

ACT ON THE CREDIT GUARANTEES FOR FARMERS AND FISHERMEN

Act No. 2277, Jan. 13, 1971

Amended by Act No. 2953, Dec. 31, 1976

Act No. 3298, Dec. 31, 1980

Act No. 4228, Apr. 7, 1990

Act No. 4788, Nov. 11, 1994

Act No. 4954, Aug. 4, 1995

Act No. 5454, Dec. 13, 1997

Act No. 5505, Jan. 13, 1998

Act No. 5744, Feb. 5, 1999

Act No. 6326, Dec. 30, 2000

Act No. 7311, Dec. 31, 2004

Act No. 8377, Apr. 11, 2007

Act No. 8852, Feb. 29, 2008

Act No. 8863, Feb. 29, 2008

Act No. 9457, Feb. 6, 2009

Act No. 9617, Apr. 1, 2009

Act No. 9621, Apr. 1, 2009

Act No. 10064, Mar. 12, 2010

Act No. 10303, May 17, 2010

Act No. 10522, Mar. 31, 2011

Act No. 10682, May 19, 2011

Act No. 10686, May 19, 2011

Article 1 (Purpose)

The purpose of this Act is to contribute to the balanced economic development of farming and fishing communities by providing credit guarantees for farmers and fishermen, etc. who do not have enough ability to provide security and by enabling them to secure financing for agricultural, forestry, and fishery industries.

[This Article Wholly Amended by Act No. 10064, Mar, 12, 2010]

Article 2 (Definitions)

(1) The term “farmers and/or fishermen, etc.” in this Act means any of the following persons: <Amended by Act No. 10686, May 19, 2011>

1. Farmers as prescribed by Articles 19 (1) and 105 (1) of the Agricultural Cooperatives Act;

2. Fishermen as prescribed by subparagraph 3 of Article 2 of the Fisheries Cooperatives Act;

3. Persons engaged in pelagic fishery under subparagraph 2 of Article 2 of the Ocean Industry Development Act, as prescribed by Presidential Decree;

4. Persons engaged in forestry as prescribed by subparagraph 10 of Article 2 of the Forestry Cooperatives Act;

5. Persons engaged in after sales service for agricultural machinery under Article 11 (2) of the Agricultural Mechanization Promotion Act;

6. Agricultural, forestry and fishery organizations as prescribed by Presidential Decree;

7. Distributors and processors of agricultural, forestry and fishery products as prescribed by Presidential Decree;

8. Small and medium enterprises as prescribed by Article 2 of the Framework Act on Small and Medium Enterprises (hereinafter referred to as “small and medium enterprises”), who export agricultural, forestry and fishery products or their processed products;

9. Small and medium enterprises manufacturing tools and materials necessary for the production related to the agricultural, forestry and fishery industries, as prescribed by Presidential Decree;

10. Salt manufacturers under subparagraph 10 of Article 2 of the Salt Management Act, as prescribed by Presidential Decree.

(2) The term “financial institutions” in this Act means any of the following entities: <Amended by Act No. 10303, May 17, 2010>

1. District agricultural cooperatives, district livestock industry cooperatives, cooperatives classified by item and by type of business and Nonghyup Bank established under the Agricultural Cooperatives Act;

2. Fisheries cooperatives classified by district and by type of business, fishery products processing fisheries cooperatives and the National Federation of Fisheries Cooperatives established under the Fisheries Cooperatives Act;

3. District forestry cooperatives, forestry cooperatives classified by item and

by type of business, and the National Federation of Forestry Cooperatives established under the Forestry Cooperatives Act;

4. Banks as prescribed by Article 2 (1) 2 of the Banking Act;

5. Persons engaging in the business of financing funds to farmers and fishermen, etc., as prescribed by Presidential Decree.

