

Labor Laws in Korea

2020



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Korea Trade-Investment
Promotion Agency

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Foreword

Amid globalization and intensifying competition, multinational corporations' influences are no longer limited to just the economy - they impact all areas of life, including politics, society and culture. Their growing influence in the enhancement and universalization of worker's rights is particularly noteworthy, and under this trend, active discussions on establishing an international regulation mechanism are under way in international organizations such as the UN, ILO and OECD and the international standardization organization ISO.

The Constitution of the Republic of Korea stipulates that all citizens shall have the right and duty to work, and that the State shall endeavor to promote the employment of workers and to guarantee optimum wages and determine standards of working conditions by Act in such a way as to guarantee human dignity. Also, the Moon Jae-in administration pledged to ratify ILO fundamental conventions in its election campaign and included it in one of the 100 tasks that it would achieve in order to realize a society in which labor is respected. The administration is currently creating workable solutions to tackle various issues that the country is faced with, such as the low birth rate and aging society, finding jobs for young adults and women, and promoting cooperation between small and large businesses.

Created through dialogue and discussion at presidential advising bodies composed of the government, workers, employers, and various stakeholders such as the Economic, Social and Labor Council, the Presidential Committee on Jobs, and the Minimum Wage Commission, such solutions are materialized through the legislation and amendment of laws at the National

Assembly and government efforts to improve regulations. At a time when awareness on workers' rights is growing both domestically and globally and regulatory changes are taking place, such government efforts will help foreign-invested companies establish sound labor-management relations and stable corporate culture, and also enhance labor efficiency.

Amid such recent developments in the labor environment, the Foreign Investor Support Center of KOTRA published the guidebook Labor Laws in Korea 2020 so that foreign-invested companies can more easily understand the labor related laws and regulations in Korea. This book provides up-to-date information on individual labor relations such as wages, work hours and holidays; collective labor relations such as labor union, unfair labor practices; collaborative labor relations such as labor unions and unfair labor practices; collaborative labor relations such as labor-management relations and labor-management council, in addition to the four major insurances, prohibition of workplace harrassment, and employment quota on the disabled and persons of distinguished service to the State.

I hope that this book will help foreign-invested companies better understand Korea's labor environment, so that they can create an efficient HR system and build healthy labor-management relations.

January 2020
KIM Jongcheol
Head of FISC



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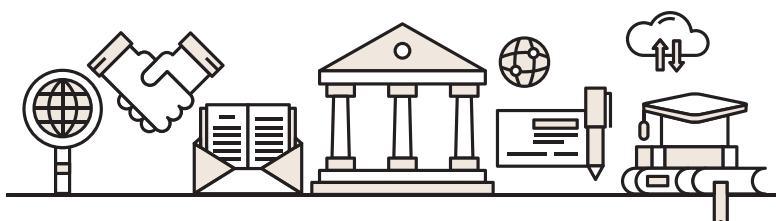
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01 Overview of Labor Laws

01 Purpose

To regulate the terms and conditions of employment and labor-management relations to ensure workers' humane living conditions and equality between workers and employers

02 Classification

Labor laws can be largely classified into four groups as follows: laws on individual labor relations, laws on collective labor relations, laws on collaborative labor relations, and other employment-related laws.

① Laws on individual labor relations

- To regulate labor relations between individual workers and employers
- To present criteria for entering into an employment contract, the details of labor relations and its revision and termination, etc. in order to protect workers' terms and conditions of employment.

② Laws on collective labor relations

- To regulate labor relations between workers' groups such as labor unions and workers' representatives and employers
- To ensure the association of workers who are at a financial and social disadvantage so that they can maintain an equal relationship with employers, thereby realizing labor-management autonomy

③ Laws on collaborative labor relations

- To regulate the matters required to enhance the profit of employers and workers through participation and cooperation between employers and workers in order to contribute to corporate growth, industrial peace and the development of the national economy
- To avoid confrontation and struggle between workers and employers and to overcome the limits of labor relations

④ Other employment-related laws

- To regulate matters pertaining to ensuring the balance of supply and demand in the labor market, and the stability of workers' livelihoods and the development of the national economy through stabilization of employment

| Types of labor laws |

Types	Major laws	Major contents
Laws on individual labor relations	Labor Standards Act	Labor contracts, wage, work hours/breaks, working women/young people, disaster compensation, rules of employment
	Minimum Wage Act	Fixing minimum wage, minimum wage committee
	Guarantee of Workers' Retirement Benefits Act	Retirement allowance, retirement pension, retirement pension trustees
	Act on the Protection, etc. of Fixed Term and Part-Time Workers	Prohibition of discrimination against fixed-term workers and part-time workers
	Protection, etc. of Dispatched Workers Act	Period of dispatch, obligation to hire, prohibition of discrimination against dispatched workers
	Industrial Safety and Health Act	Safety/health management system, workers' health management
Laws on collective labor relations	Act on Equal Employment Opportunity and Work-Family Balance Assistance Act	Prohibition of workplace sexual harassment, maternity leave, childcare leave
	Trade Union and Labor Relations Adjustment Act	Trade union, collective bargaining and collective agreement, industrial actions
Laws on collaborative labor relations	Labor Relations Commission Act	Organization, rights
	Act on the Promotion of Workers' Participation and Cooperation	Labor-management council, listening to complaints

01 Overview of Labor Laws

Other employment-related laws	Employment Insurance Act	Unemployment allowance, pay for childcare leave
	Act on the Prohibition of Discrimination of Disabled Persons, Remedy against Infringement of Their Rights, etc.	Prohibition of discrimination and remedies
	Act on Prohibition of Age Discrimination in Employment and Elderly Employment Promotion	Prohibition of age discrimination, encouragement of hiring of elderlyes

03 Legal bases

▶ Meaning

- Generally, "legal bases" refers to subsistence and formality of laws.
- Herein, "legal bases" exist to understand the normative contents of labor laws.

▶ Types

- The Constitution, laws and ordinances labor-related customary laws, management practices, collective agreement, rules of employment, trade union rules, etc.
- ※ ILO conventions have no domestic legal effectiveness until they are ratified by the National Assembly.

▶ Contradiction of legal bases

- Where norms that serve as legal bases of labor laws contradict, which one should be given priority becomes an issue of debate.

① The upper law-first principle

- The Constitution → Acts → Enforcement Rules → Collective agreement →
Rules of employment → Labor contracts → Employers' instructions

② The new law-first principle

- Where two or more laws are applicable, the newest one should apply even if it is more disadvantageous to workers.

③ The special law-first principle

- Where a law is applicable to a specific object or purpose, it should be applied to the relevant object or purpose.

④ The more advantageous condition-first principle

- (1) Where a lower legal basis has a more advantageous content than an upper legal basis, the lower one should apply.
- (2) Where an upper legal basis has a content more disadvantageous to workers than a lower legal basis, it should be nullified.
- (3) Where the new law-first principle is in conflict with the more advantageous condition-first principle, the new law-first principle should prevail.



02 Individual Labor Relations

01 Labor contracts

► Meaning

- A "labor contract" refers to a contract, in which a worker offers labor to an employer for the purpose of earning wages (Article 2 (1), Labor Standards Act).

► Clear statement of the terms and conditions of employment (Article 17, the above Act)

- An employer should state the following clearly in a labor contract signed with a worker: ① wages, ② contractual work hours, ③ holidays, ④ annual paid leaves, ⑤ other terms and conditions of employment* prescribed by Presidential Decree.

* "Other terms/conditions of employment prescribed by Presidential Decree" refers to the following: Matters pertaining to the place of work and the business, dormitory-related rules, matters to be included in the rules of employment, and matters to be reported to the relevant authorities

- Especially, wage-related matters (items comprising wage, method of calculation/payment), contractual work hours, holidays, and annual paid leaves should be stated in writing and distributed to workers.

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 on 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 of employment 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 employees: Provided, That where the matters under the main sentence is modified due to reasons prescribed by Presidential Decree, such as alterations, etc. of collective agreements or rules of employment, such matters shall be delivered to the relevant employees at their request. <Newly Inserted on May 25, 2010>

▶ Period for labor contract

- The period should be fixed through an agreement made between a worker and an employer. There is no particular stipulation about it in the law.
※ With regard to the contents about workers with a fixed contract period, refer to "Non-regular workers".

▶ Probation

- Generally, "probation" refers to a period workers are made to go through to build their work skills or adaptability to business situations.
- The Labor Standards Act applies to probationary workers.
- Probationary workers should not be dismissed without a justifiable reason.
- The minimum wage may be offered to a person for whom three months have not passed since the beginning of his/her probation at work under a one-year or longer labor contract (Article 5 (2), Minimum Wage Act).

Article 5 (Minimum Wage Amount)

(2) The minimum wage different from that set forth in paragraph (1) may be offered to a person for whom three months have not passed since the beginning of his/her probation at work under a one-year or longer labor contract, as prescribed by Presidential Decree: Provided, That this shall not apply to those engaged in simple labor falling under any of the job categories determined and publicly notified by the Minister of Employment and Labor. <Amended on Sep. 19, 2017>

Individual Labor Relations

► Fairness in hiring

- The need for fairness in hiring and protection for jobseekers' rights/interests is stipulated in the law.

| Major contents of the Fair Hiring Procedure Act |

• Applicability (Article 3)

The Act should apply to the hiring procedure of a business or business site which employs at least 30 workers regularly.

• Prohibition of false hiring advertisement, etc. (Article 4)

- Prohibition of a false hiring advertisement for the purposes such as collecting ideas or promoting a business site by pretending to hire workers

(Penalty for violation: imprisonment with hard labor for not more than five years or fine amounting to not more than KRW 20 million)

- Prohibition of alteration of the contents of a hiring advertisement unfavorably for job seekers without any justifiable grounds

(Penalty for violation: fine amounting to not more than KRW 5 million)

- Prohibition of alteration of the working conditions specified in the hiring advertisement in a way that disadvantages such job seeker without any justifiable grounds

(Penalty for violation: fine amounting to not more than KRW 5 million)

- Prohibition of forcing a job seeker to give up possession to hiring documents or intellectual property rights relevant thereto such as copyrights in the job offerer

(Penalty for violation: fine amounting to not more than KRW 5 million)

• Prohibition of pressurizing for hiring, etc. (Article 4-2)

- Prohibition of any act of soliciting or pressurizing concerning hiring

(Penalty for violation: fine amounting to not more than KRW 30 million)

- Prohibition of any act of offering or receiving money, valuable, entertainment or profit in property concerning hiring

(Penalty for violation: fine amounting to not more than KRW 30 million)

- No asking for personal information like where a job seeker is from, etc. (Article 4-3)
 - No inclusion of the following information, which is not essential in job performance, in the basic screening materials or collection of relevant materials
 - ① A job seeker's physical condition like appearance, height or weight
 - ② Where a job seeker is from; marital status; level of wealth
 - ③ Academic background, occupation or level of wealth of a job seeker's direct ancestors/descendants or siblings
 - (Penalty for violation: fine amounting to not more than KRW 5 million)
 - Preparation/submittal of hiring documents
 - Recommendation for using standard form of basic examination data (Article 5)
 - Receipt of hiring documents through email, etc. (Article 7)
 - Limitation on submitting evidence and in-depth examination data (Article 13)
 - Notices made as part of the hiring procedure
 - Notice about receipt of hiring documents submitted (Article 7 (2))
 - Notice of hiring schedule/process (Article 8)
 - Notice of hiring/not hiring (Article 10)
 - Notice about the returning of hiring documents submitted (Article 11 (6))
 - Prohibition of having job seekers bear hiring examination expenses
 - Except for the expense for submittal of hiring documents (Article 9)
 - A case in which job seekers are inevitably made to bear part of the hiring examination expenses should obtain the approval of the Minister of Employment and Labor.
 - Return, etc. of hiring documents
 - Hiring documents should be returned upon request from job seekers whose hiring/not hiring has been completed (Article 11 (1)).
- (Penalty for violation: The Minister of Employment and Labor's corrective order
→ Fine amounting to not more than KRW 3 million if the order is not complied with)

Individual Labor Relations

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- Hiring documents to be mailed or delivered in person within 14 days of the job seeker's request for return
 - Destruction of unreturned hiring documents (Article 11 (4))
(Penalty for violation: The Minister of Employment and Labor's corrective order
➡ Fine amounting to not more than KRW 3 million if the order is not complied with)



| Sample of standard labor contract - Ministry of Employment and Labor (MOEL) |

Standard Labor Contract (where the period of employment is not fixed)

This labor contract is made and entered into by and between xxxx ("EMPLOYER") and xxxx ("WORKER").

1. Work commencement date: xx xx, 2020
2. Place of work :
3. Contents of business :
4. Contractual work hours: xx: xx through xx: xx (Recess: xx: xx through xx: xx)
5. Work days & holidays: Work days of _____ days a week, weekly holiday every _____
6. Wages
 - Monthly (daily/hourly) wage : KRW
 - Bonus: KRW () ; No bonus : ()
 - Allowances: Yes (); No ()
 - KRW _____, · KRW _____
 - KRW _____, · KRW _____
 - Wage payment: The _____th of each month (to be paid on the day preceding the said day if it falls on a public holiday.)
 - Method of payment : to be paid to workers in person (); to be deposited with the workers' bank accounts ()
7. Paid annual leave
 - To be provided per the Labor Standards Act.
8. Application of social insurance [Please put a check (/) mark where applicable.]
 - Employment insurance Industrial disaster insurance National pension National health insurance
9. Distribution of labor contract
 - Upon signing this labor contract, the EMPLOYER shall distribute a copy to the WORKER regardless of the WORKER's request. (Article 17, Labor Standards Act)
10. Due diligence obligation
 - The EMPLOYER and the WORKER shall fulfill his/her contractual obligations, rules of employment and collective agreement in good faith.
11. Others
 - Matters not stipulated in this Contract shall follow the Labor Standards Act.

Date: _____, 2020

(For EMPLOYER)	Name of business :	(Contact number : _____)
	Address :	
	Name of representative :	(Signed)
(FOR WORKER)	Address :	
	Contact number :	
	Name :	(Signed)



Individual Labor Relations

Standard Labor Contract (where the period of employment is fixed)

This labor contract is made and entered into by and between xxxx ("EMPLOYER") and xxxx ("WORKER").

1. Work commencement date: xx xx, _____ through xx xx, _____
2. Place of work :
3. Contents of business :
4. Contractual work hours: xx: xx through xx: xx (Recess: xx: xx through xx: xx)
5. Work days & holidays: Work days of _____ days a week, weekly holiday every _____
6. Wages
 - Monthly (daily/hourly) wage: KRW
 - Bonus: KRW () ; No bonus: ()
 - Allowances: Yes (); No ()
 - KRW _____, · KRW _____
 - KRW _____, · KRW _____
 - Wage payment : ____th of each month (to be paid on the day preceding the said day if it falls on a public holiday.)
 - Method of payment: to be paid to workers in person (); to be deposited with the workers' bank accounts ()
7. Paid annual leave
 - To be provided per the Labor Standards Act.
8. Application of social insurance [Please put a check (✓) mark where applicable.]
 Employment insurance Industrial disaster insurance National pension National health insurance
9. Distribution of labor contract
 - Upon signing this labor contract, the EMPLOYER shall distribute a copy to the WORKER regardless of the WORKER's request. (Article 17, Labor Standards Act)
10. Due diligence obligation
 - The EMPLOYER and the WORKER shall fulfill his/her contractual obligations and rules of employment/ collective agreement in good faith.
11. Others
 - Matters not stipulated in this Contract shall follow the Labor Standards Act.

Date: _____, 2020

(For the EMPLOYER) Name of business : _____ (Contact number : _____)
Address : _____
Name of representative : _____ (Signed)
(For the EMPLOYER) Address : _____
Contact number : _____
Name : _____ (Signed)

02 Rules of employment

► Meaning

- "Rules of employment" means norms concerning the rules of service and the terms and conditions of employment set unilaterally by an employer for his/her place of business.

► Obligation of preparation and reporting

- An employer who employs at least 10 workers regularly should draw up a rules of employment and submit them to the Ministry of Employment and Labor (Article 93, Labor Standards Act).
- An alteration in the rules of employment should also be reported as well.

Article 93 (Preparation and Reporting of Rules of Employment)

An employer who regularly employs ten or more employees shall prepare the rules of employment regarding the following matters and report such rules to the Minister of Employment and Labor. The same shall also apply where he/she amends such rules: <Amended on Jan. 15, 2019>

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; The said part that has become invalid should follow the standards stipulated in rules of employment.
5. Matters pertaining to retirement benefits set under Article 4 of the Act on the Guarantee of Employees' Retirement Benefits, bonuses, and minimum wages;

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6. Matters pertaining to the burden of employees' meal allowances, expenses of operational tools or necessities and so forth;
7. Matters pertaining to educational facilities for employees;
8. Matters pertaining to the protection of employees' 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 a workplace environment according to characteristics of employees, such as sex, ages, or physical conditions;
10. Matters pertaining to assistance with respect to occupational and non-occupational accidents;
11. Matters pertaining to the prevention of workplace harassment and the measures to be taken in cases of occurrence of workplace harassment;
12. Matters pertaining to award and punishment;
13. Other matters applicable to all employees within the business or workplace concerned.

※ Family allowance, commendation, meal expense, work-related supplies, bonus, mutual aid concerning non-occupational disaster, etc. do not fall under the category of statutory terms and conditions of employment and thus may not be adopted by an employer.

► **Obligation of notice**

- The rules of employment should be placed at locations easily accessible by workers.

► **Workers' participation in drawing up or altering the rules of employment**

① Listening to opinions

- With regard to the preparation or alteration of the rules of employment, an employer shall:

- ⓐ hear the opinion of a trade union if there is such a trade union composed of the majority of the employees in the business or workplace concerned, or
 - ⓑ otherwise hear the opinion of the majority of the said employees if there is no trade union composed of the majority of the employees (Article 94 (1), the above Act).
- When an employer reports the rules of employment, he/she shall attach a document stating the opinion as referred to in the foregoing paragraph (Article 94 (2), the above Act).

② Consent

- In case of amending the rules of employment unfavorably to employees, the employer shall obtain their consent thereto (Article 94 (1), the above Act, proviso).

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 employees in the business or workplace concerned, or otherwise hear the opinion of the majority of the said employees if there is no trade union composed of the majority of the employees: Provided, That in case of amending the rules of employment unfavorably to employees, 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).

► Relationship between rules of employment and labor contracts

- The part of a labor contract containing terms/conditions of employment falling short of the standards stipulated in rules of employment should be invalid.
- The said part that has become invalid should follow the standards stipulated in the rules of employment.

Individual Labor Relations

03 Wages

► Meaning

- "Wages" refers to all money and valuables including pay and the like paid by an employer his/her workers in exchange for their service.

► Wage payment-related principles

- Paid in a currency
- Paid directly to workers
- Full amount of wage paid to workers
- Paid at least once a month at a given date(s)

※ Wage payment on extraordinary occasions

Where a worker asks for wage payment for the service already provided by him/her before the monthly payday due to childbirth, disease, disaster or an extraordinary situation (e.g. wedding, death or an inevitable situation requiring him/her to stay away from his/her workplace for more than a week) prescribed by Presidential Decree, the employer should comply with the request.

Article 43 (Payment of Wages)

(1) Payment of wages shall be directly made in full to employees 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 45 (Emergency Payment)

An employer shall pay wages corresponding to work already offered even prior to the payday, if an employee 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.

► Average wage

① Meaning

- "Average wages" means the amount calculated by dividing the total amount of wages paid to a relevant employee 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.

The total amount of wages paid to a relevant employee during three calendar months immediately before the day grounds for calculating his/her average wages occurred

Average wages =

The total number of calendar days during the three months before the day grounds for calculating his/her average wages occurred

② Occasions where average wages are used

- Calculation of retirement allowance
- Calculation of disaster compensation (e.g. compensation for medical treatment, compensation for business suspension, accidental compensation, compensation for the bereaved family, compensation for funeral expenses)
- Restrictions on a punitive wage cut*

* **Punitive wage cut:** To reduce the wage bonds incurred if there is justifiable reason for the worker

► Ordinary wages

① Meaning

- "Ordinary wages" means the amount of hourly wage, daily wage, weekly wage, monthly wage or contract amount that an employer has agreed to pay to a worker regularly and uniformly in return for the service provided by the worker.

Individual Labor Relations

| Court precedents concerning ordinary wage |

The Supreme Court's en banc Decision (on Dec. 18, 2013)

● Concept

- "Ordinary wages" means monetary valuation of work provided by a worker during given work hours per a labor contract

● Judgment criteria

① Regularity

- Whether they are paid regularly
- At a fixed time interval of a month or more than a month

② Uniformity

- Whether they are paid to all workers of an employer
- Including what is paid to workers meeting certain conditions or criteria

③ Fixed amount

- Whether they are paid regardless of performance or achievement

※ Classification as ordinary wage

Type of wage	Description	Whether falling under ordinary wage
License-holder allowance	Allowance paid to a holder of a qualification/license	<input type="radio"/>
Long-service allowance	Allowance paid to a worker who has worked for more than a given period of time	<input type="radio"/>
Family allowance	Allowance paid per the number of dependents Allowance paid to all workers regardless of the number of dependents	<input checked="" type="radio"/> (A condition that has nothing to do with work)

Performance-based pay	Allowance paid based on performance evaluation	<input checked="" type="checkbox"/>
	A minimum amount of performance-based pay	<input type="radio"/>
Bonus	Regularly paid bonus	<input type="radio"/>
	Bonus paid per the business's performance or the employer's judgment (e.g. management result allocation, incentives)	<input checked="" type="checkbox"/>
Money or valuables paid/provided on a special occasion	e.g. those paid on a special holiday or to workers on leave	<input checked="" type="checkbox"/>
	What is provided/paid to retirees in proportion to the length of their service	<input type="radio"/>

● Others

- Even for the same type of wage, court rulings on whether a wage constitutes ordinary wage may differ depending on the circumstances.

② Cases that fall under the category of ordinary wage

- Redundancy pay
- Overtime allowance
- Holiday pay
- The other types of work stipulated in the law as "to be paid"

► Minimum wage system

① Meaning

- A system that requires employers to follow the government-set minimum level of wage to be paid to a worker

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② Eligibility

- All workers are eligible regardless of the type of their employment including temporary workers.

③ Method of application

- Items of wage falling under the category of minimum wage translated into hourly wage

④ Items not included in calculation of minimum wage

- Refer to Article 6 (4) (last part) of the Minimum Wage Act, Article 2 of the Enforcement Rules of the Act

| Items included in calculation of minimum wage |

Source: the MOEL's explanatory material concerning the Minimum Wage Act (amended in January 2019)

● Items included/not included in calculation of minimum wage

What is paid monthly	Included/not included
Wages paid for others than regular work	<p>① Overtime, holiday and nighttime work allowance</p> <p>② Allowance for unused annual paid leave</p> <p>③ Wage for paid holidays other than statutory weekly holidays</p> <p>④ Wage similar to ①, ②, and ③ above</p>
Bonus and wages similar thereto	<p>① Bonus, incentive pay, long-service allowance, whose unit of calculation exceeds a month</p> <p>② Full-attendance allowance for a period exceeding a month</p>

What is paid monthly	What is paid/provided as part of worker welfare	Paid in other than currency	Not included
		Paid in currency	Included: The portion exceeding 7% of the monthly amount
		Wages other than the above	Included
		What is paid at an interval of more than a month	Not included

● Scope of items not included temporarily in minimum wage

① For monthly amount of bonus and wages similar thereto

Year	2019	2020	2021	2022	2023	2024
Percentage of non-inclusion	25%	20%	15%	10%	5%	0%

② For monthly amount of welfare-related wage

Year	2019	2020	2021	2022	2023	2024
Percentage of non-inclusion	7%	5%	3%	2%	1%	0%

► Shutdown allowances (Article 46, Labor Standards Act)

- When a business shuts down due to a cause attributable to the employer, he/she shall pay the employees concerned allowances of not less than 70 percent of their average wages during the period of shutdown: Provided, That if the amount equivalent to 70 percent of their average wages exceeds that of their ordinary wages, their ordinary wages may be paid as their shutdown allowances.
- Where the employer is unable to continue to carry on the business for any unavoidable reason, he/she may, with the approval of the Labor Relations Commission concerned, pay the employees shutdown allowances lower than the standards as prescribed in the foregoing paragraph.

