

TRADE UNION AND LABOR RELATIONS ADJUSTMENT ACT

Act No. 5310, Mar. 13, 1997

Amended by Act No. 5511, Feb. 20, 1998
Act No. 6456, Mar. 28, 2001
Act No. 7845, Jan. 2, 2006
Act No. 8158, Dec. 30, 2006
Act No. 9041, Mar. 28, 2008
Act No. 9930, Jan. 1, 2010
Act No. 10339, Jun. 4, 2010
Act No. 12630, May 20, 2014

CHAPTER I

General Provisions

Article 1 (Purpose)

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

Article 2 (Definition)

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

1. The term "worker" means a person who lives on wages, salary, or other equivalent form of income earned in pursuit of any type of job;
2. The term "employer" means a business owner, a person responsible for management of a business, or a person who works on behalf of a business owner with respect to matters relating to workers in the business;
3. The term "employers association" means an organization of employers which has an authority to adjust and control its constituent members with regard to labor relations.
4. The term "trade union" means an organization or associated

organization of workers which is formed in voluntary and collective manner upon the workers initiative for the purpose of maintaining and improving working conditions, or improving the economic and social status of workers. In cases where an organization falls into one of the following categories, however, the organization shall not be regarded as a trade union.

- A. Where an employer or other persons who always act in their employer's interests are allowed to join the organization;
 - B. in cases where most of the expenditure is supported by the employer;
 - C. Where activities of an organization are only aimed at mutual benefits, moral culture and other welfare undertakings;
 - D. Where those who are not workers are allowed to join the organization, Provided that a dismissed person shall not be regarded as a person who is not a worker, until a review decision is made by the National Labor Relations Commission when he/she has made an application to the Labor Relations Commission for remedies for unfair labor practices;
 - E. Where the aims of the organization are mainly directed at political movements.
5. The term "labor disputes" means any controversy or difference arising from disagreement between the trade union and employer or employers association (hereinafter referred to as "parties to labor relations") concerning the determination of terms and conditions of employment such as wages, working hours, welfare, dismissal, other treatment, etc. In such cases, "disagreement" is referred to as situations in which no agreement is likely to be reached by the parties even though they continue to attempt to make an agreement.
6. The term "industrial action" means actions or counter-actions which obstruct the normal operation of a business, such as strikes, sabotage, lock-outs, or other activities through which the parties to labor relations intend to achieve their claims.

Article 3 (Restriction on Claims for Damages)

No employer shall claim damages against a trade union or workers in cases where he/she has suffered damage because of collective bargaining or industrial action under this Act.

Article 4 (Justifiable Activities)

The provisions of Article 20 of the Criminal Code shall apply to justifiable activities undertaken to achieve the purpose of Article 1 as collective bargaining, industrial action, or other activities by trade unions. However no act of violence or destruction shall be construed as being justifiable for any ground.

CHAPTER II

Trade Union

SECTION 1

General Provisions

Article 5 (Organization and Membership of Trade Union)

Workers are free to organize a trade union or to join it, except for public servants or teachers who are subject to other enactments.

Article 6 (Incorporation of Trade Union)

(1) A trade union may be incorporated according to the bylaws of the trade union.

(2) Where a trade union is incorporated, it shall be registered in accordance with the Presidential Decree.

(3) With respect to an incorporated trade union, except for such matters prescribed by this Act, the provisions on incorporated associations in the Civil Code shall apply.

Article 7 (Requirements for Protection of Trade Union)

(1) Trade unions which are not established by this Act shall not make an application for adjustment of labor disputes and for remedy for unfair labor practices to the Labor Relations Commission.

(2) The provisions of paragraph (1) shall not be construed as excluding the protection of workers under subparagraphs 1, 2 and 5 of Article 81.

(3) Except specifically for the trade unions formed under this Act, the term "trade union" shall not be used.

Article 8 (Exemption from Taxation)

No tax shall be imposed on a trade union except for its affiliated businesses.

Article 9 (Prohibition of Discrimination)

No member of a trade union shall be discriminated on the basis of race, religion, sex, age, physical condition, employment type, political party, or social status. <Amended by Act No. 9041, Mar. 28, 2008>

SECTION 2

Establishment of Trade Union

Article 10 (Report on Establishment of Trade Union)

(1) A person who intends to establish a trade union shall prepare a report containing the matters described in the following subparagraphs, attached by the bylaws under Article 11 and submit it to the Minister of Employment and Labor in cases of a trade union taking the form of an associated organization or a unit trade union spanning not less than two areas among the Special City, Metropolitan Cities, Special Self-Governing Cities, Provinces and Special Self-Governing Provinces; to the Special City Mayor, Metropolitan City Mayors and Provincial Governors in cases of a unit trade union spanning not less than two areas among Sis/Guns/Gus (referring to autonomous Gus); and to the Special Self-Governing City Mayors, Governors of Special Self-Governing Provinces and heads of Sis/Guns/Gus (referring to heads of autonomous Gus; hereinafter the same shall apply in Article 12 (1)) in cases of any other trade union: <Amended by Act No. 10339, Jun. 4, 2010 and Act No. 12630, May 20, 2014>

1. Name of the trade union;
2. Location of the main office/headquarters;
3. Number of union members;
4. Names and addresses of union officials;
5. Name of the associated organization to which it belongs;
6. In cases of a trade union in the form of an associated organization, the name of its constituent organizations, the number of union members, the address of its main office/headquarters, and the names and addresses of its officials.

(2) A trade union which is an associated organization under paragraph (1) means a industrial-level organization comprised of unit trade unions in the same industry and a federation comprised of industry-level organizations or nationwide industry-level unit trade unions.

