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## ENFORCEMENT DECREE OF THE MINIMUM WAGE ACT

[Enforcement Date 20. Mar, 2018.] [Presidential Decree No.28711, 20. Mar, 2018., Partial Amendment]

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### Article 1 (Purpose)

The purpose of this Decree is to determine matters entrusted by the Minimum Wage Act and necessary matters concerning the enforcement thereof.

[This Article Wholly Amended by Presidential Decree No. 21572, Jun. 26, 2009]

**Article 2 Deleted.** <by Presidential Decree No. 19029, Aug. 31, 2005 >

### Article 3 (Minimum Wage for Employees on Probation)

Pursuant to Article 5 (2) of the Minimum Wage Act (hereinafter referred to as the "Act"), an employee who signed an employment agreement for at least one year period and has been on probation for not longer than three months shall receive the amount obtained by subtracting 10/100 from the minimum hourly wage under the latter part of paragraph (1) of the same Article (referring to the amount set as minimum wage; hereinafter the same shall apply) as his/her minimum wage.

[This Article Wholly Amended by Presidential Decree No. 28711, Mar. 20, 2018]

### Article 4 (Special Cases on Decision of Minimum Wage Amount for Piecework System)

Pursuant to Article 5 (3) of the Act, where wages are ordinarily fixed on a piecework basis or in any other similar manner, if it is difficult to calculate the number of working hours or if it is deemed inappropriate to determine the minimum wage amount in the manner prescribed in paragraph (1) of the same Article, the minimum wage amount shall be determined on the basis of output or performance of the worker concerned.

[This Article Wholly Amended by Presidential Decree No. 21572, Jun. 26, 2009]

### Article 5 (Conversion of Wages for Application of Minimum Wage) (1) If a unit period

used to determine the wages of a worker is different from the unit period used to determine the minimum wage applied to the worker, the worker ' s wages shall be converted into an hourly wage rate pursuant to the following classifications:

1. As to the wages determined on a daily basis: The amount divided by the contractual working hours per day (by the average number of contractual working

hours per day in a week if the contractual working hours varies each day);

2. As to the wages determined on a weekly basis: The amount divided by the contractual working hours per week (by average working hours per week in four weeks if the contractual working hours varies each week);
3. As to the wages determined on a monthly basis: The amount divided by the contractual working hours per month (by average working hours per month per annum if the contractual working hours varies each month);
4. As to the wages determined on a certain period basis other than hour, day, week, or month: The amount calculated mutatis mutandis pursuant to subparagraphs 1 through 3.

(2) For wages fixed on the basis of output or on a piecework basis, the wage per hour shall be calculated by dividing the total amount of wages during a wage calculation period (if a wage closing date exists, referring to the wage closing period; hereafter the same shall apply in this paragraph) by the number of total working hours during the wage calculation period.

(3) If any worker ' s wages consist of two or more kinds of wages determined by paragraph (1) or (2), the wage per hour for the worker shall be the total of wages converted under the respective provision for the relevant portion.

(4) If the contractual working hours per the unit period used to determine the wages of a worker is different from the working hours per a unit period used to determine the minimum wage applied to the worker, the worker ' s wages shall be converted to the wage per hour under the classifications of each subparagraph of paragraph (1).

[\[This Article Wholly Amended by Presidential Decree No. 21572, Jun. 26, 2009\]](#)

#### **Article 5 - 2 (Scope of Wages Included in Minimum Wage of Drivers in Taxi Transport Business)**

"Wages prescribed by Presidential Decree" in Article 6 (5) of the Act means the wages paid once or more per month according to payment conditions and payment rate prescribed in a collective agreement, employment rules, or labor contract: Provided, That none of the following wages shall be included:

1. Wages other than those paid for contractual working hours or contractual working days;

2. Wages paid for subsidy for living and welfare of workers.

[This Article Newly Inserted by Presidential Decree No. 21572, Jun. 26, 2009]

#### **Article 6 (Standard for Authorization of Exclusion from Application of Minimum Wage)**

A worker to whom the employer can exclude the application of minimum wage with the authorization of the Minister of Employment and Labor under Article 7 of the Act means a person whose mental or physical disability is deemed to be clear and direct obstacle to perform the work assigned. <Amended by Presidential Decree No. 22269, Jul. 12, 2010 >

[This Article Wholly Amended by Presidential Decree No. 21572, Jun. 26, 2009]

