Act No. 42 of 1999) do not apply.
- (5) Regarding the personal information registered in the register of the right to operate the public facility, etc. (which means the retained personal information provided in Article 2, paragraph (5) of the Act on the Protection of Personal Information Held by Administrative Organs (Act No. 58 of 2003)), the provisions of Chapter IV of that Act do not apply.
- (6) Beyond the matters provided in the preceding paragraphs, the matters necessary for the registration in the relevant register are provided by Cabinet Order.

(Instructions)

Article 28 In order to ensure the appropriateness of the public facility, etc. operating project, the administrator, etc. of the public facility, etc. may request reports on the status of the businesses or accounting from the operating right

holder of the public facility, etc., conduct onsite inspections, or provide necessary instructions to the operating right holder of the public facility, etc.

(Rescission of the Right to Operate the Public Facility)

Article 29 (1) An administrator, etc. of the public facility, etc. may rescind the operating right of the public facility, etc. or order that the exercise of that right be suspended if any of the items set forth in the following applies,

(i) the administrator, etc. of the public facility, etc. falls under any of the following:

(a) the person has become the operating right holder of the public facility, etc. by deception or other wrongful manner;

(b) the person has come to fall under any of the items in Article 9;

(c) the person did not start the public facility, etc. operating project within the period specified by the provisions of Article 21, paragraph (1) (if extension has been made under paragraph (2) of that Article, the period after the extension);

(d) if the public facility, etc. operating project could not be implemented, or it has become clear that the public facility, etc. operating project may not be implemented;

(e) beyond the cases set forth in item (d), if there has been a material breach regarding matters provided in the agreement on the operation rights of a public facility, etc.;

(f) without legitimate grounds, the operating right holder of the public facility, etc. does not comply with the instruction in the preceding Article;

(g) the operating right holder of the public facility, etc. breaches the provisions of the laws and regulations relating to the public facility, etc. operating project; or

(ii) an unavoidable necessity for the public interest arises for reasons including the provision of a public facility, etc. for a public purpose.

(2) If an administrator, etc. of the public facility, etc. intends to issue an order to suspend the exercise of the operating right of a public facility, etc. under the preceding paragraph, the administrator, etc. must conduct hearings regardless of the categories of the procedures for hearing statements of opinion under Article 13, paragraph (1) of Administrative Procedure Act.

(3) If an administrator, etc. of the public facility, etc. intends to rescind the right to operate a public facility, etc. for which the establishment of a mortgage is registered pursuant to the provisions of paragraph (1), the administrator, etc. must provide advance notice thereof to the mortgagee to whom it pertains.

(4) If an administrator, etc. of the public facility, etc. ceases to have the ownership of that public facility, etc., the right to operate that public facility, etc. will become extinct.

(Compensation of the Operating Right Holder of the Public Facility)

- Article 30 (1) An administrator, etc. of the public facility, etc. must compensate a person that is or has been an operating right holder of a public facility, etc., who has incurred a loss due to the rescission or suspension of the exercise of the right to operate a public facility, etc. under paragraph (1) of the preceding Article or extinction of the right to operate a public facility, etc. under paragraph (4) of preceding Article (limited to those cases where there is any cause attributable to the administrator, etc. of the public facility, etc.) (hereinafter referred to simply as "operating right holder of the public facility, etc." in this Article) for the losses that would ordinarily arise.
- (2) Compensation of losses under the preceding paragraph must be discussed by the administrator, etc. of the public facility, etc. and the operating right holder of the public facility, etc.
- (3) If the discussion under the preceding paragraph does not result in an agreement, the administrator, etc. of the public facility, etc. must pay the amount estimated by the administrator, etc. to the operating right holder of the public facility, etc.
- (4) An operating right holder of a public facility, etc. who is dissatisfied with the amount of compensation in the preceding paragraph, within six months from the date on which the notification of the decision has been received, may file an action demanding increase of the amount.
- (5) In the action of the preceding paragraph, the administrator, etc. of the public facility, etc. is to be the defendant.
- (6) When a mortgage exists on the right to operate a public facility, etc. which has been rescinded pursuant to the provisions of paragraph (1) of the preceding Article or has become extinct pursuant to paragraph (4) of that Article (limited to cases where the right has become extinct due to a cause attributable to the administrator, etc. of the public facility, etc.), except in cases where the mortgagee to whom the mortgage pertains makes a request indicating that the deposit need not be made with an official depository, the administrator, etc. of the public facility, etc. must deposit the compensation with an official depository.
- (7) The mortgagee in the preceding paragraph may exercise the rights to have the compensation deposited with an official depository pursuant to the provisions of that paragraph.
- (8) If the loss that caused the compensation under paragraph (1) is due to rescission or suspension of the exercise of the right to operate the public facility, etc. under paragraph (1) of the preceding Article, the administrator, etc. of the public facility, etc. may charge all or part of the amount of compensation to the person who caused the reason for the rescission or

suspension.

**Chapter V Support for Specified Selected Projects by the Private Finance
Initiative Promotion Corporation of Japan
Section 1 General Provisions**

(Purpose of the Corporation)

Article 31 The Private Finance Initiative Promotion Corporation of Japan is a stock company whose purpose is, through the provision of funds to complement financing by financial institutions and private investment to a person who implements a specified selected project (meaning a selected project in which a public facility, etc. that collects usage fees is provided, etc. and for which usage fees are received as the person's own income; the same applies hereinafter) or a project that supports a specified selected project (hereinafter collectively referred to as "specified selected projects, etc."), to promote the development of the capital market where funds for specified selected projects may be procured, as well as providing knowledge and information necessary for implementation of specified selected projects, etc. and providing any other support that contributes to promoting dissemination of specified selected projects, etc., and thereby promoting qualified projects in Japan, in light of the severe state of finances of the national government and local governments and in terms of contributing to the promotion of growth of the Japanese economy, and in consideration of the increasing importance of the use of private finance, management abilities, and technical capabilities in the provision, etc. of public facility, etc.

(Number)

Article 32 Only one Private Finance Initiative Promotion Corporation of Japan (hereinafter referred to as the "corporation") is to be incorporated.

(Shares Owned by the Government)

Article 33 The government must, at all times, hold a number of shares (other than any class of shares that is provided as not allowing voting rights to be exercised with respect to all matters that can be resolved at a shareholders meeting; hereinafter the same applies in this Article) equivalent to 50 percent or more of the total number of shares issued by the corporation.

(Approval of Shares, Bonds, and Borrowings)

Article 34 (1) When the corporation intends to solicit persons to subscribe for shares for subscription provided in Article 199, paragraph (1) of the Companies Act (Act No. 86 of 2005) (referred to as the "shares for subscription" in Article

93, item (i)), share options for subscription as provided in Article 238, paragraph (1) of that act (referred to as the "share options for subscription" in Article 93, item (i)), or bonds for subscription provided in Article 676 of that act (hereinafter referred to as the "bonds for subscription"), issue shares, bonds, and share options in a share exchange, or borrow funds, it must obtain the approval of the Prime Minister.

(2) When the corporation issues shares as a result of the exercise of share options, it must notify the Prime Minister to that effect without delay.

(Contributions by the Government)

Article 35 If the government finds it to be necessary, it may make contributions to the corporation within the amount specified in the budget.

(Trade Name)

Article 36 (1) The corporation must use the characters "株式会社民間資金等活用事業推進機構" (pronounced "kabushiki-gaisha minkan-shikin-tou katuyou jigyou suishin kikou " and with the literal means the "Private Finance Initiative Promotion Corporation of Japan") in its trade name.

(2) No person other than the corporation may use the characters "民間資金等活用事業推進機構" (pronounced "minkan-shikin-tou katuyou jigyou suishin kikou " and with the literal meaning the "Private Finance Initiative Promotion Corporation of Japan") in its name.

Section 2 Incorporation

(Information Required to Be Specified or Recorded in the Articles of Incorporation)

Article 37 (1) Beyond the matters set forth in the items of Article 27 of the Companies Act, the following information must be specified or recorded in the articles of incorporation of the corporation:

- (i) the number of shares issued at the time of incorporation of the corporation (hereinafter referred to as "shares issued at incorporation") (if the corporation is intended to be incorporated as a company with class shares, those classes and the number of shares in each class);
- (ii) the amount to be paid in for a share issued at incorporation (meaning the amount of money to be paid in, or assets other than money contributed, in exchange for one share issued at incorporation);
- (iii) the number of shares issued at incorporation allotted to the government (if the corporation is intended to be incorporated as a company with class shares, those classes and the number of shares in each class);
- (iv) the matters set forth in Article 107, paragraph (1), item (i) of the

- Companies Act;
- (v) an indication that the corporation has a board of directors and company auditors; and
 - (vi) an indication that the corporation dissolves upon completion of the businesses set forth in the items of Article 52, paragraph (1).
- (2) The following information must not be specified or recorded in the articles of incorporation of the corporation:
- (i) an indication that the corporation has an audit and supervisory committee or a nominating committee, etc. provided in Article 2, item (xii) of the Companies Act; and
 - (ii) provisions providing "otherwise" specified in the proviso of Article 139, paragraph (1) of the Companies Act.

