


## Content

Title :	Enforcement Rules of Act for Promotion of Private Participation in Infrastructure Projects 
Date :	2023.12.28
Legislative :	<ol style="list-style-type: none"><li>1. Promulgated by the Public Construction Commission, Executive Yuan, No. (89)-Kung-Cheng-Chi-Tzi-89030388, dated October 25, 2000.</li><li>2. Amended by the Public Construction Commission, Executive Yuan, No. (91)-Kung-Cheng-Chi-Tzi-91021814, dated May 29, 2002 for Articles 2, 6-1, 11, 17, and 19-1.</li><li>3. Amended by the Public Construction Commission, Executive Yuan, No. Kung-Cheng-Chi-Tzi-09200320590, dated August 13, 2003 for Articles 2, 4, 5, 7, 8, 10, 14, 19-1, and 39.</li><li>4. Amended by the Public Construction Commission, Executive Yuan, No. Kung-Cheng-Chi-Tzi-09400056490, dated February 23, 2005 for Articles 11, 14, 18, 19-1, 22, 23, 40, 42, and 44.</li><li>5. Amended by the Public Construction Commission, Executive Yuan, No. Kung-Cheng-Chi-Tzi-09500049710, dated February 15, 2006 for Article 7.</li><li>6. Amended by the Public Construction Commission, Executive Yuan, No. Kung-Cheng-Chi-Tzi-09700012610, dated January 21, 2008 for Articles 2, 3, 8, 11, 16, 17, 18, 19-1, 20-1, 20-2, 21, 22, 22-1, 22-2, 22-3, 22-4, 23, 28-1, 31, 37-1, 40, 40-1, 41-1, 41-2, 43-1, 46-1, and 56-1.</li><li>7. Amended by the Public Construction Commission, Executive Yuan, No. Kung-Cheng-Cu-Tzi-09800162570, dated April 24, 2009 for Articles 2, 7, and 16.</li><li>8. Amended by the Public Construction Commission, Executive Yuan, No. Kung-Cheng-Cu-Tzi-09900225170, dated June 17, 2010 for Articles 2 and 17.</li><li>9. Amended by the Ministry of Finance No. Tai-Tsai-Cu-Tzi-10300532330, dated March 13, 2014 for Articles 7, 8, 10, 11, 16, 17, and 19-1.</li><li>10. Amended by the Ministry of Finance No. Tai-Tsai-Cu-Tzi-10400673670, dated October 7, 2015 for Articles 8 and 10.</li><li>11. Amended by the Ministry of Finance No. Tai-Tsai-Cu-Tzi-10500667400, dated October 4, 2016 and implemented from the date of promulgation.</li><li>12. Amended by the Ministry of Finance No. Tai-Tsai-Cu-Tzi-10700600190, dated June 8, 2018 for Articles 2, 5, 8, 9, 11, 13, 14, and 18.</li><li>13. Amended by the Ministry of Finance No. Tai-Tsai-Cu-Tzi-10800703390, dated November 11, 2019 for Articles 21 and 79.</li><li>14. Amended by the Ministry of Finance No. Tai-Tsai-Cu-Tzi-11000598390, dated June 16, 2021 for Article 9.</li><li>15. Amended by the Ministry of Finance No. Tai-Tsai-Cu-Tzi-11225539780, dated December 28, 2023 and implemented from the date of promulgation.</li></ol>
Content :	<p>Article 1</p> <p>These Enforcement Rules are enacted in accordance with Article 56 of the Act for Promotion of Private Participation in Infrastructure Projects ("the Act").</p> <p>Article 2</p> <p>The transportation facilities, as specified in Subparagraph 1, Paragraph 1, Article 3 of the Act, shall mean railways, highways, (metropolitan) expressways, public rapid transit systems, light-rail transportation systems, intelligent transportation systems, cable car systems, transfer hubs, stations, dispatch stations (classification yards), airports, harbors, off-street parking lots, bridges, tunnels and affiliated facilities.</p> <p>The intelligent transportation systems ("the ITS") specified in the preceding paragraph shall mean systems designated by the competent central authorities of the relevant industries that combine the technologies of information, telecommunications, electronics, control, and management and</p>

utilize these technologies in software and hardware in their transportation facilities, with the purpose of automating the operation and management of the entire transportation service or raising the quality of the transportation service.

The airports specified in Paragraph 1 shall mean any of the following facilities in the airport area and the air transportation complex for passengers/cargo approved by the Executive Yuan or designated by the competent central authorities of the relevant industries:

1. Facilities and equipment for the embarkation/debarkation of passengers and cargo from aircrafts;
2. Facilities in the area where aircraft take off and land;
3. Maintenance garages/docks;
4. Fuel supply and storage facilities;
5. Waste water treatment facilities;
6. Incinerators;
7. Facilities for value-added activities of air transportation, including the related facilities for manufacturing, warehousing, processing, and transportation;
8. The operation facilities of the air transportation business, confined to those that are invested, constructed and managed to conduct the functions of aviation operation or transportation transit;
9. Facilities for aviation training;
10. Hotels for transit passengers;
11. Exhibition centers;
12. International convention centers; and
13. Off-street parking lots.

The harbors specified in Paragraph 1 shall mean any of the following facilities within a commercial harbor:

1. Facilities that are designated for vessel entry, exit, or anchorage; for cargo loading/unloading, storage, or lighterage; for passenger services whether under or above the water surface, or on land; for yacht docking; and other related facilities.
2. Development projects of a new commercial harbor (including related facilities such as breakwaters, fill and docks); and
3. Facilities for value-added activities in a specialty zone, including the related facilities for manufacturing, warehousing, processing, and transportation.

#### Article 3

The common ducts specified in Subparagraph 1, Paragraph 1, Article 3 of the Act shall mean the structures designated by the Common Duct Act.

#### Article 4

The environmental pollution prevention facilities specified in Subparagraph 2, Paragraph 1, Article 3 of the Act shall mean any of the following facilities:

1. Facilities specified in the relevant environmental protection laws and regulations for the control of air pollution, noise and vibration, water pollution, and soil contamination control, and for the storage, removal, treatment, or final disposal of waste; and
2. Sites and affiliated facilities for storage, disposal, and dispatch of the earthwork left over from construction.

#### Article 5

The sewerage specified in Subparagraph 3, Paragraph 1, Article 3 of the Act shall mean any of the following facilities:

1. The sewers and affiliated facilities reserved for the treatment of domestic sewage and industrial wastewater.
2. The sewers and affiliated facilities for the treatment of domestic sewage and industrial wastewater combined with reclaimed water facilities.

#### Article 6

The water supply facilities specified in Subparagraph 3, Paragraph 1, Article 3 of the Act shall mean the water supply equipment specified in the Water Supply Act.

#### Article 7

The water conservancy facilities specified in Subparagraph 3, Paragraph 1, Article 3 of the Act shall mean any of the following facilities:

1. The hydraulic structures as specified in the Water Act;
2. The water intake construction, water treatment facilities, and water supply facilities as specified in the Reclaimed Water Resources Development Act; and
3. The facilities for seawater desalination and groundwater replenishment as designated by the competent central authorities of the relevant industries.