#### **Article 7 (Request for Deliberation of the Minimum Wages Council)**

The Minister of Employment and Labor shall request the Minimum Wage Council (hereinafter referred to as the "Council") to deliberate on the minimum wage by the 31st of March every year under Article 8 (1) of the Act. <Amended by Presidential Decree No. 22269, Jul. 12, 2010 >

[This Article Wholly Amended by Presidential Decree No. 21572, Jun. 26, 2009]

#### **Article 8 (Public Announcement of Minimum Wage Proposal)**

If the minimum wage proposal has been submitted to the Minister of Employment and Labor by the Council under Article 8 (2) of the Act, the Minister of Employment and Labor shall immediately publish the minimum wage proposal by type of business or workplace (hereinafter referred to as "business") and the scope of applicable business under Article 9 (1) of the Act. <Amended by Presidential Decree No. 22269, Jul. 12, 2010 >

[This Article Wholly Amended by Presidential Decree No. 21572, Jun. 26, 2009]

#### **Article 9 (Raising of Objection to Minimum Wage Proposal)**

A person who intends to raise an objection under the former part of Article 9 (2) of the Act shall submit to the Minister of Employment and Labor the report of objection clearly indicating the following matters: <Amended by Presidential Decree No. 22269, Jul. 12, 2010 >

1. Name, address, post, and position of the person raising an objection;
2. Main points of the minimum wage proposal for the type of business subject to objection;

3. Reasons for and contents of objection.

[This Article Wholly Amended by Presidential Decree No. 21572, Jun. 26, 2009]

**Article 10 (Scope of Representative of Workers or Employers Qualified to Raise Objections)**

A representative of workers under the latter part of Article 9 (2) of the Act shall be the representative of the confederation of trade unions or the industrial federation of trade unions and a representative of employers shall be the representative of the nationwide organized employers ' association which is designated by the Minister of Employment and Labor. <Amended by Presidential Decree No. 22269, Jul. 12, 2010 >

[This Article Wholly Amended by Presidential Decree No. 21572, Jun. 26, 2009]

**Article 11 (Obligation to Give Notice)** (1) Details of the minimum wage which an employer shall notify to workers under Article 11 of the Act shall be as follows:

1. The minimum wage amount for the workers concerned;
2. Wages not included in the minimum wage under Article 6 (4) of the Act;
3. Scope of workers in the business concerned to whom the minimum wage does not apply under Article 7 of the Act;
4. Effective date of the minimum wage.

(2) The employer shall inform workers of the details of the minimum wage under paragraph (1) by one day prior to the effective date of the minimum wage under Article 10 (2) of the Act.

[This Article Wholly Amended by Presidential Decree No. 21572, Jun. 26, 2009]

**Article 12 (Commission or Appointment, etc. of Council Members)** (1) Members representing workers, members representing employers, and public interest members under Article 14 (1) of the Act shall be commissioned by the President upon the nomination of the Minister of Employment and Labor. <Amended by Presidential Decree No. 22269, Jul. 12, 2010 >

(2) Standing members under Article 14 (2) of the Act shall be appointed by the President upon the nomination of the Minister of Employment and Labor. <Amended by Presidential Decree No. 22269, Jul. 12, 2010 >

(3) The members representing workers shall be nominated from among persons recommended by the confederation of trade unions, and members representing

employers shall be nominated from among the persons recommended by the nationwide organized employers' association designated by the Minister of Employment and Labor.<Amended by Presidential Decree No. 22269, Jul. 12, 2010>

(4) Where a vacancy occurs, the successor shall be commissioned or appointed within 30 days from the date of the vacancy: Provided, That where the remaining term of office of a predecessor is not less than one year, the commission or appointment of a successor may be omitted.

[This Article Wholly Amended by Presidential Decree No. 21572, Jun. 26, 2009]

#### **Article 12 - 2 (Dismissal of Council Members)**

In any of the following cases, the President may dismiss any relevant member referred to in Article 14 (1) 1 through 3 of the Act:

1. Where he/she becomes incapable of performing his/her duties due to mental disorder;
2. Where it is found that he/she is involved in any misconduct in connection with his/her duties;
3. Where it is deemed that he/she is not unsuitable for serving as a member due to neglect of duties, injury to dignity, or any other reason;
4. Where he/she declares himself/herself that it is impracticable for him/her to perform duties.

