

This translation of Korea's labor laws is intended mainly as a convenience to the non-Korean-reading public. If any questions arise related to the accuracy of the information contained in the translation, please refer to the official Korean version of the laws. Any discrepancies or differences created in the translation are not binding and have no legal effect for compliance or enforcement purposes.

** This Act reflects only the amendments made until June 30, 2013*

SOCIAL ENTERPRISE PROMOTION ACT

Act No. 8217, Jan. 3, 2007

Amended by Act No. 8361, Apr. 11, 2007
Act No. 9685, May 21, 2009
Act No. 10220, Mar. 31, 2010
Act No. 10339, Jun. 4, 2010
Act No. 10360, Jun. 8, 2010
Act No. 11275, Feb. 1, 2012

Article 1 (Purpose)

The purpose of this Act is to contribute to social integration and the improvement of citizens' quality of life by expanding social services, which are not sufficiently supplied in our society, and creating new jobs through support for the establishment and operation of social enterprises and the promotion of social enterprises.

<This Article Wholly Amended by Act No. 10360, Jun. 8, 2010>

Article 2 (Definitions)

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

1. The term "social enterprise" refers to an enterprise certified in accordance with Article 7 as one that pursues a social objective, such as raising local residents' quality of life, etc., by providing vulnerable groups with social services or jobs while conducting business activities, such as the production and sale of goods and services, etc;
2. The term "vulnerable group" refers to a class of people who have difficulties in purchasing the social services they need at the market price, or are particularly hard to be employed under ordinary labor market conditions, and for whom detailed criteria shall be prescribed by the Presidential Decree;
3. The term "social service" refers to service in the areas of education, health, social welfare, the environment and culture and other equivalent services in the areas prescribed by the Presidential Decree;
4. The term "associated enterprise" refers to an enterprise that provides various kinds of assistance, such as financial support and business advice, etc., to a specific social enterprise, and is independent of the social enterprise in respect to personnel, physical and legal matters; and

5. The term “associated local government” refers to a local government that provides administrative and financial support to a specific social enterprise in order to expand social services and create jobs for local residents.

<This Article Wholly Amended by Act No. 10360, Jun. 8, 2010>

Article 3 (Roles and Responsibilities by Each Operating Entity)

(1) In order to expand social services and create jobs, the State shall establish support measures for social enterprises and implement necessary policies comprehensively.

(2) A local government shall establish and implement support policies for social enterprises, which are suitable for the characteristics of the region.

(3) A social enterprise shall make efforts to reinvest the profits generated through its business activities into the maintenance and expansion of the social enterprise.

(4) No associated enterprise shall gain the profits generated by a social enterprise.

Article 4 Deleted. *<Act No. 10360, Jun. 8, 2010>*

Article 5 (Establishment of Basic Plan for Promotion of Social Enterprises)

(1) The Minister of Employment and Labor shall establish a basic plan for promotion of social enterprises (hereinafter referred to as “the basic plan”) every five years after deliberation by the Employment Policy Council (hereinafter referred to as “the Employment Policy Council”) under Article 10 of the Framework Act on Employment Policy, in order to promote social enterprises and support them systematically.

(2) The basic plan shall include the following matters:

1. The direction of support for social enterprises;
2. Matters concerning the creation of conditions conducive to the promotion of social enterprises;
3. Matters concerning support for the operation of social enterprises; and
4. Other matters prescribed by the Presidential Decree for the promotion of and support for social enterprises.

(3) The Minister of Employment and Labor shall establish and implement an annual implementation plan every year according to the basic plan.

(4) Matters necessary for the establishment and implementation of the basic plan and annual implementation plan shall be prescribed by the Presidential Decree.

<This Article Wholly Amended by Act No. 10360, Jun. 8, 2010>

Article 5-2 (Establishment of Social Enterprise Support Plan by Each City and Province)

(1) The head of a special metropolitan city, a metropolitan city, a province and a special self-governing province (hereinafter referred to as "the head of a city and province") shall establish and implement a social enterprise support plan (hereinafter referred to as "support plan") for his/her city and province under the conditions prescribed by the Presidential Decree, in order to promote social enterprise in the region under his/her jurisdiction and support them systematically.

