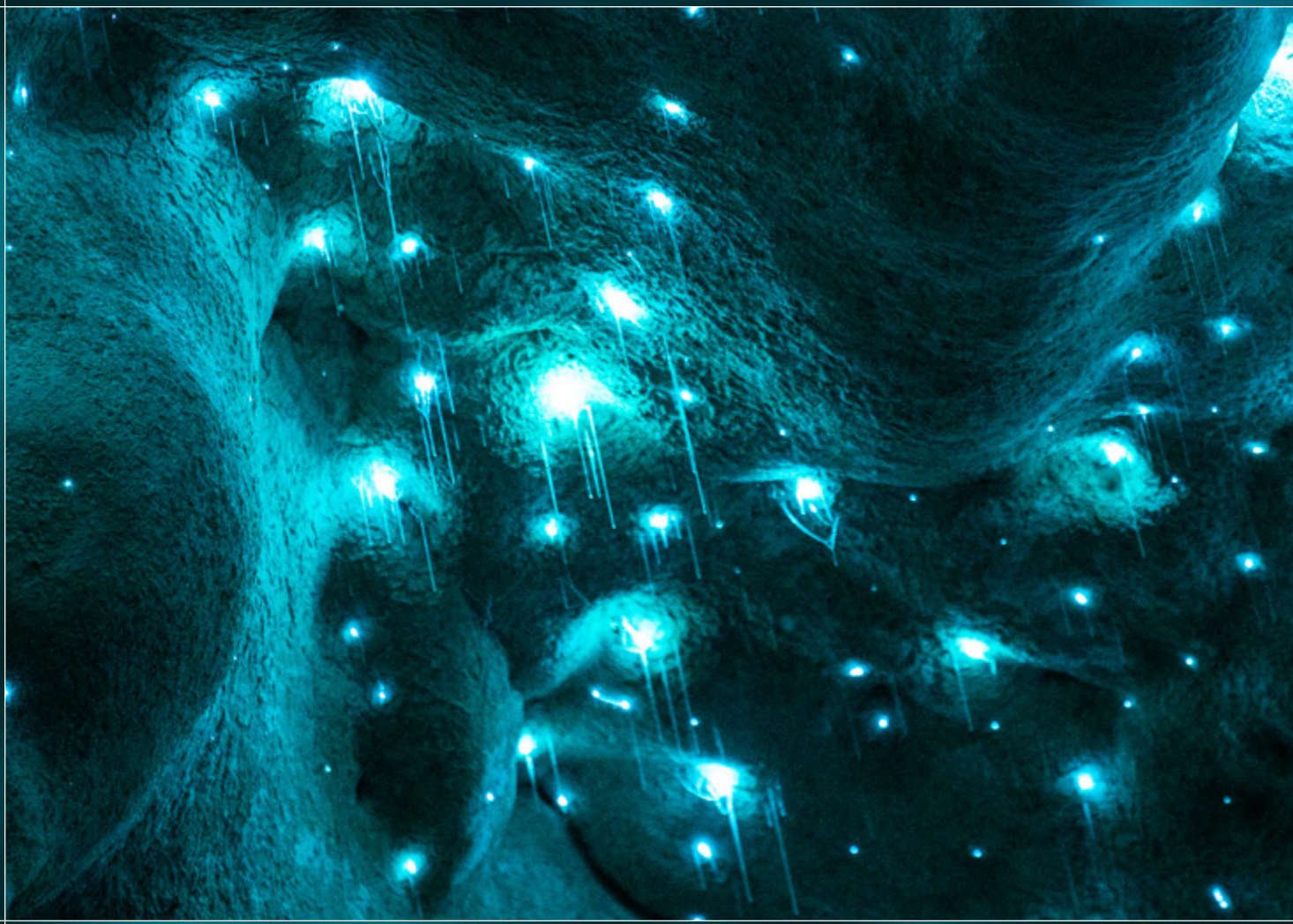
November 2026

Data Centres

APAC Regulatory Guide – **South Korea**

Investment considerations



MALLESONS

Chapter 11

South Korea

A year of... stronger AI incentives, open investment and persistent power constraints

Population
51.6
million

Data centres
160
YoY: 14 (9.6%)

Live capacity
982MW
YoY: 63MW (6.9%)

Pipeline capacity
2.23GW+
YoY: 789MW (54.8%)

Data centre statistics provided by DC Byte (as at September 2026)

South Korea is a burgeoning hub for data centre investment. With its robust economy and reputation as a regional 'safe haven', it attracts strong interest from international investors, developers and operators.

