

## FAIR HIRING PROCEDURE ACT

Act No. 12326, Jan. 21, 2014

## Article 1 (Purpose)

The purpose of this Act is to reduce the burden of job seekers and protect their rights and interests by prescribing the matters to secure minimum fairness in hiring procedure such as returning hiring documents submitted by job seekers in a hiring process.

## Article 2 (Definitions)

The definitions of terms used in this Act shall be as follows:

- 1.The term “job offerer” means a person who intends to hire a job seeker;
- 2.The term “job seeker” means a person who applies for a hiring advertisement by a job offerer to seek a job;
- 3.The term “basic examination data” means an application form, resume, and cover letter;
- 4.The term “evidence” means every piece of data that proves the matters stated in a basic examination data such as a certificate of degree, certificate of career, and certificate of qualification;
- 5.The term “in-depth examination data” means every piece of data such as the job history and research record that demonstrate the ability of a job seeker;
- 6.The term “hiring document” means basic examination data, evidence, and in-depth examination data.

## Article 3 (Applicability)

This Act shall apply to the hiring procedure of a business or business site which employs at least 30 workers regularly: Provided, That this shall not apply where the State or a local government hires a public official.

## Article 4 (Prohibition of False Hiring Advertisement, etc.)

- (1)No job offerer shall place a false hiring advertisement for the purposes such as collecting ideas or promoting a business site by pretending to hire workers.
- (2)No job offerer shall change the contents of a hiring advertisement unfavorably for job seekers without any justifiable grounds.
- (3)After hiring a job seeker, no job offerer shall change the working conditions specified in the hiring advertisement in a way that disadvantages such job seeker without any justifiable grounds.
- (4)No job offerer shall force a job seeker to give up possession to hiring documents or intellectual property rights relevant thereto such as copyrights in the job offerer.

## Article 5 (Recommendation for Using Standard Form of Basic Examination Data)

The Minister of Employment and Labor may determine a standard form of basic examination data and recommend job offerers to use it.

## Article 6 (Prohibition of False Preparation of Hiring Documents)

No job seeker shall falsify hiring documents to submit to a job offerer.

## Article 7 (Receipt of Hiring Documents through E-Mail, etc.)

- (1)A job offerer shall endeavor to receive hiring documents of a job seeker via the homepage of the business site or via a person entrusted by the job offerer to engage in the hiring affairs, or via e-mail.
- (2)Where a job offerer receives hiring documents via electronic mail, etc., he/she shall notify the job seeker of such receipt without delay, by posting such fact on the homepage under paragraph (1), or by text message by cellular phone, e-mail, fax, telephone, etc.

## Article 8 (Notification of Hiring Schedule and Hiring Process)

A job offerer shall notify job seekers of the hiring process such as the hiring schedule and any delay of hiring examination. In such cases, Article 7 (2) shall apply mutatis mutandis to the notification method.

## Article 9 (Prohibition on Bearing Expenses for Hiring Examination)

No job offerer shall require a job seeker to bear any expenses other than the expenses for submitting hiring documents (hereinafter referred to as “hiring examination expenses”) for the purpose of a hiring examination: Provided, That where any extenuating circumstance exists due to the special characteristics of a business site and type of job, a job offerer may require a job seeker to bear a part of the hiring examination expenses after obtaining approval from the Minister of Employment and Labor.

## Article 10 (Notification of Hiring)

Where a job offerer finalizes the job seekers to hire, he/she shall without delay notify the job seekers of whether they are hired or not. In such cases, Article 7 (2) shall apply mutatis mutandis to the notification method.

## Article 11 (Returning, etc. Hiring Documents)

- (1)Where a job seeker (excluding those finalized to be hired) files claim for a return of hiring documents after being notified of whether his/her hiring is finalized, the job offerer shall return them after identifying the job seeker, as prescribed by

