

TRADE UNION AND LABOR RELATIONS ADJUSTMENT ACT

Act No. 5310, Mar. 13, 1997
Amended by Act No. 5511, Feb. 20, 1998
Act No. 6456, Mar. 28, 2001
Act No. 7845, Jan. 2, 2006
Act No. 8158, Dec. 20, 2006
Act No. 9041, Mar. 28, 2008
Act No. 9930, Jan. 1, 2010
Act No. 10339, jun. 4, 2010
Act No. 12630, May 20, 2014
Act No. 15849, Oct. 16, 2018
Act No. 17432, jun. 9, 2020

CHAPTER I GENERAL PROVISIONS

Article 1 (Purpose)

The purpose of this Act is to maintain and improve the working conditions of workers and enhance their economic and social status by guaranteeing the rights of association, collective bargaining, and collective action as prescribed in the Constitution, and to contribute to the maintenance of industrial peace and the development of national economy by preventing and resolving industrial disputes through the fair adjustment of the labor relations.

Article 2 (Definitions)

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

1. The term "worker" means any person who lives on wages, a salary, or any other income equivalent thereto, regardless of the person's occupation;
2. The term "employer" means a business owner, a person responsible for the management of a business or a person who acts on behalf of a business owner with regard to matters concerning workers in the business;

3. The term "employers' association" means an organization of employers which has powers to adjust or control its members in connection with labor relations;

4. The term "trade union" means an organization or associated organizations of workers, which is formed in voluntary and collective manner upon the workers' initiative for the purpose of maintaining and improving their working conditions and enhancing their economic and social status: Provided, That an organization shall not be regarded as a trade union in cases falling under any of the following subparagraphs:

(a) Where an employer or other persons who always act in the interest of the employer is allowed to join it;

(b) Where most of its expenditure is supported by the employer;

(c) Where its activities are only aimed at mutual benefits, moral culture and other welfare undertakings;

(d) Where those who are not workers are allowed to join it: Provided, That a dismissed person shall not be regarded as a person who is not a worker, until a review decision is made by the National Labor Relations Commission when he has made an application to the Labor Relations Commission for remedies for unfair labor practices;

(e) In case where its aims are mainly directed at political movements;

5. The term "industrial disputes" means any controversy or difference arising from disagreements between a trade union and an employer or employers' association (hereinafter referred to as "parties to labor relations") with respect to the determination of terms and conditions of employment as wages, working hours, welfare, dismissal, and other treatments. In such cases, the disagreements refer to situations in which the parties to labor relations are no longer likely to reach an agreement by means of voluntary bargaining even if they continue to make such an attempt;

6. The term "industrial actions" means actions or counter-actions which obstruct the normal operation of a business, such as strikes, sabotage, lock-outs, and other activities through which the parties to labor relations intend to accomplish their claims.

Article 3 (Restriction on Claim for Damages)

When an employer has suffered damages due to collective bargaining or industrial action under this Act, he shall not claim damages against a trade union or workers.

Article 4 (Justifiable Activities)

@Article 20 of the Criminal Act shall apply to justifiable activities which are conducted to achieve the purpose of Article 1 as collective bargaining, industrial action and other activities by trade unions: Provided, That acts of violence or destruction shall not be construed as justifiable for any ground.

CHAPTER II TRADE UNION

SECTIONS 1 Common Provisions

Article 5 (Establishment and Admission of Trade Union)

Workers shall be free to establish a trade union or to join it: Provided, That matters with respect to public officials or school teachers shall be prescribed by other Acts.

Article 6 (Incorporation of Trade Union)

- (1) A trade union may be formed as a juristic person pursuant to its bylaws.
- (2) Where a trade union is formed as a juristic person, it shall be registered in accordance with Presidential Decree.
- (3) With respect to an incorporated trade union, the provisions concerning juristic persons of the Civil Act shall apply, except as otherwise provided by this Act.

Article 7 (Requirements for Protection of Trade Union)

- (1) Trade unions which are not established pursuant to this Act shall not make an application for adjustment of industrial disputes and for the remedy of unfair labor practices to the Labor Relations Commission.
- (2) Paragraph (1) shall not be construed as denying the protection of workers as referred to in subparagraphs 1, 2 and 5 of Article 81.
- (3) No one other than trade unions established pursuant to this Act shall use the title of trade union.

Article 8 (Exemption from Taxation)

No taxes shall be imposed on a trade union under tax-related Acts, except for its affiliated business.

Article 9 (Prohibition of Discrimination)

A member of a trade union shall not be discriminated against on the ground of race, religion, sex, age, physical conditions, type of employment, political party, or social status. <Amended on Mar. 28, 2008>

SECTION 2 Establishment of Trade Union

Article 10 (Report on Establishment of Trade Union)

- (1) Any person who intends to establish a trade union shall submit a report stating the following matters, accompanied by its bylaws provided for in Article 11 to the Minister of Employment and Labor in cases of the trade union in the form of the associated organization and the unit trade union extending over not less than two Special Metropolitan City, Metropolitan Cities, Special Self-Governing City, Dos, and Special

Self-Governing Province, to the Special Metropolitan City Mayor, Metropolitan City Mayors and Do Governors in cases of the unit trade union extending over not less than two Sis/Guns/Gus (referring to an autonomous Gu), and to a Special Self-Governing City Mayor, a Special Self-Governing Province Governor, and the head of a Si/Gun/Gu (referring to the head of an autonomous Gu; hereafter the same shall apply in Article 12 (1)) in cases of any other trade unions: <Amended on Feb. 20, 1998; Dec. 30, 2006; Jun. 4, 2010; May 20, 2014>

1. Name;
 2. The location of the principal office;
 3. The number of union members;
 4. Names and domiciles of executive officers;
 5. Title of an associated organization to which it belongs, if any;
 6. In cases of a trade union in the form of an associated organization, the titles of its constituent organizations, the number of union members, location of the main office, and the names and addresses of officers.
- (2) A trade union in the form of an associated organization as referred to in paragraph (1) means an industrial associated organization, the members of which are unit trade unions in the same industry, or to a confederation of associated organizations, the members of which are industrial associated organizations or nationwide industrial unit trade unions.

Article 11 (Regulations)

Any trade union shall enter the matters falling under each of the following subparagraphs in its bylaws in order to guarantee an autonomous and democratic operation of its organization: <Amended on Dec. 30, 2006>

1. Name;
2. Purposes and activities;
3. The location of the principal office;
4. Matters concerning union members (in case of a trade union in the form of an associated organization, matters concerning its constituent organizations);
5. Title of an associated organization to which it belongs, if any;
6. Matters concerning a council of delegates, if any;
7. Matters concerning meetings;
8. Matters concerning the representatives and officers;
9. Matters concerning union dues and other accounting;
10. Matters concerning modification of the union bylaws;
11. Matters regarding dissolution;
12. Matters concerning the publication of the result of the vote for and against the industrial actions and the keeping and perusal of the roll of voters and ballot papers, etc.;

13. Matters concerning impeachment on representatives or officers for violation of the bylaws;
14. Matters concerning the procedures for election of officers and delegates;
15. Matters concerning discipline and control.

Article 12 (Issuance of Certificate of Report)

(1) Upon receiving a report on establishment as referred to in Article 10 (1), the Minister of Employment and Labor, the Special Metropolitan City Mayor, Metropolitan City Mayors, a Special Self-Governing City Mayor, Do Governors, a Special Self-Governing Province Governor, or the head of a Si/Gun/Gu (hereinafter referred to as "administrative agencies") shall issue a certificate of report within three days, except for cases provided for in the former part of paragraph (2) and paragraph (3). *<Amended on Feb. 20, 1998; Dec. 30, 2006; Jun. 4, 2010; May 20, 2014>*

(2) When the administrative agencies deems it necessary that a report on establishment or bylaws of a trade union needs to be supplemented because of any omission or other reasons, they shall order a supplement thereof within a specified period of up to twenty days, as prescribed by Presidential Decree. In such cases, a certificate of report shall be issued within three days after receiving the supplemented report on establishment or bylaws. *<Amended on Feb. 20, 1998>*

(3) When a trade union which made a report of establishment falls under any of the following subparagraphs, the administrative agencies shall return the report of establishment they received: *<Amended on Feb. 20, 1998>*

1. When it falls under any item of subparagraph 4 of Article 2;
2. When it fails to supplement a report or bylaws within the specified period, notwithstanding an order of supplement issued pursuant to paragraph (2).

(4) When a trade union receives the certificate of report, it shall be deemed to have been established at the time the Minister of Employment and Labor received the report of establishment.

Article 13 (Report, etc. of Modifications)

(1) A trade union shall make a report of modifications of contents to the administrative agencies within thirty days from the date when a change occurs in any of the matters falling under the following subparagraphs from among the matters reported with respect to establishment pursuant to Article 10 (1): *<Amended on Feb. 20, 1998; Mar. 28, 2001>*

1. Name;
2. The location of the principal office;
3. The name of the representative;
4. Title of an associated organization to which it belongs.

