

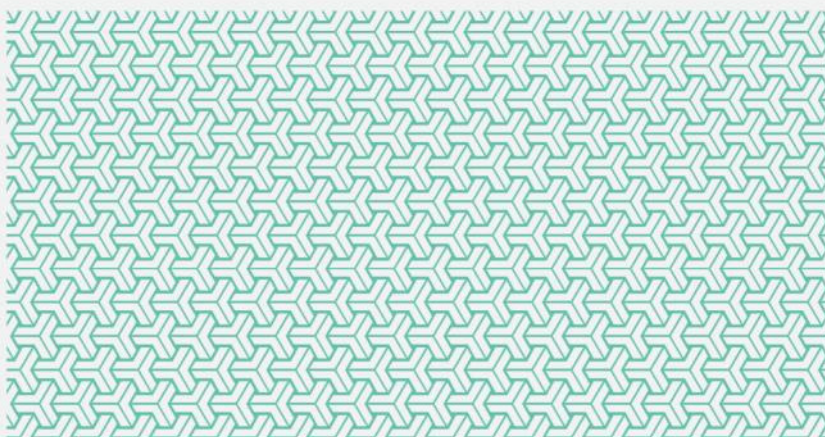
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Standards and System Development on Ex-post Legislative Impact Assessment in the Field of Architecture

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Chapter 1. Introduction

When establishing or strengthening regulations in Korea, pre-regulatory impact assessment including cost-benefit analysis plays a major role in minimizing unnecessary new regulations. However, the analysis of the social, economic, physical, and administrative impacts of the regulations that actually execute after the new regulation is insufficient. Especially in the field of architecture, the civil complaints for architecture and housing have reached 1 million per year due to complex and diverse architectural laws. As the administrative procedures for the introduction of a new system have been subdivided, it causes huge economic losses to the people and businesses. After the establishment of new building regulations, it is necessary to have a reflux system that systematically monitors and evaluates the actual execution status and performance of regulations at the operational stage.

Therefore, this study tried to seek for the standards and system of ex-post assessment in order to systematically improve the architectural legislation corresponding to the change of social and policy conditions.

Chapter 2. Concept and necessity of the introduction of ex-post legislative impact assessment in the field of architecture

This study analyzes the introducing intention, concept, current regulatory status, major issues and problems of ex-post legislative impact assessment and addresses the necessity of a system for ex-post legislative impact assessment in the field of architecture.

First, there is an urgent need to analyze the cause of the sudden rise of the architectural complaints and improve related systems.

Second, there is a need for systematic and evidence-based ex-post legislative impact assessment rather than individual or occasional responses to demands for institutional reforms. Ex-post legislative impact assessment requires specific standards and management system in the field of architecture. There is also a need for relevant data construction system for legislative impact assessment as ex-post legislative impact assessment works as one of the evidence-based policy implementation tools overseas.

Third, it develops concrete means of implementation by institutionalizing ex-post impact assessment based on the “General Act On Public Administration”. In order to promote legislative impact assessment based on the “General Act On Public Administration” enacted in 2021, it is necessary to create evaluation standards and systems that reflect the characteristics of each law.

Chapter 3. Basic standards for ex-post legislative impact assessment in the field of architecture

This study reviewed the precedent research of research institutes that have been conducting ex-post legislative impact assessment in Korea for many years and analyzes the systems and cases in overseas countries such as the United States, the United Kingdom, the EU, Germany and Austria. With analysis of case studies, this study established the analysis methods including purpose, object, standards and system. The basic direction of the standards for the legislative impact assessment has been established as follows.

First, in terms of the purpose of analysis, it is necessary to improve the feasibility of achieving regulatory goals and the effectiveness of regulations through ex-post legislative impact assessment in the field of architecture as well as to improve the quality of legislation and streamline regulations.

Second, it is necessary to present the selection criteria for analysis subjects in the process of planing ex-post legislative impact assessment and to select the priority of the analysis based on the criteria.

Third, from the perspective of analysis standards, it requires to propose standards for ex-post legislative impact assessment such as feasibility of achieving goals and economic efficiency in a comprehensive framework. In terms of analytical methods, it is necessary to propose various analytical methods (quantitative and qualitative) so that suitable analytical methods can be applied according to criteria selected in consideration of the characteristics and types of the subject to be analyzed. In particular, the method of ex-post legislative impact assessment in the field of architecture can utilize field surveys, fact-finding surveys such as map analysis and simulations.

Fourth, from the point of view of the analysis system, continuous follow-up analysis is necessary not limited to transient analysis. In addition, in order to make the results of ex-post legislative impact assessment meaningful for future legislation, it needs to consider a process such as submitting the results and

stakeholder opinions to the legislature as an attachment to the law revision bill.