Article 11 (Bylaws)

In order to guarantee an autonomous and democratic operation of the organization, a trade union shall include the following matters in its bylaws: *<Amended by Act No. 8158, Dec. 30, 2006>*

1. Name of the trade union;
2. Purposes and activities;
3. Location of the main office/headquarters;
4. Matters concerning union members(matters concerning its constituent organizations in cases of a trade union in the form of an associated organization);
5. Name of the associated organization which it belongs to;
6. Matters concerning a council of delegates if there is any;
7. Matters concerning meetings;
8. Matters concerning the representatives or officials;
9. Matters concerning accounting, including union dues and others;
10. Matters concerning modification of the union bylaws;
11. Matters concerning dissolution;
12. Matters concerning the disclosure of the result of a vote on industrial action, the keeping of and access to voters' roll and ballot papers;
13. Matters concerning impeachment of representatives or officials for violation of the bylaws;
14. Matters concerning election of officials and delegates;
15. Matters concerning discipline and control.

Article 12 (Issuance of Certificate)

(1) The Minister of Employment and Labor, the Special City Mayor, Metropolitan City Mayors, Special Self-Governing City Mayors, Provincial Governors, Governors of Special Self-Governing Provinces or heads of Sis/Guns/Gus (hereinafter referred to as "administrative authorities") shall issue a certificate within three days after receiving the report on establishment under paragraph (1) of Article 10, except for cases prescribed in paragraphs (2) and (3). *<Amended by Act No. 10339, Jun. 4, 2010 and Act No. 12630, May 20, 2014>*

(2) In cases where a report or bylaws need to be supplemented

because of any omission or other reasons, the administrative authorities shall order a supplement thereof by designating a submission period up to twenty days in accordance with the Presidential Decree. Upon receiving the supplemented report or bylaws, a certificate shall be issued within three days.

(3) The administrative authorities shall return a report filed in cases where a trade union which made the report falls under any of the following subparagraphs:

1. Where a trade union falls within the categories of each subparagraph 4 of Article 2;
2. Where supplements are not submitted within the designated period in spite of the order to supplement a report in accordance with the provisions of paragraph (2).

(4) With regard to the issuance of a certificate, a trade union shall be construed to have been established at the time when a report of the establishment of the trade union was submitted.

Article 13 (Report, etc., of Modifications)

(1) A trade union shall make a report of modification to the administrative authorities within thirty days from the date when changes occur in any of the following matters from among the matters reported with regard to establishment pursuant to Article 10 (1): *<Amended by Act No. 6456, Mar. 28, 2001>*

1. Name;
2. Location of the main office;
3. Name of the representative; and
4. Name of the associated organization to which it belongs.

(2) A trade union shall notify the administrative authorities of the following matters by January 31st of each year. However, this shall not apply to matters whose modification was reported in the previous year pursuant to paragraph (1). *<Amended by Act No. 6456, Mar. 28, 2001>*

1. Where bylaws were modified in the previous year, the modified contents of the bylaws;
2. Where an union official was replaced in the previous year, the name of the replaced union official; and
3. The number of union members as of December 31st of the previous year (the number of union members in each constituent organization in cases of a trade union in the form of an associated organization).

SECTION 3

Management of Trade Union

Article 14 (Keeping, etc. of Documents)

(1) A trade union shall prepare each of the following documents within thirty days from the date of its establishment, and keep them at its headquarters or main offices:

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

(2) Documents stipulated in subparagraphs 4 and 5 of paragraph (1) shall be retained for three years.

Article 15 (Holding of General Meetings)

(1) A trade union shall hold one or more general meetings each year.

(2) The representative of a trade union shall preside over general meetings.

Article 16 (Matters for Resolution by General Meeting)

(1) Each of the following matters shall require a resolution adopted by the general meeting:

1. Adoption and modification of bylaws;
2. Election or discharge of union officials;
3. Collective bargaining;
4. Budgets or closing;
5. Establishment, operation, and disposition of funds;
6. Establishment, admission, and withdrawal of an associated organization;
7. Merger, division, or dissolution;
8. Structural changes;
9. Other important matters.

(2) The general meeting shall adopt resolutions by the affirmative vote of a majority of the members present at a general meeting where a majority of all members are present. However, resolutions as to the introduction and modification of bylaws, discharge of union officials, and merger, division, dissolution and structural change of a trade union shall be passed by the

affirmative vote of at least two-thirds of members present at a general meeting where a majority of all members are present.

(3) Notwithstanding the provisions of paragraph (2), in an election in which no candidate running for union official has obtained the consent of a majority of the union members present, a run-off election may be held and a candidate with the highest votes may be elected in accordance with the bylaws..

(4) Resolutions as to the adoption and modification of union bylaws, or the election and discharge of union officials shall be made by a direct, secret, and unsigned ballot.

Article 17 (Council of Delegates)

(1) A trade union may, in accordance with its bylaws, establish a council of delegates in lieu of a general meeting.

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

(3) The tenure of delegates shall be specified in the bylaws of the trade union and shall not exceed three years.

(4) Where a council of delegates has been established, the provisions on general meetings shall be applied mutatis mutandis.

Article 18 (Calling of Extraordinary General Meetings, etc.)

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

(2) The representative of a trade union shall convene, without delay, an extraordinary general meeting or a council of delegates in cases where more than a third of the union members or delegates bring the matters to be referred to meetings, and require a call of meetings (in cases of a trade union in the form of an associated organization, more than one third of its constituent organizations).

(3) Where a representative of a trade union deliberately neglects or avoids the convening of the general meeting provided in paragraph (2), and a request is made by one third or more of the union members to appoint a convener of the meeting, the administrative authorities shall ask the Labor Relations Commission to adopt a resolution within fifteen days, and upon adoption of such resolution by the Labor Relations Commission, immediately appoint a person to convene the meeting.

