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## LABOR STANDARDS ACT

[Enforcement Date 01. Jul, 2014.] [Act No.12325, 21. Jan, 2014., Partial Amendment]

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### CHAPTER I GENERAL PROVISIONS

#### Article 1 (Purpose)

The purpose of this Act is to establish the standards for terms and conditions of employment in conformity with the Constitution, thereby securing and improving the fundamental living standards of workers and achieving a well-balanced development of the national economy.

#### Article 2 (Definitions)(1) The definitions of terms used in this Act shall be as follows:

1. The term "worker" means a person, regardless of the kind of occupation, who offers labor to a business or workplace for the purpose of earning wages;
2. The term "employer" means a business owner, or a person responsible for the management of business, or a person who acts on behalf of a business owner with respect to matters relating to workers;
3. The term "work" means both mental work and physical work;
4. The term "labor contract" means a contract which is entered into in order that a worker offers work for which the employer pays its corresponding wages;
5. The term "wages" means wages, salary and any other kinds of money or valuables, regardless of their titles, which the employer pays to a worker as remuneration for work;
6. The term "average wages" means the amount calculated by dividing the total amount of wages paid to a relevant worker during three calendar months immediately before the day grounds for calculating his/her average wages occurred by the total number of calendar days during the three months. This shall apply mutatis mutandis to the employment of less than three months;
7. The term "contractual work hours" means work hours on which workers and their employer have made an agreement within the limit of work hours under Article 50 or the main sentence of Article 69 of this Act, or under Article 46 of the Industrial Safety and Health Act;
8. The term "part-time worker" means a worker whose contractual work hours per week are shorter than those of a full-time worker engaged in the same kind of work at the workplace concerned.

(2) When the amount calculated pursuant to the provisions of paragraph (1) 6 is lower than that of the ordinary wages of the worker concerned, the amount of the ordinary wages shall be deemed his/her

average wages.

### Article 3 (Standards of Terms and Conditions of Employment)

The terms and conditions of employment prescribed by this Act shall be the minimum standards for employment, and the parties to labor relations shall not lower the terms and conditions of employment under the pretext of compliance with this Act.

### Article 4 (Establishment of Terms and Conditions of Employment)

Terms and conditions of employment shall be freely established on the basis of equality, as agreed between workers and their employer.

### Article 5 (Observance of Terms and Conditions of Employment)

Both workers and employers shall comply with collective agreements, rules of employment, and terms of labor contracts and be obliged to fulfill them in good faith.

### Article 6 (Equal Treatment)

An employer shall neither discriminate against workers on the basis of gender, nor take discriminatory treatment in relation to terms and conditions of employment on the ground of nationality, religion, or social status.

### Article 7 (Prohibition of Forced Labor)

An employer shall not force a worker to work against his/her own free will through the use of violence, intimidation, confinement, or any other means by which the mental or physical freedom of the worker might be unduly restricted.

### Article 8 (Prohibition of Violence)

An employer shall not do violence to a worker for the occurrence of accidents or for any other reason.

### Article 9 (Elimination of Intermediary Exploitation)

No person shall intervene in the employment of another person for making a profit or gain benefit as an intermediary, unless otherwise prescribed by any Act.

### Article 10 (Guarantee of Exercise of Civil Rights)

An employer shall not reject a request from a worker to grant time necessary to exercise the franchise or other civil rights, or to perform official duties, during work hours: Provided, That the time requested may be changed, unless such change impedes the exercise of those rights or performance of those official duties.

**Article 11 (Scope of Application)**(1) This Act shall apply to all businesses or workplaces in which not less than five workers are ordinarily employed: Provided, That this Act shall neither apply to any business or workplace in which only the employer's blood relatives living together are engaged, nor to servants hired for the employer's domestic works.

(2) With respect to a business or workplace in which not more than four workers are ordinarily employed, some provisions of this Act may apply as prescribed by Presidential Decree.

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

### Article 12 (Scope of Application)

This Act and Presidential Decree promulgated under this Act shall apply to the State, Special Metropolitan City, Metropolitan City, Do, Si, Gun, Gu, Eup, Myeon, Dong, or other equivalents.

### Article 13 (Obligations to Report and Appear)

An employer or a worker shall report on, or attend meetings relating to, necessary matters without delay, whenever the Minister of Employment and Labor, a Labor Relations Commission under the Labor Relations Commission Act (hereinafter referred to as "Labor Relations Commission"), or a labor inspector requests to do so with respect to the enforcement of this Act. <Amended by Act No. 10339, Jun. 4, 2010>

**Article 14 (Publicity of Purport, etc. of Statutes)**(1) An employer shall acquaint workers with the purport of this Act and Presidential Decree under thereto, and the rules of employment, by posting or keeping them at a place readily accessible to workers at all times.

(2) An employer shall post or keep the provisions relating to dormitories in Presidential Decree referred to in paragraph (1) and the dormitory rules provided for in Article 99 (1), in the dormitories, to acquaint workers accommodated therein with them.

## CHAPTER II LABOR CONTRACTS

**Article 15 (Labor Contracts in Violation of This Act)**(1) A labor contract which has established terms and conditions of employment not in compliance with the standards prescribed by this Act shall be null and void to that extent.

(2) Those parts made null and void in accordance with paragraph (1) shall be governed by the standards prescribed by this Act.

### Article 16 (Term of Contract)

The term of a labor contract shall not exceed one year, except in case where there is no fixed term or where there is an otherwise fixed term as necessary for the completion of a certain project.

< <The amended provisions of this Article shall be effective until June 30, 2007 pursuant to Article 3 of the Addenda of Act No. 8372 of April 11, 2007>>

**Article 17 (Clear Statement of Terms and Conditions of Employment)**(1) An employer shall state the following matters clearly. The same shall also apply to any alteration of the following matters after entering into a labor contract. <Amended by Act No. 10319, May 25, 2010>

1. Wages;
2. Contractual work hours;
3. Holidays under Article 55;
4. Annual paid leaves under Article 60;
5. Other terms and conditions prescribed by Presidential Decree.

(2) An employer shall deliver the written statement specifying constituent items, calculation methods and payment methods of wages with respect to the wages under paragraph (1) 1 and the matters prescribed in subparagraphs 2 through 4 to workers: Provided, That where the matters under the main sentence is modified due to reasons prescribed by Presidential Decree, such as changes, etc. of collective agreements or rules of employment, such matters shall be delivered to the relevant workers at their request. <Newly Inserted by Act No. 10319, May 25, 2010>

**Article 18 (Terms and Conditions of Employment of Part-Time Workers)**(1) The terms and conditions of employment of part-time workers shall be determined on the basis of relative ratio computed in comparison to those work hours of full-time workers engaged in the same kind of work at the pertinent workplace.

(2) Criteria and other necessary matters to be considered for the determination of terms and

conditions of employment under paragraph (1) shall be prescribed by Presidential Decree.

(3) Articles 55 and 60 shall not apply to workers whose contractual work hours per week on an average of four weeks (in cases where their working periods are less than four weeks, such period of working) are less than 15 hours. <Amended by Act No. 8960, Mar. 21, 2008>

**Article 19 (Breach of Terms and Conditions of Employment)**(1) When any of the terms and conditions of employment as expressly set forth pursuant to Article 17 is not observed, the worker concerned shall be entitled to claim damages on the ground of the breach of the terms and conditions of employment and may terminate the labor contract forthwith.

(2) When a worker intends to claim damages in accordance with paragraph (1), he/she may file a claim with the Labor Relations Commission, and, if the labor contract has been terminated, the employer concerned shall provide travel expenses for returning home to the worker who changes his/her residence for the purpose of taking up a new job.

**Article 20 (Prohibition against Predetermination of Penalty for Breach of Contracts)**

An employer shall not enter into any contract in which a penalty or indemnity for possible damages caused by the breach of a labor contract is predetermined.

**Article 21 (Prohibition of Offsetting Wages with Advances)**

An employer shall not offset wages with an advance or other credits given in advance on the condition that a worker offers work.

**Article 22 (Prohibition of Compulsory Savings)**(1) An employer shall not enter into any contract incidental to a labor contract, which provides for compulsory savings or savings deposits management.

(2) Where an employer manages savings deposits entrusted by a worker, the following shall be observed:

1. Types and periods of deposits, and financial institutions shall be determined by the worker, and the deposit shall be made under the worker's name;
2. The employer shall immediately comply with the worker's request for the inspection or return of the certificate of deposit or other related documents.

