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## Korea, Republic of

Law No. 5309, Mar. 13, 1997.- Labor Standards Act

*[English translation by the Korean Ministry of Labor]*

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## Chapter I General Provisions

### Article 1 (Purpose)

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

### Article 2 (Standards of Conditions of Employment)

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

### **Article 3 (Determination of Conditions of Employment)**

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

### **Article 4 (Observance of Conditions of Employment)**

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

### **Article 5 (Equal Treatment)**

An employer shall not discriminate against workers by sex, or take discriminatory treatment in relation to the conditions of employment according to nationality, religion or social status.

### **Article 6 (Prohibition of Forced Labor)**

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

### **Article 7 (Prohibition of Violence)**

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

### **Article 8 (Elimination of Intermediary Exploitation)**

Anyone shall neither intervene in the employment of other person for the purpose of making a profit, nor gain benefit as an intermediary unless otherwise provided by law.

### **Article 9 (Guarantee of Exercise of Civil Rights)**

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

### **Article 10 (Scope of Application)**

- (1) This Act shall apply to all businesses or workplaces in which more than 5 workers are ordinarily employed. This Act, however, shall not apply to any business or workplace which employs only relatives living together, and to a worker who is hired for domestic works.
- (2) With respect to a business or workplace which ordinarily employs less than 4 workers, some of the provisions of this Act may be applicable as prescribed by the Presidential Decree.

### **Article 11 (Scope of Application)**

This Act and the Presidential Decree issued in accordance with this Act shall apply to the government, Seoul Special City, metropolitan cities, Provinces, Shi, Kun, Ku, Eup, Myon, Dong, or other equivalents.

### **Article 12 (Duty to Report and Attend)**

An employer or a worker shall, without delay, report on matters required, or shall present himself, if the Minister of Labor, a Labor Relations Commission or a Labor Inspector requests to do so in relation to the enforcement of this Act.

### **Article 13 (Publicity of Law and Decree, etc.)**

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

(2)An employer shall post or keep the provisions and regulations regarding dormitory, among the provisions and regulations referred to in paragraph (1), at dormitory concerned, thereby keeping workers informed thereof.

### **Article 14 (Definition of Worker)**

The term "worker" in this Act means a person engaged in whatever occupation offering work to a business or workplace (hereinafter referred to as "business") for the purpose of earning wages.

### **Article 15 (Definition of Employer)**

The term "employer" in this Act means a business owner, or a person responsible for management of a business or a person who works on behalf of a business owner with respect to matters relating to workers.

### **Article 16 (Definition of Work)**

The term "work" in this Act means both mental and physical work.

### **Article 17 (Definition of Labor Contract)**

The term "labor contract" in this Act means a contract which is entered into in order that a worker offers work for which an employer pays its corresponding wages.

### **Article 18 (Definition of Wages)**

The term "wages" in this Act means wages, salary, and any other payment to a worker from an employer as remuneration for work, regardless of the designation by which such payment is called. .

### **Article 19 (Definition of Average Wages)**

- (1)The term "average wages" in this Act means the amount calculated by dividing the total amount of wages paid to the relevant worker during three calendar months prior to the date on which the event necessitating such calculation occurred by the total number of calendar days during those three calendar months. This shall also apply mutatis mutandis to the employment of less than three months.
- (2)If the amount calculated pursuant to the provisions of paragraph (1) is lower than the ordinary wages of the worker concerned, the amount of the ordinary wages shall be deemed the average wages.

### **Article 20 (Definition of Contractual Working Hours)**

The term "contractual working hours" in this Act means working hours on which workers and

employers have made an agreement within the limit of working hours under Article 49 or the text of Article 67, or Article 46 of the Industrial Safety and Health Act.

### **Article 21 (Definition of Part-Time Worker)**

The term "part-time worker" in this act means an employee whose contractual working hours per week are shorter than those of full-time worker engaged in the same kind of job at the pertinent workplace.

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## **Chapter II Labor Contract**

### **Article 22 (Labor Contract contrary to This Act)**

- (1) A labor contract which establishes conditions of employment which do not meet the standards provided for in this Act shall be null and void to that extent.
- (2) Those conditions invalidated in accordance with the provisions of paragraph (1) shall be governed by the standards provided herein.

### **Article 23 (Term of Contract)**

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

### **Article 24 (Statement of Terms of Employment)**

An employer shall clearly state remuneration, working hours, and other terms of employment to a worker at a time when a contract of employment is concluded. In this case, matters as to each constituent item of remuneration, and the methods of calculation and payment shall be specified according to the methods prescribed by the Presidential Decree.

### **Article 25 (Working Conditions for Part-time Worker)**

- (1) Working conditions for part-time workers shall be determined on the basis of relative ratio computed in comparison of their working hours with those of full-time workers engaged in the same kind of job at the pertinent workplace.
- (2) The criteria or other matters to be considered for the determination of working conditions under paragraph (1) shall be prescribed in the Presidential Decree.
- (3) With respect to part-time workers with considerably short contractual working hours per week as specified by the Presidential Decree, some provisions of this Act may not apply as provided for in the Presidential Decree.

### **Article 26 (Violation of Conditions of Employment)**

- (1) If any of the conditions of employment set forth in accordance with Article 24 is found to be inconsistent with the actual conditions, the worker concerned shall be entitled to claim damages resulting from the breach of the conditions of employment or may terminate the labor contract forthwith.
- (2) If a worker intends to claim indemnity for damages in accordance with paragraph (1), he may do so with the Labor Relations Commission. If a labor contract has been terminated, an employer shall pay travel expenses to a worker who changes his residence for the purpose of securing new job.