(Approval of Incorporation)

Article 38 The incorporators of the corporation must prepare the articles of incorporation and must promptly submit the articles of incorporation and the business plan to the Prime Minister to apply for approval of incorporation after subscribing for shares issued at incorporation allotted to them.

Article 39 (1) When an application for approval under the preceding Article is filed, the Prime Minister must examine whether or not the application conforms to the following criteria:

- (i) the procedures of the incorporation and the contents of the articles of incorporation conform to the provisions of laws and regulations;
 - (ii) nothing false is specified or recorded in the articles of incorporation, nor is there a false signature or name and seal affixed thereto (including measures that are taken in lieu of the signing or the affixing of the names and seals under Article 26, paragraph (2) of the Companies Act); and
 - (iii) it is found that it is certain that the operation of the businesses is soundly performed and contributes to the promotion of specified selected projects in Japan.
- (2) When the Prime Minister finds the application to conform to the criteria set forth in the items of the preceding paragraph as a result of examination pursuant to the provisions of that paragraph, the Prime Minister must approve the incorporation.

(Election and Dismissal of Directors at Incorporation and Company Auditors at Incorporation)

Article 40 The election and dismissal of the directors at incorporation provided in Article 38, paragraph (1) of the Companies Act and the company auditors at incorporation provided in paragraph (2), item (ii) of that Article do not become

effective without the approval of the Prime Minister.

(Replacement of Terms in Provisions of the Companies Act)

Article 41 With respect to the application of the provisions of Article 30, paragraph (2), Article 34, paragraph (1), Article 59, paragraph (1), item (i), and Article 963, paragraph (1) of the Companies Act, the phrase "Articles of incorporation that are certified by a notary public pursuant to the preceding paragraph may not be amended before the formation of the stock company" in Article 30, paragraph (2) of that act is replaced with "Articles of incorporation may not be amended before the incorporation of the Private Finance Initiative Promotion Corporation of Japan after the approval referred to in Article 39, paragraph (2) of the Act on Promotion of Private Finance Initiative (Act No. 117 of 1999) (hereinafter referred to as the "APFFI")"; the phrase "subscription for shares issued at incorporation" in Article 34, paragraph (1) of that act is replaced with "the approval referred to in Article 39, paragraph (2) of the APFFI"; the phrase "the date of the certification of the articles of incorporation and the name of the notary public who effected the certification" in that item is replaced with "the date of the approval referred to in Article 39, paragraph (2) of the APFFI"; and the phrase "Article 34, paragraph (1)" in Article 963, paragraph (1) of that act is replaced with "Article 34, paragraph (1) (including as applied pursuant to the provisions of Article 41 of the APFFI following the replacement of terms)."

(Exclusion from Application of Provisions of the Companies Act)

Article 42 The provisions of Article 30, paragraph (1) and Article 33 of the Companies Act do not apply to the incorporation of the corporation.

Section 3 Administration

Subsection 1 Directors

(Approval of Election of Directors and Company Auditors)

Article 43 A resolution on election or dismissal of a director or company auditor of the corporation does not become effective without the approval of the Prime Minister.

(Directors' Duty of Confidentiality)

Article 44 A director, accounting advisor, company auditor or employee of the corporation or a person who was formerly in that position must not divulge or misappropriate any secret learned in the course of the person's duties.

Subsection 2 Committee for the Support of the Private Finance

Initiative

(Establishment)

Article 45 The Committee for the Support of the Private Finance Initiative (hereinafter referred to as the "supporting committee") is established in the corporation.

(Authority)

Article 46 (1) The supporting committee makes the following decisions:

- (i) decisions on businesses subject to the support for the specified selected projects, etc. under Article 54, paragraph (1) and the content of the support for specified selected projects, etc.;
 - (ii) decisions on dispositions, including transfer, of shares, etc. or claims referred to in Article 56, paragraph (1); and
 - (iii) beyond what is set forth in the preceding two items, decisions on the matters set forth in Article 362, paragraph (4), items (i) and (ii) of the Companies Act that have been delegated to it through a resolution of the board of directors.
- (2) The supporting committee is deemed to have had the decisions on the matters set forth in items (i) and (ii) of the preceding paragraph delegated to it by the board of directors.

(Organization)

Article 47 (1) The supporting committee comprises three or more but not more than seven committee members who are directors.

- (2) The committee members must include one or more representative directors and one or more outside directors.
- (3) The committee members are decided through a resolution of the board of directors.
- (4) A resolution on the appointment or removal of a committee member does not become effective without the approval of the Prime Minister.
- (5) The committee members perform their own duties independently.
- (6) The supporting committee is to have a chairperson who is elected from among its committee members.
- (7) The chairperson presides over the affairs of the supporting committee.
- (8) The supporting committee must designate in advance a person who performs the duties of the chairperson on the chairperson's behalf if the chairperson is unable to perform the duties.

(Operations)

Article 48 (1) The supporting committee is convoked by the chairperson (if the

- chairperson is unable to perform this duty, by the person who performs the duties of the chairperson on the chairperson's behalf as provided in paragraph (8) of the preceding Article; hereinafter the same applies in this Article).
- (2) The supporting committee may not hold a meeting nor vote on a resolution unless the chairman is in attendance and at least two-thirds of all committee members actually holding office are in attendance.
 - (3) Decisions at the supporting committee are effected by a majority of the committee members present. In the event of a tie, the chairperson is to make a decision.
 - (4) A committee member with a special interest in the decisions under the preceding paragraph may not participate in the vote.
 - (5) The number of committee members who may not participate in the vote pursuant to the provisions of the preceding paragraph is not to be included in the number of the committee members actually holding office as provided in paragraph (2).
 - (6) Company auditors must attend the meetings of the supporting committee and, if they find it to be necessary, they must state their opinions.
 - (7) A committee member of the supporting committee who has been appointed by the supporting committee must report to the board of directors the content of a resolution under paragraph (3) without delay after the decisions are passed.
 - (8) Minutes must be prepared with respect to the business of the supporting committee pursuant to the provisions of Cabinet Office Order, and if the minutes are prepared in writing, the committee members and company auditors who were present at the meeting must sign or affix their names and seals to the minutes.
 - (9) If the minutes referred to in the preceding paragraph are prepared in the form of an electronic or magnetic record (meaning a record used in computerized information processing which is created in electronic form, magnetic form, or any other form that cannot be perceived by the human senses; hereinafter the same applies in paragraph (2), item (ii) of the following Article), measures in lieu of the signing or the affixing of the names and seals provided in Cabinet Office Order must be taken with respect to the matters recorded in the electronic or magnetic record.
 - (10) Beyond what is provided in the preceding paragraphs and the following Article, the procedures for its decisions and other matters necessary for the supporting committee's operations are decided by the supporting committee.

(Minutes)

Article 49 (1) The corporation must keep the minutes referred to in paragraph (8) of the preceding Article at its head office for ten years from the date of the meeting of the supporting committee.

- (2) If it is necessary for the exercise of its rights, a shareholder may make the following requests with the permission of the court:
 - (i) if the minutes referred to in the preceding paragraph are prepared in writing, a request for inspection or copying of the documents; and
 - (ii) if the minutes referred to in the preceding paragraph are prepared in the form of electronic or magnetic record, a request for inspection or copying of anything that indicates the matters recorded in the electronic or magnetic record by means provided in Cabinet Office Order.
- (3) If it is necessary for the enforcement of the liability of a committee member, an obligee may make the requests set forth in the items of the preceding paragraph with respect to the minutes referred to in paragraph (1), with the permission of the court.
- (4) If the court finds that the inspection or copying relating to the requests referred to in the preceding two paragraphs is likely to cause extreme damage to the corporation, it may not give the permission referred to in the preceding two paragraphs.
- (5) The provisions of Article 868, paragraph (1), Article 869, Article 870, paragraph (2) (limited to the part regarding item (i)), Article 870-2, the main clause of Article 871, Article 872 (limited to the part regarding item (v)), Article 872-2, the main clause of Article 873, Article 875, and Article 876 of the Companies Act apply mutatis mutandis to the permission referred to in paragraphs (2) and (3).
- (6) A director may make the requests set forth in the items of paragraph (2) with respect to the minutes referred to in paragraph (1).

(Registration)

- Article 50 (1) When the corporation appoints a committee member, it must register the name of the committee member at the location of its head office within two weeks. The same applies if there is a change in the name of a committee member.
- (2) In a written application for the registration of the appointment of a committee member under the preceding paragraph, a document evidencing the appointment of a committee member and the appointed committee member's acceptance of the assumption of office must be attached thereto.
 - (3) In a written application for the registration of change due to the resignation of a committee member, a document evidencing that change must be attached thereto.
 - (4) With respect to directors who have been appointed as committee members and are outside directors, the corporation must register the fact that they are outside directors.

