

ENFORCEMENT DECREE OF ACT ON THE CREDIT GUARANTEE FOR FARMERS AND FISHERMEN

Presidential Decree No. 5638, May 15, 1971
Amended by Presidential Decree No. 6848, Sep. 8, 1973
Presidential Decree No. 8477, Mar. 8, 1977
Presidential Decree No. 10330, Jun. 5, 1981
Presidential Decree No. 13157, Nov. 8, 1990
Presidential Decree No. 13656, Jun. 1, 1992
Presidential Decree No. 14438, Dec. 23, 1994
Presidential Decree No. 14669, June 17, 1995
Presidential Decree No. 14830, Dec. 14, 1995
Presidential Decree No. 15135, Aug. 8, 1996
Presidential Decree No. 16368, May 27, 1999
Presidential Decree No. 16646, Dec. 28, 1999
Presidential Decree No. 17312, Jul. 24, 2001
Presidential Decree No. 20653, Feb. 29, 2008
Presidential Decree No. 20854, June 20, 2008
Presidential Decree No. 21484, May 6, 2009
Presidential Decree No. 21774, Oct. 8, 2009
Presidential Decree No. 21847, Nov. 26, 2009
Presidential Decree No. 22493, Nov. 15, 2010
Presidential Decree No. 23088, Aug. 19, 2011

Article 1 (Purpose)

The purpose of this Decree is to prescribe such matters as delegated by the the Act on the Credit Guarantee for Farmers and Fishermen and those necessary for its enforcement. <Amended by Presidential Decree No. 21484, May 6, 2009>

[This Article Wholly Amended by Presidential Decree No. 23088, Aug 19, 2011]

Article 2 (Extent of Agricultural, Forestry and Fishery Enterprisers, etc.)

(1) The term “persons prescribed by Presidential Decree as persons who run the pelagic fisheries” in Article 2 (1) 3 of the Act on the Credit Guarantee for Farmers and Fishermen (hereinafter referred to as the "Act") means persons who carry on pelagic fisheries and the number of whose regular employees is not exceeding 150 persons. <Amended by Presidential Decree No. 23088, Aug. 19, 2011>

(2) The term “persons prescribed by Presidential Decree as agricultural, forestry and fishery organizations” in Article 2 (1) 7 of the Act means persons who fall under any of the following subparagraphs: <Amended by Presidential Decree No. 17312, July 24, 2001; Presidential Decree No. 20653, Feb. 29, 2008; Presidential Decree No. 20854, June 20, 2008; Presidential Decree No. 21484, May 6, 2009; Presidential Decree No. 21774, Oct. 8, 2009; Presidential Decree No. 23088, Aug. 19, 2011>

1. Cooperatives and the National Federation under the Agricultural Cooperatives Act;

2. Fisheries cooperatives under the Fisheries Cooperatives Act;

3. Cooperatives and the National Federation under the Forestry Cooperatives Act;

4. Cooperatives and the National Federation under the Tobacco Producers Cooperatives Act;

5. Farming association corporations and agricultural corporations under the Act on Fostering and Supporting Agricultural and Fisheries Enterprises;

6. Fishery association corporations and fisheries corporation under the Act on Fostering and Supporting Agricultural and Fisheries Enterprises;

7. Corporations, the number of regular employees of which are 150 persons or fewer;

8. The agricultural, forestry and fishery products producers' organizations a majority of which the rights to vote on resolutions are possessed by persons under Article 2 (1) 1, 2 or 4 of the Act;

9. Other organizations as determined and publicly announced by the Financial Services Commission in consultation with the Minister for Food, Agriculture, Forestry and Fisheries as organizations contributing to the development of the agriculture, forestry and fisheries.

(3) The term “persons prescribed by Presidential Decree as distributors and

processors of the agricultural, forestry and fishery products” in Article 2 (1) 7 of the Act means persons who fall under any of the following subparagraphs among persons conducting the business of distributing and processing the agricultural, forestry and fishery products: <Amended by Presidential Decree No. 17312, July 24, 2001; Presidential Decree No. 20653, Feb. 29, 2008; Presidential Decree No. 21847, Nov. 26, 2009; Presidential Decree No. 23088, Aug. 19, 2011>

1. Persons falling under any of Article 2 (1) 1 through 4 of the Act: Provided, That corporations are excluded;

2. Distribution and processing organizations of the agricultural, forestry and fishery products a majority of which the right to vote on resolutions is possessed by persons as prescribed by subparagraph 1;