(2) A trade union shall notify the administrative agencies of the matters falling under the following subparagraphs by January 31st of each year: Provided, That this shall not apply to the matters of modified report in the preceding year under paragraph (1): *<Amended on Feb. 20, 1998; Mar. 28, 2001>*

1. In case there was any modification in bylaws in the previous year, modified contents of bylaws;
2. In case an union officer was replaced in the previous year, the name of the replaced union officer;
3. The number of members (in case of a trade union in the form of an associated organization, the number of members in each constituent organization) as of December 31 of the previous year.

SECTION 3 Management of Trade Union

Article 14 (Document to be Kept, etc.)

(1) A trade union shall prepare the following documents within thirty days after the date of its establishment, and keep them at its main office:

1. Register of union members (in case of a trade union in the form of an associated organization, the titles of its constituent organizations);
2. Union bylaws;
3. Names and addresses of union officers;
4. Minutes of meetings;
5. Financial records and documents.

(2) Documents as referred to in paragraph (1) 4 and 5 shall be kept for three years.

Article 15 (Holding of General Meeting)

(1) A trade union shall hold a general meeting at least once a year.

(2) The representative of the trade union shall be the chairman of the general meeting.

Article 16 (Matters Subject to Resolution at General Meeting)

(1) Matters falling under the following subparagraphs shall require resolutions by the general meetings:

1. The enactment and modification of the bylaws;
2. The election and discharge of the officers;
3. Collective bargaining;
4. Budgets or settlement of accounts;
5. The establishment, management, or disposal of fund;
6. The establishment and admission of an associated organization, and withdrawal therefrom;
7. Merger, division, or dissolution;
8. Structural changes;
9. Other important matters.

(2) The general meeting shall make resolutions with the attendance of a majority of all union members and with a concurrent vote of a majority of the members present: Provided, That matters concerning the enactment and modification of bylaws, the discharge of union officers, the merger, division, dissolution and structural change of a trade union shall be resolved with the attendance of a majority of all union

members and a concurrent vote of two-thirds majority of the members present.

(3) Notwithstanding the provisions of the main sentence of paragraph (2), in case where in an election of union officers, any candidate does not obtain the consent of a majority of the union members present, a candidate with the highest votes in a run-off election may be elected in accordance with the bylaws.

(4) Matters concerning the enactment or modification of the bylaws, the election and discharge of union officers shall be decided by members by direct, secret, and unsigned ballot.

Article 17 (Board of Representatives)

(1) A trade union may, by its bylaws, establish a council of delegates, which may be substituted for a general meeting.

(2) Delegates shall be elected by members by direct, secret, and unsigned ballot.

(3) The term of office of the delegates shall be determined by the bylaws, but not exceeding three years.

(4) When there exists the council of delegates, the provisions regarding a general meeting shall apply mutatis mutandis to it.

Article 18 (Convocation of Extraordinary General Meeting, etc.)

(1) The representative of a trade union may, if deemed necessary, convene an extraordinary general meeting or an extraordinary council of delegates.

(2) When one-third or more of the union members or delegates (in case of a trade union in the form of an associated organization, one-third or more of its constituent organizations) present the matters to be referred to a meeting and require the convocation of the meeting, the representative of a trade union shall, without delay, convene an extraordinary general meeting or an extraordinary council of delegates.

(3) When the representative of a trade union intentionally avoids or neglects the convening of a meeting as provided for in paragraph (2), and then one-third or more of the union members or delegates submits a request for nomination of a person authorized to convene a meeting, the administrative agencies shall request the Labor Relations Commission to make a resolution within fifteen days and shall, upon the resolution of the Commission, nominate a person authorized to convene the meeting, without delay.

<Amended on Feb. 20, 1998>

(4) When the trade union has no person authorized to convene a general meeting or a council of delegates, if one-third or more of the union members or delegates present the matters to be referred to a meeting and submit a request for the nomination of a person authorized to convene a meeting, the administrative agencies shall nominate that person within fifteen days. *<Amended on Feb. 20, 1998>*

Article 19 (Procedures for Convocation)

At least seven days prior to its commencement date of a meeting or council, a general meeting or council of delegates shall give public notice of the matters to be referred to said meeting or council for deliberation, and shall be convened in accordance with the methods as provided in the bylaws of a trade

union: Provided, That in case where the trade union is composed of workers working in the same workplace, the said period of public notification may be reduced in accordance with its bylaws.

Article 20 (Special Provisions Concerning Right to Vote)

When a trade union is to make a resolution on a particular union member, he shall not have the right to vote so far as that resolution is concerned.

Article 21 (Correction of Bylaws and Resolutions or Measures)

(1) If deemed that the bylaws of a trade union conflict with any labor-related Act or subordinate statute, the administrative agencies may, with the resolution of the Labor Relations Commission, order the correction thereof. *<Amended on Feb. 20, 1998>*

(2) If deemed that a resolution or measure by a trade union conflicts with any labor-related Act or subordinate statute, or the union bylaws, the administrative agencies may, with the resolution of the Labor Relations Commission, order the correction thereof: Provided, That an order of correction shall be made only by the application of the interested party. *<Amended on Feb. 20, 1998>*

(3) A trade union shall, upon receiving an order of correction pursuant to paragraph (1) or (2), perform the order within 30 days: Provided, That, if any justifiable reason exists, the period may be extended.

Article 22 (Rights and Duties of Union Members)

All the union members shall have equal rights and duties to participate in all matters of the trade union: Provided, That a trade union may, under its bylaws, restrict the rights of those members who fail to pay union dues.

Article 23 (Election, etc. of Officers)

(1) Officers of a trade union shall be elected from among its members.

(2) The term of office of union officers shall be determined by union bylaws, but not exceeding three years.

Article 24 (Full-time Officer of Trade Union)

(1) If provided in a collective agreement or consented by employers, workers may be engaged exclusively in affairs of the trade union without providing the employer with work specified in their employment contracts.

(2) A worker who is engaged exclusively in affairs of the trade union pursuant to paragraph (1) (hereinafter referred to as "full-time officer") shall not be remunerated in any kind by the employer during the period of said exclusive engagement.

(3) An employer shall not restrict lawful trade union activities of full-time officers. *<Newly Inserted on Jan. 1, 2010>*

(4) Notwithstanding paragraph (2), where it is prescribed by a collective agreement or consented by an employer, workers may conduct affairs prescribed by this Act or other laws and affairs of maintaining and managing a trade union for the healthy development of labor-management relations without loss of wages, such as consultation or bargaining with an employer, grievance settlement, or industrial safety activities, within the maximum time-off limit (hereinafter referred to as "maximum time-off limit") prescribed by Article 24-2 in consideration of the number of members, etc. of a trade union by business or by place of business. *<Newly Inserted on Jan. 1, 2010>*

(5) A trade union shall not request the payment of wages, in violation of paragraphs (2) and (4), and shall not take any industrial actions for the purpose of realization of such intention. *<Newly Inserted on Jan. 1, 2010>*

Article 24-2 (Time-Off System Deliberation Committee)

(1) In order to determine the maximum time-off limit, the Time-Off System Deliberation Committee (hereinafter referred to as "Committee") shall be established in the Ministry of Employment and Labor. *<Amended on Jun. 4, 2010>*

(2) The maximum time-off limit as deliberated on and decided by the Committee shall be announced by the Minister of Employment and Labor and may be determined following redeliberation on whether the limit is appropriate every three years. *<Amended on Jun. 4, 2010>*

(3) The Committee shall be comprised of five members recommended by the labor community, five members recommended by the management community, and five members representing the public interest recommended by the Government.

(4) The chairperson shall be elected by the Committee from among the members representing the public interest.

(5) The resolutions of a Committee meeting shall be adopted by the attendance of a majority of all members and by the concurrence of a simple majority of those present.

(6) Matters necessary for the qualification and appointment of members and operation, etc. of the Committee shall be prescribed by Presidential Decree.

Article 25 (Audits)

(1) The representative of a trade union shall have an auditor conduct, at least once every six months, an audit of all financial resources of the trade union and their uses, names of major contributors, and current financial and accounting status, and shall disclose the results thereof to all the union members.

(2) The auditor of a trade union may, at any time if deemed necessary, conduct an audit of the trade union, and disclose the results thereof.

Article 26 (Disclosure of Status of Operation)

The representative of a trade union shall notify the results of settlement of accounts and a status of operation of the trade union every fiscal year, and shall, at the request of any union member, allow him to inspect them.

Article 27 (Submission of Materials)

A trade union shall, at the request of the administrative agencies, make a report on the results of settlement of accounts and a status of operation of the trade union. *<Amended on Feb. 20, 1998>*

SECTION 4 Dissolution of Trade Union

Article 28 (Causes for Dissolution)

(1) A trade union shall be dissolved for any reason falling under the following subparagraphs: *<Amended on Feb. 20, 1998>*

1. When any cause for dissolution exists as prescribed by its bylaws;
2. When it is extinguished due to merger or division;
3. When a general meeting or council of delegates has a resolution to dissolve it;
4. When it is deemed to have no officers and not to have carried out any activity as a trade union for not less than one year, and the administrative agencies obtains resolution of the Labor Relations Commission upon its dissolution.

