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ENFORCEMENT DECREE OF THE LABOR STANDARDS ACT

[Enforcement Date 01. Jan, 2017.] [Presidential Decree No.27751, 30. Dec, 2016., Amendment by Other Act]

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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) 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 any of the following periods, such period and wages paid during that period shall be subtracted

respectively from the period and the total amount of wage serving as the basis for the calculation of average wages: <Amended by Presidential Decree No. 20803, Jun. 5, 2008;

Presidential Decree No. 22687, Mar. 2, 2011; Presidential Decree No. 23946, Jul. 10, 2012;

Presidential Decree No. 27619, Nov. 29, 2016>

1. A probationary period under subparagraph 5 of Article 35 of the Act;
2. A period during which the employer's business is closed because of a cause attributable to the employer under Article 46 of the Act;
3. A period before or after childbirth under Article 74 of the Act;
4. A period of temporary suspension of 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 the Equal Employment Opportunity and Work - Family Balance Assistance Act;
6. A period of labor disputes under subparagraph 6 of Article 2 of the Trade Union and Labor Relations Adjustment Act;
7. A period of temporary retirement from office or absence from office in order to perform a duty under the Military Service Act, the Reserve Forces Act, or the Framework Act on Civil Defense: Provided, That this shall not apply to a period

during which wages have been paid;

8. A period of temporary retirement from office due to a non - occupational injury or disease, or any other cause with the employer's approval.

(2) Wages and allowances paid on a temporary basis and wages paid by any means other than money shall not be included in the total amount of wages under Article 2 (1) 6 of the Act: Provided, That the same shall not apply to those specified by the Minister of Employment and Labor. <Amended by Presidential Decree No. 22269, Jul. 12, 2010 >

Article 3 (Average Wage of Daily Worker)

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

Article 4 (Average Wage in Special Cases)

Where it is impossible to calculate an average wage in accordance with Article 2 (1) 6 of the Act and Articles 2 and 3 of this Decree, such an average wage shall be as determined by the Minister of Employment and Labor. <Amended by Presidential Decree No. 22269, Jul. 12, 2010 >

Article 5 (Adjustment of Average Wage) (1) The average wage applicable to the calculation of compensation, etc. for the worker pursuant to Articles 79, 80, and 82 through 84 of the Act shall, when the average amount of monthly ordinary wage per worker (hereinafter referred to as the "average amount") paid to workers in the same business category in the same business or workplace to which the relevant worker belongs has changed by at least five percent from the average amount paid in the month when an injury or a disease occurs, be such amount increased or decreased at the aforesaid rate of change, but such rate shall apply to the month immediately following the month of occurrence of grounds for change and the months subsequent thereto: Provided, That the second or latter adjustment of average wages shall be calculated based on the average amount of the month in which a cause for immediately preceding change occurred.

(2) Where the business or workplace to which the relevant worker belongs is permanently closed down, the adjustment of average wage under paragraph (1) shall

be based on a business or workplace with the same business type and scale as at the time when an occupational injury or disease was inflicted on the worker.

(3) If there is no worker engaged in the same occupational category as the relevant worker, the adjustment of the average wage under paragraph (1) or (2) shall be based on workers engaged in the occupation of similar category.

(4) The average wage applicable to the computation of the retirement benefits under Article 8 of the Guarantee of Workers' Retirement Benefits Act, which shall be paid to a worker who suffers from an occupational injury or disease in accordance with Article 78 of the Act, shall be the average wage adjusted in accordance with paragraphs (1) through (3).

Article 6 (Ordinary Wage) (1) For the purposes of the Act and this Decree, "ordinary wage" means hourly wage, daily wage, weekly wage, monthly wage, or contract amount to be paid to a worker for a specifically agreed work or entire works on a regular and flat basis.

(2) In case of calculating an ordinary wage under paragraph (1) as an hourly wage rate, the ordinary wage shall be an amount calculated in accordance with any of the following formulas:

1. The amount agreed upon as an hourly wage, if any;
2. The amount obtained by dividing a daily wage rate by the contractual working hours per day, if there is an amount agreed upon as a daily wage rate;
3. The amount obtained by dividing a weekly wage rate by the standard hours for the calculation of the weekly ordinary wage (which mean the hours calculated by adding the paid hours in addition to the contractual working hours per week under Article 2 (1) 7 of the Act to such contractual working hours), if there is an amount agreed upon as a weekly wage rate;
4. The amount obtained by dividing a monthly wage rate by the standard hours for the calculation of the monthly ordinary wage (which means one - twelfth of the number calculated by multiplying the standard hours for the calculation of the weekly ordinary wage by the average number of weeks per year), if there is an amount agreed upon as a monthly wage rate;
5. The amount obtained by applying subparagraphs 2 through 4 mutatis mutandis, if there is an amount agreed upon as the wage rate for any period other than a day, a

week, or a month;

6. The amount obtained by dividing total sum of wages calculated on a piece work basis for the period for the calculation of the wages by total working hours during the same period (referring to the wage settlement period, if there is a date set for the settlement of wages), if there is a wage agreed upon as the contract amount;

7. The amount obtained by adding up the amounts calculated in accordance with subparagraphs 1 through 6, if the wage to which a worker is entitled consists of two or more different types of wages set forth in subparagraphs 1 through 6.

(3) When the calculation of the ordinary wage under paragraph (1) is based on a daily wage rate, such ordinary wage shall be calculated by multiplying the hourly wage rate under paragraph (2) by the contractual working hours per day.

Article 7 (Scope of Application)

The provisions of the Act applicable pursuant to Article 11 (2) of the Act to any business or workplace that employs four or less regular workers shall be as specified in attached Table 1.