It presents a compelling landscape for data centre investment, particularly due to the absence of foreign investment restrictions and presence of attractive incentives.

However, potential investors must navigate challenges, including the significant electricity supply constraints and regulatory complexities. The promise of an open and thriving economy is enticing, but understanding the regulatory nuances and addressing infrastructure limitations are crucial for successful investment in South Korea.

Opportunities

- Generally no foreign investment or ownership restrictions
- Government incentives

Challenges

- Lack of power supply and long lead times
- Water shortages, contamination risks from monsoons and floods

Spotlight on key drivers

Open to foreign investment

While the market is still somewhat inward looking, South Korea has a liberal approach to foreign investment and ownership, offering an advantage for international investors.

There are few restrictions on land acquisition (other than in designated military zones) and no specific limitations on data centre ownership, aside from a cap on foreign shareholdings in facility-based telecommunications services.

Power constraints

South Korea's power supply constraints pose a significant challenge for data centre investment and development.

Korea Electric Power Corporation (**KEPCO**) is the sole electricity provider, and it faces limitations in transformers and transmission infrastructure, particularly in high-demand areas. This bottleneck means a power procurement timeline of several years, and can lead to further delays in securing adequate power supply, complicating project timelines and operational planning.

Regulatory requirements for power grid impact assessments and energy use plans also add layers of complexity.

Targeted incentives for investors and foreign entities

Special Opportunity Development Zones and Leading Investment Districts provide reductions or exemptions from corporate income tax and acquisition tax for data centres developed in those areas.

These zones, established by the Korean government, are designed to attract foreign investment and foster innovation, creating an environment conducive to growth. Acquisition, corporate income and property taxes may also be reduced or waived if certain investment vehicles are used to invest in data centre operations.

In addition, following tax reforms in 2025, the Korean government has expanded the scope of tax incentives for AI infrastructure by designating AI-service data centres as 'National Strategic Technology Commercialization Facilities'.

As a result, capital expenditures for the construction and equipment of qualifying AI-service data centres may be eligible for the national strategic technology tax credit, with the extent of relief depending on the taxpayer's size.

> The government, which took office in 2025, has positioned AI data centres as core national infrastructure, and reinforced this position in 2026 by fostering a supportive framework including Korea's landmark AI legislation. This offers clear opportunities for growth and innovation, though power supply and optimal siting warrant careful review.

Jin-Ho Song
Partner, Kim & Chang



01 Power

Supply vs demand imbalance

KEPCO is the sole electricity supplier under the *Electric Utility Act*. KEPCO faces challenges in responding to recent increases in demand and developing its infrastructure to adapt to new trends and patterns (including the growth of the data centre sector). This has led to a significant amount of land banking in areas that benefit from existing infrastructure with available capacity.

Developers should complete due diligence on the status of electricity infrastructure (including sub-stations with available bays) before settling on a site and making commitments to customers, landlords and contractors.



Notice to KEPCO

Data centres that need >5MW of electricity must give notice to KEPCO in advance of requiring power.

Current lead times - between 1 to 4 years.



Power system impact assessment

Required if usage is >10MW.

Ministry of Climate, Energy and Environment (**MCEE**) and KEPCO may approve or reject the power grid impact assessment or may issue mandatory improvement measures.

Approval is needed before applying for a building permit.

Non-compliance can result in corrective or suspension orders.

In November 2025, the MCEE updated its Assessment Criteria and Point Allocation for Power System Impact Assessments. The revised criteria place greater emphasis on qualitative factors, including the technical impact of new data centres on existing power grids and the socio-economic suitability of the proposed location.

This aligns with the government's policy to encourage a more balanced distribution of energy-intensive facilities (including data centres) across the country.