(2) When a trade union is dissolved for any reason as referred to in paragraph (1) 1 through 3, its representative shall make a report on the fact of the dissolution to the administrative agencies within 15 days from the date of the dissolution. *<Amended on Feb. 20, 1998>*

CHAPTER III COLLECTIVE BARGAINING AND COLLECTIVE AGREEMENT

Article 29 (Authority to Bargain and Make Agreement)

(1) The representative of a trade union shall have the authority to bargain and make a collective agreement with the employer or employers' association for the trade union and its members.

(2) The representative of a representative bargaining trade union (hereinafter referred to as "representative bargaining trade union") determined pursuant to Article 29-2 shall have the authority to bargain and make a collective agreement with an employer for all the trade unions and members requesting bargaining. *<Newly Inserted on Jan. 1, 2010>*

(3) A person who is delegated authority by a trade union, an employer, or an employers' association to bargain and make a collective agreement may exercise the authority within the scope of said delegation for the trade union, the employer or the employers' association. *<Amended on Jan. 1, 2010>*

(4) When a trade union, an employer or an employers' association delegates the authority to bargain and make a collective agreement pursuant to paragraph (3), he/she/it shall notify the other party of the fact of such delegation. <Amended on Jan. 1, 2010>

Article 29-2 (Procedures for Simplification of Bargaining Windows)

(1) Where not less than two trade unions established or joined by workers exist in one business or one place of work regardless of the type of organization, trade unions shall determine a representative bargaining trade union (including a representative bargaining organization, the constituent members of which are members of not less than two trade unions; hereinafter the same shall apply) and request the same to bargain: Provided, That this shall not apply where an employer consents not to undergo procedures for the simplification of bargaining windows prescribed by this Article within the period for determination of a representative bargaining trade union by the trade unions of their own accord pursuant to paragraph (2).

(2) All the trade unions which participate in the procedures for determining a representative bargaining trade union (hereinafter referred to as "procedures for the simplification of bargaining windows") shall determine a representative bargaining trade union of their own accord within the period prescribed by Presidential Decree.

(3) Where the trade unions fail to determine a representative bargaining trade union within the period pursuant to paragraph (2) and to obtain consent of an employer pursuant to the proviso to paragraph (1), a labor union organized by majority of all the members of the trade unions which participate in procedures for the simplification of bargaining windows (including cases where not less than two trade unions become the majority of all the members of the trade unions which participate in procedures for the simplification of bargaining windows by delegation, combination, etc.) shall be a representative bargaining trade union.

(4) Where the trade unions fail to determine a representative bargaining trade union pursuant to paragraphs (2) and (3), all the trade unions which participate in procedures for the simplification of bargaining windows shall organize a bargaining delegation jointly (hereafter in this Article referred to as "joint bargaining delegation") and bargain with an employer. In such cases, a trade union which may participate in the joint bargaining delegation shall be a trade union, the number of members of which is not less than 10/100 of the total members of the trade unions participating in procedures for the simplification of bargaining windows.

(5) Where the trade unions fail to organize a joint bargaining delegation pursuant to paragraph (4), the Labor Relations Commission may determine the same in consideration of the ratio of members of trade unions at the request of the relevant trade unions.

(6) Where any trade union has an objection to a fact of request for bargaining, the number of members, etc. of a trade union in determining a representative bargaining trade union under paragraphs (1) through (4), the Labor Relations Commission may decide on such objection at the request of the trade union as

prescribed by Presidential Decree.

(7) Articles 69 and 70 (2) shall apply mutatis mutandis to procedures for dissatisfaction with and effect on the determination of the Labor Relations Commission pursuant to paragraphs (5) and (6).

(8) Matters necessary for procedures for the simplification of bargaining windows, such as a request for bargaining, method of participation, calculation standards of the number of members for the determination of a representative bargaining trade union of the trade unions, and the prevention of increase in bargaining expenses, etc. shall be prescribed by Presidential Decree.

Article 29-3 (Determination of Bargaining Unit)

(1) A unit which shall determine a representative bargaining trade union pursuant to Article 29-2 (hereinafter referred to as "bargaining unit") shall be one business or one place of business.

(2) Notwithstanding paragraph (1), where it is deemed necessary to divide a bargaining unit in consideration of a wide difference in working conditions, type of employment, customary practices of bargaining or such in one business or one place of business, the Labor Relations Commission may decide to divide the bargaining unit at the request of both of the parties to labor relations or either one party.

(3) Article 69 and 70 (2) shall apply mutatis mutandis to procedures for dissatisfaction with and effect on the determination of the Labor Relations Commission pursuant to paragraph (2).

(4) Matters necessary for a request for division of a bargaining unit and standards, procedures, etc. for the determination of the Labor Relations Commission shall be prescribed by Presidential Decree.

Article 29-4 (Duties of Fair Representation)

(1) A representative bargaining trade union and an employer shall not discriminate among trade unions participating in procedures for the simplification of bargaining windows or members thereof without reasonable grounds.

(2) Where a representative bargaining trade union and an employer discriminate among trade unions, in violation of paragraph (1), any trade union may request the Labor Relations Commission to correct such discrimination according to methods and procedures prescribed by Presidential Decree within three months from the date such act is done (where the whole or part of the details of a collective agreement is in violation of paragraph (1), referring to the date of the conclusion of the collective agreement).

(3) Where the Labor Relations Commission recognizes a discrimination as having no reasonable grounds in connection with a request pursuant to paragraph (2), it shall give any order necessary for the correction thereof.

(4) Articles 85 and 86 shall apply mutatis and mutandis to procedures for dissatisfaction with an order or decision by the Labor Relations Commission pursuant to paragraph (3).

Article 29-5 (Other Matters Relating to Simplification of Bargaining Windows)

Where a representative bargaining trade union exists, a "trade union" in subparagraph 5 of Article 2, Articles 29 (3) and (4), 30, 37 (2), 38 (3), 42-6 (1), 44 (2), 46 (1), 55 (3), 72 (3), and subparagraph 3 of Article 81 shall be deemed a "representative bargaining trade union".

Article 30 (Principles of Bargaining, etc.)

(1) A trade union and an employer or employers' association shall bargain and make a collective agreement with each other in good faith and sincerity and shall not abuse their authority.

(2) A trade union and an employer or employers' association shall not refuse or neglect, without any justifiable reason, to bargain or conclude a collective agreement.

Article 31 (Preparing of Collective Agreement)

(1) A collective agreement shall be prepared in writing, and both of the parties shall affix their signatures or their seals thereto. *<Amended on Dec. 30, 2006>*

(2) The parties to a collective agreement shall make a report of the collective agreement to the administrative agencies within 15 days from the date of its conclusion. *<Amended on Feb. 20, 1998>*

(3) When a collective agreement has any unlawful contents, the administrative agencies may, with the resolution of the Labor Relations Commission, order to correct them. *<Amended on Feb. 20, 1998>*

Article 32 (Effective Term of Collective Agreement)

(1) No collective agreement shall provide for an effective term exceeding two years.

(2) When the effective term is not specified in a collective agreement or exceeds the period as specified in paragraph (1), it shall be two years.

(3) When, even though both of the parties continued to conduct collective bargaining to make a new collective agreement before or after the expiry of the effective term of an existing agreement, they fails to make a new collective agreement, the existing collective agreement shall remain valid for three more months after its expiry, except as there exists a separate agreement to the contrary: Provided, That where the collective agreement contains separate provisions to the effect that when a new collective agreement is not made in spite of the expiry of the term of an existing collective agreement, said existing collective agreement shall remain effective until a new collective agreement is made, such separate provisions shall be observed. Any party to the agreement may, however, terminate the existing collective agreement by notifying the other party of such termination six months in advance of the date he intends to terminate it. *<Amended on Feb. 20, 1998>*

Article 33 (Validity of Standards)

(1) Any part of rules of employment or a labor contract that violate standards concerning working conditions and other treatment of workers as prescribed in a collective agreement shall be null and void.

(2) Matters not covered in a labor contract and the part which is null and void under paragraph (1) shall be governed by those standards of a collective agreement.

Article 34 (Interpretation of Collective Agreement)

(1) When there is any disagreement between the parties on the interpretation and the implementation methods of a collective agreement, both of the parties to that collective agreement, or one party thereto as prescribed in the agreement may ask the Labor Relations Commission for its views on such interpretation and implementation methods.

(2) The Labor Relations Commission shall, upon receiving a request as referred to in paragraph (1), give its clear-cut views within thirty days from the date of receipt of the request.

(3) The views on such interpretation and implementation methods which are given by the Labor Relations Commission pursuant to paragraph (2), shall have the same effect as that of an arbitration award.

Article 35 (General Binding Force)

When a collective agreement applies to a majority of workers of the same kind of job employed under ordinary circumstances in a business or workplace, it shall apply to the other workers of the same kind of job employed in the same business or workplace.