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

The term "number of workers ordinarily employed" in Article 11 (3) of the Act shall be calculated by dividing the total number of workers employed for one month (in cases of less than one month from the realization of a business, referring to a period after the realization of such business; hereinafter referred to as the "period of calculation") prior to the date of occurrence of a reason (referring to a reason requiring judgement as to whether the Act or this Decree shall apply, such as payment of a compensation of suspension of work, application of working hours, etc.; hereafter the same shall apply in this Article) governed by the Act in the business concerned or at the place of work concerned by the number of working days during the same period.

(2) Notwithstanding paragraph (1), according to the following classifications, such business or place of business shall be deemed a business or a place of business that employs five (in case of judgement as to whether Article 93 of the Act shall apply, referring to 10 workers; hereafter referred to as "criteria for application of the Act" in this Article) or more workers (hereafter referred to as "business or place of business governed by the Act" in this Article), or shall not be deemed a business or

a place of business governed by the Act:

1. In cases where it is deemed the business or the place of business governed by the Act: Where the number of days falling short of the criteria for application of the Act is less than 1/2, when the number of workers by day belonging to a period of calculation has been ascertained, as a result of calculation of the number of workers of the business or the place of business concerned pursuant to paragraph (1) even in cases not falling under the business or the place of business governed by the Act;
 2. In cases where it is not deemed the business or place of business governed by the Act: where the number of days falling short of the criteria for application of the Act is more than 1/2, when the number of workers per day belonging to a period of calculation has been ascertained, as a result of calculation of the number of workers of the business or the place of business concerned pursuant to paragraph (1), even in cases falling under the business or place of business governed by the Act.
- (3) In cases of judgement on whether the provisions of Articles 60 through 62 of the Act (excluding the part concerning an annual paid leave under Article 60 (2) of the Act) shall apply, the business or the place of business that employs five or more workers continuously for one year prior to the date of occurrence of a reason of application of the Act as a result of calculation of the number of workers by month for the business or the place of the business concerned pursuant to paragraphs (1) and (2) shall be deemed the business or the place of business governed by the Act.
- (4) The total number of workers in paragraph (1) shall include all the workers under the following subparagraphs excluding dispatched workers under subparagraph 5 of Article 2 of the Protection, etc. of Dispatched Workers Act:
1. All the workers working in one business or one place of business regardless of type of employment, such as workers ordinarily employed by the business or the place of business concerned, fixed - term workers under subparagraph 1 of Article 2 of the Act on the Protection, etc. of Fixed - Term and Part - Time Workers, part - time workers under subparagraph 8 of Article 2 of the Act, etc.;
 2. If a business or a place of business employs even one worker falling under subparagraph 1 and relatives living together workers who are relatives living together.

[This Article Newly Inserted by Presidential Decree No. 20873, Jun. 25, 2008]

Article 8 (Mandatory Terms and Conditions of Employment)

The term "other terms and conditions of employment as prescribed by Presidential Decree" in the former part of Article 17 of the Act means the following terms and conditions:

1. Terms and conditions relating to the place of employment and the job assigned;
2. Terms and conditions set forth in subparagraphs 1 through 12 of Article 93 of the Act;
3. Terms and conditions prescribed by the dormitory rules, if workers shall be accommodated in a dormitory attached to the workplace.

Article 8 - 2 (Delivery of Documents Requested by Employees)

"Where altered due to reasons prescribed by Presidential Decree, such as changes, etc. of collective agreements or rules of employment" under the proviso to Article 17 (2) of the Act means any of the following cases:

1. Where altered by written agreement with the labor representative pursuant to Articles 51 (2), 52, 57, 58 (2) and (3), 59 or 62 of the Act;
2. Where altered by employment rules under Article 93 of the Act;
3. Where altered by collective agreements under Article 31 (1) of the Trade Union and Labor Relations Adjustment Act;
4. Where altered by statutes.

[This Article Newly Inserted by Presidential Decree No. 23155, Sep. 22, 2011]

Article 9 (Standards, etc. of Terms and Conditions of Employment for Part - time

Workers) (1) The standard terms and conditions applicable in determining the terms and conditions of employment for part - time workers under Article 18 (2) of the Act and other necessary matters therefor shall be as specified in attached Table 2.

(2) and (3) Deleted. <by [Presidential Decree No. 20873, Jun. 25, 2008](#)>

Article 10 (Reporting on Layoff Plan on Grounds of Business Management) (1) An

employer who intends to lay off employees in number in accordance with Article 24 (4) of the Act, shall submit a report thereon to the Minister of Employment and Labor at least 30 days before the date on which the intended layoff begins: <[Amended](#)

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

1. If the business or workplace employs not more than 99 regular workers: Ten persons or more;
2. If the business or workplace employs at least 100 regular workers, but no more than 999 regular workers: Ten percent or more of regular workers;
3. If the business or workplace employs at least 1,000 regular workers: 100 persons or more.

(2) The reporting under paragraph (1) shall contain the following matters:

1. Grounds for layoff;
2. Planned number of employees for layoff;
3. Details of agreement with the representative of workers;
4. Timetable for layoff.

Article 11 (Time Limit for Performance of Order for Remedy)

The Labor Relations Commission under the Labor Relations Commission Act (hereinafter referred to as the "Labor Relations Commission") shall, whenever it issues an order for remedy to an employer pursuant to Article 30 (1) of the Act (hereinafter referred to as an "order for remedy"), prescribe the time limit for performance. In this case, the time limit shall not exceed 30 days from the date on which the order for remedy is issued.

Article 12 (Deadline for Payment of Charges for Compelling Performance and Presentation of Opinion, etc.)

