

## Content

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Title :	Act Governing the Commissioning of the Operation of Public Schools at Senior High School Level or Below to the Private Sector for Experimental Education <b>Ch</b>
Date :	2018.01.31
Legislative :	1.Enacted on November 26th, 2014 2.Amendmened on January 31st, 2018
Content :	<p>Chapter 1</p> <p>General Principles</p> <hr/> <p>Article 1</p> <p>To implement Article 13 of the Educational Fundamental Act, this Act is formulated to promote educational innovation, encourage the private sector's involvement in experimental education at public schools at the senior high school level or below (hereinafter referred to as "schools"), protect the right to learn and receive education, improve opportunities to choose educational method and content, and enhance diverse development in education.</p> <hr/> <p>Article 2</p> <p>The term "competent authority" referred to in this Act shall be the Ministry of Education at the central government level, the municipal government at the municipal level, and the county or city government at the county or city level.</p> <hr/>

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### Article 3

The following terms used in this Act are defined as follows:

1. Private operations consignment: refers to the outsourcing of a school's operation in its totality, a school branch, division, class, or clearly delineated and separated campus or building of a newly-established school, in particulars, use of school land, building, and teaching equipment, zoning of school district, collection of tuition and fees in accordance with the law, curriculum, personnel management of principal, faculty, and staff, administrative organization, staff quota, class organization principles, teaching assessment, school budget execution, and school evaluation, by the competent authority which has approval over the establishment of schools (hereinafter referred to as "the relevant competent authority") to a consignee through entering into an administrative contract.
2. Consignee: refers to a person with domestic nationality, a non-profit private corporation, or a civilian institute or group consigned by the relevant competent authority with school operation. However, incorporated schools and its affiliated private school or short-term supplementary learning centers shall not be a consignee.
3. Consigned school: refers to a school whose operation is consigned to a consignee by the relevant competent authority; the school shall remain a public school.

The establishment requirements of newly-established schools mentioned in Subparagraph 1 of the preceding Paragraph shall be exempt from restrictions in relevant laws regarding the establishment of schools at all educational levels.

The person, or a representative or person in charge of a private corporation, civilian institute or group mentioned in Subparagraph 2 of the preceding Paragraph shall not contradict with provisions in Paragraph 1, Article 31 of the Act of Governing the Appointment of Educators.

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### Article 4

Relevant competent authorities conducting private operations consignment of a school shall provide adequate budget for the consigned school to cover personnel expenses, building and equipment expenses, and operation expenses. The personnel budget should be adjusted annually based on faculty and staff salary pay.

The budget mentioned in the preceding Paragraph may be flexibly allocated for other use, with the exception of using other funds for personnel fees and the use of funds for capital expenditures of other purposes.

The consigned schools shall protect students' right to receive education and fulfill the public welfare, public purpose, efficacy, experimental nature, diversity, and innovation in basic national education.

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## Article 5

The following laws, relevant regulations, and self-governing regulations do not apply to school district zoning, collection of tuition and fees in accordance with the law, curriculum, employment of principals, faculty, and staff, administrative organization, staff quota, class organization principles, and teaching assessment of a consigned school:

1. Paragraph 2 of Article 4, Paragraph 3 of Article 5, Paragraphs 1 and 2 of Article 6, Paragraph 1 of Article 8, Article 8-2, Paragraphs 1 to 5 of Article 9, Paragraphs 2 to 4 and 6 of Article 10, and Articles 12, 13, and 18 of the Primary and Junior High School Act.
2. Articles 14, 16, 18 and 19, Paragraphs 1 and 2 of Article 20, Paragraph 1 of Article 24, Articles 30 and 33, Paragraph 1 of Article 39, Paragraph 1 of Article 43, Paragraphs 1 and 2 of Article 45, Articles 46, 48 and 49, and Paragraph 4 of Article 56 of the Senior High School Education Act.
3. Articles 4, 5, 6, 12, 13, 21, 27, and 28 of the Act of Governing the Appointment of Educators.

The scope of the said inapplicability and alternative offers shall be clearly stated in the administrative contract made by the relevant competent authority and consignee.

The consigned school shall comply with the intention of the Gender Equity Education Act in terms of faculty hiring, student recruitment, curriculum, and teaching.

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## Chapter 2

### Procedures for Application and Review

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## Article 6

The relevant competent authority shall invite scholars, experts, local community leaders, parents, or other stakeholders to undertake an evaluation pertaining to private operations consignment of a school prior to the said consignment, and organize a public hearing.

