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## FRAMEWORK ACT ON LABOR WELFARE

[Enforcement Date 28. Jun, 2017.] [Act No.14498, 27. Dec, 2016., Partial  
Amendment]

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### CHAPTER I - GENERAL PROVISIONS

#### Article 1 (Purpose)

The purpose of this Act is to contribute to improving workers ' quality of life and the balanced development of the national economy by providing for matters necessary to establish workers' welfare policies and to implement welfare programs.

#### Article 2 (Definitions)

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

1. The term "worker" means a person who provides his/her labor to a business or at a place of business in return for wages, regardless of the types of occupation;
2. The term "employer" means a business owner, a person responsible for the management of a business, or any other person who acts on behalf of a business owner with respect to matters relating to a worker;
3. The term "housing business entity" means a person who builds or purchases houses for the purpose of selling or leasing them to workers;
4. The term "employee stock ownership association" means an organization established in full compliance with the requirements prescribed in this Act in order for workers employed by a joint stock company to acquire and manage shares in the joint stock company;
5. The term " employee shares " means shares in a joint stock company acquired by the workers of the joint stock company through an employee stock ownership association established in the joint stock company.

**Article 3 (Basic Principles of Workers ' Welfare Policies)** (1) Workers ' welfare policies (excluding basic working conditions, such as wages and working hours; the same shall apply hereinafter) shall aim to expand workers ' opportunities to participate in economic and social activities, increase their willingness to work, and improve their quality of life.

(2) When formulating and implementing workers' welfare policies, consideration and assistance shall be given to prevent discrimination against a worker on any ground, such as gender, age, physical conditions, employment status, religion, and social standing.

(3) Assistance prescribed in this Act to promote the welfare of workers shall be given in a manner that ensures the preferential treatment of workers working for micro, small, and medium enterprises, fixed - term workers (referring to fixed - term workers defined under subparagraph 1 of Article 2 of the Act on the Protection, etc. of Fixed - Term and Part - Time Workers), part - time workers (referring to part - time workers defined under Article 2 (1) 8 of the Labor Standards Act), temporary agency workers (referring to temporary agency workers defined under subparagraph 5 of Article 2 of the Act on the Protection, etc. of Temporary Agency Workers; the same shall apply hereinafter), workers hired by a subcontractor (referring to a subcontractor defined under subparagraph 5 of Article 2 of the Act on the Collection of Insurance Premiums, etc. for Employment Insurance and Industrial Accident Compensation Insurance), low - income workers, and long - serving employees.

#### **Article 4 (Responsibility of State and Local Governments)**

When formulating and implementing workers' welfare policies, the State and a local government shall endeavor to increase workers ' welfare by providing them with budgetary or tax support, support via funds, and other financial support in accordance with the basic principles of workers' welfare policies prescribed in Article 3.

**Article 5 (Responsibility of Employers and Labor Unions)** (1) Each employer (referring to a person who engages in a business with workers employed by him/her; the same shall apply hereinafter) shall endeavor to improve the welfare of workers employed at his/her place of business and shall cooperate on the workers' welfare policies.

(2) Labor unions and workers shall endeavor to improve productivity by strengthening their incentive to work and cooperate on the workers' welfare policies.

#### **Article 6 (Prohibition of Use for Other Purposes)**

Any person, who receives subsidies or loans under this Act for the welfare of workers, such as workers ' residential stability, stabilization of livelihood, and

property formation, shall only use such subsidies or loans for the purposes originally intended.

**Article 7 (Mobilization, etc. of Financial Resources)** (1) The State and a local government shall pro - actively endeavor to mobilize financial resources needed to fund workers' welfare programs under this Act.

(2) Financial resources mobilized pursuant to paragraph (1) may be contributed or loaned to the Workers' Welfare Promotion Fund prescribed in Article 87.

**Article 8 (Deliberation on Important Matters regarding Improvement in Workers ' Welfare)**

The following matters regarding workers' welfare prescribed in this Act shall be subject to deliberation by the Employment Policy Council prescribed in Article 10 of the Framework Act on Employment Policy (hereinafter referred to as the "Employment Policy Council"):

1. Master plan to improve workers' welfare prescribed in Article 9 (1);
2. Matters regarding mobilizing financial resources needed to fund workers' welfare programs;
3. Other matters referred to by the chairperson of the Employment Policy Council in regard to workers' welfare policies.

**Article 9 (Formulation of Master Plan)** (1) The Minister of Employment and Labor shall formulate a master plan to improve workers' welfare (hereinafter referred to as the "master plan") every five years in consultation with the heads of related central administrative agencies.

(2) The master plan shall include the following: <Amended by Act No. 13900, Jan. 27, 2016 >

1. Residential stability of workers;
2. Stabilization of livelihood of workers;
3. Workers ' property formation;
4. Employee stock ownership system;
5. Intra - company labor - welfare fund program;
6. Support for selective welfare systems;

7. Operation of employee assistance programs;
8. Establishment and operation of welfare facilities for workers;
9. Mobilizing financial resources for workers' welfare programs;
10. Evaluation of the previous master plan;
11. Other matters deemed necessary by the Minister of Employment and Labor for the improvement in workers' welfare.

(3) When formulating the master plan, the Minister of Employment and Labor shall report it to the standing committee of the National Assembly and make a public announcement thereof. <Amended by Act No. 13900, Jan. 27, 2016 >

**Article 10 (Provision of Data and Access to Electronic Computer Networks)** (1) In order to provide funds for the stabilization of livelihood prescribed in Article 19, to provide credit guarantee services, and to implement programs for workers' welfare under this Act, the Minister of Employment and Labor may request the State agencies, such as the courts, the Ministry of Government Administration and Home Affairs, the Ministry of Health and Welfare, the Ministry of Land, Infrastructure and Transport, and the National Tax Service, the heads of local governments, and relevant institutions and organizations to provide the following documents and access to related electronic computer networks. In such cases, the heads of State agencies, local governments, and relevant institutions and organizations who receive the request for provision of documents, etc. shall comply with such request, unless there is good cause. <Amended by Act No. 12370, Jan. 28, 2014; Act No. 12844, Nov. 19, 2014 >

1. A certificate of earned income (for a person obligated to file a tax return on global income tax, for a person with business income subject to year - end settlement, or for a person with earned income);
2. A certified transcript or abstract of a resident registration card;
3. The family relation register (a family relation certificate, a marital relation certificate, or an identification certificate);
4. A taxation certificate of each local tax item;
5. The register of a motor vehicle or construction machine;
6. A certified transcript of the register of building or land;
7. A certificate of corporate register.

(2) The use of materials provided to the Minister of Employment and Labor and access to computer networks, as prescribed in paragraph (1), shall be exempt from fees, use charges, etc.

(3) When the Minister of Employment and Labor intends to request the State agencies, etc. to provide documents or access to a relevant electronic computer network prescribed in paragraph (1), he/she shall, in advance, obtain consent of the party concerned. <Newly Inserted by Act No. 12370, Jan. 28, 2014>

#### **Article 11 (Consultation on Implementation of Workers ' Welfare Programs)**

Local governments and the State - subsidized non - profit corporations shall consult with the Minister of Employment and Labor when implementing workers' welfare programs.

**Article 12 (Institutions Providing Loan Services)** (1) The State and a local government may authorize the following financial companies, etc. (hereinafter referred to as “ institutions providing loan services ” ) to provide loan services prescribed in this Act:

1. Banks established pursuant to Article 8 (1) of the Banking Act;
2. Other financial companies, etc. specified by Presidential Decree.

(2) The Minister of Employment and Labor or the head of a local government may require institutions providing loan services that give preferential treatment to workers to prioritize the loan services prescribed in this Act.

#### **Article 13 (Tax Incentives)**

The State and a local government may provide tax incentives, as prescribed in taxation - related Acts, in a bid to improve workers ' welfare by ensuring their residential security, livelihood security, property formation, the establishment and operation of workers' welfare facilities and the Labor Welfare Promotion Fund, and the invigoration of the employee stock ownership system and intra - company workers ' welfare promotion fund systems under this Act.

**Article 14 (Operation of Integrated Workers ' Welfare Information System)** (1) The Minister of Employment and Labor may establish and operate an integrated workers' welfare information system in order to effectively implement workers' welfare policies.

(2) The Minister of Employment and Labor may support the operation of employment assistance programs and selective welfare programs via the integrated workers' welfare information system prescribed in paragraph (1).

## CHAPTER II PUBLIC SERVICES FOR WORKERS ' WELFARE

### SECTION 1 Residential Stability of Workers

**Article 15 (Operation of System for Housing Supply for Workers)** (1) The State and a local government may operate a system that requires a housing business entity to prioritize selling or leasing (hereinafter referred to as “ supply ” ) houses to workers, in order to support workers ' acquisition or rental of housing.

(2) The Minister of Land, Infrastructure and Transport shall include a plan for the supply of housing that shall be provided to workers, as prescribed in paragraph (1) (hereinafter referred to as "workers' housing"), in the comprehensive housing plan formulated under Article 5 of the Framework Act on Residence. <Amended by Act No. 11690, Mar. 23, 2013; Act No. 13378, Jun. 22, 2015 >

(3) The type and size of houses for workers, workers to be supplied with housing, methods of supply, and other necessary matters shall be determined by the Minister of Land, Infrastructure and Transport after consultation with the Minister of Employment and Labor. <Amended by Act No. 11690, Mar. 23, 2013 >

**Article 16 (Lending of Workers ' Housing Funds)** (1) In either of the following cases, the State may arrange loans for a housing business entity or workers to help them cover the cost of funds they need (hereinafter referred to as “ workers ' housing funds ” ), out of the Housing and Urban Fund prescribed in the Housing and Urban Fund Act: <Amended by Act No. 12989, Jan. 6, 2015 >

1. Where a housing business entity constructs or purchases houses for workers;
2. Where workers acquire houses for workers from a housing business entity.

(2) The workers eligible for workers ' housing funds and procedures for lending such funds, and other matters necessary for the support shall be determined by the Minister of Land, Infrastructure and Transport after consultation with the Minister of Employment and Labor. <Amended by Act No. 11690, Mar. 23, 2013 >

**Article 17 (Lending of Funds for Home Purchases, etc.)** (1) The State may arrange loans for workers to help them cover the costs of funds (hereinafter referred to as “funds for home purchases, etc.”) they need for purchasing (or building a new house) or leasing a house, out of the Housing and Urban Fund prescribed in the Housing and Urban Fund Act, so as to ensure the stability of workers' dwelling conditions. <Amended by Act No. 12989, Jan. 6, 2015>

(2) The State and a local government may require the institutions providing loan-related services to provide workers with loans to help them cover the costs of funds for home purchases, etc. at an interest rate lower than the current prevailing market interest rate, and may pay the difference in the interest.

(3) The workers eligible for funds for home purchases, etc. and the procedures for lending such funds, and other matters necessary to provide the support shall be determined by the Minister of Land, Infrastructure and Transport after consultation with the Minister of Employment and Labor. <Amended by Act No. 11690, Mar. 23, 2013>

**Article 18 (Support for Relocation of Workers, etc.)**

The State may provide necessary support for residential security of the workers who have relocated or live far away from their families because of employment or change of work place.

**SECTION 2 Workers' Living Security and Property Formation**

**Article 19 (Support of Livelihood Security Funds)** (1) The State shall provide necessary support, such as loans for medical, wedding, and funeral expenses of workers and their families in order to support workers' livelihood security.