Individual Labor Relations

Article 46 (Shutdown Allowances)

- (1) When a business shuts down due to a cause attributable to the employer, he/she shall pay the employees 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 employees shutdown allowances lower than the standards as prescribed in paragraph (1).

04 Work hours

► Statutory work hours

- Not to exceed eight hours a day and 40 hours a week (recess hours not included)

| Work hours per the Labor Standards Act |

Workers	Work hours		Overtime work	Night work*	Holiday work
	A day	A week			
Male workers	8 hours	40 hours	Up to 12 hours a week per mutual agreement	-	-
Female workers	8 hours	40 hours	Up to 12 hours a week per mutual agreement	Requiring worker's consent	Requiring worker's consent

Workers in the first year after giving childbirth	8 hours	40 hours	Requiring worker's consent (Up to 2 hours a day; 6 hours a week; 150 hours a year)	Requiring worker's consent and the Labor Minister's approval	Requiring worker's consent and the Labor Minister's approval
Pregnant workers	8 hours	40 hours	Not allowed	Requiring worker's explicit request and the Labor Minister's approval	Requiring worker's explicit request and the Labor Minister's approval
Workers under 18	7 hours	35 hours	Up to 1 hour a day; 5 hours a week per mutual agreement	Requiring worker's consent and the Labor Minister's approval	Requiring worker's consent and the Labor Minister's approval

※ Night work: Work performed between 10:00 p.m. and 6:00 a.m. the following morning

► Recess

- At least 30 minutes for four hours of work; at least one hour for eight hours of work
- In a method freely chosen by workers

► Overtime work

- Up to 12 hours a week per mutual agreement
- Overtime pay: at least 150 percent of ordinary wage

► Special overtime work (Article 53 (4), the above Act)

- Under special circumstances,* an employer may extend work hours with the authorization of the Minister of Employment and Labor and the consent of employees.

* Special circumstances (Article 9 (1), Enforcement Rules of the Labor Standards Act, Newly inserted on Jan. 31, 2020)

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1. Where a disaster as prescribed by the Framework Act on the Management of Disasters and Safety or an accident equivalent thereto (hereinafter "disasters, etc.) has occurred and measures to manage them are needed or the occurrence of disasters, etc. is expected and urgent measures are needed to prevent them.
 2. Where urgent measures are required to protect lives or secure safety
 3. Where unexpected situations such as sudden failure or breakdown of equipment or facilities have occurred and urgent measures are needed for the management of such.
 4. Where workload has drastically increased compared to normal situations and significant disruption or damage to business will be done if the work is not finished within a short period of time.
 5. Where research and development is conducted such as the research and development of materials and components and materials and components manufacturing equipment as prescribed by subparagraphs 1 and 1-2 of Article 2 of the Act on Special Measures for the Promotion of Specialized Enterprises, etc. for Materials and Components and it is recognized by the Minister of Employment and Labor to be necessary for strengthening national competitiveness and developing the national economy.
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- Where the employer does not have enough time to obtain authorization of the Minister of Employment and Labor as the situation is urgent, he/she shall, without delay, obtain approval after the extension of work hours.

► 52 hour workweek

① Meaning

- The law defines "one week" as seven days including holidays and stipulates that work hours in any particular week shall not exceed 52 hours to put a stop to the practice of long hours of work.

Article 2 (Definitions)

- (1) The definitions of terms used in this Act shall be as follows: <Amended on Jan. 15, 2019.>
7. The term "one week" means seven days including holidays;

② Phased implementation depending on the size of a business

- A business with 300 workers or more, central/local governments, public institutions: on Jul. 1, 2018
- A business with 50 workers or more, but less than 300: on Jan. 1, 2020
- A business with five workers or more, but less than 50: on Jul. 1, 2021

③ The number of business types regarded as exceptions was reduced to five from 26 (Article 59, the above Act).

- (Details) Business types regarded as exceptions may have employees work extended hours in excess of 12 hours per week or change the recess hours through a written agreement reached in writing with the labor representative.
- (Business types regarded as exceptions) ① Land transportation and pipeline transportation services, ② Water-borne transportation services, ③ Air-borne transportation services, ④ Other transportation-related services, ⑤ Health care services
- (Obligation) An employer shall give employees at least 11 hours of uninterrupted recess starting from the end of a working day until the beginning of the next working day.

※ For the 21 business types, which are no longer exceptional ones, the system of 52 hours a week was implemented on Jul. 1, 2019.

Article 59 (Special Cases concerning Work Hours and Recess Hours)

- (1) Where an employer has made a written agreement with the labor representative with regard to any of the following business among the divisions or groups listed in the industrial standards publicly notified by the Commissioner of the Statistics Korea pursuant to Article 22 (1) of the Statistics Act, he/she may have employees work extended hours in excess of 12 hours per week under Article 53 (1) or change the recess hours under Article 54:
 1. Land transportation and pipeline transportation services: Provided, That the route passenger transport business under Article 3 (1) 1 of the Passenger Transport Service Act shall be excluded;

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2. Water-borne transportation services;
3. Air-borne transportation services;
4. Other transportation-related services;
5. Health care services
- (2) In the case of paragraph (1), an employer shall give employees at least 11 hours of an uninterrupted recess starting from the end of a working day until the beginning of the next working day.

[The Article wholly amended on Mar. 20, 2018]

[Enforcement Date: Jul. 1, 2018] for Article 59

[Enforcement Date: Sep. 1, 2018] for Article 59 (2)

④ Special cases of overtime work temporarily recognized (Article 53 (3), the above Act)

- For an employer who regularly employs less than 30 employees
- Through a written agreement with the labor representative (on work hours so extended, reasons for exceeding, the period, and the scope of workers thus affected)
- Up to eight hours a week
- Period for recognition of special cases: Jul. 1, 2021-Dec. 31, 2022

Article 53 (Restrictions on Extended Work)

(3) Where an employer who regularly employs less than 30 employees makes a written agreement on the following matters with the labor representative, he/she may extend work hours insofar as the work hours do not exceed eight hours per week, in addition to the extended work hours under paragraph (1) or (2): <Newly Inserted on Mar. 20, 2018>

1. Reasons why it is necessary to exceed the extended work hours under paragraph (1) or (2), and the period;
2. The scope of employees to whom the agreement is applicable.

[Paragraphs (3) and (6) of this Article shall be effective until December 31, 2022 pursuant to Article 2 of the Addenda of Act No. 15513 (Mar. 20, 2018)].

[Enforcement Date: Jul. 1, 2021] Article 53 (3) and (8)

► Flexible work hours

① Meaning

- A system making it possible to fix work hours flexibly
- More flexible and efficient operation of work hours by allocating them per the volume of business to be done or by leaving it to workers' choice
- Recognition of separately fixed work hours where it is difficult to calculate work hours

② Flexible work hours

(a) Operation of flexible work hours for up to two weeks

- (Requirement) To be introduced based on the rules of employment or an equivalent
- (Eligible workers) All workers or limited to specific workers
- (Work hours for each work day) The work days and work hours should be specified so that workers can be prepared.
- (Validity period) It is not mandatory, but desirable to state the validity period to avoid controversy.
- (Restriction) The work hours in any given week should not exceed 48 hours.

(b) Operation of flexible work hours for up to three months

- (Requirement) Need to reach an agreement in writing with the labor representative
- (Eligible workers) All workers or limited to specific workers
- (Applicable period) The applicable period for calculating the average daily and weekly work hours should be no longer than three months (e.g. one month, three months)
- (Work hours per work day) The work days and work hours per work day should be specified so that workers can be prepared

※ It is desirable to post a detailed work hour table.

- (Valid period) It is necessary to fix the valid period for a written agreement (Article 28 (1), Enforcement Decree of the Labor Standards Act), but there is no restriction over how long the valid period should be.

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- (Preservation of written agreement) The written agreement should be kept for three years.
 - (Restriction) Work hours in any given week and day should not exceed 52 hours and 12 hours, respectively.

③ Selective work hours

(a) Types

- (Completely selective work hours) This system allows workers to fix their daily work hours without the employer's intervention.
- (Partially selective work hours) This system allows workers to fix their daily work hours outside given time slots, during which they are subject to certain rules, restrictions and instructions.

(b) Required conditions

- (Relevant clauses in rules of employment, etc.) Clauses concerning the decision to let employees decide the work hours and the decision-making employee
- (Written agreement with the labor representative) including the scope of eligible employees, the relevant period, total work hours, slots of selective work hours, obligatory work hours and standard work hours



| Comparison of different systems |

Selective work hours system	Flexible work schedule system	Flex-time work system
<ul style="list-style-type: none"> This allows workers to set their daily work hours at their discretion. This system is not subject to the mandatory work hours of up to 8 hours a day; 40 hours a week. Thus, a worker working in excess of these hours is not eligible for overtime allowance. 	<ul style="list-style-type: none"> This allows workers to set their hour for coming to work. A worker who has set 10:00 a.m. as his hour for coming to work should to stay at work until 6:00 p.m. for 8 hours of work. This system is subject to the mandatory work hours of up to 8 hours a day; 40 hours a week. Thus, a worker working in excess of these hours is eligible for overtime allowance. 	<ul style="list-style-type: none"> This asks all workers to work together. The employer sets the hours for coming to work and for leaving for the day. The employer may reset daily work hours. (e.g. 8:30-17:30, 9:30-18:30) This system is subject to the mandatory work hours of up to 8 hours a day; 40 hours a week. Thus, a worker working in excess of these hours is eligible for overtime allowance.

Source: The MOEL, Guide to flexible work hours systems (June 2018)

④ Deemed work hours system outside the workplace

(a) Required conditions

- Work should be performed outside the normal workplace.
- It is difficult to calculate work hours
- The hours recognized as work hours should be defined.

- (1) Where it is recognized as fixed work hours: The hours agreed upon by the labor and management within the statutory work hours
- (2) Where it is recognized as hours normally needed: The hours needed to carry out the relevant work
- (3) Where it is recognized as hours agreed upon by the labor and management in writing

| Comparison of work hour systems |

- Deemed work hours system defines a convenient method for calculating work hours, while the other two systems change the work hours through adjustment and allocation of work hours.

Criteria	Flexible work schedule system/selective work hours system	Deemed work hours system
Whether readjustment of daily work hours is required	Yes	No
How work hours are calculated	Based on real work hours	Based on deemed work hours, as it is difficult to calculate real work hours

⑤ Discretionary work hours system

(a) Required conditions

- The work should fall under the category of "discretionary work".
: Article 31 of the Enforcement Decree of the Labor Standards Act; MOEL Notice No. 2019-36 (amended on Jul. 31, 2019*)

* Financial investment analysis/Investment property operation were added to the scope of "discretionary work"
- The discretionary nature of the work should be recognized
- The employer and the labor representative should reach an agreement in writing including the following:
 - (1) The types of work and means of carrying out the work
 - (2) The employer will not give specific instructions concerning allocation of work hours, etc. to workers.
 - (3) Work hours shall be calculated as agreed upon in writing.
- Documents about agreements in writing should be kept for three years.

⑥ Compensatory leave

(a) Required conditions

- The employer and the labor representative should reach an agreement in writing.
- Details should be worked out voluntarily by both the employer and the labor representative.

| Matters to be included in the written agreement concerning compensatory leave system |

How to provide leave to workers	Whether to apply compensatory leave system uniformly to all workers or only to those accepting it
Workers' right to claim wages	Whether to recognize the right to claim leave or wage on a selective basis or whether to recognize only the right to claim leave
Criteria for providing compensatory leave	Whether to have compensatory leave based on the entire wage including overtime/night work/holiday work allowances or only on the said allowances

Source: The MOEL, Guide to flexible work hours systems (June 2018)

(b) Notes

- Where workers have not used their leave, the employer should make up for it with pay.
- An employer is not released of his/her duty to make up for unused leave with pay by urging workers to take leave they are entitled to.



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| Comparison between work hours system |

Source: The MOEL, Guide to flexible work hours systems (June 2018)

System	Description	Suitable businesses
Flexible work hours system (Article 51, Labor Standards Act)	Under this system, an employer may comply with the statutory work hours (i.e. up to 40 hours a week) in terms of average work hours per week during a certain period by arranging daily (or weekly) work hours flexibly.	Businesses subject to seasonal fluctuations (off/peak season)
Selective work hours system (Article 52, the above Act)	Under this system, workers may set daily work hours in a certain period (not exceeding a month) in a way that does not go beyond the statutory work hours.	Types of work where workload varies from day to day, such as software development, financial transaction, administrative processing, research, design, etc.
Deemed work hours system (Article 58(1) and (2), the above Act)	Under this system, workers who need to spend much of their time outside the workplace may have the employer recognize that they have duly spent work hours.	Sales, after-sales service, and a job requiring frequent business trips
Discretionary work hours system (Article 58(3), the above Act)	Under this system, an employer may recognize that workers engaging in particular types of work have worked per contractual work hours at their discretion.	Types of work including the following stipulated in Article 31, Enforcement Decree of the Labor Standards Act 1. Researching and developing new products or new technology, or researching on the humanities, social sciences, or natural sciences;

<p>Discretionary work hours system (Article 58 (3), the above Act)</p>	<p>Under this system, an employer may recognize that workers engaging in particular types of work have worked per contractual work hours at their discretion.</p>	<p>2.Designing and analyzing data processing systems; 3.Gathering, compiling, or editing materials for a newspaper, broadcasting, or publishing business; 4.Designing or devising clothes, interior decorations, industrial products, advertisements, etc.; 5.Working as a producer or director for production of broadcasting programs, motion pictures, etc.; 6.Consulting, appraisal or serving as an agent in accounting, legal proceeding/affairs, tax payment, labor management, patent, appraisal/assessment, financial investment analysis, investment property operation, etc.*</p>
<p>Compensatory leave system (Article 57, the above Act)</p>	<p>Under this system, an employer may make up for workers' overtime/night work/holiday work, etc. by letting them go on leave rather than by paying wage.</p>	<p>Types of work (e.g. research or education), in which workers can have a certain period of time relaxing after completing a project</p>

* Financial investment analysis and investment property operation were added (MOEL Notice No. 2019-36, amended on Jul. 31, 2019).

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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 employees subject to this paragraph
 2. Unit period (to be determined as a certain period of not exceeding three months)
 3. Unit period (to be determined as a certain period of not exceeding three months)
 4. Other matters prescribed by Presidential Decree.
- (3) The provisions of paragraphs (1) and (2) shall not apply to employees who are not less than 15 years and less than 18 years of age and to pregnant female employees.
- (4) When an employer needs to have an employee 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 employees 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 employees to whom the above provisions shall apply (excluding those employees 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 employees are allowed to determine
6. Other matters prescribed by Presidential Decree.

Article 58 (Special Cases for Calculation of Work Hours)

- (1) When it is difficult to calculate work hours provided by an employee 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 employee 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 to 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.

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- (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 an employee's 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 employee 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 57 (Compensatory Leave System)

An employer may grant employees 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.



05 Holidays and leave

► Statutory/designated holiday and leave

	Statutory	Designated
Holidays	<ul style="list-style-type: none"> • Saturday and Sunday • Labor Day (May 1) • Public holidays* 	<ul style="list-style-type: none"> • Company foundation day • Other days off
Leave	<ul style="list-style-type: none"> • Paid annual leave • Miscarriage/stillbirth leave • Abortion/stillbirth leave • Childbirth leave • Childcare leave • Family care leave • Hours spent for prenatal visits 	<ul style="list-style-type: none"> • Summer holidays • Celebratory or condolatory leave

*Public holidays

(a) The law was amended so that the paid public holidays applied to public officials apply equally to private companies (Article 55 (2) of the Labor Standards Act, Article 30 (2) of the Enforcement Decree of the Act).

Public holidays	<ul style="list-style-type: none"> ① Samiljeol (Independence Movement Day/March 1), Gwangbokjeol (Liberation Day/August 15), Gaecheonjeol (National Foundation Day/October 3), Hangeul (Korean Alphabet Day/October 9) ② January 1 ③ Lunar New Year/Chuseok holidays (3 days each) ④ Buddha's birthday ⑤ Children's Day (May 5) ⑥ Memorial Day (June 6) ⑦ Christmas 	15 days in total
	<ul style="list-style-type: none"> • The election day for each election to be held at the expiration of the term per the Public Official Election Act, Article 34 • Other days designated by the government as needed (temporary public holidays) 	

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Substitute holidays

Where Lunar New Year/Chuseok or Children's Day falls on a Sunday (or Saturday/Sunday in the case of Children's Day) or another public holiday, the following day is designated as a public holiday.

(b) Phased implementation according to size of business

- A business with 300 workers or more to be implemented on Jan. 1, 2020; A business with 30 workers or more, but less than 300: Jan. 1, 2021; A business with five workers or more, but less than 30: Jul. 1, 2022

Article 55 (Holidays)

- (1) An employer shall guarantee to employees at least one paid holiday per week on the average. <Amended on Mar. 20, 2018>
- (2) An employer shall guarantee to employees paid holidays as prescribed by Presidential Decree: Provided, That where he/she makes a written agreement with the labor representative, such paid holidays may be substituted with particular working days. <Newly Inserted on Mar. 20, 2018>

[Enforcement Date] The amended provisions of Article 55 (2) shall enter into force on the following dates:

1. Business or workplaces regularly employing at least 300 employees, public institutions under Article 4 of the Act on the Management of Public Institutions, local government-invested public corporations or local public agencies under Article 49 or 76 of the Local Public Enterprises Act, institutions or organizations in or to which the State, a local government or a government-invested institution makes an investment of at least 1/2 their capital or a contribution of at least 1/2 of their endowment, institutions or organizations in or to which the abovementioned institutions or organizations make an investment of at least 1/2 of their capital or a contribution of at least 1/2 of their endowment, and institutions of the State or local governments: Jan. 1, 2020
2. Business or workplaces regularly employing between 30 and less than 300 employees: Jan. 1, 2021
3. Business or workplaces regularly employing between 5 and less than 30 employees: Jan. 1, 2022

► Paid weekly holidays (Article 55 (1), the above Act)

- At least one paid holiday per week
- Workers should use a weekly holiday on that particular week (not necessarily a Sunday).
- Weekly holidays cannot be accumulated and used consecutively.

| Weekly holiday allowance |

- It refers to allowance paid to a worker who has come to work in full during a scheduled weekly work period.
 - Where a scheduled weekly period is for 15 hours or more and a worker is scheduled to work in the following week, the employer should pay weekly holiday allowance to the worker.
 - Formula for calculation of the said allowance: daily contractual work hours × hourly wage
- ※ In the case of most monthly paid workers, their annual salary stated in their labor contract includes weekly holiday allowance (Included when monthly work hour is calculated)

► Paid annual leave

① Meaning

- Compensation for employees who have worked continuously for one year or longer
- The system is intended to enhance workers' welfare and provide work-life balance.

② Number of days provided

- 15 days of paid leave provided to a worker who has worked for at least 80 percent of a year*

* A year: With regard to a period exceeding a year, an employer is not obligated to include the excess period in the number of days for paid annual leave on a pro rata basis, unless such is stipulated in the labor contract.

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- For a worker who has continued to work for less than a year or who has worked for less than 80 percent of a year: one day of paid annual leave for each month of service
- For a worker who has continued to work for three years or longer: one additional day of paid annual leave for every two years of continued service exceeding the first year (up to 25 days)

③ When to grant paid annual leave

- Employers should grant paid annual leave as requested by workers, but the period may be changed if the leave period may seriously disrupt business.

④ Allowance for unused paid annual leave

- A worker's right to claim paid annual leave extinguishes if unused for that particular year, but the right to claim compensation through pay does not extinguish.

⑤ Measures to urge workers to take annual paid leave

(a) Meaning

- Where a worker's right to use annual leave is extinguished despite the employer's efforts to urge workers to use them, the employer is not obligated to make up for the unused leave.

(b) Method of enforcement

- Steps taken over two phases

(1) The employer's notice of the unused leave within 10 days of six months ahead of the one year mark after the occurrence of the right to claim annual leave; and then a written urging to inform the employer of the schedule of using the leave

(2) The employer's written notice about by when the leave should be used two months ahead of the one year mark after the occurrence of the right to claim annual leave

(c) Effect

- A worker's right to use annual leave is extinguished if it is not used due to a reason attributable to him/her despite the employer's urging to use it.
- The employer may choose to not pay allowance for annual paid leave not used.

Article 60 (Annual Paid Leave)

- (1) Every employer shall grant any employee who has worked not less than 80 percent of one year a paid leave of 15 days. <Amended on Feb. 1, 2012>
- (2) Every employer shall grant any employee 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 on Feb. 1, 2012>
- (3) Deleted. <on Nov. 28, 2017>
- (4) Every employer shall grant any employee 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 an employee files a claim therefor, and pay the employee 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 employee a paid leave at the time when such employee 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) and (2), any of the following periods shall be deemed the period of attendance at work: <Amended on Nov. 28, 2017>
 1. Period during which an employee 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)
 3. Period during which an employee takes time off on child-care leave under Article 19 (1) of the Equal Employment Opportunity and Work-Family Balance Assistance Act
- (7) The paid leave referred to in paragraphs (1) through (4) shall, if it is not taken

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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 Employees to Take Annual Paid Leave)

Where any employee's paid leave is terminated by time limitation pursuant to the main sentence of Article 60 (7) because the employee fails to take his/her paid leave although the relevant employer has taken the measures falling under each of the following subparagraphs to urge employees to take their respective annual leave pursuant to Article 60 (1) and (4), the relevant employer is not liable to indemnify the employee for his/her failure to take the paid leave, and the employee'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 on Nov. 28, 2017>

1. Any employer shall notify in writing every employee of the number of days of his/her paid leave that has not been taken, and shall urge every employee 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 employee 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 employee 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 employees to take a paid leave on a particular working day, in substitution of an annual paid leave provided for in Article 60.

► Compensatory leave system

① Meaning

- An employer may choose to let a worker use leave rather than paying for overtime work, night work, or holiday work if so agreed in writing with the labor representative.
- Details may be included in a written agreement reached between the employer and the labor representative per the law.

② Number of days provided

- Overtime work, night work, or holiday work hours plus relevant additional wage translated into work hours (e.g. in the case of two hours of holiday work, normally the employer should pay wage equal to three hours of work including what is added, so the worker is entitled to three hours of compensatory leave).

③ Unused compensatory leave

- The employer should pay the wage. (The employer should not urge the worker to use the leave.)