Subsection 3 Amendments to the Articles of Incorporation

Article 51 A resolution on amendment to the articles of incorporation of the corporation does not become effective without the approval of the Prime Minister.

Section 4 Businesses

Subsection 1 Scope of Business

Article 52 (1) The corporation is to engage in the following businesses to achieve its purpose:

- (i) making contributions to subject businesses (meaning businesses which have become subject to support pursuant to the provisions of Article 54, paragraph (1) (including partnerships formed through a partnership contract provided in Article 667, paragraph (1) of the Civil Code (Act No. 89 of 1896); silent partnerships formed through a silent partnership agreement provided in Article 535 of the Commercial Code (Act No. 48 of 1899); investment limited partnerships provided in Article 2, paragraph (2) of the Limited Partnership Act for Investment (Act No. 90 of 1998) or limited liability partnerships provided in Article 2 of the Limited Liability Partnership Act (Act No. 40 of 2005); or organizations formed under laws and regulations of a foreign country which are similar to any of these partnerships; the same applies in paragraph (1) of the following Article and Article 54, paragraph (1)); the same applies hereinafter);
- (ii) contribution of funds (meaning the funds provided in Article 131 of the Act on General Incorporated Associations and General Incorporated Foundations (Act No. 48 of 2006)) to subject businesses;
- (iii) loaning of funds to subject businesses;
- (iv) acquisition of securities (meaning the securities provided in Article 2, paragraph (1) of the Financial Instruments and Exchange Act (Act No. 25 of 1948) and anything deemed to be securities pursuant to the provisions of paragraph (2) of that Article; the same applies in item (viii)) issued by subject businesses;
- (v) acquisition of monetary claims against subject businesses and monetary claims held by subject businesses;
- (vi) dispatch of experts to the administrator, etc. of the public facility, etc. which formulate or intend to formulate an implementation policy or to private businesses which implement or intend to implement a qualified project;
- (vii) provision of advice to the administrator, etc. of the public facility, etc. which formulate or intend to formulate an implementation policy or to

- private businesses which implement or intend to implement a qualified project;
- (viii) dispositions, including transfer, of shares, share options, equity or securities (referred to as "shares, etc." in Article 56) which the corporation holds;
 - (ix) administration and dispositions, including transfer, of claims;
 - (x) necessary negotiations and investigations relating to the businesses set forth in the preceding items;
 - (xi) businesses incidental to those set forth in the preceding items; and
 - (xii) beyond what is set forth in the preceding items, businesses necessary to achieve the purpose of the corporation.
- (2) When the corporation intends to engage in the businesses set forth in item (xii) of the preceding paragraph, it must obtain the approval of the Prime Minister in advance.

Subsection 2 Support Criteria

- Article 53 (1) The Prime Minister is to determine criteria which the corporation must comply with when deciding which businesses will be subject to support for specified selected projects, etc. (limited to that provided through the businesses set forth in paragraph (1), items (i) through (v) of the preceding Article; hereinafter referred to as the "support for the specified selected projects, etc.") and the content of the support for the specified selected projects, etc. (hereinafter referred to as the "support criteria" in this Article and paragraph (1) of the following Article).
- (2) When the Prime Minister intends to determine support criteria pursuant to the provisions of the preceding paragraph, the Prime Minister must hear the opinions of the minister having administrative jurisdiction over the public facility, etc. relating to the specified selected project, etc. subject to the support for the specified selected project, etc. in advance.
- (3) When the Prime Minister determines support criteria pursuant to the provisions of paragraph (1), the Prime Minister is to publicize them.

Subsection 3 Implementation of Businesses

(Decision to Provide Support)

- Article 54 (1) When the corporation intends to provide support for the specified selected project, etc., it must decide on a business subject to that support and the content of the support for the specified selected project, etc. in accordance with the support criteria.
- (2) When the corporation intends to decide on whether or not to provide support

for the specified selected project, etc., it must, in advance, notify the Prime Minister of that fact and set a reasonable period of time for the Prime Minister to state opinions.

- (3) When the Prime Minister receives a notice under the preceding paragraph, the Prime Minister is to notify the minister having administrative jurisdiction over the public facility, etc. relating to the specified selected project, etc. subject to the support for the specified selected project, etc. of the content thereof without delay.
- (4) If the minister who receives the notice under the preceding paragraph finds it to be necessary, in consideration of the prospects of the operation of the public facility, etc., including the profitability of the specified selected project, etc., the minister may state opinions to the corporation within the period referred to in paragraph (2).

(Revocation of Decision to Provide Support)

Article 55 (1) In the following cases, the corporation must promptly revoke a decision under paragraph (1) of the preceding Article (referred to as a "decision to provide support" in the following paragraph):

- (i) if the subject business fails to implement a specified selected project, etc.; or
 - (ii) if the subject business becomes subject to an order commencing bankruptcy proceedings, an order commencing rehabilitation proceedings, an order commencing reorganization proceedings, an order commencing special liquidation proceedings, or an order of recognition of foreign insolvency proceedings.
- (2) If the corporation revokes a decision to provide support pursuant to the provisions of the preceding paragraph, it must immediately notify the subject business of that fact.

(Dispositions, including Transfer, of Shares)

Article 56 (1) When the corporation intends to make a decision on dispositions, including transfer, of shares, etc. or claims relating to a subject business that it holds, it must, in advance, notify the Prime Minister of that fact and set a reasonable period of time for the Prime Minister to state opinions.

- (2) The corporation must endeavor to make dispositions, including transfer, of all the shares, etc. and claims that it holds by March 31, 2028, in consideration of the situation surrounding specified selected projects, including the status of implementation of specified selected projects and status of funds procured for specified selected projects.

Section 5 Provisions of Information

Article 57 (1) In order to promote the smooth implementation of specified selected projects, the corporation is to provide information that contributes to the promotion of specified selected projects to the Prime Minister.

(2) The Prime Minister and the minister having administrative jurisdiction over the public facility etc. relating to specified selected projects, etc. subject to the support for the specified selected projects, etc. must cooperate while seeking to coordinate with each other, so that the smooth implementation of the projects performed by the corporation and the specified selected projects are promoted.

Section 6 Finance and Accounting

(Approval of Budget)

Article 58 (1) Before the start of each business year, the corporation must submit its budget for the business year to the Prime Minister and obtain the approval of the Prime Minister. The same applies when the corporation intends to make changes to the budget.

(2) In the budget referred to in the preceding paragraph, documents relating to the business and financial plans for the business year must be attached thereto.

(Resolutions on Dividends of Surplus)

Article 59 Resolutions on appropriation of the corporation's surplus, including payment of dividend of the surplus, does not become effective without the approval of the Prime Minister.

(Financial Statements)

Article 60 Within three months from the end of each business year, the corporation must submit its balance sheet, profit and loss statement, and business report for that business year to the Prime Minister.

(Government Guarantee)

Article 61 Notwithstanding the provisions of Article 3 of the Act on Restrictions on Financial Assistance by the Government to Corporations (Act No. 24 of 1946), the government may enter into a guarantee contract with respect to the corporation's obligations pertaining to the bonds or borrowings referred to in Article 34, paragraph (1) within the amount approved by a Diet resolution.

Section 7 Supervision

(Supervision)

Article 62 (1) The corporation is to be supervised by the Prime Minister pursuant to the provisions of this Act.

(2) If the Prime Minister finds it to be necessary for the enforcement of this Act, the Prime Minister may issue to the corporation an order that is necessary for supervision in relation to the businesses of the corporation.

(Report and Inspection)

Article 63 (1) If the Prime Minister finds it to be necessary for the enforcement of this Act, the Prime Minister may cause the corporation to report on its businesses or cause the officials to enter the corporation's place of business, including business office or office, to inspect any items, including books and documents of the corporation.

(2) An official who conducts an on-site inspection pursuant to the provisions of the preceding paragraph must carry an identification card and present it to relevant persons.

(3) The authority to conduct an on-site inspection under paragraph (1) must not be construed as being granted for criminal investigation purposes.

(Consultation with the Minister of Finance)

Article 64 When the Prime Minister intends to grant the approval referred to in Article 34, paragraph (1) (limited to when intending to solicit persons to subscribe for bonds for subscription, issue bonds in a share exchange, or borrow funds), Article 39, paragraph (2), Article 51, Article 52, paragraph (2), Article 58, paragraph (1), Article 59, or Article 67, the Prime Minister must consult with the Minister of Finance.

(Evaluations on the Business Performance)

Article 65 (1) The Prime Minister must evaluate the business performance of the corporation for each business year.

(2) When the Prime Minister makes the evaluation referred to in the preceding paragraph, the Prime Minister must, without delay, notify the corporation of the results of the evaluation and publicize them.