(2) Having established a support plan under paragraph (1), the head of a city and province shall submit it to the Minister of Employment and Labor under the conditions prescribed by the Presidential Decree.

(3) The Minister of Employment and Labor may provide additional support to cities and provinces which have established an excellent support plan.

<This Article Newly Inserted by Act No. 10360, Jun. 8, 2010>

Article 6 (Factual Survey)

The Minister of Employment and Labor shall conduct a factual survey on the activities of social enterprises every five years and notify the Employment Policy Council of the results thereof.

<This Article Wholly Amended by Act No. 10360, Jun. 8, 2010>

Article 7 (Certification of Social Enterprises)

(1) A person who intends to operate a social enterprise shall satisfy the requirements for certification under Article 8 and obtain certification from the Minister of Employment and Labor.

(2) If the Minister of Employment and Labor intends to grant certification under paragraph (1), he/she shall submit the case to the Employment Policy Council for deliberation.

<This Article Wholly Amended by Act No. 10360, Jun. 8, 2010>

Article 8 (Requirements and Procedures for Certification of Social Enterprises)

(1) A person who intends to be certified as a social enterprise shall satisfy the following requirements: *<Amended by Act No. 11275, Feb. 1, 2012>*

1. It should take the form of an organization prescribed by the Presidential Decree, such as a corporation or an

association under the Civil Act, a company or a limited partnership under the Commercial Act, a corporation established under any Special Act or a non-profit private organization, etc.;

2. It should employ paid workers and conduct business activities, such as the production and sale of goods and services, etc;
3. Its main purpose should be to realize a social objective, such as raising local residents' quality of life, etc., by providing vulnerable groups with social services or jobs or contributing to local communities. In this case, detailed criteria for judgment shall be prescribed by the Presidential Decree;
4. It should have a decision-making structure in which interested persons, such as service beneficiaries and workers, etc., can participate;
5. Revenue from its business activities should meet or exceed the standards prescribed by the Presidential Decree;
6. It should have articles of incorporation, rules, etc. in accordance with Article 9;
7. Where it has distributable profits for each fiscal year, it should spend at least 2/3 of the profits for social objectives (applicable only to a company or a limited partnership under the Commercial Act); and
8. It should satisfy other matters prescribed by the Presidential Decree regarding operational guidelines.

(2) If the Minister of Employment and Labor has granted certification to a social enterprise, he/she shall publish this in an official gazette.

(3) Necessary matters concerning the methods of and procedures for certification of social enterprises shall be prescribed by the Ordinance of the Ministry of Employment and Labor and the criteria for certification of social enterprises shall be announced by the Minister of Employment and Labor.

<This Article Wholly Amended by Act No. 10360, Jun. 8, 2010>

Article 9 (Articles of Incorporation, etc.)

(1) A person who intends to be certified as a social enterprise shall have articles of incorporation, rules, etc. (hereinafter referred to as "articles of incorporation, etc.") containing the following matters:
<Amended by Act No. 11275, Feb 1, 2012>

1. Purpose;
2. Contents of business;

3. Name of business;
 4. Location of the main office;
 5. Type of organization and governance, method of operation and method of decision-making on important matters;
 6. Matters concerning profit sharing and re-investment;
 7. Matters concerning capital contributions and loans;
 8. Matters concerning the composition, appointment and dismissal of employees;
 9. Matters concerning dissolution and liquidation (where it is a company or a limited partnership under the Commercial Act and has remaining distributable property, including provisions requiring it to donate at least 2/3 of the remaining property to another social enterprise or a public-interest fund etc.); and
 10. Other matters prescribed by the Presidential Decree.
- (2) Any change to the articles of incorporation referred to in paragraph (1) shall be reported to the Minister of Employment and Labor within 14 days from the date of that change.