(4) Where there is no person entitled to convene a general meeting or a council of delegates, if one third or more of the union members or delegates bring matters to be referred to the

meeting, and submit a request to appoint a person to convene the meeting, the administrative authorities shall appoint a person within fifteen days of such request.

Article 19 (Procedure for Calling Meeting)

A general meeting or council of delegates shall give public notice of matters to be discussed at least seven days prior to the commencement date of such meeting or council, and shall convene such meeting or council pursuant to the methods prescribed by the bylaws. However, the notification period may be reduced in accordance with the bylaws of a trade union in cases where a trade union is composed of workers in the same workplace.

Article 20 (Special Provision as to Voting Rights)

In cases where a trade union is to make a resolution on matters regarding a particular union member, that union member shall have no right to partake in the vote.

Article 21 (Correction of Bylaws, Resolution and Measures)

(1) The administrative authorities may, with the resolution of the Labor Relations Commission, order the correction of the bylaws of a trade union which are in conflict with any labor-related Act or subordinate statute.

(2) The administrative authorities may, with the resolution of the Labor Relations Commission, order the correction of a resolution or measure by a trade union, which is deemed to be in conflict with any labor-related Act or subordinate statute and the union bylaws: Provided that in cases of a violation of bylaws, a corrective order shall be made only by the application of the interested party.

(3) A trade union which receives a corrective order under paragraph (1) or (2) shall comply with the order within thirty days: Provided that the period may be extended if there is a justifiable reason.

Article 22 (Rights and Duties of Union Members)

Every union member has equal rights and duties to participate in all affairs of the trade union. However, a trade union may restrict, under union bylaws, the rights of those members who do not pay union dues.

Article 23 (Election of Union Officials, etc.)

(1) Union officials shall be elected from among the union

members.

(2) The tenure of union officials shall be determined by the union bylaws, and shall not exceed three years.

Article 24 (Full-time Official of Trade Union)

(1) A worker may perform duties only for a trade union, without providing the services specified in his/her employment contract, if it is stipulated in the collective bargaining agreement or consented by the employer.

(2) A person who is engaged in duties only for a trade union in accordance with paragraph (1) (hereinafter referred to as "full-time official") shall not be remunerated in any way by the employer for the duration of his/her tenure.

(3) An employer shall not restrict legitimate union activities by a full-time union official. <Amended by Act No. 9930, Jan. 1, 2010>

(4) Notwithstanding paragraph (2), a worker may take time off from work to carry out the functions prescribed by this Act or other Acts, including consultation and bargaining with the employer, grievance handling and occupational safety activities, and the functions of maintaining and managing the trade union for the sound development of industrial relations without any loss of wages as long as he/she does not exceed the maximum time-off limit (hereinafter referred to as "the maximum time-off limit") set in consideration of the number of union members, etc., in each business or workplace in accordance with Article 24-2, if it is stipulated in the collective agreement or consented by the employer. <Amended by Act No. 9930, Jan. 1, 2010>

(5) A trade union shall not demand the payment of wages in violation of paragraphs (2) and (4) and take industrial action to achieve such a goal. <Amended by Act No. 9930, Jan. 1, 2010>

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

(1) In order to set the maximum time-off limit, the Time-off System Deliberation Committee (hereinafter referred to as "the Committee" in this Article) shall be set up in the Ministry of Employment and Labor. <Amended by Act No. 10339, Jun. 4, 2010>

(2) The maximum time-off limit shall be announced by the Minister of Employment and Labor according to the results of deliberation and decision by the Committee, and may be decided anew every three years after re-deliberation on whether it is adequate or not. <Amended by Act No. 10339, Jun. 4, 2010>

(3) The Committee shall be composed of five members recommended by labor circles, five members recommended by

business circles, and five public interest members recommended by the government.

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

(5) Decisions of the Committee shall require the attendance of a majority of all members and the approval of a majority of the members present.

(6) Necessary matters concerning the qualifications and appointment of members, the operation of the Committee, etc., shall be prescribed by the Presidential Decree.

<This Article Newly Inserted by Act No. 9930, Jan. 1, 2010>

Article 25 (Auditing of Account Records)

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

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

Article 26 (Disclosure of Status of Operation)

The representative of a trade union shall notify union members of the financial closing and the status of operation each fiscal year, and have them available for inspection when union members so request.

Article 27 (Presentation of Materials)

A trade union shall report the outcome of financial closing, and the status of operation upon request of the administrative authorities.

SECTION 4

Dissolution of Trade Union

Article 28 (Cause for Dissolution)

(1) A trade union shall be dissolved if it falls under any of the following subparagraphs:

1. Occurrence of causes for dissolution prescribed by its bylaws;

2. Dissolution due to merger or division;
3. Dissolution by a resolution adopted by a general meeting or council of delegates;
4. Dissolution by the administrative authorities with the resolution of the Labor Relations Commission when the trade union has no officials and has not carried out any activity for more than one year.

(2) If a trade union is dissolved on the grounds specified in subparagraphs 1 to 3 of paragraph (1), the representative of the trade union shall report it to the administrative authorities within fifteen days from the date of dissolution.

CHAPTER III

Collective Bargaining and Collective Agreement

Article 29 (Authority of Bargaining and Making Agreements)

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

(2) The bargaining representative trade union (hereinafter referred to as "the bargaining representative union") determined pursuant to Article 29-2 shall have the authority to conduct bargaining and conclude a collective agreement with the employer on behalf of all trade unions or union members that demand bargaining. *<Amended by Act No. 9930, Jan. 1, 2010>*

(3) Any person who has been authorized by a trade union or by an employer or an employers' association to bargain and to make a collective agreement may exercise his/her power within the scope of the authority which the trade union, or employer or employers' association has granted. *<Amended by Act No. 9930, Jan. 1, 2010>*

(4) In cases where a trade union, or an employer or an employers' association delegates the authority to conduct bargaining or to conclude a collective agreement in accordance with paragraph (3), it shall notify it to the other party. *<Amended by Act No. 9930, Jan. 1, 2010>*

Article 29-2 (Procedure for Determining Bargaining Representative Union)

(1) If there are two trade unions or more which are established or joined by workers in a business or workplace regardless of type of organization, the trade unions shall determine the bargaining representative union (including the bargaining representative body composed of members of two different trade unions or more; hereinafter the same shall apply) and then demand bargaining: Provided that this shall not apply if the employer consents not to undergo the procedure for determining the bargaining representative union channel prescribed in this Article within the period during which the bargaining representative union can be determined autonomously.