A person, non-profit private corporation, or civilian institute or group concerning a specific school's private operations consignment may request the relevant competent authority to approve an evaluation or public hearing pursuant to the preceding Paragraph.

Prior to dissolution or merger of schools, the relevant competent authority shall undertake an evaluation and organize a public hearing in accordance with Paragraph 1, and then proceed with the private operations consignment.

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## Article 7

Upon completion of the evaluation mentioned in the preceding Article, the relevant competent authority shall announce the related information about qualification, duration, rights and obligations, screening criteria, deadline for application, and decision procedure and open for applications.

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## Article 8

The application mentioned in the preceding Article shall require an operation plan that includes the following items:

1. The name and domicile or residence of an applicant as a person, or the name and public affair office, firm, or office of an applicant as a private corporation, civil institute or group;
2. Duration of plan execution;
3. Goals, visions, features, and expected outcomes of the plan;
4. The exempted regulations in accordance with Paragraph 2 of Article 5, and the reasons and alternative offers for said exemptions;
5. The qualifications and expertise of the principal to be hired;
6. Intended administrative organization and staff quota;
7. Methods and related matters for hiring personnel;
8. Curriculum design and instruction methods;
9. Campus planning, environment design, and teaching facility plan;
10. Recruitment target, student enrollment, and class size;
11. Short-, mid-, and long-term financial planning;
12. Other issues required by the relevant competent authority.

The relevant competent authority shall have the operation plan mentioned in the preceding Paragraph reviewed initially by scholars and experts. Said plan shall be re-examined by the municipal, county, or city education review committee or an education review committee convened by the central competent authority for private operations consignment (hereinafter jointly referred to as “education review committee”) depending on the school’s category as a municipal, county, city, or national school. Upon approval of the private operations consignment by the relevant competent authority, the applicant shall be notified and announcement made through public bulletin.

Municipal, county, or city education review committees which review operation plans involving indigenous educational affairs must appoint 1-2 committee members with indigenous identity; those involving experimental education must appoint 1-2 committee members familiar with experimental education; the appointment and dismissal of said committee members are based on the content of the operation plans, and are not subject to the staff quota and term limits of municipal, county, or city education review committee members.

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## Article 9

The applicant shall sign an administrative contract with the relevant competent authority within one month from the day following the notice date of approval of private operations consignment, and said contract shall include the following, excluding the approved operation plan after re-examination mentioned in Paragraph 2 of the preceding Article:

1. Name and location of school;
2. Consignment duration;
3. Enrollment date and school zone and district;
4. Items of assistance from relevant competent authorities;
5. Expenses to be borne and tasks to be assumed by each party;
6. Specific performance indicators;
7. Transfer of management subjects;
8. Handling of breach; and
9. Other related matters.

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## Article 10

The applicant shall complete the following tasks within 3 months after signing an administrative contract, report said completion to the relevant competent authority for approval, and proceed to student enrollment:

1. Obtain letter of consent to employment from the principal, faculty, and staff;
2. Complete curriculum planning, teaching and activity design, use of teaching resource, and other teaching preparations; and
3. Complete preparations for student enrollment.

Any applicant that fails to complete the aforementioned tasks may apply for an extension not exceeding 3 months; further failure after said extension shall be subject to revocation of permit and termination of contract by the relevant competent authority.

A consignee that deems changes to the administrative contract to be necessary shall submit a proposal of amendment draft to the relevant competent authority for amendment approval. If change of operation plan is involved, an amended operation plan shall be submitted with a proposal of amendment draft to the relevant competent authority for amendment approval.

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## Chapter 3

### Rights and Obligations of Faculty and Staff

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#### Article 11

The principal, faculty, and staff hired/assigned by a school within its organization system in accordance with applicable regulations concerning hiring of educators and public employees and prior to the private operations consignment by the relevant competent authority shall be transferred to the consigned school on the date of consignment to continue their employment with the same status of educators and public employees, and remain subject to the original applicable laws concerning their employment, tenure, disciplinary actions, performance assessment, training, advanced study, compensation, insurance, protection, right to form association, retirement, layoff, survivor's benefits, benefits, and other rights.

The management of human resources and accounting personnel among the retained personnel mentioned in the preceding Paragraph shall be the same with other public employees.

