

MILITARY SERVICE ACT

fishermen as referred to in Article 4 of the Act on the Special Measures for Development of Agricultural and Fishing Villages (hereinafter referred to as "successors of farming and successors to fishermen") are situated; hereinafter the same shall apply in this Section] may transfer those to be enlisted in active service or those in the recruit service to be called as public interest service personnel as referred to in Article 26 (1) 1 (hereinafter referred to as "those in the recruit service to be called as public interest service personnel"), who are able to complete the compulsory service as referred to in Article 39 until they are thirty five years old, to serve as technical research or skilled industrial personnel. In this case, those persons who are to be enlisted in the active service shall be transferred to the recruit service. *(Amended by Act No. 5758, Feb. 5, 1999; Act No. 6058, Dec. 28, 1999; Act No. 6997, Dec. 11, 2003)*

(6) Matters necessary for the selection, succession, cancellation of selection of designated enterprises and transfer to the technical research or skilled industrial personnel as referred to in paragraphs (1) through (5) shall be determined by the Presidential Decree.

[This Article Wholly Amended by Act No. 5271, Jan. 13, 1997]

Article 37 (Persons to be Transferred to Serve as Technical Research Personnel)

Persons who fall under any of the following paragraphs may be transferred to serve as technical research personnel as referred to in Article 36 on their application: *(Amended by Act No. 5271, Jan. 13, 1997; Act No. 6972, Sep. 3, 2003)*

1. Persons who have won a master's degree or higher (including any person who has finished the integrated courses for the master's degree and doctorate), and are engaged in the research institutions selected as the designated enterprises (including those in the recruit service to be called as public interest service personnel who have acquired the bachelor's degree in the natural science and are engaged in any research institutions of those selected as designated enterprises, which are attached to small and medium enterprises); and
2. Persons who are studying in the doctoral course of natural science at graduate schools that are selected as designated enterprises (including any person who has finished the course for the years or more required for the master's degree provided for in Article 31 (2) 1 of the Higher Education Act at any graduate school that offers the

제16편 병무 병역법

integrated courses for the master's degree and doctorate in natural science).

Article 38 (Persons to be Transferred to Serve as Skilled Industrial Personnel)

Persons who fall under any of the following subparagraphs may be transferred to serve as skilled industrial personnel as referred to in Article 36 on their application. In such cases, those who fall under subparagraphs 1 and 2 (excluding those in the recruit service to be called as public interest service personnel) and those who fall under subparagraph 4 (excluding successors of farming and successors to fishermen) shall be equipped with the technical qualifications or licenses as prescribed by the Presidential Decree: *(Amended by Act No. 5271, Jan. 13, 1997; Act No. 5758, Feb. 5, 1999; Act No. 6287, Dec. 26, 2000; Act No. 7845, Jan. 2, 2006)*

1. Persons who are engaged in key industrial enterprises in industry, mining, energy industry, construction, fishery or marine transportation business fields selected as designated enterprises (in case of the fishery or marine transportation business field, they shall be limited to persons who are or to be engaged in business on board of ships);
2. Persons who are engaged in specialized research institutions or defense industrial enterprises selected as designated enterprises from among specialized research institutions and defense industrial enterprises (including military maintenance units) as referred to in Articles 18 and 35 of the Defense Acquisition Program Act;
3. Persons who are designated by the Presidential Decree, because they are deemed required specially for the national interest, from among those having skills of international level; and
4. Successors of farming and successors to fishermen, agricultural machines operators of the agricultural corporations and the persons serving in after-sale service enterprises, who are recommended by the head of the competent *Shi* (including the Special Metropolitan City Mayor and Metropolitan City Mayor; hereafter the same shall apply in this Section)/*Kun*.

Article 38-2 (Limitation on Transfer, etc. of Technical Research Personnel and Skilled Industrial Personnel)

Any person who is a relative by blood within the cousinship of the chief executive officer of any designated enterprise (referring to the parent enterprise in the event that the designated enterprise is a research insti-

MILITARY SERVICE ACT

tution affiliated therewith) shall be prohibited from being transferred to the designated enterprise as a technical research personnel or a skilled industrial personnel provided for in Articles 37 and 38 or making a change of job provided for in the proviso of Article 39 (3).

[This Article Newly Inserted by Act No. 6972, Sep. 3, 2003]

Article 39 (Service of Technical Research and Skilled Industrial Personnel)

(1) Technical research and skilled industrial personnel shall be required to serve their compulsory services in their respective fields for the period falling under each of the following subparagraphs and they shall, when they complete the period of service, be deemed to have served out their service as public interest service personnel. In this case, with respect to any technical research personnel provided for in subparagraph 2 of Article 37, his study period for the doctoral course shall not be counted in his compulsory service period: *(Amended by Act No. 6972, Sep. 3, 2003; Act No. 7272, Dec. 31, 2004)*

1. Three years for technical research personnel; and
2. Two years and ten months for skilled industrial personnel: *Provided*, That the compulsory service period for any skilled industrial person who is transferred from a person in the recruit service to be called as a public interest service personnel shall be two years and two months.

(2) Technical research and skilled industrial personnel shall be subject to the call for education as prescribed in Article 55, and such education call period shall be counted in the compulsory service period.

(3) Technical research or skilled industrial personnel shall be engaged in the fields concerned with the designated enterprises at the time of their transfer: *Provided*, That in cases prescribed by the Presidential Decree, such as discontinuance of business, etc. of the designated enterprise, and in cases where they have obtained approval or permission from the director of the competent regional military manpower office because they are unable to be engaged in the concerned field of the designated enterprise at the time of transfer due to a change of the designated enterprise for which he serves, dispatch, education and training for the performance of related functions, guidance for learning and technology or other compelling causes, under the conditions as prescribed by the Presidential Decree, this shall not apply. *(Amended by Act No. 5271, Jan. 13, 1997)*

(4) Persons who are to be transferred to serve as technical research and

제16편 병무 병역법

skilled industrial personnel shall submit written oaths to the effect that they will engage faithfully in their service during their compulsory service period as referred to in paragraph (1).

(5) Matters necessary for service, such as the fields in which the technical research and skilled industrial personnel are to be engaged, calculation of the compulsory service period, oath, etc., shall be determined by the Presidential Decree.

Article 40 (Notification on Changes in Personnel Affairs of Technical Research and Skilled Industrial Personnel)

When technical research personnel, skilled industrial personnel or designated enterprises fall under any of the following subparagraphs, the head of the designated enterprise (including the person in charge of personnel management on behalf of the head of the designated enterprise), the director of the agricultural technology center (where the agricultural technology center is not in existence, the head of the competent *Shi/Kun*), or the director of fisheries technology management center (only for successors of farming and successors to fishermen) shall notify the cause to the director of the competent regional military manpower office within fourteen days: *Provided*, That the head of any enterprise, the director of the agricultural technology center or the director of the fisheries technology management center who employs skilled industrial personnel in the field of agriculture and fishery shall notify the director of the competent regional military manpower office through the head of the competent *Shi/Kun* of the fact: *(Amended by Act No. 5271, Jan. 13, 1997; Act No. 5758, Feb. 5, 1999; Act No. 6058, Dec. 28, 1999; Act No. 6287, Dec. 26, 2000; Act No. 7272, Dec. 31, 2004)*

1. Where they are dismissed or retire from the designated enterprise in which they are engaged, or persons who have been transferred to serve as technical research personnel while pursuing a doctor's degree at a graduate school in natural science as prescribed in subparagraph 2 of Article 37, have withdrawn temporarily from school, or are expelled from the school;
2. Where they fail to be engaged in the field concerned of the designated enterprises at the time of transfer;
- 2-2. Where they stay away from the military service without permission for not less than 8 days during the compulsory service period;
3. Where their technical qualifications or licenses for the fields concerned

MILITARY SERVICE ACT

are cancelled or suspended, or they are disqualified for a successor to the agriculturists and fishermen:

4. Where they are unable to complete the compulsory service period as prescribed in Article 39 (1) before they attain their thirty five years of age;
5. Where they fail to comply with the call for education as prescribed in Article 55, without any justifiable reason;
6. Where they retire temporarily from office, are suspended from office, or are transferred from another designated enterprise;
7. Where the designated enterprise in which they are engaged, suspends its business, closes its operation, is locked out, or discontinues its business; and

8. Where other causes as determined by the Presidential Decree occur.

Article 41 (Cancellation of Transfer to Service and Imposition of Obligation on Technical Research and Skilled Industrial Personnel)

