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This English translation of the Labor Standards Act has been prepared (up to the revisions of Act No. 147 of 2004 (Effective April 1, 2005)) in compliance with the Standard Bilingual Dictionary (March 2006 edition).

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## **Labor Standards Act (Act No. 49 of April 7, 1947)**

### **CHAPTER I GENERAL PROVISIONS**

#### Article 1. (Principle of Working Conditions)

- (1) Working conditions shall be those which should meet the needs of workers who live lives worthy of human beings.
- (2) The standards for working conditions fixed by this Act are minimum standards. Accordingly, parties to labor relationship shall not reduce working conditions with these standards as an excuse and, instead, should endeavour to raise the working conditions.

#### Article 2. (Determination of Working Conditions)

- (1) Working conditions should be determined by the workers and employers on an equal basis.
- (2) The workers and employers shall abide by collective agreements, rules of employment and labor contracts, and shall discharge their respective duties faithfully.

#### Article 3. (Equal Treatment)

An employer shall not engage in discriminatory treatment with respect to wages, working hours or other working conditions by reason of the nationality, creed or social status of any worker.

#### Article 4. (Principle of Equal Wages for Men and Women)

An employer shall not engage in discriminatory treatment of a woman as compared with a man with respect to wages by reason of the worker being a woman.

Article 5. (Prohibition of Forced Labor)

An employer shall not force workers to work against their will by means of physical violence, intimidation, confinement, or any other unfair restraint on the mental or physical freedom of the workers.

Article 6. (Elimination of Intermediate Exploitation)

Unless permitted by act, no person shall obtain profit by intervening, as a business, in the employment of others.

Article 7. (Guarantee of the Exercise of Civil Rights)

An employer shall not refuse when a worker requests time necessary to exercise franchise and other civil rights or to perform public duties during working hours; provided, however, that the employer may change the time requested by the worker to the extent that such change does not hinder the exercise of the right or the performance of the public duty.

Article 8. Deleted

Article 9. (Definitions)

In this Act, worker means one who is employed at an enterprise or office (hereinafter referred to as "enterprise") and receives wages therefrom, without regard to the kind of occupation.

Article 10.

In this Act, employer means the business operator or manager of the enterprise or any other person who acts on behalf of the business operator of the enterprise in matters concerning the workers of the enterprise.

Article 11.

In this Act, wage means the wage, salary, allowance, bonus and every other payment to the worker from the employer as remuneration for labor, regardless of the name by which such payment may be called.

Article 12.

(1) In this Act, the amount of the average wage means the amount obtained by dividing the total amount of wages for a period of 3 months preceding the day on which the reason to be calculated the average wage arose by the number of all

days during the period; provided, however, that the amount of the average wage shall not be less than the amount calculated by one of the following methods:

- (i) In the event that the wage is calculated on the basis of working days or hours, or determined in accordance with a piece rate or other contract price, 60 percent of the amount obtained by dividing the total amount of wages by the number of actual working days during the period;
  - (ii) In the event that a portion of the wage is determined on the basis of months, weeks, or any other fixed period, the aggregate of (a) the amount obtained by dividing the total amount of any such portion of the wage by the number of all days during that period and (b) the amount under the preceding item.
- (2) When there is a fixed day for closing the wage account, the period set forth in the preceding paragraph shall be calculated from the last such fixed day.
- (3) If the period mentioned in the preceding two paragraphs includes any of the following items, the number of days and the wages in such a period shall be excluded from the days and total amount of wages under the preceding two paragraphs
- (i) Period of absence from work for medical treatment caused by injury or illness in the course of employment;
  - (ii) Period of absence from work for women before and after childbirth in accordance with the provisions of Article 65;
  - (iii) Period of absence from work caused by reasons attributable to the employer;
  - (iv) Period of child care leave prescribed in item (i) of Article 2 of the Act Concerning the Welfare of Workers Who Take Care of Children or Other Family Members Including Child Care and Family Care Leave (Act No. 76 of 1991), or period of family care leave prescribed in item (i) of the said Article (including leave for family care prescribed in paragraph (3) of Article 61 of the said Act (including the cases where it is applied mutatis mutandis pursuant to under paragraph (6) through paragraph (8) of the said Article); the same shall apply to paragraph (7) of Article 39);
  - (v) Probationary period.
- (4) The total amount of wages under paragraph (1) shall not include extraordinary wages, wages which are paid periodically for a period exceeding 3 months and wages which are paid in anything other than currency and which are not within a fixed scope.
- (5) In the event that a wage is paid in anything other than currency, necessary matters relating to the scope of such wage to be included in the total amount of wages under paragraph (1) and the method for calculating such wage shall be set forth by Ordinance of the Ministry of Health, Labour and Welfare.
- (6) For a worker who has been employed for less than 3 months, the period under paragraph (1) shall be the period of his or her employment.

- (7) The average wage for a day laborer shall be fixed by the Minister of Health, Labour and Welfare according to the kind of enterprise or occupation in which such day laborer is engaged.
- (8) In the event that the average wage cannot be calculated in accordance with paragraphs (1) through (6), the average wage will be determined in the manner set forth by the Minister of Health, Labour and Welfare.

## **CHAPTER II LABOR CONTRACT**

### Article 13. (Contract Violating This Act)

A labor contract which provides for working conditions which do not meet the standards of this Act shall be invalid with respect to such portions. In such a case the portions which have become invalid shall be governed by the standards set forth in this Act.

### Article 14. (Period of Contract, etc.)

- (1) Labor contracts, excluding those without a definite period, and excepting those providing that the period shall be the period necessary for completion of a specified project, shall not be concluded for a period exceeding 3 years (or 5 years with respect to labor contracts that fall under any of the following items).
- (i) Labor contracts concluded with workers who have expert knowledge, skills or experience (hereinafter referred to as "expert knowledge, etc." in this item), that expert knowledge, etc., being of an advanced level and coming under the standards prescribed by the Minister of Health, Labour and Welfare (limited to those workers who are appointed to work activities requiring the prescribed advanced level of expert knowledge, etc.).
- (ii) Labor contracts concluded with workers aged 60 years or older (excluding labor contracts stipulated in the preceding item).
- (2) The Minister of Health, Labour and Welfare may, in order to preemptively prevent disputes arising between workers and employers at the time of conclusion and the time of expiry of labor contracts which are of prescribed duration, prescribe standards in relation to the matters in connection with notice to be taken by employers relating to the expiry of the term of the labor contracts and other necessary matters.
- (3) The relevant government agency may, in relation to the standards set forth in the preceding paragraph, give necessary advice and guidance to employers concluding labor contracts which are of prescribed duration.

### Article 15. (Clear Indication of Working Conditions)

- (1) In concluding a labor contract, the employer shall clearly indicate the wages,

working hours and other working conditions to the worker. In this case, matters concerning wages and working hours and other matters stipulated by Ordinance of the Ministry of Health, Labour and Welfare shall be clearly indicated in the manner prescribed by Ordinance of the Ministry of Health, Labour and Welfare.

- (2) In the event that the working conditions as clearly indicated under the provisions of the preceding paragraph differ from actual fact, the worker may immediately cancel the labor contract.
- (3) In a case under the preceding paragraph, in the event that a worker who has changed his or her residence for the work returns home within 14 days from the date of cancellation, the employer shall bear the necessary travel expenses for the worker.

#### Article 16. (Ban on Predetermined Compensation)

An employer shall not make a contract which fixes in advance either a sum payable to the employer for breach of contract or an amount of compensation for damages.

#### Article 17. (Ban on Set-off against Advances)

An employer shall not set-off wages against advances of money or advances of other credits made as a condition for work.

#### Article 18. (Compulsory Savings)

- (1) An employer shall not require a contract for savings or make a contract to take charge of savings incidental to the labor contract.
- (2) An employer, in taking charge of workers' savings entrusted to the employer by the workers, shall conclude a written agreement with a labor union organized by a majority of the workers at the workplace, where such a union exists, or with a person representing a majority of the workers, where no such union exists, and shall submit the written agreement to the relevant government agency.
- (3) An employer, in taking charge of workers' savings entrusted to the employer by the workers, shall establish rules governing the keeping of savings and take steps to inform the workers of these rules, such as posting such rules at the workplace.
- (4) An employer, in taking charge of workers' savings entrusted to the employer by the workers, shall pay interest in the event that the savings kept in custody constitute a deposit accepted. If, in this case, the amount of interest paid is below the amount of interest based on the interest rate established by Ordinance of the Ministry of Health, Labour and Welfare with due consideration of the interest rate for deposits accepted by financial institution the employer shall be deemed to have paid interest equivalent to that based on the rate determined by Ordinance of the Ministry of Health, Labour and Welfare.

- (5) An employer, in taking charge of workers' savings entrusted to the employer by the workers, shall return the savings to the workers on request without delay.
- (6) In the event that the employer has violated the provisions of the preceding paragraph and the continued taking charge of the workers' savings by the employer is deemed as seriously detrimental to the interests of the workers, the relevant government agency may order the employer to suspend taking charge of the savings in question within such limits as are necessary.
- (7) An employer, who has been ordered to suspend taking charge of savings pursuant to the provisions of the preceding paragraph, shall return those savings affected by the above suspension to the workers without delay.

#### Article 18-2. (Dismissal)

A dismissal shall, where the dismissal lacks objectively reasonable grounds and is not considered to be appropriate in general societal terms, be treated as a misuse of that right and invalid.

#### Article 19. (Restrictions on Dismissal of Workers)

- (1) An employer shall not dismiss a worker during a period of absence from work for medical treatment with respect to injuries or illnesses suffered in the course of employment nor within 30 days thereafter, and shall not dismiss a woman during a period of absence from work before and after childbirth in accordance with the provisions of Article 65 nor within 30 days thereafter; provided, however, that this shall not apply in the event that the employer pays compensation for discontinuance in accordance with Article 81 nor when the continuance of the enterprise has been made impossible by a natural disaster or other unavoidable reason.
- (2) In the event of a circumstance under the second sentence of the proviso of the preceding paragraph, the employer shall obtain the approval of the relevant government agency with respect to the reason in question.