(1) The Labor Relations Commission shall, when it imposes the charge for compelling performance pursuant to Article 33 (1) of the Act, prescribe the time limit for the payment, which shall not exceed 15 days from the date of receiving a notice of imposition of the charge for compelling performance.

(2) If it is difficult to pay the charge for compelling performance within the payment deadline under paragraph (1) due to a natural disaster or any other unavoidable cause or event, the Labor Relations Commission may require the payment of charge within 15 days from the date such a cause or event ceases to exist.

(3) When a prior notice of the intent to impose and collect the charge for compelling performance is given in writing to an employer pursuant to Article 33 (2) of the Act, the notice shall contain the information that the employer has an opportunity to make a statement on his/her side, orally or in writing (including an electronic document), within a fixed period of at least ten days. In this case, if he/she fails to make a

statement by the given deadline, it shall be deemed that the employer has no objection.

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

Article 13 (Guidelines for Imposition of Charges for Compelling Performance)

The guidelines for imposition of the charge for compelling performance according to the type and degree of an offense under Article 33 (4) of the Act shall be as provided for in attached Table 3.

Article 14 (Suspension of Imposition of Charges for Compelling Performance)

The Labor Relations Commission may, if there is either of the following causes or events, impose the charge for compelling performance, ex officio or at the employer's request, after the cause or event terminates:

1. The employer has objectively made efforts to perform the order for remedy, but it is evidently difficult for the employer to perform the order for remedy because of the worker's unknown whereabouts, etc.;
2. If it is difficult to perform the order for remedy owing to a natural disaster or any other unavoidable cause or event.

Article 15 (Refund of Charges for Compelling Performance) (1) If the order for remedy is reversed by a decision on a review by the Central Labor Relations Commission or a final and conclusive judgment by a court, the Labor Relations Commission shall, ex officio or at the employer's request, stop imposing or collecting the charge for compelling performance and refund the charge already collected.

(2) The Labor Relations Commission shall, when it refunds the charge for compelling performance pursuant to paragraph (1), add to the refunded charges an amount calculated by multiplying the charge by the interest rate prescribed by Ordinance of the Ministry of Employment and Labor for the period from the date of payment of the charge to the date of refund. <Amended by Presidential Decree No. 22269, Jul. 12, 2010>

(3) Detailed procedures for refunding the charge for compelling performance pursuant to paragraph (1) shall be prescribed by Ordinance of the Ministry of Employment and Labor. <Amended by Presidential Decree No. 22269, Jul. 12, 2010>

Article 16 (Definition of Probationary Employees)

The term "worker in a probationary period" in subparagraph 5 of Article 35 of the Act means a person who has been employed on probation for three months or less.

Article 17 (Late Payment Interest for Overdue Wage)

The term "interest rate prescribed by Presidential Decree" in Article 37 (1) of the Act means twenty percent per annum.

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

The term "other reasons prescribed by Presidential Decree" in Article 37 (2) of the Act means any of the following causes and events: <Amended by Presidential Decree No. 25630, Sep. 24, 2014>

1. A case falling under any of the subparagraphs of Article 7 (1) of the Wage Claim Guarantee Act;
2. Where it is impracticable to secure the funds for payment of wages and retirement benefits due to statutory restraints under the Debtor Rehabilitation and Bankruptcy Act, the National Finance Act, the Local Autonomy Act, etc.;
3. Where it is deemed appropriate to bring a case to a court or the Labor Relations Commission for a trial on the existence of all or part of any wage or retirement benefit for which the payment has been delayed;
4. Where there exists any other cause or event similar to those under subparagraphs 1 through 3.

Article 19 (Request for Issuance of Certificate of Employment)

The persons eligible for requesting the issuance of the certificate of employment in accordance with Article 39 (1) of the Act shall be the workers who have been employed for 30 days or longer continuously, but such a request shall be made within three years after retirement.

Article 20 (Entries in Register of Workers)

The register of workers under Article 41 (1) of the Act shall contain each of the following matters as prescribed by Ordinance of the Ministry of Employment and Labor: <Amended by Presidential Decree No. 22269, Jul. 12, 2010>

1. Name;

2. Gender;
3. Date of birth;
4. Address;
5. Personal history;
6. Type of task engaged in;
7. Date, month, year of employment or renewal thereof, employment period, if agreed upon, and other matters related to employment;
8. Date, month, year of dismissal, retirement, or death, and the reason thereof;
9. Other necessary matters.

Article 21 (Exception to Drawing up Register of Workers)

With respect to daily workers who have been employed for less than 30 days, the register of workers may not be formulated.

Article 22 (Documents, etc. for Preservation) (1) The term "important documents related to an employment contract as prescribed by Presidential Decree" in Article 42 of the Act means the following documents:

1. Employment 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 leaves of absence;
7. Deleted; <by Presidential Decree No. 25840, Dec. 9, 2014 >
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 of important documents on employment contracts under Article 42 of the Act shall be counted from any of the following dates:

1. For the register of workers, date of dismissal, retirement, or death of a worker;
2. For employment contracts, date of termination of employment ;
3. For wage ledgers, date of the last entry;

4. For documents on employment, dismissal, or retirement, date of dismissal or retirement of a worker;
5. For documents pertaining to the approval or authorization under paragraph (1) 7, date of approval or authorization;
6. For documents related to a written agreement under paragraph (1) 8, date of an agreement concluded in writing;
7. For documents pertaining to certification of the minor, date on which the minor becomes the age of 18 (if the minor is dismissed, retires, or dies before becoming the age of 18, the date of dismissal, retirement, or death);
8. Date of completion for other documents.

