

ENFORCEMENT DECREE OF THE ACT ON THE PROTECTION, ETC. OF FIXED-TERM AND PART-TIME EMPLOYEES

Presidential Decree No. 20093, Jun. 18, 2007

Amended by Presidential Decree No. 21835, Nov. 20, 2009
Presidential Decree No. 21928, Dec. 30, 2009
Presidential Decree No. 22018, Feb. 4, 2010
Presidential Decree No. 22269, Jul. 12, 2010
Presidential Decree No. 22797, Mar. 30, 2011

Article 1 (Purpose)

The purpose of this Decree is to prescribe matters delegated by the Act on the Protection, etc. of Fixed-term and Part-time Employees and those necessary for the enforcement thereof.

Article 2 (Scope of Application)

Pursuant to Article 3 (2) of the Act on the Protection, etc. of Fixed-term and Part-time Employees (hereinafter referred to as the "Act"), provisions applicable to businesses or workplaces ordinarily employing four or fewer workers are specified in the attached Table 1.

Article 3 (Exceptions to Limit on Employment Period of Fixed-term Employees)

(1) "Cases prescribed by the Presidential Decree, where the job requires professional knowledge and skills" in Article 4 (1) 5 of the Act refers to any of the following cases:

1. Where a person holding a doctoral degree (including doctoral degrees earned in a foreign country) is engaged in the relevant field;
2. Where a person holding a national technical qualification of technician grade under Article 9 (1) 1 of the National Technical Qualifications Act is engaged in the relevant field;
3. Where a person holding a professional qualification specified in the attached Table 2 is engaged in the relevant field.

(2) "Cases prescribed by the Presidential Decree, where the job is offered as part of the government's welfare or unemployment measures" in Article 4 (1) 5 of the Act refers to

any of the following cases: *<Amended by Presidential Decree No. 21928, Dec. 30, 2009>*

1. Where jobs are provided to develop the vocational skills of the general public, promote their employment, offer socially necessary services and so on in accordance with other Acts and subordinate statutes, such as the Framework Act on Employment Policy and the Employment Insurance Act, etc.;
2. Where jobs are provided to promote the employment of discharged soldiers and stabilize their livelihoods pursuant to Article 3 of the Support for Discharged Soldiers Act; and
3. Where welfare assistance workers, such as patriot and veteran helpers, etc., are in service to improve the welfare of national meritorious persons and stabilize their livelihoods pursuant to Article 19 (2) of the Basic Act on the National Merit Reward.

(3) "Cases prescribed by the Presidential Decree" in Article 4 (1) 6 of the Act refers to any of the following cases: *<Amended by Presidential Decree No. 22018, Feb. 4, 2010 and Presidential Decree No. 22269, Jul. 12, 2010>*

1. Where other Acts and subordinate statutes provide for an employment period of fixed-term workers different from the period under Article 4 (1) of the Act or allow a labor contract in which the employment period of fixed-term workers is separately prescribed to be made;
2. Where a person with military knowledge or skills recognized by the Minister of Defense is engaged in the relevant field or where a person teaches national security and military science in a university pursuant to subparagraph 1 of Article 2 of the Higher Education Act;
3. Where a person with exceptional experience is engaged in work related to national security, national defense, diplomacy or unification;
4. Where a person is engaged in work specified in any of the following items in a school under Article 2 of the Higher Education Act (including graduate schools under Article 30 of the same Act):
 - A. Work of a teaching assistant under Article 14 of the Higher Education Act; and
 - B. Work of an adjunct teacher, professor emeritus, part-time instructor, visiting teacher, etc., under Article 7 of the Enforcement Decree of the Higher Education Act.

5. Where the earned income (referring to the average annual earned income of the past two years) under Article 20 (1) of the Income Tax Act of a person engaged in an occupation falling into category 1 and 2 of the Korean Standard Classification of Occupations announced pursuant to Article 22 of the Statistics Act falls within the highest 25% of the earned incomes of persons engaged in occupations in category 2 of the Korean Standard Classification of Occupations in the latest survey on labor conditions by employment type conducted by the Minister of Employment and Labor;
6. Where a part-time worker whose contractual working hours a week under Article 18 (3) of the Labor Standards Act is evidently short is employed;
7. Where a person is engaged in the work of a sports player under subparagraph 4 of Article 2 of the National Sports Promotion Act and of a sports instructor under subparagraph 6 of the same Article; and
8. Where a person is directly engaged in research work or directly involved in research work as an assistant, such as by carrying out an experiment, a survey, etc., in any of the following research institutions:
 - A. National or public research institutions;
 - B. Government-invested research institutions established under the Act on the Establishment, Operation and Fosterage of Government-Invested Research Institutions and the Act on the Establishment, Operation and Fosterage of Government-Invested Science and Technology Research Institutions;
 - C. Specific research institutions under the Support of Specific Research Institution Act;
 - D. Research institutions established under the Act on the Establishment and Operation of Local Government-Invested Research Institutes;
 - E. Public institution-affiliated research institutions under the Act on the Management of Public Institutions;
 - F. Company- or university-affiliated research institutions; and
 - G. Research institutions which are a corporation established under the Civil Act or any other Act.