<This Article Wholly Amended by Act No. 10360, Jun. 8, 2010>

Article 10 (Support, etc., for Business Management)

(1) The Minister of Employment and Labor may provide support, such as provision of professional advice and information, etc., in the areas of business management, technology, taxation, labor affairs, accounting, etc. as may be needed for the establishment and operation of a social enterprise.

(2) The Minister of Employment and Labor may entrust the support business referred to in paragraph (1) to a government-funded institution or a private organization prescribed by the Presidential Decree.

<This Article Wholly Amended by Act No. 10360, Jun. 8, 2010>

Article 10-2 (Support, etc., for Education and Training)

The Minister of Employment and Labor may conduct education and training to cultivate the professional workforces needed for the establishment and operation of social enterprises and improve the skills of social enterprise workers.

<This Article Newly Inserted by Act No. 10360, Jun. 8, 2010>

Article 11 (Support for Facility Expenses, etc.)

The State or a local government may provide subsidies or loans for land purchase expenses, facility expenses, etc., or lend or make available national and public property and goods where necessary for the establishment or operation of social

enterprises. *<Amended by Act No. 11275, Feb. 1, 2012>*

Article 12 (Preferential Purchase by Public Institutions)

(1) The head of a public institution under subparagraph 2 of Article 2 of the Act on Facilitation of Purchase of Small and Medium Enterprise-Manufactured Products and Support for Development of Their Markets (hereinafter referred to as "the head of a public institution") shall promote preferential purchase of goods or services produced by social enterprises (hereinafter referred to as "social enterprise products"). *<Amended by Act No. 11275, Feb. 1, 2012>*

(2) When the head of a public institution shall notify the Minister of Employment and Labor of a purchase plan to increase the purchase of social enterprise products and purchase records of the previous year. *<Amended by Act No. 11275, Feb. 1, 2012>*

(3) The Minister of Employment and Labor shall integrate the purchase plan and purchase records under paragraph (2) and publicly announce them. *<Newly Inserted by Act No. 11275, Feb. 1, 2012>*

(4) Matters necessary for the notification and announcement of a purchase plan and purchase records under paragraphs (2) and (3) shall be prescribed by the Presidential Decree. *<Newly Inserted by Act No. 11275, Feb. 1, 2012>*

<This Article Wholly Amended by Act No. 10360, Jun. 8, 2010>

Article 13 (Reduction or Exemption of Taxes and Support for Social Insurance Premium)

(1) The State and a local government may grant reduction of or exemption from national or local taxes under the conditions prescribed by the Corporate Tax Act, the Restriction of Special Taxation Act, and the Restriction of Tax Reduction and Exemption Act. *<Amended by Act No. 10220, Mar. 31, 2010>*

(2) The State may support part of the employment insurance premiums and industrial accident compensation insurance premiums under the Act on the Collection, etc. of Employment Insurance and Industrial Accident Compensation Insurance Premium, the insurance premiums under the National Health Insurance Act, and the pension contributions under the National Pension Act.

Article 14 (Financial Assistance for Social Enterprises Providing Social Services)

(1) The Minister of Employment and Labor may provide social enterprises providing social services with financial support,

such as for labor costs, operating expenses, consultation expenses, etc. within the limit of the budget through open invitation and screening.

(2) When the Minister of Employment and Labor provides support to social enterprises receiving support from an associated enterprise or local government, pursuant to paragraph (1), he/she may provide additional support for business expenses, taking into account the current status of the financial support provided by the associated enterprise or local government.

(3) Necessary matters concerning requirements for the selection of enterprises eligible for financial support, screening procedures, etc., shall be prescribed by the Ordinance of the Ministry of Employment and Labor.

<This Article Wholly Amended by Act No. 10360, Jun. 8, 2010>

Article 15 (Limitations on Responsibility of Associated Enterprises)

No associated enterprise shall be responsible for the employment of workers of a relevant social enterprise.

Article 16 (Reduction or Exemption of Taxes for Associated Enterprises)

The State or a local government may grant reduction of or exemption from national or local taxes to associated enterprises under the conditions prescribed by the Corporate Tax Act, the Restriction of Special Taxation Act, the Restriction of Tax Reduction and Exemption Act and the Local Tax Act.