#### Article 20. (Advance Notice of Dismissal)

- (1) In the event that an employer wishes to dismiss a worker, the employer shall provide at least 30 days advance notice. An employer who does not give 30 days advance notice shall pay the average wages for a period of not less than 30 days; provided, however, that this shall not apply in the event that the continuance of the enterprise has been made impossible by a natural disaster or other unavoidable reason nor when the worker is dismissed for reasons attributable to the worker.
- (2) The number of days of advance notice set forth in the preceding paragraph may be reduced in the event that the employer pays the average wage for each day by

which the period is reduced.

- (3) The provisions of paragraph (2) of the preceding Article shall apply mutatis mutandis to a case under the proviso to paragraph (1).

#### Article 21

The provisions of the preceding article shall not apply to any worker coming under one of the following items; provided, however, that this shall not be the case with respect to a worker coming under item (i) who has been employed consecutively for more than one month, a worker coming under either item (ii) or item (iii) who has been employed consecutively for more than the period set forth in each such item respectively, nor a worker coming under item (iv) who has been employed consecutively for more than 14 days:

- (i) Workers who are employed on a daily basis;
- (ii) Workers who are employed for a fixed period not longer than 2 months;
- (iii) Workers who are employed in seasonal work for a fixed period not longer than 4 months;
- (iv) Workers in a probationary period.

#### Article 22. (Certificate on the Occasion of Retirement, etc.)

- (1) When a worker on the occasion of retirement requests a certificate stating the period of employment, the kind of occupation, the position in the enterprise, the wages or the cause for retirement (if the cause for retirement is dismissal, including its reason), the employer shall deliver one without delay.
- (2) The employer shall, where a worker has, in the period between being given the advance notice in Article 20, paragraph (1) and the day of retirement, requested a certificate in relation to the reason for the said dismissal, issue the certificate without delay; provided, however, that where the worker retires after the day of the advance notice on reasons other than those for the said dismissal, it is not necessary, after the said day of retirement, for the employer to issue the certificate.
- (3) The employer shall not include in the certificate under the preceding 2 paragraphs any item that the worker does not request.
- (4) An employer shall not, in a premeditated plan with a third party and with the intent to impede the employment of a worker, send any communication concerning the nationality, creed, and social status or union activities of the worker or include any secret sign in the certificates under paragraphs (1) and (2)

#### Article 23. (Return of Money and Goods)

- (1) Upon a worker's death or retirement, in the event of a request by one having the right thereto, the employer shall pay the wages and return the reserve funds,

security deposits, savings, and any other money and goods to which the worker is rightfully entitled, regardless of the name by which such money and goods may be called, within 7 days.

- (2) In the event that there is a dispute over the wages and/or money and goods set forth in the preceding paragraph, the employer shall pay and/or return any undisputed portions within the period set forth in the preceding paragraph.

### **CHAPTER III WAGES**

#### Article 24. (Payment of Wages)

- (1) Wages shall be paid in currency and in full directly to the workers; provided, however, that payment other than in currency may be permitted in cases otherwise provided for by laws and regulations or collective agreement or in cases where a reliable method of payment of wages defined by Ordinance of the Ministry of Health, Labour and Welfare is provided for; and partial deduction from wages may be permitted in cases otherwise provided for by laws and regulations or in cases where there exists a written agreement with a labor union organized by a majority of the workers at the workplace (in the case that such labor union is organized), or with a person representing a majority of the workers (in the case that such labor union is not organized).
- (2) Wages shall be paid at least once a month at a definite date; provided, however, that this shall not apply to extraordinary wages, bonuses, and the like which will be defined by Ordinance of the Ministry of Health, Labour and Welfare (referred to as "special wages etc." in Article 89).

#### Article 25. (Emergency Payments)

In the event that a worker requests the payment of wages to cover emergency expenses for childbirth, illness, disaster, or other emergency as set forth by Ordinance of the Ministry of Health, Labour and Welfare, the employer shall pay accrued wages prior to the normal date of payment.

#### Article 26. (Allowance for Absence from work)

In the event of an absence from work for reasons attributable to the employer, the employer shall pay an allowance equal to at least 60 percent of the worker's average wage to each worker concerned during the period of absence from work.

#### Article 27. (Guaranteed Payment at Piece Rates)

With respect to workers employed under a payment at piece work system or other subcontracting system, the employer shall guarantee a fixed amount of wage proportionate to working hours.

Article 28. (Minimum Wages)

Minimum standards for wages shall be in accordance with the provisions of the Minimum Wages Act (Act No. 137 of 1959).

Articles 29 to 31. Deleted.

**CHAPTER IV WORKING HOURS, REST PERIODS, DAYS OFF, AND ANNUAL PAID LEAVE**

Article 32. (Working Hours)

- (1) An employer shall not have a worker work more than 40 hours per week, excluding rest periods.
- (2) An employer shall not have a worker work more than 8 hours per day for each day of the week, excluding rest periods.

Article 32-2.

- (1) In the event that an employer has stipulated, pursuant to a written agreement with a labor union organized by a majority of the workers at the workplace (in the case that such labor union is organized), or with a person representing a majority of the workers (in the case that such union is not organized), or pursuant to rules of employment or the equivalent thereof, that the average working hours per week over the course of a fixed period of no more than one month will not exceed the working hours set forth in paragraph (1) of the preceding Article, the employer may, in accordance with such stipulation and regardless of the provisions of the preceding Article, have a worker work in excess of the working hours set forth in paragraph (1) of the preceding Article in a specified week or weeks and may have a worker work in excess of the working hours set forth in paragraph (2) of the preceding Article in a specified day or days.
- (2) The employer shall notify the agreement set forth in the preceding paragraph to the relevant government agency, as provided for by Ordinance of the Ministry of Health, Labour and Welfare.

Article 32-3.

In the event that the following items have been provided in a written agreement either with a labor union organized by a majority of the workers at the workplace concerned (in the case that such labor union is organized), or with a person representing a majority of the workers (in the case that such labor union is not organized), the employer may, with respect to a worker for whom the starting and ending time for work is left to the worker's own decision pursuant to rules of

employment or the equivalent, and regardless of the provisions of Article 32, have such a worker work in excess of the working hours set forth in paragraph (1) of Article 32 in a week and may have such a worker work in excess of the working hours set forth in paragraph (2) of that Article in a day, to the extent that the average working hours per week during a period provided in the above-mentioned written agreement as the settlement period (of which conditions are defined in item (ii) below) does not exceed the working hours set forth in paragraph (1) of Article 32:

- (i) The scope of workers whom the employer may have work under the working hour provisions of this Article;
- (ii) A settlement period (which shall be a period, not to exceed one month in length, during which average working hours per week will not exceed the working hours under Article 32, paragraph (1) The same shall apply in the following item.);
- (iii) Total working hours in the settlement period;
- (iv) Other matters as set forth by Ordinance of the Ministry of Health, Labour and Welfare.

#### Article 32-4.

(1) In the event that the employer has stipulated the following items pursuant to a written agreement either with a labor union organized by a majority of the workers at the workplace concerned (in the case that such labor union is organized), or with a person representing a majority of the workers at a workplace (in the case that such labor union is not organized), regardless of the provisions of Article 32, the employer may have a worker work in excess of the working hours set forth in paragraph (1) of Article 32 in a specified week or weeks and may have a worker work in excess of the working hours set forth in paragraph (2) of that Article in a specified day or days in accordance with the said written agreement (including stipulations that have been set under the provisions of the following paragraph in cases where this is applicable), to the extent that the average working hours per week for the period set in that agreement as the applicable period defined at item (ii) below does not exceed 40 hours:

- (i) The scope of workers whom the employer may have work under the working hours provisions of this Article;
- (ii) Applicable period (a period longer than one month but not exceeding one year, during which the average working hours per week does not exceed 40 hours; hereinafter the same shall apply in this Article and the following Article);
- (iii) Specified period (a period within the applicable period when work is particularly busy; the same shall apply to paragraph (3));
- (iv) Working days in the applicable period and working hours for each of the said working days (in cases where the applicable period is divided into sub-periods of

one month or more, working days and working hours for each working day in the sub-period which includes the first day of the applicable period (hereinafter in this Article referred to as the "initial sub-period") and the number of working days and total working hours of each sub-period excluding the initial sub-period);

(v) Other items as stipulated by Ordinance of the Ministry of Health, Labour and Welfare.

(2) In the event that in the written agreement set forth in the preceding paragraph the employer has divided the applicable period as provided for in item (iv) of the said paragraph, and stipulated the number of working days and total working hours for each sub-period excluding the initial sub-period, the employer shall, no later than 30 days before the first day of each sub-period, and with the consent of either a labor union organized by a majority of the workers at the workplace (in the case that such labor union is organized) or a person representing a majority of the workers at a workplace (in the case that such labor union is not organized) and in accordance with Ordinance of the Ministry of Health, Labour and Welfare, set the working days within each sub-period, to the extent that it does not exceed the said number of working days and the working hours for each working day in each sub-period, to the extent that it does not exceed the said total working hours.

(3) After hearing the opinions of the Labor Policy Council, the Minister of Health, Labour and Welfare may establish limits by Ordinance of the Ministry of Health, Labour and Welfare concerning the number of working days in the applicable period, the daily and weekly working hours in the applicable period, and the number of consecutive days within the applicable period (excluding the period set as the specified period by the written agreement stipulated in paragraph (1)) and the period set as the specified period by the written agreement stipulated in the said paragraph on which the employer may have workers work.

(4) The provisions of paragraph (2) of Article 32-2 shall apply mutatis mutandis to an agreement under paragraph (1)

#### Article 32-4-2.

In the event that, pursuant to the provisions of the preceding Article, an employer has a worker work during the applicable period for a period shorter than the said applicable period, and the average weekly hours the employer has the worker work exceeds 40 hours, the employer shall pay increased wages for the working hours that exceed 40 hours (excluding working hours that have been extended or working hours on days off pursuant to the provisions of Article 33 or paragraph (1) of Article 36) as provided for in Article 37.