④ Allowance for unused paid annual leave

- A worker's right to claim paid annual leave extinguishes if unused for that particular year, but the right to claim compensation through pay does not extinguish.

► Designated holidays

- The employer and the labor representative should agree on the details (such as conditions and methods for providing the holidays).
- The methods of compensation for unused holidays should be decided by both parties

06 Retirement and dismissal

► Retirement

① Payment/provision of retirement allowance/valuables

- With regard to a worker's retirement (including death), the employer should pay/provide what is due (wage, compensation or valuables) within 14 days.*
* Within 14 days of the day the labor relations are terminated due to retirement (including death) or dismissal.
- In the event of an extraordinary situation, the period may be extended per what is agreed between the employer and the labor representative.

② Work experience certificate

- Upon a retired worker's request, the employer should issue a certificate containing the following information: period of work, job type, position, wages paid, etc.

③ No obstruction of job seeking effort

- An employer should not engage in an act (including the use of a secret sign, list or means of communications) of obstructing an ex-employee's job seeking effort.

④ Retirement allowance

(a) Retirement allowance

- A certain sum of money paid to workers who have worked for a certain period of time
- At least 30 days' worth of average wage per every year of continued work

(b) Retirement pension

(1) (Description) A system designed to pay retirement allowance out of a relevant fund established with an outside institution

(2) (Types) Defined Benefit (DB), Defined Contribution (DC), and Individual Retirement Pension (IRP)

(3) (Adoption and operation)

i . Adopted with the consent of the labor representative

- ii . Retirement pension agreement containing information required by the law to be reported to the local labor office
- iii . Signing a contract for operation of retirement pension and asset management with a retirement pension provider selected
- iv . The retirement pension provider's operation of pension funds

| Retirement allowance and retirement pension |

Classification	Retirement allowance	Defined Benefit (DB)	Defined Contribution (DC)	Individual Retirement Pension (IRP)
Retirement allowance types	Lump sum payment	Regular pension payments or lump sum payment		
Amount paid	30 days' worth of average wages per year of continued work	Equal to lump sum payment of retirement allowance	Depending on result of individual workers' operation	Depending on result of individual subscribers' operation
What is to be reported to the local labor office	Rules of employment	Retirement pension agreement		N/A
Amount deposited with an outside (financial) institution	At individual workers' discretion	At least 90% of estimated retirement allowance	At least a-twelfth of total annual wages	At individual workers' discretion
Deposits to be made by	Individual employers			Individual subscribers
Relevant fees to be paid by	N/A	<ul style="list-style-type: none"> • Fees for operation/asset management: by the employer • What is due additionally: by individual workers 		By individual subscribers

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Operation of accumulated funds	N/A	By individual subscribers	By individual subscribers	By individual subscribers
Condition for receiving pension	N/A	55 years or older; subscription period of at least 10 years	55 years or older	
Halfway withdrawal (Intermediate settlement)	Possible (with a specific reason*)	Impossible	Possible (where there is a special cause*)	

Source: The MOEL, National Pension Plan from Policy References

* Special cause: (Article 3 (1), Enforcement Decree of the Guarantee of Workers' Retirement Benefits Act): Where an employee who is non-homeowner purchases a house in his/her own name or an employee who is non-homeowner pays a tenancy deposit (jeonsegeum) under for residential purposes; an employee pays the medical care costs incurred for convalescence from illness or injury of any of the following persons, which requires at least six months of convalescence: employee himself/herself, spouse, dependents of the employee/spouse

► Dismissal

① Meaning

- Termination of labor relations against the worker's will
- An employer should not take a punitive measure (such as [temporary] dismissal, suspension, transfer or pay cut) against employees without a justifiable reason.

② Dismissal as part of punishment

- (Meaning) Termination of labor relations due to a reason attributable to the worker
- (Justifiable reason) A reason that can meet the criterion of being unable to maintain labor relations under the generally accepted social norms
- (Criteria of judgement) Judgment to be made in overall consideration of relevant factors, such as purpose of punishment, nature of business, relevant

worker's job, worker's wrongdoing, impact on the way the business is operated

③ Dismissal due to a management reason

- (Meaning) Dismissal of some workers per certain conditions due to management needs to keep a business going
- (Justifiable causes)
 - (a) Pressing management needs
 - (b) Efforts to avoid dismissal as much as possible
 - (c) Selection of those to be dismissed according to reasonable and fair criteria
 - (d) Giving relevant workers at least a 50-day notice and engaging in a faithful discussion
- (Other) A plan for dismissal of workers beyond a certain limit* should be submitted to the Minister of Employment and Labor.

* Beyond a certain limit:

- 10 workers or more for a business/workplace with 99 regular workers or less
- 10 percent of the workers or more for a business/workplace with 100 workers or more, but 999 or less
- 100 workers or more for a business/workplace with 1,000 workers or more

Article 23 (Restriction on Dismissal, etc.)

- (1) An employer shall not, without justifiable cause, dismiss, lay off, suspend, or transfer an employee, 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 an employee 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.

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Article 24 (Restrictions on Dismissal for Managerial Reasons)

- (1) Where an employer intends to dismiss an employee 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 trade union that represents more than half of the employees 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 trade union (where there is no such organized trade union, this shall refer to a person who represents more than half of the employees; 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 on Jun. 4, 2010>
- (5) When an employer dismisses employees in accordance with the conditions prescribed in paragraphs (1) through (3), it shall be deemed a dismissal with proper cause under Article 23 (1).

④ Dismissal procedures

(a) Dismissal notice

- To dismiss a worker, the employer should give at least a 30-day notice or 30 days' worth of ordinary wage.
- But this does not apply to a worker who has worked for less than three months, or where continuation of the business is impossible due to natural disasters, incidents or other unavoidable circumstances, or where the worker has intentionally caused serious damage to the business or property loss, which falls under the reasons prescribed by the MOEL's Ordinance.*

* Enforcement Rules (attached Table) of the Labor Standards Act – Detailed prescription of reasons attributable to workers, where an employer does not have to give a dismissal notice.

Article 26 (Advance Notice of Dismissal)

When an employer intends to dismiss an employee (including dismissal for management reasons), he/she shall give the employee 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 such employee a 30 days' ordinary wage at the least: Provided, That where any of the following is applicable, this shall not apply: <Amended on Jun. 4, 2010; Jan. 15, 2019>

1. Where the period during which the employee has worked continuously is less than three months
2. Where continuation of the business is impossible due to natural disasters, incidents or other unavoidable circumstances
3. Where the employee has intentionally caused serious damage to the business or property loss, which falls under the reasons prescribed by Ordinance of the Ministry of Employment and Labor.

(b) Written notice of dismissal

- Dismissal of a worker should be communicated to the worker, along with the reason for dismissal and the timing. Failure to follow what is stated in the foregoing sentence makes the dismissal invalid.

Article 27 (Written Notice of Grounds, etc. for Dismissal)

- ① When an employer intends to dismiss an employee, he/she shall notify the employee in writing of grounds and timing for the dismissal.
- ② The dismissal of an employee shall become effective only upon a written notice pursuant to paragraph (1).
- ③ Where an employer has given an employee 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 on Mar. 24, 2014>

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(c) Period in which a dismissal should not be executed

- Period during which a worker takes time off due to any injury or sickness arising out of duty and for 30 days thereafter
- Period during which a female worker takes time off due to maternity leave and for 30 days thereafter

Maternity protection and support for work-life balance

► Maternity protection

❶ Maternity leave (Article 74 (1), Labor Standards Act)

- An employer shall grant a pregnant worker a total of a 90-day maternity leave (120-day maternity leave, if she is pregnant with two or more 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.

| Use of maternity leave on multiple occasions by splitting it |

- Where a pregnant worker requests the maternity leave due to a reason stated in the following, the employer shall allow her to use the leave at multiple times any time before her childbirth.
 - (a) Where she has an experience of miscarriage/stillbirth
 - (b) Where she is at the age of 40 or more when she applies for a maternity leave
 - (c) Where she submits a report prepared by a medical institution stating that she has the risk of miscarriage/stillbirth

**② Leave related to miscarriage or stillbirth (Article 74 (3),
Labor Standards Act)**

- Where a pregnant worker has a miscarriage or stillbirth, the employer shall, upon the relevant employee's request, grant her a miscarriage/stillbirth leave as follows:

| Period of leave related to miscarriage or stil |

- (a) Where her period of pregnancy comes to not more than 11 weeks: Up to five days of miscarriage or stillbirth
- (b) Where her period of pregnancy comes to not less than 12 weeks, but not more than 15 weeks: Up to 10 days of miscarriage or stillbirth
- (c) Where her period of pregnancy comes to not less than 16 weeks, but not more than 21 weeks: Up to 30 days of miscarriage or stillbirth
- (d) Where her period of pregnancy comes to not less than 22 weeks, but not more than 27 weeks: Up to 60 days of miscarriage or stillbirth
- (e) Where her period of pregnancy comes to not less than 28 weeks: Up to 90 days of miscarriage or stillbirth

**③ Reduction of work hours for pregnant workers (Article 74 (7) and (8),
Labor Standards Act)**

- 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
- An employer may permit to reduce the work hours of a female worker to six hours if her work hours are shorter than eight hours a day.
- No employer shall reduce a worker's wages for reason of reduction of work hours.



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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 on Feb. 1, 2012; Jan. 21, 2014>
- (2) Where a pregnant female employee 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 on Feb. 1, 2012; Jan. 21, 2014>
- 3) Where a pregnant woman has a miscarriage or stillbirth, an employer shall, upon the relevant employee'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 on 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 on Dec. 21, 2007; Feb. 1, 2012; Jan. 21, 2014>
- (5) No employer shall order a female employee in pregnancy to engage in overtime work, and, even if there exists a request from the relevant employee, he/she shall transfer her to an easy type of work. <Amended on 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 on Mar. 28, 2008; Feb. 1, 2012>

- (7) Where a female employee 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 on Mar. 24, 2014>
- (8) No employer shall reduce an employee's wages for reason of reduction of work hours under paragraph (7). <Newly Inserted on 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 on Mar. 24, 2014>
- [Enforcement Date] The Amended provisions of Article 74 (7) through (9) shall enter into force on the following dates:
1. A business or workplace in which not less than 300 employees are regularly employed: Six months after the enforcement date of this Act
 2. A business or workplace in which less than 300 employees are regularly 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 employee 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 employee by reason of time for medical examination under paragraph (1)

Article 75 (Nursing Hours)

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

④ Paternity leave (The Act on Equal Employment Opportunity and Work-Family Balance Assistance, Article 18-2, amended on Aug. 27, 2019)

- Where a worker requests leave on grounds of his spouse's childbirth, the employer should grant paid leave for 10 days
- Paternity leave should be requested within 90 days of childbirth
- Paternity leave may be used over two occasions.

Individual Labor Relations

Article 18-2 (Paternity Leave)

- (1) Where an employee requests leave on grounds of his spouse's childbirth (hereinafter referred to as "paternity leave"), the employer shall grant leave for 10 days. In such cases, he shall be paid for the period of leave used. <Amended on Feb. 1, 2012; Aug. 27, 2019>
- (2) Notwithstanding the latter part of paragraph (1), where maternity leave benefits, etc. have been paid, the responsibility for payment shall be exempted within the limit of the relevant amount. <Newly Inserted on Aug. 27, 2019>
- (3) No paternity leave may be requested after 90 days have elapsed from the date the spouse of the relevant employee gave birth. <Amended on Aug. 27, 2019>
- (4) Paternity leave may be used over several occasions, limited to only once. <Newly Inserted on Aug. 27, 2019>
- (5) No employer shall dismiss, or take any disadvantageous measures against, an employee on grounds of paternity leave. <Newly Inserted on Aug. 27, 2019>

[This Article Newly Inserted on Dec. 21, 2007]

Enforcement Date: Feb. 2, 2013] - A business or workplace with less than 300 regular workers out of the amended regulations in Article 18-2

► **Work-family balance assistance**

① Childcare leave

- Where a worker parenting his/her children (including adopted children) aged eight years or younger or in the second grade or lower of elementary school applies for a leave of absence, the employer shall grant permission therefor (Article 19 (1), Act on Equal Employment Opportunity and Work-Family Balance Assistance).
- The period of childcare leave shall not exceed one year.
- The employer should not dismiss, or take any other disadvantageous measure against, a worker on account of childcare leave, or dismiss the relevant worker during the period of childcare leave.

- After a worker uses childcare leave, the employer should reinstate the relevant employee in the same work as before the leave, or any other work paying the same level of wages.
- The period of childcare leave should be included in the period of his/her continuous service.

| Where an employer may not grant permission for childcare leave |

- (a) A worker who has worked for less than six months in the business until the day preceding the first day of planned childcare leave (or temporary retirement)
- (b) A worker whose spouse is using childcare leave for the same child

② Reduction of work hours for period of childcare (Article 19-2, the above Act, amended on Aug. 27, 2019)

- Where a worker applies for a reduction of working hours to rear his/her children aged eight years or younger or in the second grade or lower of elementary school, the employer should grant it.
- Where the employer grants a reduction of working hours for a period of childcare, the working hours after reduction should be at least 15 hours a week, but shall not exceed 35 hours a week.
- A reduction of working hours for a period of childcare shall be granted for up to one year. where an employee who is eligible to apply for childcare leave pursuant to Article 19 (1) have not fully used such leave for a period of childcare leave, the remaining period shall be added to the period for reduction of working hours.
- An employer should not dismiss, or take any disadvantageous measures against, an employee on grounds of a reduction of working hours for a period of childcare.

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- After an employee completes a reduction period of working hours for a period of childcare, the employer should reinstate him/her in the same work as before a reduction of working hours, or any other work paying the same level of wages.
- An employer should not apply unfavorable working conditions to an employee on reduced hours for a period of childcare except for applying them in proportion to working hours, on grounds of a reduction of working hours for a period of childcare (Article 19-3 (1), the above Act).
- The relevant terms and conditions of employment should be determined in writing (Article 19-3 (2), the above Act).

③ Family care leave, etc. (Article 22-2, the above Act, amended on Aug. 27, 2019, Enforced on Jan. 1, 2020)

- (Family care temporary retirement) Where a worker applies for a leave of absence to care for his/her grandparents, parents, spouse, parents of his/her spouse, or grandchildren (hereinafter referred to as "family") on grounds of their disease, accident, or senility, the employer shall grant it.
- (Family care leave) Where a worker applies for leave to urgently care for his/her family (excluding cases prescribed by Presidential Decree, such as where grandparents or grandchildren have other lineal descendants or lineal ascendants than the employee) on grounds of their disease, accident, or senility or to rear his/her children (hereinafter referred to as "short-term family care leave"), the employer shall grant it.
- (Period, use on several occasions)
 - (a) Family care temporary retirement: Up to 90 days per year; the period taken for one occasion shall be at least 30 days where the worker chooses to use it over several occasions.
 - (b) Family care leave: Up to 10 days per year; to be used on a daily basis
(The period of short-term family care leave shall be included in the period of family care temporary retirement).

Article 19 (Childcare Leave)

- (1) Where an employee parenting his/her children (including adopted children; hereinafter the same shall apply) aged eight years or younger or in the second grade or lower of elementary school applies for a leave of absence (hereinafter referred to as "childcare leave"), his/her employer shall grant permission therefor: Provided, That the same shall not apply to cases prescribed by Presidential Decree. <Amended on Feb. 4, 2010; Aug. 27, 2019>
- (2) The period of childcare leave shall not exceed one year.
- (3) No employer shall dismiss, or take any other disadvantageous measure against, an employee on account of childcare leave, or dismiss the relevant employee during the period of childcare leave: Provided, That this shall not apply where the employer is unable to continue his/her business.
- (4) After an employee uses childcare leave, the employer shall reinstate the relevant employee in the same work as before the leave, or any other work paying the same level of wages. The period of childcare leave under paragraph (2) shall be included in the period of his/her continuous service.
- (5) The period of childcare leave of fixed-term employees or temporary agency workers shall not be included in the employment period prescribed in Article 4 of the Act on the Protection, etc. of Fixed-Term and Part-Time Employees or in the period of temporary employment prescribed in Article 6 of the Act on the Protection, etc. of Temporary Agency Workers. <Newly Inserted on Feb. 1, 2012; Apr. 30, 2019>
- (6) Matters necessary for methods and procedures for application for childcare leave and other matters shall be prescribed by Presidential Decree.

[This Article Wholly Amended on Dec. 21, 2007]

Article 19-2 (Reduction of Working Hours for Period of Childcare)

- (1) Where any employee applies for a reduction of working hours to rear his/her children aged eight years or younger or in the second grade or lower of elementary school (hereinafter referred to as "reduction of working hours for a period of childcare"), his/her employer shall grant it: Provided, That this

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shall not apply to cases prescribed by Presidential Decree, such as where it is impossible to employ his/her substitute or where the normal operation of business is significantly impeded. <Amended on Feb. 4, 2010; Aug. 27, 2019>

- (2) Where the employer does not grant a reduction of working hours for a period of childcare under the proviso of paragraph (1), he/she shall notify the relevant employee of the ground therefor in writing and have him/her use childcare leave, or consult with the relevant employee as to whether to support him/her through other measures, such as the adjustment of commuting time. <Amended on Feb. 4, 2010; Aug. 27, 2019>
- (3) Where the employer grants a reduction of working hours for a period of childcare to the relevant employee under paragraph (1), the working hours after reduction shall be at least 15 hours a week, but shall not exceed 35 hours a week. <Amended on Aug. 27, 2019>
- (4) A reduction of working hours for a period of childcare shall be granted for up to one year: Provided, That where an employee who is eligible to apply for childcare leave pursuant to Article 19 (1) have not fully used such leave for a period of childcare leave under Article 19 (2), the remaining period shall be added to the period for reduction of working hours. <Amended Amended on Aug. 27, 2019>
- (5) No employer shall dismiss, or take any disadvantageous measures against, an employee on grounds of a reduction of working hours for a period of childcare.
- (6) After an employee completes a reduction period of working hours for a period of childcare, the employer shall reinstate him/her in the same work as before a reduction of working hours, or any other work paying the same level of wages.
- (7) Matters necessary for methods and procedures for filing an application for a reduction of working hours for a period of childcare and other matters shall be prescribed by Presidential Decree.

[This Article Newly Inserted on Dec. 21, 2007]

Article 19-3 (Working Conditions, etc. under Reduction of Working Hours for Period of Childcare)

- (1) No employer shall apply unfavorable working conditions to an employee on reduced hours for a period of childcare under Article 19-2, except for applying them in proportion to working hours, on grounds of a reduction of working hours for a period of childcare.
- (2) Working conditions of an employee on reduced hours for a period of childcare under Article 19-2 (including working hours after the reduction of working hours for a period of childcare) shall be determined in writing between the employer and the relevant employee.
- (3) No employer may request an employee on reduced hours under Article 19-2 to work overtime: Provided, That where the relevant employee requests such overtime work specifically, the employer may have him/her work overtime up to 12 hours a week.
- (4) Where average wages are calculated under subparagraph 6 of Article 2 of the Labor Standards Act with regard to an employee on reduced hours for a period of childcare, the period during which the working hours for a period of childcare of the relevant employee are reduced shall be excluded in calculating the period of average wages.

[This Article Newly Inserted on Dec. 21, 2007]

Article 22-2 (Support for Family Care of Employees)

- (1) Where any employee applies for a leave of absence to care for his/her grandparents, parents, spouse, parents of his/her spouse, or grandchildren (hereinafter referred to as "family") on grounds of their disease, accident, or senility (hereinafter referred to as "family care leave"), the employer shall grant it: Provided, That this shall not apply to cases prescribed by Presidential Decree, such as where it is impossible to employ his/her substitute, where the normal operation of business is significantly impeded, or where his/her grandparents have other lineal descendants or his/her grandchildren have other lineal ascendants than the employee himself/herself. <Amended on Feb. 1, 2012; Aug. 27, 2019>

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- (2) Where any employee applies for leave to urgently care for his/her family (excluding cases prescribed by Presidential Decree, such as where grandparents or grandchildren have other lineal descendants or lineal ascendants than the employee) on grounds of their disease, accident, or senility or to rear his/her children (hereinafter referred to as "short-term family care leave"), the employer shall grant it: Provided, That where granting such leave at the time the employee applies for it significantly impedes the normal operation of business, the timing for taking the leave may be changed through consultation with the employee. <Newly Inserted on Aug. 27, 2019>
- (3) Where the employer does not grant family care leave under the proviso of paragraph (1), he/she shall notify the relevant employee of the ground therefor in writing and endeavor to take any of the following measures: <Newly Inserted on Feb. 1, 2012; Aug. 27, 2019>
1. To adjust time to start and finish work
 2. To restrict overtime work
 3. To adjust working hours, such as reduction or flexible operation of working hours
 4. Other supportive measures appropriate for business place conditions
- (4) The period for using family care leave or short-term family care leave and the number of divided uses thereof shall be as follows <Newly Amended on Aug. 27, 2019>
1. The maximum period of family care leave shall be 90 days per year, and the relevant employee may use it over several occasions. In such cases, the period taken for one occasion shall be at least 30 days
 2. The maximum period of short-term family care leave shall be 10 days per year, and it shall be used on a daily basis: Provided, That the period of short-term family care leave shall be included in the period of family care leave
- (5) No employer shall dismiss the relevant employee, deteriorate his/her working conditions, or take any other disadvantageous measures against him/her on grounds of family care leave or short-term family care leave. <Newly Inserted on Feb. 1, 2012; Aug. 27, 2019>

- (6) The period of family care leave or short-term family care leave shall be included in the period of continuous service: Provided, That it shall be excluded from the period for calculating average wages defined in Article 2 (1) 6 of the Labor Standards Act. <Newly Inserted on Feb. 1, 2012; Aug. 27, 2019>
- (7) Employers shall endeavor to provide necessary psychological counseling services to assist his/her employees in maintaining a sound workplace and family life. <Amended by Act No. 11274, Feb. 1, 2012>
- (8) The Minister of Employment and Labor may provide necessary support, in consideration of effects, etc. on employment, where the employer takes measures under paragraph (1) or (2). <Amended on Feb. 1, 2012; Aug. 27, 2019>
- (9) Matters necessary for the methods, procedures, etc. for applying for family care leave or short-term family care leave shall be prescribed by Presidential Decree <Newly Inserted on Feb. 1, 2012; Aug. 27, 2019>

[This Article Newly Inserted on Dec. 21, 2007]

[Enforcement Date: Feb. 2, 2013] A business or workplace with less than 300 regular workers out of the amended regulations of Article 22-2

[Enforcement Date: Jan. 1, 2020] Article 22-2

08 Safety and health

► Safety and health

① Safety and health education (Article 29, Industrial Safety and Health Act)

- Periodic safety/health education
- Safety/health education when hiring new workers or when there is a change in the contents of the work
- Add relevant contents to safety and health education when hiring new workers for hazardous or dangerous work or when there is a change in the contents of such work



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| Hours to be spent on safety and health education for workers |

Refer to attached Table 8 of the Enforcement Rules of the Industrial Safety and Health Act

Types of education	Education recipients		Hours of education
Periodic education	Office workers		At least 3 hours a quarter
	All except for office workers	Sales workers	At least 3 hours a quarter
		All other than sales workers	At least 6 hours a quarter
	Supervisor-level workers		At least 16 hours a year
Education for newly hired workers	Daily workers		At least 1 hour
	All other than day-to-day workers		At least 8 hours
Education concerning a change in work contents	Daily workers		At least 1 hour
	All other than daily workers		At least 2 hours
Special education	Daily workers engaging in the work stated in Item d, Subparagraph 1 of attached Table 8-2 (except for No. 40)		At least 2 hours
	Day-to-day workers engaging in tower crane signal work stated in Item d, Subparagraph 1 of attached Table 8-2 (No. 40)		At least 8 hours

Special education	Workers other than daily workers engaging in the work stated in Item d, Subparagraph 1 of attached Table 8-2	<ul style="list-style-type: none"> At least 16 hours (at least 4 hours before work commencement; the remaining 12 hours over several occasions within the first 3 months) At least 2 hours in the case of short-term or intermittent work
Basic safety/ health education in construction	Daily construction workers	4 hours

► Health diagnosis for workers

- Conduct health diagnosis for workers
 - : General, special, occasional, and temporary health diagnosis

| General health diagnosis |

- For office workers (other than sales workers): At least once every two years
- For the others: At least once a year

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- An employer should take appropriate measures (such as a change in the place of work, reduction of work hours, restriction on night work, measurement of work environment or improvement in facilities, etc.) where it is considered that such is necessary to maintain workers' health as a result of health diagnosis.
- An employer should not use health diagnosis results for a purpose other than protection and maintenance of workers' health.

