

This translation of Korea's labor laws is intended mainly as a convenience to the non-Korean-reading public. If any questions arise related to the accuracy of the information contained in the translation, please refer to the official Korean version of the laws. Any discrepancies or differences created in the translation are not binding and have no legal effect for compliance or enforcement purposes.

** This Act reflects only the amendments made until October 31, 2011*

LABOR STANDARDS ACT

Act No. 5309, Mar. 13, 1997

Amended by Act No. 5473, Dec. 24, 1997
Act No. 5510, Feb. 20, 1998
Act No. 5885, Feb. 8, 1999
Act No. 6507, Aug. 14, 2001
Act No. 6974, Sep. 15, 2003
Act No. 7379, Jan. 27, 2005
Act No. 7465, Mar. 31, 2005
Act No. 7566, May 31, 2005
Act No. 8072, Dec. 21, 2006
Act No. 8074, Dec. 21, 2006
Act No. 8293, Jan. 26, 2007

Wholly Amended by Act No. 8372, Apr. 11, 2007
Act No. 8435, May 17, 2007
Act No. 8561, Jul. 27, 2007
Act No. 8781, Dec. 21, 2007
Act No. 8960, Mar. 21, 2008
Act No. 9038, Mar. 28, 2008
Act No. 9699, May 21, 2009
Act No. 10303, May 17, 2010
Act No. 10319, May 25, 2010
Act No. 10339, Jun. 4, 2010
Act No. 10366, Jun. 10, 2010
Act No. 10719, May 24, 2011

CHAPTER I

General Provisions

Article 1 (Purpose)

The purpose of this Act is to set the standards for the conditions of labor in conformity with the constitution, thereby securing and improving the living standards of workers and achieving a well-balanced development of the national economy.

Article 2 (Definition)

(1) Terms used in this Act are defined as follows :

1. The term "worker" in this Act means a person who offers work to a business or workplace to earn wages, regardless of kinds of job he/she is engaged in.
2. The term "employer" in this Act means a business owner, or a person responsible for management of a business or a person who works on behalf of a business owner with

respect to matters relating to workers.

3. The term “work” in this Act means mental or physical work.
4. The term “labor contract” in this Act means a contract which is entered into in order for a worker to offer work and for an employer to pay wages for that work.
5. The term “wages” in this Act means wages, salaries and any other money and valuable goods an employer pays to a worker for his/her work, regardless of how such payments are termed.
6. The term “average wages” in this Act means the amount calculated by dividing the total amount of wages paid to the relevant worker during three calendar months prior to the date on which the event necessitating such calculation occurred by the total number of calendar days during those three calendar months. This shall also apply mutatis mutandis to less than three months of employment.
7. The term “contractual working hours” in this Act means working hours on which workers and employers have made an agreement within the limit of working hours under Article 50 or Article 69 of this Act, or Article 46 of the Occupational Safety and Health Act.
8. The term “part-time worker” in this Act means an employee whose contractual working hours per week are shorter than those of a full-time worker engaged in the same kind of job in the same workplace.

(2) If the amount calculated pursuant to subparagraph 6 of paragraph (1) is lower than the ordinary wages of the worker concerned, the amount of the ordinary wages shall be deemed the average wages.

Article 3 (Standards of Working Conditions)

The working conditions provided herein shall prescribe the minimum standards and the parties to employment relations, therefore, shall not reduce the working conditions under the pretext of compliance with this Act.

Article 4 (Determination of Working Conditions)

The working conditions shall be determined based upon the mutual agreement between employers and workers, on an equal footing.

Article 5 (Observance of Working Conditions)

Both employers and workers shall comply with collective agreements, rules of employment, and terms of labor contracts,

and abide by them in good faith.

Article 6 (Equal Treatment)

No employer shall discriminate against workers on the basis of gender, or give discriminatory treatment in relation to the working conditions on the basis of nationality, religion or social status.

Article 7 (Prohibition of Forced Labor)

No employer shall force a worker to work against his own free will through the use of violence, intimidation, confinement or any other means which unlawfully restrict mental or physical freedom.

Article 8 (Prohibition of Violence)

No employer shall physically abuse a worker for the occurrence of accidents or for any other reason.

Article 9 (Elimination of Intermediary Exploitation)

Unless otherwise provided by any Act, no one shall either intervene in the employment of other person for the purpose of making a profit, or gain benefit as an intermediary.

Article 10 (Guarantee of Exercise of Civil Rights)

No employer shall reject a request from a worker to grant time necessary to exercise franchise or other civil rights, or to perform official duties during his working hours. However, the time requested may be changed, provided that such change does not impede the exercise of those rights or performance of those civil duties.

Article 11 (Scope of Application)

(1) This Act shall apply to all businesses or workplaces in which five or more workers are ordinarily employed. This Act, however, shall not apply to any business or workplace which employs only relatives living together, and to a worker who is hired for domestic work.

(2) With respect to businesses or workplaces which ordinarily employs fewer than five workers, only part of the provisions of this Act may be made applicable as prescribed by the Presidential Decree.

(3) In the application of this Act, the method of calculating the number of workers ordinarily employed shall be prescribed by the Presidential Decree. *<Newly Inserted by Act No. 8960, Mar. 21, 2008>*

Article 12 (Scope of Application)

This Act and the Presidential Decree issued in accordance with this Act shall apply to the State, Special Metropolitan City, metropolitan cities, provinces, Sis, Guns, Gus, Eups, Myeons, Dongs, or other equivalents there to.

Article 13 (Duty to Report and Attend)

An employer or a worker shall, without delay, report on matters required, or shall present himself, if the Minister of Employment and Labor, the Labor Relations Commission under the Labor Relations Commission Act (hereinafter referred to as the "Labor Relations Commission") or a Labor Inspector requests to do so in relation to the enforcement of this Act. *<Amended by Act No. 10339, Jun. 4, 2010>*

Article 14 (Publicity of Purport, etc., of Acts and Subordinate Statutes)

(1) An employer shall keep workers informed of the main points of this Act, the Presidential Decree promulgated pursuant hereto, and the rules of employment, by posting at all times or keeping them where workers have free access.

(2) An employer shall keep workers living in the dormitory informed of the provisions regarding dormitory, prescribed by the Presidential Decree referred to in paragraph (1), and the dormitory rules under Article 99 (1), by posting or keeping them in the dormitory.

CHAPTER II

Labor Contract

Article 15 (Labor Contract contrary to This Act)

(1) A labor contract which establishes working conditions which do not meet the standards provided for in this Act shall be null and void to that extent.

(2) Those conditions invalidated in accordance with the provisions of paragraph (1) shall be governed by the standards provided in this Act.

Article 16 (Term of Contract)

The term of a labor contract shall not exceed one year,

except in cases where no term is fixed or a term is fixed as necessary for the completion of a project.

Article 17 (Statement of Working Conditions)

(1) An employer shall clearly state the matters described in any of the following subparagraphs. The same shall apply in the case of altering the following matters after a labor contract is made: *<Amended by Act No. 10319, May 25, 2010>*

1. Wages;
2. Contractual working hours;
3. Holidays under Article 55;
4. Annual paid leave under Article 60;
5. Other working conditions prescribed by the Presidential Decree.

(2) An employer shall issue a worker with a written statement specifying the components of, and methods of calculation and payment of, the wages referred to in paragraph (1) 1 and matters described in subparagraphs 2 through 4 : Provided that if the matters above are altered due to the reasons prescribed by the Presidential Decree, such as changes in collective agreements or employment rules, etc., the statement shall be issued to the worker at his/her request. *<Newly Inserted by Act No. 10319, May 25, 2010> <Enforcement Date Jan. 1, 2012>*

Article 18 (Working Conditions for Part-time Worker)

(1) Working conditions for part-time workers shall be determined on the basis of the relative ratio of their working hours computed in comparison with those of full-time workers engaged in the same kind of job in the same workplace.

(2) The criteria or other matters to be considered for the determination of working conditions under paragraph (1) shall be prescribed by the Presidential Decree.

(3) With respect to workers whose contractual working hours is an average of less than 15 hours per week over a four-week period (the employment period, in case they are employed for less than four weeks), Articles 55 and 60 shall not apply. *<Amended by Act No. 8960, Mar. 21, 2008>*

Article 19 (Violation of Working Conditions)

(1) If any of the working conditions set forth in accordance with Article 17 is found to be inconsistent with the actual conditions, the worker concerned shall be entitled to claim damages resulting from the breach of the working conditions or may terminate the labor contract forthwith.

(2) Any worker who intends to claim for damages in accordance with paragraph (1), may do so with the Labor Relations Commission. If a labor contract has been terminated, an employer shall pay travel expenses to a worker who changes his residence for the purpose of securing a new job.

Article 20 (Prohibition of Predetermination of Nonobservance)

No employer shall enter into a contract by which a penalty or indemnity for possible damages incurred from breach of a labor contract is predetermined.

Article 21 (Prohibition of Offsetting Wages against Advances)

No employer shall offset wages against an advance or other credits given in advance on the condition of worker's labor.

Article 22 (Prohibition of Compulsory Saving)

(1) No employer shall enter into a contract with a worker, in addition to a labor contract, which stipulates compulsory savings or the management of savings.