**Article 23 (Restriction on Dismissal, etc.)**(1) An employer shall not, without justifiable cause, dismiss, lay off, suspend, or transfer a worker, reduce his/her wages, or take other punitive measures (hereinafter referred to as "unfair dismissal, etc.") against him/her.

(2) An employer shall not dismiss a worker during a period of suspension of work for medical treatment of an occupational injury or disease and within 30 days immediately thereafter, and any woman before and after childbirth shall not be dismissed during a period of suspension of work as prescribed by this Act and for 30 days immediately thereafter: Provided, That this shall not apply where the employer has paid a lump sum compensation as provided for under Article 84 or where the employer may not continue to conduct his/her business.

**Article 24 (Restrictions on Dismissal for Managerial Reasons)**(1) Where an employer intends to dismiss a worker for managerial reasons, there must be an urgent managerial necessity. In this case, it shall be deemed that there is an urgent managerial necessity for the transfer, merger, or acquisition of the business in order to prevent managerial deterioration.

(2) In case of paragraph (1), an employer shall make every effort to avoid dismissal and shall establish and follow reasonable and fair criteria for the selection of those persons subject to dismissal. In this

case, there shall be no discrimination on the basis of gender.

(3) Where there is an organized labor union that represents more than half of the workers at the business or workplace, the employer shall inform at least 50 days before the intended date of dismissal and consult in good faith with the labor union (where there is no such organized labor union, this shall refer to a person who represents more than half of the workers; hereinafter referred to as "labor representative") regarding the methods for avoiding dismissals, the criteria for dismissal, etc. under paragraph (2).

(4) When an employer intends to dismiss personnel under paragraph (1) above the fixed limit prescribed by Presidential Decree, he/she shall report to the Minister of Employment and Labor as determined by Presidential Decree. [<Amended by Act No. 10339, Jun. 4, 2010>](#)

(5) When an employer dismisses workers in accordance with the conditions prescribed in paragraphs (1) through (3), it shall be deemed a dismissal with proper cause under Article 23 (1).

[Article 25 \(Preferential Reemployment, etc.\)](#)(1) When an employer who has dismissed a worker under the provisions of Article 24 intends to hire, within three years of the date of the dismissal, any worker who will perform the same duty as the dismissed worker did at the time of such dismissal, he/she shall preferentially rehire the worker dismissed under Article 24, if the worker so desires.

(2) The Government shall take necessary measures for the dismissed workers under the provisions of Article 24, such as stabilization of livelihood, reemployment, and vocational training, on a priority basis.

#### [Article 26 \(Advance Notice of Dismissal\)](#)

When an employer intends to dismiss a worker (including dismissal for managerial reason), he/she shall give the worker a notice of dismissal at least 30 days in advance of such dismissal, and, if the employer fails to give such advance notice, he/she shall pay that worker ordinary wages for not less than 30 days: Provided, That this shall not apply where a natural disaster, calamity or other unavoidable circumstances prevent the continuance of the business or where the worker has caused a considerable hindrance to the business or inflicted any damage to the property on purpose, cases that fall under any cause determined by Ordinance of the Ministry of Employment and Labor.

[<Amended by Act No. 10339, Jun. 4, 2010>](#)

[Article 27 \(Written Notice of Grounds, etc. for Dismissal\)](#)(1) When an employer intends to dismiss a worker, he/she shall notify the worker in writing of grounds and timing for the dismissal.

(2) The dismissal of a worker shall become effective only upon a written notice pursuant to paragraph (1).

(3) Where an employer has given a worker an advance notice of dismissal under Article 26 in writing, stating grounds and timing for dismissal, the employer shall be deemed to have given notification under paragraph (1). [<Newly Inserted by Act No. 12527, Mar. 24, 2014>](#)

[Article 28 \(Request for Remedy from Unfair Dismissal, etc.\)](#)(1) When a worker is subjected by the employer to any unfair dismissal, etc., he/she may request a remedy therefor from a labor relations commission.

(2) A request for remedy under paragraph (1) shall be made within three months from the date of the unfair dismissal, etc.

[Article 29 \(Investigation, etc.\)](#)(1) The Labor Relations Commission shall, upon receipt of a request for remedy pursuant to Article 28, immediately conduct necessary investigation and examine the parties concerned.

(2) In making an examination pursuant to paragraph (1), the labor relations commission may, upon a request by the party concerned or ex officio, have a witness present himself/herself to make necessary inquiries.

(3) The Labor Relations Commission shall, in making an examination pursuant to paragraph (1), give the parties concerned sufficient opportunity to produce evidence and to cross-examine the witness.

(4) The detailed procedures for the investigation and examination by the Labor Relations Commission under paragraph (1) shall be as prescribed by the Central Labor Relations Commission under the Labor Relations Commission Act (hereinafter referred to as the "Central Labor Relations Commission").

**Article 30 (Order, etc. for Remedy)**(1) If a dismissal, etc. is judged to be unfair in consequence of the examination under Article 29, the Labor Relations Commission shall issue to the employer an order for remedy, and, if the dismissal, etc. is judged not to be unfair, make a decision to reject the request for remedy.

(2) The judgment, order for remedy and decision of rejection under paragraph (1) shall be notified in writing to the employer and worker, respectively.

(3) In issuing an order for remedy (only referring to an order for remedy following dismissal) under paragraph (1), if a worker does not desire to be reinstated in his/her former office, the Labor Relations Commission may, instead of issuing an order to reinstate him/her in his/her former office, order the employer to pay such worker the amount of money or other valuables equivalent to or higher than the amount of wages which he/she would have been paid if he/she had offered work during the period of dismissal.

**Article 31 (Confirmation of Order, etc. for Remedy)**(1) An employer or worker who is dissatisfied with an order for remedy or a decision of rejection made by a local Labor Relations Commission under the Labor Relations Commission Act may apply for reexamination to the Central Labor Relations Commission within ten days from the date when he/she has received a written notice of such order or decision.

(2) With respect to a decision made by the Central Labor Relations Commission's reexamination under paragraph (1), the employer or worker may institute a lawsuit pursuant to the Administrative Litigation Act within 15 days from the date when he/she is served with the written decision made by reexamination.

(3) If neither application for reexamination nor administrative litigation is filed within the period referred to in paragraph (1) or (2), the order for remedy, the decision of rejection, or the decision made by reexamination shall become final and conclusive.

**Article 32 (Effect of Order for Remedy, etc.)**

The effect of the order for remedy, decision of rejection or decision made by reexamination of the Labor Relations Commission shall not be suspended even if an application for reexamination or administrative litigation is filed with or against the Central Labor Relations Commission pursuant to Article 31.

**Article 33 (Charges for Compelling Performance)**(1) The Labor Relations Commission shall impose charge for compelling performance of not exceeding 20 million won on an employer who fails to comply with an order for remedy (including the decision made by reexamination in which an order for remedy is contained; hereafter in this Article, the same shall apply) within the specified deadline for executing the order after such order is issued.

(2) The Labor Relations Commission shall give the employer a prior notice in writing to the effect that

the charge for compelling performance will be imposed and collected, by not later than 30 days before it is imposed pursuant to paragraph (1).

(3) The imposition of charge for compelling performance pursuant to paragraph (1) shall be made in writing specifying the amount of the charge for compelling performance, grounds for imposition, payment deadline, receiving institutions, methods of raising an objection, agency to which an objection may be raised, etc.

(4) The kinds of violation subject to the imposition of the charge for compelling performance under paragraph (1), amounts of imposition by the degree of violation, procedures for return of the charge for compelling performance imposed and collected, and other necessary matters shall be prescribed by Presidential Decree.

(5) The Labor Relations Commission may impose and collect the charge for compelling performance provided for in paragraph (1) repeatedly within the limit of two times per year from the date when it issues the first order for remedy, until the order for remedy is complied with by the person subject to the order for remedy. In this case, the charge for compelling performance shall not be imposed and collected for more than two years.

(6) The Labor Relations Commission shall not impose an additional charge for compelling performance if the order for remedy is complied with, but shall collect the charge for compelling performance already imposed before the order for remedy is complied with.

(7) If the person liable to pay the charge for compelling performance fails to pay it by the due date for payment, the Labor Relations Commission may urge him/her to pay it within a fixed period, and, if the charge for compelling performance provided for in paragraph (1) is not paid within the fixed period, collect it in the same manner as delinquent national taxes are collected.

(8) When the employer subject to the order for remedy fails to comply with it by the deadline for execution thereof, the worker concerned may inform the Labor Relations Commission thereof within 15 days after such deadline has expired.