Applicable organizational regulations before the consignment date shall be applicable to the retained public employees mentioned in the preceding two Paragraphs regarding their promotion and civil service assessment.

Articles 15 to 18 shall be applicable to personnel mentioned in Paragraphs 1 and 2 who are retired or laid off but then hired by the consignee, and their monthly pension pay and favorable savings plan shall be suspended.

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#### Article 12

The relevant competent authority shall consult with and provide job placement initiatives for the principal, faculty, or staff mentioned in Paragraph 1 of the preceding Article who are not willing to transfer to the consigned school, otherwise they shall retire or depart on the date of consignment in accordance with applicable regulations.

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#### Article 13

The Act of Governing the Appointment of Educators shall be applicable to personnel not within the organization system who are hired/assigned prior to the private operations consignment by the relevant competent authority, and accept the transfer to the consigned school on the date of consignment to continue their employment, until the expiration of their employment contract.

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#### Article 14

The consignee shall recognize the labor conditions and labor seniority of the laborers of the original school, to whom the Labor Standard Act is applicable, being transferred to the consignee on the consignment date. The original school shall preannounce the termination of labor agreement in accordance with the laws with the laborers who do not wish to transfer, and pay for the severance or retirement in accordance with applicable laws.

The janitors hired by the original school in accordance with the existing Key Points for Managing Janitors (previously known as the Rules Governing General Affairs) (including technicians and drivers; hereinafter referred to as "original school janitors") shall retain their position in accordance with existing regulations or transfer to the consignee on the consignment date. Those who transfer to the consignee on the consignment date shall apply for retirement or departure on the consignment date and be governed by the personnel policies of the consigned school after the consignment date.

The relevant competent authority shall provide job placement initiatives for original school janitors mentioned in the preceding Paragraph who are not willing to transfer to the consignee, and the new employer organization (agency) shall recognize the work seniority already accumulated.

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#### Article 15

The consignee may hire a person with specific expertise to assume the position of principal according to the needs of school development and teaching features, while employment priority shall be given to an educator who qualifies as a school principal in accordance with the Act of Governing the Appointment of Educators; Paragraph 2 of Article 16 shall apply to the rights and obligations thereof.

For principals mentioned in the preceding Paragraph who do not meet the qualifications prescribed in the Act of Governing the Appointment of Educators, Paragraph 3 or 5 of Article 16 shall apply to the rights and obligations thereof depending on whether said person holds teacher certificates.

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## Article 16

The consignee may hire persons with expertise in specific subject or discipline as teaching personnel according to the needs of school development and teaching features, while employment priority shall be given to the persons holding teacher certificates.

The regulations governing public school teachers shall be applicable to the rights and obligations of the teacher certificate holders who are not full-time teachers within organization system as mentioned in Paragraph 1 of Article 11. However, regarding matters of salary raise, bonuses, and benefits, unless otherwise agreed upon in the agreement made among the relevant competent authority, consignee, consigned schools, and the teachers, more favorable personnel policies adopted by the consigned schools shall prevail.

The following rules shall be applicable to the full-time teachers holding teacher certificate hired beyond organization system:

1. The retirement, survivor's benefits, layoff, and insurance shall be governed by the personnel policies adopted by the consigned schools, and the regulations governing public school teachers do not apply in the matters hereto.
2. The regulations governing public school teachers within organization system shall be applicable to the rights and obligations not mentioned in the preceding Paragraph. However, regarding matters of salary raise, bonuses, and benefits, unless otherwise agreed upon in the agreement made among the relevant competent authority, consignee, consigned schools, and the teachers, more favorable personnel policies adopted by the consigned schools shall prevail.

The consigned schools shall comply with the regulations governing recognition of work seniority accumulated by the teachers of the consigned schools prior to the promulgation of this Act regarding to their retirement, survivor's benefits, firing, and insurance applications.

The compensation and benefits for teaching personnel who do not hold teacher certificates shall be governed by the agreement made between the consignee and the said teaching personnel and the personnel policies adopted by the consigned schools, and the regulations governing public school teachers do not apply to their retirement, survivor's benefits, layoff, and insurance. Their work seniority accumulated at equivalent position with good service record and with teacher certificate on teaching jobs at public schools may be included in the determination of salary tiers without exceeding the highest seniority-salary class allowed for the position currently held.

With consent from the current school employer and permission from the relevant competent authority, teachers of other schools may be attached to consigned schools and assume teaching position within the organization system of the consigned schools for a total period not exceeding 3 years. The consigned schools are responsible for their compensation and benefits. They shall return to their original schools upon the expiration of secondment, and the original schools shall keep their job vacancies.