#### Article 32-5.

- (1) With respect to workers employed in enterprises of which business categories are specified by Ordinance of the Ministry of Health, Labour and Welfare as having an amount of daily business which is often subject to wide fluctuations and given this forecast it would be difficult to fix daily working hours by rules of employment or the equivalent, and of which the number of regular employees is under the number specified by Ordinance of the Ministry of the Health, Labor & Welfare, the employer may, regardless of the provisions of paragraph (2) of Article 32, have workers work for up to ten hours per day, if there is a written agreement either with a labor union organized by a majority of the workers at the workplace (in the case that such labor union is organized) or with a person representing a majority of the workers (in the case that such labor union is not organized).
- (2) In the event that an employer has a worker work pursuant to the provisions of the preceding paragraph, the employer shall notify the worker in advance of the working hours for each day of the work week in accordance with Ordinance of the Ministry of Health, Labour and Welfare.
- (3) The provisions of paragraph (2) of Article 32-2 shall apply mutatis mutandis to an agreement under paragraph (1) of this Article.

Article 33. (Overtime Work, etc., in the Case of an Extraordinary Need Due to Disasters, etc.)

- (1) If there is an extraordinary need due to disaster or other unavoidable event, an employer may extend the working hours stipulated in Articles 32 through 32-5 or Article 40, or may have workers work on the days off stipulated in Article 35 with the permission of the relevant government agency to the extent that such action is needed; provided, however, that in the case that the necessity is so urgent that the employer does not have time to obtain the permission of the relevant government agency, the employer does not need to obtain such permission but shall notify the relevant government agency of such action after the fact without delay.
- (2) In the case that a retrospective notification has been submitted pursuant to the proviso of the preceding paragraph, if the relevant government agency determines that it is inappropriate that the employer extended the working hours or had the workers work on the days off, it may order the employer to provide the workers thereafter with rest periods or days off equivalent to the time that they worked during the extended hours or days off.
- (3) Notwithstanding the provisions of paragraph (1), if there is an extraordinary need for the purposes of public service, in so far as national public officers and local public officers who engage in business of public agencies (excluding businesses stipulated in Annexed Table No. 1) are concerned, the employer may extend the working hours stipulated in Articles 32 through 32-5 or Article 40 or may have workers work on the days off stipulated in Article 35.

Article 34. (Rest Periods)

- (1) An employer shall provide workers with at least 45 minutes of rest periods during working hours in the event that working hours exceed 6 hours, and at least one hour in the event that working hours exceed 8 hours.
- (2) The rest periods set forth in the preceding paragraph shall be provided to all workers at the same time; provided, however, that this shall not apply to the cases where the employer has entered into a written agreement regarding providing rest periods to employees at different times, either with a labor union organized by a majority of the workers at the workplace (in the case that such labor union is organized) or with a person representing a majority of the workers (in the case that such labor union is not organized).
- (3) An employer shall permit workers to use the rest periods stipulated in paragraph (1) freely.

Article 35. (Days Off)

- (1) An employer shall provide workers with at least one day off per week.
- (2) The provisions set forth in the preceding paragraph shall not apply to an employer who provides workers with 4 days off or more during a four-week period.

Article 36. (Overtime Work and Work on Days Off)

- (1) In the event that the employer has entered into a written agreement either with a labor union organized by a majority of the workers at the workplace (in the case that such labor union is organized) or with a person representing a majority of the workers (in the case that such labor union is not organized) and has notified the relevant government agency of such agreement, the employer may, notwithstanding the provisions with respect to working hours stipulated in Articles 32 through 32-5 or Article 40 (hereinafter in this Article referred to as "working hours") or the provisions with respect to days off stipulated in the preceding Article (hereinafter in this paragraph referred to as "days off"), extend the working hours or have workers work on days off in accordance with the provisions of the said agreement; provided, however, that the extension of working hours for belowground labor and other work especially harmful to health as stipulated in the Ordinance of the Ministry of Health, Labour and Welfare shall not exceed 2 hours per day.
- (2) The Minister of Health, Labour and Welfare may, in order to ensure that the extension of working hours be appropriate, prescribe standards for the limits on the extension of working hours set forth in the agreement set forth in the preceding paragraph, and also prescribe standards for other necessary items, in consideration of the welfare of workers, trends in overtime work and any other

relevant factors.

- (3) The employer and the labor union or the person representing a majority of the workers who enter into the agreement stipulated in paragraph (1), in setting an extension of the working hours in the said agreement, shall ensure that the content of the said agreement conforms with the standards set forth in the preceding paragraph.
- (4) With respect to the standards stipulated in paragraph (2), the relevant government agency may provide the employer and the labor union or the person representing a majority of the workers who entered into the agreement stipulated in paragraph(1) with necessary advice and guidance.

Article 37. (Increased Wages for Overtime Work, Work on Days Off and Night Work)

- (1) In the event that an employer extends the working hours or has a worker work on a day off pursuant to the provisions of Article 33 or paragraph (1) of the preceding Article, the employer shall pay increased wages for work during such hours or on such days at a rate no less than the rate stipulated by cabinet order within the range of no less than 25 percent and no more than 50 percent over the normal wage per working hour or working day.
- (2) The cabinet order set forth in the preceding paragraph shall be set taking into consideration the welfare of workers, the trends of overtime work and of work on days off, and any other relevant circumstances.
- (3) In the event that an employer has a worker work during the period between 10 p.m. and 5 a.m. (or the period between 11 p.m. and 6 a.m., in case that the Minister of Health, Labour and Welfare admits the necessity of the application of those hours for a certain area or time of the year), the employer shall pay increased wages for work during such hours at a rate no less than 25 percent over the normal wage per working hour.
- (4) Family allowances, commutation allowances, and other elements of wages as stipulated by the Ordinance of the Ministry of Health, Labour and Welfare shall not be added to the base wages underlying the increased wages set forth in paragraph (1) and the preceding paragraph.

Article 38. (Computation of Working Hour)

- (1) As far as application of the provisions on working hours is concerned, total hours worked shall be aggregated, even if the hours are worked in different workplaces.
- (2) With regard to belowground labor, the working hours shall be deemed to be the time from entry into the mouth of the mine to exit from the mouth of the mine, including rest periods; provided, however, that in this case, the provisions of Article 34, paragraphs (2) and (3) regarding rest periods shall not apply.

Article 38-2.

- (1) In cases where workers perform their work outside of the workplace during all or part of their working hours and it would be difficult to calculate working hours, the number of hours worked shall be deemed to be the prescribed working hours; provided, however, that if it would normally be necessary to work in excess of the prescribed working hours in order to accomplish the said work, the number of hours worked shall be deemed to be the number of hours normally necessary to accomplish such work as stipulated by the Ordinance of the Ministry of Health, Labour and Welfare.
- (2) In a case under the proviso of the preceding paragraph, when there is a written agreement regarding the said work either with a labor union organized by a majority of the workers at the workplace (in the case that such labor union is organized) or with a person representing a majority of the workers (in the case that such labor union is not organized), the number of hours specified in such agreement shall be regarded as the number of hours normally necessary to accomplish the work under that proviso.
- (3) The employer shall file the agreement set forth in the preceding paragraph with the relevant government agency in accordance with the Ordinance of the Ministry of Health, Labour and Welfare.

Article 38-3.

- (1) When an employer has provided the following items in a written agreement either with a labor union organized by a majority of the workers at the workplace concerned (in the case that such labor union is organized), or with a person representing a majority of the workers (in the case that such labor union is not organized), in the event that the employer has assigned a worker to the work listed in item (i), such worker shall be regarded as having worked the hours listed in item (ii), as prescribed by the Ordinance of the Ministry of Health, Labour and Welfare.
  - (i) that work which is assigned to a worker (hereinafter in this Article "covered work") as prescribed by the Ordinance of the Ministry of Health, Labour and Welfare as work for which it is difficult for the employer to give concrete directions regarding the decisions on the means of execution of the work and the allocation of time to the work, etc., because the methods of execution of the work need, owing to the nature of the work, to be left largely to the discretion of the workers engaged in such work;
  - (ii) the hours calculated as the working hours of a worker engaged in the covered work;
  - (iii) that the employer will not give concrete directions to the worker engaged in the covered work in relation to the decisions on the means of execution of the

- covered work and the allocation of time to the covered work;
- (iv) that the employer will take measures pursuant to the provisions of such agreement in order to secure the worker's health and welfare as appropriate for the circumstances of the working hours of the worker engaged in the covered work;
  - (v) that the employer will take measures pursuant to the provisions of the said agreement in relation to the handling of complaints from the worker engaged in the covered work;
  - (vi) matters prescribed by the Ordinance of the Ministry of Health, Labour and Welfare other than those listed in the preceding items.
- (2) The provisions of paragraph (3) of the preceding Article shall apply mutatis mutandis to the agreement set forth in the preceding paragraph.

Article 38-4.

