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ENFORCEMENT RULE OF THE LABOR STANDARDS ACT

[Enforcement Date 31. Jan, 2020.] [Ordinance of the Ministry of Employment and Labor No.281, 31. Jan, 2020., Partial Amendment]

고용노동부 (임금근로시간과 - 휴게, 특례업종)044-202-7972



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Article 1 (Purpose) The purpose of this Rule is to prescribe matters mandated by the Labor Standards Act and the Enforcement Decree of that Act and those necessary for enforcing said Act and Decree.

Article 2 (Application for Damage Claim) Where an employee intends to claim damages for a breach of the terms and conditions of employment by the employer under Article 19 (2) of the Labor Standards Act (hereinafter referred to as the "Act"), he or she shall file a claim for damages for a breach of the terms and conditions of employment in attached Form 1 to a Regional Labor Relations Commission established under the Labor Relations Commission Act (hereinafter referred to as "competent Regional Labor Relations Commission"), together with the following documents:

1. A copy of the employment contract;
2. Data proving that the employer has breached the terms and conditions of employment.

Article 3 (Reporting of Dismissal Plan for Managerial Reasons) Where an employer intends to report a dismissal plan under Article 10 of the Enforcement Decree of the Labor Standards Act (hereinafter referred to as the "Decree"), he or she shall submit a report on the dismissal plan for managerial reasons in attached Form 2 to the head of the competent regional employment and labor office, together with dismissal-related documents stating the matters notified to the representative of employees under Article 24 (3) of the Act.

<Amended by Ordinance of the Ministry of Employment and Labor No. 1, Jul. 12, 2010>

Article 4 (Causes Attributable to Employees, not Applicable to Advance Notice of Dismissal)
"Reasons prescribed by Ordinance of the Ministry of Employment and Labor" in the

proviso of Article 26 of the Act shall be as specified in the attached Table. [<Amended by Ordinance of the Ministry of Employment and Labor No. 1, Jul. 12, 2010>](#)

Article 5 (Request for Remedy against Unfair Dismissal) Where an employee intends to request a remedy against unfair dismissal, etc. pursuant to Article 28 (1) of the Act, he or she shall submit a request for remedy against unfair dismissal, etc. in attached Form 3 to the competent Regional Labor Relations Commission.

Article 6 (Procedures for Collecting Charges for Compelling Performance) The Enforcement Rule of the Management of the National Funds Act shall apply mutatis mutandis to the procedures for collecting charges for compelling performance under Article 12 (4) of the Decree. In such cases, a notice for payment shall state, among other things, the methods and period of raising objections.

Article 7 (Refund of Charges for Compelling Performance) (1) "Interest rate prescribed by Ordinance of the Ministry of Employment and Labor" in Article 15 (2) of the Decree means the interest rate on additional refund of national tax under Article 19-3 of the Enforcement Rule of the Framework Act on National Taxes. [<Amended by Ordinance of the Ministry of Employment and Labor No. 1, Jul. 12, 2010; Ordinance of the Ministry of Employment and Labor No. 257, Jun. 28, 2019>](#)

(2) The Enforcement Rule of the Management of the National Funds Act shall apply mutatis mutandis to the procedures for refunding charges for compelling performance under Article 15 (3) of the Decree.

Article 7-2 (Composition and Operation of the Committee for Review of Information on Overdue Wages) (1) The Committee for Review of Information on Overdue Wages established under Article 43-2 (3) of the Act (hereafter in this Article referred to as the

"Committee") shall be comprised of 11 members, including one Chairperson.

(2) The Vice Minister of Employment and Labor shall serve as the Chairperson of the Committee, and the following persons shall be the members thereof:

1. Three persons in a position designated by the Minister of Employment and Labor from among members in general service of the Senior Executive Service of the Ministry of Employment and Labor;
2. Two persons commissioned by the Minister of Employment and Labor from among those qualified as attorneys-at-law or certified public labor attorneys;

3. Two persons commissioned by the Minister of Employment and Labor from among those who were or are in office as associate professors or higher at universities and colleges prescribed in Article 2 of the Higher Education Act;
 4. Three persons commissioned by the Minister of Employment and Labor, who are deemed to have experience or high moral repute equivalent to those prescribed in subparagraphs 1 through 3.
- (3) The term of office of members under paragraph (2) 2 through 4 shall be three years.
- (4) A majority of the members of the Committee shall constitute a quorum, and any resolution thereof shall require the concurring vote of at least a majority of those present.
- (5) Except as provided in paragraphs (1) through (4), matters necessary for the composition and operation of the Committee shall be determined by the Minister of Employment and Labor.