(2) The State may provide necessary support, such as loans for living expenses in order to stabilize the livelihood of the workers who did not receive their wages, taking into consideration the economic situation and when workers need livelihood security funds, etc.

(3) Necessary matters regarding workers eligible for and procedures for the support for medical, wedding, funeral, and living expenses under paragraphs (1) and (2) shall be prescribed by Ordinance of the Ministry of Employment and Labor.



**Article 20 (Support for School Expenses, etc.)** (1) In order to expand educational opportunities for workers and their children, the State may provide necessary support, such as scholarships or student loans.

(2) Necessary matters regarding the workers eligible for, and procedures for the provision of, scholarships and student loans under paragraph (1) shall be prescribed by Ordinance of the Ministry of Employment and Labor.

**Article 21 (Preferential Savings Account for Workers)**

The State shall operate a savings account giving preferential treatment to workers in order to support property formation among workers.

**SECTION 3 Credit Guarantee for Workers**

**Article 22 (Credit Guarantee and Its Target Workers)** (1) For monetary liability owed by a worker who cannot afford to offer collaterals (including the unemployed who applied for jobs and the workers who suffer from accidents, as prescribed in the Industrial Accident Compensation Insurance Act; hereafter the same shall apply in this Chapter) after obtaining loans for the livelihood security and school expenses from a financial company, etc. the Korea Workers ' Compensation and Welfare Service under the Industrial Accident Compensation Insurance Act (hereinafter referred to as the " Service " ) may guarantee payment of the monetary liability according to an agreement with the relevant financial company, etc. In such cases, target loans and workers eligible for the guarantee shall be prescribed by Ordinance of the Ministry of Employment and Labor.

(2) The agreement between the Service and a financial company, etc. under paragraph (1) shall include the following:

1. Contents that guarantee the payment of liability pursuant to paragraph (1);
2. Target loans and workers eligible for the credit guarantee;
3. Ceiling amount for the credit guarantee support per worker;
4. Reasons for request for the payment of guaranteed liability and the time and the method;
5. Screening for and scope of the subrogated payment and the loss sharing ratio between the Service and a financial company, etc.;

6. Matters to be notified to the Service by the financial company in relation to operation of the credit guarantee program;

7. Other matters necessary for the credit guarantee for workers.

(3) When the Service intends to sign the agreement under paragraph (1) or modify the details thereof, it shall obtain approval therefor from the Minister of Employment and Labor.

**Article 23 (Guarantee Relations)** (1) Where the Service has decided to provide credit guarantees to a worker pursuant to Article 22, it shall give notice thereof to the relevant worker and the financial company, etc. from which the worker intends to obtain loans.

(2) Credit guarantee relations shall be established when the financial company, etc. that received the notice under paragraph (1) pays the loan amount to the relevant worker.

**Article 24 (Guarantee Fee)**

The Service may collect guarantee fee from the worker whose credit is guaranteed pursuant to Article 22 within the limit not exceeding, per annum, 1/100 of the amount guaranteed as prescribed by Presidential Decree.

**Article 25 (Obligation of Notification)**

In any of the following circumstances, the financial company, etc. to which notice has been given pursuant to Article 23 shall give immediate notice thereof to the Service:

1. When main liability relations have been established;
2. When the whole or part of main liability ceases to exist;
3. When the worker does not pay his/her liability;
4. When the worker loses the benefit of time;
5. When other problems arise which could influence the guaranteed liability.

**Article 26 (Fulfillment, etc. of the Guaranteed Liability)** (1) The financial company, etc. that provides loan services on behalf of the Service pursuant to Article 22 (1) may request the Service to pay the guaranteed liability, upon occurrence of an event triggering request for the payment of the guaranteed liability set forth under the terms and conditions of the agreement under the same Article.

(2) The Service shall, upon receipt of a request from a financial company, etc. for payment of the guaranteed liability, as prescribed in paragraph (1), make a subrogated payment in accordance with the terms and conditions of the agreement under Article 22 (2).

(3) When the Service has paid the guaranteed liability pursuant to paragraph (2), it may directly exercise the right of indemnity or entrust exercise of the said right to the financial company, etc.

(4) The financial company, etc. to which the right of indemnity granted under paragraph (3) is entrusted may take all judicial and non-judicial actions in connection with exercise of the right of indemnity on behalf of the Service.

#### **Article 27 (Interest in Arrears)**

After the Service has paid the guaranteed liability, it may collect the interest in arrears in an amount not exceeding, per annum, 20/100 of the subrogated payment from the relevant worker as prescribed by Presidential Decree, for the period starting from the date of payment until when the worker reimburses the amount. In such cases, the amount of interest in arrears shall not exceed the amount of subrogated payment.

### **SECTION 4 Support for Workers ' Welfare Facilities, etc.**

#### **Article 28 (Support for Establishment, etc. of Workers ' Welfare Facilities)** (1) The

State and a local government shall endeavor to establish and operate welfare facilities for workers (hereinafter referred to as “workers' welfare facilities”).

(2) The Minister of Employment and Labor may set the standards for establishment of workers' welfare facilities, taking into consideration the type of business, the number of workers in the workplace and other relevant matters, and encourage the relevant employer to establish the facilities.

(3) The State may provide necessary support, when a business owner (including an association of business owners; the same shall apply hereafter in this Article), a labor union (including affiliated offices and branches; the same shall apply hereafter), the Service, or non-profit corporation establishes and operates workers' welfare facilities.

(4) The State may subsidize part of the expenses, within budgetary limits, incurred on behalf of a local government, a business owner, a labor union, the Service, or a non-profit corporation that establishes and operates workers' welfare facilities.

**Article 29 (Entrustment of Operation of Workers' Welfare Facilities)** (1) If the State or a local government deems it necessary to efficiently operate the workers' welfare facilities established pursuant to Article 28 (1), it may entrust the Service or a non-profit organization with the operation of such facilities.

(2) When the State or a local government entrusts the operation of workers' welfare facilities pursuant to paragraph (1), it may partially subsidize the operating expenses, within budgetary limits.

**Article 30 (Usage Fees, etc.)**

A person who establishes and operates workers' welfare facilities may place restrictions on access to workers' welfare facilities or charge differential usage fees based on workers' income level, family relationship, etc.

**Article 31 (Subsidization of Costs of Using Private Welfare Facilities)** (1) Where the worker prescribed in Article 3 (3) uses privately operated welfare facilities because he/she has difficulties in using the workers' welfare facilities established by the State and a local government as prescribed in Article 28 (1), the State may bear some of the costs.

(2) The eligible workers and procedures for the support prescribed in paragraph (1), and other necessary matters shall be prescribed by Ordinance of the Ministry of Employment and Labor.

**CHAPTER III WORKERS' WELFARE AT WORKPLACE**

**SECTION 1 Employee Stock Ownership Program**

**Article 32 (Purpose of Employee Stock Ownership Program)**

The purpose of the employee stock ownership program is to improve workers' economic and social status and promote cooperation between labor and management by encouraging workers to acquire and retain shares in a joint stock company in which an employee stock ownership association has been established (hereinafter

referred to as “ company implementing the employee stock ownership program ” ) through the employee stock ownership association.

**Article 33 (Establishment of Employee Stock Ownership Association)** (1) When workers employed by a joint stock company intend to establish an employee stock ownership association, such workers shall first form a preparatory committee for the establishment of the employee stock ownership association with consent of at least two workers qualified for membership of the employee stock ownership association prescribed in Article 34 and establish the employee stock ownership association, as prescribed by Presidential Decree. In such cases, the preparatory committee on the establishment of the employee stock ownership association shall consult, in advance, with a relevant company on the matters specified by Ordinance of the Ministry of Employment and Labor, including matters regarding the company ’ s support for the establishment of the employee stock ownership association. <Amended by Act No. 13412, Jul. 20, 2015>

(2) Except as otherwise provided for in this Act, provisions of the Civil Act governing incorporated associations shall apply mutatis mutandis to the establishment and operation of employee stock ownership associations.

**Article 34 (Qualification for Membership of Employee Stock Ownership Association, etc.)** (1) In order to be qualified for membership of the employee stock ownership association of a company implementing the employee stock ownership program, a worker shall meet the following prerequisites:

1. A worker employed by a company implementing the employee stock ownership program;
2. A worker employed by a joint stock company over which a company implementing the employee stock ownership program has control by holding at least 50/100 of the total number of its outstanding shares (hereinafter referred to as “ controlled company ” ) or a worker employed by a joint stock company whose sales revenue on transactions with a company implementing the employee stock ownership program on a contractual basis amounts to at least 50/100 of annual gross sales revenue for the immediately preceding year (hereinafter referred to as “ contracted company ” ), who shall meet all of the following requirements, as prescribed by Presidential Decree:

- (a) If a worker is employed by a controlled or contracted company, he/she shall obtain consent of a majority of all workers employed by the company;
- (b) A worker shall obtain consent of the employee stock ownership association of the company implementing the employee stock ownership program;
- (c) If the controlled or contracted company has its own employee stock ownership association, the employee stock ownership association shall be dissolved: Provided, That the foregoing shall not apply to cases specified in the proviso to Article 47 (1) 4.

(2) A worker who falls under any of the following circumstances shall not be qualified for a member of the employee stock ownership association of a company implementing the employee stock ownership program, and a member of an employee stock ownership association shall be disqualified for membership of the employee stock ownership association of the company implementing the employee stock ownership program, when the worker falls under any of the following subparagraphs: Provided, That a worker specified in subparagraph 1 may retain qualification as a member of an employee stock ownership association only with respect to the shares in the company implementing the employee stock ownership program that have been allotted to him/her pursuant to Article 37 and the employee stock options that have been granted to him/her pursuant to Article 39:

1. A person appointed as an executive officer at a general meeting of shareholders of the company implementing the employee stock ownership program or the controlled or contracted company;
2. A shareholder employed as a worker by the company implementing the employee stock ownership program or the controlled or contracted company: Provided, That minority shareholders specified by Presidential Decree shall be excluded herefrom;
3. A worker employed by the controlled or contracted company, where an employee stock ownership association is established in the controlled or contracted company after the worker joined the employee stock ownership association of the company implementing the employee stock ownership program as a member;
4. A worker specified by Presidential Decree as a worker in whose case it is impracticable to qualify him/her for the membership of an employee stock ownership association in light of the term of service, characteristics of the labor relationship involved, etc.

(3) A member of an employee stock ownership association may freely opt out of the employee stock ownership association: Provided, That a member who opts out of an employee stock ownership association may be banned from re - joining the association for a period not to exceed two years prescribed by the bylaws established pursuant to Article 35 (2) 1.

(4) If a change occurs to the qualification of a member of the employee stock ownership association of a company implementing the employee stock ownership program because the company to which the worker belongs falls under any of the following circumstances, the member shall retain qualification as a member of the employee stock ownership association only with respect to the shares in the company implementing the employee stock ownership program, which have been allotted to him/her pursuant to Article 37, and the employee stock options, which have been granted to him/her pursuant to Article 39:

1. Where the company is included in, or excluded from, controlled companies;
2. Where the company is included in, or excluded from, contracted companies.

**Article 35 (Operation of Employee Stock Ownership Associations, etc.) (1) An**

employee stock ownership association shall be operated in a democratic manner by reflecting the opinions of all association members.

(2) The following matters shall be determined by resolution of the general meeting of employee stock ownership association members:

1. Enactment and modification of the association bylaws;
2. Fund - raising for employee stock ownership association under Article 36;
3. Budget and settlement of accounts;
4. Election of executive officers, including the representative of employee stock ownership association;
5. Other important matters regarding operation of employee stock ownership association.