- (1) If, at a workplace where a committee (limited to committees comprising the employer and representatives of workers at the workplace) is established with the aim of examining and deliberating on wages, working hours and other matters concerning working conditions at the workplace concerned and of stating its opinions regarding the said matters to the proprietor of the enterprise, the said committee adopts a resolution by a majority of four fifths or more of its members regarding the following items and the employer notifies the relevant government agency of the said resolution in accordance with the Ordinance of the Ministry of Health, Labour and Welfare, and if the employer has a worker, who comes under the scope of the workers stipulated in item (ii), perform the work stipulated in item (i) at the workplace concerned, the said worker shall be deemed to have worked the hours stipulated in item (iii) as prescribed by the Ordinance of the Ministry of Health, Labour and Welfare.
- (i) that work of planning, drafting, researching and analyzing matters regarding business operations for which the employer does not give concrete directions regarding the decisions on the means of execution of the work and the allocation of time to the work, etc., since the nature of the work is such that the methods of execution of the work for its proper accomplishment need to be left largely to the discretion of the workers (hereinafter referred to as "covered work" in this Article);
  - (ii) the scope of the workers who possess the knowledge and experience etc. necessary to accomplish the covered work properly, and who are deemed to have worked the hours stipulated by the said resolution when engaged in the said covered work;
  - (iii) the hours calculated as working hours of workers who are engaged in the covered work and who come under the scope of the workers stipulated in the

- preceding item;
- (iv) employers shall adopt measures as prescribed in the said resolution to secure the health and welfare of workers, who are engaged in the covered work and who come under the scope of the workers stipulated in item (ii), according to the working hours of the said workers;
  - (v) employers shall adopt measures as prescribed in the said resolution to deal with complaints from workers who are engaged in the covered work and who come under the scope of the workers stipulated in item (ii);
  - (vi) when having workers who come under the scope of the workers stipulated in item (ii) perform the covered work as prescribed in this paragraph, employers must obtain the consent of the said workers with respect to the fact that they shall be deemed to have worked the hours stipulated in item (iii), and shall not dismiss or treat in any other disadvantageous manner the said worker who does not give the said consent;
  - (vii) other matters not stipulated in the preceding items as prescribed by the Ordinance of the Ministry of Health, Labour and Welfare.
- (2) The committee set forth in the preceding paragraph must conform to the following items:
- (i) one half of the members of the said committee was appointed for a set term of office as prescribed by the Ordinance of the Ministry of Health, Labour and Welfare by a labor union organized by a majority of the workers at the workplace concerned (in the case that such labor union is organized), or by a person representing a majority of the workers (in the case that such labor union is not organized);
  - (ii) minutes of the proceedings of the said committee were prepared and maintained as prescribed by the Ordinance of the Ministry of Health, Labour and Welfare, and were made known to the workers at the workplace concerned;
  - (iii) other requirements not stipulated in the preceding two items, as prescribed by the Ordinance of the Ministry of Health, Labour and Welfare.
- (3) The Minister of Health, Labour and Welfare, in order to ensure appropriate working conditions for workers engaged in covered work, and after hearing the opinions of the Labor Policy Council, shall set and announce guidelines with respect to matters stipulated in each item of paragraph (1) and to other matters decided upon by the committee stipulated in the said paragraph.
- (4) An employer who has given notification as stipulated in paragraph (1) must, as prescribed by the Ordinance of the Ministry of Health, Labour and Welfare, regularly submit to the relevant government agency a report on the state of implementation of the measures stipulated in item (iv) of the said paragraph.
- (5) With respect to the application of the provisions of paragraph (1) of Article 32-2, Article 32-3, paragraphs (1) through (3) of Article 32-4, paragraph (1) of Article

32-5, the proviso to paragraph (2) of Article 34, Article 36, paragraph (2) of Article 38-2, paragraph (1) of the preceding Article, and paragraph (5) and the proviso to paragraph (6) of the following Article, in the event that the committee stipulated in paragraph (1) makes a decision by a majority of four fifths or more of the members regarding matters stipulated in paragraph (1) of Article 32-2 ,Article 32-3, paragraphs (1) and (2) of Article 32-4, paragraph (1) of Article 32-5, the proviso to paragraph (2) of Article 34, paragraph (1) of Article 36, paragraph (2) of Article 38-2, paragraph (1) of the preceding Article, and paragraph (5) and the proviso to paragraph (6) of the following Article, the phrase "agreement with a labor union organized by a majority of the workers at the workplace (in the case that such union is organized), or with a person representing a majority of the workers (in the case that such union is not organized)" in paragraph (1) of Article 32-2 shall be read as "agreement with a labor union organized by a majority of the workers at the workplace (in the case that such union is organized), or with a person representing a majority of the workers (in the case that such union is not organized), or a resolution of the committee stipulated in paragraph (1) of Article 38-4 (hereinafter referred to as 'resolution' except in paragraph (1) of Article 106)", the phrase "written agreement" in Article 32-3, paragraphs (1) through 3 of Article 32-4, paragraph (1) of Article 32-5, the proviso to paragraph (2) of Article 34, paragraph (2) of Article 36, paragraph (2) of Article 38-2, paragraph (1) of the preceding Article, and paragraph (5) and the proviso to paragraph (6) of the following Article shall be read as "written agreement or resolution", the phrase "with the consent of either a labor union organized by a majority of the workers at the workplace concerned (in the case that such labor union is organized) or a person representing a majority of the workers at a workplace (in the case that such labor union is not organized)" in paragraph (2) of Article 32-4 shall be read as "with the consent of either a labor union organized by a majority of the workers at the workplace concerned (in the case that such labor union is organized) or a person representing a majority of the workers at a workplace (in the case that such labor union is organized), or based on a resolution", the phrases "notified the relevant government agency of the such agreement" and "in accordance with the provisions of the said agreement" in paragraph (1) of Article 36 shall be read respectively as "notified the relevant government agency of the such agreement or resolution" and "in accordance with the provisions of the said agreement or resolution", the phrases "or the person representing a majority of the workers who enter into the agreement stipulated in paragraph (1)" and "the said agreement" in paragraph (3) of Article 36 shall be read respectively as "or the person representing a majority of the workers who enter into the agreement stipulated in paragraph (1), or the committee members making the resolution stipulated in the said paragraph," and "the said agreement or resolution", and the phrase "or the

person representing a majority of the workers who enter into the agreement stipulated in paragraph (1)" in paragraph (4) of Article 36 shall be read as "or the person representing a majority of the workers who enter into the agreement stipulated in paragraph (1), or the committee members making the resolution stipulated in the said paragraph".

Article 39. (Annual Paid Leave)

- (1) An employer shall grant annual paid leave of 10 working days, either consecutive or divided, to workers who have been employed continuously for 6 months from the day of their being hired and who have reported for work on at least 80 percent of the total working days.
- (2) With respect to workers who have been employed continuously for at least one year and a half, an employer shall grant annual paid leave, calculated by adding to the number of days set forth in the preceding paragraph, the number of working days stipulated in the lower row of the following table corresponding to the number of years of continuous service from the day of their having served continuously for 6 months (hereinafter referred to as "6 months completion day") in the upper row of the table for each additional year of continuous service from the 6 months completion day; provided, however, that for workers who have reported for work on less than 80 percent of the total working days for the one-year period ending with the day before the first day of each one-year period from the 6 months completion day (when the final period is less than one year, the period concerned), the employer is not required to grant paid leave for the one year following the said first day.

Number of years of continuous service from the six months completion day	Working days
One year	One working day
Two years	Two working days
Three years	Four working days
Four years	Six working days
Five years	Eight working days
Six years or more	Ten working days

- (3) The number of days of annual paid leave for workers specified in the following items (excluding workers whose prescribed weekly working hours are not less than the hours fixed by the Ordinance of the Ministry of Health, Labour and Welfare) shall be based on the number of days of annual paid leave specified in the two preceding paragraphs, but, regardless of the provisions of those two paragraphs, shall be fixed by the Ordinance of the Ministry of Health, Labour and Welfare

with due consideration to the ratio of the number of days specified by the Ordinance of the Ministry of Health, Labour and Welfare as the prescribed working days in a week for ordinary workers (referred to as "the prescribed weekly working days of ordinary workers" in item (i)) to either the number of prescribed weekly working days for the workers concerned or the average number of prescribed working days per week for the workers concerned:

- (i) Workers for whom the number of prescribed weekly working days is not more than the number of days specified by the Ordinance of the Ministry of Health, Labour and Welfare as constituting a number that is considerably lower than the number of prescribed weekly working days of ordinary workers;
  - (ii) With respect to workers for whom the number of prescribed working days is calculated on the basis of units of time other than weeks, those workers for whom the number of prescribed annual working days is not more than the number of days specified by the Ordinance of the Ministry of Health, Labour and Welfare, with due consideration to the number of prescribed annual working days for workers for whom the number of prescribed weekly working days is deemed to be greater by one than the number specified by the Ordinance of the Ministry of Health, Labour and Welfare referred to in the preceding item and to other circumstances.
- (4) The employer shall grant paid leave under the provisions of the three preceding paragraphs during the period requested by the worker; provided, however, that when the granting of leave in the requested period would interfere with the normal operation of the enterprise, the employer may grant the leave during another period.
- (5) In the event that an employer, pursuant to a written agreement either with a labor union organized by a majority of the workers at the workplace concerned (in the case that such labor union is organized) or with a person representing a majority of the workers (in the case that such labor union is not organized), has made a stipulation with regard to the period in which paid leave under the provisions of paragraphs (1) to (3) inclusive will be granted, the employer may, notwithstanding the provisions of the preceding paragraph, grant paid leave in accordance with such stipulation for the portions of paid leave under the provisions of paragraphs (1) to (3) inclusive in excess of 5 days.
- (6) For the period of paid leave under the provisions of paragraphs (1) through (3) inclusive, the employer shall, in accordance with the rules of employment or the equivalent thereto, pay either the average wage or the amount of wages that would normally be paid for working the prescribed working hours; provided, however, that when there is a written agreement either with a labor union organized by a majority of the workers at the workplace concerned (in the case that where such labor union is organized) or with a person representing a majority

of the workers in the case that such labor union is not organized), which provides for the payment for the period of a sum equivalent to the daily amount of standard remuneration provided for under paragraph (1) of Article 99 of the Health Insurance Law (Act No. 70 of 1922), such agreement shall be complied with.

(7) With respect to the application of the provisions of paragraphs (1) and (2), a worker shall be deemed to have reported for work during periods of rest for medical treatment for injuries or illness suffered in the course of employment, during periods of rest for child care leave prescribed in item (i) of Article 2 of the Law Concerning the Welfare of Workers Who Take Care of Children or Other Family Members Including Child Care and Family Care Leave or for family care leave prescribed in item (ii) of the said Article, and during periods of rest for women before and after childbirth pursuant to the provisions of Article 65.