(3) The term “agricultural, forestry and fishery funds” in this Act means funds as prescribed by Presidential Decree out of the funds financed to farmers and fishermen, etc. by means of loans, benefits, etc. for the development of agriculture, forestry and fisheries, such as for the economic stability of farming and fishing households and the improvement of management of the agricultural, forestry and fishery industries.

[This Article Wholly Amended by Act No. 10064, Mar, 12, 2010]

Article 3 (Credit Guarantee Commission for Farmers and Fishermen)

(1) There is established a credit guarantee commission for farmers and fishermen (hereinafter referred to as the “Commission”) in the National Agricultural Cooperative Federation to deliberate on and determine important matters concerning credit guarantees under this Act.

(2) The Commission shall be comprised of the following 11 members:

1. A person designated by the Chief Executive Officer of the National Agricultural Cooperative Federation from among the executives under his/her control;

2. A person designated by the Financial Services Commission from among public officials under its control;

3. A person designated by the Minister for Food, Agriculture, Forestry and Fisheries from among public officials under his/her control;

4. A person designated by the Minister of Strategy and Finance from among public officials under his/her control;

5. A person designated by the Governor of the Bank of Korea from among executives under his/her control;

6. A person designated by the Chief Executive Officer of the National Federation of Fisheries Cooperatives from among executives under his/her control;

7. A person designated by the Chief Executive Officer of the National Forestry Cooperatives Federation from among executives under his/her control;

8. Four persons representing the agricultural, forestry and fishery industries.

(3) Members under paragraph (2) 8 shall be commissioned by the Financial Services Commission in consultation with the Minister for Food, Agriculture, Forestry and Fisheries from among four persons recommended by the Chief Executive Officer of the National Agricultural Cooperative Federation, two persons recommended by the Chief Executive Officer of the National Federation of Fisheries Cooperatives and two persons recommended by the Chief Executive Officer of the National Forestry Cooperatives Federation, whose term of office shall be two years.

(4) A member under paragraph (2) 1 shall take the chair of the Commission.

(5) Members under paragraph (2) 1 and 5 through 7 may have the staff of the relevant institutions attend the meetings on their behalf.

(6) Matters necessary for the operation of the Commission shall be prescribed by Presidential Decree.

[This Article Wholly Amended by Act No. 10064, Mar, 12, 2010]

Article 4 (Credit Guarantee Fund for Farmers and Fishermen)

(1) There is established a credit guarantee fund for farmers and fishermen (hereinafter referred to as the "Fund") in the National Agricultural Cooperative Federation to guarantee credit for farmers and fishermen, etc.

(2) The following funds shall be the financial resources of the Fund:

1. Contributions by the Government and local governments;
2. Contributions by the financial institutions;
3. Contributions by the agricultural, forestry and fishery organizations;
4. Net profit arising from the management and operation of the Fund.

(3) The scope of obligations which the Fund may guarantee shall be limited to the following ones which concern agricultural, forestry and fishery funds:

1. Monetary obligations owed to financial institutions as farmers or fishermen, etc. have taken out loans from the financial institutions;
2. Monetary obligations as prescribed by Presidential Decree among price payment obligations under contracts related to the business transactions by farmers or fishermen, etc.;
3. Other monetary obligations of farmers or fishermen, etc. as prescribed by Presidential Decree.

(4) Financial institutions shall contribute to the Fund sums of money according to the rate prescribed by Ordinance of the Prime Minister, within the extent not exceeding 5/1,000 per annum for the money loaned.

(5) The scope of financial institutions, the scope of loan proceeds, the method of and timing for contribution, and other matters necessary for contribution under paragraph (4) shall be prescribed by Ordinance of the Prime Minister.

[This Article Wholly Amended by Act No. 10064, Mar, 12, 2010]

Article 5 (Management Institution)

(1) The operation of the Fund and other business affairs concerning credit guarantees under this Act shall be done by the National Agricultural Cooperative Federation.