(1) In case where persons who are transferred to serve as technical research or skilled industrial personnel, fall under any of the following subparagraphs, the director of the competent regional military manpower office shall cancel the transfer: *Provided*, That where any persons, who are dismissed from the designated enterprise for which they have served, file an application for relief with the Labor Commission pursuant to Article 33 (1) of the Labor Standards Act or have instituted a lawsuit with the court to take issue on the validity of a dismissal and the case is still pending, he may reserve the cancellation of the transfer until the final decision is rendered, under the conditions as prescribed by the Presidential Decree, and when any person falling under the provisions of subparagraph 2 of Article 40 has the reason prescribed by the Presidential Decree, he may be allowed to serve for an extended compulsory service period which makes up for the period for which he has not served in the relevant field without revoking his transfer as prescribed by the Presidential Decree: *(Amended by Act No. 5271, Jan. 13, 1997; Act No. 5454, Dec. 13, 1997; Act No. 6058, Dec. 28, 1999; Act No. 6972, Sep. 3, 2003; Act No. 7272, Dec. 31, 2004; Act No. 7430, Mar. 31, 2005)*

1. Where they are transferred or changed their jobs in violation of Article 38-2 by means of illegality, including any false statement or the submission of any false material;
- 1-2. Where they fall under any of subparagraphs 1, 2, 2-2 and 3 through 5 of Article 40;

제16편 병무 병역법

2. Where the designated enterprise in which they are engaged, discontinues its business, or the selection of the designated enterprise is cancelled or disqualified, but they are not engaged in another designated enterprise in the period as determined by the Presidential Decree; and
 3. Where they have departed from Korea without obtaining permission for their overseas travel or stay abroad without obtaining permission for extending their overseas travel provided for in Article 70 (1) or (3), or fail to return to Korea within the permitted period without any justifiable grounds; and
 4. Where they fail to return to Korea in violation of an order given to return to their native country under Article 83 (2) 9.
- (2) In case where any technical research or skilled industrial personnel fail to perform the compulsory service, for any of the following reasons, the director of the competent regional military manpower office shall have them engaged in such service in a prolonged period equivalent to such missed period of time, under the conditions as prescribed by the Presidential Decree:
1. Where the designated enterprise discontinues or suspends its business, or is locked out; and
 2. Where such causes occur as prescribed by the Presidential Decree, such as a temporary withdrawal from office, suspension from office, etc.
- (3) Any person whose transfer to the technical research or skilled industrial personnel is cancelled under paragraph (1), shall be returned to their status held before the transfer, and be enlisted in the active service, or called as public interest service personnel.
- (4) For persons who are enlisted due to cancellation of the transfer pursuant to paragraph (1) after they have been transferred to serve as technical research or skilled industrial personnel and have served for not less than one year, their service period may be shortened according to the standards as determined by the Presidential Decree. *<Amended by Act No. 5271, Jan. 13, 1997; Act No. 7272, Dec. 31, 2004>*
- Article 42 (Adjustment of Service Period for Public Interest Service Personnel, etc.)**
- (1) The Minister of National Defense may, upon the request of the Commissioner of the Military Manpower Administration, adjust the service period or compulsory service period of public interest service.

MILITARY SERVICE ACT

technical research or skilled industrial personnel by one year, in any of the following cases. In this case, for the persons who are in recruit service to be called as public interest service personnel and are called up or transferred to serve as public interest service, technical research or skilled industrial personnel, the adjustment scope of the service period or compulsory service period may be determined differently from the case of those to be enlisted in the active service who are called up or transferred: *(Amended by Act No. 5271, Jan. 13, 1997; Act No. 6972, Sep. 3, 2003)*

1. Where it is needed to adjust the service period or the compulsory service period following the shortening or extension of the service period for active service;
2. Where it is required to reduce the service period or compulsory service period due to a bad working condition or working surroundings; and
3. Where it is required for the supply and demand plan of military service human resources.

(2) The Minister of National Defense shall, if he intends to adjust the service period or the compulsory service period for the public interest service personnel, technical research personnel or skilled industrial personnel under paragraph (1), obtain approval therefor in advance from the President after going through deliberation of the State Council. *(Newly Inserted by Act No. 6972, Sep. 3, 2003)*

Article 43 (Survey of Public Interest Service Personnel, etc.)

The director of the regional military manpower office or the director of the competent district military manpower office may survey matters concerning the actual service and management of the public interest service personnel, professional research personnel and skilled industrial personnel in State agencies, local governments, public organizations, social welfare facilities, designated enterprises, etc. in which they serve, under the conditions as prescribed by the Presidential Decree. *(Amended by Act No. 5757, Feb. 5, 1999)*

CHAPTER VI IMPOSITION OF OBLIGATION FOR MILITARY FORCES MOBILIZATION CALL, ETC.

SECTION 1 Military Forces Mobilization Call up

Article 44 (Person Subject to be Called for Military Forces Mobilization)

제16편 병무 병역법

For the purpose of organizing military units or any operational demand in wartime, incidents, or national emergency corresponding thereto, the military forces mobilization call shall be made to the following persons (hereinafter referred to as "those to be called for military forces mobilization"): *(Amended by Act No. 7272, Dec. 31, 2004)*

1. Those in the reserve service;
2. Those in the recruit service who have completed the call for education:
and
3. Those who are transferred to the recruit service under Article 66.

Article 45 (Designation of Person to be Called for Military Forces Mobilization)

- (1) The director of the regional military manpower office shall designate persons subject to be called for the military forces mobilization, depending on the units in which they are to be enlisted.
- (2) Matters concerning the selection, etc. of those subject to be called for military forces mobilization under paragraph (1), shall be determined by the Presidential Decree.

Article 46 (Military Forces Mobilization Call)

- (1) In wartime, incidents, or national emergency corresponding thereto, the director of the regional military manpower office shall call those who are to be called for the military forces mobilization. *(Amended by Act No. 7272, Dec. 31, 2004)*
- (2) In order to respond to an urgent situation, such as wartime and incidents, the Commissioner of the Military Manpower Administration may instruct the director of the regional military manpower office to serve in advance the notice of military forces mobilization call. In this case, any person who is served in advance such notice on military forces mobilization call, shall enlist at such date and time as the Commissioner of the Military Manpower Administration notifies publicly through newspapers, television or radio broadcast.

Article 47 (Physical Examination for Mobilization Call, and Homecoming)

- (1) The commanding officers of the relevant military units shall conduct the physical examination for those who are called out for military forces mobilization within two days after they enter the units.
- (2) For persons who are, as a result of the physical examination conducted after entering the military unit, deemed unfit for the military forces mobilization call service, or required to have a period of recuperation not

MILITARY SERVICE ACT

less than fifteen days due to any disease or mental and physical incompetence, the commanding officers of the military units to which they belong, may instruct them to return to their home with the physical grades or the recuperation period specified. *<Amended by Act No. 5757, Feb. 5, 1999>*

(3) The director of the regional military manpower office may assign any persons of those who have returned to their homes under paragraph (2) and whose physical grades are specified, who are incapable of military forces mobilization call service, to the second militia service, or exempt them from military service, and may have any person whose recuperation period is specified, be called again, or undergo a reexamination. *<Amended by Act No. 5757, Feb. 5, 1999>*

Article 48 (Service, etc., of Person Called for Military Forces Mobilization)

(1) The service and treatment of those enlisted in the army by the military forces mobilization call, shall be the same as what is given to those in the active service.

(2) Matters necessary for the release from the call for those enlisted in the army by the military forces mobilization call, shall be determined by the Presidential Decree.

SECTION 2 Call for Military Forces Mobilization
Training

Article 49 (Person, etc., Subject to be Called for Military Forces Mobilization Training)

The call for military forces mobilization training shall be made to those subject to be called for military forces mobilization, for any training or check-up to make provisions for a military forces mobilization call, and the period shall be not more than thirty days in a year.

Article 50 (Military Forces Mobilization Training Call)

(1) In order to conduct military forces mobilization training, the director of the regional military manpower office shall call persons designated as those subject to be called for military forces mobilization.

(2) The Commissioner of the Military Manpower Administration may, if necessary, instruct the director of the regional military manpower office serve in advance the notice of military forces training call. In this case, the provisions of the latter part of Article 46 (2) shall apply *mutatis mutandis*.

제16편 병무 병역법

(3) Any person who receives the notice of military forces mobilization training call shall enter the army at the designated date, time and place.
〈Newly Inserted by Act No. 5271, Jan. 13, 1997〉

(4) The director of the regional military manpower office may, when he intends to check up procedures for calling military forces mobilization to prepare for an emergency situation such as a wartime or an incident, call the military forces mobilization training on the day and time announced by the Commissioner of the Military Manpower Administration in newspapers or on television and radio according to previously delivered notices calling the military forces mobilization under the former sentence of Article 46 (2) without delivering individual notices calling the military forces mobilization training to persons subject to the mobilization training.
〈Newly Inserted by Act No. 5757, Feb. 5, 1999〉

(5) In the surprise military forces mobilization training call to prepare for emergency in accordance with Article 14 of the Emergency Resources Management Act, the director of the regional military manpower office may ask the head of *Shi/Kun/Ku* (referring to the head of autonomous *Ku*; hereinafter the same shall apply) to cooperate with him in delivering notices of military forces mobilization training call and encouraging their participation in military training, and the head of *Shi/Kun/Ku* shall, upon receiving the request, assist the former. In this case, the director of the regional military manpower office may defray necessary expenses therefor in consultations with the head of *Shi/Kun/Ku*. 〈Newly Inserted by Act No. 6749, Dec. 5, 2002〉

Article 51 (Physical Examination for Mobilization Training Call, and Homecoming)

(1) The commanding officer of the military unit shall conduct a physical examination on those who entered the unit by the military forces mobilization training call, within two days after they enter the unit.

