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TOLL ROAD ACT

[Enforcement Date: Mar. 21, 2008] [Act No. 8976, Mar. 21, 2008, Other Laws and Regulations Amended]

Ministry of Land, Transport and Maritime Affairs (Road Policy Division)

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CHAPTER I GENERAL PROVISIONS

Article 1 (Purpose)

The purpose of this Act is to enhance the convenience of transportation and to contribute to the development of the national economy by providing for the matters concerning the new construction, reconstruction, maintenance and management, etc. of the toll roads.

Article 2 (Definitions)

The definitions of the terms used in this Act shall be as follows: <Amended by Act No. 7386, Jan. 27, 2005; Act No. 8852, Feb. 29, 2008; Act No. 8976, Mar. 21, 2008>

1. The term "road" means the road as prescribed in Article 2 (1) 1 of the Road Act;
2. The term "toll road" means the road for which tolls or usage fees are collected in accordance with this Act or Article 26 of the Act on Private Participation in Infrastructure;
3. The term "road management agency" means the agency in charge of managing roads as prescribed in Articles 20 and 21 of the Road Act;
4. The term "local road management agency" means the road management agency that is a local government;
5. The term "toll road management agency" refers to the road management agency where a toll road is newly constructed or reconstructed by the relevant road management agency

in accordance with the provisions of Article 4, the Minister of Land, Transport and Maritime Affairs (hereinafter referred to as the “Minister”), where a toll road is newly constructed or reconstructed by him/her in accordance with the provisions of Article 5, and the road management agency having authority to grant permission where a toll road is newly constructed or reconstructed by any person other than the road management agency in accordance with the provisions of Article 6; and

6. The term "motor vehicle" refers to the automobile as prescribed in subsection 1 of Article 2 of the Automobile Management Act and the construction machinery prescribed by the Presidential Decree which may drive on roads among the construction machinery, etc. as prescribed in Article 2 (1) 1 of the Construction Machinery Management Act.

Article 3 (Relations with Other Acts)

The matters which are not provided in this Act concerning the new construction, reconstruction, maintenance, repair and other management of toll roads shall be governed by the Road Act and the National Expressway Act.

CHAPTER II NEW CONSTRUCTION OR RECONSTRUCTION OF TOLL ROADS

Article 4 (New Construction or Reconstruction of Toll Roads by Road Management Agency)

(1) A road management agency may newly construct or reconstruct the roads applicable to the following subsections and collect tolls from any person who drives on such roads:

1. A road from which any person driving on such road substantially benefits from; and
2. A road which is in the vicinity of another road (excluding any toll road) such that it is not unavoidable to drive on the road to be newly constructed or reconstructed.

(2) In the event that the road applicable to any of the following subsections is newly constructed or reconstructed for a toll road, such road shall not need to meet the requirements of each subsection of section (1):

1. National expressway;
2. A road for the purpose of tourism; and
3. A road linking the land to any island or linking island with island.

(3) Notwithstanding the provisions of sections (1) and (2), in the event that the total amount of tolls expected to be collected during the toll collection period calculated in accordance with the provisions of Article 16(4) comes short of the total amount of the principal and interest of the cost required for new construction, reconstruction, maintenance, repair and other management of such toll road (hereinafter referred to as "total amount of the cost of construction and maintenance of the toll road"), the relevant road shall not be newly constructed or reconstructed as a toll road: *Provided*, that where the State or a local government acknowledges that there is social and economic feasibility of the new construction or reconstruction of such road and the convenience of the public transportation is to be considerably increased thereby, and provides financial support (referring to investment, contribution, subsidy, etc.; hereinafter the same shall apply) for the construction of the road by the ratio prescribed by the Presidential Decree or higher, the same shall not apply. <Amended by Act No. 7242, Oct. 22, 2004>

**Article 5 (New Construction or Reconstruction, etc. of Toll Roads, etc. by Minister
<Amended by Act No. 8852, Feb. 29, 2008>)**

(1) In the event that any road under the management of a local road management agency is closely related to the development of the national territory, the promotion of tourism and conveniences of local residents, etc. and the relevant road corresponds to the requirements of Article 4, the Minister may newly construct or reconstruct the relevant road as a toll road at his/her own cost and collect tolls from persons who drive on such toll road as provided by the Presidential Decree. <Amended by Act No. 8852, Feb. 29, 2008>

(2) When the Minister intends to newly construct or reconstruct any toll road in accordance with the provisions of section (1), he/she shall obtain prior consent from the respective local road management agency. In this case, such local road management agency shall pass a resolution of its local council on whether or not to grant such consent. <Amended by Act No. 8852, Feb. 29, 2008>