(2) If an employer is entrusted by a worker to manage his savings, the said employer shall observe the matters described in the following subparagraphs:

1. The type and period of savings and financial institutions which manage the savings shall be determined by the concerned worker and the savings account shall be under the name of the worker;
2. Upon request of the concerned worker to see the related materials such as savings certificate, etc., or have them returned, the employer shall immediately comply with the request.

Article 23 (Restriction on Dismissal, etc.)

(1) No employer shall dismiss, lay off, suspend, or transfer a worker, or reduce wages, or take other punitive measures (hereinafter referred to as "unfair dismissal, etc.") against a worker without justifiable reasons.

(2) No employer shall dismiss any worker during a period of temporary interruption of work for medical treatment of an occupational injury or disease and within 30 days thereafter, and any female worker during a period of temporary interruption of work before and after childbirth as provided herein and within 30 days thereafter. Provided that if an employer has paid lump sum compensation pursuant to Article 84 hereof or is not able to continue his business, this shall not apply.

Article 24 (Restriction on Dismissal for Managerial Reasons)

(1) Dismissal of a worker by an employer for managerial reasons shall be based on urgent managerial needs. In such cases as transfer, acquisition and merger of business which are aimed to avoid financial difficulties, it shall be deemed that an urgent managerial need exists.

(2) In the case of paragraph (1), an employer shall make every effort to avoid dismissal of workers and shall select workers to be dismissed by establishing rational and fair criteria for dismissal. In such cases, there shall be no discrimination on the basis of gender.

(3) With regard to the possible methods for avoiding dismissal and the criteria for dismissal as referred to in paragraph (2), an employer shall give a notice 50 days prior to dismissal day to a trade union which is formed by the consent of the majority of all workers in the business or workplace concerned (or to a person representing the majority of all workers if such a trade union does not exist, hereinafter referred to as a "workers' representative") and have good faith consultation.

(4) An employer intending to dismiss more than the number of workers prescribed by the Presidential Decree pursuant to paragraph (1), shall report the same to the Minister of Employment and Labor as prescribed by the Presidential Decree.
<Amended by Act No. 10339, Jun. 4, 2010>

(5) In cases where an employer has dismissed workers in accordance with the requirements as set forth in paragraphs (1) to (3), the dismissal concerned shall be deemed to have been made for the justifiable reasons under paragraph (1) of Article 23.

Article 25 (Preferential Re-employment, etc.)

(1) If an employer who dismissed a worker pursuant to Article 24 intends to employ a worker for the same job the dismissed worker was in charge of at the time of dismissal, within three years from the day when the worker was dismissed, he/she shall preferentially employ the worker dismissed pursuant to Article 24, provided that the worker wants that job.

(2) The government shall give priority to workers dismissed under Article 24 in taking necessary measures including, but not limited to, securing livelihood, reemployment, and vocational training.

Article 26 (Advance Notice of Dismissal)

An employer shall give an advance notice to a worker at

least thirty days before dismissal (including dismissal for managerial reasons). If the notice is not given thirty days before the dismissal, ordinary wages of more than thirty days shall be paid to the worker, except in cases, prescribed by the Ordinance of the Ministry of Employment and Labor, where it is impossible to continue business because of natural disasters, armed conflicts, or other unavoidable causes, or where a worker has caused considerable difficulties to business, or damage to properties on purpose.
<Amended by Act No. 10339, Jun. 4, 2010>

Article 27 (Written Notification of Reasons for Dismissal)

(1) If an employer intends to dismiss a worker, the employer shall notify the worker of reasons for dismissal and the date of such dismissal in writing.

(2) The dismissal of a worker shall take effect only after the written notification is given to the worker pursuant to paragraph (1).

Article 28 (Application for Remedy for Unfair Dismissal and Related Acts)

(1) If an employer dismisses a worker unfairly, the worker may apply for remedy to the Labor Relations Commission.

(2) The application for remedy under paragraph (1) shall be made within three months from the date on which the unfair dismissal, and related acts took place.

Article 29 (Investigation, etc.)

(1) Upon receiving the application for remedy under Article 28, the Labor Relations Commission shall conduct necessary investigations and question related parties without delay.

(2) When conducting an inquiry pursuant to paragraph (1), the Labor Relations Commission may, at the request of the parties concerned or by virtue of its authority, have witnesses appear before the Commission and question them regarding necessary matters.

(3) When conducting an inquiry pursuant to paragraph (1), the Labor Relation Commission shall give sufficient opportunities for the parties concerned to present evidence and to cross-examine the witnesses.

(4) Detailed procedures for the investigation and inquiry by the Labor Relations Commission under paragraph (1) shall be determined by the National Labor Relations Commission (hereinafter referred to as the "National Labor Relations Commission") under the Labor Relations Commission Act.

Article 30 (Remedy Order, etc.)

(1) The Labor Relations Commission shall issue a remedy order to the employer, if the case is determined to constitute an unfair dismissal, etc. after the completion of the inquiry under Article 29, and shall dismiss the application for remedy if the case is determined not to constitute an unfair dismissal, etc.

(2) The judgment, remedy order and dismissal decision under paragraph (1) shall be notified to the employer and worker concerned in writing.

(3) When issuing a remedy order (referring only to an order of remedy for dismissal) pursuant to paragraph (1), if the worker does not want the reinstatement, the Labor Relations Commission may order the employer to pay to the worker an amount not less than the amount of wages he/she would have received if he/she had worked during the dismissal period, in lieu of ordering his/her reinstatement.

Article 31 (Confirmation of Remedy Order, etc.)

(1) If an employer or a worker is aggrieved by a remedy order or dismissal decision rendered by a Regional Labor Relations Commission in accordance with the Labor Relations Commission Act, he/she may apply for reexamination to the National Labor Relations Commission within ten days of the date on which he/she received the notice of the remedy order or dismissal decision.

(2) An employer or a worker may file a lawsuit in accordance with the Administrative Litigation Act against the decision made by the National Labor Relations Commission after the reexamination pursuant to paragraph (1) within fifteen days from the date on which he/she received the notice of decision on the reexamination.

(3) If no application for reexamination is made or no administrative lawsuit is filed within the periods prescribed in paragraphs (1) and (2), the remedy order, dismissal decision or decision on reexamination shall be finally confirmed.

Article 32 (Effect of Remedy Order, etc.)

The effect of remedy order, dismissal decisions or decisions on reexamination rendered by the Labor Relations Commission pursuant to Article 31 shall not be suspended by an application for reexamination to the National Labor Relations Commission or by the initiation of an administrative lawsuit.

Article 33 (Enforcement Levy)

(1) If an employer, after receiving the remedy order (including a decision on reexamination concerning a remedy order; hereinafter the same shall apply in this Act) from the Labor Relations Commission, fails to comply with a remedy order by the compliance deadline, an enforcement levy in the amount not exceeding 20 million won shall be imposed on the employer.

(2) The Labor Relations Commission shall inform the employer in writing of its intention to impose and collect enforcement levy, at least thirty days before the imposition of enforcement levy under paragraph (1).

(3) The imposition of enforcement levy pursuant to paragraph (1) shall be done in writing which shall specify, among others, the amount of enforcement levy, reasons for the imposition, the payment deadline, the recipient organization, how to raise an objection, and to what organization such a objection can be raised.

(4) Types of violations for which enforcement levy is imposed pursuant to paragraph (1), amounts of charges based on the degree of violation, procedures for a refund of enforcement levy and other necessary matters shall be prescribed by the Presidential Decree.

(5) The Labor Relations Commission may impose and collect the enforcement levy under paragraph (1) repeatedly until the order is complied with, up to twice per year from the date on which the first remedy order is issued. In this case, enforcement levy shall not be imposed or collected for more than two years.

(6) The Labor Relations Commission shall not newly impose enforcement levy once a person who received a remedy order has complied with that order, but shall collect enforcement levies that have already been imposed before the compliance.

(7) If a person to whom the enforcement levy has been imposed fails to pay them by the payment deadline, the Labor Relations Commission may set a deadline and urge the payment and if the person continues to fail the enforcement levy under paragraph (1), may collect them according to the process for recovery of the national taxes in arrears.

(8) If an employer who has received a remedy order fails to comply with the order by the compliance deadline, the worker may inform the Labor Relations Commission of the non-compliance within fifteen days from the compliance deadline.

Article 34 (Retirement Benefit System)

With regard to the system of retirement benefits paid by

employers to retiring workers, conditions prescribed by the Employee Retirement Benefit Security Act shall apply.

Article 35 (Exceptions for Advance Notice of Dismissal)

The provisions of Article 26 shall not apply to workers who fall within the purview of each of the following subparagraphs:

1. A worker who has been employed on a daily basis for less than three consecutive months;
2. A worker who has been employed for a fixed period not exceeding two months;
3. A worker who has been employed as a monthly-paid worker for less than six months;
4. A worker who has been employed for seasonal work for a fixed period not exceeding six months;
5. A worker in a probationary period

Article 36 (Payment of Money and Valuables)

If a worker dies or retires, an employer shall pay the wages, compensations, and other money or valuables within 14 days after the cause for such payment has occurred; however, the period, under special circumstances, may be extended by the mutual agreement between the parties concerned.