(2) The commanding officer of the military unit may order any persons to return to their homes, who are, as a result of the physical examination conducted after entering the unit, deemed unable to receive the military forces mobilization training due to any disease or mental and physical incompetence. 〈Amended by Act No. 5757, Feb. 5, 1999〉

(3) The director of the regional military manpower office may call out again such persons who have returned to their homes under paragraph (2), or may exempt them from the military forces mobilization training call

MILITARY SERVICE ACT

in the year concerned. *(Amended by Act No. 5757, Feb. 5, 1999)*

Article 52 (Service of Persons Called for Military Forces Mobilization Training)

(1) Any person who enters the army for military forces mobilization training call, shall serve in conformity with the active service, and may take meals or receive allowances, etc. within the limits of the budget.

(2) Any person, who enters the army for military forces mobilization training call, and is arrested for a crime committed while in service, or fail to receive the training for more than a third of the service period without any justifiable reason, may be called again.

(3) Matters necessary for the release from the military forces mobilization training call, shall be determined by the Presidential Decree.

SECTION 3 Call for Wartime Labor

Article 53 (Person, etc. to be Called up for Wartime Labor)

(1) The wartime labor call shall be made on the persons falling under any of the following subparagraphs to support military activities, in wartime, incidents, or national emergency corresponding thereto: *(Amended by Act No. 5271, Jan. 13, 1997; Act No. 5757, Feb. 5, 1999; Act No. 7272, Dec. 31, 2004)*

1. Persons excluded from the designation of the call for the military forces mobilization from among persons in the recruit service under subparagraph 2 of Article 44; and

2. Persons in the second militia service (excluding persons who have obtained licences or qualifications under the National Technical Qualifications Act and other Acts and subordinate statutes, and other persons who have obtained technical licences or qualifications under foreign Acts and subordinate statutes and their licences and qualifications are recognized by the Minister of Government Administration and Home Affairs).

(2) Any check-up for wartime labor call may be conducted on those subject to be called up for wartime labor under paragraph (1), and the period of such check-up shall be not more than two days in a year. *(Amended by Act No. 5271, Jan. 13, 1997)*

Article 54 (Wartime Labor Call and Physical Examination for Service)

(1) The provisions of Articles 45 through 48 shall apply *mutatis mutandis* to the designation, call up, physical examination after enlistment in the

제16편 병무 병역법

army, homecoming, service, etc., of those subject to be called up for wartime labor. In this case, the term "military forces mobilization call" shall be read as the term "wartime labor call", and the term "military forces mobilization call service", as the term "wartime labor call service".

〈Amended by Act No. 5271, Jan. 13, 1997; Act No. 5757, Feb. 5, 1999〉

(2) Notwithstanding the provisions of paragraph (1), the Minister of National Defense may have persons called for wartime labor to live outside military units, and provide them with meals, or pay them allowances, etc., within the limits of the budget. 〈Amended by Act No. 5271, Jan. 13, 1997; Act No. 5757, Feb. 5, 1999〉

SECTION 4 Call for Education

Article 55 (Person, etc., to be Called for Education)

(1) The call for the military education may be made to those in the recruit service for up to sixty days, and the matters necessary for the time, period of call, the release from call, etc., shall be determined by the Presidential Decree: *Provided*, That for those in the second militia service, it may be made in cases where military education is required.

(2) In case where that it is required for the national defense, the call as referred to in paragraph (1) may be made to qualify those in the reserve, recruit or second militia service, for a promotion to higher rank or an appointment as an officer, under the conditions as prescribed by the Presidential Decree. In this case, the period of call shall be not more than 120 days.

Article 56 (Physical Examination for Service, etc.)

(1) The provisions of Article 17 shall apply *mutatis mutandis* to the physical examination of persons in recruit service called out for the military education under the main text of Article 55 (1), which is to be conducted after they enter the army, and at their homecoming. In this case, the term "enlistment in active service" shall be read as the term "call for education", and the term "active service", as the term "recruit service", 〈Amended by Act No. 5757, Feb. 5, 1999〉

(2) The provisions of Article 47 shall be apply *mutatis mutandis* to the physical examination of those in the reserve, recruit or second militia service called for the military education under the proviso of Article 55 (1) or (2), which is conducted after they enter the army, and at their

MILITARY SERVICE ACT

homecoming. In this case, the term "military forces mobilization call" shall be read as the term "call for education", and the term "recuperation period of not less than fifteen days", as the term "recuperation period of not less than seven days". *(Amended by Act No. 5757, Feb. 5, 1999)*

(3) The service and treatment of those enlisted in the army by the call for education, shall be the same as what is given those in the active service.

CHAPTER VII STUDENT MILITARY EDUCATION AND ENLISTMENT OF MEDICAL OFFICERS, ETC.

Article 57 (Student Military Education, etc.)

(1) Any student who attends a high school level or higher level may be given general military education under the conditions as prescribed by the Presidential Decree, and the service period of those in the active service (including those who are in the active service under Articles 21, 24 and 25) or the public interest service personnel who have been given such military education may be shortened.

(2) Any school equal to or beyond the high school level may establish a course for cadets or assistant officers of the students military training corps (hereinafter referred to as "student military cadets"), and any person who has completed such course, may be transferred to the military register of the officers or assistant officers in the active service. *(Amended by Act No. 6290, Dec. 26, 2000)*

(3) Deleted. *(by Act No. 4840, Dec. 31, 1994)*

(4) Any person who has received military education under paragraphs (1) and (2), may be provided with meals or receive allowances, etc., within the limits of the budget, under the conditions as prescribed by the Presidential Decree.

Article 58 (Enlistment of Medical, Judicial, and Religious Officers)

(1) Persons who are to be enlisted in active service and fall under any of the following subparagraphs, may be enlisted by application, in the military register of officers in active service in the medical, judicial or religious field. In this case, the choice standard for religions subject to enlistment in the religious field under subparagraph 3, and the selection

제16편 병무 병역법

standard and procedures, etc. for officers in active service in the religious field, shall be prescribed by the Presidential Decree: *(Amended by Act No. 6287, Dec. 26, 2000; Act No. 6809, Dec. 26, 2002)*

1. Persons who are qualified for doctors, dentists, or herb doctors;
2. Persons who are qualified for judges, public prosecutors, or attorneys-at-law; or
3. Persons who are pastors, priests or Buddhist monks holding an academic degree equal to or higher than a bachelor's degree, and other persons who perform the duties equivalent thereto and whose qualifications are recognized by the religious organizations to which they belong.

(2) Persons falling under any of the following subparagraphs, who sign up as medical, judicial or religious cadet officers, may be enlisted as the medical, judicial or religious cadet officers, and matters necessary pertaining to those to be enlisted, age restrictions, etc., shall be determined by the Presidential Decree: *(Amended by Act No. 4840, Dec. 31, 1994; Act No. 5757, Feb. 5, 1999; Act No. 6809, Dec. 26, 2002)*

1. Persons who are qualified for doctors, dentists or herbal doctors, and are enrolled in the prescribed courses at a military medical specialist training institution;
2. Persons who are enrolled in the prescribed courses in a pertinent training institution for the purpose of obtaining qualifications for judges, public prosecutors or lawyers; or
3. Persons who are enrolled in a college of theology or that of Buddhism and other colleges to foster the clergymen in order to obtain the qualification for pastors, priests, Buddhist monks and other persons who perform the duties equivalent thereto.

*** (3) Any person who is enlisted in the military register as the medical, judicial or religious cadet officers under paragraph (2), may be transferred to the military register of officers in active service in special branches of the army until being not more than thirty-five years of age, and any person who is removed from the military register of cadet officers may be enlisted in the active service or called as public interest service personnel, depending on their physical grades. *(Amended by Act No. 5757, Feb. 5, 1999)*

MILITARY SERVICE ACT

(4) Persons who are to be enlisted in the military register of officers in the active service under paragraphs (1) and (3) of this Article, and Article 59, may be enlisted in a military unit to receive military education.

(5) When any person referred to in paragraph (4) is enlisted in a military unit, the commanding officer of such military unit shall hold the physical examination on him within 5 days from the date on which he is enlisted in his military unit and if the person is pronounced unfit to serve an active service on the grounds of his disease or his mental and physical handicap or is recognized to require the treatment of not less than 15 days as a result of the physical examination, the commanding officer of such military unit shall disqualify him from the military service, explicitly indicating the state of his disease or his mental and physical handicap as well as the period of treatment (limited to the case where the period of treatment is known). The same shall apply to the case where any person who is recognized to be in the need of treatment of not less than 15 days on the grounds of his disease or his mental and physical handicap that are caused by his participation in military training. *(Amended by Act No. 6972, Sep. 3, 2003)*

(6) With respect to any person who is disqualified from the military service under paragraph (5), the Commissioner of the Military Manpower Administration shall alter the military service disposition on him or get him to enlist again in any military unit according to his physical grade after holding a new physical examination on him under the conditions as prescribed by the Presidential Decree: *Provided*, That with respect to any person who is disqualified from the military service after he is notified that his treatment period is less than 3 months, the Commissioner of the Military Manpower Administration may get him to enlist in any military unit without holding the physical examination on him again. *(Amended by Act No. 6972, Sep. 3, 2003)*

(7) Committee for the operation of and deliberation on the officers of religion shall be established under the Ministry of Defense in order to deliberate on the selection of the religions subject to the transfer to the military registration in military religious field and the selection, etc. of the officers in active service in the military religious field under paragraph (1), and the matters necessary for the composition and operation of the said committee shall be prescribed by the Presidential Decree.