Article 36 (Geographical Binding Force)

(1) When two-thirds or more of the workers of the same kind of job employed in an area are subject to one collective agreement, the administrative agencies may, with resolution of the Labor Relations Commission, at the request of either of the parties to the collective agreement or ex officio, make a decision that the said collective agreement shall apply to other workers of the same kind of job and their employers engaged in the same area. *<Amended on Feb. 20, 1998>*

(2) When the administrative agencies make a decision as referred to in paragraph (1), they shall give public notice of it without delay. *<Amended on Feb. 20, 1998>*

CHAPTER IV INDUSTRIAL ACTIONS

Article 37 (Basic Principles of Industrial Actions)

(1) Any industrial action shall not be inconsistent with the Acts and subordinate statutes or other social order with respect to its purpose, method and procedure.

(2) No member of a trade union shall take part in any industrial action which is not led by the trade union.

Article 38 (Guidance and Responsibility of Trade Union)

(1) An industrial action shall not be conducted in such a manner that it interferes with entry, work or other normal services by persons who are not related to it or persons who intend to provide work, and any resort

to violence or any threat to appeal for or persuade into participating in the industrial action shall not be used.

(2) Any work, the purpose of which is to prevent operational equipment from being damaged, or to prevent raw materials or products from being impaired or deteriorated shall be normally conducted during a period of industrial actions.

(3) A trade union shall have responsibility to guide, manage and supervise industrial actions so as to be lawfully conducted.

Article 39 (Restriction on Detention of Workers)

Except for a criminal caught on the spot, workers shall not be detained for any violation of this Act during a period of industrial actions.

Article 40 Deleted. <Dec. 30, 2006>

Article 41 (Restriction and Prohibition of Industrial Actions)

(1) A trade union shall not conduct industrial actions, unless decided with concurrent votes of a majority of the union members by a direct, secret, and unsigned ballot. Where a representative bargaining trade union has been determined pursuant to Article 29-2, any industrial action shall not be taken unless it is determined with the consent of a majority by a direct, secret and unsigned ballot of the total members (limited to members belonging to the relevant business or place of business) of the trade unions which have participated in such procedures. <Amended on Jan. 1, 2010>

(2) From among workers engaged in a major business of the national defense industry designated by the Defense Acquisition Program Act, those who are involved in production of electricity, water, or a work of mainly producing national defense goods shall not conduct industrial actions, and the scope of those who are involved in a work of mainly producing national defense goods shall be prescribed by Presidential Decree. <Amended on Jan. 2, 2006>

Article 42 (Prohibition of Acts of Violence, etc.)

(1) Industrial actions shall not be conducted by resorting to violence or destruction or by occupying facilities related to production or other major work or other facilities equivalent thereto as prescribed by Presidential Decree.

(2) Industrial actions shall not be conducted to stop, close, or interrupt the normal maintenance and operation of facilities installed to protect safety of workplaces.

(3) The administrative agencies shall, if they deem that any industrial action falls under any of them as referred to in paragraph (2), serve notice that such industrial action shall be halted in compliance with the resolution of the Labor Relations Commission: Provided, That they may serve notice that such action shall be immediately halted without waiting for the resolution of the Labor Relations Commission in cases of

any urgent circumstances where there is not enough time to seek such resolution from the Labor Relations Commission. <Amended on Feb. 20, 1998; Dec. 30, 2006>

(4) In cases of the proviso to paragraph (3), the administrative agencies shall, immediately after they serve the notice, obtain ex post facto approval from the Labor Relations Commission, otherwise the notice shall become ineffective at the moment of not obtaining the said approval. <Amended on Feb. 20, 1998; Dec. 30, 2006>

Article 42-2 (Restrictions on Industrial Actions Affecting Essential Business)

(1) The term "essential business" in this Act means the business whose suspension or discontinuance may seriously endanger the safety of the lives, health or bodies of the public and the daily life of the public and which is prescribed by Presidential Decree, from among the essential public-service businesses provided for in Article 71 (2).

(2) The acts of stopping, discontinuing or impeding the justifiable maintenance and operation of the essential business shall be the prohibited industrial actions.

Article 42-3 (Agreement on Essential Business)

The parties of labor relations shall conclude an agreement in writing that stipulates the necessary minimum level of maintenance and operation of the essential business, duties and the necessary number of workers, etc. in order to justifiably maintain and operate the essential business during the period of industrial actions (hereinafter referred as "agreement on the essential business"). In such cases, both of the parties to labor relations shall affix their signatures and seals to the agreement on the essential business.

Article 42-4 (Decision on Levels of Maintenance and Operation of Essential Business)

(1) Both parties or one party to labor relations shall, when the agreement on the essential business is not concluded, file an application with the Labor Relations Commission for determining the necessary minimum level of the maintenance and operation of the essential business, applicable duties and the necessary number of workers, etc.

(2) Upon receiving the application referred to in paragraph (1), the Labor Relations Commission may determine the necessary minimum level of the maintenance and operation of the essential business, applicable duties and the necessary number of workers, etc. taking into account the characteristics and contents, etc. of the essential business by business or business place.

(3) The special arbitration committee provided for in Article 72 shall be put in charge of implementing the determination made by the Labor Relations Commission pursuant to paragraph (2).

(4) Where the opinions of the parties concerned fail to agree on the interpretation of or ways to implement the determination made by the Labor Relations Commission pursuant to paragraph (2), the interpretation of the special arbitration committee shall prevail over the difference. In such cases, the interpretation of the special arbitration committee shall have the same effect as that of the determination made by the Labor

Relations Commission pursuant to paragraph (2).

(5) Article 69 and 70 (2) shall apply mutatis mutandis to the procedures for objecting against the determination made by the Labor Relations Commission pursuant to paragraph (2) and the effect of the objection.

Article 42-5 (Industrial Actions according to Determination Made by Labor Relations Commission)

Where the Labor Relations Commission determines pursuant to Article 42-4 (2), an industrial action is performed according to the determination, it shall be deemed that the industrial action is performed while justifiably maintaining and operating the essential business.

Article 42-6 (Designation of Workers Who Work for Essential Business)

(1) Where the agreement on the essential business is concluded or the Labor Relations Commission determines pursuant to Article 42-4 (2), a trade union shall notify the relevant employer of its members who will work during the period of an industrial action from among its members who work for the essential business, and the relevant employer shall, upon receiving the notification, designate the workers and then notify the relevant trade union and the designated workers of his designation: Provided, That where the trade union fails to make such notification before the trade union goes on the industrial action, the employer shall designate the workers who work for the essential business and then notify the relevant trade union and the designated workers of his designation. <Amended on Jan. 1, 2010>

(2) When notifying and designating pursuant to paragraph (1), where trade unions to which workers engaged in essential business belong are not less than two, a trade union and an employer shall consider the ratio of members engaged in the essential business of each trade union. <Newly Inserted on Jan. 1, 2010>

Article 43 (Restriction on Hiring by Employer)

(1) An employer shall not hire or substitute any person not related to the relevant business during a period of industrial actions in order to continue works which have been interrupted by the industrial actions.

(2) An employer shall not, during a period of industrial actions, contract or subcontract works which have been interrupted by the industrial actions.

(3) Paragraphs (1) and (2) shall not apply to cases where the employer of the essential public-service business hires or replaces any person who has nothing to do with the relevant business or contracts or subcontracts his essential public-service business. <Newly Inserted on Dec. 30, 2006>

(4) In cases of paragraph (3), the employer may hire or replace workers within the scope of not exceeding 50/100 of the workers of his business or his business place, who participate in strike, or contract or subcontract his essential public-service business. In such cases, ways, etc. to calculate the number of workers participating in the strike shall be prescribed by Presidential Decree. <Newly Inserted on Dec. 30, 2006>

Article 44 (Prohibition of Demand for Wages Payment during Period of Industrial Actions)

(1) An employer shall have no obligation to pay wages during a period of industrial actions to workers who did not provide labor because of their participation in industrial actions.

(2) A trade union shall not conduct industrial actions in order to demand and secure wages payment for a period of industrial actions.

Article 45 (Adjustment Preceding System)

(1) Upon the occurrence of a labor dispute, one party to labor relations shall notify thereof to the other party in writing.

(2) Any industrial action shall not be conducted without completing adjustment procedures (excluding the adjustment procedures after a decision is made to end the adjustment pursuant to Article 61-2) as referred to in Sections 2 through 4 of Chapter V: Provided, That this shall not apply to cases where adjustment is not finished within the period as provided in Article 54 or where an arbitration award is not made within the period under Article 63. *<Amended on Dec. 30, 2006>*

Article 46 (Requirements for Lock-out)

(1) An employer may conduct a lock-out only after the trade union commences an industrial action.

(2) In cases of lock-out under paragraph (1), an employer shall report the lock-out, in advance, to the administrative agencies and the Labor Relations Commission. *<Amended on Feb. 20, 1998>*

CHAPTER V ADJUSTMENT OF INDUSTRIAL DISPUTES

SECTIONS 1 Common Provisions

Article 47 (Efforts for Voluntary Adjustment)

The provisions of this Chapter shall not prevent the parties to labor relations from deciding matters as to working conditions and other labor-related matters through labor-management consultation or by collective bargaining or from adjusting disagreements in the labor relations between both parties or making every effort for such adjustment.