The updated standards are being piloted, with regulations for full implementation under development.



Energy use plan

Under the *Energy Use Rationalisation Act*, data centre developers must submit an energy use plan to MCEE before installing the facility if the following thresholds are met:

- For a public operator (that is, the State, local government or public institutions), where:

  the fuel and heat use exceeds 2,500 tonnes per annum, or

  electricity use exceeds 10 million kWh per annum.

- For all other operators, where:

  the fuel and heat use exceeds 5,000 tonnes per annum, or

  electricity use exceeds 20 million kWh per annum.



Application to KEPCO

After completing the Power System Impact Assessment, and submitting an Energy Use Plan to MCEE, if relevant, an application can be submitted to KEPCO.

KEPCO usually takes around 3 to 6 months to review and approve an electricity use application and enter into an electricity use agreement with the user.

The actual timeframe may vary depending on the volume of required electricity, technical difficulty of reviewing the power supply plan and scale of line construction needed for the power supply.

Power purchase agreements

KEPCO has a monopoly on the sale of electricity and largely dominates electricity sales. Corporate PPAs have existed for renewable energy sources since 2021 in:

- **trilateral form:** KEPCO intermediates between the consumer and generator, and
- **bilateral form:** direct agreement between generator and consumer.

Corporate PPAs are subject to a number of regulations that require the inclusion of mandatory terms in contracts (and for KEPCO, the use of its standard terms). To be eligible to procure electricity under a corporate PPA, a consumer must have a connection of 300kVa or more.

One of the key limitations of corporate PPAs is that renewable energy certificates (**RECs**) cannot be issued under a corporate PPA. Corporate virtual PPAs can be used, and a small number were reportedly signed in the past few years.

In the future, the corporate PPA scheme in South Korea is expected to become more diverse, and power transactions between generators and consumers are expected to take place directly in areas designated as specialised districts for distributed energy or areas where transmission restrictions are imposed.

Renewable energy certificates

As in many jurisdictions in Asia, RECs are available in South Korea. The Renewable Energy Center of the Korea Energy Agency recently amended the Korean REC system. Data centre operators utilising renewable energy may find REC purchases a viable means of renewable electricity procurement.

A partial amendment to the *Act on the Promotion of the Development, Use and Diffusion of New and Renewable Energy* (**New and Renewable Energy Act**) to revise the REC framework was proposed (by National Assemblyman Jungho Kim) in February 2026 and is under review by the National Assembly. The MCEE is also reviewing potential changes to the REC framework, and issuance of new RECs may be suspended if the proposed amendment becomes effective.

Reducing concentration risk via distribution schemes

Most generation capacity (including nuclear) is on the east of the country, distant from the concentration of data centres in metropolitan Seoul.

A significant plan to alleviate this mismatch was announced by the Ministry of Trade, Industry, Regional Integration and Employment (**MOTIE**, subsequently reorganised to the **MCEE**) in March 2023, resulting in the S*pecial Act on Activation of Distributed Energy* (**Distributed Energy Act**). In force since June 2024, the Distributed Energy Act aims to align power consumption areas with power generation areas.

The Distributed Energy Act mandates:

- the installation of distribution energy regimes
- a power grid impact assessment regime for data centres that will use 10MW or more of power (as outlined above)
- a requirement for data centres to have facilities that generate some of their required power, and
- data centres in metropolitan Seoul that use over 200,000MWh of energy annually to source at least 2% of their annual energy from distributed energy (renewable energy of 40MW or more, fuel cells and other sources).

The 2% minimum will apply until 2026, increasing to 20% after 2040, with interim progressive targets of:

- 5% - 2027-2029
- 10% - 2030-2034, and
- 15% - 2035-2039.

Under the Distributed Energy Act, the MCEE may designate specialised distributed energy zones where power can be directly sourced from distributed energy suppliers. As at December 2025, the MCEE has designated seven specialised distributed energy zones, including Uiwang-si in Gyeonggi-do and Ulsan.

02 Water

Korea Water Resources Corporation is the government agency responsible for providing both public and industrial water in South Korea.

