

ENFORCEMENT DECREE OF THE FUSION ENERGY DEVELOPMENT PROMOTION ACT

Presidential Decree No. 20740, Feb. 29, 2008
Amended by Presidential Decree No. 21214, Dec. 31, 2008
Presidential Decree No. 22977, Jun. 24, 2011
Presidential Decree No. 24423, Mar. 23, 2013
Presidential Decree No. 26694, Dec. 10, 2015

Article 1 (Purpose)

The purpose of this Decree is to prescribe the matters delegated by the Fusion Energy Development Promotion Act and other matters necessary for the enforcement thereof.

Article 2 (Establishment, etc. of Master Plans to Promote Development of Fusion Energy)

(1) Where the Minister of Science, Information and Communications Technology (ICT) and Future Planning intends to establish a master plan to promote development of fusion energy (hereinafter referred to as “master plan”) under Article 4 of the Fusion Energy Development Promotion Act (hereinafter referred to as the “Act”), he/she shall notify the heads of relevant central administrative agencies of the schedule and guidelines for developing a master plan. *<Amended by Presidential Decree No. 20740, Feb. 29, 2008; Presidential Decree No. 24423, Mar. 23, 2013>*

(2) As needed to develop a master plan, the Minister of Science, ICT and Future Planning may request relevant central administrative agencies, local governments, relevant education and research institutes, and enterprises having participated in any national research and development projects to submit necessary materials. *<Amended by Presidential Decree No. 20740, Feb. 29, 2008; Presidential Decree No. 24423, Mar. 23, 2013>*

(3) “Minor matters specified by Presidential Decree” in the proviso to Article 4 (2) of the Act means the following:

1. Matters relating to the detailed program for implementing a plan to promote research and development of fusion energy;
2. Matters that have no substantial effect on the details of the master plan, as determined by the National Fusion Energy Committee (hereinafter referred to as the “Committee”) under Article 6 of the Act.

Article 3 (Establishment and Execution of Implementation Plans)

(1) The Minister of Science, ICT and Future Planning shall determine the guidelines for developing implementation plans for the next year (hereinafter referred to as “guidelines for the development of

implementation plans”) so that the heads of relevant central administrative agencies can develop annual implementation plans under Article 5 (1) of the Act (hereinafter referred to as “implementation plans”), and then shall notify the heads of the relevant central administrative agencies thereof by December 31 each year. <Amended by Presidential Decree No. 20740, Feb. 29, 2008; Presidential Decree No. 24423, Mar. 23, 2013>

(2) Any implementation plan shall include the following:

1. Outlines of projects;
2. Results of project implementation for the previous year, and project plans for the current year;
3. Detailed implementation plan for each project.

(3) The heads of relevant central administrative agencies shall formulate implementation plans for fields under their respective jurisdiction according to the guidelines for developing implementation plans and shall submit the implementation plans for the current year and the results of implementation for the previous year to the Minister of Science, ICT and Future Planning by January 31 each year. <Amended by Presidential Decree No. 20740, Feb. 29, 2008; Presidential Decree No. 24423, Mar. 23, 2013>

Article 3-2 (Fact-Finding Surveys)

The Minister of Science, ICT and Future Planning may conduct fact-finding surveys on research and development of fusion energy and industries related to fusion energy in order to effectively formulate master plans and implementation plans under Articles 4 (4) and 5 (3) of the Act.

Article 4 (Organization of the Committee)

(1) Deleted. <by Presidential Decree No. 26694, Dec. 10, 2015>

(2) The terms of office of the members commissioned pursuant to Article 6 (3) 2 of the Act shall be two years.

Article 5 (Operation of the Committee)

(1) The chairperson of the Committee shall exercise general control over the affairs of the Committee and convene and preside over meetings thereof.

(2) If the chairperson intends to convene a meeting, he/she shall notify each member of the Committee of the date and time, place, and agenda of the meeting, by not later than seven days before the meeting is held: Provided, That this shall not apply in cases of emergency or other unavoidable circumstances.

(3) A majority of the members of the Committee shall constitute a quorum, and any decision thereof shall require the concurring vote of a majority of those present.

(4) Allowances and travel expenses may be paid to the members and relevant parties present at a meeting of the Committee and to other persons who present or submit their opinions to the Committee, within the budget: Provided, That the same shall not apply where a member who is a public official attends a meeting of the Committee in direct connection with his/her official duties.

(5) Other matters necessary for the operation of the Committee shall be determined by the chairperson after deliberation by the Committee.