Article 29 (Safety/Health Education for Workers)

- (1) A business owner shall regularly educate employees on health and safety in his/her place of business, as prescribed by Ordinance of the Ministry of Employment and Labor
- (2) Where a business owner employs an employee (excluding where employing day-to-day construction workers) and changes the scope of the job of such employee, he/she shall provide the employee with health and safety education related to the relevant job, as prescribed by Ordinance of the Ministry of Employment and Labor.
- 3) Where a business owner employs a person for a harmful or dangerous job or changes the work content that includes harmful or dangerous nature, he/she shall carry out safety/health education additionally for health and safety related to the job, as prescribed by Ordinance of the Ministry of Employment and Labor.
- (4) A business owner may entrust any safety and health education under paragraphs (1) through (3) to an institution entrusted with safety and health education which is registered with the Minister of Employment and Labor under Article 33 hereof.

Article 129 (Ordinary Health Diagnosis)

- (1) A business owner shall carry out health diagnosis for health management concerning his/her regular workers ("ordinary health diagnosis" hereinafter). Where a business owner has carried out health diagnosis prescribed by

Ordinance of the Ministry of Employment and Labor, it shall be deemed that ordinary health diagnosis has been carried out for the relevant workers.

- (2) A business owner shall have ordinary health diagnosis carried out by a special institution stipulated in Article 135 (1) hereof or an institution stipulated in the Framework Act on Health Examinations, Article 3, Subparagraph 2 ("a health diagnosis institution" hereinafter).
- (3) Matters pertaining to frequency, items, methods, expense, and other necessary things about ordinary health diagnosis shall be prescribed in Ordinance of the Ministry of Employment and Labor.

Article 130 (Special Health Diagnosis, etc.)

- (1) A business owner shall carry out health diagnosis for health management concerning workers stated in the following ("special health diagnosis" hereinafter). Where a business owner has carried out health diagnosis prescribed by Ordinance of the Ministry of Employment and Labor, it shall be deemed that special health diagnosis has been carried out concerning harmful factors for the relevant workers.
 1. Workers engaging in the work exposed to harmful factors prescribed by Ordinance of the Ministry of Employment and Labor ("the work subject to special health diagnosis" hereinafter)
 2. Workers concerning whom a medical doctor stipulated in the Medical Service Act says that it is necessary to carry out health diagnosis concerning harmful factor as those whose assignment or place of work has been changed after being judged to be associated with a vocational disease as a result of health diagnosis stated in the foregoing 1 or the following (3) or Article 131 hereof and thus is no longer engaged in the work subject to special health diagnosis that has led to the said judgement.
- (2) With regard to assessment of suitability of workers to be assigned to an assignment subject to special health diagnosis, the business owner shall carry out health diagnosis ("pre-assignment health diagnosis" hereinafter), unless the workers are those prescribed by Ordinance of the Ministry of

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Employment and Labor.

- (3) With regard to workers prescribed by Ordinance of the Ministry of Employment and Labor as those recommended by a health manager, etc. for health diagnosis due to the showing of symptom suspected to be attributable to harmful factors related to the work subject to special health diagnosis or so indicated by a medical opinion, the business owner shall carry out health diagnosis ("occasional health diagnosis" hereinafter).
- (4) A business owner shall have health diagnosis stated in the foregoing (1) through (3) carried out at a special health diagnosis stated in Article 135(1) hereof.
- (5) Matters pertaining to frequency, items, methods, expense, and other necessary things about health diagnosis stated in the foregoing (1) through (3) shall be prescribed in Ordinance of the Ministry of Employment and Labor.

Article 131 (Temporary Health Diagnosis Order, etc.)

- (1) In the event of occurrence of a symptom of a disease similar to one found in workers exposed to similar harmful factors prescribed in Ordinance of the Ministry of Employment and Labor, the Minister of Employment and Labor may order the business owner to carry out health diagnosis for specific workers ("temporary health diagnosis" hereinafter) or take other necessary steps such as transfer of assignment, etc.
- (2) Items and other necessary matters concerning temporary health diagnosis shall be prescribed in Ordinance of the Ministry of Employment and Labor.

Article 132 (Business Owner's Obligations Concerning Health Diagnosis)

- (1) When carrying out health diagnosis stated in Articles 129 through 131, a business owner shall have the labor representative present at such a session upon his/her request.
- (2) Upon a request from the Industrial Safety and Health Committee or the labor representative, a business owner shall explain results of the health diagnosis him/herself or have the institution that carried out the health diagnosis

explain the results. Information on results of individual workers' health diagnosis shall not be disclosed without their consent.

- (3) A business owner shall not use results of health diagnosis stated in Articles 129 through 131 hereof for a purpose not having to do with protection of workers' health.
- (4) A business owner shall take appropriate steps under Ordinance of the Ministry of Employment and Labor such as change of workplace, transfer to another assignment, reduction of work hours, restriction of night work (referring to work done between 10:00 PM to 6:00 AM the following morning), measurement of working environment or installation/improvement of facilities, where it is judged that such is necessary to protect workers' health as a result of health diagnosis stated in Articles 129 through 131 or other relevant laws.
- (5) A business owner prescribed by Ordinance of the Ministry of Employment and Labor, who is required to take appropriate steps under the foregoing (4) shall submit the result of the steps taken to the Minister of Employment and Labor under Ordinance of the Ministry of Employment and Labor.



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09 Non-regular workers

► Fixed-term workers

① Meaning

- "Fixed-term workers" refers to those who signed a labor contract for a fixed term.

② Basis and scope of application

- The Act on the Protection, etc. of Fixed Term and Part-Time Employees governs major matters concerning application and restrictions.
- The said Act is applied to businesses or workplaces with at least five regular workers.

※ Part of the said Act is applied to those with four or less regular workers.

③ Prohibition of use of fixed-term workers for a period exceeding two years

- An employer may use fixed-term workers for a period not exceeding two years.
- Where the use of such workers exceeds two years, the workers shall be deemed to be those who have signed a labor contract with an unfixed term.

| Where a fixed-term worker has worked over two years but is not considered a worker who signed a labor contract with an unfixed term |

- ① Where the period for completion of a project or specific assignment is fixed
- ② Where they temporarily fill a vacancy made due to temporary retirement or dispatch to somewhere
- ③ Where the period required for a worker to complete his/her schoolwork or vocational training is specified
- ④ Where an employer enters into an employment contract with a senior

citizen* as defined in the Employment Promotion for the Aged Act, Article 2, Subparagraph 1

- ⑤ Where the job requires professional knowledge and skills** or is offered as part of the Government's welfare or unemployment measures,** as prescribed by Presidential Decree
- ⑥ Where any reasonable ground exists** equivalent to those mentioned in the foregoing ① through ⑤, as prescribed by Presidential Decree.

* Those aged 55 or more

** The relevant cases are stipulated in the Enforcement Decree of the Act on the Protection, etc. of Fixed Term and Part-Time Employees, Articles 3 (1) through (3).

④ Prohibition of discriminatory treatment

- No fixed-term workers should be treated disparately from regular workers engaging in the same or similar assignment in the same business or workplace.
- Workers may lodge a complaint about disparate treatment with the Labor Relations Commission.

Article 4 (Employment of Fixed-Term Workers)

(1) Any employer may hire a fixed-term worker for a period not exceeding two years (where his/her fixed-term employment contract is repetitively renewed, the total period of his/her continuous employment shall not exceed two years): Provided, That where a fixed-term worker falls under any of the following subparagraphs, any employer may hire such worker for more than two years:

1. Where the period required to complete a project or particular task is specified
2. Where a fixed-term worker is needed to fill a vacancy arising from a worker's temporary suspension from duty or dispatch until the worker returns to work

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3. Where the period required for a worker to complete his/her schoolwork or vocational training is specified
4. Where an employer enters into an employment contract with a senior citizen as defined in subparagraph 1 of Article 2 of the Employment Promotion for the Aged Act
5. Where the job requires professional knowledge and skills or is offered as part of the Government's welfare or unemployment measures, as prescribed by Presidential Decree
6. ,Where any reasonable ground exists equivalent to those mentioned in subparagraphs 1 through 5, as prescribed by Presidential Decree
(2) Where any employer hires a fixed-term worker for more than two years although those grounds under the proviso to paragraph

Article 8 (Prohibition of Discriminatory Treatment)

- (1) No employer shall give discriminatory treatment to any fixed-term worker on the ground of his/her employment status compared with other workers engaged in the same or similar kinds of work on a non-fixed term employment contract at the business or workplace concerned.
- (2) No employer shall give discriminatory treatment to any part-time worker on the ground of his/her employment status compared with full-time workers engaged in the same or similar kinds of work at the business or workplace concerned.

Article 9 (Application for Correction of Discriminatory Treatment)

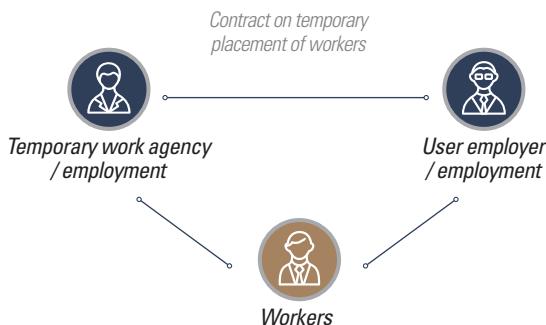
- (1) Any fixed-term or part-time worker who has received discriminatory treatment may file a request for its correction with the Labor Relations Commission under Article 1 of the Labor Relations Commission Act (hereinafter referred to as "Labor Relations Commission"): Provided, That this shall not apply where six months have passed since such discriminatory treatment occurred (in cases of continuous discriminatory treatment, since such treatment ended).
<Amended on Feb. 1, 2012>

- (2) If a fixed-term or part-time worker files a request for correction under paragraph (1), he/she shall clearly state details of the relevant discriminatory treatment.
- (3) Necessary matters concerning the procedures for and methods of the filing of a request for correction prescribed in paragraphs (1) and (2) shall separately be determined by the National Labor Relations Commission under Article 2 (1) of the Labor Relations Commission Act (hereinafter referred to as the "National Labor Relations Commission").
- (4) With regard to disputes arising in connection with Article 8 and paragraphs (1) through (3) of this Article, the burden of proof shall be upon employers.

► Temporarily placed workers

① Meaning

- The term "temporary placement of workers" means engaging a worker employed by a temporary work agency to work for, and under the direction and supervision of, a user company in accordance with the terms and conditions of a contract on temporary placement of workers, while maintaining his/her employment relationship with the temporary work agency.



② Basis

- The Act on the Protection, etc. of Temporary Agency Workers governs major matters concerning application and restrictions.

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③ Jobs permitted for temporarily placed workers

- Jobs permitted for temporary work agency business shall be deemed appropriate for that purpose in consideration of professional knowledge, skills or experience or the nature of duties and prescribed by Presidential Decree, except for those directly related to production in the manufacturing industry (Enforcement Decree of the above Act, Article 2 (1) of the attached Table).

| Jobs permitted for temporarily placed workers |

Korean Standard Classification of Occupations (Statistics Korea Notice No. 2000-2)	Jobs	Note
120	Computer expert	
16	Administration/business administration, and financial expert	Excluding administrative expert (161)
17131	Patent expert	
181	Archivist/librarian and relevant expert	Excluding librarian (18120)
1822	Translator and interpreter	
183	Creative/performing artist	
184	Film/stage play/broadcast-related expert	
220	Computer-related semi-expert	
23219	Other electrical engineer	
23221	Communications engineer	
234	Graphic art/CAD	

	Holding optical/electronic equipment-related skills	<ul style="list-style-type: none"> • Only an assisting role • Excluding medical technologist (23531), radiological technologist (23532), and medical equipment technician (23539)
235		
252	Semi-expert in matters outside regular education	
253	Education semi-expert	
28	Art/entertainment-related semi-expert	
291	Administration semi-expert	
317	Office work supporter	
318	Book/mail-related work	
3213	Money collection and related business	
3222	Phone operator	Excluding a case where phone operator business is its core business
323	Customer service	
411	Escort	
421	Cook	Excluding a cook working at a tourist accommodation business stated in the Tourism Promotion Act, Article 3
432	Travel guide	
51206	Gas attendant	
51209	Retail sale representative	
521	Phone-based sales representative	
842	Chauffeur	
9112	Building cleaner	

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91221	Doorkeeper/security guard	Excluding security guard stipulated in the Security Services Industry Act, Article 2, Subparagraph 1
91225	Parking lot manager	
913	Delivery man, transporter, and meter reader	

④ Cases where obligations of direct employment occurs

- Where the user employer uses temporary agency workers in the jobs which do not fall under those permitted for temporary placement of workers
- Where the user employer uses temporary agency workers in the jobs (such as construction jobsite or seamen) that should never use such workers
- Where the user employer continues to use the temporary agency worker in excess of two
- Where the user employer uses temporary agency workers in the jobs that do not fall under the category of requiring temporarily placed workers and that have nothing to do with ① a vacancy occurring due to child birth, an illness, injury, etc. or ② a "special" reason such as a need to temporarily or intermittently secure manpower
- Where the user employer uses temporary agency workers in the jobs that do not fall under the category of requiring temporarily placed workers and that have nothing to do with ① a vacancy occurring due to child birth, an illness, injury, etc. and ② are in violation of the restriction of the term for temporarily placed workers associated with a need to temporarily or intermittently secure manpower.
- Where the user employer receives temporarily placed workers from a temporary work agency business without obtaining approval from the Minister of Employment and Labor

⑤ Prohibition of discriminatory treatment

- No temporarily placed workers should be treated disparately from regular workers engaging in the same or similar assignment in the same business or workplace.
- Workers may lodge a complaint about disparate treatment with the Labor Relations Commission.

Article 5 (Jobs, etc. Permitted for Temporary Placement of Workers)

- (1) Jobs permitted for temporary work agency business shall be deemed appropriate for that purpose in consideration of professional knowledge, skills or experience or the nature of duties and prescribed by Presidential Decree, except for those directly related to production in the manufacturing industry. <Amended by Act No. 8076, Dec. 21, 2006>
- (2) Notwithstanding paragraph (1), if a vacancy occurs due to child birth, an illness, injury, etc. or there is a need to temporarily or intermittently secure manpower, temporary work agency business may be conducted. <Amended by Act No. 8076, Dec. 21, 2006>
- (3) Notwithstanding paragraphs (1) and (2), no temporary work agency business shall be conducted for the following jobs: <Amended on Jan. 15, 2019>
 1. Jobs performed at a construction site
 2. Harbor stevedore jobs defined in subparagraph 1 of Article 3 of the Harbor Transport Business Act, Article 9 (1) 1 of the Korea Railroad Corporation Act, Article 40 of the Act on Distribution and Price Stabilization of Agricultural and Fishery Products, and Article 2 (1) 1 of the Framework Act on Logistics Policies, which are performed in an area where worker supply service is permitted pursuant to Article 33 of the Employment Security Act
 3. Seamen's jobs defined in subparagraph 1 of Article 2 of the Seafarers Act
 4. Harmful or hazardous jobs prescribed in Article 28 of the Occupational Safety and Health Act

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5. Any other job prescribed by Presidential Decree as deemed inappropriate for temporary work agency business by reason of protection of workers, etc
- (4) Where any user company intends to use a temporary agency worker pursuant to paragraph (2), he/she shall have sincere prior consultation with a trade union of his/her business or workplace if there is a trade union comprised of a majority of workers, or if there is no such trade union, with a person representing a majority of workers.

[Article 5 wholly amended on Apr. 30, 2019]

[Enforcement Date: Jan. 16, 2020] Article 5

Article 6 (Period of Temporary Employment)

- (1) The employment period of a temporary agency worker shall not exceed one year, except in cases falling under Article 5 (2).
- (2) Notwithstanding paragraph (1), a period of temporary employment may be extended if there is an agreement among the temporary work agency, the user company and the temporary agency worker. In such cases, the period so extended, if extended once, shall not exceed one year, and the total period of temporary employment, including the extended period, shall not exceed two years.
- (3) Notwithstanding the latter part of paragraph (2), with regard to aged temporary agency workers defined in subparagraph 1 of Article 2 of the Act on Prohibition of Age Discrimination in Employment and Elderly Employment Promotion, a period of temporary employment may be extended in excess of two years.
- (4) An employment period of a temporary agency worker under Article 5 (2) shall be as follows:
 1. A period required to resolve the cause where a clear and objective cause, such as childbirth, an illness or injury, exists
 2. A period of less than three months where there is a need to secure manpower on a temporary or intermittent basis: Provided, That if the cause is not resolved and there is an agreement among the temporary work agency, the

user company and the temporary agency worker, the period may be extended once for up to three months.

[This Article wholly amended on Apr. 30, 2019]

Article 6-2 (Obligations of Employment)

- (1) If a user company falls under any of the following subparagraphs, it shall directly employ the relevant temporary agency worker:
 1. Where the user company uses the temporary agency worker in the jobs which do not fall under those permitted for temporary placement of workers prescribed in Article 5 (1) [excluding cases where temporary work agency business is conducted pursuant to Article 5 (2)]
 2. Where the user company uses the temporary agency worker in violation of Article 5 (3)
 3. Where the user company continues to use the temporary agency worker in excess of two years in violation of Article 6 (2)
 4. Where the user company uses the temporary agency worker in violation of Article 6 (4)
 5. Where the user company is provided with services for temporary placement of workers in violation of Article 7 (3)
- (2) Paragraph (1) shall not apply where the relevant temporary agency worker clearly expresses his/her dissenting opinion, or a justifiable ground prescribed by Presidential Decree exists.
- (3) If a user company directly employs a temporary agency worker pursuant to paragraph (1), working conditions for the temporary agency worker shall be as follows:
 1. If a worker is performing the same or similar kind of duties as the temporary agency worker among the workers employed by the user company, working conditions prescribed in the employment rules applicable to such worker shall apply to the temporary agency worker
 2. If no worker is performing the same or similar kind of duties as the temporary agency worker among the workers employed by the user company, working

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conditions for the temporary agency worker shall not be worsened compared to his/her existing working conditions.

- (4) If a user company intends to directly employ a worker for a job for which a temporary agency worker is already being used, he/she shall endeavor to give priority to employing the temporary agency worker.

[This Article wholly amended on Apr. 30, 2019]

Article 21 (Prohibition, Correction, etc. of Discriminatory Treatment)

- (1) No temporary work agency nor user company shall give discriminatory treatment to any temporary agency worker on the ground of his/her employment status compared with other workers engaged in the same or similar kind of duties at the business of the user company.
- (2) Any temporary agency worker who has received discriminatory treatment may request a correction thereof to the Labor Relations Commission.
- (3) Articles 9 through 15 and 16 (excluding subparagraphs 1 and 4 of the same Article) of the Act on the Protection, etc. of Fixed-Term and Part-Time Workers shall apply mutatis mutandis to requests for correction under paragraph (2) and other procedures for correction. In such cases, "fixed-term or part-time employee" and "employer" shall be construed as "temporary agency worker" and "temporary work agency or user company", respectively.
- (4) Paragraphs (1) through (3) shall not apply to user companies ordinarily employing not more than four workers.

[This Article Wholly Amended on Apr. 30, 2019]

Article 22 (Requests, etc. by the Minister of Employment and Labor for Correction of Discriminatory Treatment)

- (1) Where any temporary work agency or user company gives discriminatory treatment in violation of Article 21 (1), the Minister of Employment and Labor may request a correction thereof.
- (2) Where any temporary work agency or user company fails to comply with a

request for correction made under paragraph (1), the Minister of Employment and Labor shall notify the Labor Relations Commission of the discriminatory treatment with the detailed description thereof. In such cases, the Minister of Employment and Labor shall notify the relevant temporary work agency or user company and the relevant worker of such fact.

- (3) Upon receiving the notification from the Minister of Employment and Labor pursuant to paragraph (2), the Labor Relations Commission shall, without delay, examine whether any discriminatory treatment exists. In such cases, the Labor Relations Commission shall give the relevant temporary work agency or user company and the relevant worker an opportunity to state its or his/her opinions.
- (4) Articles 9 (4), 11 through 15 and 15-2 (5) of the Act on the Protection, etc. of Fixed-Term and Part-Time Workers applied mutatis mutandis under Article 15-2 (4) of the same Act shall apply mutatis mutandis to examinations by the Labor Relations Commission under paragraph (3) and other procedures for correction. In such cases, "date of a request for correction" shall be construed as "date of receiving notification", "decision of dismissal" as "decision on that there has been no discriminatory treatment", "the parties concerned" as "the temporary work agency or user company and worker", and "worker who has filed a request for correction" as "relevant worker", respectively.

[This Article wholly amended on Apr. 30, 2019]



03 Collective Labor Relations

01 Trade unions

▶ Outline

- A trade union is an organization formed by workers independently.
- The country puts no restrictions on types of trade unions. Under the two pillars, i.e. FKTU (Federation of Korean Trade Unions) and KCTU (Korean Confederation of Trade Unions), there are industrial federations and nationwide organizations like industrial unions and unions for individual businesses.

▶ Formation of a trade union

① Basic principles

- Workers may decide the following on their own: whether to establish a trade union, its type, and whether to join it.
- Workers' rights of association are guaranteed. Workers are free to form their trade union. Workers may have plural trade unions in a business entity.