Article 4 (Number, Qualification Requirements, etc., of Expert Members)

(1) The number of expert members a Labor Relations Commission (hereinafter referred to as "Labor Relations Commission") under Article 2 (1) of the Labor Relations Commission Act may have pursuant to Article 10 (5) of the Act shall be not more than ten.

(2) The expert members under paragraph (1) shall be appointed by the chairperson of the National Labor Relations Commission (hereinafter referred to as the "National Labor Relations Commission") under Article 2 (1) of the Labor Relations Commission Act from among those holding a doctoral degree in academic fields related to labor affairs, such as law, business administration and economics, etc., and those holding a related qualification, such as lawyers, certified public accountants and certified labor affairs consultants, etc.

(3) Matters concerning the remuneration of expert members referred to in paragraph (1) shall be separately determined by the National Labor Relations Commission and the Standard Annual Pay by Grade of Contract Public Official in Table 34 of the Public Officials Remuneration Regulations shall apply mutatis mutandis thereto.

Article 5 (Delegation of Authority)

Pursuant to Article 19 of the Act, the Minister of Employment and Labor shall delegate the authority specified in any of the following subparagraphs to the heads of local employment and labor offices: *<Amended by Presidential Decree No. 22269, Jul. 12, 2010>*

1. Demand for submission of a status report on compliance with a confirmed correction order under Article 15 (1) of the Act;
2. Receipt of a report of noncompliance with a confirmed correction order under Article 15 (2) of the Act; and
3. Imposition and collection of fines for negligence under Article 24 of the Act.

Article 6 (Criteria for Imposition of Fines for Negligence)

The criteria for the imposition of fines for negligence under Article 24 (1) and (2) are provided for in Table 3.

<This Article Wholly Amended by Presidential Decree No. 22797, Mar. 30, 2011> <Enforcement Date Jul. 1, 2011>

Addenda *<Presidential Decree No. 20093, Jun. 18, 2007>*

This Decree shall enter into force on July 1, 2007: Provided that the enforcement date of Table 3 (limited to subparagraphs 1 and 2) shall be as follows according to types of businesses or workplaces (referring to businesses or workplaces of using employers; hereinafter the same shall apply.):

1. Businesses or workplaces ordinarily employing 300 or more workers: July 1, 2007
2. State and local government agencies; institutions designated as public enterprises, quasi-government agencies and other public institutions under Article 5 of the Act on the Operation of Public Institutions, and meeting the requirements for government-affiliated institutions under Article 3 of the Framework Act on the Management of Government-Affiliated Institutions and the requirements for government-invested institutions under Article 2 of the Framework Act on the Management of Government-Invested Institutions rescinded pursuant to Article 2 of the Addenda of the Act on the Operation of Public Institutions amended by Act no. 8258; local public enterprises and local public corporations under Articles 49 and 76 of the Local Public Enterprises Act; government-invested research institutions and research societies under Article 2 of the Act on the Establishment, Operation and Fostering of Government-Invested Research Institutions and Article 2 of the Act on the Establishment, Operation and Fostering of Government-Invested Science and Technology Research Institutions; and university hospitals under the Act on the Establishment of National University-Affiliated Hospitals: July 1, 2007
3. Businesses or workplaces ordinarily employing 100 or more but less than 300 workers : July 1, 2008
4. Businesses or workplaces ordinarily employing less than 100 workers : July 1, 2009.

Addenda <Presidential Decree No. 22018, Feb. 4, 2010>

Article 1 (Enforcement Date)

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

Article 2 (Application Example)

The amended provisions of Article 3 (3) 4, 5 and 8 shall

apply to cases where a labor contract is concluded or renewed or the period of an existing labor contract is extended after this Decree enters into force.

Addenda <Presidential Decree No. 22269, Jul. 12, 2010>

Article 1 (Enforcement Date)

This Decree shall enter into force on the date of its promulgation. <Proviso omitted>

Article 2 (Revision of Other Decrees)

(1) through (46) Omitted.