Article 23 (Exception to Wages to be Paid at Least Once Monthly)

The term "extraordinary wages, allowances, or other similar payments, or the wages prescribed by Presidential Decree" in the proviso to Article 43 (2) of the Act means those falling under the following subparagraphs:

1. Allowance for good attendance payable on the basis of the attendance record for a period exceeding one month;
2. Seniority allowance payable for consecutive service for a fixed period exceeding one month;
3. Incentive, proficiency allowance, or bonus calculated on a ground sustaining for a period exceeding one month;
4. Other various allowances paid on an irregular basis.

Article 23 - 2 (Cases Not Subject to Disclosure of Name of the Business Owner in Arrear)

“ Where the disclosure of name is not effective due to death of the business owner in arrear or closure of business or where other reasons prescribed by Presidential Decree exist ” under the proviso to Article 43 - 2 (1) of the Act means any of the following cases:

1. Where the business owner (hereinafter referred to as “ business owner in arrear ”) who has failed to pay the wages, compensations, allowances and all other money or valuables pursuant to Articles 36, 43, and 56 of the Act (hereinafter referred to as “ wages, etc. ”) dies or is sentenced to the judicial declaration of disappearance pursuant to Article 27 of the Civil Act (applicable only where the business owner in arrear is a natural person);

2. Where the business owner in arrear pays the full amount of the wages, etc. in arrear before the end of the explanation period under Article 43 - 2 (2) of the Act;
3. Where the business owner in arrear receives the court decision for initiation of rehabilitation procedure or he/she is sentenced to bankruptcy pursuant to the Debtor Rehabilitation and Bankruptcy Act;
4. Where the business owner in arrear receives the acknowledgment of bankruptcy or other facts pursuant to Article 5 of Enforcement Decree of the Wage Claim Guarantee Act;
5. Where the business owner in arrear is deemed, by the Committee for Review of Information on Overdue Wages under Article 43 - 2 (3) of the Act (hereinafter referred to as the “ Committee ” in this Article), necessary to be exempted from the requirement of disclosure of name because he/she has paid part of the overdue wages, etc. and sufficiently explained plans for liquidation and financing schedule with respect to the remaining overdue wages, etc.;
6. Cases equivalent to those under subparagraphs 1 through 5, where the Committee deems that disclosure of personal information, etc. of the business owner in arrear is not effective.

[This Article Newly Inserted by Presidential Decree No. 23868, Jun. 21, 2012]

Article 23 - 3 (Details and Period, etc. of Disclosure of Name) (1) The Minister of Employment and Labor shall disclose the following details pursuant to Article 43 - 2 (1) of the Act:

1. Name, age, business name, and address of a business owner in arrear (where the business owner in arrear is a corporation, referring to the name, age, and address of its representative and the name and address of the corporation);
2. The amount of money in arrear such as the wages, etc. during three years prior to the date of disclosure of name.

(2) The disclosure under paragraph (1) shall be made through publication in the Official Gazette or posting on Internet homepage, bulletin boards of the competent local employment and labor offices, or other places available for perusal by the public for three years.

[This Article Newly Inserted by Presidential Decree No. 23868, Jun. 21, 2012]

Article 23 - 4 (Exceptional Cases to Providing the Data on Delayed Payment of Wages, etc.)

“ Where the provision of data is not effective due to death or closure of business of the business owner in arrear or where other reasons prescribed by Presidential Decree exists ” under the proviso to Article 43 - 3 (1) of the Act means any of the following cases:

1. Where the business owner in arrear dies or is sentenced to the judicial declaration of disappearance pursuant to Article 27 of the Civil Act (only applicable where the business owner in arrear is a natural person);
2. Where the business owner in arrear pays the full amount of the wages, etc. in arrear before the date when the data on delayed payment of wages, etc. is provided under Article 43 - 3 (1) of the Act (hereinafter referred to as “ data on delayed payment of wages, etc. ”);
3. Where the business owner in arrear receives the court decision for initiation of rehabilitation procedure or he/she is sentenced to bankruptcy pursuant to the Debtor Rehabilitation and Bankruptcy Act;
4. Where the business owner in arrear receives the acknowledgment of bankruptcy or other facts pursuant to Article 5 of Enforcement Decree of the Wage Claim Guarantee Act;
5. Where the business owner in arrear is deemed, by the Minister of Employment and Labor, sincerely endeavoring to liquidate the overdue wages, etc. because he/she has paid the part of the overdue wages, etc. before the date of providing data on overdue payment, and sufficiently explained detailed plans for liquidation and financing schedule with respect to the remaining overdue wages, etc.

[This Article Newly Inserted by Presidential Decree No. 23868, Jun. 21, 2012]

Article 23 - 5 (Procedure for Providing the Data on Delayed Payment of Wages, etc.) (1)

Pursuant to Article 43 - 3 (1) of the Act, a person who requests the data on delayed payment of wages, etc. (hereinafter referred to as “ requester ”) shall submit to the Minister of Employment and Labor the documents stating the following matters:

1. Name, business name, and address of the requester (where the requester is a corporation, referring to the name of the requester and the name and address of the corporation);

2. Details and purposes of use of the requested data on delayed payment of wages, etc.

(2) The Minister of Employment and Labor may prepare the data on delayed payment of wages, etc. under paragraph (1) in the form of paper documents or electronic files and submit them to the requester.

(3) Where the event under either of the subparagraphs of Article 23 - 4 occurs after providing the data on delayed payment of wages, etc. pursuant to paragraph (2), the Minister of Employment and Labor shall notify the occurrence of such event to the requester no later than 15 days from the date when the Minister becomes aware of the facts.