② Requirements (Article 2, Subparagraph 4, Trade Union and Labor Relations Adjustment Act)

(a) Substantial requirements

- (Positive requirements)
 - (1) The union should be voluntarily formed by workers.
 - (2) The union should be formed in collective manner upon the workers' initiative
 - (3) The union's purpose is to maintain and improve working conditions and to enhance the social and economic status of workers
 - (4) The union should be an organization or associated organization
- (Passive requirements) An organization shall not be regarded as a trade union in cases falling under any of the following:
 - (1) Where an employer or other persons who always act in the interest of the employer is allowed to join it
 - (2) Where most of its expenditure is supported by the employer

-
- (3) Where its activities are only aimed at mutual benefits, moral culture and other welfare undertakings
 - (4) Where those who are not workers are allowed to join it: workers Provided, That a dismissed person shall not be regarded as a person who is not a worker, until a review decision is made by the National Labor Relations Commission when he has made an application to the Labor Relations Commission for remedies for unfair labor practices
 - (5) In case where its aims are mainly directed at political movements

Article 4 (Definitions)

The terms used in this Act shall be defined be as follows:

- 1. The term "worker" means any person who lives on wages, a salary, or any other income equivalent thereto, regardless of the person's occupation.
- 2. The term "employer" means a business owner, a person responsible for the management of a business or a person who acts on behalf of a business owner with regard to matters concerning workers in the business.
- 3. The term "employers' association" means an organization of employers which has powers to adjust or control its members in connection with labor relations.
- 4. The term "trade union" means an organization or associated organizations of workers, which is formed in voluntary and collective manner upon the workers' initiative for the purpose of maintaining and improving their working conditions and enhancing their economic and social status: Provided, That an organization shall not be regarded as a trade union in cases falling under any of the following subparagraphs:
 - A. Where an employer or other persons who always act in the interest of the employer is allowed to join it
 - B. Where most of its expenditure is supported by the employer
 - C. Where its activities are only aimed at mutual benefits, moral culture and other welfare undertakings
 - D. Where those who are not workers are allowed to join it: Provided, That a dismissed person shall not be regarded as a person who is not a

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- worker, until a review decision is made by the National Labor Relations Commission when he has made an application to the Labor Relations Commission for remedies for unfair labor practices
- E. In case where its aims are mainly directed at political movements
5. The term "industrial disputes" means any controversy or difference arising from disagreements between a trade union and an employer or employers' association (hereinafter referred to as "parties to labor relations") with respect to the determination of terms and conditions of employment as wages, working hours, welfare, dismissal, and other treatments. In such cases, the disagreements refer to situations in which the parties to labor relations are no longer likely to reach an agreement by means of voluntary bargaining even if they continue to make such an attempt
6. The term "industrial actions" means actions or counter-actions which obstruct the normal operation of a business, such as strikes, sabotage, lock-outs, and other activities through which the parties to labor relations intend to accomplish their claims.

(b) Formal requirements

- A person who intends to establish a trade union shall submit a report, along with its bylaws, to the local government.
- Upon receiving the report, the local government office shall issue a certificate of report within three days, if it is judged that there is nothing wrong with the report.

| Information to be included in the report for establishment of a trade union |

- ① Title of a trade union
- ② Location of the main office
- ③ Number of the members
- ④ Names/addresses of union officers
- ⑤ Title of an associated organization to which it belongs, if any
- ⑥ In cases of a trade union in the form of an associated organization, the titles of its constituent organizations, the number of union members, location of the main office, and the names and addresses of officers

| Information to be included in a union's bylaws |

- ① Title of a trade union
- ② Purposes and activities
- ③ Location of the main office
- ④ Matters concerning union members (in case of a trade union in the form of an associated organization, matters concerning its constituent organizations)
- ⑤ Title of an associated organization to which it belongs, if any
- ⑥ Matters concerning a council of delegates, if any
- ⑦ Matters concerning meetings
- ⑧ Matters concerning the representatives and officers
- ⑨ Matters concerning union dues and other accounting
- ⑩ Matters concerning modification of the union bylaws
- ⑪ Matters concerning dissolution
- ⑫ Matters concerning the publication of the result of the vote for and against the industrial actions and the keeping and perusal of the roll of voters and ballot papers, etc.
- ⑬ Matters concerning impeachment on representatives or officers for violation of the bylaws
- ⑭ Matters concerning the procedures for election of officers and delegates
- ⑮ Matters concerning discipline and control

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③ Effects of trade union establishment (Article 7, the above Act)

- Trade unions which are not established pursuant to this Act shall not make an application for adjustment of industrial disputes and for the remedy of unfair labor practices to the Labor Relations Commission.
- No one other than trade unions established pursuant to this Act shall use the title of trade union.

| Illegal union |

- Concept

- An organization whose report on establishment as a trade union has been rejected or that has not submitted the report, although it meets the positive requirements

- Matters guaranteed for illegal unions

- Indemnities under the Civil and Criminal Act
- Rights for collective bargaining, collective agreements, and industrial actions
- Ordinary activities as organizations (with the exception of some clauses of the Act)

- Disadvantages of illegal unions

- Cannot file an application for mediation of industrial disputes or remedies for unfair labor practices to the Central Labor Relations Commission
- Cannot use the name trade union
- Cannot be recognized as a corporation
- Cannot obtain approval as a labor supply business

④ Timing of establishment (Article 12 (4), the above Act)

- When a trade union receives the certificate of report on its establishment, it shall be deemed to have been established at the time the local government office received the report.

⑤ Report of modifications (Article 13 (1), the above Act)

- In the event of modifications in its name, location of its main office, name of its representative, or the title of an associated to which it belong, a trade union should report it to the local government office within 30 days.

► Operation of a trade union

① Acquisition/loss of status as a trade union member

(a) Acquisition

- Workers are free to acquire their union membership.
- Where its bylaws so stipulate, a trade union may now allow those not belonging to it to join it as its members.

(b) Loss

- A worker shall lose his status as a union member in the event of one of the following causes: termination of his status as a worker, failure to meet qualifications, withdrawal, expulsion, or union dissolution.

② Trade union's bodies

(a) General Assembly

- The General Assembly is a trade union's supreme decision-making body. Its establishment is statutory.
- Composed of the entire trade union members.
- A session of the General Assembly should be held at least once a year.
- The trade union representative should act as the chair of the General Assembly.

(b) Council of delegates

- A trade union may have a council of delegates, which takes the place of the General Assembly, under its bylaws.
- Delegates should be elected through direct and secret ballot by the union members.
- Delegates' term of office should be set by the bylaws and should not exceed three years.
- Delegates should act as the members of the supreme decision-making body representing the union members under the bylaws.

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(c) Executive body

- The executive body represents a trade union externally and carries out matters decided by the decision-making body internally.
- Under the bylaws, the executive body is composed of the chair, the vice chair, the secretary general, and the auditor.
- Some trade unions let their executive body have subsidiary bodies such as secretariat, organization department, financial department, industrial actions department, education department, etc. or special bodies such as election management committee, impeachment committee, struggle committee

(d) Audit body

- The law does not have a clause about audit body, but makes it obligatory to have an auditor conduct an audit (Article 25, the above Act).

▶ Trade union's dissolution

① Meaning

- "Dissolution" refers to a trade union having stopped its functions/activities and starting a process for closing its business and disposing of its property.

② Reasons for dissolution

- Occurrence of a cause for dissolution defined in the bylaws
- Extinguishment following the business's merger or split-off
- Where a resolution of dissolution has been made at the General Assembly or Council of Delegates
- Where there are no executives of a union and no activities were conducted for one year or longer, and the resolution of the Labor Relations Committee is obtained

| Matters regarding the business owner |

- Deduction of union dues

① Meaning

- An employer's deduction of union dues from workers' wages and provision of them to the trade union is a generally accepted practice under certain conditions.

❷ Requirements

- Should be stipulated in the collective agreement
- Workers' consent should be obtained
- Should be stipulated in the bylaws
 - : If not stipulated in the bylaws, a resolution of the General Assembly is needed. If this cannot be met, the explicit or implicit consent of workers is needed.

❸ Discontinuation of union dues deduction

- An employer's unilateral discontinuation of union dues deduction may constitute unfair labor practice.

● Provision of conveniences

❶ Provision of office spaces for trade union

- Employers' have provided office spaces for union as part of generally accepted practices. Trade unions need to obtain employers' consent concerning whether provide office spaces and the size.
- The employer's provision of a trade union office of a minimum size is not regarded as support of expenses, which is an unfair labor practice. (Article 81, Subparagraph 4, the above Act)

❷ Full-time trade union officers (Article 24, the above Act)

(a) Meaning

- If provided by a collective agreement or consented by employers, workers may be engaged exclusively in affairs of the trade union without providing the employer with work specified in their employment contracts.
- An employer and the labor representative may agree to the number of full-time trade union officers.

(b) Appointment of full-time trade union officers

- An employer who agrees to having full-time trade union officers should appoint such officers as the trade union requests.

(c) Status of full-time trade union officers

- Full-time trade union officers are relieved of the obligation to provide the employer with work.
- Their status is similar to that of a temporarily retired employee.

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(d) Remuneration for full-time trade union officers

- Full-time trade union officers shall not be remunerated in any kind by the employer during the period as such (Article 24 (2), the above Act). An employer's payment of remuneration to them is regarded as unfair labor practice (Article 81, Subparagraph 4, the above Act).

(e) Full-time trade union officers' activities

- An employer should not put restrictions on full-time trade union officers' lawful union activities. Unfavorable treatment of them on grounds of their activities as such is regarded as an unfair labor practice.

③ Time-off

(a) Meaning

- Hours spent by the labor representative for trade union activities stipulated in labor-related laws should be recognized as hours of working for the employer.

(b) Legal ground

- Where it is prescribed by a collective agreement or consented by an employer, workers may conduct affairs of maintaining and managing a trade union including consultation or bargaining with an employer within the maximum time-off limit (Article 42 (4), the above Act).
- Establishment of the Time-Off System Deliberation Committee in the MOEL (Article 24-2, the above Act)

(c) Decision on time-off and limitations

- To be fixed by the Time-Off System Deliberation Committee in consideration of the number of trade union members in individual businesses or workplaces

| Paid time-off limits |

(Unit: Persons or hours)

Union members	~9	100 -199	200 -299	300 -499	500 -999	1,000 -2,999	3,000 -4,999	5,000 -9,999	10,000 -14,999	15,000 or more
Limit	2,000	3,000	4,000	5,000	6,000	10,000	14,000	22,000	26,000	36,000

Article 24 (Full-time Officer of Trade Union)

- (1) If provided in a collective agreement or consented by employers, workers may be engaged exclusively in affairs of the trade union without providing the employer with work specified in their employment contracts.
- (2) A worker who is engaged exclusively in affairs of the trade union pursuant to paragraph (1) (hereinafter referred to as "full-time officer") shall not be remunerated in any kind by the employer during the period of said exclusive engagement.
- (3) An employer shall not restrict lawful trade union activities of full-time officers. <Newly Inserted by Act No. 9930, Jan. 1, 2010>
- (4) Notwithstanding paragraph (2), where it is prescribed by a collective agreement or consented by an employer, workers may conduct affairs prescribed by this Act or other laws and affairs of maintaining and managing a trade union for the healthy development of labor-management relations without loss of wages, such as consultation or bargaining with an employer, grievance settlement, or industrial safety activities, within the maximum time-off limit (hereinafter referred to as "maximum time-off limit") prescribed by Article 24-2 in consideration of the number of members, etc. of a trade union by business or by place of business. <Newly Inserted on Jan. 1, 2010>
- (5) A trade union shall not request the payment of wages, in violation of paragraphs (2) and (4), and shall not take any industrial actions for the purpose of realization of such intention. <Newly Inserted on Jan. 1, 2010>

Article 24-2 (Time-Off System Deliberation Committee)

- (1) In order to determine the maximum time-off limit, the Time-Off System Deliberation Committee (hereinafter referred to as "Committee") shall be established in the Ministry of Employment and Labor. <Amended on Jun. 4, 2010>
- (2) The maximum time-off limit as deliberated on and decided by the Committee shall be announced by the Minister of Employment and Labor and may be

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determined following redeliberation on whether the limit is appropriate every three years. <Amended on Jun. 4, 2010>

- (3) The Committee shall be comprised of five members recommended by the labor community, five members recommended by the management community, and five members representing the public interest recommended by the Government.
- (4) The chairperson shall be elected by the Committee from among the members representing the public interest.
- (5) The Committee shall make a decision by attendance of a majority of all incumbent members and with the consent of a majority of those present.
- (6) Matters necessary for the qualification and appointment of members and operation, etc. of the Committee shall be prescribed by Presidential Decree.

[This Article Newly Inserted on Jan. 1, 2010]

02 Collective bargaining

► Meaning

- Bargaining carried out between trade union and employers or employers' association concerning matters related to labor-management relations including the terms and conditions of employment

► Key actors

① Parties to collective bargaining

- The trade union representing workers and the business owner

② Parties in charge of collective bargaining

(a) Original parties in charge

- (On worker's side) The trade union representative and negotiators
- (On employer's side) Those representing employers or employers' association

(b) Those entrusted

- The trade union and employers or employers' association may delegate the right for bargaining or signing a collective agreement to third parties.
- There are no legal restrictions over the qualification or the number of the delegates.
- The delegate(s) may exercise his/their rights within the scope of delegation.
- The delegating party shall inform the other party of the fact of delegation including the name of the delegates/delegate organization, the name of the representative, and the substance of delegation such as the matters of negotiation and the scope of the right (Article 14, Enforcement Decree of the Trade Union and Trade Relations Adjustment Act).

Article 29 (Authority to Bargain and Make Agreement)

- (1) The representative of a trade union shall have the authority to bargain and make a collective agreement with the employer or employers' association for the trade union and its members.
- (2) The representative of a representative bargaining trade union (hereinafter referred to as "representative bargaining trade union") determined pursuant to Article 29-2 shall have the authority to bargain and make a collective agreement with an employer for all the trade unions and members requesting bargaining. <Newly Inserted on Jan. 1, 2010>
- (3) A person who is delegated authority by a trade union, an employer, or an employers' association to bargain and make a collective agreement may exercise the authority within the scope of said delegation for the trade union, the employer or the employers' association. <Amended on Jan. 1, 2010>
- (4) When a trade union, an employer or an employers' association delegates the authority to bargain and make a collective agreement pursuant to paragraph (3), he/she/it shall notify the other party of the fact of such delegation. <Amended on Jan. 1, 2010>

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► Matters subject to collective bargaining

① Meaning

- Matters for the trade union and its members should be matters subject to collective bargaining. (Article 29 (1), the above Act)
- An employer not responding to the labor representative's requesting bargaining bears the burden of unfair labor practice.

② Agenda

(a) Matters for trade union members

- Matters concerning or closely related to terms/conditions of employment
- With regard to matters related to personnel affairs/management rights, opinions are divided about the scope of bargaining. Thus, it is necessary to make a decision considering the essence of specific matters.

• Matters related to trade union members

(b) Matters for the trade union

- Opinions are divided about whether the following are matters subject to bargaining: clauses related to procedures, provision of convenience, time/procedure/methods of union activities related to collective bargaining or industrial actions.

► Procedures and methods

① Autonomy

- The law leaves employers and unions to decide the procedures and methods of collective bargaining.
- It is desirable for employers and labor unions to establish matters such as the date, time, venue, attendees, attitude concerning collective bargaining in the collective agreement prior to bargaining.

② Plural labor unions in a business and simplification of bargaining windows

(a) Legal basis

- Where not less than two trade unions established or joined by workers exist in one business or one place of work regardless of the type of organization, trade unions shall determine a representative bargaining trade union and

request the same to bargain (Article 29-2 (1), the above Act).

(b) Procedure for simplification of bargaining windows

- (Deciding which trade union will participate in bargaining)
 - : Trade union's initial request for bargaining → Employer posts the bargaining request → Request other trade unions' participation in bargaining
 - Employer finalizes the trade unions requesting bargaining
- (Determine a representative bargaining trade union)
 - (1) A representative bargaining trade union determined of their own accord
 - : The trade unions participating in the procedures for determining a representative bargaining trade union shall determine a representative bargaining trade union of their own accord and inform the employer of it.
 - (2) Formation of a trade union comprised of a majority of all participating trade unions
 - : Where the trade unions fail to determine a representative bargaining trade union, a labor union comprised of a majority of all the members of the trade unions participating in procedures for the simplification of bargaining windows shall be a representative bargaining trade union.
 - (3) Joint bargaining delegation
 - : Where the trade unions fail to determine a representative bargaining trade union through a procedure stated in the foregoing, all the participating trade unions shall organize a bargaining delegation jointly.
 - (Where the trade unions fail to organize a joint bargaining delegation pursuant to the foregoing procedure, the Labor Relations Commission may determine the same in consideration of the ratio of members of trade unions at the request of the relevant trade unions.)

Article 29-2 (Procedures for Simplification of Bargaining Windows)

- (1) Where not less than two trade unions established or joined by workers exist in one business or one place of work regardless of the type of organization, trade unions shall determine a representative bargaining trade union (including a representative bargaining organization, the constituent members

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of which are members of not less than two trade unions; hereinafter the same shall apply) and request the same to bargain: Provided, That this shall not apply where an employer consents not to undergo procedures for the simplification of bargaining windows prescribed by this Article within the period for determination of a representative bargaining trade union by the trade unions of their own accord pursuant to paragraph (2).

- (2) All the trade unions which participate in the procedures for determining a representative bargaining trade union (hereinafter referred to as "procedures for the simplification of bargaining windows") shall determine a representative bargaining trade union of their own accord within the period prescribed by Presidential Decree.
- (3) Where the trade unions fail to determine a representative bargaining trade union within the period pursuant to paragraph (2) and to obtain consent of an employer pursuant to the proviso to paragraph (1), a labor union organized by majority of all the members of the trade unions which participate in procedures for the simplification of bargaining windows (including cases where not less than two trade unions become the majority of all the members of the trade unions which participate in procedures for the simplification of bargaining windows by delegation, combination, etc.) shall be a representative bargaining trade union.
- (4) Where the trade unions fail to determine a representative bargaining trade union pursuant to paragraphs (2) and (3), all the trade unions which participate in procedures for the simplification of bargaining windows shall organize a bargaining delegation jointly (hereafter in this Article referred to as "joint bargaining delegation") and bargain with an employer. In such cases, a trade union which may participate in the joint bargaining delegation shall be a trade union, the number of members of which is not less than 10/100 of the total members of the trade unions participating in procedures for the simplification of bargaining windows.
- (5) Where the trade unions fail to organize a joint bargaining delegation pursuant to paragraph (4), the Labor Relations Commission may determine the same in consideration of the ratio of members of trade unions at the request of the

relevant trade unions.

- (6) Where any trade union has an objection to a fact of request for bargaining, the number of members, etc. of a trade union in determining a representative bargaining trade union under paragraphs (1) through (4), the Labor Relations Commission may decide on such objection at the request of the trade union as prescribed by Presidential Decree.
- (7) Articles 69 and 70 (2) shall apply mutatis mutandis to procedures for dissatisfaction with and effect on the determination of the Labor Relations Commission pursuant to paragraphs (5) and (6).
- (8) Matters necessary for procedures for the simplification of bargaining windows, such as a request for bargaining, method of participation, calculation standards of the number of members for the determination of a representative bargaining trade union of the trade unions, and the prevention of increase in bargaining expenses, etc. shall be prescribed by Presidential Decree.

[This Article Newly Inserted on Jan. 1, 2010]

03 Collective agreement

► Meaning

- A "collective agreement" is a document about an agreement reached through collective bargaining by an employer and the labor representative concerning the terms and conditions of employment, treatment of workers, and rights and obligations of the two sides.

► Establishment

① Form

- A collective agreement shall be prepared in writing, and both of the parties shall affix their signatures or their seals thereto (Article 31 (1), the Trade Union and Labor Relations Adjustment Act)

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② Procedure

- The parties to a collective agreement shall make a report of the collective agreement to the administrative agencies within 15 days of the date of its conclusion (Article 31 (2), the above Act)
- The report should be made in the joint name of the two sides with a copy of the collective agreement attached.
- When a collective agreement has any unlawful contents, the administrative agencies may, with the resolution of the Labor Relations Commission, order to correct them.

▶ Validity

- A collective agreement comes into force on the date agreed to by the two sides or the day the collective agreement is signed by them.
- A collective agreement should not remain valid for more than two years.

▶ Interpretation

- Where there arises dispute over the interpretation of a clause of the collective agreement or how to implement it, the parties (or either party set by the agreement) may ask the Labor Relations Commission for its opinion.
- Upon such a request, the Labor Relations Commission should express its clear opinion within 30 days. (Its opinion thus presented has the same effect as arbitration.)

▶ Scope of application (Binding force)

① Binding force extended to those in the same workplace

- When a collective agreement applies to a majority of workers of the same kind of job employed under ordinary circumstances in a business or workplace, it shall apply to the other workers of the same kind of job employed in the same business or workplace (Article 35, the above Act).

② Binding force extended to those in the same geographical area

- When two-thirds or more of the workers of the same kind of job employed in an area are subject to one collective agreement, the administrative agencies

may, with the resolution of the Labor Relations Commission, at the request of either of the parties to the collective agreement or ex officio, make a decision that the said collective agreement shall apply to other workers of the same kind of job and their employers engaged in the same area.

► **Renewal and extension**

① Automatic renewal

The parties to a collective agreement may agree to have it continue to be in force for a certain period of time, unless either party expresses its wish to have it amended by a certain period in advance of the last day of the current validity.

② Automatic extension

- The parties to a collective agreement may agree to have it continue to be in force until it is replaced with a new one following the end of its current validity (Article 32 (3), the above Act, proviso).
- Either party may terminate the existing collective agreement by serving a notice on the other party at least six months in advance.

③ Statutory automatic extension

- Where parties to a collective agreement fail to sign a new collective agreement that will replace the existing one despite continued collective bargaining, the existing one should remain in force until three months following the last day of the validity unless stipulated otherwise (Article 32 (3), the above Act).

Article 31 (Preparing of Collective Agreement)

(1) A collective agreement shall be prepared in writing, and both of the parties shall affix their signatures or their seals thereto. <Amended on Dec. 30, 2006>

(2) The parties to a collective agreement shall make a report of the collective agreement to the administrative agencies within 15 days from the date of its conclusion. <Amended on Feb. 20, 1998>

(3) When a collective agreement has any unlawful contents, the administrative

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agencies may, with the resolution of the Labor Relations Commission, order to correct them. <Amended on Feb. 20, 1998>

Article 32 (Effective Term of Collective Agreement)

- (1) No collective agreement shall provide for an effective term exceeding two years.
- (2) When the effective term is not specified in a collective agreement or exceeds the period as specified in paragraph (1), it shall be two years.
- (3) When, even though both of the parties continued to conduct collective bargaining to make a new collective agreement before or after the expiry of the effective term of an existing agreement, they fails to make a new collective agreement, the existing collective agreement shall remain valid for three more months after its expiry, except as there exists a separate agreement to the contrary: Provided, That where the collective agreement contains separate provisions to the effect that when a new collective agreement is not made in spite of the expiry of the term of an existing collective agreement, said existing collective agreement shall remain effective until a new collective agreement is made, such separate provisions shall be observed. Any party to the agreement may, however, terminate the existing collective agreement by notifying the other party of such termination six months in advance of the date he intends to terminate it. <Amended on Feb. 20, 1998>

Article 34 (Interpretation of Collective Agreement)

- (1) When there is any disagreement between the parties on the interpretation and the implementation methods of a collective agreement, both of the parties to that collective agreement, or one party thereto as prescribed in the agreement may ask the Labor Relations Commission for its views on such interpretation and implementation methods.
- (2) The Labor Relations Commission shall, upon receiving a request as referred to in paragraph (1), give its clear-cut views within thirty days from the date of receipt of the request.

- (3) The views on such interpretation and implementation methods which are given by the Labor Relations Commission pursuant to paragraph (2), shall have the same effect as that of an arbitration award.

Article 35 (General Binding Force)

When a collective agreement applies to a majority of workers of the same kind of job employed under ordinary circumstances in a business or workplace, it shall apply to the other workers of the same kind of job employed in the same business or workplace.