(3) An employee stock ownership association may have an assembly of delegates on behalf of the general meeting of employee stock ownership association members by the association bylaws: Provided, That the matters specified in paragraph (2) 1 shall be determined by resolution of the general meeting of employee stock ownership association members without exception.

(4) The representative of an employee stock ownership association shall hold a general meeting of employee stock ownership association members or an assembly of delegates, as prescribed by Presidential Decree.

(5) Executive officers and delegates such as the representatives of employee stock ownership association shall be elected by direct, secret and unsigned ballot.

(6) A company implementing the employee stock ownership program and its employee stock ownership association may establish a steering committee for the employee stock ownership program, which shall be comprised of an equal number of committee members from the company and the employee stock ownership association, respectively, as prescribed by Presidential Decree, so as to negotiate on the details, terms and conditions, etc. of assistance to the employee stock ownership association.

(7) A representative of employee stock ownership association shall prepare and retain the following accounting books and documents in its principal place of business so as to make them available for inspection by employee stock ownership association members, and preserve them for ten years. The accounting books and documents in such cases may be prepared and preserved in electronic form prescribed in subparagraph 1 of Article 2 of the Framework Act on Electronic Documents and Transactions (hereinafter referred to as “ electronic document ” ): <Amended by Act No. 11461, Jun. 1, 2012 >

1. A list of employee stock ownership association members;
2. Bylaws;
3. A directory of names and addresses of executive officers and delegates of the employee stock ownership association;
4. Accounting books and documents;
5. Records and documents regarding the acquisition and management of shares by the employee stock ownership association and its members.

(8) and (9) Deleted. <by Act No. 13412, Jul. 20, 2015 >

(10) Specific methods for operating a general meeting of members of the employee stock ownership association and the employee stock ownership association and other necessary matters shall be prescribed by Presidential Decree.



**Article 36 (Creation and Use of Employee Stock Ownership Association Fund)** (1) An employee stock ownership association may create an employee stock ownership association fund with the following financial resources for the purpose of acquiring employee shares, etc.: <Amended by Act No. 13412, Jul. 20, 2015; Act No. 14498, Dec. 27, 2016>

1. Money and other valuables contributed by the company implementing the employee stock ownership program, a controlled or contracted company, or shareholders of any of such companies. In such cases, the company implementing the employee stock ownership program, or a controlled or contracted company may contribute a part of net income before deducting corporate tax for the preceding business year to the employee stock ownership association fund every year;
2. Money contributed by employee stock ownership association members;
3. Loans borrowed pursuant to Article 42 (1);
4. Dividends generated by shares in the association account under Article 37;
5. Other revenue, including interest that accrues from the employee stock ownership association fund.

(2) An employee stock ownership association shall manage the employee stock ownership association fund created pursuant to paragraph (1) by safekeeping or depositing it in a financial company, etc. specified by Presidential Decree.

(3) The employee stock ownership association fund created pursuant to paragraph (1) shall be used for the following purposes, as prescribed by Presidential Decree. In such cases, for the purpose falling under subparagraph 4, only the contribution under the former part of Article 45 (4) shall be used:<Amended by Act No. 13412, Jul. 20, 2015; Act No. 14498, Dec. 27, 2016>

1. Acquisition of employee shares;
2. Repayment of loans borrowed pursuant to Article 42 (1) and payment of interest thereon;
3. Transactions for compensating losses prescribed in Article 43 - 2;
4. Repurchase of employee shares of the account of employee stock ownership association members under Article 37.

(4) An employee stock ownership association shall ensure that the shares acquired with financial resources provided by the company or its shareholders pursuant to paragraph (1) 1 or 3 are allotted to employee stock ownership association members,

who are workers employed by the company, in managing such shares.

(5) When it intends to use an employee stock ownership association fund for the repayment of loans and the payment of interest thereon pursuant to paragraph (3) 2, the fund shall be used in the following manner:

1. Money and other valuables specified in paragraph (1) 1 and the dividends specified in paragraph (1) 4 shall be used only for the repayment of loans borrowed on condition that such loans be repaid in accordance with the agreement under Article 42 (2);
2. Money contributed by employee stock ownership association members pursuant to paragraph (1) 2 shall not be used for the repayment of loans borrowed on condition that such loans be repaid in accordance with the agreement under Article 42 (2).

#### **Article 37 (Account Management Following Acquisition of Employee Shares)**

Where an employee stock ownership association acquires shares in the company implementing the employee stock ownership program by directly purchasing shares in the company or having new shares allotted, it shall separately allot the shares so acquired to the account of employee stock ownership association members (hereinafter referred to as the “Members’ Account”) and the account of the employee stock ownership association (hereinafter referred to as the “Association’s Account”) and shall manage the accounts using the method prescribed by Presidential Decree for managing accounts set up for each financial resource.

#### **Article 38 (Limits on Preferential Allotment to Members of Employee Stock Ownership Association)**

(1) When a stock - listed corporation specified by Presidential Decree, among stock - listed corporations prescribed in Article 9 (15) 3 of the Financial Investment Services and Capital Markets Act, or a corporation that intends to list its stock on a securities market specified by Presidential Decree publicly offers or sells the share of its stock pursuant to the aforementioned Act, members of an employee stock ownership association shall have a right to have shares of its stock preferentially allotted within 20% of the total number of shares offered or sold pursuant to Article 165 - 7 (1) of the aforementioned Act. [<Amended by Act No. 11845, May 28, 2013>](#)

(2) Notwithstanding Article 418 of the Commercial Act, when a corporation, other than corporations specified in paragraph (1), publicly offers or sells shares of its stock or increases its equity capital by issuing new shares of stocks for consideration pursuant to the Financial Investment Services and Capital Markets Act, it may preferentially allot such shares of the stock to members of the employee stock ownership association within 20% of the total number of shares so offered or sold.

**Article 39 (Limits on Granting of Employee Stock Options)** (1) A company implementing the employee stock ownership program may grant members of its employee stock ownership association the right to subscribe new shares or purchase treasury shares held by the company (hereinafter referred to as “employee stock option”) at a predetermined price (hereinafter referred to as “exercise price”) during the period specified in a resolution passed at its general meeting of shareholders (hereinafter referred to as “period for offering”) within 20/100 of the total number of outstanding shares, as stipulated by its articles of incorporation: Provided, That where employee stock options so granted do not exceed 10/100 of the total number of outstanding shares, such employee stock options may be granted by resolution of the board of directors, as stipulated by articles of incorporation.

(2) If a company implementing the employee stock ownership program intends to grant employee stock options, it shall stipulate the following matters in its articles of incorporation:

1. The provision that employee stock options may be granted to members of the employee stock ownership association;
2. The classes and number of shares that may be issued or transferred upon the exercise of employee stock options;
3. The provision that employee stock options already granted may be revoked by resolution of the board of directors and the grounds for revocation;
4. Requirements for resolution of the board of directors or the general meeting of shareholders on the granting of employee stock options.

(3) The resolution by the general meeting or the board of directors prescribed in paragraph (1) by a company implementing the employee stock ownership program on the granting of employee stock options shall include the following:

1. Method for granting employee stock options;
2. Exercise price of employee stock options and the adjustment thereof;
3. Periods set for offering and exercising employee stock options;
4. Classes and number of shares that may be issued or transferred upon the exercise of employee stock options.

(4) The period for offering shall not be less than six months nor more than two years from the date specified at the general meeting of shareholders or by the board of directors under paragraph (3) for granting employee stock options.

(5) When a company implementing the employee stock ownership program grants employee stock options, it may allow stock option holders to exercise the employee stock options during the period for offering or a period separately determined for exercising the stock options after the end of the period for offering. If a period after the end of the period for offering is determined as the period for exercising the options, the period of offering shall be deemed extended, notwithstanding paragraph (4).

(6) When a company implementing the employee stock ownership program intends to grant employee stock options, it may exclude members of its employee stock ownership association, who have been employed for a period less than the employment period specified by Presidential Decree, which shall not exceed three years, from employees eligible for stock options.

(7) No employee stock option may be transferred to a third party: Provided, That if a person to whom an employee stock option has been granted is dead, the stock option shall be deemed to have been granted to the deceased ' s heir.

(8) Notwithstanding Article 341 of the Commercial Act, when a member of employee stock ownership association exercises an employee stock option, the company implementing the employee stock ownership program that granted the employee stock option may acquire treasury shares in order to issue the shares to such member: Provided, That the value of the shares so acquired shall be limited to the amount for which dividends can be distributed in accordance with the provisions of Article 462 (1) of the aforesaid Act, and if the value of treasury shares so acquired exceeds the limit, such treasury shares shall be sold within the period specified by Presidential Decree.

(9) The provisions of Article 350 (2), the latter part of Article 350 (3), Articles 351 and 516 - 8 (1), (3), and (4), and the former part of Article 516 - 9 of the Commercial Act shall apply mutatis mutandis where new shares are issued upon the exercise of an employee stock option.

(10) The procedure for granting employee stock options, the exercise price, the exercise period, and other necessary matters regarding the operation of the employee stock option program shall be prescribed by Presidential Decree.

#### **Article 40 (Revocation of Granting of Employee Stock Options)**

In any of the following circumstances, a company implementing the employee stock ownership program may revoke employee stock options already granted: Provided, That in cases specified in subparagraph 2 or 3, the revocation of employee stock options shall be subject to resolution of the board of directors, as stipulated by the articles of incorporation of the company implementing the employee stock ownership program:

1. Where the company implementing the employee stock ownership program is unable to respond to the exercise of employee stock options because of the company ' s bankruptcy or dissolution;
2. Where a member of employee stock ownership association, to whom an employee stock option has been granted, inflicts a severe loss, by intention or negligence, on the relevant company implementing the employee stock ownership program;
3. Where there arises any ground for revocation specified in the agreement under which an employee stock option has been granted.

#### **Article 41 (Restrictions on Preferential Allotment of Employee Shares and Granting of Employee Stock Options)**

When a company implementing the employee stock ownership program allots employee shares on preferential basis to employees or grants employee stock options to employees pursuant to Article 38 or 39, the company shall ensure that the aggregate specified in subparagraph 1 does not exceed 20/100 of the aggregate specified in subparagraph 2:

1. The aggregate number of shares managed by the employee stock ownership association, out of shares in the company implementing the employee stock ownership program, the number of shares newly issued for preferential allotment,

- and the number of shares to be acquired by exercising employee stock options, out of shares in the company implementing the employee stock ownership program;
2. The aggregate number of shares newly issued by the company implementing the employee stock ownership program, the number of shares to be acquired by exercising employee stock options, out of shares in the company implementing the employee stock ownership program, and the number of outstanding shares.

**Article 42 (Acquisition of Employee Shares with Loans Borrowed by Employee Stock**

**Ownership Association)** (1) An employee stock ownership association may acquire employee shares with loans borrowed for the acquisition of employee shares from the company implementing the employee stock ownership program, a controlled or contracted company, shareholders of any of such companies, or a financial company, etc. specified by Presidential Decree.

(2) A company implementing the employee stock ownership program, a controlled or contracted company, or shareholders of any of such companies may enter into an agreement with the employee stock ownership association concerned that such company or shareholders shall contribute money and other valuables to the employee stock ownership association for the repayment of loans borrowed pursuant to paragraph (1).