**Article 27 (Prohibition of Predetermination of Nonobservance)**

An employer shall not enter into any contract by which a penalty or indemnity for possible damages incurred from nonobservance of a labor contract is predetermined.

**Article 28 (Prohibition of Offsetting Wages against Advances)**

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

**Article 29 (Prohibition of Compulsory Saving)**

- (1) An employer shall not enter into a contract incidental to a labor contract which stipulates compulsory savings or the management of savings.
- (2) If an employer is entrusted by a worker to manage his savings, the said employer shall obtain the approval of the Minister of Labor by determining the methods of maintenance and of repayment.

**Article 30 (Restriction on Dismissal, etc.)**

- (1) An employer shall not dismiss, lay off, suspend, transfer a worker, or reduce wages, or take other punitive measures against a worker without justifiable reason.
- (2) An employer shall not dismiss any worker during a period of temporary interruption of work for medical treatment of an occupational injury or disease and within 30 days thereafter; nor shall any female worker before and after childbirth be dismissed during a period of temporary interruption of work as provided herein and within 30 days thereafter; however, if an employer has paid the lump sum compensation due under Article 87 hereof or if a natural disaster, calamity, or other unavoidable circumstances prevents the continuance of a business, this shall not apply.
- (3) In the case of the latter clause of the proviso of paragraph (2), the approval of the Minister of Labor shall be obtained with respect to the reason concerned.

**Article 31 (Employment Adjustment for Managerial Reasons)**

- (1) If an employer wants to dismiss a worker for managerial reasons, there shall be urgent managerial needs.
- (2) In the case of paragraph (1), an employer shall make every effort to avoid dismissal of workers and shall select workers to be dismissed by establishing rational and fair standards of dismissal.
- (3) An employer shall have sincere consultation regarding measures to avoid such dismissal and standards of dismissal stipulated in the provision of paragraph (2) with a trade union of a business or workplace, in cases where a trade union is formed by the consent of the majority of all workers, or with a person who represents the majority of all workers (hereinafter referred to as workers' representative), in cases where there exists no trade union which is composed of majority of all workers.
- (4) In cases where an employer has dismissed workers in accordance with the requirements as stipulated in paragraph (1) to (3), it shall be deemed that the dismissal concerned is made based on the justifiable reasons in accordance with paragraph (1) of Article 30.

**Article 32 (Advance Notice of Dismissal)**

- (1) An employer shall give an advance notice to a worker at least thirty days before

dismissal(including dismissal for managerial reasons). If the notice is not given thirty days before the dismissal, normal wages for more than thirty days shall be paid to the worker, except in cases where it is impossible to continue a business because of natural disaster, calamity, or other unavoidable causes, or where a worker has caused considerable difficulties to a business, or damage to properties on purpose.

- (2)In the case of the proviso of paragraph (1), the approval of the Minister of Labor shall be obtained regarding the causes attributable to a worker.

### **Article 33 (Application for Remedy for Unfair Dismissal, etc)**

- (1)If a worker is dismissed, laid off, suspended, transferred, or subject to other punitive actions or has his salary reduced by an employer without justifiable reason, the worker may request a remedy for it to the Labor Relations Commission.
- (2)In relation to the procedures of the application for remedy and investigation, the provisions of Articles 82 to 86 of the Trade Union and Labor Relations Adjustment Act shall be applied mutatis mutandis, except for paragraph (5) of Article 85.

### **Article 34 (Retirement Allowances System)**

- (1)An employer shall establish a retirement allowance system whereby an average wage of more than 30 days shall be paid for each year of consecutive years employed as a retirement allowance to a retired worker; however, if the worker was employed for less than one year, this shall not apply.
- (2)In establishing the retirement allowance system stipulated in paragraph (1), a differential retirement allowance system shall not be permitted within one business.
- (3)An employer may, at the request of workers, pay retirement allowances in advance for the period of continuous employment of the worker concerned by adjusting the balances of remunerations before his retirement, irrespective of the provisions of paragraph (1). In this case, the number of years of continuous employment for the computation of retirement allowances shall be counted anew from the moment the latest adjustment of balances has been made.
- (4)In cases where an employer has enrolled in pension insurance program for retirees or its equivalents(hereinafter referred to as "pension insurance for retirees") for workers, whereby workers receive lump sum payment at the time of retirement, or draw their pensions, it shall be deemed that the employer has set up a retirement allowance scheme in accordance with paragraph (1). The amount of lump sum by pension insurance, however, shall not be smaller than that of retirement allowances pursuant to paragraph (1).

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

The provisions of Article 32 shall not apply to workers who fall within each of the following subparagraphs:

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

### **Article 36 (Liquidation of Money and Valuables)**

If a worker dies or retires, an employer shall pay the wages, compensations, and other money or

valuables within 14 days after the cause for such payment has occurred; however, the period, under special circumstances, may be extended by the mutual agreement between the parties concerned.

### **Article 37 (Preferential Reimbursement for Claim of Wages)**

- (1) Wages, retirement allowances, accident compensation and other claims arising from employment shall be paid in preference to taxes, public levies, or other claims except for certain claims secured by pledges or mortgages as to the total property of an employer; however, this shall not apply to taxes or public levies which take precedence over pledges or mortgages.
- (2) Notwithstanding the provisions of Paragraph (1), the wages for the latest three months, retirement allowance and accident compensation shall be paid in preference to any obligation, taxes, public levies and other claims secured by pledges or mortgages as to the total property of an employer.

### **Article 38 (Certificate of Employment)**

- (1) If an employer has been requested by a worker to issue a certificate specifying term of employment, job specification, title and wages or other necessary information even after the retirement of the worker, he shall immediately prepare based upon fact and deliver the certificate.
- (2) The certificate referred to in Paragraph (1) shall only contain the items that the worker concerned has requested.