#### Article 8

The health, welfare, and medical facilities specified in Subparagraph 4, Paragraph 1, Article 3 of the Act shall mean medical institutions, psychiatric rehabilitation institutions, physical therapy institutions, occupational therapy institutions, medical radiology institutions, medical testing laboratories, nursing institutions, senior citizens' welfare institutions, welfare institutions for people with disabilities, long term care services institutions, medicament factories, or other manufacturing institution of radiopharmaceuticals (nuclear medical drugs), medical care institutions, and affiliated facilities designated by the competent central authorities of the relevant industries.

#### Article 9

The social welfare facilities specified in Subparagraph 5, Paragraph 1, Article 3 of the Act shall mean any of the following facilities:

1. Funerary facilities established and approved in accordance with relevant laws, excluding cemeteries and columbarium.
2. Social housing established and approved in accordance with relevant laws.
3. Social welfare facilities designated by the competent authorities of the relevant industries.

The proviso of the provision in Subparagraph 1 of the preceding Paragraph does not apply to the following circumstances:

1. The cemeteries and columbaria that applied to participate in the infrastructure projects before October 9, 2015 and have not yet been approved by the authority in charge by that date.
2. Renew the cemetery and set up a columbarium within the cemetery area.

#### Article 10

The labor welfare facilities specified in Subparagraph 5, Paragraph 1, Article 3 shall mean the institutions and affiliated facilities for entertainment, training, and education of the labor force designated by the competent authorities of the relevant industries.

#### Article 11

The culture and education facilities specified in Subparagraph 6, Paragraph 1, Article 3 of the Act shall mean any of the following facilities:

1. Public cultural institutions and affiliated facilities;
2. Public schools, public kindergartens, and affiliated facilities;
3. Public social education institutions and affiliated facilities, with gymnasiums excluded;
4. Monuments, archaeological sites, and affiliated facilities designated in accordance with the relevant laws;
5. Historic buildings, commemorative buildings, groups of buildings, cultural landscapes, historic sites, and affiliated facilities registered in accordance with the relevant laws;
6. Old military dependents' villages and affiliated facilities as a means to preserve the culture of military dependents' villages; and
7. Guidance, training, exhibition, research and development, accommodation, and preservation facilities with culture and/or education functions designated by the competent authorities of the relevant industries.

#### Article 12

The audiovisual and music facilities specified in Subparagraph 6, Paragraph 1, Article 3 of the Act shall mean the institutions and affiliated

facilities for exhibition, performance, production, distribution, screening, broadcasting of movies, radio and television, and popular music.

#### Article 13

The facilities for tourist attractions and lodgings specified in Subparagraph 7, Paragraph 1, Article 3 of the Act shall mean the facilities within a national park, scenic area, designated scenic area, tourism location, forest recreation area, hot spring area, or other recreation/amusement area delimited in accordance with relevant laws by the competent authorities of the relevant industries for recreation/amusement, accommodation, food and beverages, guidance and related services, and for internal and access transportation, yacht anchorage, and related services.

#### Article 14

The power facilities specified in Subparagraph 8, Paragraph 1, Article 3 of the Act shall mean the facilities of power generation (including power lines) established to conduct the business of power generation, designated by the competent central authorities.

#### Article 15

The green energy facilities specified in Subparagraph 8, Paragraph 1, Article 3 of the Act shall mean the institutions and affiliated facilities engaged in the construction, maintenance, and testing of the generation, conservation, efficiency improvement, compression of electricity load, transmission, distribution, or storage of new clean energy.

#### Article 16

The public gas and fuel supply facilities specified in Subparagraph 8, Paragraph 1, Article 3 of the Act shall mean any of the following transmission and storage equipment and affiliated facilities established by public natural gas enterprises as designated by the competent central authorities:

1. Storage facilities;
2. Transmission and distribution facilities; and
3. Regasification facilities.

#### Article 17

The sports facilities specified in Subparagraph 9, Paragraph 1, Article 3 of the Act shall mean any of the following facilities:

1. Indoor/outdoor sports facilities for sports designated by the International Olympic Committee and the Olympic Council of Asia as Olympic sports, with golf-related facilities excluded;
2. Sports and recreation parks designated by the competent authorities of the relevant industries as combining recreational facilities along with two or more sports facilities specified in the preceding subparagraph; and
3. The public sports facilities specified in the Statute for the Establishment and Administration of Public Sports Facilities.

#### Article 18

The parks and green spaces specified in Subparagraph 10, Paragraph 1, Article 3 of the Act shall mean any of the following facilities:

1. Parks and green spaces and affiliated facilities in areas reserved for public facilities designated by urban planning authorities at various government levels in accordance with the Urban Planning Law;
2. Parks and green spaces and affiliated facilities in the areas designated by the authorities of non-urban land at various government levels in accordance with the Regional Plan Act; and
3. Green spaces, greenbelts, ecological greens community parks and affiliated facilities, subject to compulsory donation to the public after conversion of the land use registration as obligated by the relevant laws and regulations.

#### Article 19

The industrial facilities specified in Subparagraph 11, Paragraph 1, Article 3 of the Act shall mean any of the following facilities:

1. Industrial zones (or industrial parks) and affiliated facilities

designated by the industrial competent authorities;

2. Industrial zones (or industrial parks) and affiliated facilities designated or mapped out according to the Statute for Industrial Innovation, the Regional Plan Act, or the Urban Planning Law for development projects of private enterprises, landowners, or industry developers, and the development and operation plan of which is in compliance with the industry development policy, the operation is initiated within a specific period, and the land and factory are offered to the industry developers; or
3. Deep ocean industry parks and affiliated facilities designated or mapped out according to the Regional Plan Act or the Urban Planning Law for development projects of industrial competent authorities, private enterprises, landowners, or industry developers; and
4. Facilities related to the national defense technology industry designated by the Ministry of National Defense.

#### Article 20

The commercial facilities specified in Subparagraph 11, Paragraph 1, Article 3 of the Act shall mean any of the following facilities designated by the competent authorities:

1. Central markets for retailers of fruit and vegetables, meat, fish, and consumer goods;
2. Logistics centers planning for turnaround space for trucks and employing warehouse or logistic management systems and equipment, including pallets, shelving, forklifts, etc.;
3. International exhibition centers with buildings and optional affiliated facilities for relevant business services to accommodate companies to set up temporary standard booths for demonstrating products or services and accepting orders placed by attendees, or providing services of convention and training;
4. International convention centers and optional affiliated facilities for relevant business services to provide convention and training services; and
5. Shopping centers combining shopping, recreational, cultural, entertainment, refectation, exhibition, and information facilities.

#### Article 21

The hi-tech facilities specified in Subparagraph 11, Paragraph 1, Article 3 of the Act shall mean any of the following facilities:

1. Science parks and affiliated facilities established in accordance with laws and regulations related to management of science-based industrial parks;
2. Incubation centers and affiliated facilities; and
3. Radiation technology application facilities.

The incubation centers and affiliated facilities specified in Subparagraph 2 of the preceding paragraph shall mean the relevant installations which provide space, equipment, technology, funding and consulting/support services on business operations and management, with the purpose of fostering new enterprises, products and technologies and facilitating the upgrading and transformation of enterprises.