(3) An employee stock ownership association may provide employee shares acquired with a loan borrowed pursuant to paragraph (1) to the company implementing the employee stock ownership program or financial company, etc. which lends the loan or guarantees the repayment of the loan. Offering such employee shares as security in such cases shall be subject to the condition that the employee shares equivalent to the repaid amount of the loan be released from the security right immediately after repayment.

(4) Where a company implementing the employee stock ownership program receives employee shares that the employee stock ownership association has acquired with a loan borrowed pursuant to paragraph (1), as security under paragraph (3), Article 341 - 3 of the Commercial Act shall not apply to the company implementing the employee stock ownership program as regards the shares that it receives as security.

(5) The amount of loans borrowed by an employee stock ownership association, the term of such loans, the method of repayment, the method for the allotment of shares acquired with such loans, and other specific matters regarding the loans borrowed by an employee stock ownership association shall be prescribed by Presidential Decree.

**Article 42 - 2 (Prohibition against Forced Acquisition, etc. of Employee Shares)** (1) The employer of a company that implements the employee stock ownership program (including a controlled or contracted company) shall not engage in any of the following acts, when he/she allots shares to members of the employee stock ownership association on a preferential basis under Article 38:

1. Instructing members of the employee stock ownership association to acquire the employee share against their will;
2. Classifying members of the employee stock ownership association according to certain criteria, such as the department and class to which each of them belongs, against their will in allotting employee shares;
3. Dismissing or otherwise treating unfavorably a member of the employee stock ownership association on the ground that he/she does not acquire the employee share;
4. Any other acts violating the objectives of the employee stock ownership program under Article 32, as specified by Presidential Decree, by forcing the employee stock ownership association members to acquire and hold the employee share against their will.

(2) No employer shall dismiss or otherwise treat unfavorably a member of the employee stock ownership association on the ground that he/she reported a violation of paragraph (1) or gave testimony about or presented evidence of such violation.

[This Article Newly Inserted by Act No. 12370, Jan. 28, 2014]

**Article 43 (Deposit of Employee Shares, etc.)** (1) When an employee stock ownership association acquires employee shares, it shall deposit such shares in the trustee specified by Presidential Decree.

(2) An employee stock ownership association shall keep depositing the employee shares deposited in accordance with paragraph (1) during the period specified by Presidential Decree within the period specified in any of the following subparagraphs, whichever is relevant:

1. Employee shares acquired with money and other valuables contributed by a company implementing the employee stock ownership program or its shareholders: Eight years;
  2. Employee shares acquired with money contributed by members of the employee stock ownership association: One year: Provided, That where the company implementing the employee stock ownership program contributes an amount not less than the amount specified by Presidential Decree in addition to contribution by members of the employee stock ownership association, the period of the deposit of the employee shares acquired with money contributed by members of the employee stock ownership association shall be five years;
  3. Employee shares acquired with money specified in Article 36 (1) 3 through 5: Employee shares so acquired shall be divided on the basis of contributors of money and lenders of loans, and the period specified for each category in subparagraphs 1 and 2 shall apply to the employee shares so divided.
- (3) Except in either of the following cases, neither an employee stock ownership association nor a member of an employee stock ownership association shall transfer employee shares deposited pursuant to paragraph (1) to any person or offer such employee shares as security to any person: <Amended by Act No. 13412, Jul. 20, 2015>
1. Where employee shares are lent under Article 43 - 3;
  2. Cases specified by Presidential Decree as those where the transfer or offering of employee shares as security is necessary to help improve the financial and economic situation facing members of the employee stock ownership association.
- (4) A right holder to whom employee shares have been provided as security pursuant to the proviso to paragraph (3) shall not exercise his/her right thereto during the deposit period specified in paragraph (2).
- (5) The employee shares lent under Article 43 - 3 shall be deemed deposited during the lending period in accordance with this Act. <Newly Inserted by Act No. 13412, Jul. 20, 2015>
- (6) Profits arising from lending of shares allocated to the members ' account shall be distributed to the members holding the relevant accounts, and the profits arising from lending of shares allocated to the members ' account shall be reverted to the association. <Newly Inserted by Act No. 13412, Jul. 20, 2015>



(7) The trustee under paragraph (1) may conduct the duties necessary to promote the employee stock ownership system, which are prescribed by Presidential Decree, such as support for duties of an employee stock ownership association. <Newly Inserted by Act No. 14498, Dec. 27, 2016 >

#### **Article 43 - 2 (Transactions for Compensating Losses on Deposited Employee Shares)**

(1) An employee stock ownership association may conduct transactions specified by Presidential Decree only for the purpose of compensating losses on the employee shares deposited under Article 43 (hereinafter referred to as "transactions for compensating losses") with a financial company specified by Presidential Decree.

(2) Where an employee stock ownership association conducts a transaction for compensating losses, the company implementing the employee stock ownership program may subsidize expenses incurred therein on behalf of the association.

(3) A transaction between an employee stock ownership association and a financial company for compensating losses may be permitted only where each of the following requirements are met:

1. The transaction shall not be subject to any condition that the employee shares for which it is intended to conduct the transaction for compensating losses, be sold or a loan be borrowed to fund the acquisition of such employee shares;
2. The minimum rate of compensation for losses shall not be less than the rate specified by Presidential Decree, which shall be at least 50/100 of the acquisition value of the employee shares subject to the transaction for compensating losses;
3. No transaction for compensating losses shall be conducted contrary to the will of members of the employee stock ownership association;
4. Other requirements prescribed by Presidential Decree to protect employee stock ownership associations and members thereof.

(4) The amount compensated by a transaction for compensating losses on the shares allocated to a member's account shall be paid to the account - holding member, while the amount compensated by a transaction for compensating losses on the shares allocated to an association, shall belong to the association.

[This Article Newly Inserted by Act No. 13412, Jul. 20, 2015]

#### **Article 43 - 3 (Lending of Deposited Employee Shares)**

An employee stock ownership association or a member of an employee stock ownership association may lend deposited employee shares to a third party through the trustee prescribed in Article 43 (1), if each of the following requirements are met:

1. The following rights arising from the lent employee shares (hereinafter referred to as "lent employee shares") shall be guaranteed:
  - (a) Voting right;
  - (b) Preemptive right to new stocks and stocks issued without consideration to increase capital;
  - (c) Right to receive dividends (including stock dividends);
  - (d) Other rights recognized by the Commercial Act and other Acts as shareholders' rights and not restricted or prohibited by this Act;
2. Any of the financial companies specified by Presidential Decree as engaging in brokerage and arrangement of lending and borrowing shall guarantee the return of lent employee shares, and the borrower shall provide security therefor;
3. The transaction shall be made in compliance with the rules prescribed by Presidential Decree with regard to the methods for lending employee shares, restrictions on lending, the period of lending, etc.

[This Article Newly Inserted by Act No. 13412, Jul. 20, 2015]

**Article 44 (Withdrawal of Employee Shares, etc.)** (1) Notwithstanding Article 43 (2), if there arises any ground specified by Presidential Decree, such as the dissolution of an employee stock ownership association or the death of a member of employee stock ownership association, members of the employee stock ownership association may withdraw employee shares through the employee stock ownership association even during the deposit period set in the aforesaid paragraph.

(2) When a member of employee stock ownership association withdraws his/her employee shares, the employee stock ownership association may allow the employee stock ownership association and then employee stock ownership association members to purchase the employee shares preemptively in accordance with bylaws.

**Article 45 (Disposal of Employee Shares in Unlisted Corporations)** (1) The State shall endeavor to take measures necessary for trading the employee share to guarantee the conversion of such share into cash when members of the employee stock

ownership association in a company implementing the employee stock ownership program, which is a corporation whose shares have not been listed on a securities market specified in Article 8 - 2 (4) 1 of the Financial Investment Services and Capital Markets Act (hereinafter referred to as “ unlisted corporation ” ), intend to dispose of such employee share due to unavoidable cause. <Amended by Act No. 11845, May 28, 2013>

(2) Notwithstanding Article 341 of the Commercial Act, if it is necessary for guaranteeing the conversion of the employee share into cash, a company implementing the employee stock ownership program, as an unlisted corporation, may acquire the employee share held by a member or retiring member of the employee stock ownership association on its account. The share acquired in such cases shall be disposed of by any of the following methods:<Amended by Act No. 14498, Dec. 27, 2016>

1. Contribution to the employee stock ownership association;
2. Disposal under Article 342 of the Commercial Act;
3. Cancellation under Article 343 of the Commercial Act.

(3) A company implementing the employee stock ownership program, as an unlisted corporation, may accumulate reserves for preparing the funds necessary to acquire the employee shares under paragraph (2) every year.<Amended by Act No. 14498, Dec. 27, 2016>

(4) A company implementing the employee stock ownership program, as an unlisted corporation, may contribute to an employee stock ownership association fund to allow an employee stock ownership association to purchase employee shares of the account of association members on behalf of the relevant company implementing the employee stock ownership program. In such cases, the relevant company implementing the employee stock ownership program may enter into an agreement including the following matters with the employee stock ownership association:  
<Newly Inserted by Act No. 14498, Dec. 27, 2016>

1. Scope of employee shares of the account of association members subject to purchase;
2. Method of determining a purchase price.

**Article 45 - 2 (Repurchase of Employee Shares of Unlisted Corporation)** (1) A member of an employee stock ownership association of a company implementing the employee stock ownership program, as an unlisted corporation, with at least the size prescribed by Presidential Decree (hereafter referred to as “ company subject to obligatory repurchase ” in this Article) may request the repurchase of the relevant employee shares to the company subject to obligatory repurchase, where the employee shares meet all of the following conditions: Provided, That in case of a regular retirement or the occurrence of other grounds prescribed by Presidential Decree, the member of an employee stock ownership association may request the repurchase regardless of the deposit period under subparagraph 2:

1. Employ shares are acquired by an employee stock ownership association with the contribution of a member of the employee stock ownership association by the methods prescribed by Presidential Decree;

2. Employ shares has been deposited for the period prescribed by Presidential Decree within seven years, in addition to the deposit period under Article 43 (2) 2.

(2) To ensure that the rights of the member of an employee stock ownership association to request repurchase under paragraph (1) are properly exercised, a company subject to obligatory repurchase shall enter into an agreement including the following matters with the employee stock ownership association before the employee stock ownership association acquires employee shares:

1. Whether the reserves for repurchase are accumulated and the methods of accumulation thereof;

2. Method to determine repurchase price;

3. Repurchase procedure;

4. Method of divisional repurchase;

5. Other matters prescribed by Presidential Decree.

(3) The member of an employee stock ownership association shall exercise the rights to request repurchase under paragraph (1) within six months from the day when the deposit period under subparagraph 2 of the same paragraph expires or when the ground under the proviso to the same paragraph occurs.

(4) Notwithstanding Article 341 of the Commercial Act, a company subject to obligatory repurchase shall acquire the relevant employee shares by its own calculation within 30 days when it was requested of the repurchase under paragraph

(1): Provided, That where there is a circumstance that it is difficult to conduct repurchase due to reasons such as the deterioration of management of the company subject to obligatory repurchase or there is a ground prescribed by Presidential Decree such as guaranteeing the liquidity of employee shares, it may not accept the request or may conduct divisional repurchase within three years from the day when it was requested of repurchase.

(5) A company subject to obligatory repurchase shall dispose of the employee shares acquired under paragraph (4) by one of the methods falling under each subparagraph of Article 45 (2).

(6) Notwithstanding paragraph (4), an employee stock ownership association may purchase the relevant employee shares with the contribution to an employee stock ownership association fund under the former part of Article 45 (4), on behalf of the company subject to obligatory repurchase.