(2) The institution managing the credit business under paragraph (1) (hereinafter referred to as "management institution") shall manage the accounts of the Fund separately from other accounts of the institution.

[This Article Wholly Amended by Act No. 10064, Mar, 12, 2010]

Article 5-2 (Business Affairs of Management Institution)

The management institution shall conduct the following business affairs:

1. Management of the Fund;
2. Credit guarantees;
3. Credit survey related to the business affairs under subparagraph 2;
4. Exercise of the right to indemnity related to the business affairs under subparagraph 2;
5. Investigation of and research on the credit guarantee system;
6. Business affairs approved by the Financial Services Commission as incidental to the business affairs under subparagraphs 1 through 5.

[This Article Wholly Amended by Act No. 10064, Mar, 12, 2010]

Article 5-3 (Confidentiality)

A person who has served or who currently serves as an executive or employee of the management institution shall keep confidentiality of the information acquired in the course of performing his/her duties.

[This Article Wholly Amended by Act No. 10064, Mar, 12, 2010]

Article 6 (Accounting of Fund)

(1) The fiscal year of the Fund shall coincide with the fiscal year of the Government.

(2) The management institution shall make up the budget with the total revenue and total expenditure of the Fund for each fiscal year and submit it to the Commission for resolution one month prior to the commencement of

the relevant fiscal year and shall go through a resolution of the Commission in advance whenever the budget is added to or modified.

(3) The management institution shall prepare a statement of accounts, balance sheet and profit and loss statement concerning the Fund within two months after the end of each business year and submit them to the Financial Services Commission subject to the resolution of the Commission, and make a public announcement of the balance sheet without delay.

(4) Where a loss in the settlement of accounts of the Fund exceeds the funds as provided in Article 4 (2), the Government may indemnify the loss as stipulated by the budget.

[This Article Wholly Amended by Act No. 10064, Mar, 12, 2010]

Article 7 (Use of Fund)

(1) The Fund shall not be used for any purpose other than for the performance of the relevant guarantee obligation and the covering of the expenses necessary for the operation of the Fund.

(2) The surplus of the Fund shall be managed by the following ways: Provided, That in cases under subparagraph 4 or 5, approval from the Financial Services Commission shall be obtained:

1. Deposit in the management institution and the financial institutions which have contributed to the Fund;
2. Purchase of national bonds, local government bonds, and the bonds for which payment guarantee is provided by the Government;
3. Purchase of bonds issued or guaranteed for payment by financial institutions as prescribed by Presidential Decree;
4. Acquisition or purchase of stocks (including investment certificates), corporate bonds or other securities;
5. Other ways necessary to achieve the purposes of raising the Fund.

[This Article Wholly Amended by Act No. 10064, Mar, 12, 2010]

Article 8 (Guaranty Relationship on Monetary Obligations Related to Loans of Financial Institutions)

(1) The management institution shall enter into a contract with a financial institution for the guarantee of obligations owed by farmers or fishermen, etc. under Article 4 (3) 1 by the Fund.

(2) Guaranty relationship between the management institution and a financial institution shall be materialized when the management institution has received

an application for credit guarantee from the farmers or fishermen, etc. and, after examination thereof, has notified the financial institution which has entered into a contract as prescribed by paragraph (1) of the credit guarantee: Provided, That the guaranty relationship shall be deemed to come into effect when the financial institution concerned pays the loan proceeds.

(3) Deleted. <by Act No. 10522, Mar, 31, 2011>

(4) The management institution shall, when it intends to enter into a contract under paragraph (1), submit it for deliberation to the Commission in advance. The same shall also apply to any amendment to the terms of such contract.

(5) Where a financial institution has appropriated loan proceeds under the guarantee by the management institution for the collection of other claims on the farmers or fishermen, etc., the guaranty relationship with respect to the relevant appropriated amount of money shall be deemed to expire: Provided, that the same shall not apply to the loan proceeds approved in advance by the management institution following the resolution of the Commission.