[This Article Newly Inserted by Presidential Decree No. 26844, Dec. 31, 2015]

#### **Article 13 (Criteria for Commission of Public Interest Members)**

Public interest members shall be commissioned from among persons who meet any of the following qualifications:<Amended by Presidential Decree No. 22269, Jul. 12, 2010>

1. Persons who were public officials of Grade      or higher or public officials belonging to the Senior Civil Service with profound academic knowledge and experience in labor matters;
2. Persons who currently hold or previously held offices as an associate professor or higher position in the field of labor economics, labormanagement relations, labor law, sociology, social welfare, or other fields related thereto in a university for not less than five years;
3. Persons who currently engage in or engaged previously in the research for labor relations in an officially authorized research institute for not less than ten years

(five years in cases of a doctorate degree holder in the fields specified in subparagraph 2);

4. Other persons recognized by the Minister of Employment and Labor to have profound knowledge and experience equivalent to subparagraphs 1 through 3.

[This Article Wholly Amended by Presidential Decree No. 21572, Jun. 26, 2009]

#### **Article 14 (Appointment Qualification, etc. of Standing Members)**

Standing members of the Council shall be appointed from among persons who meet any of the following qualifications:

1. Persons who have experience in the field of labor administration as public officials of Grade    or higher or public officials belonging to the Senior Civil Service;
2. Persons who previously held office as an associate professor or a higher position in the field of labor economics, labor - management relations, labor law, sociology, social welfare, or other fields related thereto in a university for not less than five years.

[This Article Wholly Amended by Presidential Decree No. 21572, Jun. 26, 2009]

#### **Article 15 (Commission, etc. of Special Members)**

Special members under Article 16 of the Act shall be commissioned by the Minister of Employment and Labor from among public officials of Grade    or higher in the related administrative agencies or public officials belonging to the Senior Civil Service.<Amended by Presidential Decree No. 22269, Jul. 12, 2010>

[This Article Wholly Amended by Presidential Decree No. 21572, Jun. 26, 2009]

#### **Article 16 (Compensation for Actual Expense)**

Relevant workers and employers and other related persons who appear at the Council (including a technical committee to which Article 19 (4) of the Act apply mutatis mutandis) under Article 18 of the Act may be paid allowances and travel expenses within budgetary limits.

[This Article Wholly Amended by Presidential Decree No. 21572, Jun. 26, 2009]

**Article 17 (Composition of Technical Committee)** (1) A technical committee under Article 19 (1) of the Act shall be comprised of members designated by the Chairperson of the Council from among council members.

(2) If the Chairperson of the Council deems it difficult to organize a technical committee under paragraph (1) only with the members of the Council or deems it necessary to review the matters concerned specially, the Chairperson may commission members of the technical committee separately. In such cases, among members of a technical committee separately commissioned, Article 12 (3) shall apply mutatis mutandis to the commission of members representing workers and members representing employers; Article 13 shall apply mutatis mutandis to the commission of public interest members.

[This Article Wholly Amended by Presidential Decree No. 21572, Jun. 26, 2009]

#### **Article 18 (Allowance, etc. of Members)**

The members, other than standing members of the Council under Article 14 (1) of the Act, and the members of a technical committee under Article 19 (3) of the Act may be paid allowances and travel expenses necessary to perform their duties within budgetary limits; the allowance shall be paid on the basis of the number of attending dates and the travel expenses shall be paid the amount corresponding to the amount paid to those who are in the position of standing members.

[This Article Wholly Amended by Presidential Decree No. 21572, Jun. 26, 2009]

#### **Article 19 (Survey of Actual Conditions)**

The Minister of Employment and Labor may have the Council survey the living expenses, wage conditions of workers under Article 23 of the Act.<Amended by Presidential Decree No. 22269, Jul. 12, 2010 >

[This Article Wholly Amended by Presidential Decree No. 21572, Jun. 26, 2009]

#### **Article 20 (Executing Affairs by Labor Inspector)**

When a labor inspector performs the duties for the enforcement of the Act pursuant to Article 26 (1) of the Act, the labor inspector shall follow the direction of the head of the local employment and labor office to which the inspector belongs.<Amended by Presidential Decree No. 22269, Jul. 12, 2010 >

[This Article Wholly Amended by Presidential Decree No. 21572, Jun. 26, 2009]

#### **Article 21 (Identification Card)**

The identification card under Article 26 (3) of the Act shall be the same one as under Article 7 of the Labor Inspector Regulations.