3. Persons conducting agricultural, forestry and fishery products processing businesses as small and medium enterprises (referred to as the small and medium enterprises under Article 2 of the Framework Act on Small and Medium Enterprises; hereinafter the same shall apply) located in the area of agricultural and fishing villages or the area of quasi-agricultural and fishing villages under subparagraph 3 of Article 3 or Article 61 of the Framework Act on Agriculture, Fisheries, Rural Community and Food Industry;

4. Other persons designated by the Financial Services Commission in consultation with the Minister for Food, Agriculture, Forestry and Fisheries deemed necessary for strengthening the competitiveness of the agriculture, forestry and fishery.

(4) The term “persons prescribed by Presidential Decree as small and medium enterprises manufacturing the machinery and materials necessary for the production of agriculture, forestry and fisheries” in Article 2 (1) 9 of the Act means persons manufacturing the machinery and materials under any of the following subparagraphs: <Amended by Presidential Decree No. 23088, Aug. 19, 2011>

1. Machinery and materials necessary for the agriculture and forestry, such as fertilizers, agricultural chemicals, agricultural machinery, feeds and construction materials; and

2. Machinery and materials necessary for the fisheries, such as fishing boats and fishing tackle.

(5) The term "salt manufacturers, as prescribed by Presidential Decree" under

Article 2 (1) 10 of the Act means persons falling under any of the following subparagraphs. <Newly Inserted by Presidential Decree No. 23088, Aug. 19, 2011>

1. Persons who manufacture solar salt under subparagraph 10 (a) of Article 2;

2. Salt manufacturers under subparagraph 10 of Article 2, as deemed necessary to strengthen competitiveness of the salt industry, and designated, by the Financial Services Commission in consultation with the Minister for Food, Agriculture, Forestry and Fisheries.

(6) The term "persons, as prescribed by Presidential Decree" under Article 2 (2) 5 of the Act means the Agricultural and Fishery Marketing Corporation incorporated under the Agricultural and Fishery Marketing Corporation Act. <Amended by Presidential Decree No. 17312, July 24, 2001; Presidential Decree No. 21484, May 6, 2009; Presidential Decree No. 23088, Aug. 19, 2011>

[This Article Wholly Amended by Presidential Decree No. 16368, May 27, 1999]

Article 2-2 Deleted. <by Presidential Decree No. 16368, May 27, 1999>

Article 3 (Agricultural, Forestry and Fishery Fund)

The term "funds as prescribed by Presidential Decree" means funds falling under the following subparagraphs shall as as follows: <Amended by Presidential Decree No. 17312, July 24, 2001>

1. The funds necessary for agricultural development, such as farming funds, funds for planting and growing of fruit trees, etc., stock farming funds, and sericultural funds, etc. financed to the persons under Article 2 (1) 1 of the Act;

2. The funds necessary for fisheries development, such as the fisheries funds and fishing boat building funds, etc. financed to the persons under Article 2 (1) 2 of the Act;

3. The funds necessary for pelagic fisheries financed to the persons under Article 2 (1) 3 of the Act;

4. The funds necessary for the forestry development such as the forestation fund and the nursery garden installation fund, etc. financed to the persons under Article 2 (1) 4 of the Act;

5. The funds necessary for the installation of the agricultural machinery after

service facilities or for securing the parts for after-servicing of the agricultural machinery financed to the persons under Article 2 (1) 5 of the Act;

6. The funds necessary for the attainment of the purposes for establishment of the relevant organization as the fund financed to the persons under Article 2 (1) 6 of the Act;

7. The funds necessary for the distribution and processing of agricultural, forestry and fishery products financed to the persons under Article 2 (1) 7 of the Act;

8. The funds necessary for the export of the agricultural, forestry and fishery products and their processed products financed to the persons under Article 2 (1) 8 of the Act;

9. The funds necessary for manufacturing the machinery and materials for the agricultural, forestry and fishery products financed to the persons under Article 2 (1) 9 of the Act; and

10. The funds necessary for manufacturing salt financed to the persons under Article 2 (1) 10 of the Act.

11. Deleted. <by Presidential Decree No. 23088, Aug. 19, 2011>

[This Article Wholly Amended by Presidential Decree No. 23088, Aug. 19, 2011]

Article 4 (Members who are Representatives of Agricultural, Forestry and Fishery Business Circles)

(1) When the term of office of a member under the provisions of Article 3 (2) 8 of the Act expires, the Financial Services Commission shall commission a successor at the latest 20 days prior to the expiration of such term of office <Amended by Presidential Decree No. 17312, July 24, 2001; Presidential Decree No. 23088, Aug. 19, 2011>

(2) The initial date in reckoning the term of office of a successor commissioned under the provisions of paragraph (1) shall be day after the date when the term of office of a predecessor expires. <Amended by Presidential Decree No. 8477, Mar. 8, 1977>

Article 5 (Calling of Council, etc.)