Article 37 (Late Payment Interest on Unpaid Wages)

(1) If an employer fails to pay all or part of the wages and the benefits (referring to only lump-sum benefits) referred to in subparagraph 5 of Article 2 of the Employee Retirement Benefit Security Act which he/she is liable to pay pursuant to Article 36, within fourteen days from the day when the cause for payment occurs, he/she shall pay late payment interest for the number of days from the following day to the day of payment at the interest rate prescribed by the Presidential Decree but not exceeding an annual rate of 40/100 in consideration of economic conditions, including the late payment interest rate applied by banks under the Banking Act. *<Amended by Act No. 10303, May 17, 2010>*

(2) If an employer delays wage payment due to a natural disaster, an armed conflict or any other reason prescribed by the Presidential Decree, the provisions of paragraph (1) shall not apply to the period during which such reasons continue to exist.

Article 38 (Preferential Reimbursement for Claims for Wages)

- (1) Wages, accident compensations and other claims arising

from labor relations shall be paid in preference to taxes, public levies or other claims, except for the claims secured by pledges, mortgages or the liens under the Act on the Use of Movables, Receivables, etc., as Security on the total assets of the employer; however, this shall not apply to taxes or public levies which take precedence over pledges, mortgages or the liens under the Act on the Use of Movables, Receivables, etc., as Security. *<Amended by Act No. 10366, Jun. 10, 2010>*

(2) Notwithstanding the provision of paragraph (1), the claims which fall under the following subparagraphs shall be paid in preference to any obligations, taxes, public levies and other claims secured by pledges, mortgages or the liens under the Act on the Use of Movables, Receivables, etc., as Security on the total assets of an employer: *<Amended by Act No. 10366, Jun. 10, 2010>*

1. Wages of the final three months;
2. Accident compensation.

<Enforcement Date Jun. 11, 2012>

Article 39 (Certificate of Employment)

(1) If a worker makes a request to issue a certificate specifying term of employment, job specification, title and wages or other necessary information even after the retirement of the worker, the employer shall immediately prepare and issue the factually correct certificate.

(2) The certificate referred to in paragraph (1) shall only contain the items that the worker concerned has requested.

Article 40 (Prohibition of Interference with Employment)

No one shall prepare and use secret signs or lists, or have communication for the purpose of interfering with employment of a worker.

Article 41 (Registry of Workers)

(1) An employer shall maintain a registry of workers by workplace, containing name, birth date, personal history and other items relating to workers as prescribed by the Presidential Decree.

(2) If there is any change in the items prescribed in paragraph (1), correction shall be made without delay.

Article 42 (Preservation of Documents regarding Contract)

An employer shall preserve a registry of workers and other important documents regarding labor contracts prescribed by the Presidential Decree for three years.

CHAPTER III

Wages

Article 43 (Payment of Wages)

(1) Payment of wages shall be directly made in full to worker in cash; however, if otherwise stipulated by Acts and subordinate statutes or by a collective agreement, wages may partially be deducted or may be paid by other than cash.

(2) Wages shall be paid at least once per month on a fixed day; however, this shall not apply to extraordinary wages, allowances, or any other similar payment or those wages provided for by the Presidential Decree.

Article 44 (Payment of Wages in Subcontract Business)

(1) If a project is carried out based upon several tiers of contracts and a subcontractor has failed to pay wages to its workers because of a fault attributable to its immediate upper tier contractor, the immediate upper tier contractor shall be jointly responsible along with the subcontractor concerned.

(2) The scope of the fault attributable to the immediate upper tier contractor referred to in paragraph (1) shall be determined by the Presidential Decree.

Article 44-2 (Joint Responsibility for Payment of Wages in Construction Industry)

(1) If a project in the construction industry is carried out through two or more tiers of contracts under subparagraph 11 of Article 2 of the Framework Act on the Construction Industry (hereinafter referred to as “construction contracts”) and its subcontractor who is not a constructor under subparagraph 7 of Article 2 of the same Act fails to pay wages (limited to wages incurred for the construction work concerned) to a worker it has employed, the immediate upper tier contractor shall take responsibility for paying wages to the worker employed by the subcontractor, jointly with the subcontractor. *<Amended by Act No. 10719, May 24, 2011>*

(2) If the immediate upper tier contractor under paragraph (1) is not a constructor under subparagraph 7 of Article 2 of the Framework Act on the Construction Industry, the lowest tier

constructor among its upper tier contractors who are constructors under the same subparagraph shall be deemed the immediate upper tier contractor. *<Amended by Act No. 10719, May 24, 2011>*

<This Article Newly Inserted by Act No. 8561, Jul. 27, 2007>

Article 44-3 (Special Provisions Concerning Wages under Construction Contracts in Construction Industry)

(1) If a construction contract falls within the purview of any of the following subparagraphs, an immediate upper tier contractor shall, at the request of a worker employed by its subcontractor, directly pay the worker an amount of money equivalent to wages (limited to wages incurred for the construction work concerned) that the subcontractor is liable to pay, within the extent of the subcontract price that the immediate upper tier contractor owes to the subcontractor:

1. Where the immediate upper tier contractor and the subcontractor has agreed that the immediate upper tier contractor may pay wages directly to a worker employed by the subcontractor instead of the subcontractor and also agreed on the methods of and procedures for the payment;
2. Where there is a payment order confirmed pursuant to subparagraph 3 of Article 56 of the Civil Execution Act, a execution deed under subparagraph 4 of Article 56 of the same Act, which proves that a worker of the subcontractor has the right to file a claim for wages against the subcontractor, a decision to recommend compliance made under Article 5-7 of the Trials of Small Claims Act, and any other title of deed equivalent there to;
3. Where the subcontractor informs the immediate upper tier contractor that it has unpaid wages owed to its worker and the immediate upper tier contractor recognizes that the subcontractor has an obvious reason to be unable to pay wages, such as bankruptcy, etc.

(2) If the contractor (hereinafter referred to as the "prime contractor") of a person awarding a contract under subparagraph 10 of Article 2 of the Framework Act on the Construction Industry subcontracts the construction contract to two or more tiers of contractors, and a worker employed by a subcontractor (including subcontractors to the subcontractor; hereinafter the same shall apply in this paragraph.) has a title of deed under paragraph (1) 2 to such subcontractor, the

worker may request the prime contractor to directly pay an amount of money equivalent to wages (limited to wages incurred for the construction work concerned) that the subcontractor is liable to pay. The prime contractor shall comply with such request to the extent of the amount of money for which the worker is entitled to exercise the subrogation right of a creditor against the prime contractor under Article 404 of the Civil Act. *<Amended by Act No. 10719, May 24, 2011>*

(3) If an immediate upper tier contractor or a prime contractor has paid an amount of money equivalent to wages to a worker employed by a subcontractor pursuant to paragraphs (1) and (2), it shall be deemed that the obligation to pay the subcontract price to the subcontractor has expired to such extent.

<This Article Newly Inserted by Act No. 8561, Jul. 27, 2007>

Article 45 (Emergency Payment)

If a worker requests wage payment in order to meet the expenses incurred from childbirth, disease, disasters or other cases of emergency prescribed by the Presidential Decree, the employer shall pay wages for the work already performed even prior to the payday.

Article 46 (Allowances during Business Suspension)

(1) If business is suspended for reasons attributable to an employer, the employer shall pay a worker allowances equivalent to seventy percent or more of the average wages during the period of suspension. If the amount equivalent to seventy percent or more of the average wages exceeds the ordinary wages, the ordinary wages may be paid as allowances during the business suspension.

(2) Notwithstanding the provisions of paragraph (1), an employer who is unable to continue business for unavoidable reasons may, upon approval of the Labor Relations Commission, pay allowances for the suspension of business in the amount lower than the standards stipulated in paragraph (1).

Article 47 (Subcontract Workers)

For those workers who are employed for subcontract or other equivalent system, an employer shall guarantee a certain amount of remuneration in proportion to their actual working hours.

Article 48 (Wage Ledger)

An employer shall prepare a wage ledger for each workplace and enter the matters which serve as a basis for determining

wages and family allowances, the amount of wages and other matters as provided for by the Presidential Decree whenever wages are paid.

Article 49 (Prescription of Wages)

The statute of limitation to exercise a claim for wages under the provisions of this Act shall be three years.

CHAPTER IV

Working Hours and Recess

Article 50 (Working Hours)

(1) Working hours per week shall not exceed forty hours excluding recess hours.

(2) Working hours per day shall not exceed eight hours excluding recess hours.

Article 51 (Flexible Working Hour System)

(1) An employer may have a worker work in accordance with rules of employment (or in accordance with rules or regulations equivalent thereto) for a specific week in excess of working hours prescribed in Article 50 (1), or for a specific day in excess of working hours prescribed in Article 50 (2), on condition that average working hours per week in a certain unit period of not more than two weeks do not exceed the working hours under Article 50 (1), provided that working hours in any particular week shall not exceed forty-eight hours.