[This Article Wholly Amended by Presidential Decree No. 21572, Jun. 26, 2009]

#### **Article 21 - 2 (Delegation of Authority)**

The Minister of Employment and Labor shall delegate the following authority to the head of a local employment and labor office under Article 26 - 2 of the Act: <Amended by Presidential Decree No. 22269, Jul. 12, 2010>

1. Authorization of exclusion from the application of the minimum wage under Article 7 of the Act;
2. Demand for a report under Article 25 of the Act;
3. Imposition and collection of fines for negligence under Article 31 of the Act.

[This Article Wholly Amended by Presidential Decree No. 21572, Jun. 26, 2009]

#### **Article 21 - 3 (Handling of Personally Identifiable Information)**

Where the Minister of Employment and Labor (including agencies with delegated powers of the Minister of Employment and Labor as prescribed in Article 21 - 2) deems it unavoidable to perform duties concerning the authorization for waiver of minimum wage under Article 7 of the Act, he or she may handle data containing resident registration numbers or foreigner registration numbers under subparagraph 1 or 4 of Article 19 of the Enforcement Decree of the Personal Information Protection Act.

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

#### **Article 22 (Standards for Imposition of Administrative Fines)**

The standards for imposition of administrative fines under Article 31 (1) of the Act are listed in the attached Table.

[This Article Wholly Amended by Presidential Decree No. 22805, Mar. 30, 2011]

**ADDENDA** <No. 12488, 07. Jul, 1988 >

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

**ADDENDA** <No. 12746, 04. Jul, 1989 >

(1) (Enforcement Date) This Decree shall enter into force on the date of its promulgation.

(2) (Applicability) With respect to a minimum wage for a business additionally governed by this Decree, the one newly determined and published under Articles 8 through 10 of the Act shall apply.

**ADDENDA** <No. 14035, 29. Dec, 1993 >

This Decree shall enter into force on January 1, 1994.

**ADDENDA** <No. 16190, 17. Mar, 1999 >

(1) (Enforcement Date) This Decree shall enter into force on the date of its promulgation: Provided, That the amended provisions of Article 2 shall enter into force on September 1, 1999.

(2) Omitted.

**ADDENDA** <No. 18312, 17. Mar, 2004 >

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

**ADDENDA** <No. 18911, 30. Jun, 2005 >

**Article 1 (Enforcement Date)**

This Decree shall enter into force on July 1, 2005.

Articles 2 through 6 Omitted.

**ADDENDA** <No. 19029, 31. Aug, 2005 >

This Decree shall enter into force on September 1, 2005.

**ADDENDA** <No. 19513, 12. Jun, 2006 >

**Article 1 (Enforcement Date)**

This Decree shall enter into force on July 1, 2006.

Articles 2 through 4 Omitted.

**ADDENDA** <No. 19771, 21. Dec, 2006 >

(1) (Enforcement Date) This Decree shall enter into force on January 1, 2007.

(2) (Validity Term of Minimum Wage for Persons Engaged in Surveillance or Intermittent Work) The amended provisions of Article 3 (2) shall remain in effect until December 31, 2011.

(3) (Special Cases concerning Application of Minimum Wage for Persons Engaged in Surveillance or Intermittent Work) For persons engaged in surveillance or intermittent work for whom the employer obtained approval from the Minister of Labor, the amount obtained by multiplying 70/100 by the minimum wage per hour pursuant to the latter part of Article 5 (1) of the Act shall be the hourly minimum wage for the said workers until December 31, 2007, notwithstanding the amended provisions of Article 3 (2).

**ADDENDA** <No. 21572, 26. Jun, 2009 >

This Decree shall enter into force on the date of its promulgation: Provided, That the enforcement date of the amended provisions of Article 5 - 2 shall be as follows:

1. A Special Metropolitan City and a Metropolitan City under Article 2 (1) 1 of the Local Autonomy Act: July 1, 2009;
2. Jeju Special Self - Governing Province and a Si under Article 2 (1) 2 of the Local Autonomy Act: July 1, 2010;
3. Areas other than those under subparagraphs 1 and 2: July 1, 2012.

**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. 22805, 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)**

Notwithstanding the amended provisions of the attached Table, former provisions of standards for imposition of administrative fines shall apply to a violation committed before this Act enters into force.

**ADDENDA** <No. 23388, 21. Dec, 2011 >

**Article 1 (Enforcement Date)**

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

**Article 2 (Term of Validity of Minimum Wage for Persons Engaged in Surveillance or Intermittent Works)**

The amended provisions of Article 3 (2) shall be valid until December 31, 2014.

**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. 26844, 31. Dec, 2015 >

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

**ADDENDA** <No. 28711, 20. Mar, 2018 >

This Decree shall enter into force on March 20, 2018.