Article 36 (Geographical Binding Force)

(1) When two-thirds or more of the workers of the same kind of job employed in an area are subject to one collective agreement, the administrative agencies may, with resolution of the Labor Relations Commission, at the request of either of the parties to the collective agreement or ex officio, make a decision that the said collective agreement shall apply to other workers of the same kind of job and their employers engaged in the same area. <Amended on Feb. 20, 1998>

(2) When the administrative agencies make a decision as referred to in paragraph (1), they shall give public notice of it without delay. <Amended on Feb. 20, 1998>

04 Industrial actions

► Meaning

"Industrial actions" means actions or counter-actions which obstruct the normal operation of a business, such as strikes, sabotage, lock-outs, and other activities through which the parties to labor relations intend to accomplish their claims (Article 2, Subparagraph 6, the above Act).

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▶ Procedure

- In the event of occurrence of an industrial dispute, either party to labor relations may ask the Labor Relations Commission for adjustment under the adjustment preceding principle and then start industrial actions (Article 45 (2), the above Act).
- When a trade union intends to engage in an industrial action, it shall report the date, place, the number of participants in, and the method of the industrial action, in advance in writing to the administrative agencies and the competent Labor Relations Commission (Article 17, Enforcement Decree of the above Act).

▶ Judgment on justifiability

① Key actors

- No member of a trade union shall take part in any industrial action which is not led by the trade union (Article 37 (2), the above Act).

② Purpose

- The purpose of an industrial action should be to carry out self-governed negotiations between the labor union and an employer for enhancement of the terms and conditions of employment for workers and their economic and social status.
- The judgment should be made in individual cases, depending on the nature of specific industrial actions.

③ Means and methods

(a) Prohibition of the use of violence and destructive acts

- Industrial actions shall not be conducted by resorting to violence or destruction or by occupying facilities related to production or other major work or other facilities equivalent thereto as prescribed by Presidential Decree (Article 42 (1), the above Act).

| Facilities that should not be used in industrial actions |

- ❶ Power supply, computer, or communications facilities
- ❷ Railroad (including urban railroad) vehicles or tracks
- ❸ Ships under construction or repair or moored except those with seamen as stipulated in the Seafarers Act aboard
- ❹ Flight safety facilities or facilities for airplane takeoff/landing or passengers/cargo
- ❺ A place where the following is kept or stored: gunpowder, explosives, or toxic chemicals stipulated in Article 2, Subparagraph 2 of the Chemical Substances Control Act
- ❻ A facility designated by the Minister of Employment and Labor through consultation with the chiefs of the central administrative agencies as one that may put a stop to production or other important business or do serious harm to public good if occupied

(b) Need to maintain safety/protection facilities

- Industrial actions shall not be conducted to stop, close, or interrupt the normal maintenance and operation of facilities installed to protect safety of workplaces (Article 42 (2), the above Act).

(c) Need to maintain operational/health security

- Any work, the purpose of which is to prevent operational equipment from being damaged, or to prevent raw materials or products from being impaired or deteriorated shall be normally conducted during a period of industrial actions (Article 38 (2), the above Act).

(d) No obstruction of normal work

- An industrial action shall not be conducted in such a manner that it interferes with entry, work or other normal services by persons who are not related to it or persons who intend to provide work, and any resort to violence or any threat to appeal for or persuade into participating in the industrial action shall not be used (Article 38 (1), the above Act).

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- No violence or threat shall be used to ask or persuade workers to take part in industrial actions.

(e) Need to keep essential business going

- (Meaning) The acts of stopping, discontinuing or impeding the justifiable maintenance and operation of the essential business* shall be the prohibited industrial actions (Article 42-2 (2), the above Act).

* Essential business: Refer to Article 22-2 of attached Table 1 of the Enforcement Decree of the above Act

- (Procedure, etc.)

(1) The signing of an agreement concerning essential business

: The parties to labor relations should sign a written agreement concerning need for the minimum level of essential business, assignments subject to it, and necessary personnel during the period of industrial actions.

(2) The Labor Relations Commission's decision on essential business

: Where an agreement on essential business is not signed, parties (or either party) to labor relations should ask the Labor Relations Commission for its decision on the minimum level of essential business, assignments subject to it, and necessary personnel, etc.

④ Procedure/timing

(a) General requirement

- Industrial actions should only be used as the last resort when collective bargaining has been stalled or it is meaningless to proceed with it. (judicial precedent; administrative interpretation)

(b) Legal restrictions

(1) Vote for/against industrial actions

: A trade union shall not conduct industrial actions, unless decided with concurrent votes of a majority of the union members by a direct, secret, and unsigned ballot (Article 41 (1), the above Act).

(2) Adjustment preceding system

: Any industrial action shall not be conducted without completing adjustment procedures, where either party has asked for adjustment of industrial disputes (Article 45 (2), the above Act).

(3) Report of industrial actions

: When intending to engage in industrial actions, the trade union should submit a written report to the administrative agencies and the competent Labor Relations Commission (concerning hour/date, place, participants, and method)

(4) Interpretation of mediation proposal

: The parties concerned shall not conduct any industrial action in connection with the interpretation or performance of the mediation proposal concerned, until views of the mediation committee or single mediator on the interpretation or performance methods are presented (Article 60 (5), the above Act).

► Means of industrial actions

① On the part of the trade union

- Strike, sabotage, production management, boycott, picketing, sit-in, work-to-rule, etc.

② On the part of an employer

(a) Lockout

- "Lockout" is an act against workers' industrial actions. It refers to an employer's temporary rejection of the work provided by workers.
- An employer may only choose to adopt lockout against trade union's industrial actions.
- When intending to adopt lockout, an employer should report it to the competent administrative agencies and the Labor Relations Commission in advance.

| Restriction on use of substitute workers |

● Restriction on hiring/substitution

An employer shall not hire or substitute any person not related to the relevant business during a period of industrial actions in order to continue

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works which have been interrupted by the industrial actions (Article 43 (1), the above Act).

- **No contracting/subcontracting works**

An employer shall not, during a period of industrial actions, contract or subcontract works which have been interrupted by the industrial actions.

※ An employer of the essential public-service business may contract or subcontract works which have been interrupted by the industrial actions, if the scope does not exceed half of those participating in industrial actions (Article 43 (3) and (4), the above Act).

► Protection of industrial actions

- When an employer has suffered damages due to collective bargaining or industrial action under this Act, he shall not claim damages against a trade union or workers (Article 3, the above Act).
- Except for a criminal caught on the spot, workers shall not be detained for any violation of this Act during a period of industrial actions (Article 39, the above Act).
- An employer shall not dismiss or treat unfavorably workers on grounds that he has taken part in industrial actions (Article 81, the above Act).

Article 37 (Basic Principles of Industrial Actions)

- (1) Any industrial action shall not be inconsistent with the Acts and subordinate statutes or other social order with respect to its purpose, method, and procedure.
- (2) No member of a trade union shall take part in any industrial action that is not led by the trade union.

Article 38 (Guidance and Responsibility of the Trade Union)

- (1) An industrial action shall not be conducted in such a way that it interferes with entry, work, or other normal services by persons who are not related to it or persons who intend to provide work, and resorting to violence or any threat to appeal for or persuade one into participating in the industrial action shall be prohibited.
- (2) Any work whose purpose is to prevent operational equipment from being damaged or to prevent the impairment or deterioration of raw materials or products shall be normally conducted during the period of industrial actions.
- (3) A trade union shall have the responsibility of guiding, managing, and supervising industrial actions so that they are lawfully conducted.

Article 39 (Restriction on the Detention of Workers)

Except for a criminal caught on the spot, workers shall not be detained for any violation of this Act during the period of industrial actions.

Article 41 (Restriction and Prohibition of Industrial Actions)

- (1) A trade union shall not conduct industrial actions, unless decided with the majority vote of the union members by direct, secret, and unsigned ballot. Where a representative bargaining trade union has been determined pursuant to Article 29-2, any industrial action shall not be taken unless it is determined with the consent of majority by the direct, secret, and unsigned ballot of the total members (limited to members belonging to the relevant business or place of business) of the trade unions that have participated in such procedures. <Amended on Jan. 1, 2010>
- (2) From among the workers engaged in a major business of the national defense industry designated by the Defense Acquisition Program Act, those who are involved in the production of electricity, water, or work of mainly producing national defense goods shall not conduct industrial actions. The scope of those involved in the work of mainly producing national defense goods shall be prescribed by the Presidential Decree. <Amended on Jan. 2, 2006>

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Article 42 (Prohibition of Acts of Violence, etc.)

- (1) Industrial actions shall not be conducted by resorting to violence or destruction or by occupying facilities related to production or other major work or other facilities equivalent thereto as prescribed by the Presidential Decree.
- (2) Industrial actions shall not be conducted to stop, close, or interrupt the normal maintenance and operation of facilities installed to protect the safety of workplaces.
- (3) The administrative agencies shall, if they consider any industrial action to fall under any of those referred to in paragraph (2), serve notice that such industrial action shall be halted in compliance with the resolution of the Labor Relations Commission. Note, however, that they may serve notice of immediate stoppage of such action without waiting for the resolution of the Labor Relations Commission under urgent circumstances wherein there is not enough time to seek such resolution from the Labor Relations Commission.
<Amended on Feb. 20, 1998; Dec. 30, 2006>
- (4) In case of the proviso of paragraph (3), the administrative agencies shall, immediately after serving the notice, obtain ex post facto approval from the Labor Relations Commission; otherwise, the notice shall become ineffective at the time of not obtaining said approval. *<Amended by Act No. 5511, Feb. 20, 1998; Act No. 8158, Dec. 30, 2006>*

Article 42-2 (Restrictions on Industrial Actions Affecting Essential Business)

- (1) The term "essential business" in this Act means a business whose suspension or discontinuance may seriously endanger the life, health, or body of the public and the daily life of the public and which is prescribed by the Presidential Decree, from among the essential public-service businesses set forth in Article 71 (2).
- (2) Acts of stopping, discontinuing, or impeding the justifiable maintenance and operation of the essential business shall be regarded as prohibited industrial actions.

[This Article Newly Inserted on Dec. 30, 2006]

Article 43 (Restriction on Hiring by the Employer)

- (1) An employer shall neither hire nor substitute any person not related to the relevant business during the period of industrial actions in order to continue works that have been interrupted by the industrial actions.
- (2) An employer shall not, during the period of industrial actions, contract or subcontract works that have been interrupted by the industrial actions.
- (3) Paragraphs (1) and (2) shall not apply to cases wherein the employer of the essential public-service business hires or replaces any person who has nothing to do with the relevant business or contracts or subcontracts its essential public-service business. <Newly Inserted on Dec. 30, 2006>
- (4) In the case of paragraph (3), the employer may hire or replace workers within the scope of not exceeding 50/100 of the workers of its business or business place who are participating in the strike, or contract or subcontract its essential public-service business. In such case, the ways, etc. to calculate the number of workers participating in the strike shall be prescribed by the Presidential Decree. <Newly Inserted on Dec. 30, 2006>

Article 45 (Adjustment Preceding System)

- (1) Upon the occurrence of a labor dispute, any party to labor relations shall notify the other party accordingly in writing.
- (2) Any industrial action shall not be conducted without completing the adjustment procedures (excluding the adjustment procedures after a decision is made to end the adjustment pursuant to Article 61-2) as referred to in Sections 2 through 4 of Chapter V. Note, however, that this shall not apply to cases wherein adjustment is not finished within the period set forth in Article 54 or where an arbitration award is not made within the period under Article 63. <Amended on Dec. 30, 2006>

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05 Prohibition of unfair labor practices

▶ Meaning

- A system for prohibiting employers' acts that infringe on the three basic labor rights and for guaranteeing the labor rights stipulated in the Constitution through remedies for unfair labor practices
- It is divided into prohibition of and remedies for unfair labor practices.

▶ Types of unfair labor practices (Article 81, the above Act)

① Unfavorable treatment (Subparagraphs 1 and 5)

- Dismissal or unfavorable treatment of a worker on grounds that he/she has joined - or intends to join - a trade union or attempted to organize a trade union or performed any other lawful act for the operation of a trade union
- Dismissal of workers or acts against their interests on grounds that they have participated in justifiable collective activities, reported to or testified before the Labor Relations Commission that the employer has violated the provisions of this Article, or presented other evidences to the relevant administrative agencies

② Unfair employment contract (Subparagraph 2)

- Employment of a worker on condition that he/she should not join or should withdraw from a trade union or that he/she should join a particular trade union
- Such condition imposed either in writing or verbally

| Union shop agreement |

- Meaning

- As limitedly recognized by the law, a worker may not be a trade union member at the time of hiring but should join the trade union within a given period of time.

- Stipulation in the law

- Where a trade union represents at least two-thirds of the workers in a workplace, a collective agreement may be signed on condition that the workers will be members of the trade union (Article 81, Subparagraph 2, the above Act).

③ Rejection of collective bargaining (Subparagraph 3)

- An employer may not reject or neglect to engage in collective bargaining including signing a collective agreement with the labor representative or a person entrusted by the trade union without justifiable reason as such falls under the category of unfair labor practice.

④ Domination of, interference in, or financial support for the operation of a trade union (Subparagraph 4):

- Domination of or interference in the organization or operation of a trade union by workers.
- Payment of wages to the full-time officer of a trade union or financial support for the operation of a trade union.
- Note, however, that an employer may allow workers to conduct activities or affairs prescribed by the law and affairs of maintaining and managing a trade union during work hours and may contribute funds for the welfare of workers or provide a trade union office of a minimum size.

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► Remedies for unfair labor practices

① Meaning

- Any workers suffering from unfair labor practices or a trade union may seek remedies through any administrative agencies or the court or ask for punishment.

② Procedure for remedies through the Labor Relations Commission

(a) Application

- An application for remedy should be made within three months of the date of occurrence of unfair labor practice.
- The application should include the following information: names/addresses of the workers and business owner, purpose/reason for application, and date of application.

(b) Screening

- Upon receiving the application, the Labor Relations Commission should start investigation and question the relevant parties.
- The Commission may, at the request of the parties concerned or ex officio, have witnesses appear at its sessions and answer questions.

(c) Judgment

- The Labor Relations Commission should draw up its letter of judgment based on the result of the questioning for dispatch to the relevant parties.
- Where it is judged that there has been an unfair labor practice, the Commission should issue an order of remedy.

(d) Appeal

- Either party having any objection to the order of remedy or rejecting the application by the Local or Special Labor Relations Commission may ask the National Labor Relations Commission for reexamination of the case within 10 days of the local/special Commission's decision (Article 85 (1), the above Act).

③ Administrative suit

- Either party may institute an administrative suit against a decision on review by the National Labor Relations Commission within 15 days of the date of receiving the notice of the decision on review (Article 85 (2), the above Act).

④ Emergency order for execution

- When an employer has instituted an administrative suit, the competent court may, by its decision at the request of the National Labor Relations Commission, order the employer to perform all or part of the order of remedy issued by the National Labor Relations Commission until the judgment of the court is rendered, and may also, at the request of any of the parties concerned or ex officio, revoke such decision (Article 85 (5), the above Act).

Article 81 (Unfair Labor Practices)

Employers shall not conduct any act falling under any of the following subparagraphs (hereinafter referred to as "unfair labor practice"): <Amended on Dec. 30. 2006; Jan. 1, 2010>

1. Dismissal or unfavorable treatment of a worker on grounds that he/she has joined -- or intends to join -- a trade union, or attempted to organize a trade union, or performed any other lawful act for the operation of a trade union;
2. Employment of a worker on condition that he/she should not join or should withdraw from a trade union, or that he/she should join a particular trade union. Where a trade union represents two-thirds or more of the workers working in the workplace concerned, however, the conclusion of a collective agreement under which a person is employed on condition that he/she should join the trade union shall be allowed as an exceptional case, in which case an employer may not engage in any act disadvantageous to the status of a worker on grounds that he/she is expelled from the trade union concerned;
3. Refusal of or delay in the execution of a collective agreement or other collective bargaining with the representative of a trade union or with a person authorized by the trade union without any justifiable reason;
4. Domination of or interference in the organization or operation of a trade union by workers and payment of wages to the full-time officer of a trade union or financial support for the operation of a trade union. Note, however, that the employer may be justified in allowing workers to consult or bargain with it during work hours, and the employer's contribution of funds for the

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welfare of workers or for prevention and relief of economic misfortunes or other disasters, or provision of a trade union office of a minimum size shall be allowed as an exception;

5. Dismissal of workers or acts against their interests on grounds that they have participated in justifiable collective activities, reported to or testified before the Labor Relations Commission that the employer has violated the provisions of this Article, or presented other evidences to the relevant administrative agencies.

[Court's ruling on constitutional incongruity 2012HEONBA90 dated May 31, 2018 Article 81, subparagraph 4 of the Trade Union and Labor Relations Adjustment Act amended on Jan. 1, 2010, - "financial support for the operation of a trade union" is found to be incongruous with the Constitution. Said clause shall remain in force until Dec. 31, 2019 when it shall be amended.]

Article 82 (Application for Remedy)

- (1) A worker or a trade union may make an application for remedy to the Labor Relations Commission concerned on grounds that the worker's rights have been infringed by an unfair labor practice on the part of the employer.
- (2) An application for remedy as referred to in paragraph (1) shall be made within three months of the date of occurrence of the unfair labor practice concerned (where any such practice is in progress, from the date of its termination).

Article 83 (Investigation, etc.)

- (1) Upon receiving the application for remedy as referred to in Article 82, the Labor Relations Commission concerned shall conduct a necessary investigation and inquiry of the persons involved without delay.
- (2) When conducting the inquiry as referred to in paragraph (1), the Labor Relations Commission may, at the request of any one of the parties concerned or ex officio, have a relevant witness appear before the Labor Relations Commission and ask questions on the pertinent matters.
- (3) In conducting the inquiry as referred to in paragraph (1), the Labor Relations

Commission shall give the parties concerned adequate opportunities to present evidence and to cross-examine a witness.

- (4) Procedures pertaining to the investigation and inquiry by the Labor Relations Commission as referred to in paragraph (1) shall be followed as separately stipulated by the National Labor Relations Commission.

Article 84 (Order of Remedy)

- (1) Upon judging that the employer has committed an unfair labor practice after completing the inquiry as referred to in Article 83, the Labor Relations Commission shall issue an order of remedy to the employer; otherwise, it shall make a decision to dismiss the application for remedy.
- (2) Judgments, orders, or decisions as referred to in paragraph (1) shall be made in writing and shall be delivered to the pertinent employer and the applicant.
- (3) When the order as referred to in paragraph (1) is issued, the parties concerned shall comply with it.

Article 85 (Finality of Order of Remedy)

- (1) Any of the parties challenging an order of remedy or the dismissal decision by the Regional Labor Relations Commission or by the Special Labor Relations Commission may make an application for review of said order or decision to the National Labor Relations Commission within ten days of the date of receiving the notice of order or decision.
- (2) Any of the parties concerned may institute an administrative suit in accordance with the Administrative Litigation Act against a decision on review by the National Labor Relations Commission under paragraph (1) within 15 days of the date of receiving the notice of the decision on review.
- (3) Unless an application for review or an administrative suit has been made within the period specified in paragraphs (1) and (2), the order of remedy, dismissal decision, or decision on review shall be final and binding.
- (4) When a dismissal decision or a decision on review as referred to in paragraph (3) is final and binding, the parties concerned shall comply with it.

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(5) When an employer has instituted an administrative suit pursuant to paragraph (2), the competent court may, by its decision at the request of the National Labor Relations Commission, order the employer to perform all or part of the order of remedy issued by the National Labor Relations Commission until the judgment of the court is rendered and may also, at the request of any of the parties concerned or ex officio, revoke such decision.

Article 86 (Effect of Order of Remedy, etc.)

The effect of an order of remedy, a dismissal decision, or a decision on review by the Labor Relations Commission shall not be suspended by an application for review to the National Labor Relations Commission or by the institution of an administrative suit as prescribed in Article 85.

06 Labor Relations Commission

► Meaning

- The Labor Relations Commission is an independent body composed of a panel of judges exercising a variety of rights including mediating industrial disputes and judging on cases of application for remedies for unfair labor practices and dismissal under the Trade Union and Labor Relations Adjustment Act.

► Types

① National Labor Relations Commission

- Handling appeals on decisions made by local/special labor relations commissions
- Handling cases for the mediation of industrial disputes involving areas over which two or more local labor relations commissions have competent jurisdiction

-
- Handling cases stipulated in laws other than the Trade Union and Labor Relations Adjustment Act as those falling under its competent jurisdiction

① Local Labor Relations Commissions

- Handling cases in areas under their respective competent jurisdiction

② Special Labor Relations Commissions

- Handling specific cases stipulated in the relevant laws as those falling under their respective competent jurisdiction

► Rights and obligations

① Rights

(a) Right of judgment

- Right of judgment in cases stipulated in the following laws: Labor Relations Commission Act; Trade Union and Labor Relations Adjustment Act; Labor Standards Act; Act on the Protection, etc. of Fixed-Term and Part-Time Employees

(b) Right of mediation

- Right of mediation, arbitration, and emergency mediation of industrial disputes

(c) Policy-related/Administrative right

- Right of recommendation of improvement in the terms and conditions of employment, for presentation of opinions, and for requesting for cooperation, etc.

(d) Rights concerning their business

- Right of investigation, reporting, and requiring attendance

② Obligations

- Confidentiality obligation, etc.

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| Labor Relations Commission Act |

Article 22 (Request for Assistance, etc.)

- (1) A Labor Relations Commission may request the relevant administrative agencies for assistance if deemed necessary to perform its functions, and said administrative agencies receiving such request shall comply therewith, except under extenuating circumstances.
- (2) A Labor Relations Commission may recommend that the relevant administrative agencies take the necessary measures to improve the working conditions.

[This Article Wholly Amended on Jan. 20, 2015]

Article 23 (Investigation Authority, etc. of the Commission)

- (1) If deemed necessary for performing its affairs, such as the verification of fact relevance with respect to affairs under its jurisdiction (excluding affairs falling under subparagraph 3) referred to in Article 2-2, a Labor Relations Commission may require workers, trade unions, employers, employers' association, and other relevant persons to attend, report, state, or submit the necessary documents or have the member or investigator designated by the chairperson of said Labor Relations Commission or the chairperson of a subcommittee investigate the business conditions, documents, and other articles of the business or workplace. <Amended on Jan. 27, 2016>
- (2) The member or investigator conducting an investigation pursuant to paragraph (1) shall present a certificate verifying his/her authority to the related persons.
- (3) When the presence of any person other than the relevant parties is deemed necessary pursuant to paragraph (1), each Labor Relations Commission shall compensate him/her for expenses incurred in relation to attendance at the Commission as prescribed by the Presidential Decree.
- (4) A Labor Relations Commission shall serve the other party a copy of a written request submitted by an applicant of any case referred to for adjudication

or a case for correction of differential treatment and subsequently have the other party submit a written defense.

- (5) A Labor Relations Commission shall serve the applicant, without delay, a copy of the written defense submitted by the other party pursuant to paragraph (4).

[This Article Wholly Amended on Jan. 20, 2015]

Article 24 (Instruction Authority, etc. of the National Labor Relations Commission)

The National Labor Relations Commission may give the necessary instructions concerning the basic policies on the performance of functions and duties of said Commission and the interpretation of Acts and subordinate statutes to a Regional Labor Relations Commission or a Special Labor Relations Commission.

