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The Korean AI Basic Act: Asia's First Comprehensive Framework on AI

"Act on the Development of Artificial Intelligence and Establishment of Trust", that is a comprehensive framework on AI, was approved on December 26, 2024 and promulgated on January 21, 2025 in South Korea. This Act implements a broad rule of extra-territorial applicability and could give an impact on the business of Japanese companies.

I. Introduction

New regulations and legal framework on Artificial Intelligence (hereinafter referred to as the "AI") are being actively discussed throughout the world. Notably, one significant highlight must be mentioned: the "Act on the Development of Artificial Intelligence and Establishment of Trust" (hereinafter referred to as the "AI Basic Act")¹, was approved on December 26, 2024 and promulgated on January 21, 2025 in South Korea.

The AI Basic Act, which consolidates nineteen separated AI bills² introduced to the National Assembly until November 2024³, was approved by 260 out of 264 lawmakers in its final passage⁴ and was finally promulgated on January 21, 2025. It constitutes the first comprehensive framework on AI in the Asian region and the second on a global level⁵, following the adoption of the EU AI Act in August 2024 (please, read our previous [newsletter](#) if you want to know more about the EU AI Act).

As the AI Basic Act implements a broad rule of extra-territorial applicability and could give an impact on the business of Japanese companies, this article will outline its content. Furthermore, this Act presents many similarities with the Regulation laying down harmonized rules on AI in the European Union (hereinafter referred to as the "EU AI Act"), we will also propose a comparison with the EU AI Act.

II. An Overview of the newly enacted “AI Basic Act” in South Korea

1. The purpose of the “AI Basic Act”

The AI Basic Act, which was passed in a plenary session of the National Assembly of South Korea on December 26, 2024, has the purpose of “protect[ing] the rights and dignity of the people, improv[ing] their quality of life and strengthen[ing] national competitiveness by stipulating the basic matters necessary for the safe development of artificial intelligence and the establishment of trust”⁶. The AI Basic Act focuses on the promotion of the ideal conditions to launch a national cooperative system for AI, allows the sector to flourish, and shapes the legal basis to prevent the occurrence of the risks associated with the use of such technologies⁷. Nevertheless, the AI Basic Act provides that enforcement will generally occur starting from January 22, 2026⁸, thus giving exactly one year to related AI businesses to comply with it. The AI Basic Act only mentions one exception to this general rule regarding the timeline of application of the Act itself: Article 2, paragraph 4 related to digital medical devices will come into effect on January 24, 2026⁹.

It goes without saying that to fully understand how to comply with the AI Basic Act, businesses should keep up with the developments concerning the adoption of subordinate legislation and sector-specific guidelines, including definitions of high-impact AI, computational thresholds, and safety measures¹⁰.

The AI Basic Act has four main parts: (i) creation of a comprehensive governance framework to support the AI development and the establishment of a trust-based foundation¹¹; (ii) measures to promote technological and industrial development¹²; (iii) identification of specific duties and responsibilities for AI businesses¹³; (iv) fact-finding investigations and penalties¹⁴. Each will be explained in detail in the following subsections.

2. Creation of a comprehensive governance framework to support the AI development and the establishment of a trust-based foundation

First of all, the AI Basic Act stipulates the creation of a specific institutional framework to comprehensively promote the related policy. In particular, the Ministry of Science and ICT (hereinafter referred to as the “MSIT”) is required to establish and implement every three years a Basic AI Plan (hereinafter referred to as the “Basic Plan”) to promote AI technology and the related industry¹⁵. Such Basic Plan will be subject to the deliberation and resolution of the National AI Committee, which is established under Article 7 of the AI Basic Act. It will be chaired by the President and will deliberate on matters concerning policy, investment, infrastructure and regulations related to AI¹⁶. To guarantee the organized and consistent development and execution of AI-related policies and initiatives, the AI Basic Act also establishes the legal basis for other institutions, including: the AI Policy Center¹⁷, the AI Safety Research Institute¹⁸, and the Korea AI Promotion Association¹⁹.