Article 6 (Organization of the Working Committee)

(1) The working committee provided in Article 6 (5) of the Act (hereinafter referred to as the “working committee”) shall be comprised of not less than 15 but not more than 21 members, including one chairperson.

(2) Members of the working committee shall be the following persons: <Amended by Presidential Decree No. 26694, Dec. 10, 2015>

1. Public officials belonging to the Senior Civil Service Corps or other public officials in any equivalent position, in charge of fusion energy-related affairs at a central administrative agency whereto a member provided in Article 6 (3) 1 of the Act belongs, who are designated by the head of the agency;

2. Persons commissioned by the Minister of Science, ICT and Future Planning, from among those who have extensive expertise and experience in research and development of fusion energy.

Article 7 (Operation of the Working Committee)

(1) The terms of office of the members commissioned pursuant to Article 6 (2) 2 shall be two years.

(2) Article 5 shall apply mutatis mutandis to the operation of the working committee. In such cases, the “Committee” shall be construed as “working committee”, and the “chairperson” as “chairperson of the working committee”.

Article 7-2 (Dismissal of Committee Members)

The Minister of Science, ICT and Future Planning may dismiss a member who was commissioned pursuant to Article 6 (3) 2 of the Act and Article 6 (2) 2 of this Decree, in any of the following cases:

1. Where he/she becomes incapable of performing his/her duties due to mental disorder;
2. Where he/she commits any misdeed in connection with his/her duties;
3. Where he/she is deemed unsuitable for a member due to delinquency of duties or injury to dignity or for any other reason;
4. Where he/she makes a voluntary notification that it is impracticable for him/her to perform his/her duties.

Article 8 (Conclusion of Research Agreement)

(1) An agreement concluded pursuant to Article 8 (1) of the Act (hereinafter referred to as “research agreement”) shall include the following:

1. Research plan;
2. Reporting on research and development outcomes;
3. Attribution and utilization of research and development outcomes;
4. Collection of and reporting on royalties following the utilization of research and development outcomes;
5. Measures following the evaluation of research and development outcomes;
6. Use and management of costs and expenses required for research and development, and methods for the payment thereof;

7. Amendment and cancellation of research agreement;
8. Measures against violations of research agreement;
9. Other matters incidental to research and development.

(2) Where the head of a managing research institute under Article 8 (3) of the Act (hereinafter referred to as “managing research institute”) has any contributions by non-government entities or other revenues to cover costs and expenses required for a project for research and development of fusion energy under Article 8 (1) of the Act (hereinafter referred to as “research and development project”), he/she shall enter into an investment contract or a research contract with those who bear such costs and expenses, by not later than 30 days after conclusion of the relevant agreement with the Minister of Science, ICT and Future Planning. <Amended by Presidential Decree No. 20740, Feb. 29, 2008; Presidential Decree No. 24423, Mar. 23, 2013>

(3) The head of a managing research institute may perform part of a research task in cooperation or collaboration with any institution or organization referred to in the subparagraphs of Article 14 (1) of the Basic Research Promotion and Technology Development Support Act or with experts in the relevant field, or may commission them to perform part of a research task, as determined and publicly announced by the Minister of Science, ICT and Future Planning. <Amended by Presidential Decree No. 20740, Feb. 29, 2008; Presidential Decree No. 22977, Jun. 24, 2011; Presidential Decree No. 24423, Mar. 23, 2013>

Article 9 (Payment and Management of Contributions)

(1) Any contribution referred to in Article 8 (2) 1 of the Act shall, in principle, be paid in installments: Provided, That the Minister of Science, ICT and Future Planning may pay such contribution in a lump sum in consideration of the scale, timing for commencement, etc. of research and development projects. <Amended by Presidential Decree No. 20740, Feb. 29, 2008; Presidential Decree No. 24423, Mar. 23, 2013>

(2) The head of a managing research institute shall, upon receipt of contributions, manage them through a separate account.

Article 10 (Appropriation of Contributions, etc. and Reporting on Results Thereof)

(1) The head of a managing research institute shall appropriate any contribution, revenue, etc. referred to in the subparagraphs of Article 8 (2) of the Act (hereinafter referred to as “contributions, etc.”) in accordance with the research agreement.

(2) The head of a managing research institute shall submit the results of appropriation of contributions, etc. to the Minister of Science, ICT and Future Planning, along with the following documents, within three months after conclusion of the relevant research and development project: <Amended by Presidential Decree No. 20740, Feb. 29, 2008; Presidential Decree No. 24423, Mar. 23, 2013>

1. A comparative table for the research and development project plan and the results of execution thereof;
2. A statement of the managing research institute’s internal audit.