(2) All trade unions participating in the procedure for determining the bargaining representative union shall autonomously determine the bargaining representative union within the period prescribed by the Presidential Decree.

(3) If the bargaining representative union is not determined within the period referred to in paragraph (2) and the consent referred to in the provision of paragraph (1) is not obtained from the employer, the trade union (including the case where two trade unions or more, between them, have a majority of the members of all trade unions participating in the procedure for determining the bargaining representative union by delegating authority, uniting themselves together, etc.) composed of a majority of the members of all trade unions participating in the procedure for determining the bargaining representative union shall become the bargaining representative union.

(4) All trade unions participating in the procedure for determining the bargaining representative union, if failing to determine the bargaining representative union pursuant to paragraphs (2) and (3), shall jointly organize a bargaining representative team (hereinafter referred to as "joint bargaining representative team") and then conduct bargaining with the employer. In such cases, a trade union eligible to participate in the joint bargaining representative team shall be the one whose members make up not less than 10/100 of the members of all trade unions participating in the procedure for determining the bargaining representative union.

(5) If agreement fails to be reached on the organization of the joint bargaining representative team, the Labor Relations Commission may decide in consideration of the proportions of union members at the request of the trade union concerned.

(6) If any objection is raised to the fact of demanding bargaining, the number of union members, etc., in determining

the bargaining representative union pursuant to paragraphs (1) through (4), the Labor Relations Commission may make a decision on such an objection at the request of the trade union, as prescribed by the Presidential Decree.

(7) Article 69 and Article 70 (2) shall apply mutatis mutandis to the procedure for appeal against a decision made by the Labor Relations Commission pursuant to paragraphs (5) and (6) and the effect of such a decision.

(8) Necessary matters concerning the procedure for determining the bargaining representative union, including the method by which a trade union demands and participates in bargaining and the standards for calculating the number of union members to determine the bargaining representative union, the prevention of an increase in bargaining costs, and so on shall be prescribed by the Presidential Decree.

<This Article Newly Inserted by Act No. 9930, Jan. 1, 2010>

Article 29-3 (Decision on Bargaining Unit)

(1) The unit (hereinafter referred to as “the bargaining unit”) at which the bargaining representative union shall be determined pursuant to Article 29-2 shall be a business or workplace.

(2) Notwithstanding paragraph (1), if it is deemed necessary to divide the bargaining unit given the considerable disparity in working conditions, employment status, bargaining practices, etc., in a business or workplace, the Labor Relations Commission may decide to divide the bargaining unit at the request of either or both of the parties to the labor relationship.

(3) Article 69 and Article 70 (2) shall apply mutatis mutandis to the procedure for appeal against a decision made by the Labor Relations Commission pursuant to paragraph (2) and the effect of such a decision.

(4) Necessary matters concerning requests to divide the bargaining unit, the standards and procedure for decision-making by the Labor Relations Commission and so on shall be prescribed by the Presidential Decree.

<This Article Newly Inserted by Act No. 9930, Jan. 1, 2010>

Article 29-4 (Duty of Fair Representation, etc.)

(1) The bargaining representative union and employer shall not discriminate against trade unions participating in the procedure for determining the bargaining representative union or their members without any reasonable grounds.

(2) If the bargaining representative union and employer

engage in discrimination in violation of paragraph (1), the trade union may request the Labor Relations Commission to redress such discrimination within three months from the date on which the act is committed (referring to the date of signing of the collective agreement, in cases where all or part of the collective agreement violates paragraph (1)) in accordance with the method and procedure prescribed by the Presidential Decree.

(3) With regard to the request referred to in paragraph (2), if the Labor Relations Commission recognizes that there has been discrimination without any reasonable grounds, it shall issue an order necessary for redressing such discrimination.

(4) Article 85 and Article 86 shall apply mutatis mutandis to the procedure for appeal against an order or decision rendered by the Labor Relations Commission pursuant to paragraph (3), and so on.

<This Article Newly Inserted by Act No. 9930, Jan. 1, 2010>

Article 29-5 (Other Matters Relating to Determination of Bargaining Representative Union)

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

<This Article Newly Inserted by Act No. 9930, Jan. 1, 2010>

Article 30 (Principle of Bargaining)

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

(2) A trade union and an employer or an employers' association shall not refuse or delay, without just causes, bargaining or concluding a collective agreement.

Article 31 (Drawing up of Collective Agreement)

(1) A collective agreement shall be prepared in writing, and both parties concerned shall sign or affix their seals thereto.
<Amended by Act No. 8158, Dec. 30, 2006>

(2) The parties to a collective agreement shall report the collective agreement to the administrative authorities within fifteen days after the date of conclusion thereof.

(3) If any provision of a collective agreement is unlawful,

the administrative authorities may, with the resolution of the Labor Relations Commission, order the correction thereof.

Article 32 (Valid Term of Collective Agreement)

(1) No collective agreement shall have a valid term exceeding two years.

(2) If a collective agreement does not specify a valid term or has a valid term exceeding the period stipulated in paragraph (1), the valid term shall be two years.