The radiation technology application facilities specified in Subparagraph 3 of Paragraph 1 shall mean the equipment, technology, space designated by the competent central authorities of the relevant industries as having radiation source device, radiation source utilization or radiation protection as well as the relevant facilities that support consumer technology application or technical services.

#### Article 22

The development of new towns specified in Subparagraph 12, Paragraph 1, Article 3 of the Act shall mean the development projects engaged in specific areas mapped out in accordance with the New Town Development Act.

#### Article 23

The agricultural and resource recycling and reuse facilities specified in Subparagraph 13, Paragraph 1, Article 3 of the Act shall mean any of the following facilities:

1. Poultry and livestock slaughterhouses and affiliated facilities

established in compliance with the Establishment Standards for Slaughterhouse according to the Animal Industry Act;

2. Agricultural products wholesale markets and affiliated facilities established in accordance with the Agricultural Products Market Transaction Act;
3. Agriculture technology parks or government-subsidized local agriculture technology parks and affiliated facilities established in accordance with the Act of Establishment and Administration of Agricultural Technology Parks;
4. Epidemic prevention and quarantine facilities for animals and plants and their respective products established in accordance with the international or source country's standards or rules for epidemic prevention and quarantine and the operation principles for epidemic prevention and quarantine;
5. The recreational agricultural facilities and access transportation in agriculture recreation areas designated in compliance with the Agricultural Development Act, or recreational farms with operating permits;
6. Any of the following facilities in fishing port areas:
  - (1) Facilities for value-added activities of fishing, including facilities related to live fish storage and transport, refrigerated storage, and processing;
  - (2) Diversified facilities in the leisure zone for accommodation, food and beverage, exhibition, and ocean-related recreation and education;
  - (3) Yacht piers in areas reserved for yacht recreation and affiliated facilities; and
  - (4) Shipyards for fishing vessels.
7. Animal shelters and affiliated facilities established in accordance with Article 14 of the Animal Protection Act;
8. Facilities for reuse of agricultural waste established in accordance with relevant laws;
9. Forestry facilities designated by the competent authorities of the relevant industries as having the functions of forestry production, logistic, process, promotion, ecotourism, culture, education and training, and display, as well as the affiliated facilities for accommodation and food and beverage which are necessary for their development; and
10. Multifunction agriculture promotion, production and logistic facilities designated by the competent authorities of the relevant industries as having the functions of agriculture promotion, training, display, and process, etc.

#### Article 24

The government office buildings specified in Subparagraph 14, Paragraph 1, Article 3 of the Act shall mean any of the following facilities:

1. The government office buildings and their facilities where services are provided to the public or overall planning of such services are conducted;
2. The necessary staff dormitories and their facilities for the personnel conducting the business specified in the preceding Subparagraph; and
3. Necessary conference centers, education and training venues and facilities for government agencies (institutions).

#### Article 25

The digital infrastructure specified in Subparagraph 15, Paragraph 1, Article 3 of the Act shall mean digital software, hardware and affiliated facilities needed for promoting advanced networks, completing digital inclusion, shortening the digital gap, accelerating digital transformation of industries, and promoting cross-domain innovative applications.

#### Article 26

When ambiguity arises as to the definition of the infrastructure projects specified in Article 2 to the preceding Article, the definition shall be determined by the competent authority in conjunction with the competent central authorities of the relevant industries.

#### Article 27

When authorizing a subordinate entity (or institution) in accordance with Paragraph 2, Article 5 of the Act or commissioning another government

entity in compliance with Paragraph 3 of the same Article, the authority in charge shall consider the nature of the case and the competence of the authorized entity (or institution) or the commissioned entity.

Except as otherwise provided in these Enforcement Rules, the authority in charge may authorize its subordinate entities (or institutions) to execute the following matters in accordance with Paragraph 2, Article 5 of the Act:

1. Pre-evaluation, feasibility assessment, and preliminary planning;
2. Announcement to invite private participation, review, negotiation, and signing of contracts;
3. Policy announcement, preliminary review, announcement to invite applicants, review, negotiation, and signing of contracts;
4. Performance management;
5. Approval of ancillary businesses planning in accordance with Subparagraph 3, Paragraph 3, Article 42; and
6. Priority to enter into contracts.

Except as otherwise provided in these Enforcement Rules, the executed matters that the authority in charge may authorize its subordinate entity (or institution) in accordance with Paragraph 3, Article 5 of the Act are as set forth in the preceding paragraph, except for the signing of contracts specified in Subparagraphs 2, 3, and 6 of the same Paragraph. The authority in charge shall conduct regular or random inspections and reviews of the implementation status specified in Paragraph 1.

#### Article 28

The superior agency specified in Paragraph 3, Article 5 of the Act shall mean the Executive Yuan when a competent central authority of the relevant industries is the authority in charge, and shall mean the municipal or county or city government when a municipal or county or city government is the authority in charge.

#### Article 29

Before executing the private participation in an infrastructure project planned by the government, the authority in charge shall conduct the pre-evaluation of the infrastructure project in order to understand the nature of the case.

When conducting the feasibility assessment according to Article 6-1 of the Act, the authority in charge shall, based on the types and details of the public interest to be promoted and the targets to be achieved through the infrastructure project, adapt a perspective of private participation and carefully evaluate the feasibility of private investment regarding the benefit of private participation and government participation, market, technology, financing, laws, land acquisition, environmental impact, threats to national security and information security concerns, and suggestions given or oppositions raised in the public hearings, as well as draft the feasibility assessment report. If the suggestions given or oppositions raised in the public hearings are not adopted, the reasons shall be stated in the feasibility assessment report.

The feasibility assessment report specified in the preceding paragraph shall be reviewed by experts in the relevant fields and shall be published on the information network of the authority in charge after passing through the review but before posting a public notice inviting private participation. The publication period shall be no less than 10 days.

#### Article 30

The authority in charge shall prepare a preliminary plan when conducting the preliminary planning in accordance with Article 6-1 of the Act, with the purpose of the infrastructure and the method of private participation, carefully planning the period of proposed private participation, environmental impact assessment and development permits, land acquisition, construction, operation, transfer or return, performance management, financial planning, and risk allocation, etc. and specifying the government's commitments and cooperation matters; and, if necessary, include the scope of ancillary businesses allowed for private investment. For cases conducted by the authority in charge in accordance with, Subparagraph 3, Paragraph 1 Article 8 or Article 9-1 of the Act, the preliminary plan in the preceding paragraph shall be included in the

approved construction and financial plan referred to in Article 10 of the Act.

The government commitment and cooperation matters referred to in Paragraph 1 shall specify the extent and schedule of completion.

The authority in charge shall invite experts in the relevant fields to review the preliminary plan and publish it on the information network of the authority in charge after passing through the review but before posting a public notice inviting private participation. The publication period shall be no less than 10 days.

#### Article 31

The public hearings specified in Paragraph 2, Article 6-1 of the Act shall mean meetings to be held by the authority in charge for the collection of a wide range of opinions from the local residents, experts, scholars, and civil groups in the relevant fields as well as relevant agencies from where the infrastructure project will be located or services provided.

Upon holding a public hearing, the authority in charge shall publish information such as the time, place, reasons, and basis for the hearing on the information network of the authority in charge.