#### Article 34 (Retirement Allowance System)

The retirement allowance system under which an employer pays retiring workers retirement allowances shall comply with the Guarantee of Workers' Retirement Benefits Act.

#### Article 35 (Exception of Advance Notice of Dismissal)

The provisions of Article 26 shall not apply to a worker falling under any one of the following subparagraphs:

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

#### Article 36 (Settlement of Payments)

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

#### Article 37 (Interest for Delayed Payment of Wages)(1) When an employer fails to pay the whole or



a part of the wages and the allowances (referring to only lump-sum allowances) provided for in subparagraph 5 of Article 2 of the Guarantee of Workers' Retirement Benefits Act which he/she is liable to pay under Article 36 within 14 days after the cause for such payment occurred, he/she shall pay interest accrued for the delayed days from the following day to the day of the payment in accordance with the interest rate prescribed by Presidential Decree by taking account of the economic situations such as overdue interest rates etc. applied by the banks established under the Banking Act within the limit of 40/100 per year. [<Amended by Act No. 10303, May 17, 2010>](#)

(2) The provisions of paragraph (1) shall not apply where an employer delays the payment of wages for natural disasters, calamities, or other reasons prescribed by Presidential Decree, for the period in which the said reasons exist.

[Article 38 \(Preferential Payment for Claims for Wages\)](#)(1) Wages, accident compensations, and other claims arising from labor relations shall be paid in preference to taxes, public charges, or other claims except for claims secured by pledges, mortgages, or the security rights under the Act on Security over Movable Property, Claims, Etc. on the whole property of the employer concerned: Provided, That this shall not apply to taxes and public charges which take precedence over the said pledges, mortgages, or the security rights under the Act on Security over Movable Property, Claims, Etc. [<Amended by Act No. 10366, Jun. 10, 2010>](#)

(2) Notwithstanding paragraph (1), any of the following claims shall be paid in preference to any claims secured by pledges, mortgages, or the security rights under the Act on Security over Movable Property, Claims, Etc. on the whole property of the employer, taxes, public charges, and other claims: [<Amended by Act No. 10366, Jun. 10, 2010>](#)

1. The wages of the last three months;
2. Accident compensations.

[Article 39 \(Certificate of Employment\)](#)(1) Whenever an employer is requested by a worker to issue a certificate specifying the term of employment, kind of work performed, positions taken, wages received, and other necessary information, he/she shall immediately prepare and deliver a certificate based on facts, even after the retirement of the worker.

(2) The certificate referred to in paragraph (1) shall contain nothing other than what has been requested by the worker.

[Article 40 \(Prohibition of Interference with Employment\)](#)

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

[Article 41 \(Register of Workers\)](#)(1) An employer shall prepare a register of workers by workplace, containing each worker's name, birth date, personal history, and other items as prescribed by Presidential Decree.

(2) When there is any change in the items stated on the register of workers pursuant to paragraph (1), correction shall be made without delay.

[Article 42 \(Preservation of Documents in Relation to Contract\)](#)

An employer shall, for three years, preserve a register of workers and other important documents related to labor contracts as prescribed by Presidential Decree.

## CHAPTER III WAGES

[Article 43 \(Payment of Wages\)](#)(1) Payment of wages shall be directly made in full to workers in



currency: Provided, That if otherwise prescribed by statutes or by a collective agreement, wages may partially be deducted or may be paid by means other than currency.

(2) Wages shall be paid at least once per month on a fixed day: Provided, That this shall not apply to extraordinary wages, allowances, or other similar payments, or those wages prescribed by Presidential Decree.

#### Article 43-2 (Disclosure of Name of Business Owners with Delayed Payment of Wages)(1)

Where at least twice of conviction against the business owner (including the representative person in cases of a corporation: hereinafter referred to as "business owner in arrear") who fails to pay wages, compensations, allowances, or any other money or valuable pursuant to Articles 36, 43, 56 (hereinafter referred to as "wages, etc.") are upheld due to his/her failure to pay the wages, etc. within three years prior to the date of disclosure of name, and the total amount of money in arrear with the wages, etc. during the period of one year prior to the date of the said disclosure is at least 30 million won, the Minister of Employment and Labor may disclose his/her personal information, etc.: Provided, That this shall not apply where the disclosure of name is not effective due to death or closure of business of the business owner in arrear or where other reasons as prescribed by Presidential Decree exist.

(2) Upon disclosing the name pursuant to paragraph (1), the Minister of Employment and Labor shall provide the business owner in arrear with an opportunity to explain by fixing a period of at least three months for such explanation.

(3) In order to review as to whether or not the personal information, etc. of the business owner in arrear should be disclosed pursuant to paragraph (1), the Committee for Review of Information on Overdue Wages (hereinafter referred to as the "Committee" in this Article) shall be established within the Ministry of Employment and Labor. In such cases, necessary matters, such as structure and operation, etc. of the Committee, shall be determined by Ordinance of the Ministry of Employment and Labor.

(4) Details, period and method, etc. of disclosure of name under paragraph (1) and other necessary matters for the disclosure shall be determined by Presidential Decree.

[This Article Newly Inserted by Act No. 11270, Feb. 1, 2012]

#### Article 43-3 (Provision of Data on Delayed Payment of Wages, etc.)(1)

Where the centralized credit information collection agency under Article 25 (2) 1 of the Use and Protection of Credit Information Act requests personal information and the data on the amount of arrears, etc. (hereinafter referred to as "data on delayed payment of wages, etc.") of the business owner in arrear against whom at least twice of conviction are upheld due to his/her failure to pay the wages, etc. within three years prior to the date of provision of the data on delayed wages, etc. and the total amount of money in arrear with the wages, etc. during the period of one year prior to the date of such provision of the data is at least 20 million won, the Minister of Employment and Labor may provide the aforementioned data if deemed necessary to prevent delay in payment of wages, etc.: Provided, That this shall not apply where the disclosure of name is not effective due to death of the business owner in arrear or closure of business or where other reasons prescribed by Presidential Decree exist.

(2) A person who has received the data on delayed payment of wages, etc. pursuant to paragraph (1) shall not use or disclose such data for the purposes other than those for determining credit rating and ability to deal on credit of the business owner in arrear.

(3) Procedure for and method, etc. of providing the data on delayed payment of wages, etc.

pursuant to paragraph (1) and other necessary matters for such provision shall be determined by Presidential Decree.

[This Article Newly Inserted by Act No. 11270, Feb. 1, 2012]

**Article 44 (Payment of Wages for Contract Work)**(1) Where a project is executed based on several tiers of contracts, if a subcontractor fails to pay wages to workers for causes attributable to the immediate upper tier contractor, the immediate upper tier contractor shall be liable for the wages jointly and severally with the subcontractor concerned: Provided, That where a cause attributable to the immediate upper tier contractor occurs due to that of his/her upper tier contractor, such upper tier contractor shall also be jointly and severally responsible. [<Amended by Act No. 11270, Feb. 1, 2012>](#)

(2) The scope of the attributable causes referred to in paragraph (1) shall be determined by Presidential Decree. [<Amended by Act No. 11270, Feb. 1, 2012>](#)

**Article 44-2 (Joint and Several Responsibility for Payment of Wages in Construction Business)**(1) When a construction project is being 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 "contract for construction work"), if a subcontractor that is not a constructor under subparagraph 7 of Article 2 of the same Act fails to pay wages (limited to wages arising from the construction works concerned) to workers he/she has employed, an immediate upper tier contractor shall have joint and several responsibility for payment of wages to workers employed by the subcontractor. [<Amended by Act No. 10719, May 24, 2011>](#)

(2) When 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 contractor among the upper tier contractors falling 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 Case concerning Wages under Contract for Construction Works)**(1) Where a concluded contract for construction work falls under any of the following subparagraphs, an immediate upper tier contractor shall directly pay the workers employed by a subcontractor an amount of money equivalent to wages (limited to wages arising from the construction works concerned) that the subcontractor shall pay at the request of workers employed by such subcontractor, within the obligation extent of the subcontract cost the immediate upper tier contractor shall pay to the subcontractor:

1. Where the immediate upper tier contractor has agreed with the subcontractor with respect to the intention that the immediate upper tier contractor may directly pay wages that the subcontractor is liable to pay to workers employed by the subcontractor and the method of and procedure for such payment;
2. Where there is an order for payment decided under subparagraph 3 of Article 56 of the Civil Execution Act, an execution deed proving that workers have a claim for wages to a subcontractor under subparagraph 4 of Article 56 of the same Act, a decision of advice of performance made pursuant to Article 5-7 of the Trial of Small Claims Act, or other title of debt corresponding to such items as above;
3. Where the subcontractor informs the immediate upper tier contractor that he/she has obligation to pay wages to his/her workers and the immediate upper tier contractor recognizes that the

subcontractor has evident reasons to be unable to pay wages due to such reasons as bankruptcy, etc.