제16편 병무 병역법

<Newly Inserted by Act No. 6809, Dec. 26, 2002>

Article 59 (Enlistment of Persons who Have Passed Open Competitive Examination for Appointment as Public Officials of Grade V, as Officers in Basic Branches of Army)

Persons who fall under Article 58 (1) 2 or persons who have completed the full courses for judicial cadet officers as prescribed in Article 58 (2) 2 and are not enlisted in the military register of officers in active service in the field of judicial affairs, and those to be enlisted in the active service, who have passed the open competitive examination for employment of public officials of Grade V as referred to in the State Public Officials Act or an open competitive examination for appointment of public officials of Grade V as referred to in the Local Public Officials Act, may be enlisted by application, in the military register of officers in active service in the basic branches of the army. In such cases, any person who has passed the open competitive examination for employment of public officials of Grade V and the open competitive examination for appointment of public officials of Grade V shall be enlisted in the army not later than when they are at the age of 29. *<Amended by Act No. 5271, Jan. 13, 1997>*

CHAPTER VIII POSTPONEMENT, REDUC- TION AND EXEMPTION OF MILITARY SERVICE

Article 60 (Postponement of Draft Physical, Enlistment in Army, etc.)

(1) The director of a regional military manpower office may postpone the draft physical for persons subject to it, who falls under any of the following subparagraphs:

1. Crew members of ships navigating to and from foreign countries;
2. Persons who stay or reside in foreign countries; and
3. Persons who are detained for any crimes, or are under execution of sentence.

(2) The director of the regional military manpower office may postpone the conscription or call of persons who have undergone the draft physical, and fall under any of paragraph (1) 1 through 3, and fall under any of the following subparagraphs: *<Amended by Act No. 5757, Feb. 5, 1999>*

1. Students who are in high school or higher school level;
2. Those who are enrolled in the prescribed courses at a training institution; and
3. Outstanding athletes to enhance national prestige.

MILITARY SERVICE ACT

(3) Any person whose draft physical, conscription or call has been postponed under paragraph (1) or (2) shall, when he applies for draft physical, conscription or call, or his cause of the postponement ceases to exist, undergo the draft physical, or be conscripted or called in the current or following year.

(4) When persons whose conscription or call is postponed under paragraph (2) are conscripted or called again, their assignment to military service may be changed in conformity with the criteria for military service assignment of the year in which they are conscripted or called.

(5) Matters necessary for the scope of schools, training institutions and the outstanding athletes referred to in paragraph (2), restriction on postponement, etc. shall be determined by the Presidential Decree.

<Amended by Act No. 5757, Feb. 5, 1999>

Article 61 (Postponement of Enlistment Date, etc.)

(1) For persons who have received or are to receive a written notice of draft physical, conscription, or call-up, but are unable to fulfill it on the duty fulfillment date, due to disease, mental and physical incompetence, disaster, etc., the date may be postponed by application: *Provided*, That where a person is in difficulty to file an application for postponing the enlistment date, etc. for reasons including disasters prescribed by the Presidential Decree, the director of the regional military manpower office may postpone it *ex officio*. *<Amended by Act No. 5757, Feb. 5, 1999; Act No. 7272, Dec. 31, 2004>*

(2) For persons whose duty fulfillment date is postponed under paragraph (1), a written notice shall be served again with the new date fixed: *Provided*, That where a person who has received or is to receive a conscription or call notice is deemed unable to serve in the military due to any disease or mental and physical trouble, a disposition taken for his military service may be altered after having him undergo physical examination.

<Amended by Act No. 5757, Feb. 5, 1999>

Article 62 (Transfer, etc. to Second Militia Service due to Domestic Circumstances)

(1) Persons subject to enlistment in the active service, who fall under subparagraph 1, may be assigned by application to the second militia service, and persons who fall under subparagraph 2, to the recruit service:

<Amended by Act No. 5757, Feb. 5, 1999>

1. Persons who are sole providers of the livelihood for his family; or
2. One person in case where any of his father and sisters, mother, or

제16편 병무 병역법

brothers died on the battlefield or on duty, or became disabled owing to any war or official wound.

(2) Persons who are in the recruit service and fall under paragraph (1) 1, may be assigned by application to the second militia service.

(3) Matters necessary for the scope of the family, the criteria for determination of the difficulty in maintaining a household, the time of application, the scope of disability caused by any war or official wound, etc. shall be determined by the Presidential Decree.

Article 63 (Discharge from Military Service under Domestic Circumstances)

(1) Any persons who are active servicemen (including those in the active service under Articles 21, 24 and 25; hereafter the same shall apply in this Article) and fall under Article 62 (1) 1, may be assigned by application to the second militia service.

(2) Any persons who are in the active service or serve as public interest service personnel and fall under Article 62 (1) 2, may have their service period shortened by application into six months, and any persons who have completed their service period, may be assigned to the recruit service, or released from the call.

(3) Any persons who are in service as servicemen due to the military forces mobilization call or the wartime labor call (including those who have received the written notice of call-up) and fall under Article 62 (1) 1, may be assigned by application to the second militia service, or may have the call cancelled or postponed. *<Amended by Act No. 5271, Jan. 13, 1997>*

Article 64 (Exemption of Persons in First Militia Service from Military Service)

(1) The director of the regional military manpower office may exempt any persons who are in the first militia service and fall under the following subparagraph 1 (limited to persons whose physical grades fall under Grade VI) or 3 from the military service without the draft physical upon application from them and any persons, whose physical grades fall under Grade V and subparagraph 4 from among persons who fall under subparagraph 1 may be assigned to the second militia service without the draft physical upon application from them: *<Amended by Act No. 5757, Feb. 5, 1999; Act No. 7272, Dec. 31, 2004>*

1. Visibly disabled persons, such as persons with overall deformity;

2. Deleted: *<by Act No. 7272, Dec. 31, 2004>*

3. Persons who have immigrated from the northern area of the Military

MILITARY SERVICE ACT

Demarcation Line; and

4. Persons who fall under reasons prescribed by Article 65 (1) 3.

(2) Matters necessary for the scope of the disabled and the procedure of such application, etc. as referred to in paragraph (1) shall be determined by the Presidential Decree. *(Amended by Act No. 7272, Dec. 31, 2004)*

Article 65 (Change, etc. of Assignment to Military Service)

(1) Any persons who are in the active service (including those who are in the active service under Articles 21, 24 and 25, and those to be enlisted in the active service) or in the recruit service, and who fall under subparagraph 1, may be assigned to the recruit service or the second militia service, or exempted from military service, through physical examination, and persons who fall under subparagraph 3 may be assigned to the recruit service or the second militia service: *(Amended by Act No. 5271, Jan. 13, 1997; Act No. 5757, Feb. 5, 1999; Act No. 7272, Dec. 31, 2004)*

1. Persons who are incapable of military service due to any war or official wound, disease or mental and physical incompetence;

2. Deleted; and *(by Act No. 7272, Dec. 31, 2004)*

3. Persons who are deemed unfit for military service by such reasons as prescribed by the Presidential Decree, such as serving times under sentence, extremely old age,

(2) In case where persons who are in the active service (including those who are in the military service under Articles 21, 24 and 25) or in the recruit service emigrate with their families to foreign countries, they may be assigned to the recruit service, or the call-up for the public interest service personnel may be postponed or canceled. *(Newly Inserted by Act No. 7272, Dec. 31, 2004)*

(3) Any persons who are in the reserve or the second militia service and are incapable of military service by such reason as referred to in paragraph (1) 1 may, by application, be assigned to the second militia service or exempted from military service through a physical examination if necessary. *(Amended by Act No. 7272, Dec. 31, 2004)*

(4) Any persons who are servicemen in the reserve service, and serving times under a sentence, may be assigned to the second militia service under the conditions as prescribed by the Presidential Decree.

(5) If persons who are assigned to the recruit service or for whom the call-up for the public interest service is postponed or canceled on the grounds of their emigrations with their families to foreign countries under paragraph (2) return to Korea for the purpose of permanently residing

제16편 병무 병역법

in their fatherland and fall under the grounds that are prescribed by the Presidential Decree, the disposition thereof may be revoked and duties to fulfill their military services may be imposed. *(Amended by Act No. 5757, Feb. 5, 1999; Act No. 7272, Dec. 31, 2004)*

(6) The director of the regional military manpower office shall call for education as prescribed in Article 55, for the crews of ships navigating to and from foreign countries who are to be called up as public interest service personnel, but had the public interest service personnel call-up postponed for three or more years by reasons as prescribed in Article 60 (1) 1, and when they have completed the call for education, they shall be considered to have completed the service as the public interest service personnel.