Article 48 (Obligations of Parties)

The parties to labor relations shall make efforts to stipulate in their collective agreement procedures and methods for labor-management consultation and other collective bargaining to maintain the reasonable labor relations, and shall make efforts to voluntarily resolve labor disputes, if any.

Article 49 (Obligations of State)

The State and local governments shall, when there is any disagreement on labor relations between the parties concerned, prevent industrial actions, if possible, by helping them voluntarily adjusting such disagreement and shall make every effort to promptly and fairly resolve industrial disputes, if occurred.

Article 50 (Prompt Settlement)

The parties to labor relations, the Labor Relations Commission, and any other relevant agencies shall make efforts to promptly settle disputes, when they are engaged in adjustment of labor relations pursuant to this Act.

Article 51 (Priority Given to Public-service Businesses)

Adjustment of industrial disputes related to the State, local governments, state or local government-run enterprises, national defense businesses, or the public-service businesses shall be treated with priority and promptly.

Article 52 (Private Mediation and Arbitration)

(1) The provisions of Sections 2 and 3 shall not prevent the parties to labor relations from resolving industrial disputes through any other method of mediation or arbitration not falling under said Sections (hereafter referred to as the "private mediation, etc." in this Article) in accordance with mutual agreements or collective agreements. *<Amended on Dec. 30, 2006>*

(2) When the parties to labor relations decide to resolve a labor dispute pursuant to paragraph (1), they shall notify this fact to the Labor Relations Commission.

(3) When the parties to labor relations decide to resolve a labor dispute pursuant to paragraph (1), the provisions of the following subparagraphs shall apply:

1. Articles 45 (2) and 54, if resolving a labor dispute through mediation. In this case, the period of mediation shall begin from the date when that mediation is commenced;
2. Article 63, if resolving a labor dispute through arbitration. In this case, the prohibition period of industrial actions shall begin from the date when that arbitration is commenced.

(4) When mediation or arbitration is conducted pursuant to paragraph (1), the results of the mediation or arbitration shall have the same effect as that of a collective agreement.

(5) Any person who effects the private mediation, etc. shall be a person who holds the qualifications provided for in the provisions of each item of Article 8 (2) 2 of the Labor Relations Commission Act. In this case, any person who effects the private mediation, etc. may be paid service fee, allowance and travel expense by the parties to labor relations. *<Newly Inserted on Dec. 30, 2006>*

SECTION 2 Mediation

Article 53 (Initiation of Mediation)

(1) The Labor Relations Commission shall commence the mediation without delay when any one of the parties concerned file an application for mediation of a labor dispute to said Commission, and both parties concerned shall undertake the proceedings of mediation with good faith.

(2) The Labor Relations Commission may arrange negotiations for smooth mediation and help the parties concerned independently settle their labor disputes even before an application is filed for the mediation of them pursuant to the provisions of paragraph (1). *<Newly Inserted on Dec. 30, 2006>*

Article 54 (Period of Mediation)

(1) Mediation shall be completed within ten days in case of a general business, or within fifteen days in case of a public-service business, after a request for mediation as referred to in Article 53 is made.

(2) The period of mediation as referred to in paragraph (1) may be extended for not more than ten days in case of a general business, or not more than fifteen days for a public-service business.

Article 55 (Composition of Settlement Commission)

(1) A mediation committee shall be installed in the Labor Relations Commission for the mediation of labor disputes.

(2) A mediation committee as referred to in paragraph (1) shall be composed of three members.

(3) Mediation committee members as referred to in paragraph (2) shall be nominated by the chairman of the Labor Relations Commission from among the members of the Labor Relations Commission concerned so that each member may represent employers, workers, and public interests. The member representing workers shall be nominated from among the Labor Relations Commission members recommended by the employer, and the member representing the employer shall be nominated from among the Labor Relations Commission members recommended by the trade union: Provided, That when any party fails to present a list of members 3 days prior to the meeting of the mediation committee, the chairman of the Labor Relations Commission may nominate the members in question on his own.

(4) Where the chairman of the Labor Relations Commission finds it difficult to hold a meeting of the mediation committee pursuant to the provisions of paragraph (3) on the grounds that members who represent the workers or members who represent the employers fail to attend the meeting, the chairman of the Labor Relations Commission may designate three of the members who represent the public interest of the Labor Relations Commission as the mediation members: Provided, That where the members of the Labor Relations Commission are selected according to an agreement that is reached between both parties concerned, such members shall designated as the mediation members. *<Newly Inserted on Dec. 30, 2006>*

Article 56 (Chairman of Mediation Committee)

(1) A mediation committee shall have one chairman.

(2) The mediation committee member representing public interest shall be the chairman: Provided, That the chairman of the mediation committee provided for in the provisions of Article 55 (4) shall be elected from among the members of the mediation committee. <Amended on Dec. 30, 2006>

Article 57 (Mediation by Single Mediator)

(1) The Labor Relations Commission may, at the request of both parties of the parties concerned or with their agreement, authorize a single mediator to conduct mediation proceedings in place of the mediation committee.

(2) The single mediator under paragraph (1) shall be nominated by the chairman of the Labor Relations Commission concerned from among those commission members as agreed by both of the parties concerned.

Article 58 (Confirmation, etc. of Claims)

The mediation committee or the single mediator shall demand the both parties to attend a meeting with a fixed date so as to confirm the main points of their respective claims.

Article 59 (Prohibition of Attendance)

The chairman of the mediation committee or the single mediator may prohibit those persons other than the parties concerned from attending a meeting.

Article 60 (Preparation of Mediation Proposal)

(1) The mediation committee or the single mediator may prepare a mediation proposal, present it to the parties concerned, recommend them to accept it and simultaneously publicly announce it with the reasons, and may, if necessary, request the cooperation of the press or broadcasting companies to inform the public of the proposal.

(2) When it is deemed that there is no reason for the further continuance of mediation proceedings because the parties concerned refuse to accept the mediation proposal, the mediation committee or the single mediator shall decide to terminate mediation proceedings and shall notify the fact to the parties concerned.

(3) When, after the mediation proposal as referred to in paragraph (1) has been accepted by both parties concerned, there is any disagreement between them in interpreting it or acting upon it, the parties concerned shall request the mediation committee or the relevant single mediator to give a clarification as to how to interpret or act upon it.

(4) The mediation committee or the single mediator shall, upon receiving the request referred to in paragraph (3), provide them with its clear-cut opinion within seven days after the date of receipt of that request.

(5) The parties concerned shall not conduct any industrial action in connection with the interpretation or performance of the mediation proposal concerned, until views of the mediation committee or single mediator on the interpretation or performance methods as referred to in paragraphs (3) and (4) is presented.

Article 61 (Effect of Mediations)

(1) When the mediation proposal referred to in Article 60 (1) is accepted by the parties concerned, all the members of the mediation committee or the single mediator shall prepare a mediated agreement and shall affix their signs or their seals to the mediated agreement with the parties concerned. <Amended on Dec. 30, 2006>

(2) The contents of the mediated agreement shall have the same effect as that of a collective agreement.

(3) Views on the interpretation or performance methods presented by the mediation committee or the single mediator pursuant to Article 60 (4) shall have the same effect as that of an arbitration award.

Article 61-2 (Mediation after Decision Made to End Mediation)

(1) The Labor Relations Commission may mediate in order to settle any labor dispute even after a decision is made to end the mediation pursuant to the provisions of Article 60 (2).

(2) The provisions of Articles 55 through 61 shall apply mutatis mutandis to the mediation referred to in the provisions of paragraph (1).

SECTION 3 Arbitration

Article 62 (Commencement of Arbitration)

The Labor Relations Commission shall conduct arbitration in the case falling under any of the following subparagraphs: <Amended on Dec. 30, 2006>

1. When both of the parties concerned have requested an arbitration;
2. When any one of the parties concerned has requested an arbitration in accordance with the provisions of a collective agreement;
3. Deleted. <Dec. 30, 2006>

Article 63 (Prohibition of Industrial Actions during Period of Arbitration)

Industrial actions shall not be conducted for fifteen days from the date when a labor dispute is referred to arbitration.

Article 64 (Composition of Arbitration Committee)

(1) The arbitration committee shall be established within the Labor Relations Commission for the arbitration or review of labor disputes.

(2) The arbitration committee as referred to in paragraph (1) shall be composed of three members.

(3) Those chosen by an agreement between the parties from among members representing public interests of the Labor Relations Commission shall be nominated as arbitration committee members as referred to in paragraph (2) by the chairman of the Labor Relations Commission: Provided, That where the parties concerned fail to reach an agreement, the chairman of the Labor Relations Commission shall nominate the arbitration committee members from among the members representing public interests of the Labor Relations Commission.

Article 65 (Chairman of Arbitration Committee)

(1) An arbitration committee shall have one chairman.

(2) The chairman of an arbitration committee shall be elected from among its members.

Article 66 (Confirmation, etc. of Claims)

(1) An arbitration committee shall demand one or both of the parties to attend the arbitration committee at a specified date so as to confirm the main points of their respective claims.

(2) Those who are nominated by the parties concerned from among members representing the employer or members representing workers of the Labor Relations Commission, may state their opinion at meetings of the arbitration committee with consent of that committee.

