

# **ACT ON THE ESTABLISHMENT AND MANAGEMENT OF NATIONAL INSTITUTE OF NAKDONG RIVER BIOLOGICAL RESOURCES**

Act No. 13033, Jan. 20, 2015

## **Article 1 (Purpose)**

The purpose of this Act is to contribute to securing sovereignty over biological resources in their early stages, to conserving biodiversity, and to using biological resources in a sustainable manner by prescribing matters related to the establishment, management, etc. of the National Institute of Nakdong River Biological Resources.

## **Article 2 (Establishment of National Institute of Nakdong River Biological Resources)**

(1) The National Institute of Nakdong River Biological Resources (hereinafter referred to as "Institute of Nakdong River Biological Resources") shall be a corporate body.

(2) The Institute of Nakdong River Biological Resources shall be duly formed when the registration for its corporation is completed at the registry office having jurisdiction over its principal place of business, and matters necessary for registering its incorporation shall be prescribed by Presidential Decree.

(3) The articles of incorporation of the Institute of Nakdong River Biological Resources shall include the following:

1. Objectives;
2. Name;
3. Matters concerning its main office;
4. Matters concerning its duties and implementation thereof;
5. Matters concerning its property and accounting;
6. Matters concerning the board of directors;
7. Matters concerning its executives and employees;
8. Matters concerning the amendment of articles of incorporation;
9. Matters concerning dissolution;
10. Matters concerning the methods of giving public announcements;
11. Matters concerning affiliated organs;
12. Matters to be specified by the articles of incorporation pursuant to this Act;
13. Other matters concerning the management of the Institute of Nakdong River Biological Resources, prescribed by Presidential Decree.

(4) Where the Institute of Nakdong River Biological Resources intends to amend its articles of incorporation, it shall obtain approval from the Minister of Environment.

## **Article 3 (Projects)**

(1) The Institute of Nakdong River Biological Resources shall implement the following projects:

1. Examinations and discovery of freshwater biological resources, and research on the classification and nomenclature and possession thereof;
2. Projects for developing technologies for the culture, extraction, conservation, and use of freshwater biological resources, and for supporting the commercialization and industrialization thereof;
3. Management of exhibition halls, development and dissemination of technologies for managing exhibition halls, and development and management of educational programs on biological resources;
4. Projects that can be performed by the Institute of Nakdong River Biological Resources pursuant to other Acts and subordinate statutes;
5. Projects incidental to those referred to in subparagraphs 1 through 4, which are specified by the articles of incorporation;
6. Other projects deemed necessary by the Minister of Environment for achieving the objectives of incorporating the Institute of Nakdong River Biological Resources.

(2) The Institute of Nakdong River Biological Resources may implement any of the projects referred to in the subparagraphs of paragraph (1) in foreign countries, if necessary.

## **Article 4 (Executives and Employees)**

- (1) The Institute of Nakdong River Biological Resources shall have up to 15 directors, including one president, and one auditor as executives.
- (2) The number of full-time directors, including the president, shall not exceed three, and the rest of executives shall work part-time.
- (3) The president shall be appointed by the Minister of Environment from among multiple candidates recommended by the executive recommendation committee established under Article 29 of the Act on the Management of Public Institutions (hereafter referred to as "executive recommendation committee" in this Article).
- (4) Full-time directors shall be appointed by the president, as specified by the articles of incorporation, and part-time directors shall be appointed by the Minister of Environment.
- (5) The auditor shall be appointed by the Minister of Strategy and Finance from among multiple candidates recommended by the executive recommendation committee.
- (6) The employees of the Institute of Nakdong River Biological Resources shall be appointed and dismissed by the president, as specified by the articles of incorporation.

#### Article 5 (Functions of Executives)

- (1) The president shall represent the Institute of Nakdong River Biological Resources, take overall charge of the affairs of the Institute of Nakdong River Biological Resources, and direct and supervise employees under his/her jurisdiction.
- (2) Full-time directors shall take partial charge of the duties of the Institute of Nakdong River Biological Resources as allocated by the articles of incorporation, and shall act for the president in the order provided by the articles of incorporation if the president are unable to perform his/her duties due to any unavoidable reasons.
- (3) Directors shall deliberate on agenda items submitted to the board of directors and participate in passing resolutions thereon.
- (4) The auditor shall audit the affairs and accounting of the Institute of Nakdong River Biological Resources, prepare a comprehensive audit report each year and submit it to the Minister of Environment and the board of directors.