(2) Where an employer reaches an agreement in writing with a workers' representative on the following enumerated items, the employer is allowed to have a worker work for a specific week in excess of the working hours under Article 50 (1), or for a specific day in excess of the working hours under Article 50 (2), on the condition that average working hours per week in a certain unit period of not more than three months do not exceed the working hours under Article 50 (1). However, working hours for a specific week, and for a specific day shall not exceed fifty-two hours and twelve hours respectively:

1. Scope of workers subject to this paragraph;
2. Unit period (a unit period not exceeding three months);
3. Working days in a unit period and working hours for each working day;
4. Other matters prescribed by the Presidential Decree.

(3) The provisions of paragraphs (1) and (2) shall not apply to workers aged between fifteen or older and less than eighteen, and pregnant female workers.

(4) If an employer needs to have a worker work in accordance with the provisions of paragraphs (1) and (2), the employer shall prepare measures to ensure that the existing wage level is not lowered.

Article 52 (Selective Working Hour System)

Where an employer has reached a written agreement on each of the following subparagraphs with of workers' representative regarding a worker who is entrusted with the decision as to when to begin and finish work in accordance with rules of employment (including those equivalent to rules of employment), the employer may have workers work in excess of the working hours per week set by paragraph (1) of Article 50, or the working hours per day set by paragraph (2) of Article 50 on the condition that average working hours per week computed on the basis of adjustment period not more than one month do not exceed the working hours prescribed in paragraph (1) of Article 50:

1. Scope of workers subject to this paragraph (excluding workers between the age of fifteen and of eighteen);
2. Adjustment period (a finite period not more than one month);
3. Total working hours within an adjustment period;
4. Starting and finishing time of working hours, if a mandatory work period is in force;
5. Starting and finishing time of working hours which are allowed to be selected by workers;
6. Other matters prescribed by the Presidential Decree.

Article 53 (Restriction on Extended Work)

(1) If the parties concerned reach agreement, the working hours stipulated in Article 50 may be extended up to twelve hours per week.

(2) If the parties concerned reach agreement, the working hours stipulated in Article 51 may be extended up to twelve hours per week, and the working hours under Article 52 may be extended up to twelve hours per week averaged during a adjustment period pursuant to subparagraph 2 of Article 52.

(3) Under special circumstances, an employer may extend working hours as provided for in paragraphs (1) and (2) with the approval of the Minister of Employment and Labor and consent of workers; however, the employer shall immediately

obtain the approval of the Minister of Employment and Labor ex post facto, if a situation is so urgent that time is not available to obtain such approval. *<Amended by Act No. 10339, Jun. 4, 2010>*

(4) If the Minister of Employment and Labor finds that the extension of working hours in accordance with paragraph (3) is not appropriate, he/she may order the employer to grant recess hours or days-off equivalent to the extended working hours in later time. *<Amended by Act No. 10339, Jun. 4, 2010>*

Article 54 (Recess Hours)

(1) An employer shall allow a recess period of more than 30 minutes for every 4 working hours and more than 1 hour for every 8 working hours during the working hours.

(2) A recess period may be freely used by workers.

Article 55 (Holidays)

An employer shall allow a worker on the average one or more paid holiday per week.

Article 56 (Extended Work, Night Work and Holiday Work)

An employer shall additionally pay fifty percent or more of the ordinary wages for extended work (extended work as set forth in the provisions of Articles 53 and 59, and the proviso of Article 69), night work (work provided from 10 p.m. to 6 a.m.) or holiday work.

Article 57 (System of Using Leave as Compensation)

An employer may, in lieu of paying additional wages, grant the leave to worker to compensate for the extended, night and holiday work prescribed in Article 56, pursuant to a written agreement with the workers' representative.

Article 58 (Special Provisions for Computation of Working Hours)

(1) If it is difficult to compute working hours because a worker carries out his duty in whole or in part outside the workplace for business travel or for other reasons, it shall be deemed that the worker concerned has worked the contractual working hours. However, in cases where a completion of a work requires a worker to work in excess of contractual working hours, the worker is deemed to have worked for hours ordinarily required to complete the work concerned.

(2) Notwithstanding the proviso of paragraph (1), if an employer and the representative of workers have agreed, in writing, on the works concerned, the working hours set by the agreement shall be deemed to be the working hours necessary

for the performance of the works concerned.

(3) In the case of works designated by the Presidential Decree as those works which need, in the light of their characteristics, worker's discretion with regard to the ways to perform the works concerned, the worker shall be deemed to have worked such working hours as determined by a written agreement between the employer and the workers' representative. Such written agreement shall contain each of the items described in the following subparagraphs:

1. Provisions as to works to be provided;
2. Provisions in which the employer would not give directions to the worker regarding how to perform, and how to allocate working hours;
3. Provisions in which the computation of working hours shall be determined by the written agreement concerned.

(4) Other matters which are required to implement the provisions of paragraphs (1) and (3) shall be determined by the Presidential Decree.

Article 59 (Special Provisions as to Working and Recess Hours)

(1) With regard to a business which falls under the purview of any of the following subparagraphs, the employer who has agreed in writing with the workers' representative may have the workers work in excess of the twelve hours per week prescribed in Article 53 (1) or may change the recess hours under Article 54:

1. Transportation business, goods sales and storage business, finance and insurance business;
2. Movie production and entertainment business, communication business, educational study and research business, advertising business;
3. Medical and sanitation business, hotel and restaurant business, incineration and cleaning business, barber and beauty parlor business;
4. Other businesses prescribed by the Presidential Decree in consideration of the character of a business and public conveniences

Article 60 (Annual Paid Leave)

(1) An employer shall grant 15 days' paid leave to a worker who has registered not less than 80 percent of attendance during one year.

(2) An employer shall grant one day's paid leave per month to a worker whose consecutive service period is shorter than

one year, if the worker has offered work without an absence throughout a month.

(3) In case an employer grants a worker paid leave for the first one year of his/her service, the number of leave days shall be 15 including the leave prescribed in paragraph (2), and if the worker has already used the leave prescribed in paragraph (2), the number of used leave days shall be deducted from the 15 days of leave.

(4) After the first year of service, an employer shall grant one day's paid leave for each two years of consecutive service in addition to the leave prescribed in paragraph (1) to a worker who has worked consecutively for 3 years or more. In this case, the total number of leave days including the additional leave shall not exceed 25.

(5) An employer shall grant paid leave pursuant to paragraphs (1) through (4) upon request of a worker, and shall pay ordinary wages or average wages prescribed in employment rules or other regulations during the period of leave. However, the leave period concerned may be changed, in case granting the leave as requested by the worker might cause a serious impediment to the operation of the business.

(6) In applying paragraphs (1) through (3), a period falling under any of the following subparagraphs shall be considered a period of attendance :

1. A period during which a worker is unable to work due to occupational injuries or diseases;
2. A period during which a pregnant woman does not work on maternity leave taken pursuant to paragraphs (1) and (2) of Article 74.

(7) The leave referred to in paragraphs (1) through (4) shall be forfeited if not used within one year. However, this shall not apply in case where the worker concerned has been prevented from using the leave due to any cause attributable to the employer.

Article 61 (Promoting the Use of Annual Paid Leave)

If a worker's leave has been forfeited for non-use pursuant to Article 60 (7) despite the fact that the employer has taken measures described in any of the following subparagraphs to promote the use of paid leave prescribed in Article 60 (1), (3) and (4), the employer shall have no obligation to compensate the worker for the unused leave, and shall not be deemed to have caused the non-use attributable to the employer's action under

the proviso of Article 60 (7):

1. Within the first 10 days of the three months before unused leave is to be forfeited pursuant to Article 60 (7), an employer shall notify each worker of the number of his/her unused leave days and urge them in writing to decide when they would use the leave and to inform the employer of the decided leave period;
2. If a worker, despite the urging prescribed in subparagraph (1), has failed to decide when he/she would use whole or part of the unused leave and to inform the employer of the decided leave period within 10 days after they were urged, an employer shall decide when the worker uses the unused leave and notify the worker of the decided leave period in writing no later than 2 months before the unused leave is to be forfeited pursuant to Article 60 (7).

Article 62 (Substitution of Paid Leave)

An employer may have workers take paid leave on a particular working day in lieu of the annual paid leave under Article 60, if the employer and the workers' representative agree in writing.

Article 63 (Exceptions to Application)

The provisions of this Chapter and Chapter V as to working hours, recess, and holidays shall not be applicable to workers who are engaged in any work described in the following subparagraphs: *<Amended by Act No. 10339, Jun. 4, 2010>*

1. Cultivation of arable land, reclamation work, seeding and planting, gathering or picking-up or other agricultural and forestry work;
2. Livestock breeding, catch of marine animals and plants, cultivation of marine products or other cattle-breeding, sericulture and fishery business;
3. Surveillance or intermittent work, for which the employer has obtained the approval of the Minister of Employment and Labor;
4. Any other work prescribed by the Presidential Decree.

CHAPTER V

Females and Minors

Article 64 (Minimum Age and Employment Permit)

(1) A person under the age of 15 (including those under the age of 18 who are attending a middle school pursuant to the Elementary and Secondary Education Act) shall not be employed as a worker. However a person with an employment permit issued by the Minister of Employment and Labor in accordance with the criteria prescribed by the Presidential Decree may be employed as a worker. *<Amended by Act No. 10339, Jun. 4, 2010>*

(2) The employment permit referred to in paragraph (1) may be issued at the request of the person himself only by designating the type of occupation in which he is engaged, provided that such employment will not impede his/her compulsory education.