[This Article Wholly Amended by Act No. 10064, Mar, 12, 2010]

Article 8-2 (Guaranty Relationship on other Monetary Obligations)

(1) The management institution shall, when it has determined to guarantee obligations owed by farmers or fishermen, etc. under Article 4 (3) 2 and 3 by the Fund, notify the farmers or fishermen, etc. and the persons who are to be creditors of such farmers or fishermen, etc.

(2) The guaranty relationship between the management institution and the creditors of farmers or fishermen, etc. shall be materialized for the obligations notified under paragraph (1): Provided, That the guaranty relationship shall be deemed to come into effect when the principal credit and obligation relationship has been materialized between the relevant farmers or fishermen, etc. and their creditors.

[This Article Wholly Amended by Act No. 10064, Mar, 12, 2010]

Article 9 (Duty to Notify)

The creditor of an obligation guaranteed by the Fund shall, when the principal credit and obligation relationship has been materialized or the whole or part of the credit has been extinguished, notify the management institution thereof without delay. The same shall also apply when the relevant obligor is subject to an acceleration clause.

[This Article Wholly Amended by Act No. 10064, Mar, 12, 2010]

Article 10 (Limit on Guarantees)

(1) The limit on the total amount of credit guarantee to be provided by the management institution shall be prescribed by Presidential Decree within the extent not exceeding 20 times the amount of the Fund.

(2) The management institution shall cause 80/100 or more of the total amount of guarantee to be provided for farmers and fishermen under Article 2 (1) 1, 2, 3 (excluding corporations) and 4.

(3) The limit on guarantees to be provided by the management institution for farmers and fishermen, etc. shall be determined by a resolution of the Commission.

[This Article Wholly Amended by Act No. 10064, Mar, 12, 2010]

Article 10-2 (Entrustment of Business Affairs)

(1) The management institution may entrust part of its business affairs to a financial institution, the Korea Asset Management Corporation under the Act on the Efficient Disposal of Non-Performing Assets, etc. of Financial Companies and the Establishment of Korea Asset Management Corporation, or a credit information company under the Use and Protection of Credit Information Act (hereinafter referred to as "credit information company"): Provided, That the scope of business affairs entrustable to a credit information company shall be limited to those permitted under the Use and Protection of Credit Information Act. <Amended by Act No. 10682, May 19, 2011>

(2) Any person who has been entrusted with the business affairs under paragraph (1) may conduct all judicial or non-judicial acts concerning the business affairs concerned for and on behalf of the management institution: Provided, That in the case of a credit information company, such shall be limited to non-judicial acts.

[This Article Wholly Amended by Act No. 10064, Mar, 12, 2010]

Article 11 (Guarantee Fees)

The management institution may receive guarantee fees as prescribed by Presidential Decree from the farmers or fishermen, etc. who are provided guarantees in view of the credit rating and the operational status of the Fund, etc.

[This Article Wholly Amended by Act No. 10064, Mar, 12, 2010]

Article 11-2 (Penalty for Breach of Contract)

When the liability for performance of guaranteed obligations has not been released because the farmers or fishermen, etc. who have received such credit guarantees fail to perform the relevant obligations by the due date, the management institution may collect penalty for breach of contract from the relevant farmers or fishermen, etc. for the unpaid amount of money of the guaranteed obligations, as prescribed by Presidential Decree.

[This Article Wholly Amended by Act No. 10064, Mar, 12, 2010]

Article 12 (Performance of Guaranteed Obligations)

(1) The creditor of an obligation guaranteed by the Fund may, when the irrevocable debt of the relevant credit has been confirmed as prescribed by Presidential Decree, claim for the performance of the guaranteed obligation to the management institution.

(2) The management institution shall, when a claim has been filed for the performance of a guaranteed obligation under paragraph (1), pay the relevant amount of irrevocable debt and the amount of obligation incidental thereto out of the Fund.