(7) The director of the regional military manpower office may, where any person who has been in the recruit service or the second militia service wants to be drafted into the active service or return to the public interest service after his disease or mental or physical trouble is treated or his academic background is changed, allow it with the cancellation of the disposition concerned and change such disposition under the conditions as prescribed by the Presidential Decree. *(Newly Inserted by Act No. 5757, Feb. 5, 1999; Act No. 6287, Dec. 26, 2000)*

(8) The director of the regional military manpower office may, where the number of persons to be called up for the public interest service is larger than that of persons to be assigned to the public interest service under Article 27, transfer part of the persons to be called up to the second militia service according to the standards as prescribed by the Presidential Decree, taking into consideration their academic career and the year in which they are assigned to the recruit service. *(Newly Inserted by Act No. 6287, Dec. 26, 2000)*

(9) The scope of families referred to in paragraph (2) shall be prescribed by the Presidential Decree. *(Newly Inserted by Act No. 7272, Dec. 31, 2004)*

Article 66 (Transfer of Officers, etc. to Recruit Service, and Cancellation thereof)

(1) In case where officers, warrant officers or assistant officers in the active or reserve service fall under a cause of disqualification for appointment as prescribed by the Military Personnel Management Act and are expelled from the army or deprived of their status, they shall be transferred to the recruit service as officers, warrant officers or assistant officers, respectively. *(Amended by Act No. 4840, Dec. 31, 1994; Act No. 6290, Dec. 26, 2000)*

MILITARY SERVICE ACT

(2) In case where medical, judicial or religious officers in the reserve service are disqualified, or their professional licenses concerned are cancelled, they shall be deprived of their status, and transferred to the recruit service.

(3) For persons transferred to the recruit service under paragraphs (1) and (2), the cause of whose transfer to recruit service is removed, and falling under the following subparagraphs, the disposition of transfer to the recruit service may be cancelled by application. In such cases, the effect of such disposition of cancellation shall not be retroactive:

1. Persons of sound thought;
2. Persons whose conduct is good; and
3. Persons whose physical strength is unimpaired (excluding those to be retired or exempted from military service as prescribed in paragraph (4)).

(4) Any persons who have disposition of transfer to the recruit service cancelled under paragraph (3) and whose age does not exceed the age limit as prescribed by the Military Personnel Management Act, for the rank holding at the time they are transferred to the recruit service, on the day such disposition is cancelled, shall be transferred to the reserve service with such rank, but persons who are incapable of the reserve service due to any mental or physical incompetence, or persons whose age exceeds the age limit, shall be retired or exempted from the military service. *(Amended by Act No. 4840, Dec. 31, 1994)*

(5) Matters necessary for the procedure of the cancellation of the disposition of transfer to the recruit service, and the transfer to the reserve service, etc., under paragraphs (3) and (4), shall be determined by the Presidential Decree.

Article 67 (Adjustment of Order in Military Forces Mobilization Call or Wartime Labor Call)

(1) The director of the regional military manpower office may have the order of call-up for those who are deemed particularly necessary as subject to being called up for the military forces mobilization or the wartime labor and being engaged in the state agencies or defense enterprises performing the function of national mobilization in wartime, adjusted to the later, under the conditions as prescribed by the Presidential Decree. *(Amended by Act No. 5271, Jan. 13, 1997)*

(2) In case where persons whose order in call-up is adjusted to the later under paragraph (1) are excluded from those subject to being called up later by reasons of retirement, transfer of position, etc., the employer

제16편 병무 병역법

(including the person in charge of the personnel management on behalf of the employer; hereinafter the same shall apply) shall notify the director of the competent regional military manpower office of the fact within fourteen days. *(Amended by Act No. 5271, Jan. 13, 1997)*

Article 68 (Restrictions on Postponement of Military Service and on Reduction of and Exemption from Liability for Military Service)

Persons who have committed crimes as prescribed in Articles 86 through 88 or 94, who have deserted from their service after conscription or call-up, or who have purposely provoked cause of postponement or reduction of, or exemption from the duty of military service, shall not be subject to any of the following dispositions: *Provided*, That this provision shall not apply to those whose families are unable to maintain their livelihood without them, except those who have purposely provoked such cause: *(Amended by Act No. 5757, Feb. 5, 1999; Act No. 6287, Dec. 26, 2000)*

1. Assignment to public interest service personnel, technical research personnel, and skilled industrial personnel as prescribed in Article 26 (1) 3 and 4, and Article 36;
2. Postponement of the draft physical and conscription or call-up as prescribed in Article 60 (1) 1 and 2 and (2);
3. Assignment to the second militia service or the recruit service under the domestic circumstances as prescribed in Article 62; and
4. Reduction of the service period for active servicemen or public interest service personnel as prescribed in Article 63.

CHAPTER IX RESIDENCE CHANGE AND OVERSEAS TRAVEL OF PERSON UNDER OBLIGATION TO SERVE IN MILITARY

Article 69 (Report on Residence Change)

(1) When any persons under obligation to serve in the military (excluding those in the active service) change their residences, they shall make the moving-in report within fourteen days from the day their residences are changed under the provisions of Article 14 of the Resident Registration Act. *(Amended by Act No. 5757, Feb. 5, 1999)*

(2) The Minister of Government Administration and Home Affairs shall notify the Commissioner of the Military Manpower Administration of changes in residences of persons under obligation to serve in the military

MILITARY SERVICE ACT

under paragraph (1) and other changes in them to manage the persons under obligation to serve in the military. *<Newly Inserted by Act No. 5757, Feb. 5, 1999>*

(3) Matters necessary to set procedures for making notifications under paragraph (2) shall be prescribed by the Presidential Decree. *<Newly Inserted by Act No. 5757, Feb. 5, 1999>*

Article 69-2 (Notification of Military Service Dispositions, etc.)

(1) The Commissioner of the Military Manpower Administration shall notify the Minister of Government Administration and Home Affairs of data on changes in persons under obligation to serve in the military such as military service dispositions (including alterations of dispositions; hereinafter the same shall apply) taken to them, their enlistments, their discharges from the military service and the cancellation of calls for them, which are necessary to pigeonhole their resident registration cards.

(2) Necessary matters pertaining to the contents, scope of the data referred to in paragraph (1) and procedures for furnishing the data shall be prescribed by the Presidential Decree.

[This Article Newly Inserted by Act No. 5757, Feb. 5, 1999]

Article 70 (Permission for Overseas Travel and Revocation Thereof)

(1) Persons who are liable for the military service and do not fall under any of the following subparagraphs shall, when they intend to have an overseas travel, obtain permissions therefor from the Commissioner of the Military Manpower Administration: *<Amended by Act No. 6058, Dec. 28, 1999: Act No. 7430, Mar. 31, 2005>*

1. Persons who have completed their active military service (including other persons who are deemed to have completed their active military service);
2. Persons who have completed their public interest service (including other persons who are deemed to have completed their public interest service); and
3. Persons who have been enlisted into the second militia service.

(2) The Commissioner of the Military Manpower Administration shall not permit any person who has dodged or is dodging the draft physical or the military service without any justifiable grounds, who is prescribed by the Presidential Decree, from among persons subjected to the permission for overseas travel under paragraph (1) to travel overseas: *Provided*, That the same shall not apply to a case where the unavoidable grounds such as the death of a family member, etc. exist that are prescribed by the Presidential Decree. *<Newly Inserted by Act No. 6749, Dec. 5, 2002>*

제16편 병무 병역법

(3) In case where persons who have obtained permission for overseas travel encounter difficulty in returning to Korea within the permitted period, they shall obtain the permission of the Commissioner of the Military Manpower Administration for the overseas travel or an extension of period, not later than fifteen days before the period expires, or for persons who have left Korea before being assigned to the first militia service, not later than the fifteenth of January in the year of attaining their eighteenth year. *<Amended by Act No. 6749, Dec. 5, 2002; Act No. 7430, Mar. 31, 2005>*

(4) The scope and procedure of the permission for overseas travel or the extension period as referred to in paragraphs (1) and (3), shall be determined by the Presidential Decree. *<Amended by Act No. 6749, Dec. 5, 2002>*

(5) Any persons who have obtained the permission for overseas travel, shall have their departure from Korea confirmed at the time they leave Korea, and make a report of homecoming at the time they return to Korea, under the conditions as prescribed by the Presidential Decree. *<Amended by Act No. 6058, Dec. 28, 1999>*

(6) Deleted. *<by Act No. 7430, Mar. 31, 2005>*

(7) In case where persons who have obtained permission for overseas travel or permission for extending their overseas travel period pursuant to paragraphs (1) and (3) return to Korea for the purpose of permanently residing in their fatherland and their acts fall under the grounds that are prescribed by the Presidential Decree, the permission for their overseas travel and the permission for extending travel period shall be revoked and duties shall be imposed on them to fulfill their respective military service. *<Newly Inserted by Act No. 7272, Dec. 31, 2004>*

CHAPTER X COMPLETION OF MILITARY SERVICE DUTY

Article 71 (Reduction of and Exemption from Liability for Enlistment, etc.)