When notifying aforementioned information to the local residents at the places where the infrastructure project will be located or the services provided, the authority in charge may request the public offices of the local rural township (township, city or district) to forward the notification.

Records of the public hearings shall be made and published on the information network of the authority in charge. The publication period shall be no less than 10 days.

#### Article 32

The same project referred to in Paragraph 3, Article 6-1 of the Act refers to a project that meets the following conditions:

1. Same infrastructure project site area;
2. Same infrastructure project category; and
3. Same method of private participation or the method of private participation is regulated by Subparagraph 5, Paragraph 1, Article 8 of the Act instead.

#### Article 33

Upon conducting the private participation under the conditions stipulated in Subparagraph 3, Paragraph 1, Article 8 of the Act, the authority in charge shall specify the calculation formula of the construction expenses, the supervision of the construction quality, the procedures of acceptance inspection and the title transfer in its tender documents for the public and request the applicants to submit reimbursement plans for construction expenses.

The reimbursement plans for the construction expenses specified in the preceding paragraph shall include the total construction expenses, interest accrued, interest rate, reimbursement period and terms of installments.

In order to ensure the public welfare of infrastructure and the interests of the authority in charge, when a private institution participates in infrastructure projects in accordance with Subparagraph 6, Paragraph 1, Article 8 of the Act, it shall be based on the principle that the land required for infrastructure projects does not need to be subject to land use and project use changes, and the authority in charge shall state the following matters in the tender documents for the public:

1. Development royalties equivalent to the scale of the case development; and
2. Mechanism for calculating liquidated damages for early termination of contracts that is attributed to private institutions.

#### Article 34

The term "extension, reconstruction, and repair" as referred to in Paragraph 2, Article 8 of the Act shall mean the repair and decoration of infrastructure projects or other investment activities that enhance the efficiency or value of existing government construction.



#### Article 35

The authority in charge that acquires public services with compensation under Article 9-1 of the Act shall state the following matters in the feasibility assessment report prepared in accordance with Paragraph 2 of Article 29:

1. Differences of self-finance before and after the government acquisition of public services with compensation; and
  2. The rate and structure of government acquisition of public services with compensation, the total amount, and the duration of payment by government.
- When the aforementioned feasibility assessment report is made in accordance with Paragraph 3 of Article 29, the authority in charge shall entrust the financial feasibility assessment to financial experts, scholars, or agencies (institutions) for review, and, after confirming the financial assessment results, incorporate them into the feasibility assessment report.

#### Article 36

The authority in charge shall, after completing the feasibility assessment report, submit the construction and financial plans as stipulated in Paragraph 1, Article 10 of the Act to the Executive Yuan for approval or have the plans approved by the relevant local governments.

The aforementioned construction plan shall mean the relevant plans of construction as stipulated in Paragraph 2, Article 8 of the Act, and shall state the following items:

1. Purpose and requirement of the infrastructure projects; and
2. Results of technical feasibility assessment.

The financial plan in Paragraph 1 shall state the following items:

1. The results of financial feasibility assessment;
2. Funds borne by the agencies and budget amounts to be budgeted for by year;
3. Budget source planning; and
4. Project benefits.

#### Article 37

If the term "through the budgetary process" referred to in Paragraph 1, Article 10 and Paragraph 3, Article 29 of the Act will require funds from the central government budget, the competent central authority of the relevant industries shall prepare the budget and make expressions according to Articles 9 and 34 of the Budget Act and Article 39 of the same Act shall apply *mutatis mutandis*.

#### Article 38

For cases handled by the authority in charge in accordance with the Act, the management of operation quality stipulated in Paragraph 7, Article 11 of the Act shall include the relevant items provided by the Regulations Governing the Operating Evaluation specified in Paragraph 4, Article 51-1 of the Act.

For cases handled by the authority in charge in accordance with Subparagraph 3, Paragraph 1 of Article 8, Article 9-1 and Paragraph 1, Article 29 of the Act, the audit specified in Subparagraph 7, Article 11 of the Act shall include matters such as the items, procedures, and standards of prioritized audit of the infrastructure project. The construction control and management as specified shall include the items related to the progress, environmental protection, safety and sanitation of the construction, and quality control of the construction carried out by the private institution.

#### Article 39

"Any other agreed matters" specified in Subparagraph 9, Article 11 of the Act may include any of the following items:

1. A statement and commitment from both parties;
2. The portion and procedure for acquisition and transfer of land and facility;
3. Financial conditions;
4. Payment of acquisition with compensation in accordance with Paragraph 1, Article 9-1 of the Act.

5. The subsidization conditions under Article 29 of the Act;  
6. Performance bond; and  
7. When the continuation of the contract by the private institution will contradict the public interest due to change of government policy, the authority in charge may terminate or cancel a part or all of the contract and compensate the private institution for the losses arising therefrom. The financial conditions specified in Subparagraph 3 of the preceding paragraph may include items as the capital ratio requirement of the private institution during the specific term of the contract period, financing requirements and the time for submitting the financing agreement, financial inspection, and increase/decrease in paid-in capital during the operation period.  
The payment specified in Subparagraph 4 and the subsidization conditions specified in Subparagraph 5 of Paragraph 1 shall include the method, limit, adjustment mechanism, and measures for early termination of the concession agreement.

#### Article 40

The authority in charge shall, depending on the character of the infrastructure projects and the methods of the private investment, state in the concession agreement that the private institution shall submit or deliver the following documents in a given timeframe for audit and inspection:

1. Construction period: the construction quality management plan, construction progress reports and records of audit and inspection.
2. Operation period: the records of operating performance and quality auditing, documents necessary for operating performance evaluation as specified in Paragraph 1, Article 51-1 of the Act, work data, and relevant documents.
3. Contract period: financial reports, account books, financing and other financial documents and information.

#### Article 41

The ancillary facilities specified in Paragraph 1, Article 13 of the Act shall mean the necessary operating facilities affiliated to the infrastructure projects.

#### Article 42

The ancillary businesses specified in Paragraph 1, Article 13 of the Act shall mean the businesses established by the private institution for development and operation outside the area designated for the project of infrastructure and its ancillary facilities.

The development and operation of the ancillary businesses specified in the preceding paragraph shall be planned jointly with the overall infrastructure projects and meet one of the following conditions:

1. Improve the financial feasibility of overall infrastructure project.
2. Improve the quality of public services.
3. Effectively utilize the land needed for the infrastructure project.

The ancillary businesses specified in Paragraph 1 may be proposed at the following stages with their targets and contents to be stated:

1. The authority in charge's feasibility assessment report or the public notice of policy for the contents of inviting the application of a private institution to plan and apply for participation.
2. Unless the tender documents stipulate that ancillary businesses are not allowed to be proposed, the applicant shall state this in the investment plan during the application stage.
3. During the contract period, the private institution acting in accordance with the provisions of the tender documents and being deemed necessary, as well as with the consent of the authority in charge.

The period of use of the land required for the ancillary businesses as specified in Paragraph 1 shall not exceed the period of participation in such infrastructure project by private institutions. If such period is terminated earlier, the development and operation of the ancillary businesses shall also cease.

The income and expenses of the infrastructure project and the ancillary businesses specified in Paragraph 1 operated by the private institution

shall be accounted separately.

