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ENFORCEMENT DECREE OF THE LABOR STANDARDS ACT

[Enforcement Date 01. Jan, 2012] [Presidential Decree No.23155, 22. Sep, 2011, Partial Amendment]

Ministry of Employment and Labor ()02 - 2110 - 7406 (,)

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Article 1 (Purpose)

The purpose of this Decree is to provide for the matters delegated by the Labor Standards Act and those necessary for the enforcement thereof.

Article 2 (Period and Wages Excluded from Calculation of Average Wages) (1) In case where a period for the calculation of average wages under Article 2 (1) 6 of the Labor Standards Act (hereinafter referred to as the "Act") includes a period falling under any of the following subparagraphs, the period and wages paid for that period shall be subtracted respectively from the base period for the calculation of average wages and the total amount of average wages: [< Amended by Presidential Decree No. 20803, Jun. 5, 2008 and Presidential Decree No. 22687, Mar. 2, 2011 >](#)

1. A probationary period under subparagraph 5 of Article 35 of the Act;
2. A period of shutdown due to reasons attributable to an employer under Article 46 of the Act;
3. A period of maternity leave under Article 74 of the Act;
4. A period of suspension of work for medical treatment due to occupational injury or disease under Article 78 of the Act;
5. A period of child - care leave under Article 19 of the Act on Equal Employment and Support for Work - Family Reconciliation;
6. A period of strike under subparagraph 6 of Article 2 of the Trade Union and Labor Relations Adjustment Act;
7. A period of suspension of service or of non - work owing to the performance of duties under the Military Service Act, the Establishment of Homeland Reserve Forces Act, or the Framework Act on Civil Defense: Provided that this shall not apply in case wages are paid during that period;

8.A period of suspension of work with the approval of an employer due to non-occupational injuries, disease or other reasons.

(2) Wages or allowances paid on an extraordinary basis and wages paid by means other than in currency shall not be included in the total amount of wages under Article 2 (1) 6 of the Act: Provided that this shall not apply to those prescribed by the Minister of Employment and Labor. <Amended by Presidential Decree No. 22269, Jul. 12, 2010 >

Article 3 (Average Wages of Daily Worker)

The amount of average wages of a daily worker shall be the one determined by the Minister of Employment and Labor according to industry and occupation. <Amended by Presidential Decree No. 22269, Jul. 12, 2010 >

Article 4 (Average Wages in Special Cases)

In case where it is impossible to calculate average wages in accordance to Article 2 (1) 6 of the Act, and Articles 2 and 3 of this Decree, the amount of average wages shall be the one determined by the Minister of Employment and Labor. <Amended by Presidential Decree No. 22269, Jul. 12, 2010 >

Article 5 (Adjustment of Average Wages)(1) If the average amount (hereinafter referred to as the “ average amount ”) of monthly ordinary wages per person paid to workers engaging in the same kind of work in the same business or workplace to which the relevant worker belongs has changed by 5 percent or more from the average amount paid in the month when the injury or disease occurred, the average wages applicable to the calculation of compensation, etc., under Articles 79, 80 and 82 through 84 of the Act shall be such amount as is adjusted according to the increase or decrease rate and the adjusted average wages shall apply starting from the month following the month in which such a cause of change occurred : Provided that if average wages are adjusted twice or more, the adjustment should be based on the average amount for the month when a cause for immediately preceding change occurred.

(2) In the case of adjusting average wages pursuant to paragraph (1), if the business or workplace to which the worker belonged has been closed down, the adjustment shall be based on the corresponding case of a business or workplace of the same

kind and size as that of the business or workplace to which the worker belonged at the time when an occupational injury or disease occurred.

(3) In the case of adjusting average wages pursuant to paragraphs (1) or (2), if there is no worker engaging in the same kind of work as that of the relevant worker, the adjustment shall be based on the corresponding case of a worker engaging in a similar kind of work to the work concerned.

(4) The average wages applicable to the calculation of retirement pay under Article 8 of the Employee Retirement Benefit Security Act, which shall be paid to a worker who suffers from an occupational injury or disease under Article 78 of the Act, shall be the average wages adjusted in accordance with the provisions of paragraphs (1) through (3).

Article 6 (Ordinary Wages)(1) For the purposes of the Act and this Decree, the term “ordinary wages” means hourly wages, daily wages, weekly wages, monthly wages, or contract wages which are determined to be paid periodically or in lump sum to a worker for his/her prescribed work or entire work.