### **Article 39 (Prohibition of Interference with Employment)**

Anyone shall not prepare and use secret signs or lists, or have communication for the purpose of interfering with employment of a worker.

### **Article 40 (Register of Workers)**

- (1) An employer shall prepare a register of workers by workplace, including name, birth date, personal history and other items relating to workers as provided for by the Presidential Decree.
- (2) If there is any change in the items prescribed in paragraph (1), correction shall be made without delay.

### **Article 41 (Preservation of Documents regarding Contract)**

An employer shall preserve a register of workers and other important documents regarding labor contract provided for by the Presidential Decree for three years.

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## **Chapter III Wages**

### **Article 42 (Payment of Wages)**

- (1) Payment of wages shall be directly made in full to worker in cash; however, if otherwise stipulated by special provisions of laws or decrees or a collective agreement, wages may partially be deducted or may be paid by other than cash.
- (2) Wages shall be paid more than once per month on a fixed day; however, this shall not apply to extraordinary wages, allowances, or any other similar payment or those wages provided for by the Presidential Decree.

### **Article 43 (Payment of Wages in Subcontract Business)**

- (1) If a business is operated based upon several tiers of subcontracting and a subcontractor has failed to pay wages to workers because of a cause attributable to an immediate preceding contractor, the immediate preceding contractor shall be responsible thereof along with the subcontractor concerned.
- (2) The scope of the cause attributable to the immediate preceding contractor referred to in paragraph (1) shall be determined by the Presidential Decree.

#### **Article 44 (Emergency Payment)**

An employer shall advance partial payments of wages for the work offered even prior to payday, if a worker requests to do so in order to meet the expenses incurred from childbirth, disease, disaster or any other cases of emergency which are provided for in the Presidential Decree.

#### **Article 45 (Pay for Suspension of Business)**

- (1) If a business is suspended for reasons attributable to an employer, the employer shall pay to workers concerned remuneration of more than seventy percentage points of average remuneration during the period of suspension of the business. If the amount equivalent to seventy percentage points of average remuneration exceeds normal remuneration, the normal remuneration may be paid for the business suspension.
- (2) Notwithstanding the provisions of paragraph (1), an employer who cannot continue the business operation for unavoidable reason may, with the approval of the Labor Relations Commission, pay remuneration lower than the standards stipulated in paragraph (1) for the suspension of business.

#### **Article 46 (Subcontract Workers)**

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

#### **Article 47 (Wage Ledger)**

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

#### **Article 48 (Prescription of Wages)**

A claim for wages under the provisions of this Act shall be terminated because of prescription, if not exercised within three years.

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## **Chapter IV Working Hours and Recess**

#### **Article 49 (Working Hours)**

- (1) Working hours per week shall not exceed forty-four hours excluding recess hours.
- (2) Working hours per day shall not exceed eight hours excluding recess hours.

#### **Article 50 (Flexible Working Hour System)**

- (1) An employer may have a worker work for a specific week in excess of working hours



pursuant to Article 49(1), or for a specific day in excess of working hours pursuant to Article 49(2), on condition that average working hours per week in a certain period within two weeks do not exceed working hours under Article 49(1) in accordance with rules of employment (or in accordance with rules or regulations equivalent to rules of employment). However, working hours for a specific week shall not exceed forty-eight hours.

- (2) When an employer reaches an agreement with the workers' representative, in writing, on the following items, an employer may have a worker work for a specific week in excess of working hours pursuant to Article 49(1), or for a specific day in excess of working hours pursuant to Article 49(2), on condition that average working hours per week in a certain period within one month do not exceed working hours under Article 49(1). However, working hours for a specific week, and for a specific day shall not exceed fifty-six hours and twelve hours respectively.
  - 1. scope of workers subject to this paragraph;
  - 2. period (a specific period not exceeding one month);
  - 3. working days within a particular period and working hours within each relevant working day; and
  - 4. other matters as determined by the Presidential Decree.
- (3) The provisions of paragraphs (1) and (2) shall not apply to workers aged above fifteen and under eighteen, and pregnant female workers.
- (4) If an employer needs to have a worker work in accordance with the provisions of paragraphs (1) and (2), the employer shall prepare measures to ensure that the existing wage level is not lowered.
- (5) An employer shall report the contents of a written agreement set forth in paragraph (2) to the Minister of Labor in accordance with the Presidential Decree.

### **Article 51 (Selective Working Hour System)**

If an employer has made a written agreement on each of the following subparagraphs with representatives of workers regarding a worker who is entrusted with the decision to begin and finish works in accordance with rules of employment (including those equivalent to rules of employment), the employer may have workers work in excess of working hours per week set by paragraph (1) of Article 49, or per day set by paragraph (2) of Article 49 on condition that average working hours per week computed on the basis of adjustment period of balances within one month do not exceed the working hours stipulated in paragraph (1) of Article 49.

- 1. scope of workers subject to this paragraph (excluding workers between the age of fifteen and of eighteen);
- 2. adjustment period of balances (a specific period within one month);
- 3. total working hours within an adjustment period of balances;
- 4. starting and finishing time of working hours, during which works must be provided;
- 5. starting and finishing time of working hours which are allowed to be selected by workers; and
- 6. other matters as determined by the Presidential Decree.

### **Article 52 (Restriction on Extended Works)**

- (1) If the parties concerned reach agreement, working hours stipulated in Article 49 may be extended up to twelve hours per week.
- (2) If the parties concerned reach agreement, working hours stipulated in Article 50 may be extended up to twelve hours per week, and working hours pursuant to Article 51 may be extended up to twelve hours per week averaged during a period of adjustment of balances pursuant to subparagraph 2 of Article 51.
- (3) Under special circumstances, an employer may extend working hours as provided for in

paragraphs (1) and (2) with the approval of the Minister of Labor and consent of workers; however, the employer shall immediately obtain the approval of the Minister of Labor ex post facto, if a situation is so urgent that time is not available to obtain such approval.