(7) Where a company subject to obligatory repurchase contributes to the employee stock ownership association fund under the former part of Article 45 (4), it shall be deemed that it performs the duty of acquiring the relevant employee shares under paragraph (4) within the scope of the relevant contribution.

[This Article Newly Inserted by Act No. 14498, Dec. 27, 2016]

#### **Article 46 (Exercise of Voting Rights at General Meeting of Shareholders Holding**

**Employee Shares)** (1) A representative of an employee stock ownership association shall exercise the voting rights over the agenda of the general shareholders ' meeting according to opinions expressed by employee stock ownership association members. Specific methods for exercising the voting rights shall be prescribed by Presidential Decree.

(2) Notwithstanding paragraph (1), if a member of an employee stock ownership association demands that he/she is entrusted with the voting rights, a representative of the employee stock ownership association shall entrust the member with the voting right to shares owned by the relevant employee stock ownership association member.

**Article 47 (Dissolution of Employee Stock Ownership Association)** (1) If any of the following grounds arises, an employee stock ownership association shall be dissolved. In such cases, a liquidator of the employee stock ownership association

shall report the dissolution to the Minister of Employment and Labor, specifying the reasons for the dissolution, as prescribed by Presidential Decree:

1. Bankruptcy of the relevant company implementing the employee stock ownership program;
2. Dissolution of the relevant company implementing the employee stock ownership program for closure of business;
3. Dissolution of the relevant company implementing the employee stock ownership program for a merger, division, or division and merger of business;
4. Where an employee of a controlled or contracted company is admitted to the employee stock ownership association of the relevant company implementing the employee stock ownership program: Provided, That an employee stock ownership association shall not be dissolved during a period specified by Presidential Decree, if the employee stock ownership association established in the controlled or contracted company deposits employee shares in the competent trustee or if employee stock options have been granted to members of the employee stock ownership association;
5. Where an employee stock ownership association has no executive officer, has not continuously owned any asset continuously for the latest three fiscal years by way of raising funds for the acquisition of employee shares, and does not express any intent to continue its existence, upon an inquiry made to members of the employee stock ownership association to hear opinion on dissolution of the employee stock ownership association, as prescribed by Ordinance of the Ministry of Employment and Labor.

(2) When an employee stock ownership association is dissolved pursuant to paragraph (1), the property of the employee stock ownership association shall be reverted to members of the employee stock ownership association, as stipulated in its bylaws: Provided, That if the employee stock ownership association has liability, the property which remains after the liability is cleared off shall be reverted to members of the employee stock ownership association.

#### **Article 48 (Assistance for Promotion of Employee Stock Ownership Program)**

The State may provide assistance necessary to acquire and retain employee shares by members of an employee stock ownership association, for the support to a

company implementing the employee stock ownership program regarding its employee stock ownership association, and for guaranteeing the liquidity of employee shares in unlisted corporations in order to promote the employee stock ownership program.

**Article 49 (Support for Workers ' Takeover of Company)**

When workers take over their company through the employee stock ownership association due to the company ' s bankruptcy, etc., the State may subsidize the funds incurred by such workers to acquire shares in the company.

**Article 49 - 2 (Special Exception for Takeover of Company by Employee Stock**

**Ownership Association)** (1) Where an employee stock ownership association takes over the relevant company implementing the employee stock ownership program by the method prescribed by Presidential Decree, the member of an employee stock ownership association may maintain the qualification of the member of an employee stock ownership association regardless of the amount of employee shares acquired by such takeover, notwithstanding Article 34 (2) 2.

(2) Matters regarding the limitation on the size and period of borrowing under Article 42 (5) shall not apply where an employee stock ownership association borrows the fund for acquiring employee shares for the take over under paragraph (1): Provided, That the sum of amount under each subparagraph shall not exceed 25/100 of the equity (referring to the amount subtracting the total debt from the total asset in the balance sheet of the end of the previous business year) of the company implementing the employee stock ownership program:

1. Loan from a company implementing the employee stock ownership program or a controlled company;
2. Value of money and other valuables to be contributed by a company implementing the employee stock ownership program or a controlled company to an employee stock ownership association under the agreement for the return of the loan of the employee stock ownership association;
3. Limit of guarantee of a company implementing the employee stock ownership program or a controlled company for the loan of an employee stock ownership association.

[This Article Newly Inserted by Act No. 14498, Dec. 27, 2016]

## **SECTION 2 Intra - Company Labor - Welfare Fund System**

### **Article 50 (Purpose of Intra - Company Labor - Welfare Fund System)**

The purpose of the intra - company labor - welfare fund system is to contribute to the stabilization of livelihood, and promotion of welfare, of workers by requiring business owners to establish an intra - company labor - welfare fund with financial resources that consist of business income and to efficiently manage and operate the fund.

### **Article 51 (Protection of Rights and Interests of Workers and Maintenance of Working Conditions)**

No employer shall degrade the working conditions agreed upon by the parties in an employment relationship on the grounds of the establishment of the intra - company labor - welfare fund under this Act and the contribution thereto.

### **Article 52 (Legal Personality and Incorporation)** (1) An intra - company labor - welfare fund shall be a corporation.

(2) When it is intended to incorporate a corporation for an intra - company labor - welfare fund (hereinafter referred to as “ incorporated fund ” ), the business owner of the relevant business or place of business (hereinafter referred to as “ business ” ) shall organize a preparatory committee on the establishment of the incorporated fund (hereinafter referred to as “ preparatory committee ” ) and shall authorize the preparatory committee to take charge of administrative affairs related to the incorporation and the election of directors and auditors at the time of incorporation.

(3) Article 55 shall apply mutatis mutandis to a method for the formation of a preparatory committee.

(4) A preparatory committee shall draw up articles of incorporation of the incorporated fund, as prescribed by Presidential Decree, and shall obtain authorization for incorporation from the Minister of Employment and Labor.

(5) When a preparatory committee intends to obtain authorization for incorporation prescribed in paragraph (4), it shall file an application for authorization for the establishment of an incorporated fund along with documents specified by Presidential



Decree to the Minister of Employment and Labor. <Newly Inserted by Act No. 12370, Jan. 28, 2014>

(6) Upon receipt of an application prescribed in paragraph (5), the Minister of Employment and Labor shall authorize incorporation, except under any of the following cases: <Newly Inserted by Act No. 12370, Jan. 28, 2014>

1. If there is an omission in articles of incorporation under paragraph (4);
2. If the articles of incorporation under paragraph (4) violates Article 50, 51, or 62;
3. If an applicant fails to submit a document required under paragraph (5) or makes a misrepresentation in such document.

(7) A preparatory committee that obtains authorization for incorporation pursuant to paragraph (4) shall file a registration for the establishment of the incorporated fund at the location of the principal place of business of the incorporated fund within three weeks from the date the certificate of authorization for incorporation is received, and the incorporated fund shall be duly established when its establishment is registered.

(8) Additional matters necessary for the registration of establishment of an incorporated fund and other registrations shall be prescribed by Presidential Decree.

(9) A preparatory committee shall be deemed the council initially formed for the intra - company labor - welfare fund pursuant to Article 55 (hereinafter referred to as “welfare fund council”) simultaneously as the corporation is formed pursuant to paragraph (7). <Amended by Act No. 12370, Jan. 28, 2014>

(10) A preparatory committee shall transfer administrative affairs to directors of the incorporated fund without delay after the incorporation of the incorporated fund is registered.

### **Article 53 (Amendment to Articles of Incorporation)**

When an incorporated fund intends to amend its articles of incorporation, it shall obtain authorization therefor from the Minister of Employment and Labor, as prescribed by Presidential Decree.

### **Article 54 (Organs of Incorporated Fund)**

An incorporated fund shall have subsidiary organs, such as the welfare fund council, directors, and auditors.

**Article 55 (Composition of Welfare Fund Council)** (1) A welfare fund council shall be comprised of an equal number of members representing each side of the workers and the employer, the number of whom shall be at least two, but not more than ten persons respectively.

(2) Council members representing the workers shall be elected by workers, as prescribed by Presidential Decree.

(3) Council members representing the employer shall be comprised of the representative of the relevant business and persons commissioned by the representative.

(4) Notwithstanding paragraphs (2) and (3), if a business has a labor - management council formed pursuant to the Act on the Promotion of Workers ' Participation and Cooperation, members of the labor - management council may serve as members of the welfare fund council.

**Article 56 (Functions of Welfare Fund Council)** (1) A welfare fund council shall consult and decide on the following matters:

1. Determination of the amount to be contributed to the creation of an intra - company labor - welfare fund;
2. Appointment and dismissal of directors and auditor;
3. Approval of business plans and auditor ' s reports;
4. Amendment to articles of incorporation;
5. Determination of whether to integrate the welfare fund with other labor welfare programs in the company;
6. A merger, division, or division and merger of incorporated funds.

(2) Matters regarding the operation of a welfare fund council shall be prescribed by Presidential Decree.

**Article 57 (Preparation and Preservation of Minutes of Meeting)**

An incorporated fund shall prepare minutes of a meeting of the welfare fund council containing the following matters and with signatures or seals affixed thereon by all members present at the meeting, and shall retain the minutes for ten years from the date of preparation. Minutes of a meeting in such cases may be prepared and retained in electronic form:

1. The date, time, and venue of meeting;
2. Council members present at the meeting;
3. Matters agreed on and decisions made thereon;
4. Other matters discussed.

**Article 58 (Directors and Auditor)** (1) An incorporated fund shall have the equal number of not more than three directors representing each side of the workers and the employer, and one auditor.

(2) Directors shall represent the incorporated fund and shall execute the following administrative affairs, as stipulated in articles of incorporation:

1. Management and operation of the incorporated fund;
2. Budgeting and settlement of accounts;
3. Formulation of business plans;
4. Matters stipulated in articles of incorporation;
5. Other matters that the welfare fund council consults and decides on to authorize directors to execute.

(3) Administrative affairs of an incorporated fund shall be executed in accordance with resolutions passed by a majority of the votes cast by directors.

(4) The auditor shall take charge of auditing administrative affairs and accounting of the incorporated fund.

**Article 59 Deleted.** <by [Act No. 13412, Jul. 20, 2015](#)>

**Article 60 (Status of Directors, etc.)** (1) The members of a welfare fund council and the directors and auditor of an incorporated fund shall have non - standing positions with no remuneration.

(2) No employer shall treat a member of the welfare fund council or a director or auditor of the incorporated fund unfavorably on the ground that he/she works for the incorporated fund.

(3) Number of hours necessary for a member of a welfare fund council or a director or auditor of an incorporated fund to perform his/her duties to the incorporated fund shall be deemed working hours.

**Article 61 (Creation of Intra - Company Labor - Welfare Fund)** (1) A business owner may contribute an amount consulted and decided by the welfare fund council on the basis

of 5/100 of net income before deducting corporate tax or income tax for the preceding business year as financial resources for the intra - company labor - welfare fund, as prescribed by Presidential Decree.

(2) A business owner or any person other than a business owner may contribute securities, cash, or other property specified by Presidential Decree, in addition to the contribution made pursuant to paragraph (1).