South Korea faces significant barriers to water supply in certain provinces. For example, in the Jeolla province, as recently as 2023, the two main reservoirs ran dry, forcing residents to rely on water trucks to supply water. In other areas, heavy monsoons and floods have created contamination issues.

Reasonable and equitable distribution of water

The State and local governments must distribute water reasonably and equitably according to the *Framework Act on Water Management* (**Water Framework Act**).

Those governments, along with general waterworks business operators, can provide water for industrial use in an industrial complex after an industrial waterworks facility is installed under the *Water Supply and Waterworks Installation Act*.

Sustainable, stable supply

The Water Framework Act seeks to establish a sustainable water cycle system and enable the stable supply of water to citizens.

Businesses are required to actively participate and co-operate in water management policies implemented by the State or local governments and use water properly.

Preventing pollution

The *Water Environment Conservation Act* aims to prevent harm due to water pollution and appropriately manage and conserve the water environments of public waters.

This Act enables the Minister of Environment to impose pollution quantity controls on facilities prescribed by Presidential Decree, with penalties applying to facilities that exceed those limits.

03 Land

Securing land

Land and buildings are treated as separate ownership interests, each with its own registry. The land and building registries cover ownership and encumbrances (including mortgages, security interests and superficies) of relevant land parcels and buildings, respectively.

Registration of title under the land registry is generally required to perfect a transfer of title to real estate (except for transfers arising by operation of law). While registration does not guarantee ownership of the relevant real property, it operates as a strong presumption that the registered owner listed in the land registry is the true owner.

Applications for registration of transfer of ownership must be filed jointly by the purchaser and seller.

Where can data centres be built?

The *National Land Planning and Utilisation Act* (**National Land Planning Act**) prescribes where data centres can be developed.

Depending on the designated zone, data centres may be permitted outright, permitted subject to local government approval, or prohibited altogether.

Applicable zoning areas	
Permitted	
Quasi-residential areas Central commercial areas General commercial areas Neighbouring commercial areas Quasi-industrial areas	Productive green areas (4 floors or less) Natural green areas (4 floors or less) Planning management areas (4 floors or less).
Not Permitted	
Type-1 exclusive residential areas type-2 exclusive residential areas	Green areas for conservation Natural environment conservation areas.
Permitted with relevant local government ordinance	
Type-1 general residential areas (4 floors or less) Type-2 general residential areas Type-3 general residential areas Distribution business areas, exclusive industrial areas	General industrial areas Preservation management areas (4 floors or less) Production control areas (4 floors or less) Agriculture and forestry areas.

The Ministry of Land, Infrastructure and Transport also has the power under the National Land Planning Act to designate district unit planning zones and impose specific zoning restrictions within those zones. This power may be used at the request of an applicant, or if the need arises to allow development for a particular use, in a certain area.

What if there are location-based restrictions, or requirements?

The *Mountainous Districts Management Act, Protection of Military Bases and Installations Act* and the *Landscape Act* impose restrictions on specific sites, including:

- building restrictions (for example, restrictions on height, floor area ratios and building coverage ratios)
- restrictions on the types of facilities that can be built, and
- sale or leasing restrictions.

Developers must consider these as part of their due diligence on a proposed site.

If land is located within an industrial complex and qualifies as an industrial facilities zone under the *Industrial Cluster Development and Factory Establishment Act* (**Industrial Complex Act**), additional requirements apply.

The entity seeking to occupy and operate a data centre must enter into an industrial complex occupancy agreement with the manager of the industrial complex and comply with applicable laws and regulations, including the Industrial Complex Act.

The Industrial Complex Act requires, amongst other things, occupants to be engaged in certain qualified business activities. Occupants must also directly operate on the relevant site for a certain period of time before engaging in any leasing activities.

What approvals are needed and how long do they take?

Developers must obtain development and building permits from local government, with additional permits needed if the relevant zoning is not appropriate, as noted above.

If the application is straightforward, it will generally take between 3 to 6 months to obtain development and building permits for a data centre development. Depending on the specifics of the site, the following assessments may be required:

- building committee reviews
- environmental and traffic impact assessments, and
- landscape reviews.