- (4) If the Minister of Labor finds that the extension of working hours in accordance with Paragraph (3) is not appropriate, he may order an employer to allow recess or day-off afterwards equivalent to the extended working hours.

### **Article 53 (Recess Hours)**

- (1) An employer shall allow a recess period of more than 30 minutes for every 4 working hours and more than 1 hour for every 8 working hours during the working hours.
- (2) A recess period may be freely used by workers.

### **Article 54 (Holidays)**

An employer shall allow a worker more than one-day holiday with pay per week on the average.

### **Article 55 (Extended Work, Night Work and Holiday Work)**

An employer shall pay additional remuneration of more than fifty percentage points of normal remuneration for extended works (extended works as set forth in the provisions of Articles 52 and 58, and the proviso of Article 67) and night works (works provided from 10 p.m. to 6 a.m.), Sunday or public holiday works.

### **Article 56 (Special Provisions for Computation of Working Hours)**

- (1) If it is difficult to compute working hours because a worker carries out his duty in whole or in part outside the workplace in order to do business or for other reasons, it shall be deemed that the worker concerned has worked during contractual working hours. However, in cases where a worker needs to work in excess of contractual working hours ordinarily required for the performance of the work, it shall be deemed that he has worked during the normal working hours required for the performance of the work concerned.
- (2) Irrespective of the proviso of paragraph (1), if an employer and the representative of workers have agreed, in writing, on the works concerned, it shall be deemed that the working hours set by the agreement are the working hours necessary for the performance of the works concerned.
- (3) In the case of works designated by the Presidential Decree as those works which need, in the light of their characteristics, worker's discretion with regard to the ways to perform the works concerned, it shall be deemed that the works have been provided for such working hours as determined by a written agreement between the employer and the representative of workers. In this case, the written agreement shall contain each of following subparagraphs:
  - 1. provisions as to works to be provided;
  - 2. provisions in which the employer would not give directions to the worker regarding how to perform, and how to allocate working hours; and
  - 3. provisions in which the computation of working hours shall be determined by the written agreement concerned.
- (4) An employer shall report the contents of a written agreement under paragraphs (2) and (3) to the Minister of Labor in accordance with the Presidential Decree.
- (5) Other matters which are required to implement the provisions of paragraphs (1) and (3) shall be determined by the Presidential Decree.

### **Article 57 (Monthly Leave with Pay)**

- (1) An employer shall allow one day's leave with pay per month.
- (2) The paid leave in accordance with paragraph (1) may be used by a worker, of his own free will, either by accumulating or dividing it within one year.

### **Article 58 (Special Provisions as to Working and Recess Hours)**

- (1) An employer who runs a business which falls into any of the following subparagraphs, if the employer has agreed, in writing, with the representative of workers, may have workers work in excess of twelve hours per week stipulated in Article 52(1) or may change recess hours pursuant to Article 53.
  - 1. Transportation business, goods sales and storage business, finance and insurance business;
  - 2. Movie production and entertainment business, communication business, educational study and research business, advertising business;
  - 3. Medical and sanitation business, hotel and restaurant business, incineration and cleaning business, barber and beauty parlor business; and
  - 4. businesses determined by the Presidential Decree in consideration of the character of a business and public conveniences
- (2) An employer shall report to the Minister of Labor on the contents of the written agreement stipulated in paragraph (1) in accordance with the Presidential Decree.

### **Article 59 (Annual Paid Leave)**

- (1) An employer shall grant 10 days' leaves with pay to those who have offered work without an absence throughout a year and 8 days' leaves with pay to those who have registered more than 90 percent of attendance during one year.
- (2) An employer shall offer a worker who is employed more than two consecutive years one day's paid leave for each year of consecutive employment years, in addition to the paid leave as set forth in paragraph (1). However, if the total number of leaves exceeds twenty days, normal wages may be paid for the number of days in excess of twenty days, in place of paid leaves.
- (3) An employer shall grant the leave with pay in accordance with paragraphs (1) and (2) when requested by a worker, and shall pay normal wages or average wages for the leave period as provided for in the rules of employment or other provisions; however, the period concerned may be altered, if it would be a serious impediment to the operation of the business to grant a leave(s) with pay at a time when a worker requests.
- (4) The period of temporary interruption of work resulting from an occupational injury or disease, or the period of temporary interruption of work before and after childbirth for female workers in accordance with Article 72, shall be regarded as equivalent to the performance of work without interruption in application of the provisions of paragraph (1).
- (5) The paid leave referred to in paragraphs (1) and (2) shall be forfeited unless it is consumed within one year. However, this shall not apply if a worker has been prevented from using annual paid leaves due to the causes attributable to an employer.

### **Article 60 (Substitution of Paid Leave)**

An employer may have workers take a paid leave on a particular working day in substitution for the monthly paid leave pursuant to Article 57, or the annual paid leave pursuant to Article 59, if the employer and the representative of workers have reached agreement in writing.