3. Measures to promote technological and industrial development

Secondly, under the AI Basic Act, the government is required to formulate support measures to mitigate the risks arising from the use of AI, to increase trust and to ensure the advancement of AI and the affected industries. Some measures may include promoting R&D in this area, facilitating the distribution of information, ensuring a smooth cooperation between industries and the academia, implementing projects to raise awareness for the safe development and use of artificial intelligence, elaborating and providing support for the standardization of AI technology by the private sector²⁰. Additionally, the government shall facilitate the production, collection, management, distribution, and utilization of training data, while also encouraging the establishment and operation of data centers²¹. In addition to this, the AI Basic Act prescribes that the government may formulate and publish AI Ethics Principles on AI safety, reliability and accessibility²².

4. Identification of specific duties and responsibilities for AI businesses

Moreover, the AI Basic Act identifies specific duties and obligations of AI business. Such obligations imposed by the AI Basic Act on AI businesses can be divided according to the following categories: (i) Obligations for AI systems that exceed certain threshold; (ii) Obligations for Business Operators involved with high-impact AI; (iii) Obligations concerning Generative AI; (iv) Obligations for non-domestic Business Operators.

4.1 *Obligation for AI system that exceeds certain threshold: the establishment of a risk management system*

Under Article 32 of the AI Basic Act, AI Business Operators whose AI systems exceed a threshold of cumulative computational usage for training as it will be determined by Presidential Decree shall assess the potential risks related to AI and thus establish a risk management system. Such risk management system will be used to monitor and respond to AI-related safety accidents, whose results must be duly submitted to the MSIT²³.

4.2 *Obligations for Business Operators involved with high-impact AI System*

Some of the obligations under the AI Basic Act imposed on AI Business Operators incorporating high-impact AI systems (as defined in Article 2(4) of the AI Basic Act)²⁴ in their products or services are as follows:

- AI Business Operators shall inform the users in advance that the products or services provided are AI-powered²⁵;
- AI Business Operators must assess in advance whether their AI systems fall within the definition of high-impact AI systems and, if needed, ask for confirmation to the MSIT²⁶;
- AI Business Operators incorporating high-impact AI systems in their products or services must ensure safety and reliability by implementing the measures listed in Article 34 of the AI

Basic Act, including user protection measures, providing explanations about the AI system used, ensuring human oversight and supervision of high-impact AI, preparing and maintaining documentation on measures concerning safety and reliability, etc.²⁷;

- AI Business Operators shall assess the potential effects on fundamental rights when providing products or services using high-impact AI²⁸.

4.3 *Obligation relevant to Generative AI*

Businesses offering Generative AI (as defined in Article 2(5) of the AI Basic Act)²⁹ products or services must indicate that their output is artificially created. Additionally, the AI Business Operators are required to notify the users if the contents generated by AI systems, such as voices, images, or videos, are difficult to distinguish from reality (*i.e.* deepfakes).³⁰

4.4 *Extraterritorial Application and Obligations for non-domestic Business Operators*

The AI Basic Act adopts a broad rule of extraterritorial application and that it “shall apply to any acts conducted abroad that affect the domestic market or users in the Republic of Korea”. This means that also Japanese companies may be subject to the AI Basic Act. Additionally, AI Business Operators that meet certain user and revenue thresholds defined by Presidential Decree must appoint a domestic representative if they are without an address or business location in South Korea. Such representatives will ensure that AI Business Operators will comply with the obligations prescribed by the AI Basic Act³¹. It is important to note that the AI Business Operators will be deemed liable if the domestic representative violates or does not comply with the obligations imposed by the Act³².