The consigned schools shall withhold pension fund on monthly basis during the attachment period mentioned in the preceding Paragraph in accordance with the Statute Governing the Retirement of School Faculty and Staff.

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#### Article 17

When hiring foreigners with work permits for teaching academic courses or foreign language courses, teacher education, curriculum development, and activity promotion, the consignee shall submit related documents and apply to the central competent authority; those who are qualified to teach courses on foreign language(s) shall be exempt from regulations stated in Paragraph 2 of Article 46 and Paragraphs 1 and 2 of Article 48 of the Employment Service Act.

The regulations governing the teaching qualifications, number of teachers, weekly work hours, screening criteria, permit application, permit cancellation, employment supervision and other relevant matters for foreigners mentioned in the preceding Paragraph shall be stipulated by the central competent authority.

Relevant regulations in Subparagraphs 1 through 6 of Paragraph 1 of Article 46 of the Employment Service Act shall be applicable to the employment supervision of foreigners hired in accordance with Paragraph 1; the regulations of the Immigration Act shall apply to their alien visits, residence, and permanent residence.

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#### Article 18

Staff newly hired by consigned schools after the consignment date shall be governed by the agreement made with their consignees and the personnel policies adopted by the consigned schools, and the regulations governing public employee do not apply in such case.

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#### Article 19

The consignee shall submit its proposed critical policies and rules of school administrative organization, personnel allocation, and personnel policies according to their respective school size to the relevant competent authority for review and approval.

The staff quota for faculty adopted by consigned schools may not fall short under the same stipulated for public schools.

Should the budget to cover personnel expense by the relevant competent authority mentioned in Paragraph 1 of Article 4 be insufficient to cover the consigned school's necessary personnel expenses, the consigned school shall self-finance and not use funds allocated for other purposes.

The consigned school's income shall be used to pay for educational activities and budget expenditures, and not be used for profit or other non-educational expenditures.

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#### Article 20

A consignee or its representative, person in charge, director or principal's spouse, third-level relative by blood or by marriage shall not assume the positions or jobs of general affairs, accounting, or personnel at the consigned school. The personnel as described hereto and are already in the position of general affairs, accounting, or personnel prior to the consignment contract or the principal's inauguration shall be re-assigned to other positions or jobs.

The relevant competent authority may order the consignee or the principal to relieve the personnel hired in violation of the rules mentioned in the preceding Paragraph; the consignee's or the principal's failure to comply immediately shall be subject to be relieved directly by the relevant competent authority.

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#### Chapter 4

#### Student Recruitment, Class Size, and Teaching Equipment

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#### Article 21

Regarding the private operations consignment of public elementary schools and public junior high schools, when the competent authority of municipal, county, or city government and consignee determine school district zoning in their administrative contract, other school districts shall be included without being limited by the school district zoning of the original school. If applicants outnumber total enrollment, the order of household registration dates or lottery may be adopted in determining priority for school admittance.

In responding to considerations of community development, population change, traffic conditions, and school environment, the competent authority of municipal, county, or city government may amend the administrative contract and change the school district zoning mentioned in the preceding Paragraph after a public hearing has been implemented.

The competent authority of municipal, county, or city government shall assist the parents of students within the school district who refuse to enroll in the consigned school and help the students to transfer to other nearby schools and subsidize traffic expense at its discretion and needs. The schools receiving transfer students hereto shall provide life and learning guidance depending on practical needs, and considering the special nature of experimental education, liberally recognize and accept experimental education course credits in accordance with relevant regulations.

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#### Article 22

Each class size at consigned schools may not exceed the numbers stipulated in the regulations applicable to public schools. The regulations pertaining to teaching equipment applicable to public schools shall be applicable to the consigned schools, unless otherwise approved by the relevant competent authority.

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## Chapter 5

### Evaluation, Reward, and Guidance

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#### Article 23

The relevant competent authority shall assemble evaluation teams to conduct regular or non-regular evaluation and guidance on the consigned schools.

The evaluation mentioned in the preceding Paragraph may be consigned to related academic institutes or groups. Criteria and method for evaluation shall be announced prior to the evaluation. Evaluation results shall be made public after the evaluation. During evaluation, parents may be invited to offer comments. Those rated top/excellent will be granted a reward. Written demand for rectification within a given deadline may be given to those fail to meet standards and a reassessment is to ensue. The relevant competent authority may order another rectification with a given deadline to those fail to pass the reassessment.