For cases handled in accordance with Subparagraph 3, Paragraph 1 of Article 8, Article 9-1, and Paragraph 1 of Article 29 of the Act, the ancillary businesses shall be excluded from the scope of expenses paid by the authority in charge.

#### Article 43

The tasks of expropriation by zone or section specified in Paragraph 2, Article 13 of the Act that may be commissioned to private institutions shall be as follows:

1. Surveys of current circumstances and cadastral measurements;
2. Planning, design, construction, and management of zone/section expropriation engineering;
3. Appraisal of the land with improvements and after the zone/section expropriation;
4. Distribution plans and designs of the land for compensation, released to compensate for the land expropriated; and
5. Compilation of relevant lists.

When the authority in charge commissions the private institutions to conduct the tasks specified in the preceding paragraph, the commission contract should state the provisions governing the calculation formula, quality supervision and acceptance inspection of the zone/section expropriation engineering.

#### Article 44

If the relevant selling authorities of government-owned land conduct the assignment and sale in accordance with the provisions of Paragraphs 3 and 4, Article 15 of the Act and requires the failure to sign the investment contract within a certain period as a condition for termination, the authority in charge shall immediately notify the relevant selling authorities of government-owned land when the conditions for termination are fulfilled.

#### Article 45

When requesting the competent authority of zone/section expropriation to carry out the expropriation operation in accordance with Article 19 of the Act, the authority in charge shall prepare a development plan in advance for the approval of the Executive Yuan.

The development plan specified in the preceding Paragraph shall include the following items:

1. The character of the infrastructure project and the relationship to the relevant superior plan;
2. The goal of the development;
3. The scope of the intended development area;
4. Major public facilities;
5. Current status of the development areas and neighboring areas;
6. The conception of the whole development;
7. The means of development by one's own or by commissioning others;
8. The intended proportion of the land for compensation;
9. The plan for building demolition and inhabitant relocation;
10. Development schedule;
11. Land use plan;
12. Financial analysis and plan;
13. Coordination measures;
14. Allocation of responsibilities;
15. Prospective effects; and
16. Other items that should be specified.

If the cost of other public facilities as specified in the latter part of Paragraph 2, Article 46 of the Act is to be included in the financial analysis and plan specified in Subparagraph 12 of the preceding paragraph, the cost may be added to the ceiling amount of the total expenses for zone/section expropriation and development specified in Subparagraph 3, Paragraph 2, Article 19 of the Act. The condition should be stated in the development plan and the tender announcement for the participation of the private institutions.

After the development plan is approved by the Executive Yuan, the authority

in charge shall prepare the relevant blueprints of the cadastral map, the scope map, the current development situation of the areas neighboring the site, the urban planning map or zoning map for the use of non-urban land, and the land designation map; evaluate and define the scope of the land to be expropriated by zone or section on site in conjunction with the authorities in charge of zone/section expropriation, urban planning, land administration, environmental protection, and transportation; and then request the competent authority of zone/section expropriation to carry out the expropriation operation in accordance with the applicable laws. If the development plan needs to be adjusted to comply with the decisions of the Urban Planning Commission or the Land Expropriation Review Panel of the Ministry of Interior, the authority in charge shall amend the development plan and submit the revised plan to the Executive Yuan for approval.

#### Article 46

The development costs specified in Subparagraph 3, Paragraph 2, Article 19 of the Act shall mean the total expenses for items including the cash compensation or agreed purchase price of expropriation for privately owned land, the price of government-owned land allocated with compensation, fees for public facilities, fees for land preparation, and interest accrued from the loan, etc.

The fees for public facilities specified in the preceding paragraph shall include the design fee, the construction fee, the materials fee, overheads and land preparation fee of roads, bridges, drainage, underground conduits, community parks, plazas, green land, and parking lots. The other public facilities reported by the authority in charge and approved by the competent central authorities of the relevant industries shall also be included.

The fees for land preparation specified in Paragraph 1 shall include compensation for dismantling and removing the value-added land improvements or graves, the costs for removing power and mechanical facilities or for relocating residents, compensation for business operation losses, grants for the voluntary dismantling and removing, additive compensation, the relevant fees of the cadastre, social benefits, and the necessary fees for land preparation.

#### Article 47

If the authority in charge commissions the private institution to conduct operations relating to the zone/section expropriation according to Paragraph 2, Article 13 of the Act, the commission contract may state that the funds borne by the authority in charge for the development costs of the expropriation shall then be raised by the private institution.

The contract clause specified in the preceding paragraph shall state the total amount of the funds, interest accrued, interest rate, reimbursement period, and terms of installments, and may also state that if the authority in charge does not complete the disposition of the land suitable for construction acquired according to Subparagraph 3, Paragraph 2, Article 19 of the Act and thus the proceeds are not sufficient to repay the portion of the total development costs that should be borne by the authority in charge for the zone/section expropriation but have been paid by the private institution, the private institution shall, depending on the appraisal price for tender of each lot of land, take over the land suitable for construction but yet to be disposed of, provided, however, that the value of the land taken over by the private institution shall not exceed the deficit that the authority in charge shall pay the private institution.

#### Article 48

If the prohibited matters specified in Paragraph 1, Article 21 of the Act are to be executed by the central authority, the authority in charge shall, after defining the scope of the land in conjunction with the Ministry of the Interior and the local government and obtaining the approval of the Executive Yuan, notify the municipal governments or the county or city governments at the place where the land is located to make public announcement of the related items.

#### Article 49

Regarding the public announcement specified in Paragraph 1, Article 21 of the Act, the authority in charge should coordinate with the municipal governments or the county or city governments at the place where the land is located to make the public announcement before the concession agreement is signed.

#### Article 50

When the private institution enters or uses the government-owned and/or privately owned land or buildings before development begins in accordance with the proviso of Paragraph 1, Article 23 of the Act, the private institution shall apply for approval from the authority in charge in advance and give notice to the owner, the possessor, the user, or the administrator of the government-owned and/or privately owned land, provided, however, that if prior notice is not possible, the private institution may give notice afterwards.

#### Article 51

The private institution shall bear the expenses incurred from co-installation or co-construction if the infrastructure stated by Paragraph 1, Article 26 of the Act as required to be co-installed or co-constructed with a city road, highway, railroad, or other transportation system or public facility. If a city road, highway, railroad, or other transportation system or public facility belongs to a new construction or reconstruction project, the expenses incurred from the co-installation or co-construction may, through negotiation, be borne in proportion to the expenses as if each infrastructure is built separately.

#### Article 52

The self-financing ability specified in Paragraph 1, Article 29 of the Act and these Enforcement Rules shall mean the ratio of the total present value of each year's annual cash inflow during the estimated period of the private participation in the infrastructure project to the total present value of each year's annual cash outflow during the estimated period of the project.

#### Article 53

The cash inflow specified in the preceding Article shall mean the total amount of the infrastructure operation income, the ancillary businesses income, the income from the disposition of the assets and facilities and other relevant income.

The cash outflow specified in the preceding Article shall mean the total amount of all the construction costs of the infrastructure project, favorable rentals in connection with the lease of land and the creation of superficies according to Paragraph 1, Article 15 of the Act, income tax expenses, the operation costs and expenses of the infrastructure excluding depreciation and interests, the operation costs and expenses of the ancillary businesses excluding depreciation and interests, and the expenses of purchasing and upgrading assets and facilities.