[This Article Newly Inserted by Presidential Decree No. 23868, Jun. 21, 2012]

Article 24 (Causes Attributable to Contractor)

The attributable causes under Article 44 (2) shall be as follows:<Amended by Presidential Decree No. 23868, Jun. 21, 2012>

1. Where a contractor fails to pay the contract amount on the due date agreed upon by the relevant contract agreement without a justifiable ground;
2. Where a contractor delays in supplying, or fails to supply, the raw materials agreed upon by the relevant contract agreement without a justifiable ground;
3. Where a contractor fails to perform any term or condition of the relevant contract agreement without a justifiable ground and, as a result, the subcontractor fails to perform contract work in a normal way.

[Title Amended by Presidential Decree No. 23868, Jun. 21, 2012]

Article 25 (Payment of Wages before Due Date)

The term "other cases of emergency as prescribed by Presidential Decree" in Article 45 of the Act means the cases where a worker or a person who makes a living with the worker's income falls under any of the following subparagraphs:

1. Giving birth to a child, becoming ill, or being overtaken by a disaster or an accident;
2. Getting married or becoming dead;
3. Going back home for at least one week due to an unavoidable cause.

Article 26 (Calculation of Suspension Allowance)

Where a worker has received a part of wages during a period of suspension due to any ground attributable to the employer, the employer shall, in compliance with the main sentence of Article 46 (1) of the Act, pay him/her an allowance equivalent to at least 70 percent of the difference calculated by subtracting that part of wages already paid to the said worker from the average wages: Provided, That where ordinary wages are paid as suspension allowance in accordance with the proviso to Article 46 (1) of the Act, the difference between the ordinary wages and the part already paid during the period of suspension shall be paid.

Article 27 (Mandatory Descriptions of Wage Ledger) (1) Every employer shall enter the following descriptions of each individual worker into the wage ledger under Article 48 of the Act:

1. Name;
2. Resident registration number;
3. Date of employment;
4. Details of assigned job;
5. Matters applied as the basis of calculation of wages and family allowances;
6. Number of working days;
7. Working hours;
8. Working hours for any overtime duty, night duty, or holiday duty, if any;
9. Amount of basic pay, allowances, and other wages by categories (if wages are paid by means other than money, the name of item, quantity, and total assessed value of means);
10. Deducted amount, if there is any wages deducted in accordance with the proviso to Article 43 (1) of the Act.

(2) With respect to daily workers whose employment period is less than 30 days, the matters under paragraph (1) 2 and 5 may not be described.

(3) With respect to workers falling under either of the following subparagraphs, matters under paragraph (1) 7 and 8 may not be described:

1. Workers employed by a business or workplace having not more than four regular employees as set forth in Article 11 (2) of the Act;

2. Workers who fall under any of the subparagraphs of Article 63 of the Act.

Article 28 (Agreed - upon Matters regarding Flexible Work Hours System) (1) The term "other matters prescribed by Presidential Decree" in Article 51 (2) 4 of the Act means the effective term of a written agreement.

(2) The Minister of Employment and Labor may, if necessary for requiring an employer to take measures for keeping the level of wages under Article 51 (4) of the Act, order the employer to submit the details of such measures or conduct an inspection thereof by himself/herself. <Amended by Presidential Decree No. 22269, Jul. 12, 2010 >

Article 29 (Agreed - upon Matters regarding Selective Work Hours System)

The term "other matters prescribed by Presidential Decree" in subparagraph 6 of Article 52 of the Act means standard work hours (or daily work hours as agreed upon between an employer and the representative of workers based on the standards for calculating paid leaves, etc.).

Article 30 (Weekly Holidays)

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)

The term "works designated by 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. Researching on and developing new products or new technology, or researching on the humanities, social sciences, or natural sciences;
2. Designing and analyzing data processing systems;
3. Gathering, compiling, or editing materials for a newspaper, broadcasting, or publishing business;
4. Designing or devising clothes, interior decorations, industrial products, advertisements, etc.;
5. Working as a producer or director for production of broadcasting programs, motion pictures, etc.;

6. Other jobs specified by the Minister of Employment and Labor.

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

The term "businesses determined by Presidential Decree" in subparagraph 4 of Article 59 of the Act means social welfare businesses.

Article 33 (Payment Date of Leave Allowance)

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

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

The term "jobs prescribed by Presidential Decree" in subparagraph 4 of Article 63 of the Act means jobs of management and supervision or handling confidential information, irrespective of the type of business.

Article 35 (Issuance, etc. of Employment Permit Certificate) (1) The person eligible for the employment permit certificate under Article 64 of the Act shall be no less than 13 years old, but less than 15 years old: Provided, That a person who is less than 13 years old may be eligible for the employment permit certificate, if it is for participation in art performance.

(2) A person who desires to obtain an employment permit certificate under paragraph (1) shall file an application with the Minister of Employment and Labor as prescribed by 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 head of a school (limited to a person subject to compulsory education and a person attending a school), a person having parental authority or a guardian, and the prospective employer.

Article 36 (Delivery of Employment Permit Certificates) (1) The Minister of Employment and Labor shall, when he/she permits employment upon an application under Article 35 (2), designate the job classification in the employment permit certificate prescribed by Ordinance of the Ministry of Employment and Labor and deliver it to an applicant and a prospective employer. <Amended by Presidential Decree No. 22269, Jul. 12, 2010>

(2) Where an employer who employs a person under the age of 15 is keeping an employment permit certificate, he/she shall be deemed to keep a certificate of family relationships records and a written consent of a person with parent authority or a guardian referred to in Article 66 of the Act. <Newly Inserted by Presidential Decree No. 25840, Dec. 9, 2014>

Article 37 (Jobs Prohibited from Employment Permit)

The Minister of Employment and Labor may not issue an employment permit certificate for any job specified in Article 40. <Amended by Presidential Decree No. 22269, Jul. 12, 2010>

Article 38 Deleted. <by Presidential Decree No. 25840, Dec. 9, 2014>

Article 39 (Re - issuance of Employment Permit Certificate)

Any employer or an employee of less than 15 years old shall, when the employment permit certificate is mutilated or lost, apply for re - issuance of the employment permit certificate without delay, as prescribed by Ordinance of the Ministry of Employment and Labor. <Amended by Presidential Decree No. 22269, Jul. 12, 2010>

Article 40 (Jobs Prohibited from Employment of Pregnant Women and Nursing Mothers)

The scope of the jobs prohibited from employment of pregnant women, women of 18 years of age or older who are not either pregnant women or nursing mothers, and women of less than 18 years of age under Article 65 of the Act shall be as specified in attached Table 4.