<This Article Wholly Amended by Act No. 10360, Jun. 8, 2010>

Article 16-2 (Day of Social Enterprise)

(1) The State shall set July 1st of every year as the day of social enterprise, and an one-week period from the day of social enterprise as the week of social enterprise in order to promote understanding of social enterprises and encourage the activities of social entrepreneurs.

(2) The State and local governments shall make efforts to conduct activities, such as an event, etc. fit for the intent of the day of social enterprise.

<This Article Newly Inserted by Act No. 10360, Jun. 8, 2010>

Article 17 (Report, etc.)

(1) A social enterprise shall prepare a business report containing matters prescribed by the Ordinance of the Ministry of Employment and Labor, such as business results and the participation of interested persons in decision making, and submit it to the Minister of Employment and Labor by the end of April and October of every fiscal year. In this case, the

Minister of Employment and Labor may make the business report public in accordance with the method prescribed by the Ordinance of the Ministry of Employment and Labor. *<Amended by Act No. 11275, Feb. 1, 2012>*

(2) The Minister of Employment and Labor shall provide guidance and inspection for social enterprises, and if it is deemed necessary, may order a social enterprise and its members to make a report or submit relevant documents as may be necessary for such guidance and inspection.

(3) The Minister of Employment and Labor may evaluate the operation of a social enterprise on the basis of the business report submitted under paragraph (1).

(4) If it is found necessary as a result of a review of the matters reported and the guidance, inspection and evaluation conducted under paragraphs (1) through (3), the Minister of Employment and Labor may order a correction.

<This Article Wholly Amended by Act No. 10360, Jun. 8, 2010>

Article 18 (Cancellation of Certification)

(1) If a social enterprise falls under any of the following subparagraphs, the Minister of Employment and Labor may cancel the certification: Provided that if it falls under subparagraph 1, the certification shall be cancelled: *<Amended by Act No. 11275, Feb. 1, 2012>*

1. Where it has obtained the certification in a false or other fraudulent ways;
2. Where it fails to satisfy the requirements for certification under Article 8;
3. Where it has received or intends to receive financial support under this Act or other Acts and subordinate statutes in a false or other fraudulent ways; and
4. Where it returns its certification without any special reason that makes it difficult to maintain the social enterprise, such as business deterioration.

(2) The Minister of Employment and Labor shall not grant certification to a social enterprise whose certification is cancelled pursuant to paragraph (1) or any enterprise deemed to be substantially identical to that social enterprise, if three years have not passed since the date of cancellation. In such cases, standards for substantial identity shall be prescribed by the Presidential Decree. *<Newly Inserted by Act No. 11275, Feb. 1, 2012>*

(3) If the Minister of Employment and Labor intends to cancel the certification under paragraph (1), he/she shall hold a

hearing. *<Amended by Act No. 11275, Feb. 1, 2012>*

(4) Specific criteria and detailed procedures for cancellation of certification shall be prescribed by the Ordinance of the Ministry of Employment and Labor. *<Amended by Act No. 11275, Feb. 1, 2012>*

<This Article Wholly Amended by Act No. 10360, Jun. 8, 2010>

Article 19 (Prohibition of Use of Similar Names)

No person other than social enterprises shall use the name of social enterprise or any other similar names.

Article 20 (Establishment, etc., of Korea Social Enterprise Promotion Agency)

(1) The Minister of Employment and Labor shall set up the Korea Social Enterprise Promotion Agency (hereinafter referred to as "the Promotion Agency") in order to efficiently perform the work of fostering and promoting social enterprises.

(2) The Promotion Agency shall be a corporation.

(3) The Promotion Agency shall come into existence by having its establishment registered in the area in which its main office is located.