(3) In the event that the Minister newly constructs or reconstructs a road under the management of a local road management agency for a toll road and collects tolls from persons driving on such toll road in accordance with the provisions of section (1), he/she shall bear the obligation and cost necessary to maintain, repair and manage such toll road for the period from the day following the day on which the construction work is completed and published in accordance with the provisions of Articles 7 (2) and 19 to the day on which the toll collection period expires. <Amended by Act No. 8852, Feb. 29, 2008>

(4) In the event that the Minister newly constructs or reconstructs a toll road in accordance with the provisions of section (1) or bears the obligation or the cost necessary to maintain, repair and manage such toll road in accordance with the provisions of section (3), he/she shall vicariously exercise the authority of the relevant local road management agency for the

period thereof as provided by the Presidential Decree. <Amended by Act No. 8852, Feb. 29, 2008>

Article 6 (New Construction or Reconstruction of Toll Road by Non-Road Management Agency)

Any person other than the road management agency (hereinafter referred to as "non-road management agency") may newly construct or reconstruct a road which meets the requirements under Article 4(1) or (2) for a toll road at his/her own cost after obtaining permission from the relevant road management agency and collect tolls from persons driving on such toll road as provided by the Presidential Decree.

Article 7 (Publication of Toll Road Construction Work)

(1) When a toll road management agency undertakes the work of new construction or reconstruction of a toll road as prescribed in Articles 4 through 6, he/she shall publicly announce in advance the kind and route name of such toll road as well as the section, kind and the commencement date of the construction work, etc. as provided by the Presidential Decree. The same shall apply to the case where it is intended to modify the published matters.

(2) When the toll road management agency has completed the whole or part of the construction work as prescribed in section (1) or has repealed such construction work, he/she shall publish the purpose thereof beforehand in a manner corresponding to the provisions of section (1).

Article 8 (Linking, etc. of Toll Road with Other Roads)

(1) Where the Minister or a local road management agency intends to link a road under his/her or its management with a toll road under the management of another local road management agency, he/she shall consult in advance with the relevant local road management agency. Where a local road management agency intends to link a road under its management to a toll road under the management of the Minister, he/she shall obtain approval thereof from the Minister. <Amended by Act No. 8852, Feb. 29, 2008>

(2) Where it is necessary to increase the connectivity and efficiency of transportation, a toll road management agency may ask the road management agency whose road is linked directly to a toll road under its management for reconstruction, repair, etc. of such road.

(3) Where the toll road management agency holds consultation, grants approval or makes a request in accordance with the provisions of sections (1) and (2), and the right to manage the relevant toll road is established in accordance with provisions of Article 10 for such road,

he/she shall listen to the opinions of the holder of the right to manage the toll road in advance.

Article 9 (Cost Sharing of Local Government)

A local government that especially benefits from the new construction, reconstruction, maintenance, repair and other management of a toll road may share the whole or part of the cost accruing thereof.

CHAPTER III RIGHT TO MANAGE TOLL ROAD

Article 10 (Establishment of Right to Manage Toll Road)

(1) A toll road management agency may establish the right to maintain and manage a toll road and to collect tolls and occupation fees, etc. from persons driving on or utilizing such toll road (hereinafter referred to as "right to manage the toll road").

(2) The person who has his/her right established to manage a toll road in accordance with the provisions of section (1) (hereinafter referred to as the "holder of the right to manage the toll road") shall register his/her right with the relevant toll road management agency.

Article 11 (Nature of Right to Manage Toll Road)

The right to manage the toll road shall be deemed as the real right and the provisions governing the real estate of the Civil Act shall apply *mutatis mutandis* to such right, except as specially provided for in this Act.

Article 12 (Special Case for Disposal of Mortgage)

The right to manage the toll road, for which a mortgage is established, shall not be disposed of without the consent of the mortgagee thereof.

Article 13 (Change in Right)

(1) The establishment, change, termination and the disposal restriction of the right to manage the toll road or a mortgage on the right to manage the toll road shall take effect by registering in the toll road management register maintained by the relevant toll road management agency.

(2) Matters necessary for the registration as prescribed in section (1) shall be prescribed by the Presidential Decree.

Article 14 (Holder of Right to Manage Toll Road Acting on Behalf of Agency)

A toll road management agency may have any holder of the right to manage the toll road vicariously perform its duties as prescribed in the Road Act and the National Expressway Act as provided by the Presidential Decree.