(1) Meetings of the credit guarantee council for the agricultural, forestry and fishery enterprisers (hereinafter referred to as the "Council") under the provisions of Article 3 (1) of the Act shall be called by the head of the management institution (hereinafter referred to as the "management

institution”) as prescribed by Article 5 (2) of the Act as needed by him/her or at the request of a majority of the incumbent members of the Council <Amended by Presidential Decree No. 17312, July 24, 2001>

(2) When the chairperson of the Council is unable to perform his/her duties due to unavoidable reasons, the staff attending on behalf of the chairperson under the provisions of Article 3 (5) of the Act shall act on behalf of the chairperson <Amended by Presidential Decree No. 17312, July 24, 2001>

Article 6 (Bills)

(1) The head of the management institution shall draw up Bills of the Council.

(2) The head of the management institution shall notify the members of Bills under paragraph (1) three days prior to the opening of a meeting: Provided, That this shall be exempted in cases of emergency. <Amended by Presidential Decree No. 8477, Mar. 8, 1977>

Article 7 (Ways of Passing Resolution)

Meetings of the Council shall open with the attendance of a majority of the incumbent members and shall pass resolution with the approval of a majority of the attending members. <Amended by Presidential Decree No. 16368, May, 27, 1999>

Article 8 (Statements of Opinion)

(1) Executives and employees of the management institution may attend meetings of the Council to state their opinions.

(2) The Council may, if necessary, invite related persons to hear their opinions.

Article 9 (Restrictions on Participation in Meetings)

No member of the Council may participate in the deliberation of any Bill in which the member himself/herself, his/her spouse, an organization to which the member himself/herself or his/her spouse belongs, or a person in a relationship of within the four degrees of sanguinity or a person in a matrimonial relation within the two degrees, in which the member himself/herself is directly interested.

Article 9-2 (Monetary Obligations Related to Business Transactions)

The term “monetary obligation prescribed by Presidential Decree” in Article 4

(3) 2 of the Act means the monetary obligations for which agricultural, forestry and fishery enterprisers, etc. (hereinafter referred to as the “agricultural, forestry and fishery enterprisers, etc.”) under Article 2 (1) of the

Act shall be held responsible for their conduct of the business transactions with persons falling under any of the following subparagraphs: <Amended by Presidential Decree No. 17312, July 24, 2001; Presidential Decree No. 23088, Aug. 19, 2011>

1. Persons falling under any of Article 2 (2) 1 through 3 of the Act; and
2. Other persons separately designated by the Council deemed necessary for the development of agriculture, forestry and fisheries and having the public trust.

[This Article Newly Inserted by Presidential Decree No. 16368, May 27, 1999]
Article 9-3 (Operation of Surplus Funds)

The term “financial institutions prescribed by Presidential Decree” in Article 7 (2) 3 of the Act means the financial institutions of the following subparagraphs: <Amended by Presidential Decree No. 21484, May 6, 2009; Presidential Decree No. 22493, Nov. 15, 2010; Presidential Decree No. 23088, Aug. 19, 2011>

1. Banks under the Banking Act;
2. The Bank of Korea established under the Bank of Korea Act;
3. The Korea Development Bank established under the Korea Development Bank Act;
4. The Export-Import Bank of Korea established under the Export-Import Bank of Korea Act; and
5. The Industrial Bank of Korea established under the Industrial Bank of Korea Act.

[This Article Newly Inserted by Presidential Decree No. 16368, May 27, 1999]
Article 10 (Applications for Credit Guarantees)

(1) Any person who intends to apply for a credit guarantee under Article 8 (2) of the Act shall submit an application to the management institution through the financial institution from which he/she intends to obtain the loan.