Article 41 (Calculation of Working Hours)

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

Article 42 (Jobs Permitted for Work Inside of Pits)

The jobs for which women and persons of less than 18 years old may be assigned temporarily to work inside a pit in accordance with Article 72 of the Act shall be as follows:

1. Jobs for public health, medical treatment, and welfare;
2. Jobs for news report and data collection for producing newspaper, publishing, and broadcasting programs, etc.;

3. Surveying for academic researches;
4. Jobs for management and supervision;
5. Practical training in a field related to any job under subparagraphs 1 through 4.

Article 43 (Request, etc. for Miscarriage or Stillbirth Leave) (1) “ Reasons prescribed by Presidential Decree ” under the former part of Article 74 (2) of the Act means any of the following cases: [<Newly Inserted by Presidential Decree No. 23868, Jun. 21, 2012>](#)

1. Where a pregnant worker has an experience of miscarriage/stillbirth;
2. Where a pregnant worker is at the age of 40 or more when she applies for a maternity leave;
3. Where a pregnant worker submits a report prepared by a medical institution stating that she has the risk of miscarriage/stillbirth.

(2) Where a worker who suffers from miscarriage or stillbirth requests the miscarriage or stillbirth leave pursuant to Article 74 (3) of the Act, she shall submit to the business owner an application for miscarriage or stillbirth leave, stating the reason for requesting the leave, the date on which miscarriage or stillbirth occurred, the pregnancy period, etc., along with a medical certificate issued by a medical institution. [<Amended by Presidential Decree No. 23868, Jun. 21, 2012>](#)

(3) The the business owner shall give a miscarriage or stillbirth leave according to the following guidelines to any worker who requests a miscarriage or stillbirth leave pursuant to paragraph (2): [<Amended by Presidential Decree No. 23868, Jun. 21, 2012>](#)

1. Where a pregnancy period of the worker who suffers from miscarriage or stillbirth (hereinafter referred to as the "pregnancy period") is not more than 11 weeks: up to five days from the date of miscarriage or stillbirth;
2. Where the pregnancy period is not less than 12 weeks but not more than 15 weeks: up to ten days from the date of miscarriage or stillbirth;
3. Where the pregnancy period is not less than 16 weeks but not more than 21 weeks: up to 30 days from the date of miscarriage or stillbirth;
4. Where the pregnancy period is not less than 22 weeks but not more than 27 weeks: up to 60 days from the date of miscarriage or stillbirth;
5. Where the pregnancy period is not less than 28 weeks: up to 90 days from the date of miscarriage or stillbirth.

Article 43 - 2 (Requests for Reduction of Work Hours during Pregnancy Period)

A female worker who intends to request a reduction of her work hours under Article 74 (7) of the Act shall submit a document (including electronic documents) in which her pregnancy period, the expected date of the commencement and termination of the reduction of work hours, the time to start and finish her work, etc. are specified by no later than three days before the expected commencement of reduction of work hours to an employer, appending a doctor's medical certificate (excluding cases where a reduction of work hours is requested again for the same pregnancy).

[This Article Newly Inserted by Presidential Decree No. 25631, Sep. 24, 2014]

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

(2) Where a worker suffers an occupational disease or injury or is dead in the course of employment, the employer shall have him/her receive examination from a doctor without delay.

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

Article 46 (Period for Payment of Compensations for Medical Treatment and Suspension of Service)

The compensations for medical treatment and suspension of service shall be paid at least once a month.

Article 47 (Determination of Grade of Disability) (1) Criteria for determination of the grade of physical disability eligible for compensation under Article 80 (3) of the Act shall be as provided for in attached Table 6. <Amended by Presidential Decree No. 20873, Jun. 25, 2008>

(2) If there are two or more different physical disabilities under attached Table 6, the grade for the most serious physical disability of them shall apply: Provided, That in the following cases, the grade adjusted in accordance with each of the following subparagraphs shall apply. In this case, the adjusted grade higher than Grade I shall be deemed as Grade I:

1. In case there are two or more different physical disabilities in Grade or higher:
The adjusted grade shall be the one raised by three grades from the grade for the

most serious physical disability;

2. In case there are two or more physical disabilities in Grade or higher: The adjusted grade shall be the one raised by two grades from the grade for the most serious physical disability;

3. In case there are two or more physical disabilities in Grade or higher: The adjusted grade shall be the one raised by one grade from the grade for the most serious physical disability.

(3) Any physical disability that does not fall under any of the categories in attached Table 6 shall be compensated according to the degree of the disability by referring to similar physical disabilities in attached Table 6.

(4) Deleted. <by 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, the priority for compensation among survivors shall be according to the order in the following subparagraphs, but the priority of members falling under the same subparagraph shall be given in the order as listed hereunder: <Amended by Presidential Decree No. 20873, Jun. 25, 2008 >

1. Spouse (including de facto spouse not by law), children, parents, grandchildren, and grandparents who were dependent upon the worker at the time of his/her death;

2. Spouse, children, parents, grandchildren, and grandparents who were not dependent upon the dead worker;

3. Siblings who were dependent upon the dead worker;

4. Siblings who were not dependent upon the dead worker.

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

(3) Notwithstanding paragraphs (1) and (2), a specific person designated, if any, among surviving family members under paragraph (1) in the worker's will or by a pre - arrangement with the employer shall take precedence over others.