#### Article 40. (Special Provisions on Working Hours and Rest Periods)

(1) With respect to enterprises other than those stipulated in items (i) through (iii), (vi) and (vii) of Annexed Table No. 1, as to which there is a need in order to avoid public inconvenience or another special need, special provisions may be established by the Ordinance of the Ministry of Health, Labour and Welfare to the extent of the unavoidable needs, regarding working hours under Articles 32 through 32-5 and rest periods under Article 34.

(2) The special provisions set forth in the preceding paragraph shall conform closely to the standards set forth in this Act and shall not be detrimental to the health and welfare of workers.

#### Article 41. (Exclusion from Application of Provisions on Working Hours, etc.)

The provisions regarding working hours, rest periods and days off set forth in this Chapter, Chapter VI and Chapter VI-II shall not apply to workers coming under one of the following items:

- (i) Persons engaged in enterprises stipulated in item (vi) (excluding forestry) or item (vii) of Annexed Table No. 1;
- (ii) Persons in positions of supervision or management or persons handling confidential matters, regardless of the type of enterprise;
- (iii) Persons engaged in monitoring or in intermittent labor, with respect to which the employer has obtained permission from the relevant government agency.

### **CHAPTER V SAFETY AND HEALTH**

#### Article 42.

Matters concerning the safety and health of workers shall be as provided for in the Industrial Safety and Health Law (Act No. 57 of 1972).

Articles 43 to 55. Deleted.

## **CHAPTER VI MINORS**

### Article 56. (Minimum Age)

- (1) An employer shall not employ children until the end of the first 31st of March that occurs on or after the day when they reach the age of 15 years.
- (2) Notwithstanding the provisions of the preceding paragraph, outside of school hours, children 13 years of age and above may be employed in occupations in enterprises other than those stipulated in items (i) through (v) of Annexed Table No. 1, which involve light labor that is not injurious to the health and welfare of the children, with the permission of the relevant government agency. The same shall apply to children under 13 years of age employed in motion picture production and theatrical performance enterprises.

### Article 57. (Certificates for Minors)

- (1) The employer shall keep at the workplace family register certificates which certify the age of children under 18 years of age.
- (2) With respect to a child employed pursuant to paragraph (2) of the preceding Article, the employer shall keep at the workplace a certificate issued by the head of that child's school certifying that the employment does not hinder the child's attendance at school, or written consent from the person who has parental authority for, or is the legal guardian of, the child.

### Article 58. (Labor Contracts of Minors)

- (1) The person who has parental authority for, or is the legal guardian of, the minor shall not make a labor contract in place of that minor.
- (2) The person who has parental authority for, or is the legal guardian of, the minor, or the relevant government agency, may cancel a labor contract prospectively if they consider it disadvantageous to the minor.

### Article 59.

The minor may request wages independently. The person who has parental authority for, or the legal guardian of, the minor, shall not receive the wages earned by the minor in place of the minor.

### Article 60. (Working Hours and Days Off)

- (1) The provisions of Articles 32-2 through 32-5, 36 and 40 shall not apply to minors under 18 years of age.

- (2) With respect to the application of the provisions of Article 32 to children employed pursuant to paragraph (2) of Article 56, the phrase "40 hours per week" in paragraph (1) of Article 32 shall be read as "40 hours per week including school hours", and the phrase "8 hours per day" in paragraph (2) of Article 32 shall be read as "7 hours per day including school hours".
- (3) Notwithstanding the provisions of Article 32, with respect to minors 15 years or more of age and under 18 years of age, until they reach the age of 18 years (excluding the period until the first 31st of March that occurs on or after the day when they reach the age of 15 years) they may be employed in accordance with the following provisions:
- (i) In the event that the total working hours in a week does not exceed the working hours stipulated in paragraph (1) of Article 32, and the working hours for any one day of the week has been reduced to no more than 4 hours, the working hours for the other days may be extended to 10 hours;
  - (ii) For the weekly working hours to be stipulated by the Ordinance of the Ministry of Health, Labour and Welfare which do not exceed 48 hours and for the daily working hours not exceeding 8 hours, an employer may have the workers work in accordance with the provisions of Article 32-2 or Article 32-4 and Article 32-4-2.

#### Article 61. (Night Work)

- (1) An employer shall not have a person under 18 years of age work between the hours of 10 p.m. to 5 a.m.; provided, however, that this shall not apply to males 16 years or more of age employed on a shift work basis.
- (2) In the event that the Minister of Health, Labour and Welfare deems it necessary, the Minister may change the hours set forth in the preceding paragraph to the hours of 11 p.m. to 6 a.m., in limited areas or for limited periods.
- (3) With respect to work that is done in shifts, with the permission of the relevant government agency, an employer may have workers work until 10:30 p.m., notwithstanding the provisions of paragraph (1), or may have workers work from 5:30 a.m., notwithstanding the provisions of the preceding paragraph.
- (4) The provisions of the preceding three paragraphs shall not apply in the event that the employer extends the working hours or has workers work on days off pursuant to the provisions of paragraph (1) of Article 33, nor shall they apply to enterprises stipulated in items (vi), (vii) or 13 of Annexed Table No. 1, or to the telephone exchange operations.
- (5) With respect to children employed pursuant to the provisions of paragraph (2) of Article 56, the hours set forth in paragraph (1) shall be the hours of 8 p.m. to 5 a.m., and the hours set forth in paragraph (2) shall be the hours of 9 p.m. to 6 a.m.

Article 62. (Restrictions on Dangerous and Harmful Jobs)

- (1) An employer shall not allow persons under 18 years of age to clean, oil, inspect or repair the dangerous parts of any machinery or power-transmission apparatus while in operation, to put on or take off the driving belts or ropes of any machinery or power-transmission apparatus while in operation, to operate a crane , or to engage in any other dangerous work as specified by the Ordinance of the Ministry of Health, Labour and Welfare, or to handle heavy materials as specified by the Ordinance of the Ministry of Health, Labour and Welfare.
- (2) An employer shall not have persons under 18 years of age engage in work involving the handling of poisons, deleterious substances or other injurious substances, or explosive, combustible or inflammable substances, or work in places where dust or powder is dispersed, or harmful gas or radiation is generated, or places of high temperatures or pressures, or other places which are dangerous or injurious to safety, health, or welfare.
- (3) The scope of the work prescribed in the preceding paragraph shall be provided for by the Ordinance of the Ministry of Health, Labour and Welfare.

Article 63. (Ban on Belowground Labor)

An employer shall not have persons under 18 years of age work underground.

Article 64. (Traveling Expenses for Returning Home)

In the event that a worker under 18 years of age returns home within 14 days from dismissal, the employer shall bear the necessary traveling expenses; provided, however, that this shall not apply to a worker under 18 years of age if such worker was dismissed for reasons attributable to that worker and the employer has obtained acknowledgment of such reasons by the relevant government agency.

## **CHAPTER VI-II WOMEN**

Article 64-2. (Ban on Belowground Labor)

An employer shall not have women 18 years or more of age work underground; provided, however, that this shall not apply to those engaged in work specified by the Ordinance of the Ministry of Health, Labour and Welfare which is performed underground due to temporary necessity (excluding those specified by the Ordinance of the Ministry of Health, Labour and Welfare as expectant or nursing mothers, as provided in paragraph (1) of the following Article).

Article 64-3. (Limitations on Dangerous and Injurious Work for Expectant and Nursing Mothers)

- (1) An employer shall not assign pregnant women or women within one year after

childbirth (hereinafter referred to as "expectant or nursing mothers") to work involving the handling of heavy materials, work in places where harmful gas is generated, or other work injurious to pregnancy, childbirth, nursing and the like.

- (2) With respect to work injurious to the functions related to pregnancy and childbirth, which is set forth in the provisions of the preceding paragraph, they may be applied mutatis mutandis by the Ordinance of the Ministry of Health, Labour and Welfare to women other than expectant or nursing mothers.
- (3) The scope of work prescribed in the preceding two paragraphs and the scope of persons who shall not be assigned to such work pursuant thereto shall be specified by the Ordinance of the Ministry of Health, Labour and Welfare.

#### Article 65. (Before and After Childbirth)

- (1) In the event that a woman who is expected to give birth within 6 weeks (or within 14 weeks in the case of multiple fetuses) requests leave from work, the employer shall not make her work.
- (2) An employer shall not have a woman work within 8 weeks after childbirth; provided, however, that this shall not prevent an employer from having such a woman work, if she has so requested, after 6 weeks have passed since childbirth, in activities which a doctor has approved as having no adverse effect on her.
- (3) In the event that a pregnant woman has so requested, an employer shall transfer her to other light activities.

#### Article 66.

- (1) Notwithstanding the provisions of paragraph (1) of Article 32-2, paragraph (1) of Article 32-4, and paragraph (1) of Article 32-5, an employer shall not have an expectant or nursing mother work in excess of the working hours stipulated in paragraph (1) of Article 32 per week, nor in excess of the working hours stipulated in paragraph (2) of the same Article per day, if so requested by the expectant or nursing mother.
- (2) Notwithstanding the provisions of Article 33, paragraphs (1) and (3), and paragraph (1) of Article 36, in the event that an expectant or nursing mother has so requested, an employer shall not have her work overtime nor work on days off.
- (3) In the event that an expectant or nursing mother has so requested, an employer shall not have her work at night.

#### Article 67. (Time for Child care)

- (1) A woman raising an infant under the age of one year may request time to care for the infant of at least 30 minutes twice a day, in addition to the rest periods stipulated in Article 34.
- (2) The employer shall not have the said woman work during the child care time set

forth in the preceding paragraph.

Article 68. (Measures for Women for Whom Work During Menstrual Periods Would Be Especially Difficult)

When a woman for whom work during menstrual periods would be especially difficult has requested leave, the employer shall not have the said woman work on days of the menstrual period.