There is an administrative process around commencing construction. This is not burdensome, but it means that construction can only commence after a construction commencement report is filed.

Once construction is complete, an occupancy permit is also needed before the data centre can commence operation.

Dealing with neighbourhood issues

Given the nature of the facilities, civil complaints from residents are common in connection with data centre developments and have the potential to significantly delay project timelines.

04 Telecommunications

Applicability of telecommunications laws to data centres

Data centre operators are classified as value-added telecommunications service providers (**VSP**) under the *Telecommunications Business Act* (**TBA**). This means they must comply with the TBA and file a VSP report with the Minister of Science and ICT. A VSP report includes, amongst other things:

- a description of the services provided
- a network diagram, and
- a confirmation letter for personal information processing.

Is a telecommunications licence required?

If a data centre operator seeks to offer facility-based telecommunications services, like providing internet connectivity to its customers, a facility-based telecommunications service provider registration may be required.

Dark fibre

Dark fibre is the supply of optical fibre strands or pairs, allowing customers to attach their own active equipment and control the network.

While it is customary for data centre operators and major customers to procure active fibre services to their facilities, dark fibre is not widely available or utilised in the South Korean data centre market.

05 Foreign investment restrictions

Land

In general, foreign ownership of land is allowed. However, certain zoning regulations may restrict a foreigner's acquisition of land. For example, if land is designated as a military installations protection zone under the *Protection of Military Bases and Installations Act*, a foreign individual or a South Korean entity with foreign ownership of 50% or more may be restricted from acquiring it. Prior approval from the relevant local government is required.

Installation of facilities such as telecommunication, electricity, industrial and power, will be restricted if in a military installations protection zone, unless approval of the relevant military base is obtained.

Data centres

There are no specific foreign investment restrictions or domestic ownership requirements directly applicable to data centres.

However, if a data centre business qualifies as a facility-based telecommunications provider (for example, by operating its own circuit via dark fibre), foreign ownership is capped at 49%. Exceptions may apply depending on the nationality of the investors and the overall investment structure.

06 Tax and other incentives

Special Opportunity Development Zones, Leading Investment Districts and other location-based incentives

Special Opportunity Development Zones have been established as part of efforts to attract large-scale corporate investment in non-metropolitan areas outside of Seoul. These offer tax incentives by way of a reduction or exemption from corporate income tax and acquisition tax for a certain period.

Leading Investment Districts have also been established, offering similar incentives to Special Opportunity Development Zones if minimum investment and employee thresholds are met. The purpose is to foster growth hubs or invigorate private investment within the relevant area.

> The 'Hydrothermal Energy Convergence Cluster' in the Gangwondo province has been designated as a Leading Investment District to create a data centre cluster using hydrothermal energy. The Gangwondo province already houses data centres for Naver and Samsung SDS.

Local incentives are offered by numerous municipal governments (including Jeonlanamdo, Gyeongsangbookdo and Jeonlabookdo) to attract data centre investments. These incentives include investment subsidies, discounted rent and long-term leases.

- Foreign Investment Zones provide reductions in acquisition and property tax if a foreign invested enterprise:
  - occupies the zone with a minimum foreign investment, and
  - operates a data centre business.

The Guidelines for Operation of Foreign Investment Zones outline three foreign investment zones:

- complex
- service based, and
- individual zones.

There are currently more than 100 Foreign Investment Zones, with many in Gyeonggi, Busan, Incheon, Ulsan and Gyeongnam. The minimum foreign investment required to receive tax benefits varies by industry. For computer programming, system integration and management, the threshold is US$30 million.

Tax incentives

Investment vehicles

Investment vehicles like a Real Estate Fund (**REF**), Real Estate Investment Trust (**REIT**) and Project Financing Vehicle (**PFV**) can take advantage of corporate income tax rate reductions or exemptions in certain circumstances. This applies where they construct a new data centre without directly operating the facility (for example, by leasing the data centre to an operator).