(2) When a contract for construction work has been subcontracted down two or more levels from a contractor (hereinafter referred to as "prime contractor") of a person awarding a contract under subparagraph 10 of Article 2 of the Framework Act on the Construction Industry, where workers employed by a subcontractor (including any subcontractor who has been awarded a sub-subcontract by a subcontractor who has been awarded a contract; hereafter the same shall apply in this paragraph) have a title of debt under paragraph (1) 2 to such subcontractor, workers may request the prime contractor to pay directly an amount of money equivalent to wages (limited to wages arising from the construction works concerned) which a subcontractor is to pay. The prime contractor shall comply with such request to the extent of the amount of money for which workers are entitled to exercise the subrogation right of a creditor under Article 404 of the Civil Act to themselves.

[<Amended by Act No. 10719, May 24, 2011>](#)

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

[This Article Newly Inserted by Act No. 8561, Jul. 27, 2007]

#### [Article 45 \(Emergency Payment\)](#)

An employer shall pay wages corresponding to work already offered even prior to the payday, if a worker requests the employer to do so in order to cover expenses for childbirth, diseases, disasters, or other cases of emergency as prescribed by Presidential Decree.

[Article 46 \(Shutdown Allowances\)](#)(1) When a business shuts down due to a cause attributable to the employer, he/she shall pay the workers concerned allowances of not less than 70 percent of their average wages during the period of shutdown: Provided, That if the amount equivalent to the 70 percent of their average wages exceeds that of their ordinary wages, their ordinary wages may be paid as their shutdown allowances.

(2) Notwithstanding the provisions of paragraph (1), the employer who is unable to continue to carry on the business for any unavoidable reason may, with the approval of the Labor Relations Commission concerned, pay the workers shutdown allowances lower than the standards as prescribed in paragraph (1).

#### [Article 47 \(Subcontract Workers\)](#)

For those workers who are employed on a subcontract or other similar basis, the employer shall guarantee certain amount of wages in proportion to their work hours.

#### [Article 48 \(Wage Ledger\)](#)

An employer shall prepare a wage ledger for each workplace and shall enter therein the matters which serve as a basis for calculating wages and family allowances, the amount of wages, and other matters as prescribed by Presidential Decree, at each time of paying wages.

#### [Article 49 \(Prescription of Wages\)](#)

A claim for wages under this Act shall be extinguished by prescription, unless exercised within three years.

## [CHAPTER IV WORK HOURS AND RECESS](#)

**Article 50 (Work Hours)**(1) Work hours shall not exceed 40 hours a week, excluding hours of recess.  
(2) Work hours shall not exceed eight hours a day, excluding hours of recess.  
(3) Upon calculating the work hours under paragraphs (1) and (2), any waiting time, etc. spent by workers under the direction and supervision of their employers that is necessary for the relevant work shall be deemed work hours. <Newly Inserted by Act No. 11270, Feb. 1, 2012>

**Article 51 (Flexible Work Hours System)**(1) An employer may, as prescribed by the rules of employment (including other rules equivalent thereto), extend work hours in excess of those as referred to in Article 50 (1) in a particular week, or extend work hours in excess of those as referred to in Article 50 (2) in a particular day, to the extent that average work hours per week during a certain unit period of not more than two weeks do not exceed the work hours as referred to in Article 50 (1): Provided, That work hours in any particular week shall not exceed 48 hours.  
(2) When an employer has determined matters falling under the following subparagraphs by a written agreement with the labor representative, he/she may extend work hours in excess of those as referred to in Article 50 (1) in a particular week, or may extend work hours in excess of those as referred to in Article 50 (2) in a particular day, to the extent that average work hours per week during a certain unit period of not more than three months do not exceed the work hours referred to in Article 50 (1): Provided, That work hours in any particular week or in any particular day shall not exceed 52 hours or 12 hours respectively:  
1. Scope of workers subject to this paragraph;  
2. Unit period (to be determined as a certain period of not exceeding three months);  
3. Working days in the unit period, and work hours for each working day;  
4. Other matters prescribed by Presidential Decree.  
(3) The provisions of paragraphs (1) and (2) shall not apply to workers who are not less than 15 years and less than 18 years of age and to pregnant female workers.  
(4) When an employer needs to have a worker work in accordance with paragraphs (1) and (2), the employer shall work out measures to supplement his/her wages so that the existing level of wages may not be lowered.

**Article 52 (Selective Work Hours System)**

When an employer has determined the matters falling under the following subparagraphs by a written agreement with the labor representative with regard to workers who are allowed to decide on their own beginning and finishing time of work pursuant to the rules of employment (including other rules equivalent thereto), he/she may extend weekly work hours beyond those referred to in Article 50 (1) and daily work hours beyond those referred to in Article 50 (2), to the extent that average work hours per week during the period of adjustment set within the limit of a month do not exceed the work hours referred to in Article 50 (1):

1. Scope of workers to whom the above provisions shall apply (excluding those workers at the age of not less than 15 and less than 18);
2. Adjustment period (determined to be a specified period of not exceeding one month);
3. Total work hours during the adjustment period;
4. Starting and ending time of work hours during which work must be provided, if so required;
5. Starting and ending time of work hours which workers are allowed to determine;
6. Other matters prescribed by Presidential Decree.

**Article 53 (Restrictions on Extended Work)**(1) Where there exists an agreement between the

parties, work hours referred to in Article 50 may be extended up to 12 hours per week.

(2) Where there exists an agreement between the parties, work hours referred to in Article 51 may be extended up to 12 hours per week, and work hours referred to in Article 52 may be extended up to 12 hours per week averaged during the adjustment period as referred to in subparagraph 2 of Article 52.

(3) Under special circumstances, an employer may extend work hours referred to in paragraphs (1) and (2) with the authorization of the Minister of Employment and Labor and the consent of the workers: Provided, That where a situation is urgent that the employer does not have enough time to obtain authorization of the Minister of Employment and Labor, he/she shall obtain ex post facto approval without delay from the Minister of Employment and Labor. [<Amended by Act No. 10339, Jun. 4, 2010>](#)

(4) Where the Minister of Employment and Labor deems that the extension of work hours referred to in paragraph (3) is not appropriate, he/she may order the employer to allow the workers recess hours or days off equivalent to the extended work hours. [<Amended by Act No. 10339, Jun. 4, 2010>](#)

**Article 54 (Recess)**(1) An employer shall allow workers a recess of not less than thirty minutes in cases of working for four hours, or a recess of not less than one hour in cases of working for eight hours, during work hours.

(2) Recess hours may be freely used by workers.

#### **Article 55 (Holidays)**

An employer shall allow workers at least one paid holiday per week on average.

#### **Article 56 (Extended, Night or Holiday Work)**

An employer shall, in addition to the ordinary wages, pay 50 percent or more thereof for extended work (work during the hours as extended pursuant to Articles 53 and 59 and the proviso to Article 69), night work (work between 10:00 p.m. and 6:00 a.m.), or holiday work.

#### **Article 57 (Compensatory Leave System)**

An employer may grant workers leaves in lieu of wage payments for extended work, night work, or holiday work pursuant to Article 56 according to a written agreement that is concluded between him/her and the labor representative.

**Article 58 (Special Cases for Calculation of Work Hours)**(1) When it is difficult to calculate work hours provided by a worker because he/she carries out all or part of his/her duty outside the workplace owing to a business trip or any other reason, it shall be deemed that he/she has worked for contractual work hours: Provided, That where it is ordinarily necessary for the worker to work in excess of contractual work hours in order to carry out the said duty, it shall be deemed that he/she has worked for the hours ordinarily required to carry out that duty.

(2) Notwithstanding the proviso of paragraph (1), in case where there exists a written agreement between an employer and the labor representative in regard to the work concerned, the hours as determined by such a written agreement shall be regarded as those ordinarily required to carry out the relevant duty.