Article 67 (Prohibition of Attendance)

The chairman of the arbitration committee may prohibit those persons other than the parties concerned and relevant witness from attending its meetings.

Article 68 (Finality Award)

(1) An arbitration award shall be made in writing with the effective date specified.

(2) When there is any discrepancy in the opinions of the parties concerned in regard to the interpretation or performance methods of the arbitration award as referred to in paragraph (1), the interpretation of the arbitration committee concerned shall prevail and have the same effect as that of an arbitration award.

Article 69 (Finalization of Arbitration Award, etc.)

(1) When the parties concerned consider that an arbitration award rendered by a Regional Labor Relations Commission or a Special Labor Relations Commission is inconsistent with any Act or subordinate statute or ultra vires, they may apply for review of the arbitration award to the National Labor Relations Commission within ten days from the date of receipt of the award of arbitration.

(2) When the parties concerned consider that an arbitration award rendered by the National Labor Relations Commission or its decision on review referred to in paragraph (1) is inconsistent with any Act or subordinate statute or ultra vires, they may, notwithstanding the provisions of Article 20 of the

Administrative Litigation Act, institute an administrative suit against the National Labor Relations Commission within fifteen days from the date of receipt of the award of arbitration or the decision on review.

(3) When the parties concerned neither apply for review nor institute an administrative suit within the period under paragraphs (1) and (2), the arbitration award or the decision on review originally rendered by the Labor Relations Commission concerned shall be final and decisive.

(4) When the arbitration award or the decision on review has been final and decisive pursuant to paragraph (3), the parties concerned shall comply therewith.

Article 70 (Effect of Arbitration Award, etc.)

(1) The contents of the arbitration award provided for in the provisions of Article 68 (1) shall have the same effect as that of a collective agreement.

(2) The effect of the arbitration award or the decision on review, which are handed down or made by the Labor Relations Commission, shall not be suspended by any review application filed to or any administrative suit instituted against the National Labor Relations Commission pursuant to Article 69 (1) and (2).

SECTION 4 Special Provisions for Adjustment in Public-Service Businesses, etc.

Article 71 (Scope, etc. of Public-Service Businesses)

(1) For purposes of this Act, the term "public-service businesses" refers to businesses falling under any of the following subparagraphs, all of which are closely related to daily life of the public at large or have enormous effect on the economy of a nation: <Amended on Dec. 30, 2006>

1. Passenger transport business and airline business for regular routes;
2. Tap-water business, electricity business, gas business, petroleum refinery business and petroleum supply business;
3. Public sanitation business, medical service business and blood supply business;
4. Banking and mint business;
5. Broadcasting and telecommunications businesses.

(2) For purposes of this Act, the term "essential public-service businesses" refers to the following public-service businesses, which are referred to in paragraph (1) whose interruption or discontinuation shall cause conspicuous threats to daily life of the public at large or the national economy, and whose replacement is not easy: <Amended on Dec. 30, 2006>

1. Railway business, urban subway business and air transport business;
2. Tap-water business, electricity business, gas business, petroleum refinery business and petroleum supply business;

3. Hospital business and blood supply business;
4. Bank of Korea business;
5. Telecommunications businesses.

Article 72 (Organization of Special Arbitration Committee)

- (1) A special arbitration committee shall be established within the Labor Relations Commission for the arbitration of labor disputes in public-service businesses.
- (2) The special arbitration committee as referred to in paragraph (1) shall be comprised of three special arbitration members.
- (3) The members of the special arbitration committee as referred to in paragraph (2) shall be nominated by the chairman of the Labor Relations Commission from among four to six members representing public interests of the Labor Relations Commission, who survive after the trade union and the employer, by turns, exclude the eligible members one by one: Provided, That where the parties concerned recommend those who are not the members of the Labor Relations Commission by agreement, the chairman of the Labor Relations Commission shall nominate those recommended non-members as the members of the special arbitration committee. *<Amended on Dec. 30, 2006>*

Article 73 (Chairman of Special Arbitration Committee)

- (1) There shall be a chairman in a special arbitration committee.
- (2) The chairman of the special arbitration committee shall be elected from among the members of the special arbitration committee who are members representing public interests of the Labor Relations Commission, and when the committee is composed of those persons alone other than the members of the Labor Relations Commission, the chairman of the special arbitration committee shall be elected from among such noncommission persons: Provided, That where only one member of the special arbitration committee is a member representing public interests of the Labor Relations Commission, the person shall be the chairman.

Article 74 Deleted. *<Dec. 30, 2006>*

Article 75 Deleted. *<Dec. 30, 2006>*

SECTION 5 Emergency Adjustment

Article 76 (Decision of Emergency Adjustment)

- (1) The Minister of Employment and Labor may make a decision to conduct an emergency adjustment of any industrial action, when it is related to a public-service business or is likely to impair the national economy or endanger citizens' daily lives because of its large scale and specific nature. *<Amended on Jun. 4,*

2010>

(2) When the Minister of Employment and Labor intends to make a decision to conduct an emergency adjustment, he shall hear the opinion of the chairperson of the National Labor Relations Commission in advance. <Amended on Jun. 4, 2010>

(3) When the Minister of Employment and Labor has made a decision to conduct an emergency adjustment pursuant to paragraphs (1) and (2), he shall, without delay, publicly announce his decision with the reasons therefor specified and shall also notify the National Labor Relations Commission and relevant parties of such fact. <Amended on Jun. 4, 2010>

Article 77 (Suspension of Industrial Actions During Emergency Adjustment)

When a decision to conduct an emergency adjustment as prescribed in Article 76 (3) is publicly announced, the parties concerned shall immediately suspend any industrial action, and no industrial action shall not resume it until thirty days have passed from the announcement date of that decision.

Article 78 (Mediation by National Labor Relations Commission)

The National Labor Relations Commission shall, without delay, commence the procedure of mediation when the Commission has been notified pursuant to Article 76 (3).

Article 79 (National Labor Relations Commission's Authority to Refer Dispute to Arbitration)

(1) If deemed that mediation as referred to in Article 78 is unlikely to be proceeded with, the chairman of the National Labor Relations Commission shall, upon hearing the opinions of its members representing public interests, decide whether or not to refer the case in question to arbitration.

(2) A decision as referred to in paragraph (1) shall be made within fifteen days from the date when it has been notified pursuant to Article 76 (3).

Article 80 (Arbitration by National Labor Relations Commission)

The National Labor Relations Commission shall conduct arbitration without delay, if one or both of the parties concerned request to do so or if the Commission has decided to refer the case to arbitration pursuant to Article 79.

CHAPTER VI UNFAIR LABOR PRACTICES

Article 81 (Unfair Labor Practices)

Employers shall not conduct any act falling under any of the following subparagraphs (hereinafter referred to as an "unfair labor practice"): <Amended on Dec. 30, 2006; Jan. 1, 2010; Jun. 9, 2020>

1. Dismissal or unfavorable treatment of a worker on grounds that he has joined or intends to join a trade union, or have attempted to organize a trade union, or have performed any other lawful act for the

operation of a trade union;

2. Employment of a worker on condition that he/she should not join or should withdraw from, a trade union, or on condition that he/she should join a particular trade union: Provided, That where a trade union represents two-thirds or more of the workers working in the workplace concerned, a conclusion of a collective agreement under which a person is employed on condition that he/she should join the trade union shall be allowed as an exceptional case, and, in such cases, an employer may not do any act disadvantageous to the status of a worker on the grounds that the worker is expelled from the trade union or that the worker organizes a new trade union or joins another trade union after withdrawing from the trade union;

3. Refusal or delay of the execution of a collective agreement or other collective bargaining with the representative of a trade union or with a person authorized by the trade union, without any justifiable reason;

4. Dominating or intervening in the organization or operation of a trade union by workers, providing wages to a predecessor of the trade union, or assisting the trade union's operating expenses: Provided, That employers are free to allow workers to engage in activities pursuant to Article 24 (4) during working hours; it is not limited to contributing funds for the prevention of welfare benefits, economic violations, etc. of workers, the provision of minimum-scale trade union offices, and other similar acts of operating expenses to the extent that there is no risk of violating the independent operation or activities of a trade union; ;

5. Dismissal of workers or acts against their interests on the ground that they have participated in justifiable collective activities, or that they reported to or testified before the Labor Relations Commission the fact that the employer has violated the provisions of this Article, or that they have presented other evidences to the relevant administrative agencies.

(2) When determining the "risk of impairing the autonomous operation or activities of a trade union" in the proviso to paragraph (1) 4, the union shall take the following matters into consideration: <Newly Inserted on Jun. 9, 2020>

1. Objectives and details of providing assistance in operating expenses;
2. Number of times and period of the originally financed operation expenses;
3. Amount of the assistance operating expenses and method of assistance;
4. Ratio of the operating expenses subsidized to the total income of a trade union;
5. A method of managing subsidies for operating expenses and places to use such subsidies.

Article 82 (Application for Remedy)

(1) A worker or trade union may make an application for remedy to the Labor Relations Commission concerned on the ground that his rights has been infringed by an unfair labor practices on the part of the employer.