Other relevant income specified in Paragraph 1 includes government-approved financial resources.

#### Article 54

When the authority in charge subsidizes the interest on the loan or grants subsidies for operating performance to the private institution according to Paragraph 1, Article 29 of the Act, the authority in charge shall state in the feasibility assessment report and the preliminary plan the evaluation on the self-financing ability of the private participation in the infrastructure project and the benefit of private participation so as to decide the means, limit, and adjustment mechanism of the subsidies. All items mentioned shall also be stated in the public announcement.

#### Article 55

The loan needed by the private institution, which the authority in charge subsidizes part of the interest accrued from such loan in accordance with Paragraph 1, Article 29 of the Act, shall be used only as medium/long-term

funds needed for the construction and operation of the infrastructure, but the loan needed for land purchasing shall be excluded.  
After paying the financial institution the interest on the loan, the private institution shall submit certificates of payment of the interest and statements for explaining the use of the loan to apply for interest subsidies from the authority in charge.

#### Article 56

In the case where the private institution does not use the loan wherein the interest is subsidized by the authority in charge in compliance with the preceding Article, the authority in charge shall cease to subsidize the part of loan interest in violation of such Article and shall demand that the private institution repay the subsidized interest paid by the authority in charge calculated from the date of non-compliance with the use of the loan, and pay the penalty.

The repayment method for the subsidized interest paid and the amount of penalty shall be specified in the concession agreement.

#### Article 57

The subsidies for operating performance granted by the authority in charge to the private institution according to Paragraph 1, Article 29 of the Act shall be based on the achievements of the construction and operation of the private participation in the infrastructure project as stipulated in the concession agreement.

#### Article 58

If the authority in charge terminates the concession agreement before the expiration of the operation period, the private institution's right to subsidies as stipulated in the Act shall be terminated upon the day of notification.

#### Article 59

The foreign financial institutions specified in Article 32 of the Act shall mean the institutions authorized by the competent authority of another country to conduct finance or loan businesses.

The documents issued by a foreign country and submitted by the institutions specified in the preceding paragraph shall be authenticated by any of Taiwan's embassies, representative offices, liaison offices, or other agencies authorized by the Ministry of Foreign Affairs.

#### Article 60

The direct contractor specified in Paragraph 1, Article 38 of the Act shall mean the one who directly contracts the major infrastructure project invested in by the private institution in compliance with the Act and executes the written contract with the private institution.

#### Article 61

When inviting the private participation by a public notice pursuant to Paragraph 1, Article 42 of the Act, the authority in charge may, depending on the character of the infrastructure project, prepare the information of private investment for the private investors or conduct an illustration meeting and prepare the contents of public notice and tender documents after consulting the private investors.

Under any of the following circumstances, the tender documents should be made available for public viewing before the first public announcement of inviting private participation:

1. Major infrastructure projects;
2. Conducted in accordance with Subparagraph 3, Paragraph 1, Article 8 of the Act;
3. Acquisition of public services with compensation in accordance with Article 9-1 of the Act; and
4. Others as deemed necessary by the authority in charge.

For the public viewing specified in the preceding paragraph, the authority in charge should place the documents in a designated place or publish them electronically on the information network of the authority in charge. The publication period shall be no less than 10 days.

#### Article 62

The tender documents specified in the preceding Article shall include the following items:

1. Public notice;
2. Application instruction;
3. Draft concession agreement, including the basic requirements for construction and operation; and
4. Appendices, including preliminary plan. However, if it is conducted in accordance with Paragraph 3, Article 6-1 of the Act, it is not necessary to include the preliminary plan.

Except being conducted pursuant to Paragraph 3, Article 45 and Article 54, the contents of the public notice specified in Subparagraph 1 of the preceding paragraph shall, based on the character of each infrastructure project, list the following matters:

1. The character, basic requirements, concession period and scope of the infrastructure project;
2. The qualification requirements for the applicant;
3. The items and standards of application review;
4. The date of announcement, the deadline for application, the application procedure, method and deadline for explanation of application, and collection and return of application deposit;
5. In the case of planning ancillary businesses, the scope for the ancillary businesses allowed for private investment and the concession period for the land needed;
6. The matters authorized or commissioned by the authority in charge in accordance with Paragraphs 2 and 3, Article 5 of the Act; and
7. Other.

Other than the matters executed in accordance with Article 33, the application instructions specified in Subparagraph 2 of Paragraph 1 shall state the following items:

1. The main content and format of the investment proposal;
2. The measures and schedule of application review;
3. The commitment and cooperation matters of the government; and
4. The deadline for contract negotiation and execution.

#### Article 63

If the authority in charge amends or appends items to the tender documents after inviting the private participation by a public notice, the authority in charge should also amend or append such items to the notice by the deadline of the application and extend the deadline of application, if necessary.

#### Article 64

The authority in charge shall publish the summary of public notice on the information network of the competent authority when announcing a public notice to invite the private participation pursuant to Paragraph 1, Article 42 of the Act.

When conducting the public notice to invite private participation specified in the preceding paragraph, the authority in charge shall set a reasonable application period between the date the public notice is announced and the deadline for the applicants to submit the application.

#### Article 65

When the applicant submits the letter of intent for financing issued by the financial institution pursuant to Article 43 of the Act and Article 7 of Regulations for Private Institution Applying To Participate in The Infrastructure Project under Its Own Planning, the authority in charge may, based on the infrastructure type and manner of private participation, ask the applicant to submit the financial institution's evaluation opinion to the investment proposal. The principal condition to continue the financing may be stated in the evaluation opinion.

#### Article 66

The authority in charge shall conduct contract negotiations in accordance with the tender documents, investment proposal, and results of the

comprehensive review of the public notice to invite private participation and sign the concession agreement with private intuitions based on the contract negotiation results.

The content of the contract negotiation shall not violate the tender documents, except in any of the following circumstances:

1. Miswriting, miscalculation, or other obvious errors in the tender documents;
2. The text or meaning in the tender documents is unclear;
3. The changes in circumstances other than those anticipated at the time of the announcement occur after the public notice of the tender documents is announced but before the concession agreement is signed, and it would be unfair to execute the concession agreement based on the original content of the tender documents.
4. The original tender documents do not comply with the public interest or fair and reasonable principles.
5. By mutual agreement of the Parties and conducive to the performance of the project.

#### Article 67

The authority in charge should set reasonable deadlines for contract negotiation and execution, depending on the character of the infrastructure project.

Unless under special circumstances, the deadlines for contract negotiation and execution specified in the preceding paragraph shall be no later than the timeframe set in the following clauses:

1. For contract negotiation: The period between the day the authority in charge notifies the best applicant to start contract negotiation and the day the negotiation is completed shall be no longer than twice the period of application, with a ceiling of six months; and
2. For contract execution: The period between the day the negotiation is completed and the day the contract is executed shall be limited to one month, with possible extension of another one month. However, the period before execution, specified in Paragraphs 1 and 2, Article 45 of the Act as preparation and correction time, shall be excluded.

The authority in charge is forbidden to delegate its subordinate entities or commission other entities (institutions) to conduct the determination of the special circumstances specified in the preceding Paragraph.