Chapter 4. Standard proposal by pilot application for ex-post legislative impact assessment in the field of architecture

Chapter 4 suggests standards(draft) and detailed agendas based on the basic direction of ex-post legislative impact assessment standards in Chapter 3 and makes up for standards by the pilot application. The standards(draft) for ex-post legislative impact assessment proposed by the researchers are whether or not the legislative purpose is achieved, physical impacts or side effects before and after introduction, normative adequacy and cost adequacy. Among them, the cost adequacy is considered to a minimum since the Study Group for Economics, Humanities and Social Sciences(Korea Development Institute, Korea Institute of Public Administration) is conducting a cost analysis study of ex-post legislative impact assessment in the second half of 2022. The ex-post legislative impact assessment standards(draft) in the field of architecture that have been revised and supplemented through pilot application are as follows.

Supplements to the standards(draft) for ex-post legislative impact assessment in the field of architecture

Standard	Agenda	Analysis Method
① Legislative purpose achievement	a) Does it conform to the introducing intention (legislative purpose) of the target system? b) What are the measures(means) to achieve the purpose of introducing the target system? c) Whether the expected result(expected effect) from the introduction of the target system is fully achieved? d) Whether and to what extent unanticipated negative(positive) spillover effects have occurred?	Simulation analysis for before and after system introduction with actual examples, relevant statistical analysis, collection of stakeholder's opinion
(Supplements)	Although the detailed agendas of the standard (draft) are considered, details and methods need to be embodied reflecting the legislative purpose of the target system (Perform analysis with flexibility according to the analysis target)	Necessary to secure the system to be analyzed and related data in advance, Adopting different analysis methods depending on the data

Standard	Agenda	Analysis Method
② Physical impact or side effects comparing with introduction before and after	a) Is there a positive or negative impact on the surrounding area due to the application of target system? b) Whether the application of the target system has a positive or negative impact on the safety, function, and aesthetics of the architecture or the surrounding area (consistency with the purpose of the "Building Codes")? c) Are there any(suspected) cases of abuse of the target system and what are the side effects?	Simulation analysis for before and after system introduction with actual examples, relevant statistical analysis, collection of stakeholder's opinion
(Supplements)	b) Items vary depending on the legislative purpose of the scheme in question.	-
③ Normative adequacy (Legal system analysis)	a) Does it violate the Constitution? (constitutionality)? b) Does it violate other higher laws? c) Are there any conflicts between individual regulations? d) Are there any inconsistencies between relevant laws and regulations?	Analysis of relevant laws and regulations, Legal expert advice
(Supplements)	Is there any part of the legal text that lacks clarity?	Hearing the opinion of jurisdiction offices concerned, Analysis of related complaints, etc.
④ Cost Adequacy	a) What are the actual costs and benefits of the target system? b) At the time the system was introduced, what level was it when considering the costs and benefits presented in the regulatory impact analysis, etc.(whether additional costs were incurred)? c) Do the benefits of the target system still justify the costs of the system? d) What are the cumulative burdens and costs imposed on regulated groups(including whether or not there is duplication of regulation)?	Cost-benefit analysis on target system, Cost-benefit analysis conducted before, Comparative analysis with results
(Supplements)	※ Reviewed to reflect a result of the cost analysis research of ex-post legislative impact assessment conducted by the Study Group for Economics, Humanities and Social Sciences(Korea Development Institute, Korea Institute of Public Administration) in the second half of 2022	

Chapter 5. Implementation for the ex-post-legislative impact assessment in the field of architecture

In order to regularly implement ex-post legislative impact assessment in the field of architecture, it is possible to operate with establishing an implementation system. Chapter 5 proposes implementation plans and institutionalization plans such as the main body and timing of analysis and utilization of analysis results. The implementation system of ex-post legislative impact assessment in the field of architecture proposed as follows.

First, with regard to the main body of analysis, the jurisdiction offices will be in charge in consideration of the administrative burden of the government ministries and the consistency and expertise of ex-post legislative impact assessment, but it is reasonable to promote it by outsourcing to an external specialized agency.

Second, the study proposed a step-by-step approach to build up a regular analysis system with respect to analysis timing. In short-term perspectives, ex-post legislative impact assessment will conduct for the first three years on regulations or systems cause social problems. The long-term periodic analysis for regulations or systems that enacted after three to five years would be appropriate after building the data to analyze the system.

Third, the implementation procedures for ex-post legislative impact assessment in the field of architecture are set as target selection and data construction – ex-post legislative impact assessment – review for legislation or amendment alternatives – amendments – regular monitoring and review.

Fourth, with regard to the utilization of analysis results, the results of ex-post legislative impact assessment are used as the legislative basis, and comparison of the results of actual system operation between ex-post and ex-ante regulatory impact analysis is suggested measures to supplement or enhance the standards. Finally, as a way to institutionalize the implementation system of ex-post legislative impact assessment in the field of architecture, this study suggested to adopt a legal basis of ex-post legislative impact assessment to “Building Codes” and to develop detailed guidelines for impact analysis to “General Act On Public Administration”.

Keywords :

Ex-post Legislative Impact Assessment, Building Codes, Analysis Standards, Analysis System, Pilot Application, Building Agreement