(2) Application for remedy as referred to in paragraph (1) shall be made within three months from the date of occurrence of the unfair labor practice concerned (where any such practice is in progress, from the date of its termination).

Article 83 (Investigation, etc.)

(1) Upon receiving the application for remedy as referred to in Article 82, the Labor Relations Commission concerned shall conduct a necessary investigation and inquiry of the persons involved without delay.

(2) When conducting the inquiry as referred to in paragraph (1), the Labor Relations Commission may, at the request of any one of the parties concerned or ex officio, have a relevant witness appear before the Labor Relations Commission and ask questions on the pertinent matters.

(3) In conducting the inquiry as referred to in paragraph (1), the Labor Relations Commission shall give the parties concerned adequate opportunities to present evidence and to cross-examine a witness.

(4) Procedures pertaining to the investigation and inquiry by the Labor Relations Commission as referred to in paragraph (1) shall be followed as separately stipulated by the National Labor Relations Commission.

Article 84 (Order of Remedy)

(1) In case of judging that the employer has committed any unfair labor practice after completing the inquiry as referred to in Article 83, the Labor Relations Commission shall issue an order of remedy to the employer, otherwise it shall make a decision to dismiss the application for remedy.

(2) Judgments, orders, or decisions as referred to in paragraph (1) shall be made in writing, and shall be delivered to the pertinent employer and the applicant, respectively.

(3) When the order as referred to in paragraph (1) is issued, the parties concerned shall comply with it.

Article 85 (Finality of Order of Remedy)

(1) When any of the parties challenges an order of remedy or dismissal decision by the Regional Labor Relations Commission or by the Special Labor Relations Commission, he may make an application for review of said order or decision to the National Labor Relations Commission within ten days from the date of receiving the notice of order or decision.

(2) Any of the parties concerned may institute an administrative suit in accordance with the Administrative Litigation Act, against a decision on review made by the National Labor Relations Commission under paragraph (1) within 15 days from the date of receiving the notice of the decision on review.

(3) Unless an application for review or an administrative suit has been made within the period specified in paragraphs (1) and (2), the order of remedy, dismissal decision, or decision on review shall be final and decisive.

(4) When a dismissal decision or decision on review as referred to in paragraph (3) is final and decisive, the parties concerned shall comply with it.

(5) When an employer has instituted an administrative suit pursuant to paragraph (2), the competent court may, by its decision at the request of the National Labor Relations Commission, order the employer to perform all or part of the order of remedy made by the National Labor Relations Commission until the judgment of the court is rendered, and may also, at the request of any of the parties concerned or ex officio, revoke such decision.

Article 86 (Effect of Order of Remedy, etc.)

The effect of an order of remedy, dismissal decision, or decision on review made by the Labor Relations Commission shall not be suspended by an application for review to the National Labor Relations Commission or by the institution of an administrative suit as prescribed in Article 85.

CHAPTER VII SUPPLEMENTARY RULES

Article 87 (Delegation of Authority)

The Minister of Employment and Labor may delegate part of his authority under this Act to a chief of a regional labor agency, as prescribed by Presidential Decree. <Amended on Jun. 4, 2010>

CHAPTER VIII PENALTY PROVISIONS

Article 88 (Penalty Provisions)

A person who violates Article 41 (2) shall be punished by imprisonment with labor for not more than five years or by a fine not exceeding 50 million won.

Article 89 (Penalty Provisions)

A person who violates Article 28 shall be punished by imprisonment with labor for not more than two years or by a fine not exceeding twenty million won: <Amended on Dec. 30, 2006; Jan. 1, 2010>

1. A person who violates Article 37 (2), 38 (1), 42 (1), or 42-2 (2);
2. A person who violates the order of remedy which has been finalized pursuant to Article 85 (3) (including cases where Article 29-4 (4) applies mutatis mutandis) or by an administrative litigation.

Article 90 (Penalty Provisions)

A person who violates Article 44 (2), 69 (4), 77 or 81 shall be punished by imprisonment with labor for not more than two years or by a fine not exceeding 20 million won.

Article 91 (Penalty Provisions)

A person who violates Article 38 (2), 41 (1), 42 (2), 43 (1), (2) and (4), the main sentence of Article 45 (2), Article 46 (1) or 63 shall be punished by imprisonment with labor for not more than one year or by a

fine not exceeding ten million won.

Article 92 (Penalty Provisions)

A person who falls under any of the following subparagraphs shall be punished by a fine not exceeding ten million won: <Amended on Mar. 28, 2001; Jan. 1, 2010>

1. A person that violates Article 24 (5);
2. A person who violates the matters falling under any of the following items from among the contents of a collective agreement concluded pursuant to Article 31 (1):
 - (a) Matters on wages, welfare costs and retirement allowances;
 - (b) Matters on works, rest-period, holidays and vacations;
 - (c) Matters on causes for disciplines and dismissals and important procedures;
 - (d) Matters on safety and health and disaster relief;
 - (e) Matters on facilities, furnishing conveniences and participation in meetings during on-duty hours;
 - (f) Matters on industrial actions;
3. A person who fails to comply with the contents of a mediation proposal as referred to in Article 61 (1) or an arbitration award as referred to in Article 68 (1).

Article 93 (Penalty Provisions)

A person who falls under any of the following subparagraphs shall be punished by a fine not exceeding five million won:

1. A person who violates Article 7 (3);
2. A person who violates an order as referred to in Article 21 (1) and (2), or 31 (3).

Article 94 (Joint Penalty Provisions)

If the representative of a corporation, or the agent, employee or any other servant of a corporation or an individual commits an offense under Articles 88 through 93 in connection with the business of the corporation or the individual, not only shall such offender be punished, but also the corporation or the individual shall be punished by a fine under each relevant Article: Provided, That the same shall not apply to the cases where the corporation or the individual has not been negligent in giving due attention and supervision concerning the relevant duties in order to prevent such offense. <Amended on Jun. 9, 2011>

Article 95 (Administrative Fines)

A person who violates an order issued by the court as referred to in Article 85 (5) shall be punished by an administrative fine not exceeding five million won (where the order is a performance order, to an administrative fine equivalent to the amount calculated by multiplying a rate of not more than 500,000 won by the number of the days during which the order has not be complied with).

Article 96 (Administrative Fines)

(1) Any person falling under any of the following subparagraphs shall be punished by an administrative fine not exceeding five million won:

1. A person who fails to prepare or keep the documents referred to in Article 14;
2. A person who fails to make a report as referred to in Article 27 or makes a false report;
3. A person who fails to file a report under Article 46 (2).

(2) A person who fails to make a report or notification as referred to in Article 13, 28 (2), or 31 (2) shall be punished by an administrative fine not exceeding three million won.

(3) An administrative fine referred to in paragraphs (1) and (2) above shall be imposed and collected by the administrative agencies pursuant to the Presidential Decree. *<Amended on Feb. 20, 1998>*

(4) Deleted. *<Oct. 16, 2018>*

(5) Deleted. *<Oct. 16, 2018>*

(10) Deleted. *<Oct. 16, 2018>*

ADDENDA *<Act No. 5310, Mar. 13, 1997>*

Article 1 (Enforcement Date)

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

Article 2 (Deadline for Application)

Article 71 (2) 1 regarding inner-city bus business and subparagraph 4 of the same Article regarding the banking business (excluding the Bank of Korea as prescribed by the Bank of Korea Act) shall be effective until December 31, 2000.

Article 3 (Transitional Measures concerning Trade Union)

A trade union which has been issued a certificate of establishment pursuant to the previous provisions at the time this Act enters into force, shall be regarded to have been established pursuant to the Act.

Article 4 (Transitional Measures concerning Dismissed Workers)

A person who is disputing the validity of dismissal at the time this Act enters into force shall not be construed as a person who is not a worker, notwithstanding the proviso to subparagraph 4 (d) of Article 2.

Article 5 Deleted. <by Jan. 1, 2010>

Article 6 (Exceptions to Full-Time Officers of Trade Union)

(2) A trade union and employer shall make an effort to gradually reduce the portion of the wages for full-time officers based on the consultation between labor and management, but in such cases the reduced portion shall be used for the financial self-support of the trade union. *<Amended on Mar. 28, 2001>*

Article 7 (Transitional Measures concerning Validity of Collective Agreement)

A collective agreement concluded pursuant to the previous provisions at the time this Act enters into force shall be regarded as concluded pursuant to this Act.

Article 8 (Transitional Measure concerning Adjustment of Labor Disputes)

(1) An application for private mediation or arbitration filed pursuant to the previous provisions at the time this Act enters into force shall be regarded to have been filed for private mediation or arbitration under this Act.

(2) An application for mediation or arbitration filed to the Labor Relations Commission pursuant to the previous provisions at the time this Act enters into force shall be regarded to have been filed for mediation or arbitration under the Act. In such cases, the period of mediation shall be calculated in accordance with the previous provisions, notwithstanding Article 54.

(3) Industrial disputes which is resolved by mediation pursuant to the previous provisions at the time this Act enters into force shall be regarded to have been through mediation procedures in application of Article 45.