### **Article 61 (Exceptions to Application)**

The provisions of this Chapter and Chapter 5 as to working hours, recess, and holidays shall not be

applied to workers who fall within each of the following subparagraphs:

- 1. cultivation of arable land, reclamation work, seeding and planting, gathering or picking-up or other agricultural and forestry work;
  - 2. livestock breeding, catch of marine animals and plants, cultivation of marine products or other cattle-breeding, sericulture and fishery business;
  - 3. a worker who is engaged in surveillance or intermittent work, and whose employer has obtained the approval of the Minister of Labor.
  - 4. workers engaged in such business as provided for in the Presidential Decree.
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## **Chapter V Females and Minors**

### **Article 62 (Minimum Age and Employment Permit)**

- (1) A person under the age of 15 shall not be employed as a worker. However, this shall not apply to a person with a employment permit issued by the Minister of Labour.
- (2) The employment permit referred to in paragraph (1) may be issued at the request of the person himself only by designating the type of occupation in which he is engaged, provided that such employment will not impede compulsory education.

### **Article 63 (Prohibition of Employment)**

Female workers and those who are under 18 shall not be employed for any work detrimental to morality or health. The prohibited type of work shall be determined by the Presidential Decree.

### **Article 64 (Minor Certificate)**

For each minor worker under 18, an employer shall keep at each workplace a copy of the census register testifying to his age and a written consent of his parent or guardian.

### **Article 65 (Labor Contract)**

- (1) Neither parent nor guardian shall enter into a labor contract on behalf of a minor.
- (2) Parent and guardian of a minor, or the Minister of Labor may terminate a labor contract, if a labor contract may be deemed disadvantageous to the minor, .

### **Article 66 (Claim for Wages)**

A minor may claim his wages in his own right.

### **Article 67 (Working Hours)**

Working hours of a person aged between 15 and 18 shall not exceed seven hours per day and forty-two hours per a week; provided, however, that the parties concerned have reached agreement, the working hours may be extended up to an hour per day, or six hours per week.

### **Article 68 (Prohibition of Night Work)**

Neither female nor minor under the age of 18 shall not be forced to work during a time period from 10 p.m. to 6 a.m. or on holidays. However, if the consent of the worker concerned and the approval of the Ministry of labor has been obtained, this shall not apply.

**Article 69 (Overtime Work)**

An employer shall be forbidden to have female workers over 18 do overtime work exceeding 2 hours per day, 6 hours per week, and 150 hours per year, even if provided for in a collective agreement.

**Article 70 (Prohibition of Work Inside Pit)**

An employer shall not have a female or minor under the age of 18 do any work inside a pit.

**Article 71 (Menstruation Leave)**

An employer shall allow a female worker one day's menstruation leave with pay per month.

**Article 72 (Maternity Leave)**

- (1) An employer shall allow a pregnant female worker 60 days of maternity leave with pay before and after childbirth. In this case, however, more than 30 days of maternity leaves with pay shall be allowed after childbirth.
- (2) A pregnant female worker shall be transferred to other light and easy work at her request and shall not be assigned to overtime work.

**Article 73 (Nursing Hours)**

A female worker who has an infant under twelve months shall be allowed to take more than 30 minutes of each nursing period twice a day.

**Article 74 (Home-coming Expenses)**

An employer shall bear travel expenses if a female or minor under the age of 18 returns home within 14 days from the date of dismissal; however, this provision shall not apply, if the reason for dismissal is attributable to the worker and the employer has obtained the approval thereof from the Labor Relations Commission.

**Article 75 (Education Facilities)**

- (1) An employer who ordinarily hires more than thirty persons under the age of 18 shall establish education facilities for them; provided, however, that the employer, with the approval of the Minister of Labor, grants scholarship to workers, education facilities may not be required to establish.
- (2) Necessary matters concerning the educational facilities referred to in paragraph (1) shall be determined by the Presidential Decree.

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## Chapter VI Safety and Health

**Article 76 (Safety and Health)**

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

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## Chapter VII Apprenticeship

### **Article 77 (Prohibition of Abuse of Apprentice)**

An employer shall not abuse workers in training or workers on probation or any other apprentice whose purpose is to acquire a technical skill, and shall not assign to them domestic works or other works which are not related to the acquirement of technical skill.

### **Article 78 (Training of Skilled Workers)**

- (1) If it is necessary to train a specific skilled worker for a long period of time during the course of work, training method, worker's qualification, contract terms, working hours and wages shall be determined by the Presidential Decree with the consultation of the Labor Relations Commission.
- (2) If an employer is to hire a worker in accordance with the Presidential Decree stipulated in paragraph (1), the employer shall obtain the approval of the Minister of Labor by determining the number of workers, the method of training, the term of contract, the standards of wages and the means of payment.
- (3) If an employer hires a worker with the approval in accordance with paragraph (2), the employer shall report to the Minister of Labor, thereby obtaining a certificate testifying that the worker concerned is an apprentice, and shall maintain it at the workplace.

### **Article 79 (Minor)**

A minor who is subject to the provisions of Article 78 shall be given 12 days' annual leaves with pay per year in accordance with the provisions of paragraph (1) of Article 59.

### **Article 80 (Cancellation of Approval)**

If an employer hiring a worker who is subject to the provision of Article 78 is disqualified or violates the conditions of the approval, the Minister of Labor may cancel the approval stipulated in paragraph (2) of Article 78.

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## **Chapter VIII Accident Compensation**

### **Article 81 (Medical Treatment Compensation)**

- (1) An employer shall provide necessary medical treatment at his own expense or bear corresponding expenses for a worker who suffers from an occupational injury or disease.
- (2) The scope of occupational disease or medical treatment referred to in paragraph (1) shall be determined by the Presidential Decree.

### **Article 82 (Compensation for Suspension of Work)**

An employer shall provide a worker undergoing medical treatment as provided for in Article 81 with compensation for the suspension of work due to the occupational injury or disease equivalent to 60 percent of the average wages during the period of medical treatment.

### **Article 83 (Compensation for the Handicapped)**

If a worker remains handicapped even after finishing treatment for an occupational injury or disease, an employer shall provide the handicapped worker, according to the level of disability, with compensation equivalent to the sum of the average wages multiplied by the number of days provided for in the

attached table.