Section 8 Dissolution

(Dissolution)

Article 66 The corporation dissolves upon completion of the businesses set forth in the items of Article 52, paragraph (1).

(Resolutions on Mergers)

Article 67 Resolutions on mergers, company splits, transfer or acquisition of business, and dissolution of the corporation do not become effective without the approval of the Prime Minister.

Chapter VI Special Measures for the Selected Project

(National Government Debt Burden)

Article 68 If the national government incurs a debt arising from a selected project, the debt is to be paid off within 30 years from the relevant fiscal year.

(Lease of Administrative Assets)

Article 69 (1) Notwithstanding the provisions of Article 18, paragraph (1) of the National Government Asset Act (Act No. 73 of 1948), if the national government finds it to be necessary, it may lease to an appointed business an administrative asset (meaning an administrative asset provided in Article 3, paragraph (2) of that act; hereinafter the same applies in the following paragraph to paragraph (5) and paragraphs (1) through (4) of the following Article) for use in the relevant selected project.

(2) Beyond what is provided for in the preceding paragraph, in the case where an appointed business intends to own all or part of one building a part of which is a public facility, etc. of the selected project (hereinafter referred to as the "specified building" in this Article), if the national government finds it to be necessary, it may lease to the appointed business the relevant land which is an administrative asset, notwithstanding the provisions of Article 18, paragraph (1) of the National Government Asset Act, to the extent that the lease does not prevent the original usage or purpose of the asset.

(3) Beyond what is provided for in the preceding two paragraphs, in the case where a person who has leased the land which is an administrative asset pursuant to the provisions of the preceding paragraph intends to continue to own the specified building excluding the portion which is used as a public facility, etc. pertaining to the relevant selected project (hereinafter referred to as the "specified private facility" in this Article) after the termination of the selected project (including the cancellation of the project contract which was entered into to implement the selected project or rescission of the right to operate the public facility, etc. under Article 29, paragraph (1) or the extinction of the right to operate a public facility, etc. under paragraph (4) of that Article; hereinafter the same applies in this Article and the following Article), if the national government finds it to be necessary, it may continue to lease that land which is an administrative asset to that person (if the termination is due to the cancellation of the project contract which was entered into to implement the selected project or rescission of the right to operate the public facility, etc. under Article 29, paragraph (1) or the extinction of the right to operate the public facility, etc. under paragraph (4) of that Article, then limited to a person who is recognized by the administrator, etc. of the public facility, etc.

pertaining to the facility that was the specified private facility to be appropriate for the administration of that public facility, etc.; hereinafter the same applies in paragraph (8)), notwithstanding the provision of Article 18, paragraph (1) of the National Government Asset Act to the extent that the lease does not prevent the original usage or purpose of the asset.

- (4) Beyond what is provided for in the preceding three paragraphs, in the case where an appointed business who has leased land which is an administrative asset pursuant to the provisions of paragraph (2) of this Article intends to transfer the specified private facility, if the national government finds it to be necessary, it may lease the land which is an administrative asset to the person who intends to acquire the specified private facility (limited to a person who is recognized by the administrator, etc. of the public facility, etc. to be appropriate for the administration of that public facility, etc.), notwithstanding the provisions of Article 18, paragraph (1) of the National Government Asset Act, to the extent that the lease does not prevent the original usage or purpose of the asset.
- (5) The provisions of the preceding paragraph apply mutatis mutandis to the case where a person who has leased the land which is an administrative asset pursuant to the provisions of paragraph (3) or the preceding paragraph (including the case where it is applied mutatis mutandis pursuant to this paragraph) intends to transfer the specified private facility (including a facility that was a specified private facility). In this case, the phrase "administrator, etc. of that public facility, etc." in the preceding paragraph is replaced with "administrator, etc. of the public facility, etc. pertaining to the specified private facility (in the case of transferring a facility which was a specified private facility, "administrator, etc. of the public facility, etc. pertaining to that facility that was a specified private facility")."
- (6) Notwithstanding the provisions of Article 238-4, paragraph (1) of the Local Autonomy Act (Act No. 67 of 1947), if a local government finds it to be necessary, it may lease to an appointed business an administrative asset (meaning the administrative asset provided in Article 238-4, paragraph (3), of that act, hereinafter the same applies in paragraphs (7) through (10) of this Article and paragraphs (5) through (8) of the following Article) for use in the relevant selected projects.
- (7) Beyond what is provided for in the preceding paragraph, in the case where an appointed business intends to own all or part of a specified building, if a local government finds it to be necessary, it may lease to the appointed business the land which is an administrative asset, notwithstanding the provisions of Article 238-4, paragraph (1) of the Local Autonomy Act, to the extent that the lease does not prevent the original usage or purpose of the asset.
- (8) Beyond what is provided for in the preceding two paragraphs, if an appointed

business who has leased land which is an administrative asset pursuant to the provisions of the preceding paragraph intends to continue to own the specified private facility even after the termination of the selected project, if a local government finds it to be necessary, it may continue to lease that land which is an administrative asset to that business, notwithstanding the provisions of Article 238-4, paragraph (1) of the Local Autonomy Act, to the extent that the lease does not prevent the original usage or purpose of the asset.

- (9) Beyond what is provided for in the preceding three paragraphs, in the case where an appointed business who has leased land which is an administrative asset pursuant to the provisions of paragraph (7) intends to transfer the specified private facility, if the local government finds it to be necessary, it may lease the land which is an administrative asset to the person who intends to acquire the specified private facility (provided that the person is recognized by administrator, etc. of the public facility, etc. to be appropriate for administration of the public facility, etc.), notwithstanding the provisions of Article 238-4, paragraph (1) of the Local Autonomy Act, to the extent that the lease does not prevent the original usage or purpose of the asset.
- (10) The provisions of the preceding paragraph apply mutatis mutandis to the case where a person who has leased land which is an administrative asset pursuant to the provisions of paragraph (8) or the preceding paragraph (including the case where it is applied mutatis mutandis pursuant to this paragraph) intends to transfer the specified private facility (including a facility that was a specified private facility). In this case, the phrase "administrator, etc. of that public facility, etc." in the preceding paragraph is replaced with "administrator, etc. of the public facility, etc. pertaining to the specified private facility (in the case of the transfer of a facility which was a specified private facility, administrator, etc. 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 and Articles 3 and 4 of the Act on Land and Building Leases (Act No. 90 of 1991) do not apply to leases under the provisions of the preceding paragraphs.
- (12) The provisions of Article 21 and Articles 23 through 25 of the National Government Asset Act apply mutatis mutandis to leases under the provisions of paragraphs (1) through (5). The provisions of Article 238-2, paragraph (2), and Article 238-5, paragraphs (4) through (6) of the Local Autonomy Act apply mutatis mutandis to the leases under paragraph (6) through (10).

Article 70 (1) Beyond what is provided for in paragraphs (1) through (5) of the preceding Article, if the national government finds it to be necessary, it may lease an administrative asset to be used for a project to establish a specified facility (meaning facilities set forth in Article 2, paragraph (1), items (iii)

through (v) and those specified by Cabinet Order in item (vi) of that paragraph to be equivalent to the facilities set forth in items (iii) through (v) of that paragraph; hereinafter the same applies in this Article) that is useful for the implementation of the relevant selected project (hereinafter referred to as the "qualified private project" in this Article) to the appointed business who implements the specified private project, notwithstanding the provisions of Article 18, paragraph (1) of the National Government Asset Act to the extent that the lease does not prevent the original use or purpose of the asset.

- (2) Beyond what is provided for in the preceding paragraph, in the case where an appointed business who has leased an administrative asset under the provisions of that paragraph intends to continue to own or use the specified facilities pertaining to the specified private project after the termination of the selected project, if the national government finds it to be necessary, it may continue to lease to the lessee the administrative assets (if the cancellation of the project contract which was entered into to implement the selected project or rescission of the right to operate the public facility, etc. under Article 29, paragraph (1), or termination due to the extinction of the right to operate the public facility, etc. under paragraph (4) of that Article occurs, the lessee is limited to a person who is recognized to be appropriate for the administration of that public facility, etc. by the administrator, etc. of the public facility, etc. pertaining to the facility that was the public facility, etc. of the selected project; hereinafter the same applies in paragraph (6)), notwithstanding the provisions of Article 18, paragraph (1) of the National Government Asset Act, to the extent that the lease does not prevent the original use or purpose of the asset.
- (3) Beyond what is provided for in the preceding two paragraphs, in the case where an appointed business who has leased an administrative asset pursuant to the provisions of paragraph (1), intends to transfer the specified facility (including the right to utilize the specified facility; hereinafter the same applies in this paragraph) pertaining to the specified private project, if the national government finds it to be necessary, it may lease the administrative asset to the person who is to acquire the specified facilities (provided that the person is recognized by the administrator, etc. of the public facility, etc. pertaining to the selected project to be appropriate for the administration of the public facility, etc.), notwithstanding the provisions of Article 18, paragraph (1), of the National Government Asset Act, to the extent that the lease does not prevent the original use or purpose of the asset.
- (4) The provisions of the preceding paragraph apply mutatis mutandis to the case where a person who has leased an administrative asset pursuant to the provisions of paragraph (2) or the preceding paragraph (including the case where it is applied mutatis mutandis pursuant to this paragraph) intends to

transfer the specified facility (including the right to utilize the specified facility). In this case, the phrase "administrator, etc. of the Public facility, etc. pertaining to the selected project" in the preceding paragraph is replaced with "administrator, etc. of the public facility, etc. pertaining to the selected project (in the case of a transfer after the termination of the selected project, "administrator, etc. of the public facility, etc. pertaining to the facility which was the public facility, etc. pertaining to the selected project")."