Article 11 (Collection and Use of Royalties and Reporting on Results Thereof)

(1) The head of a managing research institute shall, upon collection of royalties under Article 8 (4) of the Act, report the results to the Minister of Science, ICT and Future Planning within 15 days after collection thereof. <Amended by Presidential Decree No. 20740, Feb. 29, 2008; Presidential Decree No. 24423, Mar. 23, 2013>

(2) The ratio of compensation for the researchers, etc. who have participated in a research and development project under Article 8 (5) 1 of the Act, shall be as follows: <Amended by Presidential Decree No. 26694, Dec. 10, 2015>

1. Where a managing research institute is a nonprofit legal entity: At least 50/100 of the share of government contributions in the collected royalties;
2. Where a managing research institute is a profit-making legal entity: Some of the collected royalties less the amount paid to institutions specializing in management of research and development projects pursuant to Article 8 (5) 2 of the Act.

(3) In order to pay compensation pursuant to paragraph (2), the head of a managing research institute shall prepare a guideline for paying compensation, including persons to be paid compensation and procedures for payment, and shall make payment in accordance with the guideline. <Amended by Presidential Decree No. 20740, Feb. 29, 2008; Presidential Decree No. 24423, Mar. 23, 2013; Presidential Decree No. 26694, Dec. 10, 2015>

(4) Where the head of a managing research institute (limited to a profit-making legal entity) pays royalties to an institution specializing in management of research and development projects pursuant to Article 8 (5) 2 of the Act, the ratio of the royalties shall be as follows: <Amended by Presidential Decree No. 26694, Dec. 10, 2015>

1. Where a managing research institute is a small and medium enterprise (referring to a small and medium enterprise under Article 2 of the Framework Act on Small and Medium Enterprises): Ten percent of the government contributions;
2. Where a managing research institute is a middle-standing enterprise (referring to a middle-standing enterprise defined in subparagraph 1 of Article 2 of the Special Act on the Promotion of Growth and the Strengthening of Competitiveness of Middle-Standing Enterprises): 30 percent of the government contributions;
3. Where a managing research institute is a large enterprise (referring to an enterprise belonging to an enterprise group subject to the limitations on mutual investment under Article 14 (1) of the Monopoly Regulation and Fair Trade Act): 40 percent of the government contributions.

(5) The head of a managing research institute shall use the remaining amount less the amount used or paid pursuant to paragraphs (2) through (4) in the collected royalties, for the following purposes under Article 8 (5) 3 of the Act: <Amended by Presidential Decree No. 20740, Feb. 29, 2008; Presidential Decree No. 24423, Mar. 23, 2013; Presidential Decree No. 26694, Dec. 10, 2015>

1. Re-investment in research and development projects;

2. The operating expense of the institute;
3. Expenses required for applying for and maintaining industrial property rights, etc.;
4. Rewards for the employees, etc. who have contributed to the spread of technology;
5. Other purposes determined and publicly announced by the Minister of Science, ICT and Future Planning.

(6) The head of a managing research institute shall report the results of use of royalties under paragraphs (2) through (5) to the Minister of Science, ICT and Future Planning by March 31 of the following year.

<Amended by Presidential Decree No. 20740, Feb. 29, 2008; Presidential Decree No. 24423, Mar. 23, 2013>

Article 12 (Designation of Institutions Specializing in Planning and Management of Research and Development Projects)

(1) “Institutions specializing in management of research and development projects specified by Presidential Decree” in Article 8 (5) 2 of the Act means the institutions designated by the Minister of Science, ICT and Future Planning as deemed necessary for specialized planning and management of research and development projects (hereinafter referred to as “specialized institutions”). *<Amended by Presidential Decree No. 20740, Feb. 29, 2008; Presidential Decree No. 24423, Mar. 23, 2013>*

(2) Matters necessary for the procedures for, methods of, etc. designating specialized institutions shall be determined and publicly announced by the Minister of Science, ICT and Future Planning. *<Amended by Presidential Decree No. 20740, Feb. 29, 2008; Presidential Decree No. 24423, Mar. 23, 2013>*

Article 13 (Co-Holders of Industrial Property Rights, etc.)

“Persons specified by Presidential Decree” in the proviso to Article 8 (7) of the Act means any of the following:

1. Non-government entities that bear some of the costs and expenses required for research and development projects under Article 8 (2) of the Act;
2. Institutes for research and development of fusion energy, etc. under Article 9 (1) of the Act.