(3) If a person receives the employment permit prescribed in paragraph (1) in a false or other fraudulent pretence, the Minister of Employment and Labor shall cancel the permission. *<Amended by Act No. 10339, Jun. 4, 2010>*

Article 65 (Prohibition of Employment)

(1) No employer shall employ a female in pregnancy or with less than one year after childbirth (hereinafter referred to as "pregnant female") and those aged less than 18 for hazardous and dangerous work in terms of morality or health.

(2) No employer shall employ a female aged 18 or older who is not pregnant for work that is hazardous and dangerous to their pregnancy or childbirth among the hazardous and dangerous works in terms of health pursuant to paragraph (1).

(3) The occupations prohibited pursuant to paragraphs (1) and (2) shall be determined by the Presidential Decree.

Article 66 (Minor Certificate)

For each minor under 18, an employer shall keep in the workplace a certificate proving his/her family relationships and a written consent of his/her parent or guardian. *<Amended by Act No. 8435, May 17, 2007>*

Article 67 (Labor Contract)

(1) Neither parent nor guardian shall enter into a labor

contract on behalf of a minor.

(2) A parent and/or guardian of a minor, or the Minister of Employment and Labor may terminate a labor contract, if a labor contract is deemed disadvantageous to the minor.
<Amended by Act No. 10339, Jun. 4, 2010>

(3) If an employer makes a labor contract with a person under the age of 18, the employer shall specify the working conditions in writing and issue the same pursuant to Article 17.
<Newly Inserted by Act No. 8561, Jul. 27, 2007>

Article 68 (Claim for Wages)

A minor may claim his wages in his own right.

Article 69 (Working Hours)

Working hours of a person aged between 15 and 18 shall not exceed seven hours per day and forty hours per week. However, the working hours may be extended up to an hour per day, or six hours per week, by an agreement between the parties concerned.

Article 70 (Restrictions on Night Work and Holiday Work)

(1) When an employer intends to have a female aged 18 or older work from 10 P.M. to 6 A.M. and on holiday, the employer shall obtain the consent of the female concerned.

(2) An employer shall not have a pregnant female and a person aged less than 18 work from 10 P.M. to 6 A.M. and on holiday. However, this shall not apply in the cases described in any of the following subparagraphs and when the employer obtains permission from the Minister of Employment and Labor : <Amended by Act No. 10339, Jun. 4, 2010>

1. Where there is a consent from the person aged less than 18;
2. Where there is a consent from a female with less than one year after childbirth;
3. Where the female in pregnancy makes a request.

(3) An employer, before obtaining permission from the Minister of Employment and Labor as stipulated in paragraph (2), shall consult in good faith with a workers' representative of the business or workplace concerned as to whether there will be night work or holiday work and its implementation methods for workers' health and maternity protection. <Amended by Act No. 10339, Jun. 4, 2010>

Article 71 (Overtime Work)

An employer shall not have, a female with less than one year after childbirth, work overtime exceeding 2 hours per day, 6 hours per week, and 150 hours per year, even if agreed in a collective agreement.

Article 72 (Prohibition of Work Inside Pit)

No employer shall employ a female or minor under the age of 18 for any work inside a pit, except where the work is temporarily needed to perform the business as determined by Presidential Decree such as health, medicine, news report, news coverage, etc.

Article 73 (Menstruation Leave)

An employer shall, upon request of a female worker, grant her one-day menstruation leave per month.

Article 74 (Protection of Pregnant Women)

(1) An employer shall grant a pregnant female worker 90 days of maternity leave before and after childbirth. In such case, 45 days or more shall be allocated after the childbirth.

(2) At the request of a pregnant female worker who has a miscarriage or still birth after 16 weeks of pregnancy, the employer shall grant her protective leave as prescribed by the Presidential Decree, except where the miscarriage is caused by an artificially induced abortion operation (excluding cases prescribed in Article 14 (1) of the Mother and Child Health Act).

(3) Of the leave under paragraphs (1) and (2), the first 60 days' leave shall be with pay, except that if maternity leave benefits, etc., are already paid pursuant to Article 18 of the Act on Equal Employment and Support for Work-Family Reconciliation, the employer shall be relieved of the responsibility to the extent of such amount. *<Amended by Act No. 8781, Dec. 21, 2007>*

(4) No employer shall put a pregnant female worker on an overtime duty, and, if there is a request from the worker, the employer shall transfer her to a light duty.

(5) After the end of the protective leave under paragraph (1), the employer shall allow the female worker to return to the same work, or one with the same level of pay, as before the leave. *<Newly Inserted by Act No. 9038, Mar. 28, 2008>*

Article 74-2 (Allowing Time Off for Prenatal Examination)

(1) If a pregnant female worker makes a request to take time off from work to receive a regular health checkup for

pregnant women, the employer shall allow her to do so.

(2) An employer shall not cut a worker's wages on the ground that she takes time off for the health checkup under paragraph (1).

<This Article Newly Inserted by Act No. 8960, Mar. 21, 2008>

Article 75 (Nursing Hours)

A female worker who has an infant under twelve months shall be allowed to take paid nursing recesses, twice per day for more than 30 minutes each.

CHAPTER VI

Safety and Health

Article 76 (Safety and Health)

The safety and health of workers shall be subject to the conditions as prescribed by the Occupational Safety and Health Act.

CHAPTER VII

Apprenticeship

Article 77 (Protection of Apprentices)

No employer shall abuse workers in training, workers on probation or any other apprentice whose purpose is to acquire a technical skill, or assign them to domestic work or other work not related to the acquirement of technical skill.

CHAPTER VIII

Accident Compensation

Article 78 (Medical Treatment Compensation)

(1) An employer shall provide necessary medical treatment at his own expense or bear corresponding expenses for a

worker who suffers from an occupational injury or disease.

(2) The scope of occupational disease or medical treatment and the timing of compensation for medical treatment expenses referred to in paragraph (1) shall be prescribed by the Presidential Decree. *<Amended by Act No. 8960, Mar. 21, 2008>*

Article 79 (Compensation for Suspension of Work)

(1) An employer shall provide a worker undergoing medical treatment under Article 78 with compensation for suspension of work in an amount equivalent to 60/100 of the average wages during the period of medical treatment. *<Amended by Act No. 8960, Mar. 21, 2008>*

(2) If a person to be provided with compensation for suspension of work has received part of his/her wages during the period for which the compensation is provided pursuant to paragraph (1), the employer shall provide compensation for suspension of work in an amount equivalent to 60/100 of the amount calculated by subtracting the paid wages from the average wages. *<Newly Inserted by Act No. 8960, Mar. 21, 2008>*

(3) The timing of compensation for suspension of work shall be prescribed by the Presidential Decree *<Newly Inserted by Act No. 8960, Mar. 21, 2008>*

Article 80 (Compensation for Disability)

(1) If a worker remains disabled even after completion of treatment of his/her occupational injury or disease, the employer shall provide compensation for disability in an amount equivalent to the average wages multiplied by the number of days set according to grade of disability in the attached Table. *<Amended by Act No. 8960, Mar. 21, 2008>*

(2) A person who already has a physical disability has that disability aggravated due to an injury or disease, the amount of compensation for disability shall be the amount calculated by subtracting the number of compensation days for the previous disability grade from the number of compensation days for the aggravated disability grade and then multiplying the resulting number by the average wages at the time when there occurs the reason for claiming the compensation. *<Newly Inserted by Act No. 8960, Mar. 21, 2008>*

(3) The criteria for determining disability grades for which compensation for disability has to be provided and the timing of compensation for disability shall be prescribed by the Presidential Decree. *<Newly Inserted by Act No. 8960, Mar. 21, 2008>*

Article 81 (Exceptions to Compensation for Suspension of Work and for Disability)

If a worker suffers from an occupational injury or disease due to his own gross negligence, and the employer obtains the acknowledgment of the Labor Relations Commission for the same negligence, the employer shall not be liable to provide compensation for the suspension of work or compensation for disability.

Article 82 (Compensation for Survivors)

(1) If a worker dies on duty, the employer shall provide survivor's compensation equivalent to 1,000 days of the average wages to the worker's surviving family member without delay after his/her death. *<Amended by Act No. 8960, Mar. 21, 2008>*

(2) The scope of surviving family members referred to in paragraph (1), the order of priority for survivor's compensation and the order of priority for survivor's compensation in case the person determined to receive survivor's compensation dies shall be prescribed by the Presidential Decree. *<Newly Inserted by Act No. 8960, Mar. 21, 2008>*

Article 83 (Funeral Expenses)

If a worker dies on duty, the employer shall provide funeral expenses equivalent to 90 days of the average wages without delay after the worker's death. *<Amended by Act No. 8960, Mar. 21, 2008>*

Article 84 (Lump Sum Compensation)

If a worker receiving compensation in accordance with Article 78 has not completely recovered from the said occupational injury or disease even after two years since the medical care began, the employer may be exonerated from any further obligation of compensation under this Act thereafter by providing a lump sum compensation equivalent to 1,340 days of the average wages of the worker.