CHAPTER IV TOLLS

Article 15 (Subjects Liable for Payment of Tolls)

(1) A toll road management agency or a holder of the right to manage the toll road shall collect tolls for vehicles driving on the relevant toll road according to their types prescribed by the Ordinance of the Ministry of Land, Transport and Maritime Affairs upon taking into account the structures and weights of such vehicles. <Amended by Act No. 8852, Feb. 29, 2008>

(2) The tolls may be reduced or exempted for military vehicles, rescue and relief vehicles, fire engines and other vehicles prescribed by the Presidential Decree, limited to the case where they are operated on the toll road for their original purposes, among the vehicles as prescribed in section (1), as provided by the Presidential Decree.

Article 16 (Determination and Criteria for Tolls by Toll Road Management Agency)

(1) A toll road management agency shall determine the tolls of any toll road (excluding any national expressway) within the limit of gains ordinarily accruing from the driving of vehicles on the relevant toll road in terms of time and expense.

(2) The Minister shall determine the tolls of any national expressway that is a toll road within the limit deemed fair and appropriate compared with price levels, the fares of other transportation means, and the charges of public utilities, etc. <Amended by Act No. 8852, Feb. 29, 2008>

(3) The total amount of tolls shall not exceed the total amount of the cost of construction and maintenance of the relevant toll road (including the national budget prescribed by the Presidential Decree to make up for losses, or reserves for losses appropriated in the special account of the local government in accordance with the provisions of Article 24 (1)).

(4) Matters necessary for the tolls of the toll road, the collection period and total amount of tolls, standards, methods and procedures for calculating the total amount of the cost of construction and maintenance of the relevant toll road, etc. shall be prescribed by the Presidential Decree.

Article 17 (Determination and Criteria for Tolls by Non-Road Management Agency)

(1) Any non-road management agency (including any person who purchases the right to manage a toll road from a toll road management agency; hereafter the same shall apply) shall determine tolls by taking into account the total amount of the cost of construction and maintenance of the relevant toll road, revenues other than the tolls accruing from the toll road, the toll collection period and the rate of earning, etc.

(2) Where a non-road management agency intends to collect tolls, it shall obtain approval thereof from the relevant toll road management agency as provided by the Ordinance of the Ministry of Land, Transport and Maritime Affairs. The same shall apply to the case where it intends to modify the approved tolls. <Amended by Act No. 8852, Feb. 29, 2008>

Article 18 (Integrated Accounting System)

A toll road management agency or a holder of the right to manage the toll road may, in the event that not less than two toll roads meet the requirements stated in the following subsections, collect tolls for a single toll road as a result of the integration of such two toll roads. In this case, the holder of the right to manage the toll road shall obtain approval thereof from the toll road management agency:

1. The toll road management agencies or the holders of the right to manage the toll roads shall be identical;
2. The toll roads shall be related to each other in terms of traffic; and
3. There shall be special reasons for integrated collection of tolls for the toll roads and be appropriate.

Article 19 (Publication of Tolls and Collection Period)

Where a toll road management agency or a holder of the right to manage the toll road intends to collect tolls, he/she shall publicly announce in advance the tolls, collection period and collection method of such tolls and other necessary matters in the Official Gazette or official report and post signs thereof in the places easily visible to the public in accordance with the Presidential Decree. The same shall apply to the case where it is intended to change the tolls, the collection period and the collection method of such tolls, etc.

Article 20 (Imposition and Collection of Additional Toll)

(1) In the event that any person who has driven on the relevant toll road is found to have evaded the payment of the toll or has had his/her toll discounted by fraud or unjust means, the toll road management agency or holder of the right to manage the toll road may impose and collect an additional toll prescribed by the Presidential Decree within the limit of ten times the toll evaded or discounted in addition to the relevant toll.

(2) In the case of section (1), if the point of entry to the toll road is unclear, it shall be presumed that he/she has driven the longest distance from the place where he/she is liable to pay the toll.

Article 21 (Compulsory Collection of Toll)

(1) A toll road management agency may, if a person liable to pay a toll and an additional toll has failed to do so, collect such toll and additional toll according to the practices of a disposition taken to collect delinquent national or local taxes.

(2) A holder of the right to manage the toll road may, if a person liable to pay a toll and an additional toll has failed to do so, entrust the head of the city/*Gun*/*Gu* (referring to the head of autonomous *Gu*, and the same shall apply hereinafter) having jurisdiction over the relevant area with collection of such toll and additional toll, in accordance with the Presidential Decree.