- (5) Beyond what is provided for in paragraphs (6) through (10) of the preceding Article, if a local government finds it to be necessary, it may lease an administrative asset in use for a specified private project to the appointed business who implements the specified private project, notwithstanding the provisions of Article 238-4, paragraph (1) of the Local Autonomy Act, to the extent that the lease does not prevent the original use or purpose of the asset.
- (6) Beyond what is provided for in the preceding paragraph, in the case where a person who has leased an administrative asset pursuant to the provisions of that paragraph intends to own or utilize the relevant specified facility used for the specified private project after the termination of the relevant selected project, if the local government finds it to be necessary, it may lease that administrative asset to the person, notwithstanding the provisions of Article 238-4, paragraph (1) of the Local Autonomy Act, to the extent that the lease does not prevent the original usage or purpose of the asset.
- (7) Beyond what is provided for in the preceding two paragraphs, if an appointed business who has leased an administrative asset pursuant to the provisions of paragraph (5), intends to transfer the specified facility (including the right to utilize the specified facility; hereinafter the same applies in this paragraph) pertaining to the specified private project, if the local government finds it to be necessary, it may lease the administrative asset to the person who is to acquire the specified facility (provided that the person is recognized by the administrator, etc. of the public facility, etc. pertaining to the selected project to be appropriate for the administration, etc. of the public facility, etc.), notwithstanding the provisions of Article 238-4, paragraph (1), of the Local Autonomy Act, to the extent that the lease does not prevent the original usage or purpose of the asset.
- (8) The provisions of the preceding paragraph apply mutatis mutandis to the case where a person who has leased an administrative asset pursuant to the provisions of paragraph (6) or the preceding paragraph (including as applied mutatis mutandis pursuant to this paragraph) intends to transfer the specified facility (including the right to utilize the specified facility). In this case, the phrase "administrator, etc. of the public facility, etc. pertaining to the selected project" in the preceding paragraph is replaced with "administrator, etc. of the public facility, etc. pertaining to the selected project (in the case of a transfer

after the termination of the selected project, "administrator, etc. 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 apply mutatis mutandis to leases under the provisions of the preceding paragraphs. In this case, the phrase "paragraphs (1) through (5)" in paragraph (12) of the preceding Article is replaced with "Article 70, paragraphs (1) through (4)" and "paragraphs (6) through (10)" of the preceding Article is replaced with "Article 70, paragraphs (5) through (8)".

(Free Use of National Government Assets)

Article 71 (1) If the national government finds it to be necessary, it may allow the use of a national government asset (meaning a national government asset provided in Article 2, paragraph (1) of the National Government Asset Act) by an appointed business either free of charge or at a price lower than the market value, during the use in the relevant selected project.

- (2) If a local government finds it to be necessary, it may allow the use of a public asset (meaning a public asset provided in Article 238, paragraph (1) of the Local Autonomy Act) by an appointed business either free of charge or at a price lower than the market value, during the use in the relevant selected project.

(Loans without Interest)

Article 72 (1) The national government may make a loan without interest to an appointed business for funds for a selected project that, the government finds, has a particularly high public nature, within the limit of the budget.

- (2) The national government may use the credit screening capabilities and loan financing capabilities of the Development Bank of Japan Inc., the Okinawa Development Finance Corporation, and other governmental financial institutions, etc., when it provides loans without interest pursuant to the provision of the preceding paragraph.

(Consideration for Securing Funds and Local Government Bonds)

Article 73 The national government or local governments, as the case may be, will endeavor to secure the funds necessary for the implementation of the selected project or for the arrangement of loans, or to take special consideration for the issuance of local government bonds within the scope of laws and regulations.

(Consideration for the Acquisition of Land)

Article 74 In order to facilitate the acquisition or use of land, etc. by an

appointed business for use in the relevant selected project, the appropriate consideration is to be given to the acquisition of the land through expropriation of the land pursuant to the Expropriation of Land Act (Act No. 219 of 1951) or other permission under related laws and regulations.

(Support)

Article 75 (1) Beyond what is provided for in Article 69 through the preceding Article, in order to promote the implementation of qualified projects, the national government and local governments will take necessary legislative and tax measures in light of the basic policy and implementation policy, and offer an appointed business necessary finance and fiscal support.

(2) The measures and support referred to in the preceding paragraph are to be flexible and adaptable in accordance with the nature of the facilities to be provided and the locations where the projects are to be implemented, etc., and care is to be taken to ensure that local governments and public corporations are able to fully exercise their autonomy.

(Deregulation)

Article 76 In order to promote the implementation of a qualified project, the national government and local governments are to promptly promote the abolition or relaxation of the regulations that hinder the full utilization of technology and innovation of private businesses.

(Cooperation)

Article 77 In order to promote the smooth implementation of a qualified project, the national government, local governments and private businesses must mutually cooperate with one another, such as by organizing a cooperation system.

(Special Measures for Officials Dispatched from the National Government)

Article 78 (1) For the purpose of application of the provisions of Article 82, paragraph (2) of the National Public Service Act (Act No. 120 of 1947), an official dispatched from the national government (meaning an employee in a regular service as provided in Article 2 of the National Public Service Act (Act No. 120 of 1947), who, at the request of an appointer or a person delegated thereby, resigns to become an employee (excluding those who do not need to be on duty all the time, limited to those engaged in work that requires specialized knowledge and skills related to the administration, etc. of the public facility, etc.; hereinafter the same applies in this paragraph and paragraph (1) of the following Article) of an operating right holder of the public facility, etc., and subsequently becomes an employee of an operating right holder of the public

facility, etc., and continues to be employed in that capacity; the same applies hereinafter in this Article and paragraph (3) of the following Article) is deemed to be a national public employee in special service, etc. as defined in that paragraph.

- (2) An agency, etc. subject to aggregation of retirement allowance provided for in the National Public Service Act, Article 106-2, paragraph (3), includes the operating right holder of the public facility, etc.
- (3) For the purpose of application of the provisions of Article 11-7, paragraph (3), Article 11-8, paragraph (3), Article 12, paragraph (4), Article 12-2, paragraph (3) and Article 14, paragraph (2) of the Act on Remuneration of Officials in the Regular Service (Act No. 95 of 1950), an official dispatched from the national government is deemed to be an employee, etc. of an agency engaged in administrative execution as provided for in Article 11-7, paragraph (3), of that Act.
- (4) For the purpose of application of the provisions of Article 72-2, and Article 20, paragraph (3) of the Act on National Public Officers' Retirement Allowance (Act No. 182 of 1953), an official dispatched from the national government is deemed to be an employee of a corporation as provided for in Article 7-2, paragraph (1) of that Act.
- (5) In regards to the application of the provisions of Article 124-2 (excluding paragraph (4)) of the National Public Officers Mutual Aid Association Act (Act No. 128 of 1958), the operating right holder of the public facility, etc. and an official dispatched from the national government is deemed to be a public corporation, etc. and an employee of a public corporation, etc., respectively, as provided for in paragraph (1) of that Article.
- (6) For the purpose of application of the provisions of Article 17, paragraph (1) of the Act on Working Hours, Leaves, etc. for National Public Officers Engaged in Regular Services (Act No. 33 of 1994), an official dispatched from the national government is deemed to be an employee, etc. of an agency engaged in administrative execution as provided for in item (iii) of that paragraph.
- (7) For the purpose of application of the provisions of Article 4 (limited to the portion pertaining to item (v)), and Article 5 (limited to the portion pertaining to that item) of the Act on Reimbursement of National Public Servants' Expenses for Studying Abroad (Act No. 70 of 2006), an official dispatched from the national government is deemed to be a national public employee in the special service, etc. as provided for in Article 2, paragraph (4) of that Act.