(4) The Promotion Agency shall conduct the following activities:

1. Training social entrepreneurs, discovering models of social enterprises and supporting commercialization;
2. Monitoring and evaluating social enterprises;
3. Helping to build and operate networks of social enterprises at industry, regional or nationwide level;
4. Setting up and operating the homepages of social enterprises and an integrated information system;
5. Providing consulting services to improve business management, technology, taxation, labor affairs, accounting, etc.;
6. International exchanges and cooperation relating to social enterprises;
7. Other activities relating to social enterprises, entrusted under this Act or other Acts and subordinate statutes; and
8. Activities incidental to the activities referred to in subparagraphs 1 through 7.

(5) The government may contribute to the expenses required for the establishment and operation of the Promotion Agency within the limits of its budget.

(6) The provisions on a foundation in the Civil Act shall apply *mutatis mutandis* with regard to the Promotion Agency, except as provided for in this Act.

(7) The Promotion Agency may request the State, local governments or public institutions, such as educational and research institutes, to provide materials necessary for the performance of its duties.

(8) The officers and employees of the Promotion Agency shall be regarded as public officials in applying penal provisions under Articles 129 through 132 of the Criminal Act.

(9) No person who is or was an officer or an employee of the Promotion Agency shall divulge any confidential information learnt in the course of performing his/her duties or use it for other purposes.

(10) The Minister of Employment and Labor shall provide guidance and inspection for the Promotion Agency, have the Promotion Agency report necessary matters concerning its activities, accounting and property, and have his/her public officials enter the Promotion Agency and examine books, documents and other articles.

(11) The articles of incorporation, board of directors, officers, accounting and cooperation with relevant organization of the Promotion Agency, and other necessary matters concerning the establishment and operation of the Promotion Agency shall be prescribed by the Presidential Decree.

(12) No person other than the Promotion Agency shall use the name of Korea Social Enterprise Promotion Agency or any other similar names.

<This Article Newly Inserted by Act No. 10360, Jun. 8, 2010>

Article 21 (Delegation and Entrustment of Authority)

(1) Part of the authority given to the Minister of Employment and Labor under this Act may be delegated to the head of a local government or the head of a local employment and labor office under the conditions prescribed by the Presidential Decree. *<Amended by Act No. 11275, Feb. 1, 2012>*

(2) The Minister of Employment and Labor may entrust the following work to the Promotion Agency:

1. Work of conducting a survey on the activities of social enterprises under Article 6;
2. Work concerning the certification of social enterprises under Article 7 (1);
3. Work of receiving a report on changes to articles of incorporation under Article 9 (2); and
4. Work of conducting education and training under Article 10-2

<This Article Wholly Amended by Act No. 10360, Jun. 8, 2010>

Article 22 (Penal Provisions)

A person who divulges any confidential information learnt in the course of performing his/her duties or use it for other purposes in violation of Article 20 (9) shall be punished by imprisonment of up to three years or a fine not exceeding ten million won.

<This Article Newly Inserted by Act No. 10360, Jun. 8, 2010>

Article 23 (Fine for Negligence)

(1) A person who falls under any of the following subparagraphs shall be punished by a fine for negligence not exceeding ten million won:

1. A person who fails to comply with a correction order under Article 17 (4); and
2. A person who uses the name of social enterprise or any other similar names in violation of Article 19.

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

1. A person who fails to comply with the obligation to report changes to articles of incorporation, etc. under Article 9 (2);
2. A person who is negligent in fulfilling the obligation to prepare and submit a business report under Article 17 (1) or prepares it in false or other fraudulent ways;
3. A person who fails to make a report or makes a false report or who fails to submit documents or submits false documents under Article 17 (2);
4. A person who uses the name of Korea Social Enterprise Promotion Agency or any other similar names in violation of Article 20 (12)

(3) The fine for negligence under paragraph (1) and (2) shall be imposed and collected by the Minister of Employment and Labor under the conditions prescribed by the Presidential Decree.

<This Article Wholly Amended by Act No. 10360, Jun. 8, 2010>

Addenda *<Act No. 9685, May. 21, 2009; Revision of the Act on Facilitation of Purchase of Small and Medium Enterprise-Manufactured Products and Support for Development of Their Markets>*

Article 1 (Enforcement Date)

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

Articles 2 through 6 Omitted.

Articles 7 (Revision of Other Acts)

(1) through (10) Omitted.