Article 49 (Members of Same Priority)

Where there are two or more surviving family members of the same priority eligible for compensation for survivors, that compensation shall be divided equally according to the number of such members.

Article 50 (Death of Definite Recipient of Compensation for Survivors)

Where any surviving family member definitely confirmed to receive compensation for survivors is dead, the compensation shall be paid to the members of the same priority with him/her, if any, or to the members of the next priority, if there is no member of the same priority.

Article 51 (Timing of Compensation) (1) Disability compensation shall be paid without delay after a worker completely recovers from an injury or 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 Wage for Accident Compensation)

In paying compensation for an accident, the date an accident causing death or an injury occurs, or the date on which a medical examination finally determines the incidence of a disease, shall be deemed as the date of occurrence of cause for calculating average wage.

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

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

Any employer who intends to obtain consent of the representative of the majority of workers in accordance with Article 99 (2) of the Act shall post a draft of dormitory rules at a conspicuous place within the dormitory or make it available for inspection, for seven days or longer to seek such consent, if the majority of the workers accommodated in the dormitory are less than 18 years old.

Article 55 (Separation of Male and Female Residing in Dormitory)

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

Article 56 (Location of Dormitory)

Every employer shall avoid any place with severe noise and vibration in establishing a dormitory.

Article 57 (Bedrooms)

Workers in two or more different shifts which have different working hours shall not be accommodated in one bedroom.

Article 58 (Standards for Establishment of Dormitory)

The area of a dormitory bedroom shall be at least 2.5 square meters per person, and the number of persons accommodated in one room shall not exceed 15 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 relations offices pursuant to Article 106 of the Act: <Amended by Presidential Decree No. 22269, Jul. 12, 2010>

1. Demanding a report or appearance pursuant to Article 13 of the Act;
2. Receipt of a report on the layoff plan pursuant to Article 24 (4) of the Act;
3. Granting an authorization or approval for extension of working hours pursuant to Article 53 (3) of the Act;
4. Issuance of an order for recess or holiday pursuant to Article 53 (4) of the Act;
5. Granting an approval for a person who engages in surveillance or intermittent work pursuant to subparagraph 3 of Article 63 of the Act;
6. Issuance of an employment permit certificate and revoking such a certificate pursuant to Article 64 of the Act;
7. Terminating an employment contract disadvantageous to the minor pursuant to Article 67 (2) of the Act;
8. Granting an authorization for night and holiday duties of pregnant women, nursing mothers, and persons of less than 18 years old pursuant to the proviso to Article 70 (2) of the Act;
9. Matters related to review and arbitration on an objection to recognition, etc. of an accident under Article 88 of the Act and medical examination and diagnosis for such a purpose;

10. Receipt of a report on rules of employment pursuant to Article 93 of the Act;
11. Issuance of an order of revising rules of employment pursuant to Article 96 (2) of the Act;
12. Issuance of a written instruction for inspection or medical examination pursuant to Article 102 (3) of the Act;
13. Receipt of a notice of a violation of laws pursuant to Article 104 (1) of the Act;
14. Imposing and collecting an administrative fine pursuant to Article 116 of the Act;
15. Receipt of a report on special case pursuant to Article 2 of the Addenda of the Amendment (Act No. 6974) to the Labor Standards Act;
16. Issuance of an order to submit measures for maintaining the level of wages pursuant to Article 28 (2) and giving confirmation thereof;
17. Receipt of an application for employment permit pursuant to Article 35 (2);
18. Receipt of a returned employment permit certificate pursuant to Article 38 (2).

Article 59 - 2 (Processing of Sensitive Information and Personally Identifiable Information)

Where it is inevitable to perform the following affairs, the Minister of Employment and Labor (including the person who is entrusted with the authority of the Minister of Employment and Labor pursuant to Article 59) or the Labor Relations Commission may process the information on the health under Article 23 of the Personal Information Protection Act (only applicable to the affairs under subparagraph 7) and the data containing the resident registration number or foreigner registration number under subparagraph 1 or 4 of Article 19 of the Enforcement Decree of the same Act: <Amended by Presidential Decree No. 23868, Jun. 21, 2012>

1. Affairs concerning the claim for compensation of damage under Article 19 (2) of the Act;
2. Affairs concerning the relief of unfair dismissal, etc. under Article 28 (1) of the Act;
3. Affairs concerning the order to pay money or other valuables under Article 30 (3) of the Act;
4. Affairs concerning confirmation of performance of the order for remedy of unfair dismissal and concerning imposition of charge for compelling performance, etc. pursuant to Article 33 of the Act;

- 4 - 2. Affairs concerning the disclosure of name of the business owner in arrear pursuant to Article 43 - 2 of the Act and the provision of the data on delayed payment of wages, etc. pursuant to Article 43 - 3 of the Act;
5. Affairs concerning the employment permit certificate under Article 64 of the Act;
6. Affairs concerning admission for the gross negligence under Article 81 of the Act;
7. Affairs concerning the review and arbitration under Article 88 (1) and 89 (1) of the Act;
8. Affairs concerning the report on violation of laws pursuant to Article 104 of the Act;
9. Affairs concerning accusation of the person who fails to perform the definite order for remedy, etc. pursuant to Article 112 of the Act.