[This Article Wholly Amended on Jan. 20, 2015]

Article 25 (Rule-making Authority of the National Labor Relations Commission)

The National Labor Relations Commission may establish rules pertaining to its operation or that of the Regional Labor Relations Commissions or Special Labor Relations Commissions, methods for designating cases to be handled by the subcommittees of a Labor Relations Commission, methods for designating cases to be handled by the investigators, and other matters necessary for the operation of all of the abovementioned Labor Relations Commissions.

[This Article Wholly Amended on Jan. 20, 2015]

Article 26 (Review Authority of the National Labor Relations Commission)

- (1) The National Labor Relations Commission may, if requested by the party subject to any disposition taken by a Regional Labor Relations Commission or a Special Labor Relations Commission, review the disposition, and then verify, cancel, or modify it.

- (2) A request under paragraph (1) shall be made within ten days of the date a notice of the relevant disposition taken by a Regional Labor Relations Commission or a Special Labor Relations Commission is served to the relevant party, except as expressly provided for otherwise by any related Act

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or subordinate statute.

(3) The period referred to in paragraph (2) shall be an invariable period.

[This Article Wholly Amended on Jan. 20, 2015]

Article 27 (Lawsuits Against Measures Taken by the National Labor Relations Commission)

(1) A lawsuit regarding any disposition taken by the National Labor Relations Commission shall be instituted against the chairperson of the National Labor Relations Commission within 15 days of the date the notification of the disposition is served.

(2) No effect of any disposition shall be suspended on grounds of the institution of a lawsuit under this Act.

(3) The period referred to in paragraph (1) shall be an invariable period.

[This Article Wholly Amended on Jan. 20, 2015]



04 Collaborative Labor Relations and Social Agreement

01 Labor-management council

► Meaning

- The "labor-management council" is a body operated with the participation of workers and employer for mutual discussion and joint decisions on management-related matters.

| Comparison between labor-management council and collective bargaining |

	Labor-management council	Collective bargaining
Legal basis	Act on the Promotion of Workers' Participation and Cooperation	Trade Union and Labor Relations Adjustment Act
Purpose	Enhancement of productivity, promotion of workers' welfare, promotion of interests of both workers and employer	Maintenance/Improvement of terms/conditions of employment
Representativeness	Representing all workers	Representing trade union members
Parties	Those representing the workers and the employer	Trade union and employers (or employers' association)
Relevant activities	Employer's report on the status of corporate management; discussion on pending issues	Signing of a collective agreement through collective bargaining
Industrial actions	No industrial actions	Failure in bargaining may lead to industrial actions

► Establishment of the Council

- A business with 30 regular workers or more should establish a labor-management council.
- ② Notice of establishment ➔ ③ Launch of the preparatory committee ➔ ④ Appointment or election of members ➔ ⑤ Enactment of its regulations and submittal of the report

Collaborative Labor Relations and Social Agreement

► Composition

- Composed of an equal number of members representing the workers and the employer
- At least three, but not more than 10 on each side

► Labor-management council regulations

- An employer should enact basic regulations for the organization and operation of the labor-management council and submit a copy to the Minister of Employment and Labor within 15 days of the establishment of the council.
- In the event of a change in said regulations, a copy should be submitted within 15 days.

* The enactment and change of the council regulations requires the Council's approval.

| Matters to be included in the council regulations |

- ❶ Number of members
- ❷ Procedure for the election of members representing workers and registration of candidates
- ❸ Qualification of members representing the employer
- ❹ Hours spent by Council members on Council-related business but regarded as normal hours of work for the employee
- ❺ Matters concerning the convening of Council meetings and operation of the Council
- ❻ Method/Procedure for voluntary arbitration
- ❼ Number of grievance committee members; matters concerning the handling of grievances

► Operation

- Council meetings held regularly (every three months)
- Extraordinary sessions held as needed

► Matters handled by the Council

- Matters for reporting, consultation and resolution

| Matters for reporting, consultation and resolution |

	Matters for reporting	Matters for consultation	Matters for resolution
Category	<ul style="list-style-type: none"> • Management information (on the employer's side) • Workers' demand (on the workers' side) 	<ul style="list-style-type: none"> • Productivity enhancement • Work/Personnel affairs-related systems • Grievance settlement; welfare promotion 	<ul style="list-style-type: none"> • Education/Training; capability development plan • Welfare facilities/ fund • Labor-management joint organizations
Obligations	<ul style="list-style-type: none"> • Employer members' obligation to report • Worker members' right to request the submission of materials 	<ul style="list-style-type: none"> • Obligation to act in good faith • Decisions to be made as per labor-management consent or Council regulations 	<ul style="list-style-type: none"> • Council's obligation to reach resolution
Major contents	<ul style="list-style-type: none"> • Management plan and results • Production plan and results • Human resources plan • Business's economic/ financial status 	<ul style="list-style-type: none"> • Productivity improvement; result allocation • Hiring/Placement/ Education/ Training • Grievance settlement; surveillance facilities 	<ul style="list-style-type: none"> • Education/ Training/ Capability development plan • Welfare facilities installation/ management • Launch of in-house welfare fund



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Major contents	<ul style="list-style-type: none">Workers' demand (on the workers' side)	<ul style="list-style-type: none">Safety/Health/Work environmentPersonnel affairs/Labor systemsWork systems/rulesNew technologies/Work process improvementStock sharing for employees' inventionWelfare promotionMaternity protection; work-life balanceOther matters requiring both sides' cooperation	<ul style="list-style-type: none">Settlement of grievances left unsettledOperation of the labor-management joint committeeSettlement of grievances left unsettledOperation of the labor-management joint committee
Penalty for violation	<ul style="list-style-type: none">Failure to comply with worker members' request for submission of materials: Fine amounting to not more than KRW 5 million	<ul style="list-style-type: none">Failure to comply with decision: Fine amounting to not more than KRW 10 million	<ul style="list-style-type: none">Failure to comply with resolution: Fine amounting to not more than KRW 10 million

► Employer's obligations

- No unfair intervention in the election of worker members
 - Provision of convenience to worker members' activities
- ※ Grievance settlement
- A business or a workplace with 30 or more regular workers should operate the grievance handling committee.
 - Composed of not more than three members each representing the workers and the employer
 - In a business with a labor-management council, the council should select members of the grievance handling committee from among its members. In a business that does not have a council, the employer should appoint the members.

| Act on the Promotion of Workers' Participation and Cooperation |

Article 4 (Establishment of Labor-Management Council)

- (1) A labor-management council (hereinafter referred to as a "council") vested with the right to decide the working conditions shall be established at each business or workplace. Note, however, that this shall not apply to any business or workplace employing less than 30 people on a regular basis.
- (2) In cases wherein a business has any workplace located in a different region, a council may be established at such workplace as well.

[This Article Wholly Amended on Dec. 27, 2007]

Article 6 (Composition of the Council)

- (1) A council shall be composed of the same number of members representing the workers and employers, which shall be at least three but not more than ten persons each.
- (2) Members representing workers (hereinafter referred to as "worker members") shall be elected by workers; if a trade union composed of majority of workers is available, they shall be the representative of the trade union and persons commissioned by said trade union.
- (3) Members representing the employer (hereinafter referred to as "employer



Collaborative Labor Relations and Social Agreement

members") shall be the representative of the business or workplace concerned and persons commissioned by such representative.

- (4) The necessary matters concerning the election and commissioning of worker members or employer members shall be prescribed by the Presidential Decree.

[This Article Wholly Amended on Dec. 27, 2007]

Article 10 (Duty of Employer)

- (1) An employer shall neither intervene in nor interfere with the election of worker members.
- (2) An employer shall offer basic convenience such as use of a place for the activities of worker members.

[This Article Wholly Amended on Dec. 27, 2007]

Article 11 (Order of Correction)

Where an employer takes an unfavorable disposition against a worker member in violation of Article 9 (2) or intervenes in or interferes with the election of a worker member in violation of Article 10 (1), the Minister of Employment and Labor may issue an order to correct such violation. <Amended on Jun. 4, 2010>

[This Article Wholly Amended on Dec. 27, 2007]

Article 12 (Meetings)

- (1) A council shall hold meetings regularly every three months.
- (2) A council may, if deemed necessary, hold an extraordinary meeting.

[This Article Wholly Amended on Dec. 27, 2007]

Article 20 (Matters for Consultation)

- (1) Matters requiring consultation by a council shall be any of the following subparagraphs: <Amended on Apr. 16, 2019>
1. Improvement of productivity and distribution of results achieved;
 2. Recruitment, placement, education, and training of workers;

-
- 3. Settlement of workers' grievances;
 - 4. Safety, health, and improvement of other working environment, promotion of workers' health;
 - 5. Improvement of personnel and labor management systems;
 - 6. Adjustment of general employment rules, such as manpower transposition, retraining, and dismissal for managerial or technological reasons;
 - 7. Administration of work hours and break times;
 - 8. Improvement of systems for payment mode, system, structure, etc. of remuneration;
 - 9. Introduction of new machinery and technologies, improvement of work processes;
 - 10. Establishment or amendment of work rules;
 - 11. Employee stock ownership plan and other assistance to increase workers' property;
 - 12. Matters on remuneration to the relevant worker for an employee invention, etc.;
 - 13. Improvement of workers' welfare;
 - 14. Installation of surveillance equipment for workers within a workplace;
 - 15. Protection of motherhood for women workers and matters to help balance work and home life; and
 - 16. Other matters regarding cooperation between labor and management.
- (2) A council may pass resolutions as to matters falling under any subparagraph of paragraph (1) in accordance with a quorum referred to in Article 15.

[This Article Wholly Amended on Dec. 27, 2007]

[This Article has replaced Article 20. The existing Article 20 has been replaced with Article 21 <Dec. 27, 2007>]

Article 21 (Matters for Resolution)

With respect to matters falling under any of the following subparagraphs, an employer shall require resolution by the council:

- 1. Establishment of a basic plan for education and training and capability development of workers;



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2. Establishment and management of welfare facilities;
3. Establishment of an in-house employee welfare fund;
4. Matters that are not resolved by the grievance handling committee; and
5. Establishment of various labor-management joint committees.

[This Article Wholly Amended on Dec. 27, 2007]

[This Article has replaced Article 20. The existing Article 21 has been replaced with Article 22 <Dec. 27, 2007>]

Article 22 (Matters for Reporting, etc.)

- (1) An employer shall report or explain in good faith matters falling under any one of the following subparagraphs at a regular meeting:
 1. Matters concerning overall management plans and actual results;
 2. Matters concerning quarterly production plans and actual results;
 3. Matters concerning manpower plans; and
 4. Economic and financial conditions of the enterprise.
- (2) Worker members may report and explain the workers' demands.
- (3) In cases wherein an employer fails to report or explain matters under paragraph (1), worker members may require the employer to submit material falling under any subparagraph of the same paragraph, and the employer shall comply with such in good faith.

[This Article Wholly Amended on Dec. 27, 2007]

[This Article has replaced Article 21. The existing Article 22 has been replaced with Article 23 <Dec. 27, 2007>]

Article 26 (Grievance Handling Committee)

Every business or workplace shall have a grievance handling committee to hear and handle workers' grievances. Note, however, that this shall not apply to a business or a workplace employing less than 30 persons on a regular basis.

[This Article Wholly Amended on Dec. 27, 2007]

[This Article has replaced Article 25. The existing Article 26 has been replaced with Article 27 <Dec. 27, 2007>]

Article 27 (Composition of the Grievance Handling Committee and Term of Office)

- (1) A grievance handling committee shall be composed of not more than three members each representing labor and management. For a business or a workplace where a council is established, the council shall elect such members from among its members. For a business or a workplace where no council is established, however, the employer shall commission them.
- (2) Article 8, which stipulates the term of office of council members, shall apply mutatis mutandis to the term of office of grievance handling committee members.

[This Article Wholly Amended on Dec. 27, 2007]

[This Article has replaced Article 25. The existing Article 27 has been replaced with Article 28 <Dec. 27, 2007>]





Collaborative Labor Relations and Social Agreement

02 Presidential Committee on Economic, Social, and Labor Matters

► Role and purpose

- The committee was launched for the government and economic/social key actors including workers and employers to discuss employment and labor policies and economic and social policies related to them and respond to the President's request for consultation based on mutual trust and cooperation.
- The purpose of the committee is to contribute to the balanced development of the national economy by eliminating social polarization and pursuing social integration.

► Composition

- Chairperson
- 1 standing member
- 5 members representing workers
- 5 members representing employers
- 2 members representing the government (i.e. Minister of Strategy and Finance and Minister of Employment and Labor)
- 4 members representing the public good

► Status and function

① Status

- A presidential body

② Function

- Functioning as a consultative body for matters pertaining to:
 - (a) Employment and labor policies and related economic, industrial, welfare and social policies
 - (b) Improvement of systems, awareness, and practices for enhancement of labor-management relations
 - (c) Support for programs designed for the promotion of cooperation among key economic/social actors including workers and employers
 - (d) The President's need for consultation

05 Four Major Insurances

01 Employment insurance

▶ Purpose

- To contribute to economic/social development through the prevention of unemployment, promotion of employment, development of workers' vocational abilities, stabilization of livelihood of the unemployed, support for their reemployment, etc.

▶ Scope of application

- Applied to all businesses or workplaces using workers

▶ Acquisition of status as the insured

- The insured status is acquired on the day one is hired by a workplace subject to the Employment Insurance Act

▶ Report of the status of the insured

- A business owner should report to the Minister of Employment and Labor matters concerning the acquisition/loss of the insured status by the workers he/she hired.

▶ Confirmation of resignation

- A business owner should submit a worker's confirmation of resignation to the Minister of Employment and Labor including the following information when reporting on the worker's loss of status as the insured : ① period of insurance, ② reason for resignation, ③ statement of pre-severance wage, severance pay.



05 Four Major Insurances

| Support provided by employment insurance |

- Payment of unemployment allowance
 - Provided to workers who lost their jobs for a given period of time for the stabilization of their livelihood and to help them find new jobs
- Support for employment stabilization and promotion
 - Provision of support for a business owner striving to increase the number of workers
- Support for employee training expenses
 - Shouldering of part of the vocational training expenses paid by a business owner and provision of support for workers receiving vocational training for self-development

02 Industrial disaster insurance

► How it works

- The government provides coverage for injured or deceased workers with the fund raised through the collection of insurance premium from business owners
- Helping victims of work-related disasters with treatment and livelihood; helping them return to work sooner; alleviating business owners' financial burden

► Scope of application

- Applied to all businesses or workplaces using workers

► Insurance subscribers

- Business owners (corporation or representative)

► Payment of insurance benefit

- Paid upon the occurrence of a work-related disaster (injury, disease, disability, or death)

▶ Types of insurance benefits

- ① Medical care expense, ② shutdown benefit, ③ disability benefit, ④ personal care benefit, ⑤ bereaved family's benefit, ⑥ injury and disease compensation pension, ⑦ funeral expense, ⑧ vocational rehabilitation benefit

03 National health insurance

▶ Purpose

- To protect workers from high or unexpected healthcare expenses associated with disease or injury. Workers pay insurance premium, and then get paid insurance benefits when necessary. Health insurance helps people share risks and get medical services when necessary.

▶ Scope of application

- Korean nationals who reside within Korea shall become the insured of the health insurance or their dependants

▶ Report of workplace

- Once a worker becomes an insured employee, the employer should report it to the National Health Insurance Corporation (NHIC) within 14 days.

▶ Insurance benefits

- Provided in the form of cash or goods as stipulated in the law for the prevention, diagnosis, and treatment of disease or injury of subscribers and their dependents or their rehabilitation, childbirth, death, and health promotion

▶ Co-payment, non-benefit items

- Co-payment: Article 19 (1), Enforcement Decree of the National Health Insurance Act
- Non-benefit items: Article 9 (1), Rules on the Criteria for Costs of Healthcare Benefits of National Health Insurance

05 Four Major Insurances

| **Ipsso facto health insurance subscription by foreigners and Koreans residing in a foreign country |**

- **Eligibility**
 - Foreigners and Korean residents abroad who have been residing in the country for six months or longer
- **Subscription procedure**
 - Application is not required – the NHIC automatically registers eligible subscribers
- **Insurance premium, insurance benefits**
 - (Insurance premium) Calculated for individual households according to their income, property, etc.
 - (Insurance benefits) The same insurance benefits are given as Koreans
- **Disadvantages imposed for delay in payment of insurance premium**
 - Restriction on health insurance benefits
 - Restriction on granting status of sojourn in the country when applying for visa extension, etc.

04 National pension

► Purpose

- To contribute to the promotion of stable livelihood and welfare of the public by providing pension benefits for old age, disability, or death

► Features

- Subscription is required for all people
- Contribution to social integration through income redistribution
- The government guarantees pension payment
- A variety of benefits like old-age pension, disability pension, survivor pension, etc.
- Pension amount readjusted each year according to the fluctuation rate of consumer price index

▶ Those who should subscribe

- (Workplace-based insured persons) All employers and workers in workplaces regardless of nationality or any foreign institution in the country with at least one Korean worker
- (Individually insured persons) All people residing in the country in the age range of 18 to 59 as those who are not workplace-based insured persons

| Foreign subscribers |

- Workplace-based insured persons
 - Non-Korean employers or workers in the age range of 18 to 59 as those working in workplaces subject to national pension
 - Individually insured persons
 - All non-Koreans in the age range of 18 to 59 residing in the country and who are not workplace-based insured persons
 - Those excluded from subscription
 - Trainees (except for those in training employment), students, diplomats, etc., who are relieved of the obligation to subscribe to national pension under the law
 - Those from a country where Koreans are not obligated to subscribe to a national pension system similar to that adopted in Korea
 - Workers who have submitted a certificate for subscription to a national pension scheme in their home country, which has signed a social security agreement with Korea
- * Please check whether you should subscribe to the Korean national pension scheme with regard to your home country and status of sojourn in Korea at the homepage of the National Pension Service (NPS).

▶ Insurance benefits

- Old-age, disability, survivor pension, etc.

05 Four Major Insurances

| Types of pension payments |

Pension (paid monthly)		Pension (paid as a lump sum)	
Old-age pension	Benefit paid as old-age income supplement as the basis of national pension payment	Lump sum refund	Amount of contributions paid plus interest returned to the insured, where he/she cannot receive the monthly pension
Disability pension	Benefit paid as income supplement for the disabled	Lump sum refund	Amount paid as part of economic mutual aid or compensation, where the insured cannot receive survivor pension in the form of lump-sum refund
Bereaved family pension	Benefit paid to the bereaved family of the insured to protect their livelihood	Lump sum death payment	

► Pension paid to foreigners

- Foreigners enjoying the same status as Koreans may receive pension as per the National Pension Act.
- Foreigners leaving Korea may receive a lump-sum refund upon their departure.

| Conditions for the payment of lump-sum refund to foreign pension subscribers |

- Their home country makes similar pension payment to the Koreans residing there.
- Their home country has signed a social security agreement for lump-sum refund with Korea.
- Their subscription to the Korean national pension scheme under the status of sojourn such as E-8 (training employment), E-9 (non-professional employment), or H-2 (working visit) in attached Table 1 of the Enforcement Decree of the Immigration Act.

※ Please check whether you are eligible for lump-sum refund at the homepage of the National Pension Service (NPS).

| Four major insurances |

	National Pension	Health Insurance	Employment Insurance	Industrial Disaster Insurance
Ipsso facto application (where subscription is statutory)	<ul style="list-style-type: none"> All workplaces with at least one worker A foreign institution such as an embassy using at least one Korean worker 	<ul style="list-style-type: none"> All workplaces with at least one worker A workplace using a public official and a faculty member 	<ul style="list-style-type: none"> All businesses/ workplaces using workers <p>※ A non-corporation engaging in agriculture, forestry, or fishery and using 5 or more workers</p>	<ul style="list-style-type: none"> All businesses/ workplaces using workers <p>※ A non-corporation engaging in agriculture, forestry, or fishery and using 5 or more workers</p>
Foreigners	<p>Eligibility: age range of 18 to 59</p> <ul style="list-style-type: none"> Check whether the home country has signed a social security agreement with Korea 	<p>Eligibility</p> <ul style="list-style-type: none"> Ipsso facto subscription: Foreigners staying in the country for 6 months or longer (as from Jul. 16, 2019) 	<p>Eligibility for subscription to be determined according to the status of sojourn. For example, D-8 (corporate/foreign investor) is granted on a reciprocal basis</p>	Eligible
Portions to be borne by the employer (Jan. 2020)	<p>Monthly income × 9% (Workers: 4.5%, Employer: 4.5%) (the amount under KRW 1,000 is rounded off.)</p>	<p>Monthly income × 6.67% (Workers: 3.335%, Employer: 3.335%)</p>	<p>① Amount borne for unemployment allowance : Monthly wage × 0.8% (workers), 0.8% (employer)</p>	

05 Four Major Insurances

Portion borne by employer (Jan.2020)	<p><Monthly income></p> <p>: The scope of monthly income is defined separately – the amount calculated by dividing the amount of goods and remuneration received during the relevant year by the number of months of service</p> <p>* Long-term care insurance premium: Health insurance premium × 10.25% (Workers: 50%, Employer: 50%)</p>		<p>② Amount borne by employers for employment stabilization, vocational ability development programs</p> <table border="1"> <thead> <tr> <th>Workers (no.)</th><th>Portion</th></tr> </thead> <tbody> <tr> <td>Less than 150</td><td>0.25%</td></tr> <tr> <td>150 or more (businesses eligible for priority support*)</td><td>0.45%</td></tr> <tr> <td>150-999</td><td>0.65%</td></tr> <tr> <td>1,000 or more, State/local govnts</td><td>0.85%</td></tr> </tbody> </table> <p>* Businesses eligible for priority support : Manufacturing with 500 workers or less, mining with 300 workers or less, construction with 300 workers or less, transportation/warehouse/communications with 300 workers or less, others with 100 workers or less</p>	Workers (no.)	Portion	Less than 150	0.25%	150 or more (businesses eligible for priority support*)	0.45%	150-999	0.65%	1,000 or more, State/local govnts	0.85%	<ul style="list-style-type: none"> • Applied based on the 'examples of industrial disaster insurance premium rate classified by types of business' • The result of the following is posted at the end of each year (and applied): segmented insurance premium for each type of business classified in light of the risks of disaster occurrence based on the ratio of total insurance benefits against the total remuneration amount over the past 3 years as of June 30 every year.
Workers (no.)	Portion													
Less than 150	0.25%													
150 or more (businesses eligible for priority support*)	0.45%													
150-999	0.65%													
1,000 or more, State/local govnts	0.85%													
Authority	NPS	NHIC	COMWEL											

06 Others

01 Prohibition and prevention of sexual harassment in the workplace

▶ Prohibition of sexual harassment

- No business owner, supervisor, or worker shall engage in sexual harassment within the workplace.