(1) The liability for the draft physical, enlistment in active service, or public interest service personnel call, shall expire as of the time the persons concerned attain thirty-first years of age, and the exempted persons shall be transferred to the second militia service: *Provided*, That persons who fall under any of the following subparagraphs shall be exempted as of the time they attain thirty-sixth years of age: *<Amended by Act No. 4840, Dec. 31, 1994; Act No. 5271, Jan. 13, 1997; Act No. 5757, Feb. 5, 1999; Act No. 6287, Dec. 26, 2000; Act No. 6749, Dec. 5, 2002; Act No. 7272, Dec. 31, 2004>*

MILITARY SERVICE ACT

1. Persons who evade the draft physical, enlistment in active service or public interest service personnel call without any justifiable reason, and who are missing;
 2. Persons whose call-up to serve as public interest service personnel is cancelled under Article 33 (5);
 3. Persons whose transfer to serve as public health doctors, doctors in exclusive charge of draft physical, international cooperation doctors, or public-service advocates is cancelled under Articles 35 (2) and (4), and 35-2 (2) and (4);
 4. Persons whose transfer to the technical research or skilled industrial personnel is cancelled under Article 41 (1);
 5. Persons who are expelled from the military register of medical, judiciary or religious cadet officers as prescribed in Article 58 (3);
 6. Persons who have left Korea or are staying in a foreign country, without obtaining permission as prescribed in Article 70 (1) or (3), or who fail to return to Korea within the permitted period without any justifiable reason;
 7. Persons whose draft physical, or enlistment, etc. are postponed for reasons falling under Article 60 (1) 2;
 8. Persons who are assigned to the recruit service or for whom the call-up for the public interest service is postponed or canceled on the grounds provided for in Article 65 (2);
 9. Persons for whom the disposition taken to assign to the recruit service or the disposition taken to postpone or cancel their public interest service is revoked pursuant to Article 65 (5);
 10. Persons whose exemption from the military service or assignment to the second militia service or recruit service is cancelled on the grounds that the exemption or assignment was made by a false or other dishonest manner; and
 11. Persons who are granted the nationalities of the Republic of Korea after obtaining permissions for restoring their nationalities pursuant to Article 9 of the Nationality Act: *Provided*, That the same shall not apply to a case where anyone who is granted the nationality of the Republic of Korea by means of naturalization.
- (2) Any persons who are subject to being enlisted in active service under the proviso of paragraph (1) and are thirty-one years of age or older, may be allowed to serve as public interest service personnel.
- Article 72 (Completion of Military Service Duty)

제16편 병무 병역법

(1) The duty of military service of the enlisted men in active, reserve and recruit services, and of those in the second militia service, shall be completed by the time when they are forty years old, and that of the officers, warrant officers and assistant officers in the reserve and recruit services, in the year they attain the age limit of their ranks as prescribed by the Military Personnel Management Act. *(Amended by Act No. 4840, Dec. 31, 1994; Act No. 6290, Dec. 26, 2000)*

(2) When the term of military service as referred to in paragraph (1) is completed, the officers, warrant officers, and assistant officers shall retire from the service, and the enlisted men shall be exempted from the military service. *(Amended by Act No. 4840, Dec. 31, 1994; Act No. 6290, Dec. 26, 2000)*

CHAPTER XI GUARANTEE OF INTERESTS FOR THOSE HAVING FULFILLED MILITARY SERVICE DUTY

Article 73 (Guarantee of Reinstatement to School)

The head of a school equal to or higher than a high school shall reinstate by application any students who withdraw temporarily from school and are enlisted in the army by conscription, call-up, or application, or are in the recruit service by call-up, etc. (referring to any compulsory or other services as public interest service personnel, public health doctors, international cooperation doctors, public-service advocates, technical research personnel or skilled industrial personnel: hereafter the same shall also apply in Article 74) to the relevant school, when they have completed the aforementioned service. Even when the enrollment term expires, those who are not impeded in the educational schedule shall be reinstated to the relevant school upon their application. *(Amended by Act No. 4840, Dec. 31, 1994)*

Article 74 (Guarantee, etc. of Reinstatement to Former Office)

(1) The head of any state agency or local government, or any employer shall have any relevant public officials, executive officers or employees under his control withdraw temporarily from his office, in case where they enlist in the army by conscription, call-up, or application; or are in the recruit service by call-up; etc. (excluding those who are in the recruit

MILITARY SERVICE ACT

service holding office in the agency concerned, etc.), and have them resume office, when they complete such services: *Provided*, That in case where the public officials, executive officers or employees are expelled from office, discharged from the military service, or released from the call, for any offense committed on service, this shall not apply.

(2) With respect to those who have withdrawn from their offices under paragraph (1), the head of the State agency or local government, or any employer shall calculate their compulsory service period as actual working periods for their promotion, and the considerable remuneration may be paid to them, within the scope of the difference between the remuneration paid by the military unit or agency for which they serve compulsorily, and that paid before they are in the recruit service by enlistment or call, etc.: *Provided*, That within the limit of the active service period in the army, the period to be considered as an actual work period of those who completed his compulsory service period in the recruit service by call, etc., shall be determined by Presidential Decree.

(3) The head of the State agency or local government, or employer shall not treat unfavorably any public officials, executive officers or employees in their appointment, employment and promotion, for the reason that they are to be in the service, are in the service (limited to those in the recruit service holding their office), or have discharged the military service, such as conscription, call-up, etc.

Article 74-2 (Preferential Treatment, etc. when Employed)

(1) Where the persons completing the recruit service by call-up, etc. (referring to the services or obligatory services as the public interest service personnel, public health doctors, doctors in exclusive charge of draft physical, international cooperation doctors, public-service advocates, technical research personnel or skilled industrial personnel rendering services referred to in Article 26 (1) 3 and 4: hereafter in this Article, the same shall apply) apply for the employment tests, the head of the institution implementing an employment protection under Article 30 of the Act on the Honorable Treatment and Support of Persons, etc. of Distinguished Services to the State shall extend the upper-limit age to apply for tests within the limit of three years of age under the conditions as prescribed by the Presidential Decree.

(2) Where the persons making the recruit service apply for the employ-

제16편 병무 병역법

ment tests within six months before the scheduled date of completing the services, they shall be considered to be those who have completed the services.

[This Article Newly Inserted by Act No. 7541, May 31, 2005]

Article 75 (Compensation and Medical Care)

(1) Any bereaved family of persons who have died in battle or on duty during military service (including the cases where they are being conscripted or called out, and transported in a group under the leadership of a relevant public official concerned), persons who are discharged or exempted from the military service owing to any war or official wound or disease caused on duty, and their families, may receive compensation under the conditions as prescribed by the Act on the Honorable Treatment and Support of Persons, etc. of Distinguished Services to the State. *<Amended by Act No. 5271, Jan. 13, 1997>*

(2) Any bereaved family of persons who have died in service as public interest service personnel as prescribed in Article 26 (1) 1 (including persons who have died from official wounds or of diseases contracted while on duty; hereinafter the same shall apply), and persons who are transferred to the second militia service or exempted from the military service owing to any official wound or disease contracted while on duty, and their families shall receive an indemnity as prescribed by the Act on the Honorable Treatment and Support of Persons, etc. of Distinguished Services to the State. In such cases, the requirements for those to be compensated, and matters necessary for the confirmation of and decision on them, shall be determined by the Presidential Decree. *<Amended by Act No. 5161, Aug. 16, 1996; Act No. 5271, Jan. 13, 1997>*

(3) In case of the former part of paragraph (2), the bereaved families of persons who have died on duty shall be regarded as those of military personnel and police officers who have died on duty under Article 4 (1) 5 of the Act on the Honorable Treatment and Support of Persons, etc. of Distinguished Services to the State, and persons who are transferred to the second militia service or exempted from the military service owing to any official wound or disease contracted while on duty and their families as military personnel and police officers who are wounded during service and their families under Article 4 (1) 6 of the same Act. *<Newly Inserted by Act No. 5161, Aug. 16, 1996; Act No. 5271, Jan. 13, 1997>*

(4) Any persons affected by disease or wounded during the service as

MILITARY SERVICE ACT

public interest service personnel as prescribed in Article 26 (1) 1 shall be treated at military medical facilities or other medical facilities run by the State, local governments or the private sector at the expense of the State, local governments or public organizations, etc. under the conditions as prescribed by the Presidential Decree. *<Amended by Act No. 5757, Feb. 5, 1999>*

(5) With respect to persons who are killed or wounded by direct reason of a military training during the student military training as prescribed in Article 57 (1) or (2), the provisions of paragraphs (1) and (4) shall apply *mutatis mutandis*. *<Amended by Act No. 5161, Aug. 16, 1996>*

(6) Anyone who is in need of the medical treatment of any injury or illness that is caused directly by the physical examination provided for in Articles 11 and 20 (1) may be treated in any military medical facilities, and medical facilities that are operated by the State and local government or any private clinic or hospital at the expenses of the State under the conditions as prescribed by the Presidential Decree. *<Newly Inserted by Act No. 7272, Dec. 31, 2004>*

Article 75-2 (Compensation for Accident, etc.)