## **CHAPTER VII TRAINING OF SKILLED LABORERS**

Article 69. (Elimination of Evils of Apprenticeship)

- (1) An employer shall not exploit an apprentice, student, trainee, or other worker, by whatever name such person may be called, by reason of the fact that such person is seeking to acquire a skill.
- (2) An employer shall not employ a worker, who is seeking to acquire a skill, in domestic work or other work having no relation to acquisition of a skill.

Article 70. (Special Provisions Regarding Vocational Training)

With respect to workers receiving vocational training which has received recognition as provided for in paragraph (1) of Article 24 of the Vocational Ability Development and Promotion Law (Act No. 64 of 1969) (including cases where the same provisions are applied mutatis mutandis under paragraph (2) of Article 27-2 of that Law), when there is a necessity, the provisions of Article 14 paragraph (1) concerning the contract period, the provisions of Articles 62 and 64-3 concerning restrictions on dangerous and injurious jobs for minors and expectant or nursing mothers and others, and the provisions of Articles 63 and 64-2 concerning the ban on belowground labor by minors and women may be otherwise provided for by the Ordinance of the Ministry of Health, Labour and Welfare to the extent of the necessity; provided, however, that with respect to the ban on belowground labor by minors under Article 63, this shall not apply to persons under 16 years of age.

Article 71.

An Ordinance of the Ministry of Health, Labour and Welfare issued under the provisions of the preceding Article shall not be applicable to workers other than those employed by an employer who has obtained permission from the relevant government agency for employment of workers in conformity with the said Ordinance of the Ministry of Health, Labour and Welfare.

Article 72.

With respect to the application of the provisions of Article 39 to minors who are

subject to the application of the Ordinance of the Ministry of Health, Labour and Welfare under the provisions of Article 70, the phrase "10 working days" in paragraph (1) of Article 39 shall be read as "12 working days", and the phrase "10 working days" in the "6 years or more" column of the table in paragraph (2) of the said Article shall be read as "8 working days".

Article 73.

In the event that an employer, who has received permission pursuant to provisions of Article 71, violates an Ordinance of the Ministry of Health, Labour and Welfare issued pursuant to provisions of Article 70, the relevant government agency may rescind such permission.

Article 74. Deleted.

## **CHAPTER VIII ACCIDENT COMPENSATION**

Article 75. (Medical Compensation)

- (1) In the event that a worker suffers an injury or illness in the course of employment, the employer shall furnish necessary medical treatment at its expense or shall bear the expense for necessary medical treatment.
- (2) The scope of illness in the course of employment and of medical treatment under the provisions of the preceding paragraph shall be established by the Ordinance of the Ministry of Health, Labour and Welfare.

Article 76. (Compensation for Absence from Work)

- (1) In the event that a worker does not receive wages because the worker is unable to work by reason of medical treatment under the provisions of the preceding Article, the employer shall pay compensation for absence from work at the rate of 60 percent of the worker's average wage.
- (2) In the event that the per capita average monthly amount of ordinary wages payable in the period of January through March, April through June, July through September, or October through December, respectively (any such period being referred to hereinafter as a "quarter"), for the number of the prescribed working hours for a worker at the same workplace and engaged in the same type of work as the worker receiving compensation for absence from work pursuant to the preceding paragraph (or, for a workplace where less than 100 workers are ordinarily employed, the average monthly amount during the quarter per worker of compensation paid every month in the industry to which that workplace belongs, as provided in the Monthly Labor Survey compiled by the Ministry of Health, Labour and Welfare; hereinafter whichever amount applies shall be

referred to as the "average compensation amount") exceeds 120 percent of the average compensation amount during the quarter in which the worker in question suffered the injury or illness in the engagement of the employment, or falls below 80 percent of that same amount, the employer shall adjust the amount of compensation for absence from work which is payable to the worker in question pursuant to the preceding paragraph in accordance with such rate of increase or decrease in the second quarter following the quarter in which the increase or decrease occurred; and the employer shall make compensation for absence from work of such adjusted amount from the first month of the quarter in which such adjustment takes effect. Thereafter, adjustment to the previously adjusted amount of compensation for absence from work shall be made in the same manner.

- (3) The method of adjustment and other necessary matters regarding the adjustment pursuant to the provisions of the preceding paragraph, where it would be difficult to follow those provisions, shall be established by an Ordinance of the Ministry of Health, Labour and Welfare.

#### Article 77. (Compensation for Disabilities)

With respect to a worker who has suffered an injury or illness in the course of employment and who remains physically disabled after recovery, the employer shall, in accordance with the degree of such disability, pay compensation for the disability of an amount determined by multiplying the average wage by the number of days set forth in Annexed Table No. 2.

#### Article 78. (Exceptions to Compensation for Absence from Work and to Compensation for Disabilities)

In the event that a worker suffers an injury or illness in the course of employment as a result of gross negligence of the worker, and the employer has received acknowledgment of such negligence from the relevant government agency, the employer is not obligated to pay compensation to the worker for absence from work or disabilities.

#### Article 79. (Compensation for Bereaved Family)

In the event that a worker has died in the course of employment, the employer shall pay compensation to the bereaved family equivalent to the average wage that would be earned over 1,000 days.

#### Article 80. (Funeral Expenses)

In the event that a worker has died in the course of employment, the employer shall pay an amount equivalent to the average wage that would be earned over 60 days as funeral expenses to the person managing the funeral rites.

Article 81. (Compensation for Discontinuance)

In the event that a worker receiving compensation pursuant to the provisions of Article 75 fails to recover from the injury or illness within 3 years from the date of commencement of medical treatment, the employer may pay compensation for discontinuation of the compensation, equivalent to the average wage that would be earned over 1,200 days; thereafter, the employer shall not be obligated to pay compensation under the provisions of this Act.

Article 82. (Payment of Compensation Installments)

In the event that an employer demonstrates an ability to pay and obtains the consent of the person entitled to compensation, the employer may pay an annual compensation for six-years of the amount derived by multiplying the average wage by the number of days set forth in Annexed Table No. 3 in place of the compensation stipulated in Articles 77 or 79.

Article 83. (Right to Receive Compensation)

- (1) The right to receive compensation shall not be affected by the retirement of the worker.
- (2) The right to receive compensation shall not be transferred or seized.

Article 84. (Relation to Other Acts)

- (1) In the event that payments equivalent to accident compensation under this Act are to be made under the Industrial Accident Compensation Insurance Act (Act No. 50 of 1947) or under some other laws and regulations as designated by the Ordinance of the Ministry of Health, Labour and Welfare, for matters that would give rise to accident compensation under the provisions of this Act, the employer shall be exempt from the responsibility of making compensation under this Act.
- (2) In the event that an employer has paid compensation under this Act, the employer shall be exempt, up to the amount of such payments, from the responsibility for damages under the Civil Code based on the same grounds.

Article 85. (Examination and Arbitration)

- (1) Persons who object to acknowledgment of injury, illness, or death in the course of employment; the method of medical treatment; the determination of the amount of compensation; or other matters pertaining to the compensation, may apply to the relevant government agency for examination or arbitration of such cases.
- (2) The relevant government agency, when it deems necessary, may examine or arbitrate cases on its own authority.
- (3) When a civil action has been filed with respect to a case on which an application

for examination or arbitration 1 has been made under paragraph, or with respect to a case on which the relevant government agency has commenced an examination or arbitration pursuant to the preceding paragraph, the relevant government agency shall not conduct an examination or arbitration with respect to the case in question.

- (4) The relevant government agency, when it deems it necessary for purposes of the examination or arbitration, may have a physician perform diagnosis or examination.
- (5) With respect to interruption of the period of prescription, an application for examination or arbitration under paragraph (1) and/or the commencement of examination or arbitration under paragraph (2) shall be deemed to be a demand for a juridical determination.

#### Article 86.

- (1) A person having a complaint about the results of an examination and/or arbitration pursuant to the provisions of the preceding Article may apply for examination or arbitration by an Industrial Accident Compensation Insurance Examiner.
- (2) The provisions of paragraph (3) of the preceding Article shall apply mutatis mutandis to an application for examination or arbitration pursuant to the provisions of the preceding paragraph.

#### Article 87. (Exceptions for Contract for Work)

- (1) For enterprises designated by the Ordinance of the Ministry of Health, Labour and Welfare pursuant to a series of contracts for work, the prime contractor shall be deemed to be the employer with respect to accident compensation.
- (2) In the case set forth in the preceding paragraph, if the prime contractor has by written contract had a subcontractor assume responsibility for the compensation, the subcontractor shall also be regarded as the employer; provided, however, that the prime contractor shall not have two or more subcontractors assume responsibility for compensation with respect to the same enterprise.
- (3) In the case set forth in the preceding paragraph, if the prime contractor has received a request for compensation, the prime contractor may request that a demand for compensation first be made to the subcontractor that has assumed responsibility for compensation; provided, however, that this shall not apply in the event that the subcontractor has been subject to the commencement of bankruptcy procedures or has disappeared.

#### Article 88. (Particulars Regarding Compensation)

Particulars regarding compensation other than those set forth in this Chapter

shall be stipulated by the Ordinance of the Ministry of Health, Labour and Welfare.