- Presidential Decree: Provided, That this shall not apply where the hiring documents were submitted via the homepage or e-mail pursuant to Article 7 (1) or where the job seeker submitted the hiring documents voluntarily without a request of the job offerer.
- (2)The claim for the return of hiring documents under paragraph (1) shall be filed, as prescribed by Ordinance of the Ministry of Employment and Labor, such as in writing or by electronic means.
- (3)In preparation for a job seeker's claim for the return of hiring documents under paragraph (1), a job offerer shall keep the hiring documents for the period prescribed by Presidential Decree: Provided, That where the hiring documents were destroyed due to a natural disaster or any other reason not attributable to the job offerer, it is deemed that the job offerer fulfilled the duty of returning the hiring documents pursuant to paragraph (1).
- (4)Where the period for claiming for the return of hiring documents prescribed by Presidential Decree has passed and a job offerer fails to return the hiring documents, the job offerer shall destroy the hiring documents, as prescribed by the Personal Information Protection Act.
- (5)In principle, a job offerer shall bear the expenses incurred for returning the hiring documents pursuant to paragraph (1): Provided, That a job offerer may require the relevant job seeker to bear the expenses incurred for returning the hiring documents, to the extent prescribed by Presidential Decree.
- (6)A job offerer shall notify a job seeker of the provisions of paragraphs (1) through (5) before the job seeker's hiring is finalized.

#### Article 12 (Corrective Order Concerning Hiring Examination Expenses, etc.)

- (1)The Minister of Employment and Labor may issue a corrective order to a job offerer who violates Article 9 or 11 (1), (4), or (5).
- (2)Where a job offerer in receipt of the corrective order under paragraph (1) complied with the relevant order, he/she shall, without delay, report the result of compliance to the Minister of Employment and Labor.

#### Article 13 (Limitation on Submitting Evidence and In-depth Examination Data)

Where a job offerer conducts a hiring examination by dividing it into document screening, written test, interview, etc., he/she shall endeavor to require only those job seekers who have passed the document screening to submit evidence and in-depth examination data.

#### Article 14 (Reporting and Investigation)

- (1)Where the Minister of Employment and Labor deems it necessary, he/she may require a job offerer to submit the data necessary for the enforcement of this Act or report other necessary matters.
- (2)Where it is necessary for verification, etc. of the violation of this Act, the Minister of Employment and Labor may require public officials under his/her jurisdiction to access the business sites or other facilities governed by this Act, inspect documents, ledgers or other objects, and question the persons concerned.
- (3)In order to conduct the investigation under paragraph (2), the Minister of Employment and Labor shall first inform the subject of the investigation of the investigation plans, such as the date and time, and reasons and details of the investigation: Provided, That this shall not apply where the investigation shall be conducted urgently or where it is deemed that the goal of the investigation cannot be achieved if it is notified in advance due to the likelihood of destruction of evidence.
- (4)A public official who accesses a relevant place and conducts an investigation pursuant to paragraph (1) shall carry a certificate that indicates his/her authority and present it to related parties.

#### Article 15 (Delegation of Authority)

Some of the authority of the Minister of Employment and Labor pursuant to this Act may be delegated to the head of the local government office of employment, as prescribed by Presidential Decree.

#### Article 16 (Penal Provisions)

A job offerer who places a false hiring advertisement in violation of Article 4 (1) shall be punished by imprisonment with prison labor for up to five years or by a fine not exceeding 20 million won.

#### Article 17 (Administrative Fines)

- (1)Any of the following persons shall be subject to an administrative fine not exceeding five million won:
- 1.A job offerer who changes the contents of a hiring advertisement or working conditions, in violation of Article 4 (2) or (3);
- 2.A job offerer who forces a job seeker to vest intellectual property rights in the job offerer, in violation of Article 4 (4).
- (2)Any of the following persons shall be subject to an administrative fine not exceeding three million won:
- 1.A job offerer who fails to fulfill the duty to keep hiring documents under Article 11 (3);
- 2.A job offerer who fails to fulfill the duty to notify job seekers, in violation of Article 11 (6);
- 3.A job offerer who fails to comply with the corrective order under Article 12 (1).
- (3)The administrative fines under paragraphs (1) and (2) shall be imposed and collected by the Minister of Environment, as prescribed by Presidential Decree.

#### ADDENDA

#### Article 1 (Enforcement Date)

The enforcement date of this Act shall be as follows:

- 1.A business or business site that regularly employs at least 300 workers; public institutions under Article 4 of the Act on the Management of Public Institutions; local government-invested public corporations under Article 49 of the Local Public Enterprises Act and local government public corporations under Article 76 of the same Act; and the State and local governments: January 1, 2015;
- 2.A business or business site that regularly employs at least 100 but not more than 300 workers: January 1, 2016;
- 3.A business or business site that regularly employs at least 30 but not more than 100 workers: January 1, 2017.

#### Article 2 (Applicability)

This Act shall begin to apply to the first hiring procedure initiated after this Act enters into force.