(2) Any person who intends to obtain a credit guarantee under the provisions of Article 8 (2) of the Act shall submit an application for credit guarantee to the management institution: Provided, That in cases where a person who will be the creditor is a financial institution, an applicant shall submit the application through the financial institution. <Amended by Presidential Decree No. 16368, May 27, 1999>

Article 11 (Credit Guarantee)

In cases where the management institution which has received the application for a credit guarantee under the provisions of Article 10 guarantees the credit of the agricultural, forestry and fishery enterprisers, etc., it shall issue the credit guarantee to the person to be the relevant creditor. <Amended by Presidential Decree No. 8477, Mar. 8, 1977; Presidential Decree No. 16368, May 27, 1999>

Article 11-2 (Limit of Guarantee)

The limit on the total credit guarantee amount under the provisions of Article 10 (1) of the Act shall be 20 times that of the Fund. <Amended by Presidential Decree No. 17312, July 24, 2001>

[This Article Newly Inserted by Presidential Decree No. 14830, Dec. 14, 1995]

Article 11-3 (Entrustment of Business)

(1) When the management institution entrusts the business under Article 10-2 of the Act, it shall do so according to the classification of the following subparagraphs: <Amended by Presidential Decree No. 21484, May 6, 2009; Presidential Decree No. 23088, Aug. 19, 2011>

1. Financial institutions : Businesses of subparagraphs 2 through 4 and 6 (limited to business incidental to the businesses as prescribed in subparagraphs 2 through 4 of the same Article) of Article 5-2 of the Act; and

2. 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: Businesses of subparagraphs 4 and 6 (limited to business incidental to the business of subparagraph 4 of the same Article) of Article 5-2 of the Act.

(2) When the management institution has entrusted the business under the provisions of paragraph (1), it shall notify the Financial Services Commission thereof. <Amended by Presidential Decree No. 20653, Feb. 29, 2008>

[This Article Newly Inserted by Presidential Decree No. 17312, July 24, 2001]

Article 12 (Fees for Guarantees)

(1) The fees for guarantee which the management institution receives under the provisions of Article 11 of the Act shall be an amount of money computed by multiplying the amount guaranteed by the rate of the fees for guaranty.

(2) When the management institution receives the fees for guarantee under

the provisions of paragraph (1), it may apply the differential rate to the fees for guaranty taking the following matters into consideration:

1. Credit rating of person subject to the guarantee;
2. Scale of the amount credit;
3. Credit period; and
4. Operation circumstances of the Fund

(3) Detailed matters necessary for the collection of fees for guarantee under the provisions of paragraphs (1) and (2) shall be determined through resolutions of the Council.

[This Article Newly Inserted by Presidential Decree No. 16368, May. 27, 1999]
Article 13 (Penalties for Breach of Contracts)

(1) The penalties for breach of contract which the management institution collects under the provisions of Article 11-2 of the Act shall be the amount of money computed by multiplying the unfulfilled amount of the guaranteed obligation by the rate not exceeding two percent per annum.

(2) The provisions of Article 12 (2) and (3) shall apply mutatis mutandis to the collection of penalties for breach of contract under the provisions of paragraph (1).

[This Article Wholly Amended by Presidential Decree No. 16368, May 27, 1999]

Article 14 (Claims for Fulfillment of Guaranteed Obligations)

(1) The irrevocable debt of the credit amount under the provisions of Article 12 of the Act shall be settled by the irrevocable debt judgement of the Council: Provided, That in cases where the amount of the irrevocable debt judgement is within the amount determined in advance by the Council, it may be settled by the irrevocable debt judgement of the head of the management institution. <Amended by Presidential Decree No. 16368, May 27, 1999>

(2) A creditor who intends to obtain the irrevocable debt judgement of paragraph (1) shall submit to the management institution an application for irrevocable debt judgement, attaching the documentary evidence necessary for settlement of such irrevocable debt. <Amended by Presidential Decree No. 16368, May. 27, 1999>

(3) When the management institution has received an application of paragraph (2), except for cases falling under the proviso to paragraph (1), it shall refer the irrevocable debt judgement to the Council with its opinion without delay.