Article 85 (Installment Compensation)

If an employer proves his ability to pay compensation, and has obtained the consent of a recipient, he may pay the compensation pursuant to Article 80, 82 or 84 in installments for one year.

Article 86 (Claim for Compensation)

A claim for compensation shall not be changed due to retirement

and shall not be transferred or confiscated.

Article 87 (Relationship with Other Damage Claims)

If a person to receive compensation has received money or other valuables corresponding to accident compensation stipulated in this Act by way of the Civil Code or any other Act and subordinate statutes for the same reason, the employer shall be exonerated from the obligation of compensation to the extent of the said value received.

Article 88 (Reappraisal and Arbitration of Minister of Employment and Labor)

(1) If a person has an objection to the determination of occupational injury, disease or death, methods of medical care, determination of compensation or any other matters regarding compensation, the person concerned may request the Minister of Employment and Labor to reappraise or arbitrate the case. *<Amended by Act No. 10339, Jun. 4, 2010>*

(2) If a request pursuant to paragraph (1) is filed, the Minister of Employment and Labor shall reappraise or arbitrate the case within one month. *<Amended by Act No. 10339, Jun. 4, 2010>*

(3) The Minister of Employment and Labor may reappraise or arbitrate a dispute by its own authority, if necessary. *<Amended by Act No. 10339, Jun. 4, 2010>*

(4) The Minister of Employment and Labor may have a doctor diagnose or examine the worker concerned, if it is deemed necessary for reappraisal or arbitration. *<Amended by Act No. 10339, Jun. 4, 2010>*

(5) For purposes of the statute of limitation, the request for reappraisal or arbitration in accordance with paragraph (1) and the commencement of reappraisal or arbitration pursuant to paragraph (2) shall be regarded as an institution of a judicial proceeding.

<Title of This Article Amended by Act No. 10339, Jun. 4, 2010>

Article 89 (Reappraisal and Arbitration of Labor Relations Commission)

(1) If reappraisal or arbitration has not been made by the Minister of Employment and Labor within the period set forth in paragraph (2) of Article 88, or if a person is dissatisfied with the result of reappraisal or arbitration, a request may be filed with the Labor Relations Commission for reappraisal or arbitration. *<Amended by Act No. 10339, Jun. 4, 2010>*

(2) If a request is filed in accordance with paragraph (1),

the Labor Relations Commission shall reappraise or arbitrate the case within one month.

Article 90 (Exception to Subcontracted Work)

(1) If a business is operated based upon several tiers of subcontracts, the primary contractor shall be regarded as the employer for purposes of accident compensation.

(2) With regard to paragraph (1), if a subcontractor is delegated to pay compensation by a written agreement with the primary contractor, the subcontractor shall also be regarded as the employer; however, the primary contractor shall not have more than one subcontractor bear overlapping compensation for the same business.

(3) With regard to paragraph (2), the primary contractor who has been requested to provide compensation, may ask the applicant to demand compensation first from the subcontractor who has agreed to the responsibility for such compensation. However, this shall not apply if the subcontractor concerned is missing or is declared bankrupt.

Article 91 (Keeping of Documents)

An employer shall not discard important documents concerning accident compensation unless accident compensation is finished or before the right to claim accident compensation is extinguished by prescription pursuant to Article 92. *<Amended by Act No. 8960, Mar. 21, 2008>*

Article 92 (Prescription)

The statute of limitation to exercise a claim for accident compensation in accordance with this Act shall be three years.

CHAPTER IX

Rules of Employment

Article 93 (Preparation and Filing of Rules of Employment)

An employer ordinarily employing ten workers or more shall prepare the rules of employment concerning matters described in any of the following subparagraphs and file it with the Minister of Employment and Labor. If any amendments to the rules of employment occurs, the same procedures shall be followed: *<Amended by Act No. 9038, Mar. 28, 2008 and Act No. 10339, Jun. 4, 2010>*

1. Matters pertaining to the starting and finishing time of work, recess hours, holidays, leaves and shifts;
2. Matters pertaining to the determination of wages, calculation of wages, means of payment, closing of payment, time of payment and wage increase;
3. Matters pertaining to calculation of family allowances and means of payment;
4. Matters pertaining to retirement;
5. Matters pertaining to retirement pay prescribed in Article 8 of the Employee Retirement Benefit Security Act, bonuses and minimum wages;
6. Matters pertaining to meal allowance and allocation of expenses for operational tools or necessities;
7. Matters pertaining to educational facilities for workers;
8. Matters pertaining to the maternity protection of female workers, such as maternity leave, child-care leave, etc., and support for reconciliation between work and family life;
9. Matters pertaining to safety and health;
- 9-2. Matters pertaining to the improvement of workplace environments according to workers' characteristics, such as gender, age or physical attributes, etc.;
10. Matters pertaining to support pertaining occupational or non-occupational accidents;
11. Matters pertaining to award and punishment;
12. Other matters applicable to all workers of the business concerned.

Article 94 (Procedures for Preparation of and Amendment to Rules of Employment)

(1) An employer shall seek consultation of a trade union, if there is a trade union composed of the majority of the workers in the workplace concerned, or the consultation of the majority of workers if there is no trade union composed of the majority of the workers, with regard to the preparation of and amendment to the rules of employment. However, if the rules of employment are to be modified unfavorably to workers, the employer shall obtain workers' consent.

(2) When an employer submits the rules of employment in accordance with the provisions of Article 96, a written document containing the result of consultation referred to in paragraph (1) shall be attached.

Article 95 (Limitation on Punitive Provisions)

If a punitive reduction in wages for a worker is stipulated in the rules of employment, the reduction amount for each infraction shall not exceed half of one day's average wages, and the total amount of reduction shall not exceed one-tenth of the total amount of wages during each period of wage payment.

Article 96 (Observance of Collective Agreement)

(1) The rules of employment shall not conflict with any Acts and subordinate statutes or the collective agreement applicable to the workplace concerned.

(2) The Minister of Employment and Labor has the authority to order amendment to the rules of employment which is deemed to conflict with any Acts and subordinate statutes or the collective agreement. *<Amended by Act No. 10339, Jun. 4, 2010>*

Article 97 (Effect of Violation)

If a labor contract includes employment conditions which are below the standards stipulated in the rules of employment, such nonconformity shall be null and void. In this case, the invalidated provisions shall be governed by the standards provided for in the rules of employment.

CHAPTER X

Dormitory

Article 98 (Protection of Dormitory Life)

(1) An employer shall not interfere with the private life of a worker lodging in a dormitory annexed to a business.

(2) An employer shall not interfere with the election of staff required for the autonomous management of a dormitory.

Article 99 (Preparation of and Amendment to Dormitory Rules)

(1) An employer who wants to board his workers in a dormitory annexed to a business shall prepare the dormitory rules concerning the following matters :

1. Matters pertaining to morning rise and night retirement, going-out and overnight stay;
2. Matters pertaining to events;
3. Matters pertaining to meals;
4. Matters pertaining to safety and health;

5. Matters pertaining to maintenance of buildings and facilities;
and
 6. Other matters applicable to all boarding members.
- (2) An employer shall obtain the consent of the representative who represents a majority of the boarding members with regard to the preparation of and amendment to the dormitory rules stipulated in paragraph (1).
- (3) Both an employer and boarding member shall comply with the dormitory rules.

Article 100 (Measures for Safety and Health)

- (1) An employer shall take measures necessary for the maintenance of the health, morals and lives of the members who are lodged in a dormitory annexed to the business.
- (2) The standards for the measures to be taken in accordance with the provisions of paragraph (1) shall be provided for by the Presidential Decree.

CHAPTER XI

Labor Inspectors, etc.

Article 101 (Supervisory Authorities)

- (1) The Ministry of Employment and Labor and its subordinate offices shall have a labor inspector to ensure the standards of the conditions of labor. *<Amended by Act No. 10339, Jun. 4, 2010>*
- (2) Matters concerning the qualification, appointment, dismissal, job specification, and assignment of a labor inspector shall be prescribed by the Presidential Decree.

Article 102 (Authority of Labor Inspectors)

- (1) A labor inspector has the authority to inspect a workplace, dormitory and other annexed buildings, to request presentation of books and documents, and to question both an employer and workers.
- (2) A labor inspector who is a medical doctor or a medical doctor designated by a labor inspector has the authority to conduct medical examinations of workers who appear to suffer from a disease which precludes his/her continuous employment.
- (3) With regard to paragraphs (1) and (2), a labor inspector or a medical doctor designated by a labor inspector shall

present his identification card and a letter of order for medical examination issued by the Minister of Employment and Labor before performing his duty. *<Amended by Act No. 10339, Jun. 4, 2010>*

(4) With regard to a letter of order for inspection or medical examination prescribed in paragraph (3), the date, place and scope shall be clearly stated therein.

(5) A labor inspector shall have the authority to perform the official duties of the judicial police officer in accordance with the Act relating to Persons to Perform Duties of Judicial Police and Scope of the Duties with regard to the crimes in violation of this Act or any other Acts and subordinate statutes pertaining to labor affairs.

Article 103 (Duty of Labor Inspector)

A labor inspector shall not disclose any confidential information which he/she learned through the course of performing his official duty. The same shall be applied after he/she is no longer in the official capacity.