#### Article 68

The authority in charge shall review the application documents of the applicants in accordance with the conditions stipulated in the tender documents.

After selecting the best or the second-best applicant, the authority in charge shall not negotiate and/or execute the contract if any of the following behavior is found regarding the applicant:

1. Not following the requirements of the tender documents in filing the application;
2. Being involved in fraud, coercion, bribery, or submitting incorrect materials or incomplete statements on essential review items, thus affecting the due process of review;
3. Failing to submit corrections or to complete the contract negotiation process within the timeframe stated in the notice; and
4. Failing to finish preparation or contract execution before the given deadline.

#### Article 69

Where financing is needed for the private institution to participate in an infrastructure project specified in the Act, the authority in charge may, depending on necessity, require the private institution to submit the financing agreement within a certain time period after signing the concession agreement.

If the private institution fails to submit the financing agreement within a certain time period after signing the concession agreement, the authority in charge shall handle the matter pursuant to the concession agreement.

#### Article 70



The reasonable costs and expenses incurred for preparation for the application and in reliance on the selection results specified in Paragraph 3, Article 45 of the Act may include the following items:

1. The actual expenses incurred by the best applicant at the preparation for application stage before the selection; and
2. The actual expenses incurred by the best applicant at the contract negotiation stage before executing the contract.

#### Article 71

The authority in charge, depending on the demand of policy or referring to the concept planning proposed by the private institution, shall publish the public notice of policy for the private institution applying to participate in the available infrastructure projects under its own planning to invite private institutions to submit applications by their own planning as stipulated in Article 46 of the Act.

The summary of the public notice of policy specified in the preceding paragraph shall be published on the information network of the competent authority.

The contents of the public notice of policy specified in Paragraph 1 shall comply with Subparagraph 1, Paragraph 3 of Article 42 and shall, according to the nature of the infrastructure projects, specify the following matters:

1. The purpose of private participation in an infrastructure project and the needs for public services;
2. The basic information, if the authority in charge provides land and facilities for the projects;
3. The development items and methods of private institution;
4. The procedures for application and review;
5. The assistance from the authority in charge; and
6. Other public notices.

For the period of the public notice of policy specified in Paragraph 1, Paragraph 2 of Article 64 shall apply *mutatis mutandis*.

When the authority in charge handles cases in accordance with Article 46 of the Act, Paragraphs 2 and 3 of Article 61 shall apply *mutatis mutandis* after passing the preliminary review but before making a public announcement to invite applicants.

#### Article 72

For the private institution applying to participate in the infrastructure project under its own planning, which has been reviewed and selected by the authority in charge as the best applicant, the provisions of Articles 66 to 68 shall apply *mutatis mutandis* to the contract negotiation and execution as well as the decision of not entering into contract negotiation and execution.

#### Article 73

Where the concession agreement sets forth the formation of a coordination committee according to Article 48-1 of the Act, it shall specify its forming method and operation procedures.

The coordination committee in the preceding paragraph shall be formed within ninety (90) days from the day following the day the concession agreement is executed. It may be extended with the consent of the head of the competent authorities or its authorized personnel, if necessary. The execution of the extension period shall not be authorized or entrusted to its subordinate or other agencies (institutions).

#### Article 74

The operating assets and equipment obtained from the construction and operation by the private institution as specified in Paragraph 2, Article 51 of the Act shall mean the assets and equipment obtained from the construction and operation of the infrastructure projects essential for continuing operation of the infrastructure projects during the term of construction and operation.

The authority in charge may consent to the transfer, lease or creation of any encumbrance on the operating assets and equipment specified in the preceding Paragraph if any of the following provisions are met without

affecting the normal operation of the infrastructure projects:

1. The operating assets and equipment are not required to be transferred to the government according to the concession agreement; or
2. Where the operating assets and equipment are required to be transferred to the government after the operation period expires according to the concession agreement, the operating assets and equipment may be transferred before the date set for transfer, with the condition of not affecting the transfer upon expiration; the term of lease or any encumbrance is limited to the timeframe of the permitted operation period; there must be a plan or a fund to repay the debt when an encumbrance is created.

#### Article 75

The term "operation for an entire year" referred to in Paragraphs 1 and 2, Article 51-1 of the Act shall mean the fiscal years with operations for entire year during the operating period.

The authority in charge shall conduct the evaluation of operation performance in accordance with Paragraphs 1 and 2, Article 51-1 of the Act.

An evaluation committee shall be established to conduct the evaluation.

The content of the evaluation of the operation performance referred to in the preceding paragraph shall include a threat assessment on whether the software, hardware, personnel, and service content of the infrastructure projects involve national security and information security concerns.

The authority in charge shall notify the private institution in writing of the outcome of the evaluation of the operation performance, which shall be published on the information network of the authority in charge. The publication period shall be no less than 10 days.

#### Article 76

Before the authority in charge gives the private institution priority to enter into a contract in accordance with Paragraph 3, Article 51-1 of the Act, the authority in charge shall conduct a total assets examination according to Article 91 and both parties shall conduct planning and financial analysis for priority to enter into a contract and draft the terms and conditions for continuous performance to complete negotiation and execution of the contract.

For cases handled in accordance with Subparagraph 6, Paragraph 1, Article 8 of the Act, it is advisable to carefully evaluate the public welfare and necessity of the priority to enter into a contract.

#### Article 77

During the period when the authority in charge is conducting infrastructure projects in accordance with Article 9-1 of the Act, it shall submit relevant information, such as the project name, schedule, number of users or times, frequency of use, yield or capacity benefit, and expenditures of the infrastructure projects to the competent authority every year. The competent authority shall submit the information to the Legislative Yuan for recordation in accordance with the provisions of Article 51-2 of the Act.

#### Article 78

Serious delay in work schedule as specified in Paragraph 1, Article 52 and Paragraph 1, Article 53 of the Act shall mean failure to complete the construction within the time limit stipulated in the concession agreement; or the percentage of construction work falling behind a certain level as stipulated in the concession agreement. Major defects in quality of the construction work shall mean the construction work violates the law and regulations or the construction standards set in the concession agreement; or the institution agreed upon by both the authority in charge and the private institution determines that the construction work seriously impairs the quality of public construction. Poor operation shall mean the private institution violates the law and regulations or the concession agreement in aspects of public safety, service quality or relevant administration during the operation period, which will affect the operation and is a serious violation.

#### Article 79

When the authority in charge orders the private institution to make improvement within a given period in accordance with Subparagraph 1, Paragraph 1, Article 52 of the Act, the authority in charge shall notify the private institution of the following matters in writing:

1. The facts of specific defects;
2. The time limit for improving the defects;
3. The standard to be met after improvement; and
4. The consequences of failing to complete the improvement within the time limit.

The authority in charge shall set the time limit for improvement based on the seriousness of the defect's impact on public safety and the improvement ability of the private institution.

#### Article 80

The financial institution and the guarantor specified in Article 52 of the Act shall be limited to those whose relevant records have been submitted to the authority in charge for records by the private institution.