[This Article Newly Inserted by Ordinance of the Ministry of Employment and Labor No. 59, Jun. 22, 2012]

Article 8 (Request for Approval to Pay Shutdown Allowances Lower than Standards) Where an employer intends to obtain approval to pay a shutdown allowance lower than the standards pursuant to Article 46 (2) of the Act, he or she shall submit a request for approval to pay a shutdown allowance lower than the standards in attached Form 4 to the competent Regional Labor Relations Commission.

Article 9 (Request for Extension of Work Hours under Special Circumstances) (1) "Special circumstances" in the main clause of Article 53 (4) of the Act means any of the following:

<Newly Inserted by Ordinance of the Ministry of Employment and Labor No. 281, Jan. 31, 2020>

1. Where measures are required after the occurrence of a disaster under the Framework Act on the Management of Disasters and Safety or an accident corresponding thereto (hereafter in this subparagraph referred to as "disaster, etc.") or where emergency measures are required to prevent any disaster, etc. because they are likely to occur;
2. Where emergency measures are required to protect human lives or to ensure safety;
3. Where emergency measures are required to manage an unexpected situation such as sudden failure or breakdown of a facility or equipment;
4. Where the volume of work substantially increases compared to ordinary times, and a failure to handle the work within a short period of time would cause serious disruption or loss to the business;

5. Where the Minister of Employment and Labor deems it necessary for the purposes of strengthening national competitiveness and developing the national economy, where research and development is conducted, such as research and development of materials and components and research and development of facilities for manufacturing materials and components defined in subparagraphs 1 and 1-2, respectively, of Article 2 of the Act on Special Measures for the Promotion of Specialized Enterprises, etc. for Materials and Components.

(2) Where an employer intends to extend or has extended work hours pursuant to Article 53 (4) of the Act, he or she shall submit a request for authorization or approval for extension of work hours in attached Form 5 to the head of the competent regional employment and labor office, together with a copy of the consent of the employee and a copy of documents proving special circumstances for the extension of work hours.

<Amended by Ordinance of the Ministry of Employment and Labor No. 1, Jul. 12, 2010; Ordinance of the Ministry of Employment and Labor No. 223, Jun. 29, 2018; Ordinance of the Ministry of Employment and Labor No. 281, Jan. 31, 2020>

(3) The head of the competent regional employment and labor office shall return the relevant request within three days after receipt of a request for authorization or approval for extension of work hours prescribed in paragraph (2), or issue a written authorization or approval for extension of work hours in attached Form 6 to the requester: Provided, That where the processing period referred to in the main clause is not met due to unavoidable reasons, it may be extended after notifying the requester of the reasons therefor and the expected processing period.<Amended by Ordinance of the Ministry of Employment and Labor No. 174, Dec. 29, 2016; Ordinance of the Ministry of Employment and Labor No. 281, Jan. 31, 2020>

(4) Where the head of the competent regional employment and labor office grants authorization or approval for extension of work hours pursuant to paragraph (3), the period during which the work hours may be extended shall be the minimum period necessary to respond to special circumstances, and the head of the competent regional employment and labor office may guide the employer to ensure that he or she takes measures appropriate to protect the health of employees.<Newly Inserted by Ordinance of the Ministry of Employment and Labor No. 281, Jan. 31, 2020>

Article 10 (Request for Approval for Exclusion from Application of Work Hours) (1) Where an employer intends to obtain approval for exclusion of employees engaged in surveillance or

intermittent work from the application of work hours, etc. pursuant to subparagraph 3 of Article 63 of the Act, he or she shall submit a request for approval for exclusion from application of work hours of employees engaged in surveillance or intermittent work in attached Form 7 to the head of the competent regional employment office. <Amended by Ordinance of the Ministry of Employment and Labor No. 1, Jul. 12, 2010>

(2) Employees engaged in surveillance work subject to approval under paragraph (1) shall be those engaged in work causing not much mental and physical fatigue in nature while performing the work of monitoring as primary duties.

(3) Employees engaged in intermittent work subject to approval under paragraph (1) shall be those engaged in work that involves long recess or standby time as they work on an occasional or intermittent basis.

(4) Where the head of the competent regional employment and labor office gives approval for a request submitted under paragraph (1), he or she shall issue a written approval for exclusion from application of work hours of employees engaged in surveillance or intermittent work in attached Form 8. <Amended by Ordinance of the Ministry of Employment and Labor No. 1, Jul. 12, 2010>

Article 11 (Request for Employment Permit) (1) Where a person under the age of 15 intends to obtain an employment permit certificate in accordance with Article 64 of the Act and Article 35 of the Decree, he or she shall submit a request for issuance of an employment permit certificate for the person under the age of 15 in attached Form 9 to the head of the competent regional employment and labor office. <Amended by Ordinance of the Ministry of Employment and Labor No. 1, Jul. 12, 2010>

(2) Where an employer or a person under the age of 15 intends to obtain reissuance of an employment permit certificate pursuant to Article 39 of the Decree, he or she shall submit a request for the reissuance of the employment permit certificate of a person under the age of 15 in attached Form 9 to the head of the competent regional employment and labor office, together with an explanatory statement setting out the reasons why the employment permit certificate has become unusable or lost. <Amended by Ordinance of the Ministry of Employment and Labor No. 1, Jul. 12, 2010>

(3) Where the head of the competent regional employment and labor office is to permit employment upon request under paragraph (1) or (2), he or she shall issue the employment permit certificate of a person under the age of 15 in attached Form 10.