(2) In case of calculating ordinary wages under paragraph (1) on an hourly basis, the amount shall be calculated pursuant to the following subparagraphs:

1. In the case of wages determined on an hourly basis, the amount of the hourly wages;
2. In the case of wages determined on a daily basis, the amount calculated by dividing the daily wages by the number of contractual working hours per day;
3. In the case of wages determined on a weekly basis, the amount calculated by dividing the weekly wages by the number of hours (calculated by adding contractual working hours per week under Article 2 (1) 7 of the Act to paid hours beyond the contractual working hours) based on which weekly ordinary wages are calculated;
4. In the case of wages determined on a monthly basis, the amount calculated by dividing the monthly wages by the number of hours (one - twelfth of the number of hours calculated by multiplying the number of hours based on which weekly ordinary wages are calculated by the average number of weeks in the year) based on which monthly ordinary wages are calculated;

5. In the case of wages determined on the basis of a certain period other than a day, week, or month, the amount calculated by applying subparagraphs 2 through 4 *mutatis mutandis*;
 6. In the case of wages determined under a contract wage system, the amount calculated by dividing the total sum of wages under that contract wage system during the period for wage calculation by the total number of working hours during that period (referring to the period until the closing date of wages, if there is any closing date of wages);
 7. In case where wages received by a worker are composed of two or more kinds of wages prescribed in subparagraphs 1 through 6, the sum of each amount calculated pursuant to subparagraphs 1 through 6.
- (3) In case of calculating ordinary wages under paragraph (1) on a daily basis, the ordinary wages shall be calculated by multiplying the number of contractual working hours per day by the hourly wage rate under paragraph (2).

Article 7 (Scope of Application)

The provisions applicable to businesses or workplaces ordinarily employing four workers or less pursuant to Article 11 (2) of the Act are provided for in Table 1.

Article 7 - 2 (Method of Calculating Number of Workers Ordinarily Employed)(1)

“ The number of workers ordinarily employed ” in Article 11 (3) of the Act shall be calculated by dividing the annual number of workers employed for one month (referring to the period since the establishment of the business in case it is less than one month since the establishment of the business; hereinafter referred to as “ the period for calculation ”) prior to the date of occurrence of a reason (referring to a reason requiring judgment on whether to apply the Act or this Decree, such as payment of compensation for suspension of work, application of working hours, etc.; hereinafter in this Article the same shall apply) for the application of the Act to the business or workplace concerned by the total number of operating days during the same period.

(2) Notwithstanding the provision of paragraph (1), the business or workplace shall be considered a business or workplace (hereinafter referred to as “ business or workplace subject to the Act ”) employing not less than five workers (referring to ten workers in the case of judging whether to apply Article 93 of the Act; hereinafter

referred to as “ the standard for the application of the Act ”) or shall not be considered a business or workplace subject to the Act in accordance with the following classification:

1. The business or workplace shall be considered a business or workplace subject to the Act, in case as a result of calculating the number of workers in the business or workplace concerned pursuant to paragraph (1), it is found that the business or workplace does not fall into the category of businesses or workplaces subject to the Act, but the number of workers, if calculated by each day of the period for calculation, is less than 1/2 short of the standard for the application of the Act;
2. The business or workplace shall not be considered a business or workplace subject to the Act, in case as a result of calculating the number of workers in the business or workplace pursuant to paragraph (1), it is found that the business or workplace falls into the category of businesses or workplaces subject to the Act, but the number of workers, if calculated by each day of the period for calculation, is not less than 1/2 short of the standard for the application of the Act

(3) In the case of judging whether to apply the provisions of Articles 60 through 62 of the Act (excluding part of Article 60 (2) relating to annual paid leave), as a result of calculating the number of workers per month in the business or workplace concerned pursuant to paragraphs (1) and (2), it is found that the business or workplace continues to employ not less than five workers for one year prior to the date of occurrence of a reason for the application of the Act, such business or workplace shall be considered a business or workplace subject to the Act.

(4) The annual number of workers under paragraph (1) shall include all workers described in the following subparagraphs, excluding dispatched workers under subparagraph 5 of Article 2 of the Act on the Protection, etc., of Dispatched Workers :

1. All workers working in a business or workplace regardless of their employment status, such as full - time workers used by the business or workplace concerned, fixed - term workers under subparagraph 1 of Article 2 of the Act on the Protection, etc. of Fixed - term and Part - time Employees and part - time workers under subparagraph 8 of Article 2 of the Act, etc.;
2. In case there is any worker falling under subparagraph (1), along with a relative living together, in the business workplace concerned, the relative living together

< This Article Newly Inserted by Presidential Decree No. 20873, Jun. 25, 2008 >

Article 8 (Working Conditions to Be Specified)

“ Other working conditions prescribed by the Presidential Decree ” in the former part of Article 17 of the Act refers to the following matters:

1. Matters regarding place of employment and work to be performed;
2. Matters prescribed in subparagraphs 1 through 12 of Article 93 of the Act;
3. Matters determined by dormitory rules, in case of having workers lodge in a dormitory attached to the workplace.