#### Article 6 (Term of Office of Executives)

- (1) The term of office of the president shall be three years, which may be extended annually.
- (2) The term of office of directors, except the president and the auditor, shall be two years, which may be extended annually.
- (3) The term of office of an executive newly appointed to fill a vacancy due to the resignation, etc. of an executive shall recommence.

#### Article 7 (Grounds, etc. for Disqualification as Executives)

- (1) None of the following persons can become an executive of the Institute of Nakdong River Biological Resources:
  1. A person falling under any of the subparagraphs of Article 33 of the State Public Officials Act;
  2. A person for whom three years have not passed since his/her dismissal under paragraph (4).
- (2) Where an executive falls under any of the subparagraphs of paragraph (1) or he/she is found to have fallen thereunder as at the time of appointment, he/she resign from the post as a matter of course.
- (3) Activities in which an executive who resigns under paragraph (2) has engaged in before retirement shall remain valid.
- (4) Where the president falls under any of the following, the Minister of Environment may dismiss him/her; and where a full-time director falls under any of subparagraphs 1 through 3, the Minister of Environment may recommend the president to dismiss him/her:
  1. Where he/she violates this Act, an order issued under this Act or articles of incorporation;
  2. Where he/she hinders the management of the Institute of Nakdong River Biological Resources by accounting fraud, willful misconduct, or gross negligence;
  3. Where the performance of his/her duties is impracticable or impossible due to a physical or mental disability;
  4. Where his/her performance of duties is found substandard, following an evaluation of management under Article 20 (1).

#### Article 8 (Restriction on Holding Concurrent Positions)

- (1) None of the directors and employees of the Institute of Nakdong River Biological Resources shall engage in any business for gain, other than their duties.

(2) Where a full-time director of the Institute of Nakdong River Biological Resources obtains permission from the Minister of Environment or an employee of the Institute of Nakdong River Biological Resources obtains permission from the president, he/she may concurrently engage in any non-profit business.

#### Article 9 (Board of Directors)

(1) The Institute of Nakdong River Biological Resources shall have a board of directors to deliberate and make decisions on the following:

1. Matters concerning budgeting and settlement of accounts;
2. Matters concerning the acquisition, disposal, and management of important property specified by the articles of incorporation;
3. Matters concerning the establishment and closure of affiliated organs and important organizations specified by the articles of incorporation;
4. Matters concerning mid- to long-term plans to manage and develop the Institute of Nakdong River Biological Resources;
5. Matters concerning the amendment of the articles of incorporation;
6. Matters concerning the establishment, amendment, and repeal of important regulations specified by the articles of incorporation;
7. Matters concerning project plans;
8. Matters specified by this Act or the articles of incorporation as requiring resolutions by the board of directors;
9. Other matters deemed by the president or the board of directors as requiring resolutions by the board of directors.

(2) The board of directors shall consist of directors, including the president.

(3) The president shall call meetings of the board of directors and preside over the meetings.

(4) Unless otherwise expressly provided for in this Act and the articles of incorporation, a meeting of the board of directors shall be held with the attendance of a majority of all incumbent directors and resolutions shall be passed with the affirmative vote of a majority of those present.

(5) The auditor may attend a meeting of the board of directors and state his/her opinions if necessary in connection with his/her duties.

#### Article 10 (Establishment of Affiliated Organs)

If necessary, the Institute of Nakdong River Biological Resources may establish an affiliated organ following a resolution thereon by the board of directors, as specified by the articles of incorporation.

#### Article 11 (Appointment of Agent)

The president may appoint an agent authorized to engage in all judicial and extra-judicial activities concerning the affairs of the Institute of Nakdong River Biological Resources from among its executives or employees.

#### Article 12 (Operating Funds)

The Institute of Nakdong River Biological Resources shall be managed with the following:

1. Contributions or subsidies under Article 13;
2. Donations under Article 14;
3. Loans under Article 15;
4. Earnings under Article 16;
5. Other income.

#### Article 13 (Contributions or Subsidies)

The State may grant contributions or subsidies to the Institute of Nakdong River Biological Resources, within budgetary limits, to cover the expenses incurred in relation to the projects and management of the Institute of Nakdong River Biological Resources, such as labor costs, project funds, and facility expenses.

#### Article 14 (Acceptance of Donations)

(1) Notwithstanding the main body of Article 5 (2) of the Act on Collection and Use of Donations, the Institute of Nakdong River Biological Resources may accept voluntary donations insofar as they coincide with the objectives of its projects.

(2) Procedures for accepting donations under paragraph (1), and other necessary matters shall be prescribed by Presidential Decree.

(3) The Institute of Nakdong River Biological Resources shall keep a separate account of the donations accepted under paragraph (1).