(1) Bereaved families of persons who have died while servicing as public interest service personnel as prescribed in Article 26 (1) 1 (including persons who have died from official wounds or of diseases contracted while on duty), or any persons who are wounded or contracted disease during the service shall receive an indemnity for accident, etc.: *Provided*, That if they have received the same kind of indemnity from the State, local governments or public organizations as prescribed by other Acts and subordinate statutes, the amount of indemnity corresponding to it shall not be paid. *<Amended by Act No. 5757, Feb. 5, 1999>*

(2) The indemnity under paragraph (1) shall be borne by the State, local governments or public organizations. *<Amended by Act No. 5757, Feb. 5, 1999>*

(3) Matters necessary for amount and payment, etc. of the indemnity under paragraphs (1) and (2) shall be determined by the Presidential Decree. *[This Article Newly Inserted by Act No. 5161, Aug. 16, 1996]*

Article 76 (Sanctions against Persons with Failure of Military Service Duty)

(1) The head of a State agency or local government, or an employer may not appoint as public official, executive officer or employee any person falling under any of the following subparagraphs, and if such persons

제16편 병무 병역법

are in office, they shall be dismissed from the office:

1. Persons who evade the draft physical;
2. Persons who evade the conscription or call; or
3. Persons who desert from the military service or service as public interest service personnel.

(2) The head of the State agency or local government shall not grant any patent, permission, authorization, license, registration, designation, etc., for various government-authorized, permitted or licensed businesses, to any persons falling under any of subparagraphs of paragraph (1), and if such things are already granted, they shall be revoked.

(3) With respect to those who have left Korea, or stay in foreign countries, without obtaining the permission as prescribed in Article 70 (1) or (3), or those who fail to return to Korea within the permitted period without any justifiable reason, the provisions of paragraphs (1) and (2) shall apply *mutatis mutandis* until they attain their 40th year: *Provided*, That this shall not apply in case where they return to Korea and complete their military service. *(Amended by Act No. 6749, Dec. 5, 2002)*

CHAPTER XII CONSCRIPTION ADMINISTRATION

Article 77 (Supervision of Conscription Administration)

(1) The conscription, call-up, and other conscription administration shall be supervised by the Commissioner of the Military Manpower Administration.

(2) In case where any order or disposition issued or made by the director of the regional military manpower office is deemed unlawful or unreasonable, the Commissioner of the Military Manpower Administration may suspend or revoke it.

Article 78 (Delegation of Authorization on Conscription Administrative Affairs)

(1) The authority of the Commissioner of the Military Manpower Administration as prescribed in Articles 20, 34-3 (5), 70 (1), (3) and (5), and 95 may be delegated to the directors of the regional military manpower offices, or the heads of agencies under control of the regional military manpower offices under the conditions as prescribed by the Presi-

MILITARY SERVICE ACT

dential Decree. *(Amended by Act No. 5757, Feb. 5, 1999; Act No. 6058, Dec. 28, 1999; Act No. 6749, Dec. 5, 2002)*

(2) Part of the authority of the director of the regional military manpower office under this Act may be delegated to the heads of agencies under his control under the conditions as prescribed by the Presidential Decree. *(Amended by Act No. 6058, Dec. 28, 1999; Act No. 6547, Dec. 29, 2001)*

(3) Deleted. *(by Act No. 6547, Dec. 29, 2001)*

(4) The authority of the Commissioner of the Military Manpower Administration as prescribed in Article 70 (3), and that of the director of the regional military manpower office as prescribed in Article 60 (1) 2, may be partially delegated to the head of the diplomatic missions abroad, under the conditions as prescribed by the Presidential Decree.

Article 79 (Travel Expenses to be Borne by National Treasury)

(1) Deleted. *(by Act No. 6547, Dec. 29, 2001)*

(2) The travel expenses of those who undergo the draft physical or the physical examination for active service volunteers, and who are enlisted in the army or disqualified from the military service through conscription, call, or in application for active service, shall be borne by the National Treasury, and shall be paid under the conditions prescribed by the Presidential Decree. *(Amended by Act No. 4840, Dec. 31, 1994; Act No. 6972, Sep. 3, 2003)*

Article 80 (Cooperation with Conscription Administration)

(1) The head of the conscription administrative agency may, if necessary for carrying out his duties, request any cooperation with the conscription administration to the head of the State agency or local government, or the head of any agency holding any electronic data processing system.

(2) The head of the State agency, local government or agency shall, upon receiving a request as referred to in paragraph (1), cooperate with it, and shall not refuse it without any justifiable reason.

Article 81 (Prevention of and Crackdown on Offenses Involving Military Service)

(1) The Commissioner of the Military Manpower Administration may, in case where it is deemed necessary to prevent and crack down on offenses involving the military service, confirm and check matters concerning the fulfillment of the military service by persons liable for the military service and collect data necessary to confirm the fact of violating Acts and subordinate statutes governing the military service.

제16편 병무 병역법

(2) The Commissioner of the Military Manpower Administration may ask state organs, local governments and public institutions to furnish data necessary to confirm the matters concerning the fulfillment of the military service referred to in paragraph (1) under the conditions as prescribed by the Presidential Decree. In this case, the head of institutions shall, upon receiving the request for the data, comply with the request unless special grounds exist that make it impossible for them to do so.

(3) The Commissioner of the Military Manpower Administration may ask employers who hire persons liable for the military service to furnish data necessary to confirm the fact of violating Acts and subordinate statutes governing the military service referred to in paragraph (1) or question them about facts.

(4) The Commissioner of the Military Manpower Administration shall be prohibited from using the data furnished under paragraphs (2) and (3) for any purpose other than the purpose of preventing and cracking down on offenses involving the military service and supplying any other institution with such data.

[This Article Newly Inserted by Act No. 7272, Dec. 31, 2004]

Article 82 Deleted. <by Act No. 6058, Dec. 28, 1999>

Article 82-2 Deleted. <by Act No. 6749, Dec. 5, 2002>

CHAPTER XIII SPECIAL CASES IN WARTIME

Article 83 (Special Cases in Wartime)

(1) In a wartime or emergency, or in the event that the order of military forces mobilization is issued, or when needed for the national defense, the Minister of National Defense may take the following measures: *Provided*, That when needed for national defense, only the measures referred to in subparagraph 5 may be taken: <Amended by Act No. 4840, Dec. 31, 1994; Act No. 5757, Feb. 5, 1999; Act No. 6290, Dec. 26, 2000; Act No. 6502, Aug. 14, 2001>

1. Extension of the active service period as provided in Article 18 (2);
2. Suspension of transfer of those to be called up for the full time reserve service as provided in Article 21 to other service, and transfer of those called up for the full time reserve service to the active service;
3. Suspension or cancelation of the secondment to a guard or warder

MILITARY SERVICE ACT

- of correctional institutions, a member of riot police units and a member of obligatory fire-fighting units under Articles 24 and 25;
4. Suspension of transfer to service as public health doctors, international cooperation doctors, or public-service advocates under Article 34, and conversion of them into those to be called up for military forces mobilization;
 5. Transfer of any person of 40 years of age or less, of those who have completed the compulsory service period as skilled industrial personnel in the fishery and marine transportation business fields of key enterprises as provided in subparagraph 1 of Article 38, to the military register of officers or assistant officers in the reserve service;
 6. and 7. Deleted; *<by Act No. 5757, Feb. 5, 1999>*
 8. Transfer of those who are qualified for the medical, judicial and religious fields as provided in the subparagraphs of Article 58 (1) and are 40 years of age or less, to the military register of officers in the reserve service;
 9. Suspension of change in assignment of the military service and expulsion from the military register as prescribed in Articles 65 and 66 (1); and
 10. Extension of the compulsory service period of the enlistment in active, reserve, and recruit services, and those in the second militia service as prescribed in Article 72 (1), up to 45 years of age.
- (2) In wartime or emergency, or in the event that the order of military forces mobilization is issued, the Commissioner of the Military Manpower Administration may take the following measures: *<Amended by Act No. 6058, Dec. 28, 1999; Act No. 6749, Dec. 5, 2002; Act No. 7272, Dec. 31, 2004>*
1. Act changing the service method of written notice on imposition of the military service duty as prescribed in Article 6 into a method of a public notice through newspapers, television or radio broadcast;
 2. Change of the draft physical age as prescribed in Article 11 (1);
 3. Suspension of the call or transfer to service as public interest service, technical research and skilled industrial personnel as prescribed in Articles 26 and 36;
 4. Conversion of persons in the recruit service as prescribed in Article 14 (1) 1, and those in the recruit service as technical research or skilled industrial personnel as prescribed in Article 36, who fail to

제16편 병무 병역법

be called for military education as prescribed in Article 55, into those subject to be enlisted in the active service; and who have completed the call for education under Article 55, into those to be called for the military forces mobilization;

5. Suspension of the postponement of the draft physical and the conscription or call-up, as prescribed in Article 60 (1) or (2);
- 5-2. Restriction on postponing the fulfillment date of obligation under Article 61 (1);
6. Reduction of the change of residence reporting period as prescribed in Article 69, to seven days;
7. Change of persons aged between 18 and 45 who fall under any of subparagraphs of Article 70 (1) to those under obligation to obtain permission for overseas travel;
8. Extension of the liability for the draft physical and enlistment in the active service as prescribed in Article 71 (1), to up to 35 years of age;
9. Order of the return to persons under obligation to serve in the military who reside in foreign countries; and
10. Revocation of the permission for overseas travel that is granted prior to the proclamation of wartime, incident or the order of military forces mobilization.