Article 8 - 2 (Issuance of Written Statement of Working Conditions at the Workers' Request)

The proviso of Article 17 (2) of the Act, "provided that if the matters above are altered due to the reasons prescribed by the Presidential Decree, such as changes in collective agreements or employment rules, etc." refers to the cases specified in the following subparagraphs:

1. When the changes are made by written agreement with the workers' representatives in accordance with Article 51 (2), Article 52, Article 57, Article 58 (2) and (3), Article 59 or Article 62 of the Act;
2. When the changes are made pursuant to the rules of employment in accordance with Article 93 of the Act;
3. When the changes are made pursuant to the collective agreement in accordance with Article 31 (1) of the Trade Union and Labor Relations Adjustment Act;
4. When the changes are made pursuant to Acts and subordinate statutes.

< This Article Newly Inserted by Presidential Decree No. 23155, Sep. 22, 2011 >

Article 9 (Standards, etc., for Working Conditions for Part - time Workers) (1) The criteria or other matters to be considered for the determination of working conditions for part - time workers under the provisions of Article 18 (2) of the Act are provided for in Table 2.

(2) Deleted < Presidential Decree No. 20873, Jun. 25, 2008 >

(3) Deleted < Presidential Decree No. 20873, Jun. 25, 2008 >

Article 10 (Report of Plan for Dismissal for Managerial Reasons) (1) If an employer intends to dismiss the number of workers falling under any of the following

subparagraphs during a period of one month pursuant to Article 24 (4) of the Act, he/she shall report to the Minister of Employment and Labor 30 days before the intended dismissal begins: <Amended by Presidential Decree No. 22269, Jul. 12, 2010>

1. A business or workplace which ordinarily employs 99 workers or fewer : 10 workers or more;
2. A business or workplace which ordinarily employs 100 workers or more but not more than 999 : 10 percent or more of workers ordinarily employed;
3. A business or workplace which ordinarily employs 1,000 workers or more ; 100 workers or more.

(2) The report under paragraph (1) shall include the following matters:

1. Reasons for dismissal;
2. Number of workers to be dismissed;
3. Contents consulted with a representative of workers;
4. Dismissal schedule.

Article 11 (Deadline for Compliance with Remedy Order)

The Labor Relations Commission (hereinafter referred to as the “ Labor Relations Commission ”) under the Labor Relations Commission Act shall, when issuing a remedy order (hereinafter referred to as “ remedy order ”) to an employer pursuant to Article 30 (1) of the Act, set a deadline for the compliance. In this case, the deadline shall fall within thirty days from the date of issuance of the remedy order.

Article 12 (Deadline for Payment of Enforcement Levy, Submission of Opinions,

etc.) (1) The Labor Relations Commission shall, when imposing an enforcement levy pursuant to Article 33 (1) of the Act, set a deadline for the payment, which shall fall within fifteen days from the date on which the imposition of the enforcement levy is notified.

(2) If it is difficult to pay the enforcement levy before the payment deadline prescribed in paragraph (1) due to a natural disaster, an armed conflict or any other unavoidable reason, the Labor Relations Commission may set a deadline which is within fifteen days from the date on which the reason disappears.

(3) When an employer is informed in writing of the intention to impose and collect an enforcement levy pursuant to Article 33 (2), a period of at least ten days shall be set and the employer shall be given an opportunity to state his/her opinions verbally or

in writing (including electronic documents) during that period. In this case, if no opinion is stated until the end of the set period, the employer shall be considered to have no opinion.

(4) The procedures for collecting enforcement levies shall be prescribed by the Ordinance of the Ministry of Employment and Labor.<Amended by Presidential Decree No. 22269, Jul. 12, 2010>

Article 13 (Criteria for Imposition of Enforcement Levy)

The criteria for the imposition of enforcement levies according to types and degrees of offenses are provided for in Table 3.

Article 14 (Suspension of Imposition of Enforcement Levy)

If there is a reason falling under any of the following subparagraphs, the Labor Relations Commission may impose an enforcement levy after the reason disappears, by virtue of its authority or at the request of the employer :

1. Where the employer has made objective efforts to comply with the remedy order but it is obviously difficult for him/her to comply with it due to unknown whereabouts of the worker;
2. Where it is difficult to comply with the remedy order due to a natural disaster, an armed conflict or any other unavoidable reason.

Article 15 (Return of Enforcement Levy)(1) If a remedy order by the Labor Relations Commission is canceled in accordance with a decision rendered by the National Labor Relations Commission after reexamination or a confirmed court ruling, the Labor Relations Commission shall immediately stop imposing and collecting the enforcement levy and return the enforcement levy already collected by virtue of its authority or at the request of the employer.

(2) When the Labor Relations Commission returns an enforcement levy pursuant to paragraph (1), the amount of enforcement levy multiplied by the interest rate prescribed by the Ordinance of the Ministry of Employment and Labor over a period from the date the enforcement levy were paid until the date of the return shall be returned in addition.<Amended by Presidential Decree No. 22269, Jul. 12, 2010>

(3) The specific procedures for returning enforcement levies pursuant to paragraph (1) shall be prescribed by the Ordinance of the Ministry of Employment and Labor.