**Article 62 (Business Activities of Incorporated Fund)** (1) An incorporated fund may conduct the following business activities with its profits, as prescribed by Presidential Decree:

1. Assistance to workers ' property formation, including subsidization of purchase of a house and support for purchasing the employee share;
2. Granting of scholarships or disaster relief fund, and other aid for workers ' livelihood;
3. Subsidization of expenses incurred in the protection of maternity and the balance between work and family;
4. Subsidization of expenses incurred in operating an incorporated fund;
5. Investment in or contribution to a facility specified as a labor welfare facility by Ordinance of the Ministry of Employment and Labor or purchase, installation, and operation of such facility;
6. Improvement of welfare benefits of workers employed by companies directly contracted by the relevant business and temporary agency workers placed to work for the relevant business;
7. Business activities specified by Presidential Decree, in addition to those for which an employer is obliged to pay wages and others to workers under other statutes.

(2) An incorporated fund may use the amount computed in accordance with Presidential Decree, out of the property contributed to it and the property on which the welfare fund council has resolved to include in contributed property (hereinafter referred to as " basic property " ) pursuant to Article 61 (1) and (2), for business activities specified in paragraph (1) (hereinafter referred to as " business activities of the intra - company labor - welfare fund " ). If the business of an incorporated fund in such cases falls under either of the following subparagraphs, it may upwardly adjust the amount so computed within the range specified by Presidential Decree, as

stipulated by articles of incorporation: <Amended by Act No. 11271, Feb. 1, 2012; Act No. 12370, Jan. 28, 2014>

1. Where the business uses and operates the selective welfare program pursuant to Article 82 (3);
2. Where the business uses at least the amount computed pursuant to Ordinance of the Ministry of Employment and Labor, out of the amount used for the business activities of the intra - company labor - welfare fund, for the improvement of welfare benefits for workers employed by companies directly contracted by the relevant business and temporary agency workers placed to work for the relevant business;
3. Where an incorporated fund established in an enterprise prescribed in subparagraphs (1) or (3) of Article 2 of the Framework Act on Small and Medium Enterprises implements business activities of the intra - company labor - welfare fund.

(3) In cases specified by Presidential Decree as it is deemed necessary for providing support for workers ' living security and property formation, an incorporated fund may lend loans to workers out of its basic property.

#### **Article 63 (Management of Intra - Company Labor - Welfare Fund)**

An intra - company labor - welfare fund shall be managed as follows:

1. Deposit or money trust in a financial company;
2. Purchase of beneficiary certificates issued by an investment trust;
3. Purchase of securities directly issued by the State, a local government, or a financial company, etc. or guaranteed by the State, a local government, or a financial company, etc. for payment of liability;
4. Participation in capital increase by issuing new shares in proportion to the number of shares held by the intra - company labor - welfare fund within the limits prescribed by Presidential Decree, where the intra - company labor - welfare fund holds shares issued and contributed by the company;
5. Other business activities specified by Presidential Decree for the management of an intra - company labor - welfare fund.

**Article 64 (Accounting of Intra - Company Labor - Welfare Fund)** (1) Each fiscal year of an intra - company labor - welfare fund shall coincide with each fiscal year of the relevant business owner: Provided, That the foregoing shall not apply where articles

of incorporation prescribe otherwise.

(2) No incorporated fund shall borrow a loan.

(3) A loss incurred by an intra - company labor - welfare fund accrued on settlement of accounts for each fiscal year shall be carried forward to the following fiscal year, while a surplus accruing during such period shall be appropriated to compensate for losses carried forward, and then the remainder, if any, shall be transferred to the intra - company labor - welfare fund.

(4) Matters necessary for the management of accounts of an intra - company labor - welfare fund shall be prescribed by Presidential Decree.

#### **Article 65 (Preparation and Preservation of Documents regarding Management and Operation of Incorporated Fund)**

An incorporated fund shall prepare the following documents, as prescribed by Presidential Decree, and shall preserve such documents for five years from the date each document is prepared. Such documents may be prepared and preserved in electronic form:

1. Business report;
2. Balance sheet;
3. Income statement;
4. Auditor ' s report.

#### **Article 66 (Disclosure of Management and Operation of Incorporated Funds)**

An incorporated fund shall disclose to the public the documents specified in each subparagraph of Article 65 and minutes of meetings of the welfare fund council, as prescribed by Presidential Decree, and shall make such documents available to workers for inspection at any time. In such cases, with respect to documents prepared and preserved in electronic form, an incorporated fund may disclose such documents and make such documents available for inspection through an information and communications network or by any other electronic means.

#### **Article 67 (No Real Estate for Incorporated Fund)**

No incorporated fund shall own real estate, except what may be necessary for executing its business affairs.

**Article 68 (Relationship to other Welfare Programs)** (1) No employer shall discontinue or reduce labor welfare programs or labor welfare facilities, which he/she operates at the time of establishment of an incorporated fund, under the pretext of establishing the incorporated fund.

(2) If an employer conducts the same business activities as those of an incorporated fund at the time of establishment of the incorporated fund, he/she may integrate such business activities with those of the incorporated fund, subject to the agreement and decision made by the welfare fund council thereon, except for programs that the employer is obliged to establish and operate under any other Act.

**Article 69 (Corrective Order)**

If an employer or incorporated fund violates Article 60 (2), 64, or 66, the Minister of Employment and Labor may order the employer or incorporated fund to rectify such violation within a period reasonably specified by him/her.

**Article 70 (Causes of Dissolution of Incorporated Fund)**

An incorporated fund shall be dissolved for any of the following reasons:

1. Business closure of the relevant company;
2. A merger with another incorporated fund prescribed in Article 72;
3. A division or a division and merger with another incorporated fund prescribed in Article 75.

**Article 71 (Disposal of Property of Dissolved Incorporated Fund)** (1) The property of an incorporated fund dissolved due to business closure shall be used first and foremost for paying wages, retirement and severance benefits payable to workers at the time when the business owner operated the business and money and other valuables that the business owner is obliged to pay to workers otherwise, as prescribed by Presidential Decree, and not more than 50/100 of the residual property, if any, may be appropriated for the stabilization of livelihood of the workers employed by him/her, as stipulated by articles of incorporation.

(2) If any residual property exists even after the appropriation prescribed in paragraph (1), such residual property shall be reverted to the person designated by articles of incorporation: Provided, That if no person has been designated by articles of incorporation, such residual asset shall be reverted to the Labor Welfare

Promotion Fund referred to in Article 87, as prescribed by Presidential Decree.

**Article 72 (Merger of Incorporated Funds)** (1) An incorporated fund may be merged with another incorporated fund by merging or transferring business.

(2) When incorporated funds are merged with one another, the incorporated funds shall prepare a merger agreement in which the following matters are included, and shall present it to the welfare fund council of each incorporated fund for resolution thereon:

1. Property of each incorporated fund before the merger and the change in the property of the incorporated funds after the merger;
2. The level of assistance to workers of each incorporated fund after the merger;
3. Schedule for the promotion of the merger;
4. Other important matters regarding the merger.

(3) The level of assistance prescribed in paragraph (2) 2 to each worker of each incorporated fund before merger may be varied for a period not exceeding three years after the merger, taking into consideration the average balance of the fund for each worker of each incorporated fund before merger, the amount expected to be contributed by the business owner after the merger, etc.

**Article 73 (Establishment of Incorporated Fund by Merger and Registration thereof)** (1)

When an incorporated fund is established by merging incorporated funds, the owner of the business established by merging businesses shall organize a preparatory committee and shall go through all formalities for the establishment of the incorporated fund prescribed in Article 52.

(2) The incorporated fund surviving after a merger of incorporated fund shall file for registration of changes in registered facts, while the incorporated fund disappearing through the merger shall file for registration of dissolution.

**Article 74 (Effectuation and Effects of Merger)** (1) A merger of incorporated funds shall become effective when the incorporation of the incorporated fund established by the merger is registered or the changes in the incorporated fund surviving the merger are registered.

(2) An incorporated fund established by a merger or surviving a merger shall succeed to rights and obligations of the incorporated fund disappearing through the



merger.

**Article 75 (Division or Division and Merger of Incorporated Funds)** (1) An incorporated fund may be divided or divided and merged (hereinafter referred to as “divided or divided to be merged with another”) with another incorporated fund according to a division or division and merger of business.

(2) When an incorporated fund intends to divide itself, it shall prepare a division plan, which shall include the following matters, and shall present the plan to the welfare fund council for resolution thereon:

1. Distribution of the property of the incorporated fund;
2. Schedule for the division;
3. Other important matters regarding the division.

(3) When an incorporated fund intends to divide itself to be merged with another, it shall prepare a division and merger plan, which shall include the following matters, and shall present the plan to the welfare fund council for resolution thereon:

1. Distribution of the property of the incorporated fund and changes in the property of the incorporated fund upon the merger;
2. The level of assistance after the merger provided to workers of each incorporated fund subject to the division and merger;
3. Schedule for the division and merger;
4. Other important matters regarding the division and merger.

(4) In principle, the distribution of the property, as prescribed in paragraph (2) 1 or (3) 1, shall be based on the number of workers, but the level of contribution to the creation of the intra-company labor-welfare fund for each business before the division may be taken into consideration for distribution.

(5) The provisions of Article 72 (3) shall apply mutatis mutandis to the determination of the level of assistance under paragraph (3) 2. In such cases, the term “merger” shall be construed as “division and merger.”

**Article 76 (Establishment of Funds by Division, etc. and Registration thereof)** (1) When an incorporated fund is established by dividing or dividing and merging with another fund, the owner of the business established by dividing or dividing and merging business businesses shall organize a preparatory committee and shall go through all formalities for the establishment of the incorporated fund under Article 52.

(2) The incorporated fund surviving after a division or a division and merger of an incorporated fund shall file for registration of changes in registered facts, while the incorporated fund disappearing upon the division or division and merger shall file for registration of dissolution.

**Article 77 (Effectuation and Effects of Division, etc.)** (1) A division or a division and merger of incorporated funds shall become effective when the incorporation of the incorporated fund established by the division or division and merger is registered or the changes in the incorporated fund surviving the division or division and merger are registered.

(2) An incorporated fund established by a division or a division and merger or surviving such division or division and merger shall succeed to rights and obligations of the divided incorporated fund, as stipulated in the relevant division plan or division and merger agreement.

**Article 78 (Confidentiality, etc.)**

Neither a member of a welfare fund council nor a director or auditor of an incorporated fund shall divulge confidential information acquired by him/her in the course of performing his/her duty, hold another office concurrently, or engage in self-dealing in connection with the business affairs of the intra-company labor-welfare fund.

**Article 79 Deleted.** <by Act No. 13412, Jul. 20, 2015>

**Article 80 (Application Mutatis Mutandis of the Civil Act)**

Except as otherwise provided for in this Act, the provisions of the Civil Act governing incorporated foundations shall apply mutatis mutandis to incorporated funds.

**Article 80 - 2 (Re - Examination of Regulation)** (1) The Minister of Employment and Labor shall examine the appropriateness of the following matters every two years, counting from January 1, 2016 (referring to the period that ends on the second anniversary before the base date) and shall take measures, such as making improvements:

1. Authorization to amend articles of incorporation prescribed in Article 53;
2. An agreement or decision made by a welfare fund council prescribed in Article 56 (1);
3. Directors and auditors prescribed in Article 58;
4. Division or division and merger of an incorporated fund prescribed in Article 75;
5. Incorporation of and registration for incorporated fund by division, etc. prescribed in Article 76.

[This Article Newly Inserted by Act No. 13412, Jul. 20, 2015]

### **SECTION 3 Selective Welfare Program, Workers Support Program, etc.**

**Article 81 (Implementation of Selective Welfare Program)** (1) A business owner may establish and implement a program under which each worker may autonomously select welfare benefits, from among various welfare benefits, according to his/her preferences and needs (hereinafter referred to as “ selective welfare program ” ).