(3) In case of works designated by Presidential Decree as those which, in light of the characteristics of works, require leaving the methods of performance to a worker' discretion, it shall be deemed that the works have been provided for such work hours as determined by a written agreement between the employer and the labor representative. In this case, such written agreement shall specify the

matters falling under the following subparagraphs:

1. Work to be provided subject to such written agreement;
2. Statement that the employer would not give specific directions to the worker regarding how to perform the work, how to allocate work hours, etc.;
3. Statement that the calculation of work hours shall be governed by the written agreement concerned.

(4) Matters necessary for implementing paragraphs (1) and (3) shall be determined by Presidential Decree.

#### Article 59 (Special Cases of Work and Recess Hours)

An employer who runs any of the following businesses may, if he/she has entered into any written agreement with the labor representative, have workers work in excess of 12 hours per week as referred to in Article 53 (1) or change recess hours as referred to in Article 54:

1. Transportation business, goods sales and storage business, finance and insurance business;
2. Film production and entertainment business, communications business, educational study and research business, advertisement business;
3. Medical and sanitary business, hotel and restaurant business, incineration and cleaning business, barber and beauty parlor business;
4. Other businesses determined by Presidential Decree, which are necessary for the convenience of the public at large or in consideration of the characteristics of business.

**Article 60 (Annual Paid Leave)**(1) Every employer shall grant any worker who has worked not less than 80 percent of one year a paid leave of 15 days. [<Amended by Act No. 11270, Feb. 1, 2012>](#)

(2) Every employer shall grant any worker who has continuously worked for less than one year or who has worked less than 80 percentage of one year one paid-leave day for each month during which he/she has continuously worked. [<Amended by Act No. 11270, Feb. 1, 2012>](#)

(3) Where an employer grants any worker a paid leave for the latter's first year of work, the former shall grant the latter a paid leave of 15 days, including the paid-leave referred to in paragraph (2), and, if the latter has already taken the paid-leave provided for in paragraph (2), shall deduct the number of days of such paid-leave from the said 15 days.

(4) Every employer shall grant any worker who has continuously worked for not less than three years the paid-leave days that are calculated by adding one day for every two continuously working years not including the first one year to the 15 paid-leave days referred to in paragraph (1). In this case, the total number of paid-leave days, including the additional paid-leave days, shall not exceed 25 days.

(5) Every employer shall grant the paid leave referred to in paragraphs (1) through (4) at the time when a worker files a claim therefor, and pay the worker an ordinary wage or an average wage during the period of paid leave as prescribed by the rules of employment, etc.: Provided, That in the event that granting the worker a paid leave at the time when such worker wants to take the paid leave greatly impedes the business operation, the relevant employer may change the time of the paid leave.

(6) In applying paragraphs (1) through (3), any of the following periods shall be deemed the period of attendance at work: [<Amended by Act No. 11270, Feb. 1, 2012>](#)

1. Period during which a worker takes time off due to any injury or sickness arising out of duty;
2. Period during which a woman in pregnancy takes time off due to the leave under the provisions of



Article 74 (1) through (3).

(7) The paid leave referred to in paragraphs (1) through (4) shall, if it is not taken for one year, be terminated by time limitation: Provided, That the same shall not apply where the paid leave is not taken for reasons attributable to the employer.

#### Article 61 (Measures to Urge Workers to Take Annual Paid Leave)

Where any worker's paid leave is terminated by time limitation pursuant to the main sentence of Article 60 (7) because the worker fails to take his/her paid leave although the relevant employer has taken the measures falling under each of the following subparagraphs to urge workers to take their respective annual leave pursuant to Article 60 (1), (3) and (4), the relevant employer is not liable to indemnify the worker for his/her failure to take the paid leave, and the worker's failure to take the paid leave shall be deemed not to fall under the reasons attributable to the employer provided for in the proviso to Article 60 (7): [<Amended by Act No. 11270, Feb. 1, 2012>](#)

1. Any employer shall notify in writing every worker of the number of days of his/her paid leave that has not been taken, and shall urge every worker to notify the employer of a period he/she is planning for the paid leave after determining on such period within ten days as, at the six months before the period under the main sentence of Article 60 (7) expires;
2. Notwithstanding the urge referred to in subparagraph 1, if the worker fails to notify the employer of a period during which he/she is planning to take all or part of his/her remaining paid leave within ten days from the date he/she is urged to take his/her paid leave, the an employer shall notify in writing the worker after setting a period for his/her paid leave, by not later than two months before the period under the main sentence of Article 60 (7) expires.

#### Article 62 (Substitution of Paid Leave)

An employer may, by a written agreement with the labor representative, get workers to take a paid leave on a particular working day, in substitution of an annual paid leave provided for in Article 60.

#### Article 63 (Exclusion from Application)

The provisions pertaining to work hours, recess, and holidays referred to in this Chapter and Chapter V shall not apply to a worker who falls under any one of the following subparagraphs: [<Amended by Act No. 10339, Jun. 4, 2010>](#)

1. A worker engaged in cultivation or reclamation of land, seeding, cultivation, or collection of plants, or other agricultural and forestry work;
2. A worker engaged in breeding of animals, collection or catching of marine animals and plants, cultivation of marine products, or other cattle breeding, sericulture and fishery business;
3. A worker engaged in surveillance or intermittent work, whose employer has obtained the approval of the Minister of Employment and Labor;
4. A worker engaged in such business as prescribed by Presidential Decree.

### CHAPTER V WOMEN AND MINORS

**Article 64 (Minimum Age and Employment Permit Certificate)**(1) A minor under the age of 15 (including any minor under the age of 18 who attends a middle school under the Elementary and Secondary Education Act) shall not be employed at any work: Provided, That this shall not apply to a person with an employment permit certificate issued by the Minister of Employment and Labor according to the standards prescribed by Presidential Decree. [<Amended by Act No. 10339, Jun. 4, 2010>](#)



(2) An employment permit certificate referred to in paragraph (1) may be issued only by designating the kind of work at the request of the relevant minor himself/herself, to the extent it does not impede with the compulsory education.

(3) If a person obtains the employment permit certificate provided for in the proviso to paragraph (1) in any false or other wrongful manner, the Minister of Employment and Labor shall revoke the permit.

[<Amended by Act No. 10339, Jun. 4, 2010>](#)

**Article 65 (Prohibition of Employment)**(1) An employer shall not employ women in pregnancy or women for whom one year has not passed after childbirth (hereinafter referred to as the "pregnant women and nursing mothers") and those under the age of 18 in any work detrimental to morality or health or any dangerous work.

(2) An employer shall not employ women of 18 years or over who are not pregnant women and nursing mothers in any work harmful and dangerous to the function of pregnancy or delivery from among those detrimental or dangerous to health under paragraph (1).

(3) The prohibited kinds of work under paragraphs (1) and (2) shall be prescribed by Presidential Decree.

#### **Article 66 (Minor Certificate)**

For each minor worker under the age of 18, the employer shall keep at his/her workplace a certificate of family relationships records verifying the minor's age and a written consent of the person with parent authority or the guardian. [<Amended by Act No. 8435, May 17, 2007>](#)

**Article 67 (Labor Contract)**(1) Neither a person with parent authority nor a guardian may enter into a labor contract on behalf of a minor.

(2) A person with parent authority or guardian of a minor, or the Minister of Employment and Labor may terminate a labor contract henceforward, if deemed disadvantageous to the minor. [<Amended by Act No. 10339, Jun. 4, 2010>](#)

(3) Where an employer enters into a labor contract with a person under 18 years of age, he/she shall deliver a document to such person, specifying the terms and conditions of employment under Article 17. [<Newly Inserted by Act No. 8561, Jul. 27, 2007>](#)

#### **Article 68 (Claim for Wages)**

A minor may claim his/her wages on his/her own right.

#### **Article 69 (Work Hours)**

Work hours of a person at the age of not less than 15 and less than 18 shall not exceed seven hours per day and 40 hours per week: Provided, That the work hours may be extended only for one more hour per day and six more hours per week by an agreement between the parties concerned.

**Article 70 (Restrictions on Night Work and Holiday Work)**(1) Where an employer intends to have women of 18 years or over work during the time from 10:00 p.m. to 6:00 a.m. and on holidays, he/she shall obtain the workers' consent.