The measures for evaluation, reward, and guidance mentioned in the preceding Paragraph shall be determined by the relevant competent authority.

Relevant competent authorities shall provide budgets to subsidize schools. The central competent authority shall prioritize subsidies based on the financial rating of the municipal, county, or city government. The funds shall be earmarked for specific purposes.

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#### Article 24

The relevant competent authority may give priority for continuation as consignment period approaches its expiration for those rated top/excellent in evaluation as mentioned in the preceding Article.

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## Chapter 6

### Contract Renewal, Transfer of Operations, Contract Termination, and Expiration

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#### Article 25

Consignees who wish to continue with the consignment after the expiration of consignment period shall submit school management performance, financial statement, school affair evaluation report, and future operation plan to the relevant competent authority and apply for contract renewal no later than one year prior to the expiration of consignment period.

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#### Article 26

If the consignee's application for renewal as mentioned in the preceding Article is denied, or the consignee does not wish to renew, or the contract is terminated in accordance with Article 27 or Paragraph 2 of Article 28, operations of the consigned school shall be transferred to the relevant competent authority, and who shall appoint an adequate substitute as acting principal until a new principal reports for duty. The regulations governing selection of public school principal do not apply to the appointment of acting principal.

Unless otherwise agreed in consignment contract, in the situation mentioned in the preceding Paragraph the consignee shall immediately transfer the property, operation rights, student records, and school affair files of the consigned school to the relevant competent authority.

The self-governance regulations stipulated by the relevant competent authority shall be applicable to the transfer of operations mentioned in the preceding two Paragraphs.

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#### Article 27

The relevant competent authority may terminate the consignment contract after submitting any of the following situations to the education review committee for resolution:

1. The consignee or the consigned school engages in profit seeking or illegal activity;
2. The consignee or the consigned school is experiencing financial difficulty to the extent that the school is unable to function normally and the students' rights are harmed;
3. The consigned school has incurred an incident that puts school operations and students' rights in great peril; or
4. The consigned school fails to pass the reassessment mentioned in Article 23 and fails to make satisfactory rectification before the second deadline given by the relevant competent authority.

Before the education review committee makes the resolution mentioned in the preceding Paragraph, a public hearing shall be convened with teachers, students, and their parents invited to participate.

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#### Article 28

The relevant competent authority terminating agreement before the expiration of the consignment period shall do so at the end of the respective school year, unless one of the situations mentioned in the preceding Article has incurred.

The consignee terminating the contract due to poor management, or terminating the contract in accordance with contract or administrative regulations, shall submit application to the relevant competent authority at least 6 months prior to the end of the respective school year. The application will then be submitted to the education review committee for review. If approved, the contract shall be terminated by the relevant competent authority.

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#### Article 29

The relevant competent authority shall provide assistance, with consideration of parents' opinions, to the students wishing to transfer out from the consigned elementary school or junior high school of which contract is terminated or expired, and help said students to transfer to nearby schools where vacant enrollment quota is available.

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#### Article 30

The faculty and staff transferred to the consigned school, to which agreement renewal is not made between the consignee and the relevant competent authority, in accordance with Paragraph 1 of Article 11 and teachers hired within organization system and to whom the regulations governing public school teachers may apply in accordance with Paragraph 2 of Article 16 shall remain employed by their respective original schools after the expiration of the consignment period, except for those who opt for departure or retirement.

The consignee shall be solely responsible for employees other than the faculty and staff not opting for departure or retirement mentioned in the preceding Paragraph.

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#### Chapter 7

##### Punitive Provisions

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#### Article 31

The consignee or principal in violation of Paragraph 1 of Article 19 shall be subject to a penalty fine of TWD 50,000 to 200,000 administered by the relevant competent authority. Punitive provisions in the Act on Recusal of Public Servants Due to Conflicts of Interest shall take precedence for those concurrently in violation of said Act.

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#### Chapter 8

##### Supplementary Provisions

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#### Article 32

The schools already consigned in accordance with the originally applicable laws prior to the promulgation of this Act may carry on with the original contract until the expiration of the respective term, and this Act shall be applicable after said expiration.

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#### Article 33

The enforcement rules of this Act shall be stipulated by the central competent authority.

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#### Article 34

This Act comes into effect on the date of promulgation.

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