Article 104 (Report to Supervisory Authorities)

(1) If any violation of the provisions of this Act or the Presidential Decree promulgated pursuant hereto occurs at a workplace, a worker may notify the Minister of Employment and Labor or a labor inspector of the violation. *<Amended by Act No. 10339, Jun. 4, 2010>*

(2) No employer shall dismiss or unfairly treat the worker for giving such notification as provided for in paragraph (1).

Article 105 (Limit of Judicial Police Duty)

Public prosecutors and labor inspectors shall be wholly in charge of inspecting, requesting the presentation of documents, questioning and conducting any other investigation, in accordance with this Act or any other Acts and subordinate statutes pertaining to labor affairs; however, this shall not apply to an investigation into an offense or a crime committed by a labor inspector in the course of performing his official duty.

Article 106 (Delegation of Authority)

The authority of the Minister of Employment and Labor under this Act may be delegated, in part, to the head of a local employment and labor office as prescribed by the Presidential Decree. *<Amended by Act No. 10339, Jun. 4, 2010>*

CHAPTER XII

Penal Provisions

Article 107 (Penal Provisions)

A person who violates the provisions of Article 7, 8, 9, 23 (2) or 40 shall be punished by imprisonment of up to five years or by a fine not exceeding thirty million won.

Article 108 (Penal Provisions)

A labor inspector who willfully overlooks any violation of the provisions of this Act shall be punished by imprisonment of up to three years or suspension of civil rights for up to five years.

Article 109 (Penal Provisions)

(1) A person who violates the provisions of Article 36, 43, 44, 44-2, 46, 56, 65 or 72 shall be punished by imprisonment of up to three years or by a fine not exceeding twenty million won. *<Amended by Act No. 8561, Jul. 27, 2007>*

(2) A prosecution against a person who violates the provisions of Article 36, 43, 44, 44-2, 46 or 56 shall not be filed against the clearly expressed will of the victim. *<Amended by Act No. 8561, Jul. 27, 2007>*

Article 110 (Penal Provisions)

Any person falling within the purview of any of the following subparagraphs shall be punished by imprisonment of up to two years, or by a fine not exceeding ten million won: *<Amended by Act No. 9699, May 21, 2009>*

1. A person who violates Article 10, 22 (1), 26, 50, 53 (1), (2) and (3), 54, 55, 60 (1), (2), (4) and (5), 64 (1), 69, 70 (1) and (2), 71, 74 (1) through (4), 75, 78 through 80, 82, 83 or 104 (2);
2. A person who violates orders issued in accordance with Article 53 (4)

Article 111 (Penal Provisions)

A person who fails to comply with a remedy order confirmed pursuant to Article 31 (3) or confirmed after the filing of an administrative lawsuit, or a decision rendered after the reexamination of a remedy order shall be punished by imprisonment of up to one year or a fine not exceeding ten

million won.

Article 112 (Accusation)

(1) An offence prescribed in Article 111 shall be prosecutable only with the accusation of the offense by the Labor Relations Commission.

(2) A prosecutor may notify the Labor Relations Commission of an occurrence of an offense under paragraph 1 and ask the Commission to file an accusation.

Article 113 (Penal Provisions)

A person who violates the provisions of Article 45 shall be punished by a fine not exceeding ten million won.

Article 114 (Penal Provisions)

A person who falls within the purview of any of the following subparagraphs shall be punished by a fine not exceeding five million won: *<Amended by Act No. 8561, Jul. 27, 2007, Act No. 9038, Mar. 28, 2008, and Act No. 9699, May 21, 2009>*

1. a person who violates Article 6, 16, 17, 20, 21, 22 (2) or 47, the proviso of Article 53 (3), Article 67 (1) and (3), 70 (3), 73, 74 (5), 77, 94, 95, 100 or 103;
2. a person who fails to comply with an order issued in accordance with Article 96 (2);

Article 115 (Joint Penal Provisions)

If an agent, a servant or any other employee of an employer commits the offence prescribed in Article 107, Articles 109 through 111, Article 113 or Article 114 in relation to matters concerning the workers of the employer, the fine prescribed in the respective Article shall be imposed on the employer, in addition to the punishment of the offender: Provided that this shall not apply unless the employer neglects to give considerable attention and supervision to the business concerned in order to prevent such offence.

<This Article Wholly Amended by Act No. 9699, May 21, 2009>

Article 116 (Fine for Negligence)

(1) A person who falls under the purview of any of the following subparagraphs shall be punished by a fine for negligence not exceeding five million won: *<Amended by Act No. 9699, May 21, 2009 and Act No. 10339, Jun. 4, 2010>*

1. A person who fails to report or present him/herself or makes a false report in response to a request from the Minister of Employment and Labor, the Labor Relations

- Commission or a labor inspector under Article 13;
2. A person who violates Article 14, 39, 41, 42, 48, 66, 91, 93, 98 (2) or 99;
 3. A person who refuses, avoids or otherwise obstructs a clinical or medical examination conducted by a labor inspector or a doctor designated by a labor inspector pursuant to Article 102; fails to answer his/her question or gives an false answer; fails to submit books and documents; or submits false books and documents.

(2) The fine for negligence under paragraph (1) shall be imposed and collected by the Minister of Employment and Labor as prescribed by the Presidential Decree. *<Amended by Act No. 10339, Jun. 4, 2010>*

(3) Deleted. *<Act No. 9699, May 21, 2009>*

(4) Deleted. *<Act No. 9699, May 21, 2009>*

(5) Deleted. *<Act No. 9699, May 21, 2009>*

Addenda *<Act No. 8372, Apr. 11, 2007>*

Article 1 (Enforcement Date)

This Act shall enter into force on the date of its promulgation: Provided that the amended provisions of Article 16 (24) of the Addenda shall take effect on April 12, 2007; the amended provisions of Articles 12, 13, 17, 21, 23 (1), 24 (3), 25 (1), 27 through 33, 37 (1), 38, 43, 45, 64, 77 and 107, subparagraph 1 of Article 110, Articles 111, 112, 114 and 116, and Article 16 (9) of the Addenda shall take effect on July 1, 2007; and the amended provisions of Article 16 (21) shall take effect on July 20, 2007.

Article 2 (Transitional Measures concerning Enforcement Date)

The previous provisions of Articles 11, 12, 24, 28, 30 (1), 31 (3), 31-2 (1), 33, 36-2 (1), 37, 42, 44, 77 and 110, subparagraph 1 of Article 113 and Article 115 shall apply until the amended provisions of Articles 12, 13, 17, 21, 23 (1), 24 (3), 25 (1), 28, 37 (1), 38, 43, 45, 77 and 107, subparagraph 1 of Article 110 and Article 114, which correspond to the said previous provisions, take effect in accordance with the proviso to Article 1 of the Addenda.

Article 3 (Period of Validity)

The amended provisions of Article 16 shall remain effective until June 30, 2007.

Article 4 (Enforcement Date of Labor Standards Act Amended by Act No. 6974)

The enforcement date of the Labor Standards Act amended by Act no. 6974 shall be as follows:

1. Financial and insurance businesses, government-invested institutions under Article 2 of the Framework Act on the Management of Government-Invested Institutions, local public enterprises and local public corporations under Articles 49 and 76 of the Local Public Enterprises Act, institutions and organizations, not less than 1/2 of whose capital or basic assets are invested or contributed by the State, any local government or any government-invested institution, institutions and organizations, not less than 1/2 of whose capital or basic assets are invested or contributed by the said institutions and organizations and businesses or workplaces ordinarily employing 1,000 workers or more : July 1, 2004;
2. Businesses or workplaces ordinarily employing 300 workers or more but fewer than 1,000 : July 1, 2005;
3. Businesses or workplaces ordinarily employing 100 workers or more but fewer than 300 : July 1, 2006;
4. Businesses or workplaces ordinarily employing 50 workers or more but fewer than 100 : July 1, 2007;
5. Businesses or workplaces ordinarily employing 20 workers or more but fewer than 50 : July 1, 2008; and
6. Businesses or workplaces ordinarily employing fewer than 20 workers and any institution of State and local governments : the date prescribed by the Presidential Decree but no later than 2011

Article 5 (Special Cases concerning Application of Labor Standards Act Amended by Act No. 6974)

If an employer makes a report to the Minister of Labor after obtaining consent from a trade union composed of a majority of workers or if there is no such trade union, from a majority of workers before the enforcement date specified in Article 4 of the Addenda, as prescribed by the Ordinance of the Ministry of Labor, the amended provisions may apply even prior to the enforcement date specified in Article 4 of the Addenda.

Article 5-2 (Special Cases in Application of Working Hours of Construction Work)

Notwithstanding subparagraph 6 of Article 4 of the Addenda, whether working hours under Article 50 apply to all the workers

employed for construction work which includes all or some of the following construction work and the contracts for which are awarded by the same person and which is deemed to be performed according to one consistent system in terms of the purpose, place, period, etc., of the construction work (hereinafter referred to as "related construction work" in this Article) shall be decided on the basis of the number of workers ordinarily employed for the related construction work, which is calculated based on the total amount of contract price at the time of awarding contracts for the related construction work:

1. Construction work under the Framework Act on the Construction Industry;
2. Electrical systems installation under the Electrical Construction Business Act;
3. Information and communications systems installation under the Information and Communications Construction Business Act;
4. Fire-fighting systems installation under the Fire-Fighting System Installation Business Act; and
5. Cultural property repair under the Cultural Heritage Protection Act

<This Article Newly Inserted by Act No. 8960, Mar. 21, 2008>

Article 6 (Special Cases concerning Extended Work)

(1) "12 hours" shall be read as "16 hours" for three years from the enforcement date referred to in each subparagraph of Article 4 of the Addenda (referring to the application date if the report is made to the Minister of Labor pursuant to Article 5 of the Addenda; hereinafter the same shall apply) in applying Article 53 (1) and 59 (1).