(2) An employer shall not have pregnant women and nursing mothers and those under 18 years old work during the time from 10:00 p.m. to 6:00 a.m. and on holidays: Provided, That this shall not apply to any of the following cases where approval of the Minister of Employment and Labor is obtained: [<Amended by Act No. 10339, Jun. 4, 2010>](#)

1. Where there exists a consent of those under 18 years old;

2. Where there exists a consent of women for whom one year has not passed after childbirth;

3. Where a woman in pregnancy makes a clear request.

(3) Before obtaining the approval of the Minister of Employment and Labor in the case of paragraph (2), an employer shall make a faithful consultation with the labor representative of the relevant business or workplace on whether to execute it, its methods, etc., in order to protect the workers' health and maternity. [<Amended by Act No. 10339, Jun. 4, 2010>](#)

#### Article 71 (Overtime Work)

An employer shall be forbidden to have any women for whom one year has not passed after childbirth do overtime work exceeding two hours per day, six hours per week, or 150 hours per year, even if provided for in a collective agreement thereon.

#### Article 72 (Prohibition of Work Inside Pit)

An employer shall not have a woman or a minor under the age of 18 do any work inside a pit: Provided, That this shall not apply where it is temporarily required for carrying out the affairs as prescribed by Presidential Decree, such as health and medical treatment, the gathering and report of news, etc.

#### Article 73 (Monthly Menstrual Leave)

Every employer shall, when any female worker files a claim for a menstrual leave, grant her one day of menstrual leave per month.

#### Article 74 (Protection of Pregnant Women and Nursing Mothers)(1)

An employer shall grant a pregnant woman a total of a 90-day maternity leave (120-day maternity leave, if she is pregnant with at least two children at a time) before and after childbirth. In such cases, at least 45 days (60 days, if she is pregnant with two or more children at a time) of the leave period after childbirth shall be allowed. [<Amended by Act No. 11270, Feb. 1, 2012; Act No. 12325, Jan. 21, 2014>](#)

(2) Where a pregnant female worker requests the leave under paragraph (1) due to her experience of miscarriage or other reasons prescribed by Presidential Decree, an employer shall allow her to use the leave at multiple times any time before her childbirth. In such cases, the period of leave after the childbirth shall be at least 45 days (60 days, if she is pregnant with at least two children at a time) consecutively. [<Newly Inserted by Act No. 11270, Feb. 1, 2012; Act No. 12325, Jan. 21, 2014>](#)

(3) Where a pregnant woman has a miscarriage or stillbirth, an employer shall, upon the relevant worker's request, grant her a miscarriage/stillbirth leave, as prescribed by Presidential Decree: Provided, That the same shall not apply to any abortion carried out by artificial termination of pregnancy (excluding cases under Article 14 (1) of the Mother and Child Health Act). [<Amended by Act No. 11270, Feb. 1, 2012>](#)

(4) The first 60 days (75 days, if she is pregnant with at least two children at a time) in the period of leave under paragraphs (1) through (3) shall be stipendiary: Provided, That when the leave allowances before and after childbirth, etc. have been paid under Article 18 of the Equal Employment Opportunity and Work-Family Balance Assistance Act, the payment responsibility shall be exempted within the limit of the relevant amount. [<Amended by Act No. 8781, Dec. 21, 2007; Act No. 11270, Feb. 1, 2012; Act No. 12325, Jan. 21, 2014>](#)

(5) No employer shall order a female worker in pregnancy to engage in overtime work, and, even if there exists a request from the relevant worker, he/she shall transfer her to an easy type of work. [<Amended by Act No. 11270, Feb. 1, 2012>](#)

(6) A business owner shall reinstate her to the same work or to the work for which wages of the same level as before leave are paid after the end of a maternity leave under paragraph (1). [<Newly](#)

[Inserted by Act No. 9038, Mar. 28, 2008; Act No. 11270, Feb. 1, 2012](#)>

(7) Where a female worker who has been pregnant for not more than 12 weeks or for not less than 36 weeks requests the reduction of her work hours by two hours a day, the employer shall permit it: Provided, That he/she may permit to reduce her work hours to six hours if her work hours are shorter than eight hours a day. [<Newly Inserted by Act No. 12527, Mar. 24, 2014>](#)

(8) No employer shall reduce a worker's wages for reason of reduction of work hours under paragraph (7). [<Newly Inserted by Act No. 12527, Mar. 24, 2014>](#)

(9) Matters necessary for the methods, procedures, etc. for requesting reduction of work hours under paragraph (7) shall be prescribed by Presidential Decree. [<Newly Inserted by Act No. 12527, Mar. 24, 2014>](#)

[< Enforcement Date of Article 74 \(7\) through \(9\) shall be according to the following subparagraphs>>](#)

1. A business or workplace in which not less than 300 workers are ordinarily employed: Six months after the enforcement date of this Act:
2. A business or workplace in which less than 300 workers are ordinarily employed: Two years after the enforcement date of this Act.

#### [Article 74-2 \(Permission, etc. for Time for Medical Examination of Unborn Child\)](#)(1) Where a

pregnant worker claims time necessary for a periodical medical examination of pregnant women under Article 10 of the Mother and Child Health Act, an employer shall grant permission for such time.

(2) The employer shall not cut wages of such worker by reason of time for medical examination under paragraph (1).

[This Article Newly Inserted by Act No. 8960, Mar. 21, 2008]

#### [Article 75 \(Nursing Hours\)](#)

An employer shall grant thirty-minute or longer paid nursing time twice a day to those female workers who have infants under the age of one, upon request.

### [CHAPTER VI SAFETY AND HEALTH](#)

#### [Article 76 \(Safety and Health\)](#)

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 \(Protection of Apprentices\)](#)

An employer shall neither maltreat training workers, probational workers, or other workers, regardless of their titles, whose objective is to acquire technical skills, nor have them do his/her own domestic works or other works not related to the acquisition of technical skills.

### [CHAPTER VIII ACCIDENT COMPENSATION](#)

[Article 78 \(Compensation for Medical Treatment\)](#)(1) An employer shall provide necessary medical treatment at his/her expense or bear corresponding expenses for a worker who suffers from an occupational injury or disease.

(2) The scope of occupational diseases and medical treatment therefor and period for compensation for medical treatment as referred to in paragraph (1) shall be prescribed by Presidential Decree.

[<Amended by Act No. 8960, Mar. 21, 2008>](#)

[Article 79 \(Compensation for Suspension of Work\)](#)(1) An employer shall pay a worker who is under medical treatment pursuant to Article 78 a compensation for suspension of work equivalent to 60 percent of his/her average wages during the period of his/her medical treatment. [<Amended by Act NO. 8960, Mar. 21, 2008>](#)

(2) Where a person who is to receive such compensation has received part of his/her wage during the period of receiving a compensation for suspension of work under paragraph (1), an employer shall pay the compensation for suspension of work equivalent to 60/100 of the difference between the paid amount and his/her average wages. [<Newly Inserted by Act No. 8960, Mar. 21, 2008>](#)

(3) Period of a compensation for suspension of work shall be prescribed by Presidential Decree. [<Newly Inserted by Act No. 8960, Mar. 21, 2008>](#)

[Article 80 \(Compensation for Disability\)](#)(1) When a worker suffers a physical disability remaining after finishing treatment for an occupational injury or disease, the employer shall provide him/her with a compensation for disability calculated by multiplying the average wages by the number of days as provided for in attached Table in accordance with the grade of disability. [<Amended by Act No. 8960, Mar. 21, 2008>](#)

(2) In cases where a person who already has a physical disability suffers from more serious disability in the same part of body due to injury or disease, an amount of a compensation for such disability shall be the amount calculated by multiplying the number of days, which is difference between the number of days of a compensation for disability falling under the previous grade of disability and the number of days of a compensation for disability falling under the grade of disability which has become more serious, by average wages at the time when a ground for claim for compensation arises. [<Newly Inserted by Act No. 8960, Mar. 21, 2008>](#)

(3) Criteria for determination of the grade of physical disability eligible for a compensation for disability and period of a compensation for disability shall be prescribed by Presidential Decree. [<Newly Inserted by Act No. 8960, Mar. 21, 2008>](#)

[Article 81 \(Exception to Compensation for Suspension of Work and Compensation for Disability\)](#)

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

[Article 82 \(Compensation for Survivors\)](#)(1) An employer shall provide a compensation equivalent to the average wages for 1,000 days to surviving family members of a worker who has deceased during the performance of his/her duties immediately after the worker has deceased. [<Amended by Act No. 8960, Mar. 21, 2008>](#)

(2) The scope of surviving family under paragraph (1), order of a compensation for surviving family, and order of a compensation for surviving family in case of death of a person determined to receive a compensation shall be prescribed by Presidential Decree. [<Newly Inserted by Act No. 8960, Mar. 21, 2008>](#)

[Article 83 \(Funeral Expenses\)](#)

When a worker has deceased during the performance of his/her duties or as a result thereof, the employer shall, immediately after the relevant worker has deceased, provide funeral expenses

equivalent to the average wages for 90 days. [<Amended by Act No. 8960, Mar. 21, 2008>](#)

#### [Article 84 \(Lump Sum Compensation\)](#)

When a worker who receives a compensation in accordance with Article 78 does not completely recover from the occupational injury or disease even after two years have passed since the medical treatment began, the employer may be exempted from any further liability for compensation under this Act by providing a lump sum compensation in an amount equivalent to the average wages for 1,340 days.