#### Article 15 (Loans)

The Institute of Nakdong River Biological Resources may obtain a loan with approval from the Minister of Environment, if necessary for the management thereof.

Article 16 (For-Profit Projects, etc.)

- (1) The Institute of Nakdong River Biological Resources may perform for-profit projects, as prescribed by Presidential Decree, insofar as such projects do not hinder the performance of the projects under Article 3.
- (2) Earnings from the for-profit projects under paragraph (1) shall be allocated to the management of the Institute of Nakdong River Biological Resources.

Article 17 (Business Year)

The business year of the Institute of Nakdong River Biological Resources shall coincide with the fiscal year of the Government.

Article 18 (Submission of Project Plans, etc. and Reports on Duties)

- (1) The president shall prepare a project plan and budget bill before each business year begins, as prescribed by Presidential Decree, have them examined by the head of the institute of biological resources established and managed by the State pursuant to Article 39 (1) of the Wildlife Protection and Management Act (hereinafter referred to as "head of the National Institute of Biological Resources"), and submit them to the Minister of Environment, and obtain approval therefrom. The same shall apply to modifications thereto.
- (2) The president shall submit a report stating the performance of projects for each fiscal year and a statement of income and expenditure approved by the board of directors, following an audit by a certified public accountant (including an accounting firm referred to in Article 23 of the Certified Public Accountant Act), to the Minister of Environment within two months from the end of each fiscal year, as prescribed by Presidential Decree.
- (3) The president shall report on the matters prescribed by Presidential Decree, such as his/her duties, to the Minister of Environment and notify the head of the National Institute of Biological Resources thereof.

Article 19 (Disposal of Surplus Funds)

The Institute of Nakdong River Biological Resources shall first allocate surplus funds at the end of each fiscal year to repay debts, and carry forward remaining surplus funds to the following fiscal year or use them for performing the projects of the Institute of Nakdong River Biological Resources.

Article 20 (Evaluation of Management and Guidance)

- (1) The Minister of Environment shall evaluate the management of the Institute of Nakdong River Biological Resources, and take necessary measures according to the outcomes thereof, as prescribed by Presidential Decree.
- (2) Standards for evaluation of management under paragraph (1) shall include status of management, outcomes of relevant examinations and research, services for the citizens, etc.
- (3) Detailed standards and procedures for the evaluation of management under paragraphs (1) and (2), and other necessary matters shall be prescribed by Presidential Decree.

Article 21 (Access, Inspections, etc.)

- (1) The Minister of Environment may require a subordinate public official to enter the Institute of Nakdong River Biological Resources and inspect the status of its business affairs, accounting, and asset or require the Institute of Nakdong River Biological Resources to submit necessary materials .
- (2) Where any illegal or unjust matter is found as a result of conducting an inspection or reviewing the materials submitted under paragraph (1), the Minister of Environment may order the Institute of Nakdong River Biological Resources to make a correction or to take necessary measures.

Article 22 (Cooperation and Conclusion of Agreements)

- (1) The Institute of Nakdong River Biological Resources may cooperate with universities, research institutions, etc. located in Korea or overseas in order to efficiently conduct examinations, research, education and exhibition.
- (2) If necessary for performing the projects under Article 3, the president may conclude an agreement on projects, etc. to support human resources and research with universities, research institutions, etc. located in Korea or overseas.

Article 23 (Secondment of Public Officials, etc.)

- (1) If necessary for performing the business affairs, the president may request a national agency, local government, public institution, educational institution, or research institution (hereinafter referred to as "public institution, etc.") to second human resources through the Minister of Environment.
- (2) A public institution, etc. in receipt of a request under paragraph (1) may second a subordinate employee.

(3) No person seconded to the Institute of Nakdong River Biological Resources pursuant to paragraph (2) shall be given disadvantage treatment in terms of personnel management, remuneration, etc. by reason of secondment.

Article 24 (Duty to Keep Confidentiality)

No current or former executive and employee of the Institute of Nakdong River Biological Resources, person seconded to the Institute of Nakdong River Biological Resources pursuant to Article 23 shall divulge or misappropriate any confidential information he/she becomes aware of in the course of performing his/her duties.

Article 25 (Prohibition from Using Similar Names)

No entity, other than the Institute of Nakdong River Biological Resources established under this Act, shall use a name "Institute of Nakdong River Biological Resources" or a similar name.

Article 26 (Application Mutatis Mutandis of Civil Act)

Unless otherwise expressly provided for in this Act, the provisions of the Civil Act governing incorporated foundations shall apply mutatis mutandis to the Institute of Nakdong River Biological Resources.