Being applicable to non-domestic Business Operators, such obligations will be also quite relevant to Japanese companies that will have developed or used AI systems in Japan, but whose acts will have implications on the domestic market or users in the territory of South Korea. In this case, Japanese companies need to comply with the above obligations within the deadline of January 22, 2026³³. As already mentioned, to understand whether a business without address or office in Korea must designate a domestic representative, it is fundamental to monitor the status of the Presidential Decree, which will indicate the thresholds above which the above obligation will apply.

5. **Fact-finding Investigations and Penalties**

Article 40 of the AI Basic Act grants the MSIT investigative powers in case of suspected, identified or reported violation of some of the obligations imposed by the AI Basic Act, including: (i) transparency requirement under Article 31; (ii) adoption of a risk management system under Article 32; (iii) implementation of measures to secure the safety and reliability of high-impact AI systems under Article 34³⁴. The MSIT may order the AI Business Operators to take the necessary measures if a violation of the AI Basic Act is detected as a result of an investigation³⁵. However, there is a widespread concern among AI Business Operators that the AI Basic Act could grant a broad authority to MSIT to investigate based on complaints or reports, which could lead to

regulatory uncertainty and confidentiality risks. Nevertheless, the MSIT assured the establishment of detailed investigative criteria through future regulations to mitigate such issue³⁶.

Any failure to comply with the orders adopted by the MSIT in case of violation of the obligations imposed on the AI Business Operators and, in general, the rules set out in the AI Basic Act can result in fines of up to KRW 30 million³⁷.

III. Comparison between the “AI Basic Act” and the “EU AI Act”

Under a comparative approach, it can be said that the AI Basic Act does reveal a certain degree of influence and resemblance with the provisions of the EU AI Act, being the first comprehensive regulatory framework on AI.

Firstly, both regulations use a risk-based approach by proposing a classification of AI systems through the identification of certain areas where AI poses intensified risks. However, there are two differences with regard to specific contents of their risk-based approaches that must be underlined. To begin with, while the EU AI Act identifies four different levels of risks (i.e., unacceptable risk, high risk, limited risk and minimal risk)³⁸, the AI Basic Act proposes only two types of AI systems (i.e., high-impact AI and generative AI)³⁹ that are regulated according to the threats associated with the use of such technologies. Additionally, while Article 5 of the EU AI Act with regard to the so-called “Prohibited AI Practices” prohibits the use of specifically categorized AI systems as unacceptable risk⁴⁰, the Korean Act does not provide any regulation to prohibit specific type of AI system depending on the dangers to life, personal safety and fundamental rights.

Secondly, both acts include obligations on transparency (Art. 50 of the EU AI Act and Art. 31 of the AI Basic Act); risk management system, documentation and oversight (Articles 9-15 of the EU AI Act and Articles 32 and 34 of the AI Basic Act); the establishment of a robust institutional system to oversight the enforcement of the Act and the development of AI (Chapter VII of the EU AI Act and Articles 7, 11, 12, 26 of the AI Basic Act)⁴¹.

Thirdly, the regulation adopted in the EU and the one that has just been promulgated in Korea both include a provision on their extraterritorial application⁴².

Nevertheless, a major difference can be found with regard to the penalties: while enforcement mechanisms are included in both laws, there is a marked discrepancy on the severity of the fines applicable in case non-compliance. Any failure to comply with the AI Basic Act can result in fines of up to KRW 30 million (about JPY 3million/€20,000), but the penalties prescribed in the EU AI Act can be as high as €35 million (about JPY 5.6 billion) or 7% of worldwide annual turnover⁴³.

IV. Implications and Future trends in Laws and Regulations

The enactment of the AI Basic Act represents an important milestone for South Korea as it demonstrates its commitment to take a leap forward in creating a risk-mitigated environment

characterized by the responsible use of the potential of AI, especially since such technologies have now become part of our daily lives and are having a major impact on many sectors. However, it is expected that further subordinate statutes and policies for AI development will be adopted in order to provide guidance to AI Business Operators on the compliance with the obligations set out in the Act⁴⁴.