(3) Unless otherwise provided in a separate agreement, if no new collective agreement is concluded by the expiry date of the existing agreement even though the parties have continuously engaged in collective bargaining before and after the expiry date, the existing collective agreement shall remain effective for up to three months after its expiry date. If no conclusion is made on a new collective agreement after the expiration of the extended effective term, the existing agreement shall be applicable only if the existing agreement specifically provides that it shall remain in effect until a new collective agreement is concluded, provided, however, that any one party concerned may terminate the collective agreement by giving notice to the other party six months in advance. *<Amended by Act No. 5511, Feb. 20, 1998>*

Article 33 (Validity of Terms and Conditions)

(1) Part of the rules of employment or contract of employment which violates the standards concerning working conditions and other treatment of workers specified in collective agreement shall be null and void.

(2) Matters which are not stipulated by a contract of employment, and what has been invalidated by paragraph (1), shall be governed by the terms and conditions of collective agreement.

Article 34 (Interpretation of Collective Agreement)

(1) If the parties do not reach an agreement on interpretation or implementation of the collective agreement, one or both of the parties to the collective agreement may ask the Labor Relations Commission for its opinion about the disputed interpretation or implementation.

(2) The Labor Relations Commission shall give its clear view on the requested matter under paragraph (1) within thirty days after the receipt of such request.

(3) The opinions of the Labor Relations Commission regarding the interpretation or implementation rendered under paragraph (2) shall have the same effect as that of an arbitrated judgment.

Article 35 (General Binding Force)

Where a collective agreement applies to at least half of the ordinary number of workers performing the same kind of job and employed in a single business or a workplace, it shall also apply to other workers performing the same kind of job and employed in the same business or workplace.

Article 36 (Geographical Binding Force)

(1) Where more than two-thirds of the workers performing the same kind of job and employed in the same area are subject to the application of one collective agreement, the administrative authorities may, with the resolution of the Labor Relations Commission, and upon the request of one or both parties to the collective agreement or by its own authority, make a decision that such collective agreement shall apply to other workers performing the same kind of job and employed in the same area, as well as to their employers.

(2) The administrative authorities shall notify, without delay, the decision made under paragraph (1).

CHAPTER IV

Industrial Action

Article 37 (Basic Principles of Industrial Action)

(1) No industrial action, in its purposes, methods, and processes, shall violate legislations and public order.

(2) Union members shall not take part in any industrial action which is not led by a trade union.

Article 38 (Guidance and Responsibility of Trade Union)

(1) No industrial action shall be conducted in ways of obstructing or interrupting entry to the premises, work and other normal services by individuals who are not related to the disputes or want to provide work, and no violence or threat shall be used to induce workers and individuals into participating in industrial action.

(2) During a period of industrial action, works to prevent damage to operational equipments, or to prevent impairment or deterioration of raw materials or manufactured goods, shall be

conducted normally.

(3) A trade union shall have the responsibility to direct, manage, and supervise industrial action to be conducted in compliance with the related laws.

Article 39 (Restriction on Detention of Workers)

Except as a criminal caught in the act of committing a crime, no workers shall be detained for violation of this Act during a period of industrial action.

Article 40 Deleted. <Act No. 8158, Dec. 30, 2006>

Article 41 (Restriction on and Prohibition of Industrial Action)

(1) No industrial action by a trade union shall be conducted unless a majority of union members have decided in favor of taking industrial action by a direct, secret, and unsigned ballot. If the bargaining representative union has been determined, no industrial action shall be taken unless a majority of the members of all the trade union (limited to union members belonging to the business or workplace concerned) involved in the process have decided in favor of taking industrial action by a direct, secret and unsigned ballot. <Amended by Act No. 9930, Jan. 1, 2010>

(2) No industrial action shall be taken by those workers who are engaged in major defense businesses subject to the Defense Business Act, and by those who are involved in electricity, water or a business which produces mainly defense goods. The scope of workers who are engaged in a business which produces mainly defense goods shall be prescribed by the Presidential Decree. <Amended by Act No. 7845, Jan. 2, 2006>

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

(1) No industrial action shall take the form of violence or destruction, or occupation of facilities related to production or other important businesses or such equivalent facilities as prescribed by the Presidential Decree.

(2) No industrial action shall be conducted to stop, close, or interrupt the normal maintenance and operation of security facilities of a workplace.

(3) If the administrative authorities determines that any industrial action falls under paragraph (2), it shall serve notice that such action cease and desist, upon the resolution of the Labor Relations Commission. If, however, there is not enough time to seek such resolution from the Labor Relations Commission, it may service notice to cease and desist such action immediately

without waiting for the resolution of the Labor Relations Commission. <Amended by Act No. 8158, Dec. 30, 2006>

(4) In the case of the proviso of paragraph (3), the administrative authorities shall obtain approval from the Labor Relations Commission, ex post facto and without delay. If the administrative authorities fail to obtain such approval, the notice shall lose its effect from that moment. <Amended by Act No. 8158, Dec. 30, 2006>

Article 42-2 (Restrictions on Industrial Action in Minimum Services to Be Maintained)

(1) The term “minimum services to be maintained” in this Act refers to those services among essential public services prescribed in Article 71 (2), which, if suspended or discontinued, could remarkably endanger the lives, health, physical safety or daily life of the public and are prescribed by the Presidential Decree.

(2) No act of stopping, discontinuing or obstructing the proper maintenance and operation of the minimum services to be maintained shall be carried out as legitimate industrial action.

<This Article Newly inserted by Act No. 8158, Dec. 30, 2006>

Article 42-3 (Agreement on Minimum Services to Be Maintained)

The parties in labor relations shall conclude an agreement (hereinafter referred to as “agreement on minimum services to be maintained”) in writing that stipulates the levels of minimum services to be maintained and provided, the specific work designated as minimum services, the necessary number of workers, etc., in order to ensure the proper maintenance and operation of the minimum services during a period of industrial action. In such cases, both parties shall sign or seal the agreement on minimum services to be maintained.