(2) In applying paragraph (1), "50/100" in Article 56 shall be read as "25/100" with respect to the first four hours.

Article 7 (Preservation of Wage Level and Changes, etc., in Collective Agreement)

(1) Employers shall work to keep the existing wage levels and ordinary wages per hour from being lowered due to the enforcement of the Labor Standards Act amended by Act no. 6974.

(2) In relation to the enforcement of the Labor Standards Act amended by Act no. 6974, workers, trade unions and employers shall work to reflect measures to preserve wage levels and the amended provisions of the same Act in their collective agreements, employment rules, etc., as soon as possible regardless

of whether such collective agreements expire or not.

(3) In applying paragraphs (1) and (2), wage components and the method of adjusting wages shall be autonomously determined by the workers, trade union and employer concerned through collective agreements, employment rules, etc.

Article 8 (Transitional Measures concerning Annual and Monthly Paid Leave)

Monthly paid leave and annual paid leave occurring prior to the enforcement date of the Labor Standards Act amended by Act no. 6974 shall be governed by the previous provisions.

Article 9 (Application Example concerning Late Payment Interest)

The amended provisions of Article 36-2 of the Labor Standards Act amended by Act no. 7465 shall apply to cases where the cause for payment occurs after the same Act enters into force.

Article 10 (Application Example concerning Protective Leave etc., for Miscarriage or Stillbirth)

The amended provisions of Article 72 (2) and (3) of the Labor Standards Act amended by Act no. 7566 shall apply to a female worker who gives birth to a baby or has a miscarriage or stillbirth after the same Act enters into force.

Article 11 (Application Example concerning Preferential Re-employment, etc.)

The amended provisions of Article 25 (1) shall apply to dismissal for managerial reasons, which occurs after July 1, 2007, the enforcement date of the Labor Standards Act amended by Act no. 8293.

Article 12 (Application Example concerning Remedy for Unfair Dismissal, etc.)

The amended provisions of Articles 28 through 33, 111 and 112 shall apply to unfair dismissal which occurs after July 1, 2007, the enforcement date of the Labor Standards Act amended by Act no. 8293.

Article 13 (Transitional Measures concerning Preferential Payment of Wage Claims)

(1) Notwithstanding the amended provisions of Article 37 (2) 2 of the Labor Standards Act amended by Act no. 5473, in the case of workers who retired before the enforcement of the same Act, the retirement pay for years of consecutive service from

March 29, 1989 shall be subject to preferential payment.

(2) Notwithstanding the amended provisions of Article 37 (2) 2 of the Labor Standards Act amended by Act no. 5473, in the case of workers who were hired before and retired after the enforcement of the same Act, the retirement pay for years of consecutive service from March 29, 1989 to the day before the enforcement of the same Act plus the retirement pay of the final three years arising from years of consecutive service after the enforcement of the same Act shall be subject to preferential payment.

(3) The amount of retirement pay subject to preferential payment under paragraphs (1) and (2) shall be equal to thirty days of average wages for each year of consecutive service.

(4) The amount of retirement pay subject to preferential payment under paragraphs (1) and (2) shall not exceed 250 days of average wages.

Article 14 (General Transitional Measures concerning Disposition, etc.)

Any acts done by or against administrative agencies under the previous provisions at the time when this Act enters into force shall be deemed acts done by or against administrative agencies under the corresponding provisions of this Act.

Article 15 (Transitional Measures concerning Penal Provisions)

The application of the penal provisions to any acts committed before this Act enters into force shall be subject to the previous provisions.

Article 16 Omitted.

Article 17 (Relation to Other Acts and Subordinate Statutes)

Any reference to the previous Labor Standards Act or its provisions in other Acts and subordinate statutes at the time when this Act enters into force shall be deemed a reference to this Act or its corresponding provisions, if any, in lieu of the previous provisions.

Addenda <Act No. 9699, May. 21, 2009>

(1) (Enforcement Date)

This Act shall take effect three months after its promulgation.

(2) (Transitional Measures concerning Penal Provisions)

The application of penal provisions to any act committed

before this Act enters into force shall be governed by the previous provisions.

Addenda *<Act No. 10303, May. 17, 2010; Revision of the Banking Act>*

Article 1 (Enforcement Date)

This Act shall enter into force six months after its promulgation.
<Proviso omitted>

Articles 2 through 8 Omitted.

Article 9 (Revision of Other Acts)

(1) through (9) Omitted.
(10) Parts of the Labor Standards Act shall be revised as follows :
“Financial institutions” in Article 37 (1) shall be changed to “banks”.
(11) through (86) Omitted.

Article 10 Omitted.

Addendum *<Act No. 10319, May 25, 2010>*

This Act shall enter into force on January 1, 2012.

Addenda *<Act No. 10339, Jun. 4, 2010; Revision of the Government Organization Act>*

Article 1 (Enforcement Date)

This Act shall enter into force one month after its promulgation. <Proviso omitted>

Articles 2 and 3 Omitted.

Article 4 (Revision of Other Acts)

(1) through (26) Omitted.
(27) Parts of the Labor Standards Act shall be revised as follows :
“Minister of Labor” in Article 13, Article 24 (4), Article 53 (3) and (4), subparagraph 3 of Article 63, proviso of Article 64 (1), Article 64 (3), Article 67 (2), proviso of Article 70 (2), Article 70 (3), title and paragraphs (1) through (4) of Article 88, Article 89 (1), Article 93, Article 96 (2), Article 102 (3), Article

104 (1), Article 106, Article 116 (1) 1 and Article 116 (2) shall be changed to “Minister of Employment and Labor”.

“Ordinance of the Ministry of Labor” in proviso of Article 26 shall be changed to “Ordinance of the Ministry of Employment and Labor”.

“Ministry of Labor” in Article 101 (1) shall be changed to “Ministry of Employment and Labor”.

“Regional labor authority” in Article 106 shall be changed to “regional employment and labor authority”.

(28) through (82) Omitted.

Article 5 Omitted.

Addenda <Act No. 10366, Jun. 10, 2010; Revision of the Act on the Use of Movable, Receivables, etc., as Security>

Article 1 (Enforcement Date)

This Act shall enter into force two years after its promulgation.

Article 2 Omitted.

Article 3 (Revision of Other Acts)

(1) through (3) Omitted.

(4) Parts of the Labor Standards Act shall be revised as follows :

“Pledges or mortgages” in Article 38 (1) shall be changed to “pledges, mortgages or the liens under the Act on the Use of Movable, Receivables, etc., as Security”, and “pledges or mortgages” in the proviso and paragraph (2) of the same Article to “pledges, mortgages or the liens under the Act on the Use of Movable, Receivables, etc., as Security”

(5) through (10) Omitted.

Article 4 Omitted.

Addenda <Act No. 10719, May 24, 2011; Revision of the Framework Act on the Construction Industry>

Article 1 (Enforcement Date)

This Act shall enter into force six months after its promulgation. <Proviso omitted>

Articles 2 through 5 Omitted.

Article 6 (Revision of Other Acts)

(1) through (4) Omitted.

(5) Parts of the Labor Standards Act shall be revised as

follows :

"Subparagraph 8 of Article 2 of the Framework Act on the Construction Industry" and "subparagraph 5 of Article 2 of the same Act" in Article 44-2 (1) shall be changed to "subparagraph 10 of Article 2 of the Framework Act on the Construction Industry" and "subparagraph 7 of Article 2 of the same Act" respectively and "subparagraph 5 of Article 2 of the Framework Act on the Construction Industry" in paragraph (2) of the same Article shall be changed to "subparagraph 7 of Article 2 of the Framework Act on the Construction Industry".

"Subparagraph 7 of Article 2 of the Framework Act on the Construction Industry" in the former part of Article 44-3 (2) shall be changed to "subparagraph 10 of Article 2 of the Framework Act on the Construction Industry".

(6) through (9) Omitted.

[Table]

Disability Grade and Accident Compensation
(Relating to Article 80)

Grade	Accident Compensation	Grade	Accident Compensation
Grade 1	1,340 days' aver. wages	Grade 8	450 days' aver. wages
Grade 2	1,190 days' aver. wages	Grade 9	350 days' aver. wages
Grade 3	1,050 days' aver. wages	Grade 10	270 days' aver. wages
Grade 4	920 days' aver. wages	Grade 11	200 days' aver. wages
Grade 5	790 days' aver. wages	Grade 12	140 days' aver. wages
Grade 6	670 days' aver. wages	Grade 13	90 days' aver. wages
Grade 7	560 days' aver. wages	Grade 14	50 days' aver. wages