#### Article 81

If the private institution fails to improve defects within the time limit as specified in Subparagraph 2, Paragraph 1 of Article 79, the authority in charge shall notify the financial institution, the guarantor and the relevant government agencies of the following matters in writing:

1. The specific fact that the private institution has made no improvement within the time limit or that the improvement is ineffective;
2. The time limit for the financial institution or the guarantor to apply for the approval of the authority in charge to temporarily take over such infrastructure project to continue the construction or operation by itself or another institution designated by the financial institution or the guarantor;
3. The time limit for improvement during temporary take-over or operation continuance;
4. The items for continual improvement and the standards to be met; and
5. The consequences of failing to complete the improvement within the time limit.

#### Article 82

After the financial institution, the guarantor or other institution designated by them takes over in accordance with Article 52 of the Act and the authority in charge determines that the defect has been improved, the authority in charge shall notify the financial institution, the guarantor, or other designated institution to terminate the take-over in writing and specify the date of termination, unless the financial institution, the guarantor or other designated institution has held other arrangements consented to by the authority in charge.

The notice specified in the preceding paragraph shall be delivered to the private institution and relevant government agencies.

The financial institution, the guarantor or other institution designated by them may file an application to the authority in charge to terminate the take-over when a defect has been improved before the time limit.

#### Article 83

When the authority in charge suspends a part or all of the construction or the operation of the private institution in accordance with Subparagraph 2, Paragraph 1, Article 52 of the Act, the authority in charge shall notify the private institution of the following matters in writing:

1. The specific fact that the private institution has made no improvement within the time limit or that the improvement is ineffective;
2. The suspension date of the construction or operation;
3. The scope of the suspended construction or operation;
4. The items, the standard and time limit still requiring improvement after the suspension of the construction or operation; and
5. The consequences of failing to complete the improvement within the time limit.

The authority in charge may, depending on the defects in the construction and the relevancy to other construction and within the limitation of the

least influence on the total construction, quality and the progress, determine the scope of the construction to be suspended as specified in Subparagraph 3 of the preceding paragraph. The authority in charge may determine the scope of the business operation to be suspended based on the objective facts and within the necessary scope to improve the defects.

#### Article 84

When the authority in charge suspends a part or all of the construction or operation in accordance with Subparagraph 2, Paragraph 1, Article 52 of the Act, the authority in charge shall order the private institution to continue the construction or operation within the time limit in writing when the authority in charge determines that the defect has been improved. The private institution may apply for the continuance of the construction or operation when the defect has been improved before the time limit.

#### Article 85

Where the authority in charge terminates the concession agreement in accordance with Subparagraph 3, Paragraph 1, Article 52 of the Act, the authority in charge shall notify the private institution of the following matters in writing:

1. The specific facts of failure to improve defects or breach of contract;
2. The expression of the intent to terminate the concession agreement and the date of termination;
3. The expression of the intent to terminate the superficies or lease contract;
4. Reasons for termination;
5. Provisions of the concession agreement, superficies or lease contract surviving the termination;
6. The relevant matters regarding the proper actions or compulsory take-over of the operation of the project, of which the authority in charge proposes to take in accordance with Paragraph 2, Article 53 of the Act; and
7. Other matters needed for handling.

#### Article 86

When the events specified in Paragraph 1, Article 53 of the Act occur, the authority in charge shall notify the competent central authority of the relevant industries to take necessary action, or the competent central authority of the relevant industries may take necessary action at their own discretion.

Where the competent central authority of the relevant industries terminates a part or all of the construction or operation by private institution in accordance with Paragraph 1, Article 53 of the Act, the authority shall notify the private institution of the following matters in writing immediately:

1. The specific facts of the defect;
2. The termination date of the construction or operation; and
3. The scope of the construction or operation to be terminated.

The authority in charge shall notify the private institution in writing when taking proper actions or taking compulsory take-over of the operation in accordance with Paragraph 2, Article 53 of the Act.

After the events specified in Paragraph 1, Article 53 of the Act are remedied and the authority in charge determines that the defect has been improved, the authority in charge shall, following the approval of the competent central authority of the relevant industries, order the private institution to continue the construction or operation within a given period in writing, unless the proper actions adopted by the authority in charge or the relevant regulations governing measures set forth in Paragraph 2, Article 53 of the Act provided otherwise.

#### Article 87

The written notices as specified in Article 79 and the Articles from Article 83 to the preceding Article shall also be delivered to the financial institution, the guarantor and the relevant government agencies.

#### Article 88

For the subsidies obtained by the private institution according to the Act, the authority in charge shall suspend the subsidies within the period specified below if any of the following circumstances occurs:

1. When the authority in charge requires the private institution to make improvements within a given period in accordance with Subparagraph 1, Paragraph 1, Article 52 of the Act: From the date the improvement request is notified until the date the improvement is completed;
2. When the authority in charge suspends part or all of the construction or operations in accordance with Subparagraph 2, Paragraph 1, Article 52 of the Act: From the date the improvement request is notified as specified in the preceding Subparagraph until the specified time limit for the private institution to continue the construction or operations; and;
3. When the competent central authority of the relevant industries orders the private institution to cease part or all of the construction or operations in accordance with Paragraph 1, Article 53 of the Act: From the date it orders to cease until the time limit specified by the authority in charge for the private institution to continue the construction or operations.

For the circumstances specified in each subparagraph of the preceding paragraph, the authority in charge may, depending on the circumstances of improvement completed or the construction or operation continued by the private institution, repay the suspended subsidies.

The authority in charge shall notify the financial institution, the guarantor and the relevant government agencies when suspending the subsidies in accordance with Paragraph 1.

#### Article 89

If the authority in charge creates superficies to the private institution on the land needed for the infrastructure, the contract shall include the provision that the building ownership shall transfer to the government after the superficies expire. Meanwhile, on registering the superficies, the registration authority shall remark upon such provision in the miscellaneous column of the section of the registration of other rights in the Land Registration Archive.

After the infrastructure specified in the preceding paragraph is completed, the private institution shall also file such provision when conducting the initial registration for the ownership of the building and inform the registration authority of making the same remark in the miscellaneous column of the section of the registration of other rights in the Building Registration Archive.

#### Article 90

All the available operating assets as specified in Article 54 of the Act shall mean the following assets:

1. Those delivered by the authority in charge and must be returned;
2. Those recorded in the asset inventory and should be transferred; and
3. Others to be transferred under concession agreement.

Matters regarding the scope, condition of transfer upon expiration of the operation period, the method of determining the price and the method and timing of payment of all the available operation assets as specified in the preceding paragraph shall be specified in the concession agreement.

#### Article 91

Where a private institution is required to transfer the assets upon expiration of the operation period in accordance with Article 54 of the Act, the private institution shall conduct a total assets examination within a certain period of time before expiration of the operation period. The time period and the procedure, the cost allocation and the method of selection of the inspection institution of the total assets examination as specified in the preceding paragraph shall be specified in the concession agreement.

#### Article 92

When conducting the private participation in an infrastructure project, the authority in charge may retain specialized consultants in financing, construction, operation and law to assist in relevant matters.

Article 93

The laws referred to in Paragraphs 1 and 2, Article 55 of the Act shall mean the regulations and orders established in accordance with the laws on incentives for private investment or its authorization.

Article 94

These Enforcement Rules shall take effect from the date of promulgation.

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Data Source : Ministry of Finance, R.O.C. Laws and Regulations Retrieving System