< Amended by Presidential Decree No. 22269, Jul. 12, 2010 >

Article 16 (Definition of Probationary Worker)

For the purposes of subparagraph 5 of Article 35 of the Act, the term “ probationary worker ” means a worker for whom less than three months have passed since the start of his/her probationary period.

Article 17 (Late Payment Interest Rate on Unpaid Wages)

“ The interest rate prescribed by the Presidential Decree ” in Article 37 (1) of the Act refers to an annual rate of twenty percent.

Article 18 (Reasons for Exclusion from Application of Late Payment Interest)

“ Any other reason prescribed by the Presidential Decree ” in Article 37 (2) of the Act refers to any of the following cases:

1. Where the case falls under any of the subparagraphs of Article 4 of the Enforcement Decree of the Wage Claim Guarantee Act ;
2. Where it is difficult to secure enough funds to pay wages and retirement pay due to the constraints of Acts and subordinate statutes, such as the Debtor Recovery and Bankruptcy Act, the National Finance Act, the Local Government Act, etc.;
3. Where it is deemed appropriate to bring the case to a court or the Labor Relations Commission to decide whether wages and retirement pay whose payment is delayed in whole or in part exist or not;
4. Where there is any other reason equivalent to those prescribed in paragraphs (1) through (3).

Article 19 (Request for Issuance of Certificate of Employment)

A person eligible to request the issuance of a certificate of employment in accordance with the provisions of Article 39 (1) of the Act shall be a worker who has served consecutively for not less than thirty days, and such request shall be made within three years after his/her retirement.

Article 20 (Matters to Be Entered in Register of Workers)

Matters described in the following subparagraphs shall be entered in a worker register under Article 41 (1) of the Act, as prescribed by the Ordinance of the Ministry of Employment and Labor: < Amended by Presidential Decree No. 22269, Jul. 12,

[2010 >](#)

1. Name;
2. Sex;
3. Date of birth;
4. Address;
5. Personal history;
6. Type of work to be performed;
7. Date of employment or renewal of employment, contract period agreed upon, if any, and other matters relating to employment;
8. Date of dismissal, retirement or death, and the reasons therefor;
9. Other necessary matters.

Article 21 (Exception to Requirement to Prepare Register of Workers)

With respect to a daily worker who has been employed for a period of less than thirty days, a register of worker may not be prepared.

Article 22 (Preservation of Documents, etc.)(1) “ Important documents regarding labor contracts prescribed by the Presidential Decree ” in Article 42 of the Act means the following documents:

1. Labor contracts;
2. Wage ledgers;
3. Documents pertaining to the basis for the determination, payment method and calculation of wages;
4. Documents pertaining to employment, dismissal or retirement;
5. Documents pertaining to promotion or demotion;
6. Documents pertaining to leave of absence;
7. Documents pertaining to approval or authorization under Article 53 (3), subparagraph 3 of Article 63 and the proviso of Article 70 (2) of the Act;
8. Documents related to written agreements under Articles 51 (2), 52, 58 (2) and (3), and 59 of the Act;
9. Documents pertaining to certification of the minor under Article 66 of the Act.

(2) The preservation period under Article 42 of the Act shall be counted from any of the following dates:

- 1.Date of death, retirement, or dismissal of a worker, in case of a register of workers;
- 2.Date of termination of labor relations, in case of labor contracts;
3. Date of the last entry, in case of wage ledgers;
- 4.Date of dismissal or retirement of a worker, in case of documents pertaining to employment, dismissal, or retirement;
- 5.Date of approval or authorization, in case of documents pertaining to approval or authorization under paragraph (1) 7;
- 6.Date of agreement concluded in writing, in case of documents related to a written agreement under paragraph (1) 8;
- 7.Date on which the minor attains the age of 18 (the date of dismissal, retirement, or death, in case where the minor is dismissed, retires, or dies before reaching the age of 18), in case of documents pertaining to certification of the minor;
8. Date of completion, in case of other documents.

Article 23 (Exception to Wages Paid Once or More Per Month)

“ Extraordinary wages, allowances, or any other similar payment or those wages provided for by the Presidential Decree ” in the proviso of Article 43 (2) of the Act means those described in the following subparagraphs:

- 1.Allowances for good attendance paid on the basis of an attendance record for a period exceeding one month;
- 2.Seniority allowances paid for consecutive service for a fixed period exceeding one month;
- 3.Bounties, proficiency allowances, or bonuses calculated for any reason existing for a period exceeding one month;
4. Other various allowances not paid on a regular basis.