(3) In wartime or emergency, or in the event that the order of military forces mobilization is issued, the director of the regional military manpower office may request the Special Metropolitan City Mayor, the Metropolitan City Mayor, the *Do* governor (hereinafter referred to as the "Mayor/*Do* Governor") and the head of *Shi/Kun/Ku* to cooperate with him in performing wartime support tasks falling under the following subparagraphs, and the Mayor/*Do* Governor and the head of *Shi/Kun/Ku* shall, upon receiving the request, give their priority to such cooperation:

(Amended by Act No. 6749, Dec. 5, 2002)

1. Delivery of notices concerning the mobilization of military forces and notices concerning the call-up of wartime labor, and reports on the deliveries of such notices;
2. Encouragement of persons subject to the mobilization of military forces and the call-up of wartime labor to join the military service;
3. Assistance in tipping off, hunting down and cracking down dodgers

MILITARY SERVICE ACT

of the mobilization of military forces and the call-up of wartime labor;

4. Assistance in the provision of vehicles, foodstuffs and accommodation facilities, etc. for mobilized military forces; and

5. Other tasks requested by the director of the regional military manpower office in connection with the mobilization of military forces.

Article 83-2 (Committee for Prevention of Military Service Offenders)

(1) In a wartime or emergency, or in the event that the order of military forces mobilization is issued, the Central Committee for the Prevention of Military Service Offenders shall be established under the Military Manpower Administration and the regional committee for the prevention of military service offenders shall be established each in the Special Metropolitan City, the Metropolitan City and the *Do* that are each mandated to deliberate on matters falling under the following subparagraphs in connection with the prevention and crackdown of military service dodgers who commit the offenses provided for in Articles 84 through 94, the missing, and other offenders in connection with the military service:

1. Prevention and crackdown of the act of dodging and evading the military service;
2. Investigation and administration of the missing from among persons liable to the military service;
3. Crackdown and check of the violation of posting and obligatory service by technical research personnel and skilled industrial personnel;
4. Crackdown of and guidance on the violation of employment ban and the guarantee of reemployment, etc.;
5. Matters concerning census registrations and resident registrations that are concerned with the obligation of the military service; and
6. Other matters concerning the prevention and crackdown of military service offenders.

(2) State agencies, heads of local governments or employers shall actively cooperate with activities of the committees for the prevention of the military service offenders of various levels provided for in paragraph (1).

(3) Necessary matters concerning the composition and operation of the committees for the prevention of military service offenders referred to in paragraph (1) shall be prescribed by the Presidential Decree.

[This Article Newly Inserted by Act No. 6749, Dec. 5, 2002]

CHAPTER XV PENAL PROVISIONS

Article 84 (Failure to Notify Changes in Personnel Affairs)

(1) Deleted. *<by Act No. 6058, Dec. 28, 1999>*

(2) Employers who fail to make a notification on any change in personnel affairs as prescribed in Article 40 or 67 (2) without any justifiable reason, or who make a false notification, shall be punished by imprisonment for not more than six months, or by a fine not exceeding twenty million won.

(3) Any person falling under any of the following subparagraphs shall be punished by penal detention or a fine not exceeding 2 million won:
<Newly Inserted by Act No. 6058, Dec. 28, 1999>

1. A person who has failed to make a move-in report without any justifiable reason under the provisions of Article 69 (1) or made a false move-in report;
2. A person who has gone out of the country without obtaining his departure confirmation under the provisions of Article 70 (5); and
3. A person who has failed to make a report on his return to the country without any justifiable reasons under the provisions of Article 70 (5) or made a false report.

Article 85 (Refusal of Receipt, and Negligence of Liability for Delivery, of Written Notice)

Persons under obligation to receive and deliver the notification imposing the military service under Article 6, who refuse to receive it, or fail to deliver it, or delay in the delivery thereof, without any justifiable reason, shall be punished by imprisonment for not more than six months, or a fine not exceeding one million won.

Article 86 (Desertion, Body Injury, etc.)

Any persons who desert, abscond, or injure their bodies or commit any deceitful act, with the intention of evading the military service or having that service reduced or exempted, shall be punished by imprisonment for not less than one year but not more than five years. *<Amended by Act No. 7541, May 31, 2005>*

Article 87 (Evasion of Draft Physical)

(1) Any person who has received a notice of the draft physical or physical

MILITARY SERVICE ACT

examination and fails to undergo such examination at the designated date without any justifiable reason, shall be punished by imprisonment for not more than 6 months.

(2) Any person who undergoes the draft physical or the physical examination in the place of the person under obligation to undergo the said examination, shall be punished by imprisonment for one to three years.

Article 88 (Evasion of Enlistment)

(1) Persons who have received a notice of enlistment in the active service or a notice of call (including a notice of enlistment through recruitment) and fail to enlist in the army or to comply with the call, even after the expiration of the following report period from the date of enlistment or call without any justifiable reason, shall be punished by imprisonment for not more than three years: *Provided*, That persons who have received a notice of check-up to provide the wartime labor call under Article 53 (2), are absent from the check-up at the designated date and time without any justifiable reason, they shall be punished by imprisonment for not more than six months, or by a fine not exceeding two million won, or with penal detention: *<Amended by Act No. 5271, Jan. 13, 1997; Act No. 5757, Feb. 5, 1999; Act No. 7272, Dec. 31, 2004>*

1. Three days in cases of enlistment in active service;
2. Three days in cases of public interest service personnel call;
3. Three days in cases of a call for education; or
4. Two days in cases of a military forces mobilization call and a wartime labor call.

(2) Any person who enlists in the army or complies with a call, in place of the person to be enlisted or called after receiving the notices as referred to in paragraph (1), shall be punished by imprisonment for one to three years: *Provided*, That any person who attends the check-up in place of the person under obligation to pass the check-up for the wartime labor call under Article 53 (2), shall be punished by imprisonment for not more than one year. *<Amended by Act No. 5271, Jan. 13, 1997>*

Article 89 (Proxy Service of Public Interest Service Personnel)

Any person who serves by proxy for one of the public interest personnel shall be punished by imprisonment for one to three years.

제16편 병무 병역법

Article 89-2 (Desertion from Service of Public Interest Service Personnel, etc.)

Any person who falls under any of the following subparagraphs shall be punished by imprisonment for not more than three years: *(Amended by Act No. 5757, Feb. 5, 1999; Act No. 7541, May 31, 2005)*

1. Public interest service personnel who have deserted the service or have not served in the field concerned for a period of eight days or more without any justifiable reason;
2. Public health doctors, doctors in exclusive charge of draft physical or international cooperation doctors who have deserted the service area, or have not been engaged in the affairs in the field concerned, for a total period of eight days or more, without any justifiable reason; and
3. Public-service advocates who have deserted their place of service, or have not been engaged in the affairs of the field concerned, for a total period of eight days or more, without any justifiable reason.

[This Article Newly Inserted by Act No. 4840, Dec. 31, 1994]

Article 89-3 (Violation of Service Obligation by Public Interest Service Personnel)

Where the public interest service personnel have been subject to warning disposition for not less than four times in total due to the reasons falling under any of Article 33 (1) 1 through 4, they shall be punished by imprisonment for not more than one year.

[This Article Newly Inserted by Act No. 7541, May 31, 2005]

Article 90 (Evasion of Military Forces Mobilization Call)

- (1) Persons who have received a notice of military forces mobilization call, and who fail to enlist in the army or to attend the check-up at the designated date and time, without any justifiable reason, shall be punished by imprisonment for not more than six months, or by a fine not exceeding two million won, or a penal detention. *(Amended by Act No. 5271, Jan. 13, 1997)*
- (2) Any persons who enlist in the army or attend the check-up in place of the person subject to be enlisted or to attend the check-up after receiving the notice of military forces mobilization call, shall be punished by imprisonment for not more than one year.

Article 91 (Issuance of False Certificate, etc.)

Any public official, doctor or dentist who issues any false document, cer-