Article 27 (Persons Deemed Public Officials in Application of Penalty Provisions)

The executives and employees (including those who are not public officials among the persons seconded to the Institute of Nakdong River Biological Resources pursuant to Article 23) of the Institute of Nakdong River Biological Resources shall be deemed public officials in the application of Articles 129 through 132 of the Criminal Act.

Article 28 (Penalty Provisions)

A person who divulges or misappropriates confidential information he/she becomes aware of in the course of performing his/her duties in violation of Article 24 shall be punished by imprisonment for up to two years, or by a fine not exceeding 20 million won.

Article 29 (Administrative Fines)

(1) Any of the following persons shall be punished by an administrative fine not exceeding five million won:

1. A person who refuses, interferes with, or evades an inspection under Article 21 (1), or fails to submit materials or submits false materials;
2. A person who uses the name "Institute of Nakdong River Biological Resources or a similar name, in violation of Article 25.

(2) Administrative fines under paragraph (1) shall be imposed and collected by the Minister of Environment, as prescribed by Presidential Decree.

ADDENDA

Article 1 (Enforcement Date)

This Act shall enter into force three months after the date of its promulgation: Provided, That Articles 2 through 4 and 8 shall enter into force on the date of its promulgation.

Article 2 (Preparation for Establishment)

(1) In order to perform the duties for establishing the Institute of Nakdong River Biological Resources, the Minister of Environment shall organize and operate a committee for the establishment of the Institute of Nakdong River Biological Resources (hereinafter referred to as "establishment committee") within one month from the date of promulgation of this Act.

(2) The establishment committee shall consist of up to ten members appointed or entrusted by the Minister of Environment, and the Vice Minister of Environment shall become the chairperson.

(3) The establishment committee shall prepare articles of incorporation of the Institute of Nakdong River Biological Resources and obtain approval from the Minister of Environment after members of the establishment committee affix their names and seals or signatures thereon.

(4) The establishment committee shall complete the registration for incorporation of the Institute of Nakdong River Biological Resources with signatures affixed by its members by no later than the date this Act enters into force.

(5) The establishment committee shall, without delay, transfer its business affairs to the president after completing the registration for incorporation.

(6) The establishment committee shall be deemed dissolved at the time the transfer of business affairs is finished under paragraph (5), its members shall be deemed dismissed.

Article 3 (Appointment of Executives as at Time of Establishment)

The executives of the Institute of Nakdong River Biological Resources to be first appointed after this Act enters into force shall be appointed by the Minister of Environment from among the multiple candidates recommended by the establishment committee, notwithstanding Article 4.

Article 4 (Expenses for Establishment)

Expenses incurred in the establishment of the Institute of Nakdong River Biological Resources shall be borne by the State.

Article 5 (Gratuitous Transfer of Goods, etc.)

The State shall gratuitously transfer the goods and cultural heritage (limited to the cultural heritage designated as endangered wildlife under the Wildlife Protection and Management Act) managed by the planning office for establishment of the National Institute of Nakdong River Biological Resources (hereinafter referred to as "planning office for establishment") established in the Ministry of Environment for the purpose of incorporating the Institute of Nakdong River Biological Resources before this Act enters into force, to the Institute of Nakdong River Biological Resources, notwithstanding the Commodity Management Act and Cultural Heritage Protection Act: Provided, That prior consultation on goods shall be held with the Minister of Strategy and Finance.

Article 6 (Succession to Rights and Obligations)

(1) The Institute of Nakdong River Biological Resources established under this Act shall comprehensively succeed to the rights and obligations of the planning office for establishment.

(2) The Institute of Nakdong River Biological Resources shall be deemed the holder of rights and obligations indicated on the register or other official documents as the planning office for establishment, which are comprehensively succeeded by the Institute of Nakdong River Biological Resources pursuant to paragraph (1).

Article 7 (Transitional Measures concerning Budget Execution)

(1) The Institute of Nakdong River Biological Resources may execute the budget under the jurisdiction of the planning office for establishment according to the former practices until a budget of the Institute of Nakdong River Biological Resources is determined.

(2) When a budget of the Institute of Nakdong River Biological Resources is determined, the budget executed pursuant to paragraph (1) shall be deemed executed according to the determined budget.

Article 8 (Transitional Measures concerning Preparation of Budget Proposal)

The budget proposal of the Institute of Nakdong River Biological Resources for the first-commencing business year after the Institute of Nakdong River Biological Resources is established may be prepared by the establishment committee.