#### **Article 84 (Exceptions to Articles 82 and 83)**

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

#### **Article 85 (Compensation for Survivors)**

If a worker dies with regard to the performance of his duty, an employer shall provide survivor's compensation equivalent to average wages of 1,000 days to a surviving family.

#### **Article 86 (Funeral Expenses)**

If a worker dies with regard to the performance of his duty, an employer shall provide funeral expenses equivalent to the average wage of 90 days.

#### **Article 87 (Lump Sum Compensation)**

If a worker receiving compensation in accordance with Article 81 has not completely recovered from the said occupational injury or disease even after a lapse of two years since the medical care began, the employer may be exonerated from any further obligation to grant compensation under this Act thereafter by providing a lump sum compensation equivalent to the average wages of 1,340 days.

#### **Article 88 (Instalment Compensation)**

If an employer proves his ability to pay compensation, and has obtained the consent of a recipient, he may pay the compensation stipulated in the provisions of Article 83, 85 or 87 by instalments during one year.

#### **Article 89 (Claim for Compensation)**

A claim for compensation shall not be changed due to retirement and shall not be transferred nor be confiscated.

#### **Article 90 (Relationship with Other Damage Claims)**

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

#### **Article 91 (Reappraisal and Arbitration of the Minister of Labor)**

- (1) If a person has an objection to the judgement of occupational injury, disease or death, methods of medical care, determination of a compensation or any other issue regarding compensation, the person concerned may request the Minister of Labor to reappraise or arbitrate the case.
- (2) If a request stipulated in paragraph (1) is filed, the Minister of Labor shall reappraise or arbitrate the case within one month.
- (3) The Minister of Labor may reappraise or arbitrate a dispute ex officio, if necessary.

(4)The Minister of Labor may have a doctor diagnose or examine the worker concerned, if it is deemed necessary for reappraisal or arbitration.

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

### **Article 92 (Reappraisal and Arbitration of Labor Relations Commission)**

- (1)If reappraisal or arbitration has not been made within the period set forth in paragraph (2) of Article 91, or if a person is dissatisfied with the result of reappraisal or arbitration, a request may be filed with the Labor Relations Commission for reappraisal or arbitration.
- (2)If a request is filed in accordance with paragraph (1), the Labor Relations Commission shall reappraise or arbitrate the case within one month.

### **Article 93 (Exception to Subcontracted work)**

- (1)If a business is operated based upon several tiers of subcontracts, a primary contractor shall be regarded as an employer with regard to accident compensation.
- (2)With regard to paragraph (1), if a subcontractor is supposed to pay compensation by a written agreement with a primary contractor, the subcontractor shall also be regarded as an employer; however, the primary contractor shall not be allowed to have more than two subcontractors bear overlapping compensation for the same business.
- (3)With regard to paragraph (2), if the primary contractor has been requested to provide compensation, he may ask an applicant to demand compensation first from the subcontractor who has agreed to have responsibility for such compensation. However, this shall not apply if the subcontractor concerned is missing or is adjudged bankrupt.

### **Article 94 (Documents to be kept)**

An employer shall keep important documents concerning accident compensations for two years.

### **Article 95 (Prescription)**

A claim for accident compensation in accordance with this Act shall be forfeited because of prescription, if not exercised within three years.

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## **Chapter IX Rules of Employment**

### **Article 96 (Preparation and Submission of Rules of Employment)**

An employer ordinarily employing more than ten workers shall prepare the rules of employment concerning the following matters and submit it to the Minister of Labor. If any amendment to the rules of employment occurs, the same procedures shall also be taken:

- 1. matters pertaining to the starting and finishing time of work, recess hours, holidays, leaves and shifts;
- 2. matters pertaining to the determination of wages, calculation of wages, means of payment, closing of payment, time of payment and wage increase;
- 3. matters pertaining to calculation of family allowances and means of payment;
- 4. matters pertaining to retirement;



- 5. matters pertaining to retirement allowance, bonuses and minimum wages;
- 6. matters pertaining to meal allowance and expenses of operational tool or necessities and other expenses;
- 7. matters pertaining to education facilities for workers;
- 8. matters pertaining to safety and health;
- 9. matters pertaining to support for occupational or non-occupational accidents;
- 10. matters pertaining to award and punishment; and
- 11. other matters applicable to all workers of the business concerned.

#### **Article 97 (Procedures for Preparation of and Amendment to Rules of Employment)**

- (1) An employer shall seek the opinions of a trade union, if there is a trade union composed of the majority of the workers in the workplace concerned, or the opinions of the majority of workers if there is no trade union composed of the majority of the workers, with regard to the preparation of and amendment to the rules of employment. Provided, however, that the rules of employment are modified unfavorably to workers, the employer shall obtain workers' consent.
- (2) When an employer submits the rules of employment in accordance with the provisions of Article 96, a written document containing the opinions referred to in paragraph (1) shall be attached.

#### **Article 98 (Limitation on Punishment)**

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

#### **Article 99 (Observance of Collective Agreement)**

- (1) The rules of employment shall not conflict with laws or decrees or a collective agreement applicable to the workplace concerned.
- (2) The Minister of Labor has the authority to order the amendment to the rules of employment which is deemed to conflict with laws or decrees or a collective agreement.

#### **Article 100 (Effect of Violation)**

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

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## **Chapter X Dormitory**

#### **Article 101 (Protection of Dormitory Life)**

- (1) An employer shall not interfere with the private life of a worker lodging in a dormitory annexed to a business.
- (2) An employer shall not interfere with the election of staff required for the autonomous management of a dormitory.