<This Article Newly inserted by Act No. 8158, Dec. 30, 2006>

Article 42-4 (Decision on Maintenance and Levels of Operation of Minimum Services to Be Maintained)

(1) If an agreement on minimum services to be maintained is not concluded, both or either of the parties in labor relations shall make an application for the Labor Relations Commission to decide the levels of minimum services to be maintained and operated, the specific work designated as minimum services, the necessary number of workers, etc.

(2) The Labor Relations Commission, receiving the application under paragraph (1), may decide the levels of minimum services to be maintained and operated, the specific work designated as

minimum services, the necessary number of workers, etc., taking into account the characteristics, contents, etc., of the minimum services according to business or workplace.

(3) The Special Mediation Committee under Article 72 shall take charge of implementing the decision made by the Labor Relations Commission pursuant to paragraph (2).

(4) If there is a difference of opinion between the parties concerned over interpretation or implementation of the decision made by the Labor Relations Commission pursuant to paragraph (2), the parties shall follow the interpretation of the Special Mediation Committee. In such cases, the interpretation of the Special Mediation Committee shall have the same effect as the decision made by the Labor Relations Commission pursuant to paragraph (2).

(5) With regard to the procedure to raise an objection to the decision of the Labor Relations Commission under paragraph (2) and the effect of the decision, the provisions of Articles 69 and 70 (2) shall apply mutatis mutandis thereto.

<This Article Newly inserted by Act No. 8158, Dec. 31, 2006>

Article 42-5 (Industrial Action by Decision of Labor Relations Commission)

If the Labor Relations Commission makes a decision pursuant to Article 42-4 (2) and industrial action is taken in accordance with that decision, the industrial action shall be deemed to have been taken while duly maintaining and operating the minimum services to be maintained.

<This Article Newly inserted by Act No. 8158, Dec. 31, 2006>

Article 42-6 (Designation of Workers for Minimum Services to Be Maintained)

(1) If an agreement on minimum services to be maintained is in place or a decision is made by the Labor Relations Commission pursuant to Article 42-4 (2), the trade union shall notify the employer of its members, among those engaged in minimum services, who will work during a period of industrial action, and the employer shall designate workers accordingly and notify the trade union and the designated workers of this. However, if the trade union fails to make such notification prior to the commencement of the industrial action, the employer shall designate workers who will work to provide minimum services to be maintained and shall notify the trade union and the workers of the same. *<Amended by Act No. 9930, Jan. 1, 2010>*

(2) In making a notification and designation pursuant to

paragraph (1), the trade union and employer, if there are two trade unions or more which are composed of workers engaged in minimum services to be maintained, shall give consideration to the proportion of members of each trade union, who are engaged in such minimum services. <Newly Inserted by Act No. 9930, Jan. 1, 2010>

<This Article Newly Inserted by Act No. 9930, Jan. 1, 2006>

Article 43 (Restriction on Hiring by Employer)

(1) No employer shall hire persons who are not related to their business operations, or use replacements during a period of industrial action so as to continue works which have been stopped by industrial actions.

(2) No employer shall, during a period of industrial action, contract or subcontract out work which has been suspended because of the industrial action concerned.

(3) The provisions of paragraphs (1) and (2) shall not apply to the employer of essential public services who hires persons unrelated to the business concerned or use replacements, or contract or subcontract out the work only during a period of industrial action. <Newly inserted by Act No. 8158, Dec. 31, 2006>

(4) In the case of paragraph (3), an employer may hire or use replacements or contract or subcontract out the work as long as the proportion of the replacement workers do not exceed 50/100 of strike participants of the business or workplace concerned. In such cases, method to calculate the number of strike participants, etc., shall be prescribed in the Presidential Decree. <Newly inserted by Act No. 8158, Dec. 30, 2006>

Article 44 (Prohibition of Demands for Wage Payment during Industrial Action)

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

(2) No trade unions shall take industrial action in order to demand and achieve wage payment for the period of industrial action.

Article 45 (Mediation before Industrial Action)

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

(2) No industrial action shall be taken without first undergoing mediation procedures (excluding mediation procedures that come

after the decision to end the mediation is made pursuant to Article 61-2) under the provisions of Sections 2 through 4 of Chapter V. This paragraph shall not apply when mediation procedures do not finish within the period prescribed in Article 54, or when the arbitration ruling is not made within the period prescribed in Article 63. <Amended by Act No. 8158, Dec. 30, 2006>

Article 46 (Requirements for Lock-out of Workplace)

(1) An employer may execute a lock-out of the workplace only after its trade union commences industrial action.

(2) In cases of a lock-out under paragraph (1), an employer shall report it in advance to the administrative authorities and the Labor Relations Commission.

CHAPTER V

Mediation of Labor Disputes

SECTION 1

General Provisions

Article 47 (Efforts for Voluntary Adjustment)

No provisions of this Act shall be construed to prevent the parties to labor relations from taking part in deciding labor related matters including, but not limited to, working conditions, or from making every effort to resolve disputes or differences arising from labor relations, through labor-management consultation or by collective bargaining.

Article 48 (Obligation of Parties)

The parties to labor relations shall stipulate in their collective agreement the procedures and methods for labor-management consultation or other collective bargaining means to maintain the reasonable labor relations, and shall make every effort to resolve labor disputes by themselves when such disputes arise.

Article 49 (Obligation of Government, etc.)

The Government and local self-governing bodies, when the

parties are unable to reach an agreement on their labor relations, shall make every effort to prevent industrial actions from taking place and to resolve labor disputes rapidly and fairly by helping the relevant parties to industrial relations settle differences on their own.