(Special Measures for Officials Dispatched from Local Governments)

Article 79 (1) For the purpose of application of the provisions of Article 29, paragraph (2) of the Local Public Service Act (Act No. 261 of 1950), an official dispatched from a local government (meaning an employee belonging to a

regular service as provided in Article 3, paragraph(2) of the Local Public Service Act (Act No. 261 of 1950), who, at the request of an appointer or a person delegated thereby, resigns to become an employee (excluding those who do not need to be on duty all the time, limited to those engaged in work that requires specialized knowledge and skills related to the administration, etc. of the public facility, etc.) of an operating right holder of the public facility, etc., and subsequently becomes an employee of an operating right holder of the public facility, etc., and continues to be employed in that capacity; the same applies hereinafter in paragraph (3)) is deemed to be a local government public servant in special service, etc. as provided for in that paragraph.

(2) An agency, etc. subject to aggregation of retirement allowance provided for in the Local Public Service Act, Article 38-2, paragraph (2), includes the operating right holder of the public facility, etc.

(3) For the purpose of application of the provisions of Article 140 of the Local Public Officers, etc. Mutual Aid Association Act, the operating right holder of the public facility, etc., or an official dispatched from the national government (Act No. 152 of 1958) (limited to those who were employees of the national government provided for in the provisions of Article 142, paragraph (1) of the Local Public Officers, etc. Mutual Aid Association Act (Act No. 152 of 1958) before resigning under paragraph (1) of the preceding Article) or an official dispatched from a local government is deemed to be a public corporation, etc. or an employee of a public corporation, etc. respectively, as provided for in paragraph (1) of that Article.

(Consideration for Dispatching of Officials)

Article 80 Beyond what is provided for in the preceding two Articles, if the national government or a local government finds it to be necessary to promote the smooth and efficient implementation of the qualified project, it will endeavor to add consideration necessary for the dispatch of officials and other appropriate human assistance.

(Enlightening Activities and Technical Assistance)

Article 81 (1) The national government and local governments are to promote activities such as the dissemination of knowledge and provision of information on the implementation of the qualified projects, and at the same time, promote enlightening activities to gain the understanding, consent and cooperation of local residents.

(2) In order to promote the smooth and efficient implementation of the qualified projects, the national government and local governments are to give consideration necessary for the provision of technical assistance to private businesses, special consideration for the use of technology, by means such as

arrangements for the use of patented technologies, and other utilization of technology held by private businesses.

(Use of Collateralized Real Estate)

- Article 82 (1) If an appointed business has acquired real estate subject to security when implementing a selected project, or if a company holding the relevant security interest in the real estate, a company that has provided the real estate as collateral, or a company that owns the real estate has incurred a loss, that company may appropriate an amount equal to the loss as deferred assets and record it in the assets section of the balance sheet of the company at the end of the relevant fiscal year. In this case, amortization must 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) For the purpose of application of the provisions of Article 461, paragraph (2), of the Companies Act, if the provisions of the preceding paragraph apply, the phrase "the amount obtained by subtracting the sum of" therein is replaced with "and, if provided in the Cabinet Office Order, the amount obtained by subtracting the sum of the amount specified in the Cabinet Office Order which has been recorded in the assets section of the balance sheet pursuant to the provisions of Article 82, paragraph (1), of the Act on Promotion of Private Finance Initiative (Act No. 117 of 1999)."

Chapter VII Council for the Promotion of Private Finance Initiatives

(Council for the Promotion of Private Finance Initiatives)

- Article 83 (1) The Council for the Promotion of Private Finance Initiatives (hereinafter referred to as the "council") is to be set up within the Cabinet Office as a special agency.
- (2) The council takes charge of the matters set forth in the following:
- (i) preparation of drafts of the basic policy;
 - (ii) necessary coordination between relevant administration organs regarding measures related to the provision, etc. of the public facility, etc. through the utilization of private finance, etc.; and
 - (iii) beyond what is provided for in the preceding two items, deliberation of important matters regarding measures related to the provision, etc. of the public facility, etc. by the utilization of private finance, etc., and promotion of the implementation of those measures.
- (3) When the council intends to draft a proposal for the basic policy, the council must consult with the heads of each ministry and agency, and hear the opinions of the Committee for the Promotion of the Private Finance Initiatives in advance.

- Article 84 (1) The council is composed of a chairperson and committee members.
- (2) The Prime Minister serves as the chairperson of the council.
- (3) The persons appointed by the Prime Minister from among the Ministers of State other than the chairperson serve as the committee members.
- (4) Beyond what is provided for in the preceding three paragraphs, Cabinet Order prescribes necessary matters concerning the organization and administration of the council.

(Committee for the Promotion of Private Finance Initiatives)

- Article 85 (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 studies and deliberates matters that fall within its authority under the provisions of this Act, and also studies and deliberates the situation regarding the formulation of an implementation policy, selection of a qualified project, objective evaluation of the project, and other matters pertaining to the provision, etc. of a national public facility, etc. through the utilization of private finance, etc.
- (3) The private business, etc. may submit to the committee its opinions on the provision, etc. of a national public facility, etc. through the utilization of private finance, etc.
- (4) If the committee finds it necessary in the case of the preceding two paragraphs, it may state its opinions to the Prime Minister and heads of relevant administrative organs, in order to promote and generally coordinate the provision, etc. of the national public facility, etc. through the utilization of private finance, etc.
- (5) The Prime Minister and heads of relevant administrative organs must report to the committee the measures taken as a result of the receipt of the opinions of the preceding paragraph.
- (6) If the committee finds it necessary to perform its functions under its jurisdiction, it may request the heads of relevant administrative organs, heads of relevant local governments, and other relevant bodies to provide necessary cooperation such as the submission of materials, expressions of opinions, and explanations. In this case, the committee will take measures necessary for the publication of materials which were submitted or collected to perform the functions under its jurisdiction.

- Article 86 (1) The committee consists of nine committee members appointed by the Prime Minister from persons with relevant expertise.
- (2) If it is necessary to study and deliberate a technical matter, expert advisor

may be appointed to the committee.

(3) The committee may set up sub-committees, as necessary.

(4) Beyond what is provided for in the preceding three paragraphs, Cabinet Order prescribes the necessary matters pertaining to the organization and administration of the committee.

Chapter VIII Miscellaneous Provisions

(Delegation to Cabinet Order)

Article 87 Beyond what is provided for in this Act, Cabinet Orders prescribe necessary matters for its implementation.

Chapter IX Penal Provisions

Article 88 (1) If the corporation's director, accounting advisor (if the accounting advisor is a corporation, the employees who are to perform its duties), company auditor or employee accepts, solicits or promises to give a bribe in relation to the person's duties, the person is punished by imprisonment for not more than three years. If that person conducts an illegal act in that person's duties or does not conduct that person's duties in an appropriate manner, that person is punished by imprisonment for not more than five years.

(2) In the case referred to in the preceding paragraph, the bribe received by the offender is confiscated. If all or part of it cannot be confiscated, the equivalent value thereof is collected.

Article 89 (1) A person who has given a bribe or made an offer or a promise as referred to in paragraph (1) of the preceding Article, is punished by imprisonment for not more than three years or a fine of not more than one million yen.

(2) If a person who commits any of the crimes referred to in the preceding paragraph has self-denounced, the punishment may be reduced or exempted.

Article 90 (1) The crimes referred to in Article 88, paragraph (1), also apply to persons who have committed the same crimes referred to in that paragraph outside Japan.

(2) The crimes referred to in the preceding Article, paragraph (1) are governed by Article 2 of the Penal Code (Act No. 45 of 1907).

Article 91 If the corporation's director, accounting advisor (if the accounting advisor is a corporation, the employees who are to perform its duties), company auditor or employee, or a person who has been in those positions divulges or

misappropriates a secret known in the course of performing the person's duties in violation of the provisions of Article 44, the person is punished by imprisonment for not more than one year or a fine of not more than five hundred thousand yen.

Article 92 If the corporation's director, accounting advisor (if the accounting advisor is a corporation, the employees who are to perform its duties), company auditor or employee fails to make a report under Article 63, paragraph (1), or makes a false report, or refuses, prevents, or evades an inspection under the provisions of that paragraph, the person who committed the illegal conduct is punished by a fine of not more than five hundred thousand yen.

Article 93 If any of the corporation's directors, accounting advisors or employees or company auditors who are to perform the person's duties falls under one of the following items, the person who committed the illegal conduct is punished by a fine of not more than one million yen.

- (i) if the person solicits a person to underwrite the shares for subscription, the share options for subscription or the bonds for subscription, issues shares, bonds or share options in a share exchange, or borrows funds in violation of the provisions of Article 34, paragraph (1);
- (ii) if the person fails to notify that the person has issued shares in violation of the provisions of Article 34, paragraph (2);
- (iii) if the person fails to complete their registration in violation of the provisions of Article 50, paragraph (1) or (4);
- (iv) if the person performs the businesses is in violation of the provisions of Article 52, paragraph (2);
- (v) if the person fails to give a notice to the Prime Minister in violation of the provisions of Article 54, paragraph (2) or Article 56, paragraph (1);
- (vi) if the person fails to obtain an approval for the budget in violation of the provisions of Article 58, paragraph (1);
- (vii) if the person fails to submit or submits a false balance sheet, profit and loss statement or business report in violation of the provisions of Article 60; and
- (viii) if the person violates an order under Article 62, paragraph (2).