Article 9 (Transitional Measure concerning Affairs of Trade Union, etc.)

(1) Reports, applications or requests which have been made to the Minister of Labor, the competent administrative agency, or the Labor Relations Commission by workers, trade union, or the employer pursuant to the previous provisions at the time this Act enters into force shall be regarded to have been made pursuant to this Act.

(2) Requests made to the Labor Relations Commission by the Minister of Labor or the competent administrative agency pursuant to the previous provisions at the time this Act enters into force shall be regarded to have been made pursuant to this Act.

(3) Orders, nominations, or decisions made by the Minister of Labor or the competent administrative agency pursuant to the previous provisions at the time this Act enters into force shall be regarded to have been made pursuant to the Act.

Article 10 (Transitional Measures concerning Penalty Provisions)

The conducts committed before this Act enters into force shall be governed by the previous penalty provisions.

Article 11 (Relationships with other Acts)

Reference in other Acts and subordinate statutes to the previous Trade Union and Labor Relations Adjustment Act or any of its provisions shall be construed as reference to this Act or the corresponding provisions of this Act, if any.

ADDENDA <Act No. 5511, Feb. 20, 1998>

Article 1 (Enforcement Date)

This Act shall enter into force on May 1, 1998.

Article 2 (Transitional Measure concerning Unilateral Termination)

In cases of the unilateral termination of a collective agreement pursuant to the previous provision of Article 32 (3) at the time when this Act enters into force, the previous provision shall apply.

Article 3 (Transitional Measures concerning Change in Authority)

(1) In cases of administrative acts by the Minister of Labor such as delivering of certificate of complete report, ordering, or other conducts pursuant to the previous provision at the time when this Act enters into force (limited to matters concerning trade unions except trade unions in the form of an associated organization and a unit trade union extending over two or more of Special Metropolitan City, Metropolitan Cities, or Dos), the administrative acts are deemed acts by the Special Metropolitan City Mayor, Metropolitan City Mayor, or Do governor.

(2) In cases of acts done to the Minister of Labor such as reporting, applying, or other acts pursuant to the previous provision at the time when this Act enters into force (limited to matters concerning trade unions, except trade unions in the form of an associated organization and a unit trade union extending over 2 or more of Special Metropolitan City, Metropolitan Cities, and Dos), the acts are deemed those by the Special Metropolitan City Mayor, Metropolitan City Mayor, and Do governor.

ADDENDA <Act No. 6456, Mar. 28, 2001>

(1) (Enforcement Date) This Act shall enter into force on the date of its promulgation: Provided, That the amendments to Article 13 shall enter into force six months after the date of its promulgation.

(2) Omitted.

ADDENDA <Act No. 7845, Jan. 2, 2006>

Article 1 (Enforcement Date)

This Act shall enter into force on the date of its promulgation. (Proviso Omitted.)

Articles 2 through 16 Omitted.

ADDENDA <Act No. 8158, Dec. 30, 2006>

Article 1 (Enforcement Date)

This Act shall enter into force on July 1, 2007: Provided, That the amended provisions of Articles 42-2 through 42-6, 43 (3) and (4), subparagraph 3 of Article 62, Articles 71, 74, 75, and subparagraph 1 of Article 89 (limited to the portion concerning restrictions on industrial actions on the essential business) shall enter into force on January 1, 2008, the amended provisions of subparagraph 2 of Article 81 shall enter into force on July 1, 2011, and the amended provisions of Articles 5 (1) and (3) and 6 (1) of the Addenda of the Trade Union and Labor Relations Adjustment Act (Act No. 5310) (including the

contents amended by the amended Act of the Trade Union and Labor Relations Adjustment Act (Act No. 6456)) shall enter into force on January 1, 2007, respectively. <Amended on Jan. 1, 2010>

Article 2 (Act Performed to Prepare for Introduction of Essential Business)

The parties to labor relations or the Labor Relations Commission may perform the following matters necessary to introduce the essential business before the enforcement of this Act:

1. Conclusion of the essential business agreement;
2. Decision under Article 42-4 (2).

Article 3 (Transitional Measures concerning Change in Authority)

(1) The delivery of report certificates, orders and other acts (limited to the matters concerning the trade unions spanning not less than two Sis/Guns/Gus with the exception of any unit trade union) performed by the Special Metropolitan City Mayor, Metropolitan City Mayors, and Do governors pursuant to the previous provisions at the time of enforcement of this Act shall be deemed the acts performed by the Special Self-Governing Province governor and the head of Si/Gun/Gu pursuant to this Act.

(2) Any report, any application and any act (limited to the matters concerning the trade union spanning not less than two Sis/Guns/Gus with the exception of the unit trade union) that are each made, filed and performed to the Special Metropolitan City Mayor, Metropolitan City Mayors and Do governors pursuant to the previous provisions at the time of enforcement of this Act shall be deemed the acts that are each performed to the Special Self-Governing Province governor and the head of a Si/Gun/Gu pursuant to this Act.

Article 4 (Transitional Measures concerning Mediation Case of Essential Public-Service Business)

The mediation case for the essential public-service business for which an application is filed to the Labor Relations Commission prior to the enforcement of the amended provisions of subparagraph 3 of Article 62, Articles 71, 74, and 75 pursuant to the proviso to Article 1 of the Addenda shall be governed by the previous provisions.

Article 5 (Transitional Measures concerning Penalty Provisions)

The application of the penalty provisions to any act performed prior to the enforcement of this Act shall be governed by the previous provisions: Provided, That the same shall not apply to the application of the penalty provisions to any act performed in violation of the order given pursuant to Article 42 (3).

ADDENDUM <Act No. 9041, Mar. 28, 2008>

This Act shall enter into force on the date of promulgation.

ADDENDA <Act No. 9930, Jan. 1, 2010>

Article 1 (Enforcement Date)

This Act shall enter into force on January 1, 2010: Provided, That the amended provisions of Article 24 (3), (4) and (5), subparagraph 4 of Article 81 and Article 92 shall enter into force on July 1, 2010 and the amended provisions of Articles 29 (2), (3) and (4), 29-2 through 29-5, the latter part of Article 41 (1), Article 42-6 and subparagraph 2 of Article 89 shall enter into force on July 1, 2011.

Article 2 (Transitional Measures concerning Determination of Initial Maximum Time-Off Limit to be Enforced)

(1) The Time-Off System Deliberation Committee shall deliberate and decide the initial maximum time-off limit to be enforced after this Act enters into force by April 30, 2010.

(2) When the Time-Off System Deliberation Committee fails to deliberate and decide by the date pursuant to paragraph (1), notwithstanding Article 24-2 (5), the members representing the public interest may deliberate and decide the limit, by themselves, after hearing an opinion of the National Assembly.

Article 3 (Transitional Measures concerning Collective Agreement)

A collective agreement which is valid at the time this Act enters into force shall be deemed to have been made under this Act: Provided, That where the whole or part of the details thereof violate Article 24 due to the enforcement of this Act, notwithstanding the enforcement of this Act, the whole or part of the details thereof shall be deemed to be effective through the period of validity at the time the relevant collective agreement is made.

Article 4 (Transitional Measures concerning Trade Union under Bargaining)

A trade union which is under collective bargaining at the time this Act enters into force shall be deemed a representative bargaining trade union under this Act.

Article 5 (Transitional Measures concerning Agreement for Essential Business or Determination of Maintaining or Managing Levels of Essential Business of Labor Relations Commission)

An agreement for essential business which is valid at the time this Act enters into force or the determination of maintaining or managing levels of essential business of the Labor Relations Commission shall be deemed to have been made under this Act.

Article 6 (Transitional Measures concerning Cases where not less than Two Trade Unions Exist in One Business or One Place of Work)

Where not less than two trade unions established or joined by workers exist in one business or one place of work regardless of type of organization as of December 31, 2009, the amended provisions of Articles 29 (2), (3) and (4), 29-2 through 29-5, the latter part of Article 41 (1) and subparagraph 2 of Article 89 shall apply to the relevant business or place of work from July 1, 2012.

Article 7 (Transitional Measures concerning Establishment of Trade Unions)

(1) Where a trade union is organized in one business or one place of business, notwithstanding Article 5, any new trade union, the objects of the organization of which are same as the organized trade union shall not be established through June 30, 2011.

(2) Where a trade union intended to be established violates paragraph (1), an administrative agency shall return a report for the establishment thereof.

Article 8 (Special Cases of Applicability to Full-Time Officers of Trade Union)

Article 24 (2) and subparagraph 4 of Article 81 (limited to the provisions concerning support of remuneration for full-time officers of a trade union) shall not apply by June 30, 2010.

ADDENDA <Act No. 10339, Jun. 4, 2010>

Article 1 (Enforcement Date)

This Act shall enter into one year after the date of its promulgation. (Proviso Omitted.)

Articles 2 through 5 Omitted.

ADDENDUM <Act No. 12630, Jun. 20, 2014>

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

ADDENDUM <Act No. 15849, Oct. 16, 2018>

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

ADDENDUM <Act No. 17432, Jun. 9, 2020>

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

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