#### [Article 85 \(Installment Compensation\)](#)

When an employer proves his/her ability to pay compensation and obtains the consent of the recipient concerned, he/she may pay any such compensation as referred to in Article 80, 82 or 84 in installments over one year.

#### [Article 86 \(Claim for Compensation\)](#)

A claim for compensation shall not be affected by the retirement of the worker concerned and may not be transferred or confiscated.

#### [Article 87 \(Relationships with other Damage Claims\)](#)

When a person eligible to receive compensation has received money or other valuables corresponding to an accident compensation prescribed by this Act for the same cause in accordance with the Civil Act or any other statutes, the employer shall be exempted from the obligation of compensation to the extent of the said value received.

[Article 88 \(Review and Arbitration by Minister of Employment and Labor\)](#)(1) When a person has an objection to the recognition of occupational injury, disease, or death, methods of medical treatment, determination of compensation amount, or any other matter pertaining to the implementation of compensation, he/she may request the Minister of Employment and Labor to review or arbitrate the case in question. [<Amended by Act No. 10339, Jun. 4, 2010>](#)

(2) When a request referred to in paragraph (1) is filed, the Minister of Employment and Labor shall review or arbitrate the case within one month. [<Amended by Act No. 10339, Jun. 4, 2010>](#)

(3) The Minister of Employment and Labor may review or arbitrate the case ex officio, if deemed necessary. [<Amended by Act No. 10339, Jun. 4, 2010>](#)

(4) The Minister of Employment and Labor may have a doctor diagnose or examine a worker, if deemed necessary for a review or arbitration. [<Amended by Act No. 10339, Jun. 4, 2010>](#)

(5) With regard to the interruption of prescription, the request for review or arbitration referred to in paragraph (1) and the commencement of the review or arbitration referred to in paragraph (2) shall be regarded as a claim by way of judicial proceedings.

[Article 89 \(Review and Arbitration by Labor Relations Commission\)](#)(1) If a review or arbitration is not made by the Minister of Employment and Labor within the period specified under Article 88 (2), or if a person is dissatisfied with the result of a review or arbitration, the person may file a request for a review or arbitration with the Labor Relations Commission. [<Amended by Act No. 10339, Jun. 4, 2010>](#)

(2) When the request referred to in paragraph (1) is filed, the Labor Relations Commission shall review or arbitrate the case within one month.

[Article 90 \(Exceptional Cases related to Contract Work\)](#)(1) If a project is executed based on several tiers of contracts, the prime contractor shall be regarded as an employer with regard to

accident compensation.

(2) In cases of paragraph (1), if the prime contractor makes his/her subcontractor liable for compensation by a written agreement, the subcontractor shall be also regarded as an employer: Provided, That the prime contractor shall not have two or more subcontractors bear overlapping compensation with regard to the same project.

(3) In cases of paragraph (2), if the prime contractor has been requested to pay compensation, he/she may ask the requesting person to demand compensation first from the subcontractor who has agreed to be liable for such compensation: Provided, That this shall not apply where the said subcontractor is declared bankrupt or his/her whereabouts is unknown.

#### Article 91 (Preservation of Documents)

An employer shall not abandon important documents related to accident compensation unless an accident compensation is finished or before a claim for accident compensation expires by prescription pursuant to Article 92. [<Amended by Act No. 8960, Mar. 21, 2008>](#)

#### Article 92 (Prescription)

A claim for accident compensation as referred to in this Act shall be extinguished by prescription, unless exercised within three years.

### CHAPTER IX RULES OF EMPLOYMENT

#### Article 93 (Preparation and Reporting of Rules of Employment)

An employer who ordinarily employs ten or more workers shall prepare the rules of employment regarding the matters falling under each of the following subparagraphs and report such rules to the Minister of Employment and Labor. The same shall also apply where he/she amends such rules: [<Amended by Act No. 9038, Mar. 28, 2008; Act No. 10339, Jun. 4, 2010; Act No. 11270, Feb. 1, 2012>](#)

1. Matters pertaining to the beginning and ending time of work, recess hours, holidays, leaves, and shifts;
2. Matters pertaining to the determination, calculation and payment method of wages, the period for which wages are calculated, the period for paying wages, and pay raises;
3. Matters pertaining to the methods of calculation and payment of family allowances;
4. Matters pertaining to retirement;
5. Matters pertaining to retirement allowances set under Article 4 of the Guarantee of Workers' Retirement Benefits Act, bonuses, and minimum wages;
6. Matters pertaining to the burden of workers' meal allowances, expenses of operational tools or necessities and so forth;
7. Matters pertaining to educational facilities for workers;
8. Matters pertaining to the protection of workers' maternity and work family balance assistance, such as leaves before and after childbirth and child-care leaves;
9. Matters pertaining to safety and health;
- 9-2. Matters pertaining to the improvement of environment of a workplace according to characteristics of workers, such as sex, ages, or physical conditions, etc.;
10. Matters pertaining to assistance with respect to occupational and non-occupational accidents;
11. Matters pertaining to award and punishment;
12. Other matters applicable to all workers within the business or workplace concerned.

**Article 94 (Procedures for Preparation and Amendment of Rules)**(1) An employer shall, with regard to the preparation or alteration of the rules of employment, hear the opinion of a trade union if there is such a trade union composed of the majority of the workers in the business or workplace concerned, or otherwise hear the opinion of the majority of the said workers if there is no trade union composed of the majority of the workers: Provided, That in case of amending the rules of employment unfavorably to workers, the employer shall obtain their consent thereto.

(2) When an employer reports the rules of employment pursuant to Article 93, he/she shall attach a document stating the opinion as referred to in paragraph (1).

**Article 95 (Restrictions on Punishment Regulations)**

When a punitive wage cut for workers is to be contained in the rules of employment, the amount of reduced wage for each infraction shall not exceed half of one day's average wages of the relevant worker, and the total amount of reduction shall not exceed one-tenth of the total amount of wages at each time of wages payment.

**Article 96 (Observance of Collective Agreement)**(1) Rules of employment shall not conflict with any statutes, or a collective agreement applicable to the business or workplace concerned.

(2) The Minister of Employment and Labor may give an order to modify any part of the rules of employment which conflict with any statutes or the collective agreement concerned. [<Amended by Act No. 10339, Jun. 4, 2010>](#)

**Article 97 (Effect of Violation)**

If a labor contract includes any term or condition of employment which falls short of the standards of labor as provided for in the rules of employment, such part shall be null and void. In this case, the invalidated part 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 in the private life of workers lodging in a dormitory annexed to the business or workplace concerned.

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

**Article 99 (Preparation of and Amendment to Dormitory Rules)**(1) An employer who intends to lodge his/her workers in a dormitory annexed to a business or workplace shall prepare dormitory rules concerning the following matters:

1. Matters pertaining to getting-up and sleeping, and 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 the maintenance of buildings and facilities;
6. Other matters to be applicable to all workers lodging in the dormitory.

(2) The employer shall obtain the consent of the representative of the majority of the lodging workers with regard to the preparation of or amendment to the dormitory rules stipulated in paragraph (1).

(3) Both the employer and the workers lodging in the dormitory concerned shall comply with the dormitory rules.

**Article 100 (Facilities, and Safety Sanitation)**(1) An employer shall take measures necessary for the maintenance of health, public morals, and lives of the workers lodging in a dormitory annexed to the



business or workplace.

(2) The standards for the measures to be taken pursuant to paragraph (1) shall be prescribed by Presidential Decree.

## CHAPTER XI LABOR INSPECTOR, 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 terms and conditions of employment. [<Amended by Act No. 10339, Jun. 4, 2010>](#)

(2) Matters concerning the qualifications, appointment and dismissal, and placement of the labor inspector shall be prescribed by Presidential Decree.

**Article 102 (Authority of Labor Inspector)**(1) A labor inspector shall have the authority to inspect workplaces, dormitories, and other annexed buildings, to request the submission of books and documents, and to interrogate both an employer and workers.