Article 94 A person who uses the characters of "民間資金等活用事業推進機構" (pronounced "minkan-shikin-tou katuyou jigyou suishin kikou " and with the literal meaning "the Private Finance Initiative Promotion Corporation of Japan") in its name in violation of the provisions of Article 36, paragraph (2), is punished by a fine of not more than one hundred thousand yen.

Supplementary Provisions

(Effective Date)

Article 1 This Act comes into effect as from the date specified by Cabinet Order within a period not exceeding three months from the date of promulgation.

(Study)

Article 2 The government is to study the status of implementation of the qualified projects (including the situation of abolition or easing of regulations that prevent the utilization of technology of private businesses and making full use of ingenuity) under this Act at least every three years, and take necessary measures based on the results.

Article 3 Based on the study of improvement of the tender system pertaining to the public facility, etc., the government is to study the desirable way of dialogue with the private businesses in the specified selection (referring to the selection of the private business that implements the qualified project; hereinafter the same applies in this Article), desirable selection of businesses in stages, securing transparency and fairness, and other desirable specified selection, such as through receiving questions or proposals from the private businesses, and take necessary measures based on the results thereof.

(Measures for the Advanced Redemption of the Former Trust Fund Bureau Funds for the Water Supply Business)

Article 4 (1) In the case where there is a request from any of the local governments set forth in the following items during the period between 2018 and 2023, for advanced redemption of the funds of the former Trust Fund Bureau (referring to the fund of trust fund bureau as defined in Article 6, paragraph (1) of the Fund of Trust Fund Bureau Act (Act No. 100 of 1951) before amendment under Article 1 of the Act Partially Amending the Fund of Trust Fund Bureau Act, etc. (Act No. 99 of 2000); hereinafter the same applies in this paragraph) loaned to that local government prior to January 31, 1997 or the fund of the former Japan Finance Corporation for Municipal Enterprises (referring to the fund of the Japan Finance Corporation for Municipal Enterprises before dissolution under Article 9, paragraph (1) of the Supplementary Provisions of the Act on the Japan Finance Organization for Municipalities (Act No. 64 of 2007); hereinafter the same applies in this paragraph) loaned to that local government prior to March 31, 1997, at an annual interest rate of 3 percent or more, in the amount allocated (if the amount is not known, the amount calculated based on the standards provided by Cabinet Office Order, Order of the Ministry of Internal Affairs and

Communications, and Ministry of Finance Order, in consideration of the expenses and other circumstances required for the construction, etc. of the public facility, etc.) to the construction, repair, maintenance or operation (hereinafter referred to as "construction, etc." in this paragraph) of a public facility, etc. (limited to those pertaining to the right to operate public facility, etc. established under the ordinance on the right to operate public facilities such as the water supply business, etc. set forth in the following items) pertaining to the water supply business, etc. (referring to water utility business or water supply business under the Sewerage Act (Act No. 79 of 1958), or business pertaining to facilities provided for public sewerage or regional sewerage under the Water Supply Act (Act No. 177 of 1957); hereinafter the same applies in this paragraph) (hereinafter referred to as the "relevant loan" in this Article), if the government finds it particularly necessary to improve the soundness of management of the local government's water supply business, etc., and the local government has submitted a plan specifying the matters provided by Cabinet Order regarding the public facility, etc., operating projects pertaining to the water supply business, etc., and the government finds that the plan considerably contributes to the sound and efficient operation of the water supply business, etc. of the local government, then pursuant to the provisions of Cabinet Order, in the case where the relevant loan pertaining to the request has been loaned from the former Trust Fund Bureau, then the government is to respond to the request for the advanced redemption within the limit of the maximum amount, or in the case where the relevant loan pertaining to the request has been loaned from the former Japan Finance Corporation for Municipal Enterprises, then the government is to request the Japan Finance Organization for Municipalities to respond to the request for the advanced redemption within the limit of the maximum amount.

- (i) the local government that provided the ordinance referred to in Article 18, paragraph (1) regarding the right to operate the public facility, etc. pertaining to the water supply business, etc. by fiscal year 2018 (hereinafter referred to as the "ordinance on the right to operate the public facility, etc. pertaining to the water supply business, etc." in the following item and item (i) of the following paragraph), under which a public facility, etc., operating project pertaining to the water supply business, etc. has started during the period between fiscal year 2018 and fiscal year 2020; and
 - (ii) the local government that provided the ordinance on the right to operate the public facility, etc. pertaining to the water supply business, etc. during the period between fiscal year 2018 and fiscal year 2021.
- (2) The "maximum amount" referred to in the preceding paragraph means the amount set forth in the following items depending on the category of the local governments specified in each item:

- (i) the local government referred to in item (i) of the preceding paragraph or item (ii) of that paragraph (limited to those local governments that provided ordinances on the right to operate the public facility, etc. pertaining to the water supply business, etc. in fiscal year 2018 or fiscal year 2019): the lesser of the outstanding balance of the relevant loan, and the amount received by that local government in exchange for the establishment of the right to operate the public facility, etc. (including money collected pursuant to the provisions of Article 20, and if that money is to be received periodically or in installments, limited to the amount received first); and
 - (ii) the local government (excluding the one set forth in the preceding item) referred to in item (ii) of the preceding paragraph: the amount equivalent to one half of the amount specified in the preceding item
- (3) In the case of paragraph (1), the government is not to accept any money other than the redeemed principal amount of the relevant loan as money required to respond to advanced redemption.
- (4) If Japan Finance Organization for Municipalities responds to advanced redemption at the request of the government under the provisions of paragraph (1), the provisions of the preceding paragraph apply mutatis mutandis.

Supplementary Provisions [Act No. 73 of June 11, 1999] [Extract]

(Effective Date)

Article 1 This Act comes into effect as of the date of promulgation; provided, however, that the provisions of Articles 17 through Article 19 and Articles 21 through Article 66 of the Supplementary Provisions come into effect as of October 1, 1999.

Supplementary Provisions [Act No. 160 of December 22, 1999] [Extract]

(Effective Date)

Article 1 This Act (except for Articles 2 and 3) comes into effect as of January 6, 2001; provided, however, that the provisions set forth in the following items come into effect as of the date provided in each item.

- (i) the date of promulgation of the provisions of Article 995 (limited to the portions pertaining to the provisions amending the Supplementary Provisions of the Act Partially Amending the Act on the Regulation of Nuclear Source Material, Nuclear Fuel Material and Reactors), Article 1,305, Article 1,306, Article 1,324, paragraph (2), Article 1,326, paragraph (2), and Article 1,344.

Supplementary Provisions [Act No. 151 of December 12, 2001]

This Act comes into effect as of the date of promulgation.

Supplementary Provisions [Act No. 45 of May 29, 2002] [Extract]

(Effective Date)

- (1) This Act comes into effect as of the date specified by Cabinet Order within a period not exceeding one year from the date of promulgation.

Supplementary Provisions [Act No. 132 of July 30, 2003] [Extract]

(Effective Date)

Article 1 This Act comes into effect as of the date specified by Cabinet Order within a period not exceeding three months from the date of promulgation.

Supplementary Provisions [Act No. 87 of July 26, 2005] [Extract]

This Act comes into effect as of the date of promulgation of the Companies Act.

Supplementary Provisions [Act No. 95 of August 15, 2005]

This Act comes into effect as of the date of promulgation.

Supplementary Provisions [Act No. 53 of June 7, 2006] [Extract]

(Effective Date)

Article 1 This Act comes into effect as of April 1, 2007; provided, however, that the provisions set forth in the following items come into effect as of the date provided in each item.

(i) Omitted

(ii) the provisions amending Article 96, paragraph (1), the provision adding an Article after Article 100, and the provisions amending Article 101, Article 102, paragraphs (4) and (5), Article 109, Article 109-2, Article 110, Article 121, Article 123, Article 130, paragraph (3), Article 138, Article 179, paragraph (1), Article 207, Article 225, Article 231-2, Article 234, paragraphs (3) and (5), Article 237, paragraph (3), Article 238, paragraph (1), Article 238-2, paragraph (2), Article 238-4, Article 238-5, Article 263-3 and Article 314, paragraph (1), and the provisions of Article 22 and Article 32 of these Supplementary Provisions, the provision of Article 37 of these Supplementary Provisions amending Article 33, paragraph (3) of the Local Public Enterprise Act (Act No. 292 of 1952), the provisions of Article 47 of

these Supplementary Provisions amending Article 5-29 of the Former Act on Special Provisions Concerning Merger of Municipalities (Act No. 6 of 1965) that remain effective under the provisions of Article 2, paragraph (6) of the Supplementary Provisions of that act, and the provisions of Article 51 of these Supplementary Provisions amending Article 47 of the Act on Special Provisions Concerning Merger of Municipalities (Act No. 59 of 2004): The date specified by Cabinet Order within a period not exceeding one year from the date of promulgation.