Article 14 (Plan for Fostering Professionals)

The plan to foster professionals in fusion energy under Article 10 (1) of the Act shall include the following:

1. Matters relating to prospects for the medium and long-term demand for and supply of professionals necessary for research and development of fusion energy;
2. Matters relating to the development of human resources necessary for research and development of fusion energy;
3. Matters relating to the strengthening of collaboration among academia, research institutes, and industrial circles for fostering professionals;
4. Matters relating to the development and operation of educational and training programs for fostering professionals necessary for research and development of fusion energy.

Article 15 (Designation of Institutions for Training Professionals)

(1) Institutions and organizations eligible for designation as institutes for training professionals in fusion energy under Article 10 (3) of the Act (hereinafter referred to as “training institutions”) mean the following institutes that perform tasks related to the research and development of fusion energy: *<Amended by Presidential Decree No. 20740, Feb. 29, 2008; Presidential Decree No. 24423, Mar. 23, 2013>*

1. Schools listed in the subparagraphs of Article 2 of the Higher Education Act;
2. Government-funded research institutes established under the Act on the Establishment, Operation and Fostering of Government-Funded Science and Technology Research Institutes, Etc.;
3. Specific research institutes governed by the Support of Specific Research Institutes Act;
4. Institutes for research and development of fusion energy, etc. under Article 9 (1) of the Act;
5. Other institutions and organizations, deemed by the Minister of Science, ICT and Future Planning necessary for training human resources for research and development of fusion energy.

(2) Matters necessary for the designation of training institutions, the procedures for designation thereof, etc., shall be determined and publicly announced by the Minister of Science, ICT and Future Planning. *<Amended by Presidential Decree No. 20740, Feb. 29, 2008; Presidential Decree No. 24423, Mar. 23, 2013>*

Article 16 (Measures for Expanding Facilities and Equipment Necessary for Research and Development of Fusion Energy)

(1) Measures for expanding facilities, equipment, etc. necessary for research and development of fusion energy under Article 11 of the Act (hereinafter referred to as “research facilities, etc.”) shall include the following:

1. Matters relating to plans for securing research facilities, etc.;
2. Matters relating to plans for operation and joint utilization of research facilities, etc.;
3. Matters relating to plans for upgrading of research facilities, etc.

(2) The Government may reimburse expenses necessary to promote the measures for expansion under paragraph (1).

Article 17 Deleted. *<by Presidential Decree No. 26694, Dec. 10, 2015>*

Article 18 (Establishment and Promotion of Measures for Supporting Research and Development)

The Minister of Science, ICT and Future Planning shall prepare and promote the following measures to support colleges, research institutes and businesses in their research and development of fusion energy and to stimulate collaborative research among them, pursuant to Article 12 of the Act: *<Amended by Presidential Decree No. 20740, Feb. 29, 2008; Presidential Decree No. 24423, Mar. 23, 2013>*

1. Measures for supporting academic activities;
2. Measures for promoting collaborative research and academic activities;
3. Measures for supporting relevant businesses;
4. Other measures, deemed by the Minister of Science, ICT and Future Planning necessary for supporting research and development activities and stimulating collaborative research.

Article 19 (Establishment and Promotion of Measures for Facilitating Investments in Research and Development)

The Minister of Science, ICT and Future Planning shall prepare and promote the following measures to encourage enterprises or private individuals to make investments and contributions associated with research and development of fusion energy under Article 13 of the Act: <Amended by Presidential Decree No. 20740, Feb. 29, 2008; Presidential Decree No. 24423, Mar. 23, 2013>

1. Tax support measures for investments and contributions;
2. Other necessary measures for promoting investments.

Article 20 Deleted. <by Presidential Decree No. 24423, Mar. 23, 2013>

ADDENDUM

This Decree shall enter into force on March 27, 2007.

ADDENDA <Presidential Decree No. 20740, Feb. 29, 2008>

Article 1 (Enforcement Date)

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

Articles 2 through 7 Omitted.

ADDENDA <Presidential Decree No. 21214, Dec. 31, 2008>

Article 1 (Enforcement Date)

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

Articles 2 through 5 Omitted.

ADDENDA <Presidential Decree No. 22977, Jun. 24, 2011>

Article 1 (Enforcement Date)

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

Articles 2 and 3 Omitted.

ADDENDA <Presidential Decree No. 24423, Mar. 23, 2013>

Article 1 (Enforcement Date)

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

Articles 2 through 7 Omitted.

ADDENDA <Presidential Decree No. 26694, Dec. 10, 2015>

Article 1 (Enforcement Date)

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

Article 2 (Applicability to Use of Royalties)

The amended provisions of Article 11 (2) through (5) shall apply, beginning with the royalties collected from persons who use findings of research and development pursuant to Article 8 (3) of the Act after

this Decree enters into force.