(3) Where the head of the city/*Gun*/*Gu* has been entrusted to collect the toll and additional toll pursuant to the provisions of section (2), he/she shall collect such toll and additional toll according to the practices of a disposition taken to collect delinquent local taxes. In this case, the holder of the right to manage the toll road shall pay an amount equivalent to 10/100 of the amount collected by the head of the city/*Gun*/*Gu* to the city/*Gun*/*Gu* (referring to the autonomous *Gu*).

(4) In the event that any person liable to pay a toll and an additional toll has failed to do so for using the toll road (limited to national expressways), for which the Korea Highway Corporation established pursuant to the Korea Highway Corporation Act is designated as the holder of the right to manage the toll road in accordance with Article 10, the Korea Highway Corporation may collect such toll and additional toll according to the practices of a disposition taken to collect delinquent national taxes after obtaining approval thereof from the Minister in accordance with the conditions prescribed by the Presidential Decree.

<Amended by Act No. 8852, Feb. 29, 2008>

Article 22 (Reversion of Tolls, etc.)

Any tolls and additional tolls collected by the Minister under this Act shall be reverted to the revenues of the National Treasury and any tolls and additional tolls collected by a local road management agency shall be reverted to revenues of the relevant local government: *Provided*, that in the case of the toll road for which the right to manage the toll road is established pursuant to Article 10, any tolls and additional tolls thereof shall be reverted to revenues of the holder of the right to manage the toll road. <Amended by Act No. 8852, Feb. 29, 2008>

Article 23 (Restrictions on Use of Collected Tolls, etc.)

Any tolls and additional tolls which are reverted to the National Treasury or local governments in accordance with Article 22 shall not be used for purposes other than the purposes applicable to each of the following subsections:

1. Repayment of principal and interest of costs required to newly construct or reconstruct toll roads; and
2. Costs necessary for new construction, reconstruction, upgrade, maintenance, repair and other management of roads (including toll roads and other roads linked to toll roads).

CHAPTER V SUPPLEMENTARY PROVISIONS

Article 24 (Special Accounts, etc.)

(1) The State and local governments shall establish special accounts on toll roads to manage revenues and expenditures thereof.

(2) A holder of the right to manage the toll road shall make an accounting report on the total amount of the costs of construction and maintenance of the relevant toll road and the total amount of tolls collected, etc. to the relevant toll road management agency. In this case, if the holder of the right to manage the toll road is subject to external audit as prescribed in Article 2 of the Act on External Audit of Stock Companies, such accounting report shall refer to the one audited by an external auditor.

(3) Matters necessary for the standards, etc. for preparing the accounting report prepared by the holder of the right to manage the toll road in accordance with the provisions of section (2) shall be prescribed by the Presidential Decree.

Article 25 (Supervision)

(1) The Minister may, when it is deemed necessary, order any local road management agency to undertake the construction work of a toll road, to restrict the permission for road occupation, to designate or change any junction area or to take dispositions and measures necessary to manage toll roads. <Amended by Act No. 8852, Feb. 29, 2008>

(2) In the event that a non-road management agency has violated the provisions of this Act or fails to meet the permission conditions under this Act, the toll road management agency may revoke the permission, suspend the construction work, vicariously execute administration and take other necessary dispositions or order such non-road management agency to take necessary measures.

CHAPTER VI PENAL PROVISIONS

Article 26 (Penal Provisions)

(1) Any person who has obtained permission as prescribed in Article 6 by fraud or illegal means or newly constructed or reconstructed a toll road without permission shall be punished by imprisonment not exceeding two years or by a fine not exceeding 20 million won.

(2) Where any person who has obtained approval or modified approval as prescribed in Article 17 (2) has collected tolls in violation of the approved terms, he/she shall be punished by imprisonment not exceeding one year or by a fine not exceeding 10 million won.

(3) Where a representative of a juristic person, or an agent, a servant or any other employee of a juristic person or an individual has committed activities applicable to section (1) or (2), the respective juristic person or individual shall be sentenced to the fine prescribed by each of the relevant sections in addition to the punishment of the offender

ADDENDA (Road Act) <Act No. 8976, Mar. 21, 2008>

Article 1 (Enforcement Date)

This Act shall take effect on the day of its promulgation.

Article 2 through 8 Omitted.

Article 9 (Amendment of Other Acts)

(1) through <56> Omitted.

<57> Part of the Toll Road Act shall be changed as follows:

The term “Article 2 of the Road Act” in subsection 1 of Article 2 shall be changed to “Article 2 (1) 1”, and the term “Article 22 and 23 of the Road Act” in subsection 3 of the same Article shall be changed to “Article 20 and 21 of the Road Act”.

<58> through <99> Omitted.

Article 10 Omitted.