Article 50 (Expedient Proceedings)

The parties to labor relations, the Labor Relations Commission and other relevant institutions shall make best efforts to provide expeditious means for the settlement when the labor disputes need to be mediated pursuant to this Act.

Article 51 (Priority Given to Public Services, etc.)

Labor disputes related to the Government, local self-governing bodies, state or public corporations, defense industries, and public services shall be given priority and dealt with expeditiously.

Article 52 (Private Mediation or Arbitration)

(1) The provisions of Sections 2 and 3 shall not be construed to prevent the parties to labor relations from settling labor disputes through other means of mediation or arbitration (hereinafter referred to as "private mediation, etc.") pursuant to a mutual agreement or collective agreement. *<Amended by Act No. 8158, Dec. 30, 2006>*

(2) When the parties to labor relations have agreed to resolve labor disputes pursuant to paragraph (1), they shall report it to the Labor Relations Commission.

(3) When labor disputes are to be resolved in accordance with paragraph (1), each of the following subparagraphs shall apply:

1. With respect to resolutions by means of mediation, the provisions of Articles 45 (2) and 54 shall apply. In such cases, a period of mediation shall begin from the date of commencement of such mediation;
2. With respect to resolutions by means of arbitration, the provisions of Article 63 shall apply. In such cases, a prohibition period of industrial actions shall begin with the date of commencement of arbitration.

(4) An agreement made by means of mediation or arbitration under paragraph (1) shall have the same effect as that of a collective agreement.

(5) Persons who conduct private mediation, etc., shall be those who meet the qualification requirements described in each item of Article 8 (2) 2 of the Labor Relations Commission Act. In such cases, the person who conducts private mediation, etc.,

may receive service fees, allowances and travel expenses from the parties concerned. <Newly inserted by Act No. 8158, Dec. 30, 2006>

SECTION 2

Mediation

Article 53 (Commencement of Mediation)

(1) The Labor Relations Commission shall conduct the proceedings of mediation, without any delay, when one of the parties to labor relations submits a request for mediation to the Labor Relations Commission. The parties concerned shall undertake in good faith the proceedings of mediation.

(2) The Labor Relations Commission may assist the parties concerned to settle their dispute autonomously and efficiently by, among other things, arranging negotiation prior to the request for mediation made pursuant to paragraph (1). <Newly inserted by Act No. 8158, Dec. 31, 2006>

Article 54 (Period of Mediation)

(1) Mediation shall be completed within ten days in the case of general businesses, and fifteen days in the case of public services, after the request is made for mediation pursuant to Article 53.

(2) The parties concerned may agree to extend a period of mediation under paragraph (1) up to ten days in the case of general businesses, and fifteen days in the case of public services.

Article 55 (Composition of Mediation Committee)

(1) A Mediation Committee shall be established within the Labor Relations Commission for purpose of mediation of labor disputes.

(2) The Mediation Committee under paragraph (1) shall be composed of three mediation members.

(3) The mediation members under paragraph (2) shall be designated by the Chairperson of the Labor Relations Commission from among members of the Labor Relations Commission concerned so that each member can represent employers, workers, and public interest. The member representing workers shall be designated from the members recommended by the employer, and the member representing employers shall be designated

from the members recommended by the trade union. However, in cases where a list of members who have been recommended by the parties concerned is not submitted within three days prior to a meeting of the Mediation Committee, the Chairperson may designate the members.

(4) If it presents an undue hardship to organize the Mediation Committee pursuant to paragraph (3) due to the fact that either the member representing workers or the member representing employers fails to participate, the Chairperson of the Labor Relations Commission may designate three members, from among members of the Commission who represent public interest, as the mediation members, except where there is a member of the Labor Relations Commission, selected based on agreement between both parties, the member shall be designated as a mediation member. <Newly Inserted by Act No. 8158, Dec. 30, 2006>

Article 56 (Chairperson of Mediation Committee)

(1) There shall be a chairperson in the Mediation Committee.

(2) The Chairperson shall be the mediation member representing public interest, except that the Chairperson of the Mediation Committee organized pursuant to Article 55 (4) shall be elected by mutual voting of the Mediation Committee. <Amended by Act No. 8158, Dec. 30, 2006>

Article 57 (Mediation by Single Mediator)

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

(2) The single mediator under paragraph (1) shall be designated by the Chairperson of the Labor Relations Commission from among the members of the Labor Relations Commission who have been agreed upon by the parties involved.

Article 58 (Verification of Claims, etc.)

The Mediation Committee or the single mediator, as the case may be, shall designate a specific date for the parties concerned to appear so as to verify the main points of their respective claims.

Article 59 (Restriction on Attendance)

The Chairperson of the Mediation Committee or the single mediator, as the case may be, may restrict the attendance of persons other than the parties concerned and witnesses for the hearing.

Article 60 (Preparation of Mediation Proposal)

(1) The Mediation Committee or the single mediator, as the case may be, shall prepare a mediation proposal to be presented to the parties concerned, with recommendation for their acceptance, may simultaneously publish it along with the reasons, and if necessary, may request cooperation of the press or broadcasting media for reporting.

(2) If the Mediation Committee or the single mediator, as the case may be, determines that further proceedings of the mediation is not warranted due to the parties' refusal to accept the mediation proposal, it shall decide to terminate the mediation procedure and notify the decision to the parties concerned.

(3) If the parties concerned, after accepting the mediation proposal in accordance with paragraph (1), do not agree on any of the interpretation or implementation measures of the proposal, they shall request the Mediation Committee or the single mediator, as the case may be, to provide a clear opinion on the interpretation or implementation measures.

(4) Upon receiving the request made pursuant to paragraph (3), the Mediation Committee or the single mediator, as the case may be, shall render a clear opinion within seven days of the date of receipt of such request.