[This Article Newly Inserted by Presidential Decree No. 23488, Jan. 6, 2012]

Article 59 - 3 (Re - Examination of Regulations)

The Minister of Employment and Labor shall examine the appropriateness of the payment of wages before a due date under Article 25, every three years counting from January 1, 2015 (referring to the period that ends on the day before the base date of every third year), and shall take measures for improvement, etc. <Amended by Presidential No. 27619, Nov. 29, 2016 >

[This Article Newly Inserted by Presidential Decree No. 25840, Dec. 9, 2014]

Article 60 (Criteria for Imposition of Administrative Fines)

The criteria for imposition of an administrative fine under Article 116 (1) of the Act shall be prescribed in attached Table 7. <Amended by Presidential Decree No. 22269, Jul. 12, 2010; Presidential Decree No. 22804, Mar. 30, 2011 >

[This Article Wholly Amended by Presidential Decree No. 20873, Jun. 25, 2008]

ADDENDA <No. 20803, 05. Jun, 2008 >

Article 1 (Enforcement Date)

This Decree shall enter into force on June 22, 2008. (Proviso Omitted.)

Articles 2 through 5 Omitted

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

Article 1 (Enforcement Date)

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

Article 2 (Calculation Method of Number of Regular Workers of Related Works such as Construction Works, etc. subject to Application of Special Cases of Working Hours)

(1) The number of regular workers of the related works (hereafter referred to as the "related works" in this Article) under Article 5 - 2 of the Addenda of the wholly amended Labor Standards Act (Act No. 8372) shall be the number calculated according to the following calculation method. In such cases, the term "total amount of contracts for works" means the amount of contracts (in cases where the person awarding the contracts furnishes materials, including the converted amount of such materials into the market price) of the related works to be performed to complete the final object, the term "ratio of labor of the corresponding year" means the ratio of labor of general construction works under Article 11 (1) 1 of the Enforcement Decree of the Act on the Collection of Insurance Premiums, etc. for Employment Insurance and Industrial Accident Compensation Insurance, and the term "monthly average wages of construction business" means the wages calculated and announced by the Minister of Labor on the basis of wages of construction business in the inspection of wages and working hours of enterprises prepared by the Minister of Labor from among the designated statistics under Article 3 of the Statistics Act.

$$\text{Number of regular workers} = \text{Total amount of contracts for works} \times \text{Ratio of labor of the corresponding year} \times \text{Monthly average wages of construction business of the corresponding year} \times \text{Number of working months}$$

(2) When calculating the total amount of contracts for works under the latter part of paragraph (1), in cases where the related works to be performed to complete the final object have been divided into not less than two parts and contracted accordingly (including the cases where the person awarding the contracts directly performs part of the works) regardless of entrustment or other name, it shall be calculated by aggregating the amount of all contracts.

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

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

ADDENDA <No. 22061, 24. Feb, 2010 >

Article 1 (Enforcement Date)

This Decree shall enter into force on April 10, 2010.

Article 2 Omitted.

ADDENDA <No. 22269, 12. Jul, 2010 >

Article 1 (Enforcement Date)

This Decree shall enter into force on the date of its promulgation. (Proviso Omitted.)

Article 2 Omitted.

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 Amended Labor Standards Act, Act No. 6974, for the Business or Workplace Having less than 20 full - time Employees)

“ The date that is fixed by Presidential Decree ” under subparagraph 6 of Article 4 of the Addenda of the wholly amended Labor Standards Act (Act No. 8372) means July 1, 2011 with respect to the business or workplace that keeps less than 20 full - time employers.

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 Administrative Fines)

(1) Upon applying the criteria for imposing administrative fines with respect to the violation committed before this Decree enters into force, the previous provisions shall apply notwithstanding the amended provisions of attached Table 7.

(2) The administrative fines imposed due to any violation committed before this Decree enters into force shall be excluded from the calculation of the number of times of violative acts under the amended attached Table 7.

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

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

ADDENDA <No. 23488, 06. Jan, 2012 >

Article 1 (Enforcement Date)

This Decree shall enter into force on the date of its promulgation. (Proviso Omitted.)

Article 2 Omitted.

ADDENDA <No. 23868, 21. Jun, 2012 >

This Decree shall enter into force on August 2, 2012.

ADDENDA <No. 23946, 10. Jul, 2012 >

Article 1 (Enforcement Date)

This Decree shall enter into force on August 2, 2012.

Articles 2 and 3 Omitted.

ADDENDA <No. 24652, 28. Jun, 2013 >

Article 1 (Enforcement Date)

This Decree shall enter into force on July 1, 2013.

Article 2 (Applicability to Scope of Occupational Diseases and Medical Treatment)

The amended provisions of attached Table 5 shall also apply to cases where an employer provides a worker with medical treatment or bears expenses therefor for

any occupational disease which occurred before this Decree enters into force.

ADDENDA <No. 25630, 24. Sep, 2014 >

Article 1 (Enforcement Date)

This Decree shall enter into force on September 25, 2014.

Articles 2 and 3 Omitted.

ADDENDA <No. 25631, 24. Sep, 2014 >

This Decree shall enter into force on September 25, 2014.

ADDENDA <No. 25840, 09. Dec, 2014 >

Article 1 (Enforcement Date)

This Decree shall enter into force on January 1, 2015.

Articles 2 through 16 Omitted.

ADDENDA <No. 27619, 29. Nov, 2016 >

Article 1 (Enforcement Date)

This Decree shall enter into force on the date of its promulgation. (Proviso Omitted.)

Articles 2 through 4 Omitted.

ADDENDA <No. 27751, 30. Dec, 2016 >

Article 1 (Enforcement Date)

This Decree shall enter into force on January 1, 2017. (Proviso Omitted.)

Articles 2 through 12 Omitted.