Supplementary Provisions [Act No. 85 of June 13, 2007] [Extract]

(Effective Date)

Article 1 This Act comes into effect as of the date of promulgation; provided, however, that the provisions set forth in the following items come into effect as of the date provided in each item.

(i) and (ii) Omitted

(iii) the provisions of Article 26 through Article 60 and Article 62 through Article 65 of the Supplementary Provisions: October 1, 2009.

(Study)

Article 66 In regards to the system in which the investment and loan function of the Political Investment Bank is being used under the provisions of the Act on Security for Loans from the Development Bank of Japan to Electric Utility Corporations, the Oil Stockpiling Act, the Act on Promotion of Development and Introduction of Alternative Energy, the Act on Special Measures Concerning the Promotion of Urban Development by Private Sectors, the Act on Temporary Measures to Promote Business Activities for the Rational Use of Energy and the Utilization of Recycled Resources, the Act on Promotion of Private Finance Initiative and other laws (including orders under laws), the government is to study, while considering the convenience of users of the system, measures to secure equal competitive conditions with other businesses, and take necessary measures based on the results of the study prior to the date specified in item (iii) of Article 1 of the Supplementary Provisions.

(Utilization of Investment and Loan Functions Pertaining to the Long-term Business Funds of Companies)

Article 67 If the long-term investment and loan functions pertaining to the long-term business funds of companies are to be used after the date specified in Article 3 of the Supplementary Provisions, the government is to take, while taking into account fair competitive relationships with other businesses, measures to secure equal competitive conditions and other measures necessary

for utilizing the investment and loan functions.

Supplementary Provisions [Act No. 13 of March 31, 2011] [Extract]

(Effective Date)

Article 1 This Act comes into effect as of April 1, 2011; provided, however, that the provisions set forth in the following items come into effect as of the date provided in each item.

(i) and (ii) Omitted

(iii) the provisions of Article 3 of the Supplementary Provisions: The date of promulgation of the Act Partially Amending the Act on Promotion of Private Finance Initiative (Act No. 57 of 2011).

Supplementary Provisions [Act No. 57 of June 1, 2011] [Extract]

(Effective Date)

Article 1 This Act comes into effect as of the date specified by Cabinet Order within a period not exceeding six months from the date of promulgation; provided, however, that the provisions set forth in the following items come into effect as of the date specified in each item.

(i) the provisions amending Article 2 (excluding the portions adding paragraph (2) to that Article) and provisions amending Article 11-3, paragraph (1), and the provisions of Article 3 of the Supplementary Provisions amending Article 11, paragraph (6) of the Supplementary Provisions of the Local Tax Act (Act No. 226 of 1950) (limited to the portion that adds "(excluding rental housing (excluding public housing) set forth in item (iii) of that paragraph and the facilities set forth in item (v) of that paragraph)" below "Public Facility, etc. prescribed"), and the provisions amending Article 15, paragraph (22) of that act (limited to the portion that adds "(excluding rental housing (excluding public housing) set forth in item (iii) of that paragraph and the facilities set forth in item (v) of that paragraph)" below "Public Facility, etc. prescribed"), and the provisions of Article 3-2 of the Supplementary Provisions: The date of promulgation;

(ii) the provisions amending Article 4, paragraphs (1), (4) and (5), and the provisions adding a chapter name and two Articles after Article 20 (limited to the portion that adds two Articles), and provisions amending the headwords of Article 22 and Article 5 of the Supplementary Provisions: The date specified by Cabinet Order within a period not exceeding one month from the date of promulgation; and

(iii) the provisions amending Article 6: The date of promulgation of the Act on the Adjustment of Related Acts to Further Reforms That Aim to Increase the

Autonomy and Independence of Local Authorities (Act No. 105 of 2011) or the date on which this Act comes into effect, whichever comes later.

(Transitional Measures)

Article 2 Prior laws continue to govern the qualified projects pertaining to the implementation policy released pursuant to the provisions of Article 5, paragraph (3) of the Act on Promotion of Private Finance Initiative prior to the amendments under this Act, notwithstanding the provisions of Article 6, Article 7, paragraph (2), Article 9, Article 10, and Article 11-2, paragraphs (3) and (8), Article 11-3, paragraphs (2), (4), (6) and (8), and Article 11-3, paragraphs (2), (4), (6) and (8) of the Act on Promotion of Private Finance Initiative amended by this Act.

Supplementary Provisions [Act No. 105 of August 30, 2011] [Extract]

(Effective Date)

Article 1 This Act comes into effect as of the date of promulgation.

(Delegation to Cabinet Orders)

Article 82 Beyond what is provided for in these Supplementary Provisions, Cabinet Order prescribes the transitional measures necessary for the enforcement of this Act (including transitional measures relating to penal provisions).

Supplementary Provisions [Act No. 34 of June 12, 2013] [Extract]

(Effective Date)

Article 1 This Act comes into effect as of the date specified by Cabinet Order within a period not exceeding three months from the date of promulgation.

(Transitional Measures)

Article 2 The provisions of Article 36, paragraph (2), of the Act on Promotion of Private Finance Initiative amended by this Act (hereinafter referred to as the "new Act") is not to apply for six months after this Act comes into effect to those actually using the characters of "民間資金等活用事業推進機構" (pronounced "minkan-shikin-tou katuyou jigyou suishin kikou" and with the literal meaning the "Private Finance Initiative Promotion Corporation of Japan") in its name even after this Act comes into effect.

Article 3 In regards to the budget of the Private Finance Initiative Promotion Corporation of Japan for the business year to which the date of incorporation of

the Private Finance Initiative Promotion Corporation of Japan belongs, the phrase "before the start of each business year" in Article 58, paragraph (1) of the new Act is replaced with "without delay after its incorporation".

(Study)

Article 4 In the promotion of the qualified projects provided in Article 2, paragraph (2) of the new Act through the Private Finance Initiative Promotion Corporation of Japan under Chapter V of the new Act, since it is necessary to effectively use financial funds in light of the severe state of finances of the national government and local governments, while there is increasing need for the provision of the public facility, etc. (meaning the provision of the public facility, etc. prescribed in that paragraph) in order to prevent natural disasters and prevent damage expansion in the case of occurrence of natural disasters, the government will promptly study measures to further promote the utilization of private finance, etc. for the operation, etc. (meaning the operation, etc. prescribed in paragraph (6) of that Article) of roads and other public facility, etc. (meaning the public facility, etc. prescribed in paragraph (1) of that Article).

Supplementary Provisions [Act No. 34 of May 14, 2014] [Extract]

(Effective Date)

Article 1 This Act comes into effect as of the date specified by Cabinet Order within a period not exceeding two years from the date of promulgation.

Supplementary Provisions [Act No. 56 of June 4, 2014] [Extract]

(Effective Date)

(1) This Act comes into effect as of the date of promulgation.

Supplementary Provisions [Act No. 91 of June 27, 2014] [Extract]

This Act comes into effect as of the date of promulgation of the Act Partially Amending the Companies Act.

Supplementary Provisions [Act No. 71 of September 18, 2014] [Extract]

(Effective Date)

Article 1 This Act comes into effect as of the date specified by Cabinet Order within a period not exceeding three months from the date of promulgation; provided, however, that Article 3 of the Supplementary Provisions comes into

effect as of the date of promulgation.

(Transitional Measures for Cold-District Allowance)

Article 2 For the purpose of application of the provisions of Article 16, paragraph (6) of the Supplementary Provisions of the Act Partially Amending the Act on Remuneration of Officials in the Regular Service (Act No. 105 of 2014), an official dispatched from the national government under Article 78, paragraph (1) amended by this Act is deemed to be an employee, etc. of an agency engaged in administrative execution provided in Article 11-7, paragraph (3) of the Act on Remuneration of Officials in the Regular Service (Act No. 95 of 1950).

(Delegation to Cabinet Orders)

Article 3 Beyond what is provided for in the preceding Article, Cabinet Order prescribes transitional measures necessary for the enforcement of this Act.

Supplementary Provisions [Act No. 51 of May 27, 2016] [Extract]

(Effective Date)

Article 1 This Act comes into effect as of the date specified by Cabinet Order within a period not exceeding one year and six months from the date of promulgation.

Supplementary Provisions [Act No. 60 of June 20, 2018] [Extract]

(Effective Date)

(1) This Act comes into effect as of the date specified by Cabinet Order within a period not exceeding six months from the date of promulgation; provided, however, that the provisions amending Article 4 of the Supplementary Provisions, the provisions deleting Article 5 through Article 17 of the Supplementary Provisions, and the provisions of the following paragraph and paragraph (3) of the Supplementary Provisions come into effect as of the date specified by Cabinet Order within a period not exceeding three months from the date of promulgation.