Article 24(Causes Attributable to Immediate Upper Tier Contractor)

The scope of causes attributable to an immediate upper tier contractor under Article 44 (2) of the Act shall be as follows:

- 1.Where he/she fails to pay the contract price on the due date agreed upon in the relevant contract without a justifiable reason;
- 2.Where he/she delays a supply of or fails to supply, raw materials agreed upon in the relevant contract without a justifiable reason;

3. Where he/she fails to comply with the terms and conditions of the relevant contract without a justifiable reason, and as a result, the subcontractor fails to perform contract work in a normal way.

Article 25 (Payment of Wages Before Payment Date)

“ Other cases of emergency prescribed by the Presidential Decree ” in Article 45 of the Act means cases where a worker or a person who lives on the worker's income falls under any of the following subparagraphs:

1. In case of child birth, disease, or accidents;
2. In case of marriage or death;
3. In case of going back home for a period of one week or more for any unavoidable reason.

Article 26 (Calculation of Allowances for Suspension of Business)

In case where a worker has received part of wages during the suspension of business due to a cause attributable to the employer, the employer shall, pursuant to the main sentence of Article 46 (1) of the Act, calculate the difference by subtracting the amount of wages paid from the average wages, and pay the worker allowances equivalent to seventy percent or more of that difference: Provided that in case where ordinary wages are paid as allowances for the suspension of business pursuant to the proviso of Article 46 (1) of the Act, the amount calculated by subtracting the amount of wages paid during the suspension of business from the ordinary wages shall be paid.

Article 27 (Entries to Be Made into Wage Ledger)(1) An employer shall enter the following descriptions of each worker into the wage ledger under Article 48 of the Act:

1. Name;
2. Resident registration number;
3. Date of employment;
4. Description of duties;
5. Matters on the basis of which wages and family allowances are calculated;
6. Number of working days;

7. Number of working hours;
8. Number of hours of overtime work, night work, or holiday work if any;
9. Amount by wage category, such as basic pay, allowances, or other wages (in case there are wages paid by means other than in currency, their name, quantity and estimated total amount);
10. Amount deducted pursuant to the proviso of Article 43 (1) of the Act, if there is any such deduction.

(2) With respect to daily workers whose period of employment is less than thirty days, the descriptions under paragraph (1) 2 and 5 may not be entered.

(3) With respect to workers falling under any of the following subparagraphs, the descriptions under paragraph (1) 7 and 8 may not be entered:

1. Workers of a business or workplace which ordinarily employs 4 workers or less as prescribed in Article 11 (2) of the Act;
2. Workers who fall under any of the subparagraphs of Article 63 of the Act.

Article 28 (Matters Agreed upon with Respect to Flexible Working Hours System)

(1) “ Other matters prescribed by the Presidential Decree ” in Article 51 (2) 4 of the Act means the valid period of a written agreement.

(2) If necessary for requiring an employer to take measures to preserve wage levels under Article 51 (4) of the Act, the Minister of Employment and Labor may order the employer to present the details of such measures, or may directly check them.

[<Amended by Presidential Decree No. 22269, Jul. 12, 2010>](#)

Article 29 (Matters Agreed upon with Respect to Selective Working Hours System)

“ Other matters prescribed by the Presidential Decree ” under subparagraph 6 of Article 52 of the Act means standard working hours (working hours per day based on which the employer and the workers ’ representative agree to calculate paid leave, etc.).

Article 30 (Weekly Holiday)

The paid holiday under Article 55 of the Act shall be granted to a person who has shown perfect attendance of the contractual working days during one week.

Article 31 (Jobs Eligible for Discretionary Working System)(1) “ Works designated by the Presidential Decree ” in the former part of Article 58 (3) of the Act means any

of the following jobs: <Amended by Presidential Decree No. 22269, Jul. 12, 2010>

1. Research on and development of, new products or technologies and research in the areas of humanities, or social or natural sciences;
2. Designing or analysis of data processing systems;
3. Gathering, compilation or editing of materials for newspaper, broadcasting, or publication business;
4. Designing or creation of clothing, interior decoration, industrial goods, advertisements, etc.;
5. Work of a producer or director in the business of producing broadcasting programs, motion pictures, etc.;
6. Other jobs determined by the Minister of Employment and Labor.

Article 32 (Business Eligible for Special Exception to Working Hours and Recess Hours)

“Businesses prescribed by the Presidential Decree” in subparagraph 4 of Article 59 of the Act means social welfare businesses.

Article 33 (Payment Date of Leave Allowances)

The wages under Article 60 (5) of the Act shall be paid on the pay day before or immediately after paid leave is granted.

Article 34 (Worker Excluded from Application of Working Hours, etc.)

“Work prescribed by the Presidential Decree” in subparagraph 4 of Article 63 of the Act means managerial and supervisory work or work of handling confidential information irrespective of type of business.

Article 35 (Issuance, etc. of Employment Permit)(1) A person eligible for an

employment permit under Article 64 of the Act shall be thirteen years old or above but less than fifteen years old: Provided that even those under the age of thirteen may be eligible for an employment permit if it is for participation in art performance.