[AIL AI Newsletter Series]

- [Japan] "[Publication of the "Draft Interim Report" of the AI Strategy Council and the AI Institutional Research Group: The future direction of the legal system surrounding AI](#)", January, 9, 2025;
- [Japan] "[Policy Trends and Discussion on Regulating AI Technologies in Japan](#)", October 31, 2024;
- [EU] "[The EU AI Act explained: the major effects produced by the new Regulation](#)", September 6, 2024 (last updated on 27, February 2025).

¹ Act on the Development of Artificial Intelligence and Establishment of Trust ("AI Basic Act"), Law No. 20676, enacted on January 21, 2025, available in Korean at https://likms.assembly.go.kr/bill/billDetail.do?billId=PRC_R2V4H1W1T2K5M1O6E4Q9T0V7Q9S0U0 > on 14/03/2025.

² A list of the bills introduced to the National Assembly can be found here https://likms.assembly.go.kr/bill/billDetail.do?billId=PRC_R2V4H1W1T2K5M1O6E4Q9T0V7Q9S0U0 > on 14/03/2025.

³ National Assembly, Plenary Session Deliberation Minutes, p. 19, available in Korean at < <https://likms.assembly.go.kr/record/mhs-10-030.do?conferNum=054639>> on 14/03/2025.

⁴ Id., p. 24.

⁵ Margareth Theresia, "*Newly enacted law sets basis for nat'l development of AI*" (December 27, 2024), available in English at <https://www.korea.net/NewsFocus/policies/view?articleId=264071> > on 14/03/2025.

⁶ Article 1 ("Purpose") of the AI Basic Act.

⁷ Id.

⁸ Article 1 ("Effective Date") of the Addendum to the AI Basic Act.

⁹ Article 1 ("Effective Date") of the Addendum to the AI Basic Act mentions that "*[t]he part of Article 2, paragraph 4 related to digital medical devices will come into effect on January 24, 2026*".

¹⁰ Hwan Kyoung Ko, Sunghee Chae, Kyung Min Son, Il Shin Lee, "A New Era for AI: Republic of Korea Takes a Bold Step with AI Regulation" (January 2025), available in English at <https://www.leeko.com/news/techai/202501/202501.pdf>> on 14/03/2025.

¹¹ Chapter 2 ("Institutional Framework for Sound AI Development and Trust-Based Foundation") of the AI Basic Act.

¹² Chapter 3 ("AI Technology Development and Industrial Promotion") of the AI Basic Act.

¹³ Chapter 4 ("AI Ethics and Reliability Assurance") of the AI Basic Act.

¹⁴ Chapter 6 ("Penalties") of the AI Basic Act.

¹⁵ Article 6 ("Formulation of a Basic AI Plan") of the AI Basic Act.

¹⁶ Article 7 ("National AI Committee") of the AI Basic Act.

¹⁷ Article 11 ("AI Policy Center") of the AI Basic Act.

¹⁸ Article 12 (“AI Safety Research Institute”) of the AI Basic Act.

¹⁹ Article 26 (“Establishment of the Korea AI Promotion Association”) of the AI Basic Act.

²⁰ Articles 13 and 14 of the AI Basic Act.

²¹ Article 25 (“Promotion of AI Data Centers, etc.”) of the AI Basic Act.

²² Article 27 (“AI Ethics Principles, etc”) of the AI Basic Act.

²³ Article 32 (“Obligations to Ensure AI Safety”) of the AI Basic Act.