(2) When a business owner implements a selective welfare program, he/she shall ensure that every worker in the business receives equal welfare benefits: Provided, That the level of benefits may be varied according to reasonable criteria, taking into consideration the position, amount of continuous service, dependents, etc. of each worker.

**Article 82 (Design, Operation, etc. of Selective Welfare Program)** (1) When a business owner designs a selective welfare program, he/she shall endeavor to reflect benefits for basic livelihood security, such as workers ’ death, disability, and illness, and additional selective benefits for individuals to support sound recreational, cultural and sports activities, etc. in the program in a balanced way.

(2) In order to prevent inconvenience that workers might experience in selecting and using welfare benefits provided under the selective welfare program, a business owner shall endeavor to directly provide electronic management services or entrust such services to a third party.

(3) The selective welfare program may be utilized in conducting business activities of an intra - company labor - welfare fund.

(4) Specific matters necessary for designing and operating the selective welfare program under paragraphs (1) and (2) shall be prescribed by Ordinance of the Ministry of Employment and Labor.

**Article 83 (Workers Support Programs)** (1) A business owner shall endeavor to implement a workers support program, through which he/she can protect workers by assisting them in solving problems undermining business performance, such as workers' mental stress and personal grievances arising in the course of performing their duties or in daily lives, and can provide services to workers, such as experts' counseling services for improving productivity.

(2) Except as otherwise prescribed by Presidential Decree, each business owner and participant in workers support programs shall ensure anonymity to protect workers' confidential information in the course of implementing the measures prescribed in paragraph (1).

**Article 84 (Gain Sharing)**

If business targets set according to an agreement made between a business owner and workers employed by the relevant business with regard to income, etc. for the pertinent year are surpassed, the business owner shall provide workers monetary rewards for such excess gains or shall endeavor to use such gains for the promotion of workers' welfare.

**Article 85 (Reward for Invention, Proposal, etc.)**

If a worker employed by a business has contributed to increasing the company's productivity, sales, etc. through an invention or proposal, or by developing new knowledge, information, or technology in connection with his/her duties, the business owner shall endeavor to reward such worker adequately for the contribution. The specific guidelines for reward in such cases shall be established through the labor-management council under the Act on the Promotion of Workers' Participation and Cooperation.

**Article 86 (Assistance from State and Local Government)**

The State or a local government shall provide assistance as necessary for promoting the selective welfare program, workers support program, gain sharing, and reward for inventions, proposals, etc.

## SECTION 4 Joint Labor - Welfare Fund System

**Article 86 - 2 (Creation of Joint Labor - Welfare Fund)** (1) At least two employers may jointly create a joint labor - welfare fund (hereinafter referred to as "joint fund") by contributing part of their income, to conduct the business activities specified in Article 62 (1).

(2) An employer participating in a joint fund and any person, other than employers, may contribute securities, cash, and other assets specified by Presidential Decree to the joint fund, in addition to the contributions made under paragraph (1).

[This Article Newly Inserted by Act No. 13412, Jul. 20, 2015]

**Article 86 - 3 (Organization of Preparatory Committee for Incorporation of Joint Labor - Welfare Fund Foundation)**

The employers who intend to establish a joint labor - welfare fund foundation (hereinafter referred to as "joint fund foundation") shall jointly organize a preparatory committee for incorporation with the employers and persons commissioned by the employers, to authorize the committee to conduct administrative affairs for incorporation and for the election of directors and auditors as at the time of incorporation.

[This Article Newly Inserted by Act No. 13412, Jul. 20, 2015]

**Article 86 - 4 (Organization of Joint Labor - Welfare Fund Council)** (1) Each joint fund foundation shall have a joint labor - welfare fund council (hereinafter referred to as "joint fund council") in order to deliberate on and determine important matters regarding the operation of the fund.

(2) The members of a joint fund council shall be comprised of one representative of employees and one representative of the employer respectively from each enterprise. Article 55 (2) shall apply mutatis mutandis to the election of the members representing employees, while the members representing each employer shall be comprised of the representative of each business or persons commissioned by the representative of each business.

[This Article Newly Inserted by Act No. 13412, Jul. 20, 2015]

#### **Article 86 - 5 (Promotion of Joint Fund System)**

Joint fund foundations may be subsidized by the Labor Welfare Promotion Fund, as prescribed by Presidential Decree, to help cover their expenses incurred in conducting the business activities specified in Article 62 (1).

[This Article Newly Inserted by Act No. 13412, Jul. 20, 2015]

#### **Article 86 - 6 (Settlement of Disputes of Joint Fund Foundations)**

Disputes arising in a joint fund foundation with regard to the method for operating the joint fund, the purpose of use of the joint fund, the amount of contributions, etc., shall be settled in accordance with its articles of incorporation.

[This Article Newly Inserted by Act No. 13412, Jul. 20, 2015]

#### **Article 86 - 7 (Grounds for Dissolution of Joint Fund Foundations)**

A joint fund foundation shall be dissolved upon the occurrence of any of the following events:

1. Discontinuance of business of a majority of the companies participating in the joint fund foundation;
2. A merger of joint fund foundations prescribed in Article 86 - 9;
3. A division of a joint fund foundation or a division and merger of joint fund foundations prescribed in Article 86 - 10.

[This Article Newly Inserted by Act No. 13412, Jul. 20, 2015]

#### **Article 86 - 8 (Disposal of Assets of Joint Fund Foundations upon Dissolution)**

Where a joint fund foundation is dissolved under Article 86 - 7, its assets shall be distributed to participating companies in proportion to the ratio of contribution to the joint fund foundation made under Article 86 - 7; and any residual assets shall be disposed of pursuant to its articles of incorporation.

[This Article Newly Inserted by Act No. 13412, Jul. 20, 2015]

#### **Article 86 - 9 (Mergers of Joint Fund Foundations)** (1) Joint fund foundations may

merge when the businesses of a majority of participating companies are merged or transferred.

(2) Articles 72 (2) and (3) shall apply mutatis mutandis to the procedure, etc. for mergers of joint fund foundations.

[This Article Newly Inserted by Act No. 13412, Jul. 20, 2015]

**Article 86 - 10 (Division or Division and Merger of Joint Fund Foundations)** (1) Joint fund foundations may be divided or divided and merged when the businesses of a majority of participating companies are divided or divided and merged.

(2) Articles 72 (2) through (5) shall apply mutatis mutandis to the procedure, etc. for divisions or division and mergers of joint fund foundations.

[This Article Newly Inserted by Act No. 13412, Jul. 20, 2015]

**Article 86 - 11 (Application Mutatis Mutandis)**

@Articles 50 through 54, 56 through 58, 60, 62 through 69, 73, 74, 76 through 78, 80, and 93 shall apply mutatis mutandis to the joint fund system. In such cases, "intra - company labor - welfare fund system" referred to in Articles 50 through 52, 56, 63, and 64 shall be construed as "joint fund;" "incorporated fund" in Articles 52 through 54, 56 through 58, 60, 62, 64 through 69, 73, 74, 76, 77, 80, and 93 as "joint fund foundation;" "welfare fund council" in Articles 54, 56 through 58, 60, 62, 66, 68, and 78 as "joint fund council;" and "business activities of an intra - company labor - welfare fund" in Articles 62 and 78 as "business activities of a joint fund," respectively.

[This Article Newly Inserted by Act No. 13412, Jul. 20, 2015]

## CHAPTER IV LABOR WELFARE PROMOTION FUND

**Article 87 (Establishment of Labor Welfare Promotion Fund)**

In order to secure funds necessary for workers ' welfare programs, the Minister of Employment and Labor shall establish a Labor Welfare Promotion Fund.

**Article 88 (Creation of Labor Welfare Promotion Fund)** (1) The Labor Welfare Promotion Fund shall consist of the following financial resources:

1. Contributions by the State and a local government;
2. Cash, goods, and other property contributed by an entity other than the State or a local government;
3. Money transferred from other funds (excluding the employee stock ownership association fund created under Article 36 and the intra - company labor - welfare

fund created under Article 52);

4. Borrowings made under paragraph (2);
5. Fees for guarantee, amount of indemnity, and overdue interest collected pursuant to Articles 24, 26, and 27;
6. Proceeds from lottery tickets distributed pursuant to Article 23 (1) of the Lottery Tickets and Lottery Fund Act;
7. Property specified by articles of incorporation to be reverted to the Labor Welfare Promotion Fund at the time when an incorporated fund is dissolved pursuant to Article 71;
8. Donations by a business owner and a business owners ' association;
9. Capital created pursuant to Article 35 of the Framework Act on Employment Policy;
10. Proceeds from the operation of the Labor Welfare Promotion Fund;
11. Other revenues.

(2) If it is necessary for the operation of the Labor Welfare Promotion Fund, money may be borrowed from financial companies or other funds at the cost of the Labor Welfare Promotion Fund.

#### **Article 89 (Fiscal Year of Labor Welfare Promotion Fund)**

The fiscal year of the Labor Welfare Promotion Fund shall coincide with that of the State.

#### **Article 90 (Management and Operation of Labor Welfare Promotion Fund) (1) The**

Labor Welfare Promotion Fund shall be managed and operated by the Service.

(2) When the Service operates the Labor Welfare Promotion Fund, it shall treat the account of the Fund separately from other accounting.

(3) Matters necessary for the management and operation of the Labor Welfare Promotion Fund shall be prescribed by Presidential Decree.

#### **Article 91 (Use of Labor Welfare Promotion Fund)**

The Labor Welfare Promotion Fund shall be used for the following purposes:

<Amended by Act No. 13412, Jul. 20, 2015>

1. Lending of Funds for Home Purchases, etc.;



2. Lending of workers ' livelihood security funds;
3. Scholarships and student loans for workers or their children;
4. Expenses for the operation of the integrated information system for workers ' welfare under Article 14;
5. Expenses for the support of credit guarantee pursuant to Article 22;
6. Assistance relating to employee stock ownership program;
7. Assistance relating to the intra - company labor - welfare fund system and the joint fund system;
8. Financial support for the installation and operation of workers ' welfare facilities;
9. Support of cultural and sports activities for workers ' emotional cultivation;
10. Assistance relating to the selective welfare system;
11. Assistance relating to workers support programs;
12. Expenses for the medical activities to promote workers ' health;
13. Expenses for the research and development regarding workers ' welfare programs;
14. Expenses for implementation and management of unemployment relief programs prescribed in Article 34 of the Framework Act on Employment Policy;
15. Investment in profit - making businesses for the operation of the Labor Welfare Promotion Fund;
16. Expenses for the creation, management, and operation of the Labor Welfare Promotion Fund;
17. Other necessary assistances specified by Presidential Decree to promote workers ' welfare.

**Article 92 (Separate Accounting, etc.)** (1) The account of the funds specified in Article 88 (1) 5 and 9 shall be treated separately from those which are created and operated for other business purposes.

(2) The funds specified in Article 88 (1) 5 and 9 shall be used to cover business expenses prescribed in subparagraphs 5 and 14 of Article 91, respectively.

(3) Notwithstanding paragraphs (1) and (2), the Service may, with the approval of the Minister of Employment and Labor, mutually convert funds separately accounted for within the Fund, to help cover the expenses prescribed in subparagraph 5 of Article 91.