<Amended by Ordinance of the Ministry of Employment and Labor No. 1, Jul. 12, 2010>

Article 12 (Granting Authorization for Night or Holiday Work) (1) Where an employer intends to have a pregnant woman or a person under the age of 18 work at night or on holidays under the proviso of Article 70 (2) of the Act, he or she shall submit to the head of the competent regional employment and labor office a request for authorization for night or holiday work in attached Form 11, together with a copy of a written consent or a request of the relevant employee and a copy of a written agreement with the representative of employees under Article 70 (3) of the Act. <Amended by Ordinance of the Ministry of Employment and Labor No. 1, Jul. 12, 2010>

(2) Where the head of the competent regional employment and labor office gives authorization upon request under paragraph (1), he or she shall issue a certificate of authorization for night or holiday work in attached Form 12.<Amended by Ordinance of the Ministry of Employment and Labor No. 1, Jul. 12, 2010>

Article 13 (Request for Recognition of Gross Negligence for Occupational Injury) Where, seeking recognition of any gross negligence on the part of the employee pursuant to Article 81 of the Act, the employer shall submit a request for recognition of gross negligence for an occupational injury, etc. in attached Form 13 to the competent Regional Labor Relations Commission, together with data proving the gross negligence of the employee.

Article 14 (Request for Review of Objections to Recognition of Accidents) Where an employee who has an objection to the recognition of an accident, etc. intends to request a review or arbitration under Article 88 (1) or 89 (1) of the Act, he or she shall submit a written request for review or arbitration of objections to recognition of accident, etc. in attached Form 14 to the head of the competent regional employment and labor office or to the competent Local Labor Relations Commission, together with the following documents: <Amended by Ordinance of the Ministry of Employment and Labor No. 1, Jul. 12, 2010>

1. A medical certificate issued by a doctor concerning an injury, disease, etc.;
2. Data proving that the objection is justified (only if necessary).

Article 15 (Reporting of Rules of Employment) Where an employer intends to report the rules of employment or a change thereof pursuant to Article 93 of the Act, he or she shall submit a report on the rules of employment or a report on the change thereof in attached

Form 15 to the head of the competent regional employment and labor office, together with the following documents: <Amended by Ordinance of the Ministry of Employment and Labor No. 1, Jul. 12, 2010; Ordinance of the Ministry of Employment and Labor No. 223, Jun. 29, 2018>

1. Rules of employment (in cases of reporting of change, including documents comparing the details before and after the change);
2. Data proving that the employer has heard the opinions of the labor union representing a majority of employees or of a majority of employees;
3. Data proving that the employer has obtained consent from the labor union representing a majority of employees or from a majority of employees (to be attached only when changes are unfavorable to employees).

Article 16 (Forms) (1) Other forms necessary for the enforcement of the Act and the Decree shall be as follows: <Amended by Ordinance of the Ministry of Employment and Labor No. 223, Jun. 29, 2018; Ordinance of the Ministry of Employment and Labor No. 257, Jun. 28, 2019>

1. The register of employees under Article 41 (1) of the Act: Attached Form 16;
2. The wage ledger under Article 48 of the Act: Attached Form 17;
3. A written order to grant recess hours or leaves of absence under Article 53 (5) of the Act: Attached Form 18;
4. An agreement on termination of employment contract under Article 67 (2) of the Act: Attached Form 19;
5. An order to modify the rules of employment under Article 96 (2) of the Act: Attached Form 20;
6. A written instruction for a field survey or medical examination under Article 102 (3) of the Act: Attached Form 21.

(2) An employer may integrate the register of employees under paragraph (1) 1 and the wage ledger under subparagraph 2 of that paragraph, or use them by changing their forms.

Article 16-2 Deleted. <by Ordinance of the Ministry of Employment and Labor No. 270, Dec. 23, 2019>

Article 17 (Procedures for Collecting Administrative Fines) The Enforcement Rule of the Management of the National Funds Act shall apply mutatis mutandis to the procedures for collecting administrative fines under Article 60 (4) of the Decree. In such cases, a notice for payment shall state, among other things, the methods and period of raising objections.