## **CHAPTER IX RULES OF EMPLOYMENT**

### **Article 89. (Responsibility for Drawing up and Submitting)**

An employer who continuously employs 10 or more workers shall draw up rules of employment covering the following items and shall submit those rules of employment to the relevant government agency. In the event that the employer alters the following items, the same shall apply:

- (i) Matters pertaining to the times at which work begins and at which work ends, rest periods, days off, leaves, and matters pertaining to shifts when workers are employed in two or more shifts;
- (ii) Matters pertaining to the methods for determination, computation and payment of wages (excluding extraordinary wages and the like; hereinafter in this item the same qualification shall apply); the dates for closing accounts for wages and for payment of wages; and increases in wages;
- (iii) Matters pertaining to retirement (including grounds for dismissal);
- (iii-ii) In the event that there are stipulations for retirement allowances, matters pertaining to the scope of workers covered; methods for determination, computation, and payment of retirement allowances; and the dates for payment of retirement allowances;
- (iv) In the event that there are stipulations for extraordinary wages and the like (but excluding retirement allowances) and/or minimum wage amounts, matters pertaining thereto;
- (v) In the event that there are stipulations for having workers bear the cost of food, supplies for work, and other expenses, matters pertaining thereto;
- (vi) In the event that there are stipulations concerning safety and health, matters pertaining thereto;
- (vii) In the event that there are stipulations concerning vocational training, matters pertaining thereto;
- (viii) In the event that there are stipulations concerning accident compensation and support for injury or illness outside the course of employment, matters pertaining thereto;
- (ix) In the event that there are stipulations concerning commendations and/or sanctions, matters pertaining to their kind and degree;
- (x) In the event that there are stipulations applicable to all workers at the workplace in addition to those contained in the preceding items, matters pertaining thereto.

### **Article 90. (Procedures for Drawing Up)**

- (1) In drawing up or changing the rules of employment, the employer shall ask the opinion of either a labor union organized by a majority of the workers at the workplace concerned (in the case that such labor union is organized), or a person representing a majority of the workers (in the case that such labor union is not organized).
- (2) In submitting the rules of employment pursuant to the provisions of the preceding Article, the employer shall attach a document setting forth the opinion set forth in the preceding paragraph.

#### Article 91. (Restrictions on Sanction Provisions)

In the event that the rules of employment provide for a decrease in wages as a sanction against a worker, the amount of decrease for a single occasion shall not exceed 50 percent of the daily average wage, and the total amount of decrease shall not exceed 10 percent of the total wages for a single pay period.

#### Article 92. (Relation to Laws and Regulations and to Collective Agreements)

- (1) The rules of employment shall not infringe any laws and regulations or any collective agreement applicable to the workplace concerned.
- (2) The relevant government agency may order the revision of rules of employment which conflict with laws and regulations or with collective agreements.

#### Article 93. (Validity)

Labor contracts which stipulate working conditions that do not meet the standards established by the rules of employment shall be invalid with respect to such portions. In such case the portions which have become invalid shall be governed by the standards established by the rules of employment.

### **CHAPTER X DORMITORIES**

#### Article 94. (Autonomy of Dormitory Life)

- (1) An employer shall not infringe upon the freedom of personal lives of workers living in dormitories attached to the enterprise.
- (2) An employer shall not interfere in the selection of dormitory leaders, room leaders, and other leaders necessary for the autonomy of dormitory life.

#### Article 95. (Order in Dormitory Life)

- (1) An employer who has workers live in dormitories attached to the enterprise shall draw up dormitory rules with respect to the following items and shall notify such rules to the relevant government agency. In the event that the employer alters these rules, the same shall apply:

- (i) Matters pertaining to rising, going to bed, going out, and staying out overnight;
  - (ii) Matters pertaining to regular events;
  - (iii) Matters pertaining to meals;
  - (iv) Matters pertaining to safety and health;
  - (v) Matters pertaining to the management of buildings and facilities.
- (2) With respect to drafting and/or alteration of provisions concerning items (i) through (iv) of the preceding paragraph, the employer shall obtain the consent of a person representing a majority of the workers living in the dormitory.
- (3) In submitting the rules pursuant to the provisions of paragraph (1), the employer shall attach a document establishing the consent set forth in the preceding paragraph.
- (4) The employer and the workers living in the dormitory shall observe the dormitory rules.

#### Article 96. (Dormitory Facilities and Safety and Health)

- (1) With respect to a dormitory attached to the enterprise, an employer shall take necessary measures for ventilation, lighting, illumination, heating, damp-proofing, cleanliness, evacuation, maximum accommodation, and sleeping facilities, and such other measures as are necessary for preservation of the health, morals and life of the workers.
- (2) Standards for measures to be taken by employers pursuant to the preceding paragraph shall be established by Ordinance of the Ministry of Health, Labour and Welfare.

#### Article 96-2. (Administrative Action for Supervision)

- (1) In the event that an employer seeks to establish, move, or alter a dormitory attached to an enterprise that continuously employs 10 or more workers or a dormitory attached to an enterprise that is dangerous or injurious to health as stipulated by Ordinance of the Ministry of Health, Labour and Welfare, the employer shall submit to the relevant government agency plans that have been established in accordance with standards concerning the prevention of danger and injury and other matters, as set forth in Ordinance of the Ministry of Health, Labour and Welfare issued pursuant to the provisions of the preceding Article, no later than 14 days prior to the start of construction.
- (2) The relevant government agency may suspend the start of construction or order the alteration of the plans when it deems necessary for the safety and health of the workers.

#### Article 96-3.

- (1) In the event that a dormitory attached to an enterprise employing workers is in violation of standards established with respect to safety and health, the relevant government agency may order the employer to suspend use of all or part of the dormitory or to alter all or part of the dormitory, and may make orders on other necessary matters to the employer.
- (2) In a case under the preceding paragraph, the relevant government agency may make orders to the workers on necessary matters in connection with the matters on which it has made orders to the employer.

## **CHAPTER XI SUPERVISING BODY**

Article 97. (Staff Members of Supervising Body, etc.)

- (1) Labor Standards Inspectors and other necessary staff members prescribed by Ordinance of the Ministry of Health, Labour and Welfare may be appointed in the Labor Standards Management Bureau (i.e., the department established within the Ministry of Health, Labour and Welfare with administrative responsibility for matters relating to labor conditions and the protection of workers; the same shall apply hereinafter), Prefectural Labor Offices and Labor Standards Inspection Offices.
- (2) The Director-General of the Labor Standards Management Bureau (hereinafter referred to as the "Director-General of the Labor Standards Management Bureau"), the directors of Prefectural Labor Offices and the directors of Labor Standards Inspection Offices shall be appointed from among Labor Standards Inspectors.
- (3) Matters relating to the qualifications and appointment and dismissal of Labor Standards Inspectors shall be prescribed by Cabinet Order.
- (4) A Labor Standards Inspector Dismissal Council may be established pursuant to Cabinet Order in the Ministry of Health, Labour and Welfare.
- (5) The consent of the Labor Standards Inspector Council is required for the dismissal of a Labor Standards Inspector.
- (6) In addition to the provisions of the above two paragraphs, necessary matters relating to the structure and operation of the Labor Standards Inspector Dismissal Council shall be prescribed by Cabinet Order.

Article 98. Deleted

Article 99. (Authority of Director-General of the Labor Standards Management Bureau)

- (1) The Director-General of the Labor Standards Management Bureau, under the direction and supervision of the Minister of Health, Labour and Welfare, shall

direct and supervise the directors of the Prefectural Labor Offices; shall administer matters concerning the establishment, revision or abrogation of laws and regulations concerning labor standards, matters concerning the appointment, dismissal and training of labor standards inspectors, matters concerning the establishment and adjustment of regulations concerning inspection methods, matters concerning the preparation of an annual report on inspection, matters concerning the Labor Policy Council and Labor Standards Inspector Dismissal Investigative Council (With respect to matters relating to the Labor Policy Council, limited to those relating to working conditions and the protection of workers.), and other matters relating to the enforcement of this Act; and shall direct and supervise staff members who belong to the Bureau.

- (2) The directors of the Prefectural Labor Offices, under the direction and supervision of the Director-General of the Labor Standards Management Bureau, shall direct and supervise the directors of the Labor Standards Inspection Offices within their jurisdiction; shall administer matters concerning the adjustment of inspection methods and other matters relating to the enforcement of this Act; and shall direct and supervise staff members who belong to their Offices.
- (3) The directors of the Labor Standards Inspection Offices, under the direction and supervision of the director of the Prefectural Labor Office, shall administer inspections, questioning, approvals, acknowledgments, investigations, arbitration, and other matters relating to the implementation of this Act, and shall direct and supervise staff members who belong to their Offices.
- (4) The Director-General of the Labor Standards Management Bureau and the directors of Prefectural Labor Offices may themselves exercise powers of subordinate government agencies or may have labor standards inspectors belonging to their offices exercise such powers.

Article 100. (Authority of Director-General of the Women's Management Bureau)

- (1) The Director-General of the Women's Management Bureau (the director of an internal bureau, within the Ministry of Health, Labor & Welfare, responsible for matters relating to Labor issues associated with the special characteristics of women workers; the same shall apply hereinafter ) of the Ministry of Health, Labour and Welfare, under the direction and supervision of the Minister of Health, Labour and Welfare, shall administer matters relating to the establishment, revision, abrogation and interpretation of special provisions in this Act relating to women, and, with respect to matters concerning the enforcement thereof, shall advise the Director-General of the Labor Standards Management Bureau and the directors of the government agencies subordinate to that Bureau and shall assist in the direction and supervision of those subordinate government agencies by the Director-General of the Labor Standards Management Bureau.

- (2) The Director-General of the Women's Management Bureau, personally or through officials of that Bureau designated by the Director-General, may read or have read documents concerning inspections and other matters performed by the Labor Standards Management Bureau or the government agencies subordinate to that Bureau in matters relating to women.
- (3) The provisions of Articles 101 and 105 shall apply mutatis mutandis to investigations performed by the Director-General of the Women's Management Bureau or by the designated officials belonging to that Bureau, with respect to the enforcement of special provisions of this Act relating to women.

Article 101. (Authority of Labor Standards Inspectors)

- (1) Labor standards inspectors are authorized to inspect workplaces, dormitories, and other associated buildings; to demand the production of books and records; and to conduct questioning of employers and workers.
- (2) In cases under the preceding paragraph, labor standards inspectors shall carry identification proving their status.

Article 102.

With respect to a violation of this Act, labor standards inspectors shall exercise the duties of judicial police officers under the Code of Criminal Procedure.

Article 103.

In the event that a dormitory of an enterprise that employs workers is in violation of standards established with respect to safety and health and there is imminent danger to workers, a labor standards inspector may immediately exercise the powers of the relevant government agency under the provisions of Article 96-3.