#### **Article 102 (Preparation of and Amendment to Dormitory Rules)**

- (1) An employer who wants to board his workers in a dormitory annexed to a business shall

prepare the dormitory rules concerning the following matters and submit it to the Minister of Labor. The same shall be applied if there is amendment to the dormitory rules:

- 1. matters pertaining to getting-up and sleeping, going-out and overnight stay;
  - 2. matters pertaining to events;
  - 3. matters pertaining to meals;
  - 4. matters pertaining to safety and health;
  - 5. matters pertaining to maintenance of buildings and facilities; and
  - 6. other matters applicable to all boarding members.
- (2)An employer shall obtain the consent of the representative who represents a majority of the boarding members with regard to the preparation of and amendment to the dormitory rules stipulated in paragraph (1).
  - (3)When an employer submits the dormitory rules in accordance with the provisions of paragraph (1), a written consent prescribed in paragraph (2) shall be attached to it.
  - (4)Both an employer and boarding member shall comply with the dormitory rules.

### **Article 103 (Measures for Safety and Health)**

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

## **Chapter XI Labor Inspectors etc.**

### **Article 104 (Supervisory Authorities)**

- (1)The Ministry of Labor and its subordinate offices shall have a labor inspector to ensure the standards of the conditions of employment.
- (2)Matters concerning the qualification, appointment, dismissal, job specification, and assignment of a labor inspector shall be provided for by the Presidential Decree.

### **Article 105 (Authority of Labor Inspectors)**

- (1)A labor inspector has the authority to inspect a workplace, dormitory and other annexed buildings, to request presentation of books and documents, and to question both an employer and workers.
- (2)A labor inspector who is a medical doctor or a medical doctor designated by a labor inspector has the authority to conduct medical examinations of workers who appear to suffer from disease which precludes his continuous employment.
- (3)With regard to paragraphs (1) and (2), a labor inspector or a medical doctor designated by a labor inspector shall present his identification card and a letter of order for medical examination issued by the Minister of Labor before performing his duty.
- (4)With regard to a letter of order for inspection or medical examination prescribed in paragraph (3), a date, time, place and scope shall be clearly stated therein.
- (5)A labor inspector shall have the authority to perform the official duties of judicial police in accordance with the Act relating to Persons to Perform Duties of Judicial Police and Scope of their Duties with regard to the crimes in violation of this Act or other laws or decrees pertaining to labor affairs.

### **Article 106 (Duty of Labor Inspector)**

A labor inspector shall not disclose any confidential matter which he learns through the course of performing his official duty. The same shall be applied after he is retired.

#### **Article 107 (Report to Supervisory Authorities)**

- (1) Workers may report to the Minister of Labor or a labor inspector if any violation of the provisions under this Act or the Presidential Decree promulgated pursuant hereto occurs at a workplace.
- (2) An employer shall not dismiss or unfairly treat the worker for making such report as provided for in paragraph (1).

#### **Article 108 (Limit of Judicial Police Duty)**

Only public prosecutors and labor inspectors shall be able to inspect, request the presentation of documents, question and conduct any other investigation, in accordance with this Act and other laws or decrees pertaining to labor affairs; however, this shall not be applied to an investigation into an offense or a crime committed by a labor inspector in the course of performing his official duty.

#### **Article 109 (Delegation of Authority)**

The authority of the Minister of Labor under this Act may be delegated, in part, to a chief of a regional labour authority in accordance with the Presidential Decree.

## **Chapter XII Penal Provisions**

#### **Article 110 (Penal Provisions)**

A person who has violated the provisions of Article 6, 7, 8, 30(1) and (2), or 39 shall be punished by imprisonment for less than five years or by a fine not exceeding thirty million won.

#### **Article 111 (Penal Provisions)**

A labor inspector who has willfully connived at contravention of the provisions of this Act shall be punished by imprisonment for less than three years or suspension of civil rights for less than five years.

#### **Article 112 (Penal Provisions)**

A person who has violated the provisions of Article 36, 42, 43, 45, 55, 63 or 70 shall be punished by imprisonment for less than three years or by a fine not exceeding twenty million won.

#### **Article 113 (Penal Provisions)**

Any individual falling within any of the following subparagraphs shall be punished by imprisonment for less than two years, or by a fine of not exceeding ten million Won:

- 1. any individual who has violated Article 9, 29(1), 32, 34(1) or (2), 49, 52(1) or (2) or the text of Article 52(3), Article 53, 54, 57(1), 59(1) or (3), 62, 67, 68, 69, 72, 73, 79, 81, 82, 83, 85, 86, or 107(2);
- 2. any individual who has violated orders issued in accordance with paragraph (4) of Article 52; or
- 3. any individual who has failed to comply with the prescribed number of workers, method of

training, term of contract, working hours, standards of wages and means of payment as approved in accordance with paragraph (2) of Article 78

### **Article 114 (Penal Provisions)**

A person who has violated the provisions of Article 44 shall be punished by a fine not exceeding ten million won.

### **Article 115 (Penal Provisions)**

A person who falls under any of the following subparagraphs shall be punished by a fine not exceeding five million won:

- 1. a person who has violated Article 5, 13, 23, 24, 27, 28, 38, 40, 41, 46, 47, 50(5), the proviso of Article 52(3), Article 56(4), 58(2), 64, 65, 71, 74, 75, 77, 78(3), 94, 96, 97, 98, 101(2), 102, 103, or 106;
- 2. a person who has failed to comply with the means of management and repayment as approved in accordance with the provisions of Article 29(2);
- 3. a person who has failed to comply with an order issued in accordance with Article 99(2);
- 4. a person who has refused, obstructed or evaded inspections or medical examinations by a labor inspector or a medical doctor designated by a labor inspector in accordance with Article 105 or who has not made any statement to the inquiry, or who has made false statements, or who has failed to present books or documents or who has presented false books or documents; or
- 5. a person who has not made a report, or who has presented a fraudulent report, or who has failed to be present himself in compliance with a request of the Minister of Labor, the Labor Relations Commission or a labor inspector in accordance with the provisions of Article 12.