(11) Parts of the Social Enterprise Promotion Act shall be revised as follows:

“Promotion of Small and Medium Enterprises and Encouragement of Purchase of Their Products Act” in Article 12 (1) shall be changed to “Small and Medium Enterprises Promotion Act”, and “Article 12 (1) of the Small and Medium Enterprises and Encouragement of Purchase of Their Products Act.” in paragraph (2) of the same Article to “5 (1) of the Act on Facilitation of Purchase of Small and Medium Enterprise-Manufactured Products and Support for Development of Their Markets”.

Article 8 Omitted

Addenda <Act No. 10220, Mar. 31, 2010; Revision of the Restriction of Tax Reduction and Exemption Act>

Article 1 (Enforcement Date)

This Act shall enter into force on January 1st 2011.

Articles 2 and 3 Omitted.

Articles 4 (Revision of Other Acts)

(1) through (13) Omitted.

(14) Parts of the Social Enterprise Promotion Act shall be revised as follows:

“Local Tax Act” in Article 13 (1) and Article 16 shall be changed to “Restriction of Tax Reduction and Exemption Act”.

(15) Omitted.

Article 5 Omitted.

Addenda <Act No. 10339, Jun. 4, 2010; Revision of the Government Organization Act>

Article 1 (Enforcement Date)

This Act shall enter into force one month after its promulgation. <Proviso omitted>

Articles 2 and 3 Omitted.

Articles 4 (Revision of Other Acts)

(1) through (45) Omitted.

(46) Parts of the Social Enterprises Promotion Act shall be revised as follows:

“Minister of Labor” in Article 4 (1) and (2), Article 5 (1) and (3), Article 6, Article 7 (1) and (2), Article 8 (2), Article 9 (2), Article 10 (1) and (2), Article 14 (1) and (2), Article 17 (1) through (3), Article 18 (1) and (2), Article 20 and Article 21 (3) through (5) shall be changed to “Minister of Employment and Labor”.

“Vice Minister of Labor” in Article 4 (2) shall be changed to “Vice Minister of Employment and Labor”.

“Ordinance of the Ministry of Labor” in Article 4 (3), Article 8 (3), Article 17 (1) and Article 18 (3) shall be changed to “Ordinance of the Ministry of Employment and Labor”.

(47) through (82) Omitted.

Article 5 Omitted.

Addenda <Act No. 10360, Jun. 8, 2010>

Article 1 (Enforcement Date)

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

Articles 2 (Preparation for Establishment of Korea Social Enterprise Promotion Agency)

(1) The Minister of Employment and Labor may appoint not more than five founding members to deal with work concerning the establishment of the Promotion Agency.

(2) The founding members shall prepare the articles of incorporation of the Promotion Agency and obtain authorization thereof from the Minister of Employment and Labor and then have the establishment registered.

(3) The founding members shall transfer the work to the head of the Promotion Agency immediately after having the establishment of the Promotion Agency registered, and be considered to be relieved from their duties when the transfer is completed.

Addenda <Act No. 11275, Feb. 1, 2012>

Article 1 (Enforcement Date)

This Act shall enter into force on the date of its promulgation:
Provided that among the amended provisions of Article 8 (1) and

Article 9 (1), those concerning a limited partnership shall enter into force on April 15, 2012, and that the amended provisions of Articles 12 and 18 shall enter into force six months after its promulgation.

Article 2 (Applicability concerning Cancellation of Certification)

(1) The amended provisions of Article 18 (1) 3 shall apply to cases where a social enterprise has received or intends to receive financial support under this Act or other Acts and subordinate statutes in a false or other fraudulent ways after the same provisions enter into force.

(2) The amended provisions of Article 18 (1) 4 shall apply to cases where a social enterprise returns its certification without any special reason that makes it difficult to maintain the social enterprise, such as business deterioration, after the same provisions enter into force.

(3) The amended provisions of Article 18 (2) shall apply to enterprises whose certification is cancelled after the same provisions enter into force or any enterprise deemed to be substantially identical to those enterprises.