(2) A person who intends to obtain an employment permit under paragraph (1) shall file an application therefor with the Minister of Employment and Labor, as prescribed by the Ordinance of the Ministry of Employment and Labor. <Amended by Presidential Decree No. 22269, Jul. 12, 2010>

(3) The application under paragraph (2) shall be jointly signed by the school principal (limited to those subject to compulsory education and those attending a school), a

person with parental authority or a guardian and the prospective employer.

Article 36 (Delivery of Employment Permit)

In case where the Minister of Employment and Labor grants an employment permit in response to an application made pursuant to Article 35 (2), he/she shall deliver the employment permit prescribed by the Ordinance of the Ministry of Employment and Labor, with type of work designated, to the applying worker and prospective employer. <Amended by Presidential Decree No. 22269, Jul. 12, 2010 >

Article 37 (Types of Work Prohibited from Employment Permit)

For types of work prescribed in Article 40, an employment permit shall not be issued.

<Amended by Presidential Decree No. 22269, Jul. 12, 2010 >

Article 38 (Keeping and Return of Employment Permit)(1) If an employer employs a person under the age of fifteen and keeps the employment permit, he/she shall be deemed to keep the certificate proving family relationships and the written consent of the person with parental authority or the guardian under Article 66 of the Act.

<Amended by Presidential Decree No. 20873, Jun. 25, 2008 >

(2) An employer who ceases to employ a person under the age of fifteen and the person concerned shall return, without delay, the employment permit to the Minister of Employment and Labor. <Amended by Presidential Decree No. 22269, Jul. 12, 2010 >

Article 39 (Reissuance of Employment Permit)

In case where an employment permit is destroyed or lost, the employer or the relevant worker under the age of fifteen shall apply, without delay, for the reissuance of a new employment permit, as prescribed by the Ordinance of the Ministry of Employment and Labor. <Amended by Presidential Decree No. 22269, Jul. 12, 2010 >

Article 40 (Types of Work Prohibited for Pregnant Women, etc.)

The types of work for which the employment of pregnant women, women aged eighteen or older but not pregnant and those under the age of eighteen is prohibited pursuant to Article 65 of the Act are provided for in Table 4.

Article 41 (Calculation of Working Hours)

The working hours under Article 69 of the Act and Article 46 of the Occupational Safety and Health Act mean actual working hours excluding recess hours.

Article 42 (Jobs Permitted for Working Inside Pits)

The jobs for which women and those under the age of eighteen may be placed temporarily inside a pit under Article 72 of the Act shall be as follows:

1. Jobs for health, medical treatment and welfare;
2. Jobs for news reporting and gathering to make newspapers, publish and produce broadcasting programs;
3. Surveying for academic research;
4. Jobs for management and supervision;
5. Practical training in a field relating to any job under subparagraphs 1 through 4.

Article 43 (Request, etc., for Miscarriage or Stillbirth Leave) (1) If a worker who has a miscarriage or stillbirth after sixteen weeks of pregnancy asks for leave (hereinafter referred to as “miscarriage or stillbirth leave”) pursuant to Article 74 (2) of the Act, she shall submit an application for miscarriage or stillbirth leave containing reasons for the request for leave, the date of miscarriage or stillbirth, the pregnancy period, along with the medical certificate issued by a medical organization, to the employer.

(2) If a worker requests miscarriage or stillbirth leave pursuant to paragraph (1), the employer shall grant miscarriage or stillbirth leave to the worker in accordance with the following standards:

1. Workers who have a miscarriage or stillbirth after a pregnancy period (hereinafter referred to as “pregnancy period”) of 16 weeks or more but less than 21 weeks : thirty days from the date of miscarriage or stillbirth
2. A pregnancy period of 22 weeks or more but less than 27 weeks : sixty days from the date of miscarriage or stillbirth;
3. A pregnancy period of 28 weeks or more : ninety days from the date of miscarriage or stillbirth.

Article 44 (Scope, etc. of Occupational Disease) (1) The scope of occupational diseases and medical treatment under Article 78 (2) of the Act is provided for in Table 5.

(2) In case where a worker suffers an occupational disease, or injury or is dead in the course of employment, the employer shall have him/her see a doctor without delay.

Article 45 Deleted <Presidential Decree No. 20873, Jun. 25, 2008 >

Article 46 (Time of Payment of Compensation for Medical Treatment and Compensation for Suspension of Work)

Compensation for medical treatment and compensation for suspension of work shall be made at least once a month.