### **Article 116 (Double Penal Provisions)**

If a person who has committed an act in contravention of this Act is a proxy, servant or other hired person who acts on behalf of a business owner in relation to matters regarding workers at the business concerned, the said business owner shall likewise be subject to punishment by a fine as provided in each corresponding Article, unless the business owner(a representative of a business if a business owner is an incorporation, or a legal representative if a business owner is a minor or an incompetent who does not have same ability as that of adult in terms of business management) had previously taken adequate measures to prevent violation. A business owner shall also be punished in the same manner as an actual offender, if a business owner does not provide adequate measures to prevent violation even though he recognised the possible violation, or he has failed to provide necessary corrective measures once he knew of the violation, or he has instigated such violation to be performed.

**Table of Disability Grade and Accident Compensation(Article 83)**

<b>Grade</b>	<b>Accident Compensation</b>	<b>Grade</b>	<b>Accident Compensation</b>
Grade 1	1,340 days' average wages	Grade 8	450 days' average wages
Grade 2	1,190 days' average wages	Grade 9	350 days' average wages
Grade 3	1,050 days' average wages	Grade 10	270 days' average wages
Grade 4	920 days' average wages	Grade 11	200 days' average wages

Grade 5	790 days' average wages	Grade 12	140 days' average wages
Grade 5	670 days' average wages	Grade 13	90 days' average wages
Grade 7	560 days' average wages	Grade 14	50 days' average wages

## Addenda

### **Article 1 (Date of Enforcement)**

This Act shall take effect from the date of its promulgation, provided that the provisions of Article 31 shall be effective 2 years after the date of the promulgation.

### **Article 2 (Transitional Measures as to Request for Report, etc.)**

After this Act takes effect, the requests to make report, appear, or submit books or documents by the Minister of Labor, the Labor Relations Commission, or a labor inspector to an employer or a worker in accordance with the former provisions shall be deemed to have been made under this Act.

### **Article 3 (Transitional Measures as to Labor Contract, etc.)**

After this Act takes effect, a labor contract, rules of employment, or dormitory rules, which has been concluded in accordance with the former provisions, shall be deemed to have been concluded under this Act.

### **Article 4 (Transitional Measures as to Advance Notice of Dismissal)**

After this Act takes effect, an advance notice of dismissal which has been made in accordance with the former provisions shall be deemed to have been made under this Act.

### **Article 5 (Transitional Measures as to Retirement Allowances System)**

After this Act takes effect, a retirement allowance scheme established, or retirement allowance paid by adjusting the balances of remuneration before retirement in accordance with the former provisions shall be deemed to have been established or paid under this Act.

### **Article 6 (Transitional Measures as to Holidays, etc.)**

After this Act takes effect, holidays or leaves which employers have granted to workers in accordance with the former provisions shall be deemed to have been granted under this Act.

### **Article 7 (Transitional Measures as to Accident Compensation)**

After this Act takes effect, accident compensation which has been made in accordance with the former provisions shall be deemed to have been made under this Act.

### **Article 8 (Transitional Measures as to Validity of Written Agreement)**

After this Act takes effect, a written agreement between an employer and a representative of workers or an agreement between an employer and workers which has been made in accordance with the former

provisions shall be deemed to have been made under this Act.

#### **Article 9 (Transitional Measures as to Validity of Consent)**

After this Act takes effect, consent which has been obtained from a trade union, majority of workers, workers, a person who is entitled to receive compensation, or a person who represents the majority of workers lodging in a dormitory in accordance with the former provision shall be deemed to have been obtained under this Act.

#### **Article 10 (Transitional Measures as to Validity of Claim, etc.)**

After this Act takes effect, a claim or a request which a worker has made to the Minister of Labor, the Labor Relations Commission, or an employer in accordance with the former provisions shall be deemed to have been made under this Act.

#### **Article 11 (Transitional Measures as to Validity of Report)**

After this Act takes effect, report which an employer has made to the Minister of Labor in accordance with the former provisions shall be deemed to have been made under this Act.

#### **Article 12 (Transitional Measures as to Validity of Approval, etc.)**

After this Act takes effect, the actions of approval, acknowledgement, order, investigation, arbitration, or cancellation of approval which have been conducted by the Minister of Labor or the Labor Relations Commission in accordance with the former provisions shall be deemed to have been conducted under this Act.

#### **Article 13 (Transitional Measures as to Validity of Employment Permit, etc.)**

(1)After this Act takes effect, an employment permit, identification card, a letter of order for investigation, or a letter of order for a medical examination which has been issued by the Minister of Labor in accordance with the former provisions shall be deemed to have been issued under this Act.

(2)After this act takes effect, in cases where a minor aged above thirteen and under fifteen who is employed requests the Minister of Labor to issue an employment permit within 3 months after the enforcement of this Act, the Minister of Labor shall issue an employment permit.

#### **Article 14 (Transitional Measures as to Penal Provisions)**

Application of penal provisions to the actions prior to the enforcement of this Act shall be in accordance with the former provisions of this Act.

#### **Article 15 (Relationship with other Enactments)**

After this Act takes effect, any citation in other enactments from the former Labor Standards Act or the provisions of the Act shall be construed as citing this Act or corresponding provisions of this Act in place of former provisions, where there are corresponding provisions in this Act.



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