▶ Education on sexual harassment prevention

- (Frequency) At least once a year
- (Target) Business owner and workers
- (Contents) ② Sexual harassment-related laws, ⑤ Steps to be taken in the event of sexual harassment, ③ Provision of consulting to sexual harassment victims; steps taken for remedies, ④ Punitive measures against sexual harassment perpetrators, ⑥ Matters required for the prevention of sexual harassment in the workplace
- (Methods) ② Face-to-face education, ⑤ Internet-based education (progress tracking, test, Q&A, etc.)
- (Entrustment of education) An employer may entrust the education on the prevention of sexual harassment to an institution designated by the Minister of Employment and Labor.
- (Evidence) Evidentiary materials like journal and list of attendees should be kept.
- (Business owner's obligation) To post the education contents in places easily accessible to the workers

▶ What a business owner needs to do in the event of sexual harassment

- Immediately launch a fact-finding investigation
- Take measures such as change of workplace or ordering of paid leave, etc. during the investigation for the protection of victims
- Where sexual harassment within the workplace is confirmed, take the following measures:
 - ② Take measures such as change of workplace, transfer to other assignments, ordering of paid leave, etc. at the victim's request
 - ⑤ Take disciplinary measures against the perpetrator such as imposing

06 Others

punishment or change of workplace

- No unfavorable treatment (dismissal or the like) should be given against the whistleblower or victim

| Act on Equal Employment Opportunity and Work-Family Balance Assistance Act |

Article 12 (Prohibition of Sexual Harassment on the Job)

No employer, superior, or employee shall commit sexual harassment on the job against another employee.

[This Article Wholly Amended on Dec. 21, 2007]

Article 13 (Education, etc. on the Prevention of Sexual Harassment in the Workplace)

- (1) An employer shall conduct education on the prevention of sexual harassment in the workplace (hereinafter referred to as "sexual harassment prevention education") every year in order to prevent sexual harassment in the workplace and to create the given conditions wherein its employees may work in a safe working environment. <Amended on Nov. 28, 2017>
- (2) An employer and an employee shall receive sexual harassment prevention education pursuant to paragraph (1). <Newly Inserted on Jan. 14, 2014>
- (3) An employer shall keep its employees posted on the details of sexual harassment prevention education by always posting or making notices thereof in conspicuous places where employees have ready access to them. <Newly Inserted on Nov. 28, 2017>
- (4) An employer shall take measures to prevent and prohibit sexual harassment in the workplace in accordance with the standards prescribed by the Ordinance of the Ministry of Employment and Labor. <Newly Inserted on Nov. 28, 2017>
- (5) The necessary matters concerning the details, methods, frequency, etc. of sexual harassment prevention education pursuant to paragraphs (1) and (2)

shall be prescribed by the Presidential Decree. <Amended on Jan. 14, 2014; Nov. 28, 2017>

[This Article Wholly Amended on Dec. 21, 2007]

[This Title Wholly Amended on Nov. 28, 2017]

Article 13-2 (Entrustment of Sexual Harassment Prevention Education)

- (1) The employer may conduct sexual harassment prevention education by entrusting such education to the institution designated by the Minister of Employment and Labor (hereinafter referred to as "institution for sexual harassment prevention education"). <Amended on Jun. 4, 2010>
- (2) When intending to provide sexual harassment prevention education by entrusting such to an institution for sexual harassment prevention education, an employer shall notify such institution in advance of matters prescribed by the Presidential Decree pursuant to Article 13 (5) to ensure that such matters are included in the preventive education. <Newly Inserted on Nov. 28, 2017>
- (3) An institution for sexual harassment prevention education shall be designated from among the institutions set forth in the Ordinance of the Ministry of Employment and Labor, and it shall have at least one lecturer specified in the Ordinance of the Ministry of Employment and Labor. <Amended on Jun. 4, 2010; Nov. 28, 2017>
- (4) An institution for sexual harassment prevention education shall conduct education as prescribed by the Ordinance of the Ministry of Employment and Labor, keep data related to the execution of education such as completion certificate of education or list of persons completing education, and deliver such data to employers or persons undergoing education. <Amended on Jun. 4, 2010; Nov. 28, 2017>
- (5) The Minister of Employment and Labor may cancel the relevant designation where an institution for sexual harassment prevention education falls under any of the following: <Amended on Jun. 4, 2010; Nov. 28, 2017>
 1. Where it has obtained the designation by deception or other fraudulent means;

06 Others

2. Where it has failed to employ a lecturer under paragraph (3) for at least three consecutive months without any justifiable reason;
 3. Where it has failed to conduct sexual harassment prevention education in the workplace for two years.
- (6) In order to cancel the designation of an institution for sexual harassment prevention education pursuant to paragraph (5), the Minister of Employment and Labor shall hold a hearing. <Newly Inserted on May 20, 2014; Nov. 18, 2017>

[This Article Wholly Amended on Dec. 21, 2007]

Article 14 (Measures When Sexual Harassment Occurs in the Workplace)

- (1) Where any person becomes aware of the fact that sexual harassment has occurred in the workplace, he/she may report such fact to the relevant employer.
- (2) Upon receiving a report under paragraph (1) or becoming aware of the fact that sexual harassment has occurred in the workplace, an employer shall immediately conduct an investigation to verify whether sexual harassment has occurred in the workplace. In such cases, the employer shall give consideration to the employee who suffered sexual harassment in the workplace or who alleges such (hereinafter referred to as "victimized employee") to avoid having him/her feel sexual shame, etc. in the course of any investigation.
- (3) Where it is necessary to protect a victimized employee during the period of investigation under paragraph (2), an employer shall take appropriate measures, such as change of the place where the victimized employee works or issuance of an order to have the victimized employee take a paid leave of absence. In such cases, no employer shall take measures against the wishes of the victimized employee.
- (4) Where the investigation under paragraph (2) finds that sexual harassment has occurred in the workplace, its employer shall take the necessary measures such as change of the place where the victimized employee works,

redeployment, and issuance of an order to have the victimized employee take a paid leave of absence, if requested by the victimized employee.

- (5) Where the investigation under paragraph (2) finds that sexual harassment has occurred in the workplace, its employer shall immediately take the necessary measures against the perpetrator, such as disciplinary punishment or change of the place where the perpetrator works. In such cases, the employer shall hear the opinions of the victimized employee on the measure, such as disciplinary punishment, before implementing it.
- (6) No employer shall subject an employee who reports the occurrence of sexual harassment or a victimized employee to any of the following disadvantageous treatments:
 1. Dismissal, removal from office, discharge, or any other disadvantageous treatment corresponding to the loss of status;
 2. Inappropriate personnel actions, such as disciplinary punishment, suspension from office, salary reduction, demotion, or restrictions on promotion;
 3. Failure to assign duties, reassignment of duties, or any other personnel actions against the wishes of the relevant person;
 4. Discrimination in performance evaluations or peer review, or differential payment of wages, bonuses, etc. following such discrimination;
 5. Restrictions on opportunities for education and training for the development and improvement of vocational skills;
 6. Engagement in any act of causing mental or physical harm, such as group harassment, assault, or verbal abuse or non-action on the occurrence of such act;
 7. Any other disadvantageous treatment against the wishes of the employee who reports the occurrence of sexual harassment or the victimized employee.
- (7) No person who investigates the occurrence of sexual harassment in the workplace pursuant to paragraph (2), who receives a report on the details of investigation, or who participates in investigating the sexual harassment case shall divulge confidential information he/she obtains in the course of the relevant investigation to others against the wishes of a victimized employee. Note, however, that the foregoing shall not apply where he/she

06 Others

reports matters related to the investigation to his/her employer or provides the necessary information at the request of a related agency.

[This Article Wholly Amended on Nov. 28, 2017]

Article 14-2 (Prevention of Sexual Harassment by Clients, etc.)

- (1) Where any person closely related to the duties, such as a client, causes an employee to feel sexual humiliation or repulsion through sexual words, actions, etc. during the performance of his/her duties, and such employee requests the resolution of the grievance thereby, his/her employer shall take appropriate measures such as changing his/her place of work, redeploying, or granting a paid leave of absence <Amended on Nov. 28, 2017>
- (2) No employer shall dismiss, or take any other disadvantageous measures against, an employee for claiming to have suffered damage under paragraph (1) or disregarding sexual demands from clients, etc.

[This Article Newly Inserted on Dec. 21, 2007]



02 Prohibition of workplace harrassment

▶ Meaning

- No employer or employee shall cause physical or mental suffering to other employees or cause the deterioration of the work environment beyond the appropriate scope of work by taking advantage of superiority in rank, relationship, etc. in the workplace (Article 76-2, Labor Standards Act).

▶ What employers should do in the event of workplace harrassment

- Immediately launch a fact-finding investigation
- Take steps to protect victims during the investigation (e.g. changing the workplace, allowing paid leave)
- Where workplace harrassment is confirmed
 - ④ Take measures such as change of workplace, transfer to other assignments, granting paid leave, etc. at the victim's request
 - ⑤ Take disciplinary measures against the perpetrator such as imposing punishment or change of workplace
- No unfavorable treatment (dismissal or the like) should be given against the whistleblower or victims

▶ Obligations to be stipulated in the employment rules

- Need to prevent workplace harrassment and steps taken in the event of occurrence of such

▶ Work-related illness

- Mental stress caused by workplace harrassment shall be included in work-related diseases

Article 76-2 (Prohibition Against Workplace Harassment)

No employer or employee shall cause physical or mental suffering to other employees or cause a deterioration of the work environment beyond

06 Others

the appropriate scope of work by taking advantage of superiority in rank, relationship, etc. in the workplace (hereinafter referred to as "workplace harassment").

[This Article Newly Inserted on Jan. 15, 2019]

Article 76-3 (Measures to be Taken in Case of Workplace Harassment)

- (1) Anyone who has discovered the occurrence of workplace harassment may report such fact to the employer.
- (2) Upon receiving a report under paragraph (1) or becoming aware of the occurrence of workplace harassment, an employer shall investigate the case without delay to ascertain the fact.
- (3) Where necessary to protect an employee who suffers or who claims to be suffering from workplace harassment (hereinafter referred to as "victimized employee") while the investigation under paragraph (2) is conducted, the employer shall take appropriate measures for the victimized employee, such as transferring him/her to another place of work or ordering him/her to take a paid leave of absence. In such cases, the employer shall not take measures contrary to the will of the victimized employee.
- (4) Where the occurrence of workplace harassment is verified as a result of the investigation under paragraph (2), the employer shall take appropriate measures for the victimized employee, such as transferring him/her to another place of work, giving him/her lateral transfer, or ordering him/her to take a paid leave of absence if requested by the victimized employee.
- (5) Where the occurrence of workplace harassment is verified as a result of the investigation under paragraph (2), the employer shall take the necessary measures without delay, such as taking disciplinary measures against the perpetrator or transferring him/her to another place of work. In such case, before taking disciplinary measures, etc., the employer shall hear the opinions of the victimized employee on such measures.
- (6) No employer shall dismiss an employee who reports the occurrence of workplace harassment or the victimized employee or treat him/her unfavorably.

[This Article Newly Inserted on Jan. 15, 2019]

03 Hiring of the handicapped and those distinguished service to the state

► Obligation to employ the disabled (Article 28 (1), Act on the Employment Promotion and Vocational Rehabilitation of Disabled Persons)

- A business owner with 50 or more regular workers should employ the disabled at the ratio prescribed by Presidential Decree (mandatory employment rate*) within five percent of the total number of employees.
* Mandatory employment rate: 3.1 percent
- A business owner who fails to meet the mandatory rate for employment shall pay a contributory charge to the Minister of Employment and Labor each year (Article 33 (1), the above Act)
: Not applicable to a business owner with at least 50 but less than 100 regular workers

| Disabled employment-related contributory charge: to be applied from Jan. 01, 2020 to Dec. 31, 2020 |

- Calculation of the monthly contributory charge
 - Number of the disabled that the employer is unable to employ as per the mandatory rate × Basic amount to be borne as per the mandatory rate plus additional amount
- Basic amount to be borne : KRW 1,078,000
 - Applies to a business satisfying at least three-quarters of the mandatory employment rate.
- Additional amount on top of the basic amount to be borne as per the rate of employment of the disabled

06 Others

Rate of the disabled as per the mandatory employment rate

At least 1/2, but less than 3/4	At least 1/4, but less than 1/2	Less than 1/4	Not a single disabled employed
KRW 1,142,680	KRW 1,293,600	KRW 1,509,200	KRW 1,795,310

► Mandatory employment of persons who have rendered distinguished services to the state (Article 33-2 (1), Act on the Honorable Treatment of and Support for Persons, etc. Who have Rendered Distinguished Services to the State)

- (Applicability) Public/private businesses or public/private organizations hiring at least 20 people a day
- (Details) Those prescribed by Presidential Decree are required to employ persons who have rendered distinguished services to the state among the job applicants in the range of 3-8 percent of all employees. The percentage of those thus employed should be higher than the mandatory employment rate.*

| Act on the Employment Promotion and Vocational Rehabilitation of Disabled Persons |

Article 28 (Business Owners' Obligation to Employ Persons with Disabilities)

- (1) Any business owner who regularly employs at least fifty employees (or a business owner who has performed construction works whose amount is equivalent to at least that prescribed and publicly announced by the Minister of Employment and Labor, where it is impracticable to ascertain the number of employees in the construction works) shall employ persons with disabilities to fill at least the ratio (where such number has a fraction or a

portion below the decimal point, such fraction or portion shall be rounded off) set by the Presidential Decree (hereinafter referred to as "mandatory employment rate") within up to five percent of the total number of employees (if it is impracticable to ascertain the total number of employees in the construction business, the total number of employees shall be calculated by converting the amount of construction works performed as prescribed by the Presidential Decree). <Amended on Jun. 4, 2010>

- (2) Notwithstanding paragraph (1), the mandatory rate for the employment of persons with disabilities may be prescribed separately by the Presidential Decree for a certain job category deemed fit for specific abilities of persons with disabilities. In such cases, such rate shall not be deemed the mandatory employment rate.
- (3) The mandatory employment rate shall be determined every five years considering the ratio of persons with disabilities to the total population, ratio of employees with disabilities to the total number of employees, number of unemployed persons with disabilities, etc.
- (4) The necessary matters concerning the calculation of the number of regularly employed employees and the amount of construction works performed in the construction business under paragraph (1) shall be prescribed by the Presidential Decree.

Article 29 (Establishment, etc. of Plan for the Employment of Persons with Disabilities by Business Owners)

- (1) The Minister of Employment and Labor may order business owners to prepare and submit a plan for the employment of persons with disabilities and the report on the record of implementation status thereof as prescribed by the Presidential Decree. <Amended on Jun. 4, 2010>
- (2) The Minister of Employment and Labor may, upon finding that the plan submitted in accordance with paragraph (1) is inadequate, order the business owner concerned to revise such plan. <Amended on Jun. 4, 2010>
- (3) If a business owner under Article 28 (1) fails to perform substantially,

06 Others

without any justifiable reason, his/her obligation to prepare a plan for the employment of persons with disabilities or to employ persons with disabilities, the Minister of Employment and Labor may publish the details relevant to such failure in performance to the general public. <Amended on Jun. 4, 2010>

Article 33 (Payment, etc. of Contributory Charges by Business Owners)

- (1) A business owner who employs persons with disabilities (excluding business owners who regularly employ at least 50, but not more than 100 employees) but fails to meet the mandatory rate for employment shall pay a contributory charge to the Minister of Employment and Labor each year as prescribed by the Presidential Decree. <Amended on Jun. 4, 2010; Dec. 27, 2016>
- (2) The amount of contributory charges shall be the annual aggregate of the amount calculated by multiplying the total number of persons with disabilities whom the business owner is obligated to employ at the mandatory rate for employment, less the number of persons with disabilities regularly employed each month, by the base amount of contributory charges set forth in paragraph (3). <Amended on Oct. 09, 2009>
- (3) The base amount of contributory charges shall be determined and publicly notified by the Minister of Employment and Labor within up to at least 60/100 of the minimum wage calculated on a monthly basis under the Minimum Wage Act, following deliberation by the Employment Policy Council, on the basis of average expenses incurred each month in employing persons with disabilities, as specified below, but may be increased according to the employment rate of persons with disabilities (which means the ratio of the total number of persons with disabilities employed to the total number of employees regularly employed each month) within up to one half of the base amount of contributory charges. Note, however, that the base amount of contributory charges to be paid by a business owner shall be the minimum wage calculated on a monthly basis under the Minimum Wage Act for the month when at least one person with disability is not regularly employed. <Amended on Jun. 4, 2010; Mar. 9, 2011>

1. Expenses incurred in installing and repairing facilities and equipment required for the employment of persons with disabilities;
 2. Expenses incurred in taking measures necessary for the proper management of employment of persons with disabilities;
 3. Other expenses incurred particularly in employing persons with disabilities.
- (4) The Minister of Employment and Labor may reduce or waive the contributory charge payable by a standardized workplace for persons with disabilities and which acquires the certification prescribed in Article 22-4 (1), or a business owner awarding a contract to vocational rehabilitation facilities for persons with disabilities as prescribed in Article 58 (1) 3 of the Act on the Welfare of Persons with Disabilities to be supplied with the products manufactured by such facilities. <Amended on Jun. 4, 2010; Dec. 27, 2016>
- (5) A business owner shall prepare and declare matters prescribed by the Presidential Decree and required for calculating the contributory charge and pay the contributory charge for the pertinent year to the Minister of Employment and Labor no later than January 31 of the following year (within 60 days of the date he/she discontinues or closes his/her business during the year). <Amended on Oct. 9, 2009; Jun. 4, 2010; Jul. 25, 2011>
- (6) Where a business owner fails to make a declaration by the deadline set forth in paragraph (5), the Minister of Employment and Labor may investigate the business to collect the contributory charge. <Amended 10/9/2009; 6/4/2010; 12/27/2016>
- (7) Where a business owner who has declared or paid a contributory charge under paragraph (5) (including cases wherein he/she has filed a revised declaration prescribed in paragraph (8); the same shall apply hereinafter in this Article) falls under any of the following, the Minister of Employment and Labor may investigate the relevant matters and collect the amount of contributory charge payable by the relevant business owner: <Amended on 12/27/2016>
1. Where the amount of contributory charge declared by a business owner falls short of the actual amount payable by him/her;

06 Others

2. Where the amount of contributory charge paid by a business owner falls short of the amount of contributory charge declared by him/her;
 3. Where a business owner has failed to pay the amount of contributory charge he/she has declared.
- (8) Where the amount of contributory charge declared by a business owner under paragraph (5) is less than the actual amount of contributory charge payable by him/her, he/she may file a revised declaration and pay the difference by the end of February of the relevant year as prescribed by the Presidential Decree. <Newly Inserted on 12/27/ 2016>
- (9) Where the amount of contributory charge paid by a business owner is greater than the actual amount of contributory charge payable by him/her, the Minister of Employment and Labor shall refund the amount calculated by adding the amount of interest computed through the application of the interest rate prescribed by the Presidential Decree to the excess amount, as prescribed by the Presidential Decree. <Newly Inserted on 12/27/ 2016>
- (10) The contributory charge may be paid in installments as prescribed by the Presidential Decree. In such cases, where the contributory charge payable in installments is fully paid by the deadline for payment set forth in paragraph (5), a certain amount prescribed by the Presidential Decree may be deductible at up to 5/100 of the amount of the contributory charge.
- (11) The necessary matters concerning the standards of contracts under paragraph (4) and other requisites, guidelines, etc. for the reduction or waiving of the contributory charge shall be determined by the Minister of Employment and Labor. <Amended on 6/4/ 2010>

[This Title Wholly Amended on Dec. 27, 2016]

<Act on the Honorable Treatment of and Support for Persons, etc. Who have Rendered Distinguished Services to the State>

Article 33-2 (Priority Employment Obligation, etc. of Enterprises, etc.)

- (1) Every institution providing employment assistance under subparagraph 2, Article 30 shall preferentially employ persons eligible for employment

assistance at not lower than the employment rate for each enterprise subject to employing persons eligible for employment assistance, which is set by the Presidential Decree, within the scope of three to eight percent of the total number of its employees.

- (2) Notwithstanding paragraph (1), if deemed necessary to help persons eligible for employment assistance be employed in the type of occupation corresponding to their abilities, the Minister of Patriots and Veterans Affairs may request the institutions providing employment assistance under each of the following subparagraphs to increase its employment rate as referred to in paragraph (1) by up to nine percent, as prescribed by the Presidential Decree:
1. Public institutions designated and publicly announced pursuant to Articles 4 through 6 of the Act on the Management of Public Institutions;
 2. Local corporations and local government public corporations stipulated in Articles 49 and 76 of the Local Public Enterprises Act;
 3. Other enterprises or organizations prescribed by the Presidential Decree as institutions providing employment assistance under subparagraph 2, Article 30.
- (3) Any private school with a fixed number of at least five employees excluding teachers among institutions providing employment assistance and which falls under subparagraph 3, Article 30 shall preferentially employ persons eligible for employment assistance at a rate of ten percent or more of the total number of employees.

[This Article Wholly Amended on 3/28/2008]

Article 34 (Special Employment of Veterans)

- (1) The Minister of Patriots and Veterans Affairs shall recommend multiple persons eligible for employment assistance to an enterprise, etc. that fails to meet the employment rate referred to in Article 33-2 so that the enterprise, etc. may select a person to employ, as prescribed by the Presidential Decree. Note, however, that the Minister of Patriots and Veterans Affairs need not recommend multiple persons eligible for employment assistance in any of the following cases: <Amended on 2/6/2009; 9/15/2011>
1. Where persons eligible for employment assistance are those referred to in

06 Others

Article 29 (1) 1 through 3;

2. Deleted; <on 9/15/2011>

3. Where the number of persons who can be recommended to the relevant enterprise, etc. among the persons eligible for employment assistance who have applied for employment assistance is the same as or less than the number of persons subject to an order of employment;
4. Where it is agreed upon with the enterprise, etc. not to recommend multiple persons;
5. Where the Minister of Patriots and Veterans Affairs deems it impractical to recommend multiple persons.

(2) An enterprise, etc. receiving a recommendation of multiple persons eligible for employment assistance under paragraph (1) shall choose persons to employ among the persons so recommended, as prescribed by the Presidential Decree, and inform the Minister of Patriots and Veterans Affairs thereof. <Newly Inserted on 2/6/2009>

(3) The Minister of Patriots and Veterans Affairs may order an enterprise, etc. to employ persons eligible for employment assistance according to the following classification, as prescribed by the Presidential Decree: <Newly Inserted on 2/6/2009>

1. Where the enterprise, etc. makes a notification under paragraph (2): Persons eligible for employment assistance chosen by the enterprise, etc.;
2. Where the enterprise, etc. fails to make a notification under paragraph (2) without any of the justifiable grounds prescribed by the Presidential Decree (including cases of selecting, and informing the Minister of, the persons eligible for employment assistance at less than the number of persons ordered to be employed): Persons chosen among multiple persons eligible for employment assistance recommended by the Minister of Patriots and Veterans Affairs;
3. Where multiple persons are not recommended under the proviso of paragraph (1): Persons eligible for employment assistance as designated by the Minister of Patriots and Veterans Affairs.

- (4) When ordering employment pursuant to paragraph (3), the Minister of Patriots and Veterans Affairs shall notify the relevant persons eligible for employment assistance that they will be employed in the enterprise, etc., upon designating the enterprise, etc. as prescribed by the Presidential Decree. <Amended on 2/6/2009>
- (5) Where the Minister of Patriots and Veterans Affairs orders an enterprise, etc. to employ the persons referred to in Article 29 (1) 4 and 5 pursuant to paragraph (3), the upper age limit eligible for employment assistance shall be prescribed by the Presidential Decree. <Amended on 9/15/2011>

[This Article Wholly Amended on 3/28/2008]

[Subject amended on 2/6/2009]

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