Article 47 (Determination of Grade of Disability)(1) Grades of physical disability on the basis of which compensation for disability has to be paid pursuant to Article 80 (3) of the Act are provided for in Table 6. <Amended by Presidential Decree No. 20873, Jun. 25, 2008 >

(2) In case where any person has two or more physical disabilities as prescribed in Table 6, his/her grade of physical disability shall be the one corresponding to the more serious disability : Provided that in the case of the following subparagraphs, his/her grade of physical disability shall be the one adjusted according to the relevant subparagraph. In this case, if the adjusted grade is higher than Grade 1, it shall be Grade 1:

1. Where he/she has two or more physical disabilities falling under Grade 5 or above: his/her grade of physical disability shall be raised by three grades from the grade corresponding to the more serious disability;
2. Where he/she has two or more physical disabilities falling under Grade 8 or above, his/her grade of physical disability shall be raised by two grades from the grade corresponding to the more serious disability;
3. Where he/she has two or more physical disabilities falling under Grade 13 or above, his/her grade of physical disability shall be raised by one grade from the grade corresponding to the more serious disability.

(3) In cases of physical disabilities which do not fall under any of the categories in Table 6, compensation therefor shall be made according to the degree of the disability by referring to equivalent physical disabilities in Table 6.

(4) Deleted <Presidential Decree No. 20873, Jun. 25, 2008 >

Article 48 (Scope, etc., of Surviving Family Members)(1) The scope of surviving family members under Article 82 (2) of the Act shall be as follows. In this case, survivor's compensation shall be made in the following order of priority, and if surviving family members fall under the same subparagraph, the compensation shall be made in the order of priority as mentioned therein: <Amended by Presidential Decree No. 20873, Jun. 25, 2008 >

1. Spouses (including de facto spouses), children, parents, grandchildren and grandparents who were dependent upon the worker at the time of his/her death;
2. Spouses, children, parents, grandchildren and grandparents who were not dependent upon the worker at the time of his/her death;
3. Brothers and sisters who were dependent upon the worker at the time of his/her death;
4. Brothers and sisters who were not dependent upon the worker at the time of his/her death.

(2) In determining the order of priority among surviving family members, adoptive parents shall take precedence over biological parents, the parents of adoptive parents over the parents of biological parents and the adoptive parents of parents over the biological parents of parents.

(3) Notwithstanding the provisions of paragraphs (1) and (2), if the worker designated a particular person, if any, among the surviving family members under paragraph (1), in his/her will or in a pre-arrangement with the employer, the designated person shall take precedence over the others.

Article 49 (Members of Same Priority)

In case where there are two or more members of the same priority eligible for compensation for survivors, the compensation shall be divided equally among the members.

Article 50 (Death of Person Confirmed as Recipient of Compensation)

In case of the death of a member confirmed as a recipient of compensation for survivors, the compensation shall be paid to the members of the same priority as him/her, and if there is no such members, to the members of the next priority.

Article 51 (Time of Compensation)(1) Disability compensation shall be paid without delay after a worker completely recovers from an injury or a disease.

(2) Compensation for survivors and funeral expenses shall be paid without delay after the death of a worker.

Article 52 (Date of Occurrence of Cause for Calculating Average Wages In Case of Payment of Accident Compensation)

In case of paying accident compensation, the date on which an accident causing the death or injury takes place or the date on which it is confirmed through medical examination that the disease occurred shall be deemed the date of occurrence of the cause for calculating average wages.

Article 53 Deleted <[Presidential Decree No. 20873, Jun. 25, 2008](#)>

Article 54 (Posting, etc., of Draft of Dormitory Rules)

An employer who intends to obtain the consent of a person representing a majority of workers pursuant to Article 99 (2) of the Act shall post a draft of dormitory rules at a conspicuous place in the dormitory or make it available for inspection for seven days or longer before obtaining consent thereto from them, if a majority of the workers accommodated in the dormitory are less than eighteen years old.

Article 55 (Separation of Male and Female in Dormitory)

An employer shall not have male and female workers accommodated in the same room of a dormitory.

Article 56 (Location of Dormitory)

If an employer intends to establish a dormitory, he/she shall not choose a place with strong noise and vibration.

Article 57 (Bedroom)

Workers of two or more teams whose working hours are different shall not be accommodated in the same bedroom.

Article 58 (Standards for Establishment of Dormitory)

The area of dormitory bedrooms shall be not less than 2.5 square meters per person, and the number of persons accommodated in one room shall be not more than fifteen

persons.

Article 59 (Delegation of Authority)

The Minister of Employment and Labor shall delegate his/her authority over the following matters to the heads of local employment and labor offices pursuant to Article 106 of the Act: <Amended by Presidential Decree No. 22269, Jul. 12, 2010>