(4) The management institution shall notify the creditor concerned of the result of the judgement under the provisions of paragraph (1). <Amended by Presidential Decree No. 16368, May. 27, 1999>

(5) When the creditor intends to claim the fulfillment of the guaranteed obligation under the Article 12 of the Act, it shall submit a claim to the management institution for fulfillment of the guaranteed obligation. <Amended by Presidential Decree No. 16368, May 27, 1999>

[This Article Wholly Amended by Presidential Decree No. 14669, June 17, 1995]

Article 15 (Request for Information and Cooperation)

The term "public agencies prescribed by Presidential Decree" under Article 13-3 (1) of the Act means public institutions under Article 4 of the Act on the Management of Public Institutions.

[This Article Newly Inserted by Presidential Decree No. 21484, May 6, 2009]

ADDENDUM

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

ADDENDUM <Presidential Decree No. 6848, Sept. 8, 1973>

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

ADDENDA <Presidential Decree No. 8477, Mar. 8, 1977>

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

(2) (Transitional Measures) The guaranteed obligation which has been materialized prior to this Decree entering into force shall be as prescribed by this Decree.

ADDENDUM <Presidential Decree No. 10330, June 5, 1981>

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

ADDENDUM <Presidential Decree No. 13157, Nov. 8, 1990>

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

ADDENDA <Presidential Decree No. 13656, June 1, 1992>

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

(2) (Applicability) The amended provisions of Article 13 shall be applied from the fee for guaranty for which the payment duty occurs firstly after the enforcement of this Decree.

ADDENDA <Presidential Decree No. 14438, Dec. 23, 1994>

Article 1 (Enforcement Date)

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

Articles 2 through 5 Omitted.

ADDENDA <Presidential Decree No. 14669, June 17 1995>

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

(2) (Applicability) The amended provisions of Article 13 shall be applied from the fee for guaranty for which the payment duty first arises after this Decree enters into force.

ADDENDUM <Presidential Decree No. 14830, Dec. 14, 1995>

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

ADDENDA <Presidential Decree No. 15135, Aug. 8, 1996>

Article 1 (Enforcement Date)

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

Articles 2 through 8 Omitted.

ADDENDA <Presidential Decree No. 16368, May 27, 1999>

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

(2) (Transitional Measure concerning Farmland Improvement Cooperative) Notwithstanding the amended provisions of Article 2 (2), the farmland improvement cooperative under the former provisions of subparagraph 1 of Article 2 shall be deemed the agricultural, forestry and fishery organizations under the amended provisions under the same Article and same paragraph by December 31, 1999.

ADDENDA <Presidential Decree No. 16646, Dec. 28, 1999>

Article 1 (Enforcement Date)

This Decree shall enter into force on January 1, 2000.

Articles 2 through 4 Omitted.

ADDENDUM <Presidential Decree No. 17312, July 24, 2001>

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

ADDENDA <Presidential Decree No. 20653, Feb. 29, 2008>

Article 1 (Enforcement Date)

This Decree shall enter into force on the date of its promulgation: Provided, That the provisions of Presidential Decree to be amended under Article 2 of the Addenda, the amended parts of Presidential Decree promulgated prior to entering into force but its enforcement date has not arrived, shall enter into force on the date the relevant Presidential Decree enters into force respectively.

Article 2 Omitted.

ADDENDA <Presidential Decree No. 20854, June 20, 2008>

Article 1 (Enforcement Date)

This Decree shall enter into force on June 22, 2008.

Articles 2 through 6 Omitted.

ADDENDA <Presidential Decree No. 21484, May 6, 2009>

Article 1 (Enforcement Date)

This Decree shall enter into force on May 7, 2009.

Article 2 (Transitional Measures)

The term "credit information company" in the amended provisions of Article 11-3 (1) 2 shall be deemed "credit information business operator" by October 1, 2009.

ADDENDA <Presidential Decree No. 21774, Oct. 8, 2009>

Article 1 (Enforcement Date)

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

Article 2 Omitted.

ADDENDA <Presidential Decree No. 21847, Nov. 26, 2009>

Article 1 (Enforcement Date)

This Decree shall enter into force on November 28, 2009.

Articles 2 through 6 Omitted.

ADDENDA <Presidential Decree No. 22493, Nov. 15, 2010>

Article 1 (Enforcement Date)

This Decree shall enter into force on November 18, 2010.

Articles 2 through 5 Omitted.

ADDENDUM <Presidential Decree No. 23088, Aug. 19, 2011>

This Decree shall enter into force on the date of its promulgation: Provided,
That amended provisions of Article 2 (5) and subparagraph 10 of Article 3
shall enter into force on August 20, 2011.