[This Article Wholly Amended by Act No. 10064, Mar, 12, 2010]

Article 13 (Exercise of Right to Reimbursement)

(1) When the management institution has performed a guaranteed obligation, the relevant creditor shall, without delay, send the management institution all documents necessary for the exercise of the management institution's right to reimbursement and cooperate positively with its exercise of the right to reimbursement.

(2) When the farmers or fishermen, etc., for whom the management institution has subrogated fall under any of the following subparagraphs, the management institution may postpone its exercise of right to reimbursement against such farmers or fishermen, etc.:

1. Where it is deemed that no property of the farmers or fishermen, etc. is likely to remain after the appropriation for expenses incurred in the exercise of the right to reimbursement:

2. Where it is deemed that the ability to repay debts of the farmers or fishermen, etc. is likely to increase in the future by delaying the exercise of the right to reimbursement.

[[This Article Wholly Amended by Act No. 10064, Mar, 12, 2010]

Article 13-2 (Damages)

The management institution may, when it has performed a guaranteed obligation, collect damages according to the rate not exceeding 20/100 per annum, for the amount of money so paid, from the relevant farmers or fishermen, etc.

[This Article Wholly Amended by Act No. 10064, Mar, 12, 2010]

Article 13-3 (Request for Provision of Materials)

(1) The management institution may request for the provision of materials necessary for performing duties under subparagraph 3 or 4 of Article 5-2 to the State, local governments, the National Pension Service under the National Pension Act, the National Health Insurance Corporation under the National Health Insurance Act, the Korea Workers' Compensation and Welfare Service under the Industrial Accident Compensation Insurance Act, or other public agencies prescribed by Presidential Decree.

(2) A person that has been requested to provide materials under paragraph (1) shall comply with such request absent any special reason to the contrary.

[This Article Wholly Amended by Act No. 10064, Mar, 12, 2010]

Article 14 (Supervision)

(1) The Financial Services Commission may supervise the management institution concerning the business affairs under this Act and may issue orders for supervision purposes.

(2) When the Financial Services Commission deems it necessary for supervision, it may request the management institution, a financial institution entrusted by the management institution with the relevant business affairs (hereafter referred to as "trustee" in this paragraph) or a financial institution contributing money to the Fund to submit a report or may have public officials under its jurisdiction examine overall business, books, documents or other necessary materials of such institution: Provided, That such supervision is limited to the entrusted affairs for a trustee, and to matters related to contribution for a contributing financial institution.

(3) Each public official who examines under paragraph (2) shall carry a certificate indicating his/her authority and present it to interested parties.

(4) The Financial Services Commission may entrust the Governor of the Financial Supervisory Service with the examination under paragraph (2).

[This Article Wholly Amended by Act No. 10064, Mar, 12, 2010]

Article 14-2 (Penal Provisions)

Any person who discloses confidential information in violation of Article 5-3 shall be punished by imprisonment with prison labor not exceeding two years or by a fine not exceeding ten million won.

[This Article Wholly Amended by Act No. 10064, Mar, 12, 2010]

Article 15 Deleted. <by Act No. 10064, Mar, 12, 2010>

ADDENDUM

This Act shall enter into force on the date of its promulgation.

ADDENDA <Act No. 2953, Dec. 31, 1976>

(1) (Enforcement Date) This Act shall enter into force one month after the date of its promulgation.

(2) (Contribution Period of Financial Institution) Contribution by a financial institution under Article 4 (3) shall be made from the date of enforcement of this Act to December 31, 1985. <Amended by Act No. 3298, Dec. 31, 1980>

ADDENDUM <Act No. 3298, Dec. 31, 1980>

This Act shall enter into force on January 1, 1981.

ADDENDA <Act No. 4228, Apr. 7, 1990>

Article 1 (Enforcement Date)

This Act shall enter into force on the date of its promulgation. (Proviso Omitted.)