²⁴ Article 2(4) (“Definitions”) of the AI Basic Act defines High-Impact AI as follows:

“High-impact AI” means an AI system that may have significant effects on or pose risks to human life, bodily safety, or fundamental rights. It specifically refers to AI systems utilized in any of the following areas: a. Supply of energy as defined in Article 2(1) of the Energy Act b. Production processes of drinking water as defined in Article 3(1) of the Drinking Water Management Act c. Provision and utilization system of healthcare as defined in Article 3(1) of the Framework Act on Health and Medical Services d. Development and use of medical devices as defined in Article 2(1) of the Medical Devices Act and digital medical devices as defined in Article 2(2) of the Digital Medical Products Act e. Safe management and operation of nuclear materials and nuclear facilities as defined in Article 2(1)1 and 2 of the Act on Physical Protection and Radiological Emergency f. Analysis and utilization of biometric information (facial, fingerprint, iris, palm vein, etc.) used for criminal investigation or arrest g. Decision-making or evaluation significantly affecting personal rights or obligations such as recruitment or loan screening h. Major operations and management of transportation means, facilities, and systems as defined in Article 2(1)-(3) of the Transportation Safety Act i. Decision-making by the State, local governments, and public institutions (as defined in Article 4 of the Act on the Management of Public Institutions) that affects the public, including qualification verification, determination, or cost collection for public services j. Student evaluations in early childhood, elementary, and secondary education as defined in Article 9(1) of the Framework Act on Education k. Other areas specified by Presidential Decree that significantly affect human life, bodily safety, and fundamental rights.”

²⁵ Article 31 (“Obligations to Ensure AI Transparency”) of the AI Basic Act.

²⁶ Article 33 (“Confirmation of High-Impact AI”) of the AI Basic Act.

²⁷ Article 34 (“Responsibilities of Business Operators Regarding High-Impact AI”) of the AI Basic Act.

²⁸ Article 35 (“AI Impact Assessment”) of the AI Basic Act.

²⁹ Article 2(5) (“Definitions”) of the AI Basic Act defines High-Impact AI as follows:

“Generative AI” means an AI system that creates written, auditory, visual, or other diverse outputs by imitating the structure and characteristics of input data (as defined in Article 2(1) of the Framework Act on Data Industry Promotion and Utilization).”

³⁰ Article 31 (“Obligations to Ensure AI Transparency”) of the AI Basic Act.

³¹ Article 36 (“Designation of a Domestic Representative”) of the AI Basic Act.

³² Article 36(3) (“Designation of a Domestic Representative”) of the AI Basic Act.

³³ Article 1 (“Effective Date”) of the Addendum to the AI Basic Act.

³⁴ Article 40(1) (“Fact-Finding Investigation”) of the AI Basic Act.

³⁵ Article 40(3) (“Fact-Finding Investigation”) of the AI Basic Act.

³⁶ Codit, “AI Basic Act Passed by National Assembly Plenary Session on Dec 26” (December 26, 2024), available in English at <<https://blog.thecodit.com/2024/12/27/insights-ai-basic-act-passed-by-national-assembly-plenary-session-on-dec-26/>> on 14/03/2025.

³⁷ Articles 42 and 43 of the AI Basic Act.

³⁸ Recital 26 of the EU AI Act.

³⁹ Article 2(4) (5) (“Definitions”) of the AI Basic Act.

⁴⁰ Jong-In Yoon, Kwang-Hee Choi, Sinook Kang, et al., “National Assembly passes the AI Basic Act” (December 30, 2024), available in English at <<https://www.shinkim.com/eng/media/newsletter/2667>> on 14/03/2025.

⁴¹ Soham Jethani, Pankhuri Malhotra, Hena Ayisha and Tanvi Nimje, "The Closing Act of 2024: South Korea's AI Basic Act" (January 20, 2025), available in English at < <https://techlawpolicy.com/2025/01/the-closing-act-of-2024-south-koreas-ai-basic-act/>> on 14/03/2025.

⁴² Alex Roberts, Eunice Lee, Jerry Wang, "Korea's Won? South Korea's AI Basic Act: Asia's first comprehensive AI legislation" (December 31, 2024), available in English at < <https://techinsights.linklaters.com/post/102is56/koreas-wonsouth-koreas-ai-basic-act-asias-first-comprehensive-ai-legislatio>> on 14/03/2025.

⁴³ Id.

⁴⁴ Margareth Theresia, note n. 5.

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