## CHAPTER V SUPPLEMENTARY PROVISIONS

**Article 93 (Guidance, Supervision, etc.)** (1) Where it is necessary to promote workers' welfare, the Minister of Employment and Labor may require the person concerned to report the following matters or may instruct his/her public official to inspect the relevant accounting books, documents, and other goods, and if deemed necessary, order redress in its operations, as prescribed by Presidential Decree:

1. The actual state of the Service's management and operation of the Labor Welfare Promotion Fund;
2. The business affairs, accounting, and property of the non-profit organizations entrusted with the operation of workers' welfare facilities pursuant to Article 29 (1);
3. The business affairs, accounting and property of an incorporated fund under Article 52.

(2) Where necessary for the purpose of supervising a business owner, an institution providing loan services, an employee stock ownership association, a trustee prescribed in Article 43, or a person offered subsidy or loans, the State or a local government may require the relevant person to report and submit the materials relating to the business affairs referred to in this Act as prescribed by Presidential Decree, issue an order to such person as necessary, or may require a public official under his/her jurisdiction to ask questions to the relevant person or investigate and inspect relevant accounting books, documents, etc.

(3) Any public official who conducts any inspection pursuant to paragraph (1) or (2) shall carry a certificate indicating his/her authority and shall present it to interested persons.

(4) Any public official who conducts an inspection pursuant to paragraphs (1) and (2) shall notify the persons subject to the inspection of the date, time, and details of inspection and other necessary matters at least seven days before the date of inspection: Provided, That the foregoing shall not apply to urgent cases and cases where it is deemed impracticable to achieve the purposes of inspection if a prior notice is given.

(5) The Minister of Employment and Labor or other competent authority shall give written notice of the results of inspection conducted under paragraph (1) or (2) to the persons subject to the inspection.

**Article 94 (Delegation and Entrustment of Authority)** (1) Part of the authority of the Minister of Employment and Labor granted under this Act may be delegated to the head of each regional labor office, as prescribed by Presidential Decree.

(2) Some of the business affairs assigned to the Minister of Employment and Labor under this Act may be entrusted to an agency or organization relating to workers' welfare, as prescribed by Presidential Decree.

**Article 95 (Return Order)** (1) The State or a local government may order a person who violates the provision of Article 6 to return all or part of the subsidies or loans received, as prescribed by Presidential Decree.

(2) The State or a local government may order a person who receives subsidy or loans pursuant to this Act by fraud or other improper means to return all or part of subsidy and loans received, as prescribed by Presidential Decree.

(3) A person who receives the return order pursuant to paragraph (1) or (2) shall make a repayment even before the repayment deadline.

**Article 95 - 2 (Special Exception for Workers in Special Type of Employment)**

Notwithstanding subparagraph 1 of Article 2, the workers in a special type of employment, who are eligible for industrial accident compensation insurance under Article 125 of the Industrial Accident Compensation Insurance Act, shall be deemed workers engaged in the business for the purposes of Articles 19 through 27 and 31 to them: Provided, That the foregoing shall not apply where an application for exemption from application has been filed with the Service in accordance with the Act on the Collection of Insurance Premiums, etc. for Employment Insurance and Industrial Accident Compensation Insurance.

[This Article Newly Inserted by Act No. 13412, Jul. 20, 2015]

**CHAPTER VI PENALTY PROVISIONS**

### Article 96 (Penalty Provisions)

Any of the following persons shall be punished by imprisonment with labor for not more than one year or by a fine not exceeding 30 million won:

1. A person who commits an act specified in any subparagraph of Article 42 - 2 (1);
2. A person who dismisses or otherwise treat unfavorably a member of the employee stock ownership association in violation of Article 42 - 2 (2) on the grounds that the employee reported a violation of paragraph (1) or gave testimony about or presented evidence of such violation.

[This Article Newly Inserted by Act No. 12370, Jan. 28, 2014]

### Article 97 (Penalty Provisions)

Any of the following persons shall be punished by imprisonment with labor for not more than one year or by a fine not exceeding ten million won: <Amended by Act No. 12626, May 20, 2014; Act No. 13412, Jul. 20, 2015>

1. A director who operates an incorporated fund in violation of Article 62 (including cases to which the aforesaid Article shall apply mutatis mutandis pursuant to Article 86 - 11) or Article 63 (including cases to which the aforesaid Article shall apply mutatis mutandis pursuant to Article 86 - 11);
2. A director of an incorporated fund or the employer of the relevant business, who violates the prohibition against ownership of real estate by the incorporated fund under Article 67 (including cases to which the aforesaid Article shall apply mutatis mutandis pursuant to Article 86 - 11);
3. An employer who discontinues workers ' welfare programs or the operation of workers ' welfare facilities or downsizes such programs or facilities in violation of Article 68 (1) (including cases to which the aforesaid Article shall apply mutatis mutandis pursuant to Article 86 - 11);
4. A liquidator who violates Article 71 or 86 - 8 in regard to the method of disposal of assets of a dissolved incorporated fund;
5. A member of a welfare fund council or a director or an auditor of an incorporated fund, who divulges confidential information that he/she has obtained in the course of performing his/her duties, holds another office concurrently, or engages in self-dealing in connection with business affairs of the incorporated fund, in violation of Article 78 (including cases to which the aforesaid Article shall apply mutatis

mutandis pursuant to Article 86 - 11).

#### **Article 98 (Joint Penalty Provisions)**

If the representative of a corporation, or an agent or employee of, or any other person employed by, a corporation or an individual commits a violation prescribed in Article 96 or 97 in connection with the business affairs of the corporation or individual, not only shall such violator be punished, but also the corporation or individual shall be punished by a fine prescribed in the relevant provisions: Provided, That this shall not apply to cases where such corporation or individual has not been negligent in exercising due attention and supervision over the relevant duties to prevent such offense. <Amended by Act No. 12370, Jan. 28, 2014 >

**Article 99 (Administrative Fines)** (1) An employer or an incorporated fund, who violates a corrective order issued under Article 69 (including cases to which the aforesaid Article shall apply mutatis mutandis pursuant to Article 86 - 11), shall be subject to an administrative fine not exceeding five million won. <Amended by Act No. 13412, Jul. 20, 2015 >

(2) A person who uses a subsidy granted or a loan received under this Act for workers ' welfare for any purpose other than as originally intended in violation of Article 6 shall be subject to an administrative fine not exceeding three million won.

(3) Any of the following persons shall be subject to an administrative fine not exceeding two million won: <Amended by Act No. 13412, Jul. 20, 2015 >

1. An incorporated fund that fails to prepare and preserve relevant documents in violation of Article 57 (including cases to which the aforesaid Article shall apply mutatis mutandis pursuant to Article 86 - 11) or Article 65 (including cases to which the aforesaid Article shall apply mutatis mutandis pursuant to Article 86 - 11);

2. A person who fails to comply with a request made for reporting under Article 93 (1) 3 (including cases to which the aforesaid Article shall apply mutatis mutandis pursuant to Article 86 - 11) or makes a false statement in such report, a person who fails to comply with an order issued as necessary, or a person who refuses, interferes with, or evades an inspection conducted by a public official.

(4) Any of the following persons shall be subject to an administrative fine not exceeding one million won: <Amended by Act No. 13412, Jul. 20, 2015 >

1. The representative of an employee stock ownership association, who violates the proviso to Article 35 (3) or Article 35 (4), (5), or (7);
  2. A representative of employee stock ownership association who fails to provide separate account management in accordance with the method prescribed for the management of the relevant accounts in violation of Article 37;
  3. A representative of employee stock ownership association who deposits employee shares in violation of Article 43 (1);
  4. A representative or a member of employee stock ownership association who transfers the employee share deposited or provides such employee share as security in violation of Article 43 (3);
  5. A representative of employee stock ownership association, who violates the method prescribed in Article 46 for the exercise of the voting rights of the employee stock ownership association;
  6. A liquidator who violates the procedure prescribed in Article 47 for dissolution of an employee stock ownership association;
  7. A person who fails to comply with a request for report or makes a false report under Article 93 (1) 1 or 2, a person who fails to comply with an order issued as necessary, or a person who refuses, obstructs, or evades an inspection conducted by a public official;
  8. A person who fails to comply with a request for report or makes a false report under Article 93 (2), a person who fails to submit required materials or who submits false materials, a person who fails to comply with an order issued as necessary for supervision, or a person who refuses, obstructs, or evades an inspection conducted under the aforesaid provisions.
- (5) Administrative fines under the provisions of paragraphs (1) through (4) shall be imposed and collected by the Minister of Employment and Labor, as prescribed by Presidential Decree.

**ADDENDA** <No. 11271, 01. Feb, 2012>

This Act shall enter into force six months after the date of its promulgation.

**ADDENDA** <No. 11461, 01. Jun, 2012>

**Article 1 (Enforcement Date)**

This Act shall enter into force three months after the date of its promulgation.  
Articles 2 through 10 Omitted.

**ADDENDA** <No. 11690, 23. Mar, 2013>

**Article 1 (Enforcement Date)**

(1) This Act shall enter into force on the date of its promulgation.  
(2) Omitted.  
Articles 2 through 7 Omitted.

**ADDENDA** <No. 11845, 28. May, 2013>

**Article 1 (Enforcement Date)**

This Act shall enter into force three months after the date of its promulgation.  
(Proviso Omitted.)  
Articles 2 through 17 Omitted.

**ADDENDA** <No. 12370, 28. Jan, 2014>

**Article 1 (Enforcement Date)**

This Act shall enter into force six months after the date of its promulgation.

**Article 2 (Applicability concerning Legal Personality and Incorporation)**

The amended provisions of Article 52 shall apply beginning with the first applications filed for authorization for the incorporation of an incorporated fund after this Act enters into force.

**ADDENDA** <No. 12626, 20. May, 2014>

This Act shall enter into force on July 29, 2014.

**ADDENDA** <No. 12844, 19. Nov, 2014 >

**Article 1 (Enforcement Date)**

This Act shall enter into force on the date of its promulgation: Provided, That the provisions of any Act amended under Article 6 of the Addenda to the Government Organization Act, which were promulgated before the Government Organization Act enters into force but the enforcement date of which has not arrived yet, shall enter into force on the enforcement date of each relevant Act.

Articles 2 through 7 Omitted.

**ADDENDA** <No. 12989, 06. Jan, 2015 >

**Article 1 (Enforcement Date)**

This Act shall enter into force on July 1, 2015.

Articles 2 through 6 Omitted.

**ADDENDA** <No. 13378, 22. Jun, 2015 >

**Article 1 (Enforcement Date)**

This Act shall enter into force six months after the date of its promulgation.

Articles 2 through 7 Omitted.

**ADDENDA** <No. 13412, 20. Jul, 2015 >

**Article 1 (Enforcement Date)**

This Act shall enter into force six months after the date of its promulgation.

**Article 2 (Transitional Measure concerning Term of Office of Directors, etc. of Intra - Company Labor - Welfare Fund)**

Notwithstanding the amended provisions of Article 59, former provisions shall apply to the term of office of directors, etc. appointed under former provisions before this Act enters into force, until the expiration of their term of office.



**ADDENDA** <No. 13900, 27. Jan, 2016>

This Act shall enter into force six months after the date of its promulgation.

**ADDENDA** <No. 14498, 27. Dec, 2016>

**Article 1 (Enforcement Date)**

This Act shall enter into force six months after the date of its promulgation.

**Article 2 (Applicability concerning Repurchase of Employee Shares of Unlisted Corporation)**

The amended provision of Article 45 (2) shall begin applying where an employee stock ownership association acquires employee shares under the amended provision of paragraph (1) 1 of the same Article after this Act enters into force.