Acquisition and property tax benefits may also apply depending on where the investment vehicle is established. Generally speaking, real estate acquired in the Seoul Metropolitan Area, or by an entity established, or with a branch, in the Seoul Metropolitan Area, attracts a higher acquisition tax rate. However, REFs, REITs and PFVs that are established in the Seoul Metropolitan Area are not subject to that higher rate when they acquire real estate in the Seoul Metropolitan Area.

Foreign investors

Foreigners that invest US$2 million or more and develop or operate a data centre that involves new growth technologies (for example, data centre cooling, air conditioning and energy efficiency technology), may benefit from acquisition and property tax reductions and exemptions. This is even if the investment is made outside of the Special Opportunity Development Zones or Leading Investment Districts.

07 Data protection and cyber security

Data protection or privacy laws

Data centre operators who licence space to third party customers (including the provision of colocation, hosting, cloud, and circuit-lease services) must obtain Information Security Management System (**ISMS**) certification under the *Network Act on Promotion of Information and Communications Network Utilisation and Information Protection* (**Network Act**).

This certification confirms that the operator's information security measures and practices comply with prescribed standards.

Certification is not required when the data centre is for captive use (that is, serving the operator's own internal systems) unless the data centre operator has:

- generated ≥ ₩10 billion (US$6.8 million) in revenue from the information and communication service sector in the previous year, and
- an average daily domestic user count of ≥ 1 million over the last 3 months, as at the end of the previous year.

Data centre operators providing cloud services or infrastructure as a service to public institutions must obtain Cloud Security Assurance Program (**CSAP**) certification under the *Electronic Government Act* and related guidelines.

CSAP certification requires physical separation of facilities serving public institutions from those serving other customers, which may affect a data centre's design and layout.

Financial institutions

Under the *Electronic Financial Transactions Act* and the *Electronic Financial Supervision Regulation* (**EFSR**), data centres used by South Korean financial services providers and financial institutions conducting electronic financial business must comply with the IT room requirements specified in the EFSR.

Virtual Asset Service Providers

The *Act on Reporting and Using Specified Financial Transaction Information* requires a Virtual Asset Service Provider (**VASP**) to file a VASP report to the Korea Financial Intelligence Unit of the Financial Services Commission.

Cyber security laws

ISMS and CSAP certification also relate to cyber security. The standards include implementing measures to address infringement incidents and security measures to prevent unauthorised access.

08 Critical infrastructure and security

Critical infrastructure laws

Critical Information Infrastructure (CII)

The government may designate telecommunication facilities, such as data centres, as CII under the *Act on the Protection of Information and Communications Infrastructure* (**PICI Act**).

CII designated facilities in the telecommunications sector currently include facilities for internet connection services, mobile phone/internet services, internet exchange services, voice over internet protocol services and internet protocol television services. Data centres that support these service providers may also be designated as CII.

CII designation process is government-initiated. The Ministry of Science and ICT will choose to initiate an assessment process which considers:

- the national and societal importance of the facilities
- the degree of the management organisation's dependence on those facilities, and
- the scale and scope of potential damage in the event of a security incident.

CII operators must regularly assess vulnerabilities, implement management measures, and notify and provide remedies to affected individuals following security incidents.

Critical Telecommunications Facilities

Under the *Framework Act on Broadcasting Communications Development*, 'large-scale' data centres are classified as critical telecommunications facilities and must maintain disaster management plans in accordance with the government's annual guidelines.

A data centre qualifies as 'large-scale' if it has:

- either:
  - computer rooms housing clustered information and communications facilities of 22,500m² or more, or
  - facilities with power intake capacity of 40MW or more, and
  - annual revenue exceeding ₩10 billion (US$6.8 million).

National security issues

Under the *Electronic Government Act*, networks, devices, and facilities in data centres used by the government and public institutions may be subject to a security review by the National Intelligence Service (**NIS**). The NIS 'Security Guideline for National Network Security Framework' specifies the security measures required before submitting a security review request.



Physical security issues

Under the Network Act, data centre operators must implement protective measures (including visitor access controls and disaster protection measures for facilities and equipment) when facilities:

- are provided to customers and have ≥ 500m² floor area of white space, or
- are for captive use and meet the following thresholds:
  - >500m² floor area of white space
  - generated >₩10 billion (US$6.8 million) in revenue from the information and communication service sector in the previous year, and
  - an average daily domestic user count of ≥ 1 million over the last three months, as at the end of the previous year.