(47) Parts of the Act on the Protection, etc., of Fixed-Term and Part-Time Employees shall be revised as follows:

"Minister of Labor" in Article 3 (3) 5, parts other than each subparagraph of Article 5, Article 6 (2) and subparagraph 2 in the offense column of Table 3 shall be changed to "Minister of Employment and Labor".

"Local labor offices" in parts other than each subparagraph of Article 5 shall be changed to "local employment and labor offices".

(48) through (136) Omitted.

Addenda <Presidential Decree No. 22797, Mar. 30, 2011>

Article 1 (Enforcement Date)

This Decree shall enter into force on July 1, 2011.

Article 2 (Transitional Measures concerning Fines for Negligence)

(1) The application of the criteria for imposition of fines for negligence to offenses committed before this Decree enters into force shall be governed by the previous provisions notwithstanding the amended provisions of Table 3.

(2) The imposition of fines for negligence for offenses committed before this Decree enters into force shall not be included in calculating the number of offenses under the amended provisions of Table 3.

[Table 1]

Provisions Applicable to Businesses or Workplaces Ordinarily Employing Four
Workers or Less (Relating to Article 2)

Chapter	Article
Chapter I G e n e r a l Provisions	Article 1 Article 2
Chapter II F i x e d - t e r m Employees	Article 5
Chapter III P a r t - t i m e Employees	Article 7
Chapter V S u p p l e m e n t a r y Provisions	Article 16 (4) subparagraphs 1, 2 (limited to matters concerning recess hours), 3, 4 (limited to matters concerning holidays), and 5 of the Article 17 Articles 18 through 20
Chapter VI P e n a l Provisions	Article 21 Article 23 Article 24 (2) 2 Article 24 (3) through (6)

[Table 3] <Amended on Mar. 30, 2011>

Criteria for Imposition of Fines for Negligence

(Related to Article 6)

1. General criteria

- A. The criteria for the imposition of fines for negligence according to the number of offenses shall apply to cases where a fine for negligence has been imposed for the same offense in the past two years. In such cases, the number of offenses shall be calculated based on the date on which a fine for negligence was imposed for the relevant offense and the date on which the same offense was found again.
- B. The Minister of Employment and Labor may, if an offender falls under any of the following conditions, reduce the amount of fine for negligence under subparagraph 2 by up to half : Provided that this shall not apply to offenders who delay payment of a fine for negligence.
 - 1) Where the offender falls under any of the subparagraphs of Article 2-2 (1) of the Enforcement Decree of the Act on the Regulation of Violations of Public Order;
 - 2) Where the offender has a reason, such as suffering a considerable loss to property due to a natural disaster, fire, etc., or facing a serious crisis due to worsening business conditions;
 - 3) Where the offense is deemed to have been caused by a mistake, such as minor carelessness or error, etc.;
 - 4) Where the offender has corrected or resolved the consequences of his/her offense; and
 - 5) Other cases where it is deemed necessary to reduce the amount of fine for negligence in consideration of the degree of the offense, the motive and consequences of the offense, etc.

2. Specific criteria

Offense	Relevant provision	Amount of fine for negligence (10,000 won)		
		1st offense	2nd offense	3rd and subsequent offenses
A. Where a person fails to comply with a correction order confirmed under Article 14 of the Act without any justifiable reasons	Article 24 (1) of the Act			
1) Where a person fails to comply with a correction order requiring monetary compensation		The ordered amount of monetary compensation	The ordered amount of monetary compensation	The ordered amount of monetary compensation
2) Where a person fails to comply with a correction order to redress discrimination in working conditions, such as working hours, holidays and leave, etc.		500	1000	2000
3) Where a person fails to comply with a correction order to redress discrimination in the use of facilities, etc.		500	1000	2000
B. Where a person fails to comply with a request of the Minister of Employment and Labor to	Article 24 (2) 1 of	200	400	500

submit a status report on compliance without any justifiable reasons, in violation of Article 15 (1) of the Act	t h e Act			
C. Where a person fails to specify working conditions in writing in violation of Article 17 of the Act	Article 24 (2) 2 of t h e Act			
1) Where a person fails to specify the matters referred to in subparagraph 1, 3 or 6 of Article 17 of the Act		50 (for each violation of each subpara- -graph)	100 (for each violation of each subpara- -graph)	200 (for each violation of each subpara- graph)
2) Where a person fails to specify the matters referred to in subparagraph 2, 4 or 5 of Article 17 of the Act		30 (for each violation of each subpara- -graph)	60 (for each violation of each subpara- -graph)	120 (for each violation of each subpara- graph)