1. Demanding a report or appearance under Article 13 of the Act;
2. Accepting a report of dismissal plans under Article 24 (4) of the Act;
3. Granting authorization or approval for extension of working hours under Article 53 (3) of the Act;
4. Ordering an employer to grant recess or days - off under Article 53 (4) of the Act;
5. Granting approval for those engaged in surveillance or intermittent work under Article 63 (3);
6. Issuing or cancelling an employment permit under Article 64 of the Act;
7. Terminating an employment contract disadvantageous to minors under Article 67 (2) of the Act;
8. Granting authorization for night or holiday work of pregnant women and those under the age of eighteen under the proviso to Article 70 (2);
9. Matters relating to examination or arbitration of cases concerning objections raised to recognition, etc. of an accident and diagnosis and tests for this purpose under Article 88 of the Act;
10. Accepting a report of rules of employment under Article 93 of the Act;
11. Ordering revision of rules of employment under Article 96 (2) of the Act;
12. Issuing written instructions for medical tests or examinations under Article 102 (3) of the Act;
13. Accepting a notification of a violation of laws under Article 104 (1) of the Act;
14. Imposing and collecting a fine for negligence under Article 116 of the Act;
15. Accepting a report of special cases under Article 2 of the Addenda of the Labor Standards Act amended by Act no. 6974;
16. Ordering and checking measures to maintain wage levels under Article 28 (2);
17. Receiving an application for employment permit under Article 35 (2);
18. Receiving a returned employment permit under Article 38 (2).

Article 60 (Criteria for Imposition of Fines for Negligence)

The criteria for the imposition of fines for negligence under Article 116 (1) of the Act are provided for in Table 7. <Amended by Presidential Decree No. 22269, Jul. 12, 2010 and Presidential Decree No. 22804, Mar. 30, 2011 >

<This Article Wholly Amended by Presidential Decree No. 20873, Jun. 25, 2008 >

<Title of This Article Amended by Presidential Decree No. 22804, Mar. 30, 2011 >

ADDENDA <No. 20873, 25. Jun, 2008 >

Article 1 (Enforcement Date)

This Decree shall enter into force on July 1, 2008.

Article 2 (Method of Calculating Number of Workers Ordinarily Employed for Construction Work Such As Construction Work Subject to Special Case Concerning Application of Working Hours)

(1) The number of workers ordinarily employed for construction work (hereinafter referred to as “ related construction work ”) under Article 5 - 2 of the Addenda of the Labor Standards Act wholly amended by Act no. 8372 refers to a number calculated according to the following formula. In this case, the “ total construction contract price ” refers to the contract price (including the market price of materials in case the person who issues the order supplies materials) for the related construction work to be performed to complete the final object, “ the labor cost ratio for the year concerned ” refers to the labor cost ratio for construction work in general under Article 1 (1) 1 of the Enforcement Decree of the Act on the Collection, etc., of Premiums for Employment Insurance and Industrial Accident Compensation Insurance and “ the monthly average wage for the construction industry ” refers to the wage calculated and announced by the Minister of Labor on the basis of the wages for the construction industry in the survey on wages and working hours at establishments prepared by the Minister of Labor.

Number of workers ordinarily employed = total construction contract price X labor cost ratio for the year concerned

Monthly average wage for the construction industry for the year concerned X number of operating months

(2) In calculating the total construction contract price pursuant to the latter part of paragraph (1), if the related construction work is split into two or more parts, each contracted out to complete the final object, regardless of whether it is called entrustment or whatever else, it shall be calculated by adding up each contract price.

ADDENDA <No. 21695, 18. Aug, 2009 >

This Decree shall enter into force on August 22, 2009.

ADDENDA <No. 22567, 29. Dec, 2010 >

Article 1 (Enforcement Date)

This Decree shall enter into force on the date of its promulgation.

Article 2 (Enforcement Date of Labor Standards Act Amended by Act No. 6974 in Case of Businesses or Workplaces Ordinarily Employing Less Than 20 Workers)
"The date prescribed by the Presidential Decree" in subparagraph 6 of Article 4 of the Labor Standards Act amended by Act no. 8372 means July 1, 2011 in the case of businesses or workplaces ordinarily employing less than 20 workers.

ADDENDA <No. 22687, 02. Mar, 2011 >

Article 1 (Enforcement Date)

This Decree shall enter into force on the date of its promulgation.

Article 2 Omitted.

Article 3 (Revision of Other Decrees)

(1) and (2) Omitted.

(3) Parts of the Enforcement Decree of the Labor Standards Act shall be revised as follows:

"Establishment of Homeland Reserve Forces Act" in the main sentence of Article 2 (1) 7 shall be changed to "Establishment of Homeland Reserve Forces Act".

(4) through (7) Omitted.

Article 4 Omitted.

ADDENDA <No. 22804, 30. Mar, 2011 >

Article 1 (Enforcement Date)

This Decree shall enter into force on the date of its promulgation.

Article 2 (Transitional Measures concerning Fine for Negligence)

(1) The application of the criteria for the imposition of fines for negligence to any offense committed before this Decree enters into force shall be governed by the previous provisions notwithstanding the amended provisions in Table 7.

(2) The imposition of fines for negligence for any offense committed before this Decree enters into force shall not be counted toward the number of offenses calculated pursuant to the amended provisions in Table 7.

ADDENDA <No. 23155, 22. Sep, 2011 >

This Decree shall enter into force on 1 January 2012.