Articles 2 through 7 Omitted.

ADDENDA <Act No. 4788, Nov. 11, 1994>

Article 1 (Enforcement Date)

This Act shall enter into force six months after the date of its promulgation.

Articles 2 through 5 Omitted.

ADDENDA <Act No. 4954, Aug. 4, 1995>

(1) (Enforcement Date) This Act shall enter into force on the date of its promulgation.

(2) Deleted. <by Act No. 6326, Dec. 30, 2000>

ADDENDUM <Act No. 5454, Dec. 13, 1997>

This Act shall enter into force on January 1, 1998. (Proviso Omitted.)

ADDENDA <Act No. 5505, Jan. 13, 1998>

(1) (Enforcement Date) This Act shall enter into force on April 1, 1998. (Proviso Omitted.)

(2) (Transitional Measures concerning Disposal, etc.) Authorizations granted and other acts conducted by an administrative agency, etc. or various reports and other acts conducted in relation to the administrative agency, etc. under the former provisions at the time this Act enters into force, shall be deemed acts conducted by or towards the administrative agency, etc. under this Act.

(3) through (5) Omitted.

ADDENDA <Act No. 5744, Feb. 5, 1999>

(1) (Enforcement Date) This Act shall enter into force three months after the date of its promulgation.

(2) (Applicability concerning Guarantee Fees) The amended provisions of Article 11 shall apply to the guarantee fees the due date of which falls on or after the enforcement date of this Act.

ADDENDUM <Act No. 6326, Dec. 30, 2000>

This Act shall enter into force on the date of its promulgation.

ADDENDA <Act No. 7311, Dec. 31, 2004>

Article 1 (Enforcement Date)

This Act shall enter into force six months after the date of its promulgation. (Latter Sentence Omitted.)

Articles 2 through 16 Omitted.

ADDENDA <Act No. 8377, Apr. 11, 2007>

Article 1 (Enforcement Date)

This Act shall enter into force on the date of its promulgation. (Proviso Omitted.)

Articles 2 through 16 Omitted.

ADDENDA <Act No. 8852, Feb. 29, 2008>

Article 1 (Enforcement Date)

This Act shall enter into force on the date of its promulgation. (Proviso Omitted.)

Articles 2 through 7 Omitted.

ADDENDA <Act No. 8863, Feb. 29, 2008>

Article 1 (Enforcement Date)

This Act shall enter into force on the date of its promulgation.

Articles 2 through 5 Omitted.

ADDENDUM <Act No. 9457, Feb. 6, 2009>

This Act shall enter into force on the date of its promulgation.

ADDENDA <Act No. 9617, Apr. 1, 2009>

Article 1 (Enforcement Date)

This Act shall enter into force six months after the date of its promulgation.

Articles 2 through 13 Omitted.

ADDENDA <Act No. 9621, Apr. 1, 2009>

Article 1 (Enforcement Date)

This Act shall enter into force six months after the date of its promulgation. (Proviso Omitted.)

Articles 2 through 4 Omitted.

ADDENDUM <Act No. 10064, Mar, 12, 2010>

This Act shall enter into force on the date of its promulgation.

ADDENDA <Act No. 10303, May 17, 2010>

Article 1 (Enforcement Date)

This Act shall enter into force six months after the date of its promulgation. (Proviso Omitted.)

Articles 2 through 10 Omitted.

ADDENDA <Act No. 10522, Mar. 31, 2011>

Article 1 (Enforcement Date)

This Act shall enter into force on March 2, 2012. (Proviso Omitted.)

Articles 2 through 28 Omitted.

ADDENDA <Act No. 10682, May 19, 2011>

Article 1 (Enforcement Date)

This Act shall enter into force on the date of its promulgation.

Articles 2 through 3 Omitted.

ADDENDUM <Act No. 10686, May 19, 2011>

This Act shall enter into force three months after the date of its promulgation.