(2) A labor inspector who is a medical doctor or a medical doctor entrusted by a labor inspector shall have the authority to conduct a medical examination of workers who seem vulnerable to those diseases based on which their continuous employment should be precluded.

(3) In cases of paragraphs (1) and (2), the labor inspector or a medical doctor entrusted by the labor inspector shall show his/her identification card and a letter of order of inspection or medical examination issued by the Minister of Employment and Labor. [<Amended by Act No. 10339, Jun. 4, 2010>](#)

(4) In a letter of order of inspection or medical examination order referred to in paragraph (3), its date and time, place, and scope shall be specified clearly.

(5) A labor inspector shall have the authority to perform the official duties of judicial police officers as prescribed by the Act on the Persons Performing the Duties of Judicial Police Officers and the Scope of their Duties with regard to the crimes in violation of this Act or other labor-related statutes.

### **Article 103 (Duty of Labor Inspector)**

A labor inspector shall keep strictly any confidential matter which comes to his/her knowledge in the course of performing his/her duties. This shall also apply after he/she is retired from the position.

**Article 104 (Reporting to Supervisory Authorities)**(1) Workers may report to the Minister of Employment and Labor or a labor inspector if any violation of this Act or Presidential Decree under this Act occurs at a business or workplace. [<Amended by Act No. 10339, Jun. 4, 2010>](#)

(2) An employer shall not dismiss or treat a worker unfairly for making such a report referred to in paragraph (1).

### **Article 105 (Restrictions on Person Having Authority to Exercise Judicial Police Power)**

Only prosecutors and labor inspectors shall have the authority to conduct inspections, request the submission of documents, and interrogate employers and workers as prescribed by this Act and any other labor-related statutes: Provided, That this shall not apply to the investigation of crimes related to the duties of labor inspectors.

### **Article 106 (Delegation of Authority)**

The authority of the Minister of Employment and Labor under this Act may be delegated partly to the head of a regional employment and labor authority as prescribed by Presidential Decree. [<Amended by Act No. 10339, Jun. 4, 2010>](#)

## CHAPTER XII PENALTY PROVISIONS

#### Article 107 (Penalty Provisions)

A person who has violated Article 7, 8, 9, 23 (2) or 40 shall be punished by imprisonment for not more than five years or by a fine of not exceeding 30 million won.

#### Article 108 (Penalty Provisions)

A labor inspector who has connived, on purpose, at violations of this Act shall be punished by imprisonment for not more than three years or by a suspension of qualification for not more than five years.

**Article 109 (Penalty Provisions)**(1) A person who has violated Articles 36, 43, 44, 44-2, 46, 56, 65 or 72 shall be punished by imprisonment for not more than three years or by a fine of not exceeding 20 million won. [<Amended by Act No. 8561, Jul. 27, 2007>](#)

(2) A public prosecution against a person who has violated Articles 36, 43, 44, 44-2, 46 or 56 may not be raised against the clearly expressed will of the person who has suffered the loss concerned. [<Amended by Act No. 8561, Jul. 27, 2007>](#)

#### Article 110 (Penalty Provisions)

Any of the following persons shall be punished by imprisonment for not more than two years or by a fine of not exceeding ten million won: [<Amended by Act No. 9699, May 21, 2009; Act No. 11270, Feb. 1, 2012>](#)

1. A person who violates Articles 10, 22 (1), 26, 50, 53 (1), (2) and the main sentence of (3), 54, 55, 60 (1), (2), (4) and (5), 64 (1), 69, 70 (1) and (2), 71, 74 (1) through (5), 75, 78 through 80, 82, 83 and 104 (2);
2. A person who fails to comply with the order issued under Article 53 (4).

#### Article 111 (Penalty Provisions)

A person who has failed to comply with an order for remedy or the decision made by reexamination in which an order for remedy is contained, which became final and conclusive pursuant to Article 31 (3) or through an administrative litigation, shall be punished by imprisonment for not more than one year or by a fine of not exceeding ten million won.

**Article 112 (Accusation)**(1) The offense provided for in Article 111 may be prosecuted only upon the Labor Relations Commission's accusation.

(2) A prosecutor may notify the Labor Relations Commission of a violation which falls under the offense under paragraph (1) to ask it for the accusation thereof.

#### Article 113 (Penalty Provisions)

A person who has violated Article 45 shall be punished by a fine of not exceeding ten million won.

#### Article 114 (Penalty Provisions)

Any of the following persons shall be punished by a fine of not exceeding five million won:

[<Amended by Act No. 8561, Jul. 27, 2007; Act No. 9038, Mar. 28, 2008; Act No. 9699, May 21, 2009; Act No. 11270, Feb. 1, 2012>](#)

1. A person who violates Articles 6, 16, 17, 20, 21, 22 (2), 47, proviso to 53 (3), 67 (1) and (3), 70 (3), 73, 74 (6), 77, 94, 95, 100 and 103;
2. A person who violates an order referred to in Article 96 (2).

#### Article 115 (Joint Penalty Provisions)

If an agent, employee or any other worker of a business owner commits an offense prescribed in

Articles 107, 109 through 111, 113 or 114 with respect to the affairs of the workers of the relevant business, not only the offender shall be punished, but the business owner shall also be punished by a fine pursuant to the relevant Article: Provided, That this shall not apply where such business owner has not been negligent in giving due attention and supervision concerning the relevant duties to prevent such violation.

[This Article Wholly Amended by Act No. 9699, May 21, 2009]

**Article 116 (Administrative Fines)**(1) Any of the following persons shall be punished by an administrative fine not exceeding five million won: [<Amended by Act No. 9699, May 21, 2009; Act No. 10339, Jun. 4, 2010; Act No. 12527, Mar. 24, 2014>](#)

1. A person who has failed to make a report, who has made a fraudulent report, or who has failed to attend a meeting, at the request of the Minister of Employment and Labor, the Labor Relations Commission, or a labor inspector as referred to in Article 13;
2. A person who has violated Articles 14, 39, 41, 42, 48, 66, 74 (7), 91, 93, 98 (2) or 99;
3. A person who has refused, obstructed or evaded inspections or examinations by a labor inspector under Article 102 or a medical doctor entrusted by him/her, who has not made any of the required statements to his/her official questioning or has made false statements, or who has failed to present books or documents or has presented false books or documents.

(2) Administrative fines under paragraph (1) shall be imposed and collected by the Minister of Employment and Labor, as prescribed by Presidential Decree. [<Amended by Act No. 10339, Jun. 4, 2010>](#)

(3) through (5) Deleted. [<by Act No. 9699, May 21, 2009>](#)

**ADDENDA**

[Article 1 \(Enforcement Date\)](#)

**ADDENDA** [<Act No. 8435, May 17, 2007>](#)

[Article 1 \(Enforcement Date\)](#)

**ADDENDUM** [<Act No. 8561, Jul. 27, 2007>](#)

This Act shall enter into force six months after the date of its promulgation.

**ADDENDA** [<Act No. 8781, Dec. 21, 2007>](#)

[Article 1 \(Enforcement Date\)](#)

**ADDENDA** [<Act No. 8960, Mar. 21, 2008>](#)

[Article 1 \(Enforcement Date\)](#)

**ADDENDA** [<Act No. 9038, Mar. 28, 2008>](#)

(1) (Enforcement Date) This Act shall enter into force on the date of its promulgation: Provided, That the amended provisions of subparagraphs 8 and 9-2 of Article 93 shall enter into force three months after the date of its promulgation.

**ADDENDA** [<Act No. 9699, May 21, 2009>](#)

(1) (Enforcement Date) This Act shall enter into force three months after the date of its promulgation.

**ADDENDA** [<Act No. 10303, May 17, 2010>](#)

Article 1 (Enforcement Date)

- ADDENDUM <Act No. 10319, May 25, 2010>

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

- ADDENDA <Act No. 10339, Jun. 4, 2010>

Article 1 (Enforcement Date)

- ADDENDA <Act No. 10366, Jun. 10, 2010>

Article 1 (Enforcement Date)

- ADDENDA <Act No. 10719, May 24, 2011>

Article 1 (Enforcement Date)

- ADDENDA <Act No. 11270, Feb. 1, 2012>

Article 1 (Enforcement Date)

- ADDENDA <Act No. 12325, Jan. 21, 2014>

Article 1 (Enforcement Date)

This Act shall enter into force on July 1, 2014.

Article 2 (Applicability to Leaves before and after Child Birth)

The amended provisions of Article 74 shall apply, beginning with the worker who gives birth after this Act enters into force.