Article 104. (Report to Inspection Body)

- (1) In the event that a violation of this Act or of an ordinance issued pursuant to this Act exists at a workplace, a worker may report such fact to the relevant government agency or to a labor standards inspector.
- (2) An employer shall not dismiss a worker or shall not give a worker other disadvantageous treatment by reason of such worker's having made a report set forth in the preceding paragraph.

Article 104-2. (Reports etc.)

- (1) In the event that the relevant government agency deems it necessary to enforce this Act, the relevant government agency may have an employer or a worker submit a report on the necessary matters or may order an employer or a worker to appear as stipulated by Ordinance of the Ministry of Health, Labour and

Welfare.

- (2) In the event that a labor standards inspector deems it necessary to enforce this Act, the inspector may have an employer or a worker submit a report on the necessary matters or order an employer or a worker to appear.

Article 105. (Duties of Labor Standards Inspectors)

A labor standards inspector shall not reveal secrecies learned in the course of duty. The same shall apply even after the labor standards inspector has retired from office.

## CHAPTER XII MISCELLANEOUS PROVISIONS

Article 105-2. (Assistance Obligation of the State)

In order to attain the purpose of this Act, the Minister of Health, Labour and Welfare and the directors of the Prefectural Labor Offices shall provide workers and employers with data and other necessary assistance.

Article 106. (Dissemination of Laws and Regulations, etc.)

- (1) The employer shall make known to the workers the substance of this Act and ordinances issued under this Act, the rules of employment, the agreements stipulated in paragraph (2) of Article 18, the proviso to paragraph (1) of Article 24, paragraph (1) of Article 32-2, Article 32-3, paragraph (1) of Article 32-4, paragraph (1) of Article 32-5, the proviso to paragraph (2) of Article 34, paragraph (1) of Article 36, paragraph (2) of Article 38-2, paragraph (1) of Article 38-3, and paragraph (5) and the proviso to paragraph (6) of Article 39, and the resolutions stipulated in paragraphs (1) and 5 of Article 38-4, by displaying or posting them at all times in a conspicuous location or locations in the workplace, by distributing written copies, or by other methods as prescribed by Ordinance of the Ministry of Health, Labour and Welfare.
- (2) The employer shall make known to the workers living in a dormitory the provisions of this Act and ordinances issued under this Act relating to dormitories and the dormitory rules, by displaying or posting them in a conspicuous location or locations in the dormitory, or by other methods.

Article 107. (Roster of Workers)

- (1) The employer shall prepare a roster of workers for each workplace with respect to each worker (excluding day laborers) and shall enter the worker's name, date of birth, personal history, and other matters as prescribed by Ordinance of the Ministry of Health, Labour and Welfare.
- (2) In the event of a change in any of the matters entered pursuant to the provisions of the preceding paragraph, the employer shall make a correction without delay.

Article 108. (Wage Ledger)

The employer shall prepare a wage ledger for each workplace and shall enter the facts upon which wage calculations are based, the amount of wages, and other matters as prescribed by Ordinance of the Ministry of Health, Labour and Welfare without delay each time wage payments are made.

Article 109. (Preservation of Records)

The employer shall preserve the rosters of workers, wage ledgers and important documents concerning hiring, dismissal, accident compensation, wages, and other matters of labor relations for a period of 3 years.

Article 110. Deleted.

Article 111. (Free Certification)

A worker and a person seeking to become a worker may request a certificate of his or her family register free of charge from the person responsible for family registers or a deputy thereof. The same shall apply in the event that an employer requests a certificate of the family register of a worker and a person seeking to become a worker.

Article 112. (Application to the State and Public Organizations)

This Act and ordinances issued under this Act shall be deemed to apply to the state, prefectures, municipalities, and other equivalent bodies.

Article 113. (Establishment of Ordinances of the Ministry)

Ordinances issued under this Act shall be established after hearing the opinions of representatives of workers, representatives of employers, and representatives of the public interest on the draft of those ordinances at a public hearing.

Article 114. (Payment of Additional Amounts)

A court, pursuant to the request of a worker, may order an employer who has violated the provisions of Articles 20, 26 or 37, or an employer who has not paid wages in accordance with the provisions of Article 39, paragraph (6), to pay, in addition to the unpaid portion of the amount that the employer was required to pay under those provisions, an additional payment of that identical amount; provided, however, that such a request shall be made within two years from the date of the violation.

Article 115. (Prescription)

Claims for wages (excluding retirement allowances), accident compensation and other claims under the provisions of this Act shall lapse by prescription if not made within two years; and claims for retirement allowances under the provisions of this Act shall lapse by prescription if not made within 5 years.

Article 115-2. (Transitional Measures)

When an ordinance under this Act is established, revised or abrogated, necessary transitional measures (including transitional measures on penal provisions) may be stipulated by such ordinance, within limits reasonably deemed to be necessary in connection with such establishment, revision or abrogation.

Article 116. (Exclusion from Application)

- (1) With the exception of the provisions of Articles 1 through 11, paragraph (2) below, Articles 117 through 119, and Article 121, this Act shall not apply to mariners stipulated in paragraph (1) of Article 1 of the Mariners Law (Act No. 100 of 1947).
- (2) This act shall not apply to businesses which employ only relatives who live together nor to domestic workers.

### **CHAPTER XIII PENAL PROVISIONS**

Article 117.

A person who has violated the provisions of Article 5 shall be punished by imprisonment with work of not less than one year and not more than 10 years, or by a fine of not less than 200,000 yen and not more than 3,000,000 yen.

Article 118.

- (1) A person who has violated the provisions of Article 6, Article 56, Article 63 or Article 64-2 shall be punished by imprisonment with work of not more than one year or by a fine of not more than 500,000 yen.
- (2) A person who has violated an Ordinance of the Ministry of Health, Labour and Welfare issued under the provisions of Article 70 (but limited to those portions of such ordinance related to Article 63 or Article 64-2) shall be punished in accordance with the preceding paragraph.

Article 119.

Any person who falls under any of the following items shall be punished by imprisonment with work of not more than 6 months or by a fine of not more than 300,000 yen:

- (i) A person who has violated the provisions of Article 3, Article 4, Article 7,

Article 16, Article 17, paragraph (1) of Article 18, Article 19, Article 20, paragraph (4) of Article 22, Article 32, Article 34, Article 35, the proviso to paragraph (1) of Article 36, Article 37, Article 39, Article 61, Article 62, Articles 64-3 through 67, Article 72, Articles 75 through 77, Article 79, Article 80, paragraph (2) of Article 94, Article 96, or paragraph (2) of Article 104;

- (ii) A person who has violated an ordinance pursuant to the provisions of paragraph (2) of Article 33, paragraph (2) of Article 96-2, or paragraph (1) of Article 96-3;
- (iii) A person who has violated an Ordinance of the Minister of Health, Labour and Welfare issued under the provisions of Article 40;
- (iv) A person who has violated an Ordinance of the Ministry of Health, Labour and Welfare issued under the provisions of Article 70 (but limited to those portions of such ordinance related to the provisions of Article 62 or Article 64-3).

#### Article 120.

Any person who falls under any of the following items shall be punished by a fine of not more than 300,000 yen:

- (i) A person who has violated the provisions of Article 14, paragraph (1) or (3) of Article 15, paragraph (7) of Article 18, paragraphs (1) through 3 of Article 22, Articles 23 through 27, paragraph (2) of Article 32-2 (including the cases where it is applied mutatis mutandis pursuant to paragraph (4) of Article 32-4 and paragraph (3) of Article 32-5), paragraph (2) of Article 32-5, the proviso to paragraph (1) of Article 33, paragraph (3) of Article 38-2 (including the cases where it is applied mutatis mutandis pursuant to paragraph (2) of Article 38-3), Articles 57 through 59, Article 64, Article 68, Article 89, paragraph (1) of Article 90, Article 91, paragraph (1) or 2 of Article 95, paragraph (1) of Article 96-2, Article 105 (including the cases where it is applied mutatis mutandis pursuant to paragraph (3) of Article 100), or Articles 106 through 109;
- (ii) A person who has violated an Ordinance of the Ministry of Health, Labour and Welfare issued under the provisions of Article 70 (but limited to those portions of such ordinance related to the provisions of Article 14);
- (iii) A person who has violated an ordinance under the provisions of paragraph (2) of Article 92, or Article paragraph (2) of 96-3;
- (iv) A person who has refused, impeded or evaded an inspection by a labor standards inspector or by the Director-General of the Women's Management Bureau or an official of that Bureau designated by the Director-General based on the provisions of Article 101 (including the cases where it is applied mutatis mutandis pursuant to paragraph (3) of Article 100), a person who has not replied or has made false statements in response to questioning by a labor standards inspector or by the Director-General of the Women's Management

Bureau or an official of that Bureau designated by the Director-General, or a person who has not submitted books and records or has submitted books and records containing false entries to a labor standards inspector or to the Director-General of the Women's Management Bureau or an official of that Bureau designated by the Director-General;

- (v) A person who has not made a report, has submitted a false report, or has not appeared pursuant to the provisions of Article 104-2.

Article 121.

- (1) In the event that a person who has violated this Act is an agent or other employee acting on behalf of the business operator of the enterprise, with respect to matters concerning workers at that enterprise, the fine under the relevant Article shall also be assessed against the business operator; provided, however, that this shall not apply in the event that the business operator has taken necessary measures to prevent such violation (In the event that the business operator is a juridical person, the representative thereof shall be deemed business operator; and in the event that the business operator is a minor or an adult ward who lacks the capacity regarding business of an adult, the statutory representative thereof shall be deemed business operator (if the statutory representative is a juridical person, the representative thereof). The same shall apply hereinafter in this Article.).
- (2) In the event that the business operator knew of the plan for the violation but did not take necessary measures to prevent it, knew of the violation and did not take necessary measures to rectify it, or induced the violation, the business operator shall also be punished as the violator.