Given these low thresholds, most data centres are subject to this requirement.

Under the *Framework Act on 'Intelligent' Informatisation*, data centres must be equipped with specified facilities, including whitespace, computer rooms, and emergency power generation facilities.

09 Data localisation

Targeted or indirect data localisation requirements

South Korea has no general data localisation requirements. However, several targeted requirements apply (see below).

Cloud service providers operating in the public sector

Under the *Electronic Government Act*, cloud service providers must obtain CSAP certification to operate in the public sector. CSAP certification requires cloud systems, data processing, and data to be physically located in South Korea.

> The CSAP, which applies to Korea's central, provincial and local public sector with very limited exceptions, creates significant barriers to foreign cloud service providers seeking to sell to South Korea's public sector.
>
> **United States Trade Representative, 2025 National Trade Estimate Report on Foreign Trade Barriers**

The Foreign Trade Barriers report cites the need to 'create physically separated facilities for exclusive use by government' and 'create backup systems and data'. However, in September 2024, the NIS waived the local encryption algorithm requirement for certifications up to the mid-tier CSAP level (see 'Data protection and cyber security' above for further details).

Financial institutions

Under the *Electronic Financial Transactions Act*, financial institutions using cloud services must locate any system processing unique identification information or personal credit information within South Korea.

Healthcare professionals and hospitals

Under the *Medical Service Act*, healthcare professionals and hospitals are prohibited from storing electronic medical records outside South Korea.

National information

Under the *Act on Prevention of Divulgence and Protection of Industrial Technology*, data centres that possess or manage 'national core technology' must file a report with, and obtain prior approval from MOTIE before exporting such technology to a foreign entity.

'National core technology' refers to industrial technology that, if leaked, could have a detrimental effect on national security or the national economy.

Personal data

Under the *Personal Information Protection Act* (**PIPA**), overseas transfers of personal data are permitted only on limited lawful bases, including:

- obtaining separate consent from data subjects, or
- the recipient holding certification recognised by the Personal Information Protection Commission (**PIPC**).

The PIPC recognises the EU/EEA as offering equivalent protection. Accordingly, transfers of personal data to these jurisdictions, including hosting in a data centre, are lawful without separate consent.

Under the *Act on Establishment and Control of Geospatial Information*, digital map data from the National Geographic Information Institute (**NGII**) cannot be transferred overseas unless approved by the NGII.

10 Environmental, social and governance

International ESG commitments

South Korea is a signatory to the Paris Agreement. The *Framework Act on Carbon Neutrality and Green Growth for Coping with Climate Crisis* (**Carbon Neutrality Act**) regulates greenhouse gas emissions and enshrines the Nationally Determined Contribution (**NDC**) target of a 40% reduction in greenhouse gas emissions by 2030, compared to 2018 levels.

NDC UNDER THE PARIS AGREEMENT

40% emissions reduction by 2030

Net zero by 2050

DECLARED AT THE G20 SUMMIT IN 2020

ESG laws, regulations and guidelines

Under the *Act on the Allocation and Trading of Greenhouse Gas Emissions Permits*, companies are designated as a Business Entity Eligible for Allocation and become subject to the Korean Emission Trading System (**K-ETS**) if

- their annual average total GHG emissions over the preceding three years exceeds 125,000 metric tons of carbon dioxide equivalent (**tCO_2eq**), or
- if any single place of business has annual average GHG emissions exceeding 25,000 tCO_2eq.

Designated entities are:

- assigned annual emission allowances
- required to measure and report all emissions from their place(s) of business and submit emission allowances corresponding to their annual emissions, and
- eligible to trade emission allowances in the K-ETS market.

These obligations apply to all industries, including data centres. Beyond this general requirement, South Korea has no data centre-specific ESG regulations.

Read about the government's extensive decarbonisation efforts, including plans to establish hydrogen cities and transform industrials under its Green New Deal, in Mallesons' *Navigating the Net Zero Transition* guide.

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