(5) No parties concerned shall conduct industrial actions with regard to the interpretation or implementation of the mediation proposal concerned, until the opinion on the interpretation or implementation measures is rendered in accordance with paragraphs (3) and (4).

Article 61 (Effect of Mediation)

(1) If the parties have accepted the mediation proposal referred to in paragraph (1) of Article 60, all members of the Mediation Committee or the single mediator, as the case may be, shall prepare a mediated agreement in writing, and sign or seal it together with the parties concerned. <Amended by Act No. 8158, Dec. 30, 2006>

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

(3) The opinion on the interpretation and implementation measures which have been rendered by the Mediation Committee or the single mediator, as the case may be, in accordance with paragraph (4) of Article 60 shall have the same effect as an arbitration ruling.

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

(1) The Labor Relations Commission may conduct mediation to settle a labor dispute even after the decision to end mediation is made pursuant to Article 60 (2).

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

<This Article Newly inserted by Act No. 8518, Dec. 30, 2006>

SECTION 3

Arbitration

Article 62 (Commencement of Arbitration)

The Labor Relations Commission shall conduct arbitration in any of the following cases:

1. Where a request for arbitration is made by both of the parties concerned; or
2. Where a request for arbitration is made by one of the parties in accordance with the provisions of a collective agreement
3. Deleted. *<Act No. 8158, Dec. 30, 2006>*

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

Industrial actions shall not be conducted for fifteen days from the date when labor disputes have been referred to arbitration.

Article 64 (Composition of Arbitration Committee)

(1) An Arbitration Committee shall be established within the Labor Relations Commission for the arbitration or review of labor disputes.

(2) The Arbitration Committee under paragraph (1) shall be composed of three members.

(3) The arbitration members under paragraph (2) shall be designated by the Chairperson of the Labor Relations Commission from among those who represent public interest in the Labor Relations Commission and are mutually agreed upon by both parties. In cases where the parties do not reach an agreement, the arbitration members shall be designated from members of the Labor Relations Commission who represent public interest.

Article 65 (Chairperson of Arbitration Committee)

(1) There shall be a chairperson in the Arbitration Committee.

(2) The Chairperson shall be elected by mutual voting among members of the Arbitration Committee.

Article 66 (Verification of Claims, etc.)

(1) The Arbitration Committee shall designate a specific date for both or one of the parties concerned to appear so as to verify the main points of their respective claims.

(2) With the consent of the Arbitration Committee, members of the Labor Relations Commission representing employers or workers who are designated by the parties concerned may attend an arbitration meeting to testify their opinion.

Article 67 (Restriction on Attendance)

The Chairperson of the Arbitration Committee may restrict the attendance of persons other than the parties concerned and witnesses for the hearing.

Article 68 (Arbitration Ruling)

(1) The arbitration ruling shall be made in writing and the effective date shall be clearly stated therein.

(2) If the parties concerned do not agree on the interpretation or implementation measures of the arbitration ruling under paragraph (1), the interpretation by the Arbitration Committee concerned shall prevail and have the same effect as that of an arbitration ruling.

Article 69 (Finalization of Arbitration Ruling, etc.)

(1) If the party concerned considers that an arbitration ruling rendered by the Regional Labor Relations Commission or Special Labor Relations Commission violates law or is an act beyond its authority, he/she may apply for review of the case to the National Labor Relations Commission within ten days of the date of receipt of the arbitration ruling.

(2) Notwithstanding the provisions of Article 20 of the Administrative Litigation Act, if the party concerned considers that an arbitration ruling rendered by the National Labor Relations Commission or a decision on review in accordance with paragraph (1) violates law or is an act beyond its authority, he/she may bring an administrative suit within fifteen days of the date of receipt of an arbitration ruling or decision on review.

(3) When a request for review has not been made, or an administrative suit has not been brought within the designated period under paragraphs (1) and (2), the arbitration ruling or decision on review shall be final.

(4) When an arbitration ruling or a decision on review has been finalized in accordance with the provisions of paragraph (3), the parties concerned shall comply therewith.

Article 70 (Effect of Arbitration Ruling, etc.)

(1) The contents of the arbitration ruling rendered pursuant to Article 68 (1) shall have the same effect as a collective agreement.

(2) The effect of the arbitration ruling or review decision rendered by the Labor Relations Commission shall not be suspended by any application for review filed with the National Labor Relations Commission pursuant to Article 69 (1) or any administrative lawsuit filed pursuant to Article 69 (2)

<Amended in its entirety by Act No. 8158, Dec. 30, 2006>

SECTION 4

Special Provisions for the Mediation of Labor Disputes in Public Services

Article 71 (Scope of Public Services, etc.)

(1) "Public service" under this Act means a service described in each of the following subparagraphs, which is indispensable to daily lives of the general public or has great influence on the national economy: *<Amended by Act No. 8158, Dec. 30, 2006>*

1. Regular line public transportation services;
2. Water, electricity, gas supply, oil refinery and supply services;
3. Public health and medical services and blood supply services;
4. Banking and mint services;
5. Broadcasting and telecommunication services.

(2) "Essential public service" under this Act means each service described in the following subparagraphs, which falls within the category of public services under paragraph (1) and whose stoppages and discontinuance may endanger daily lives of the general public, or may undermine the national economy considerably, and whose replacement presents a hardship: *<Amended by Act No. 8158, Dec. 30, 2006>*

1. Railway services, urban railway services, and air transport services;
2. Water, electricity, gas supply, oil refinery and supply services;
3. Hospital and blood supply services;
4. Bank of Korea;

5. Telecommunication services.

Article 72 (Composition of Special Mediation Committee)

(1) A Special Mediation Committee shall be established within the Labor Relations Commission for the mediation of labor disputes in public services.

(2) The Special Mediation Committee under paragraph (1) shall be composed of three members.

(3) The members of the Special Mediation Committee under paragraph (2) shall be designated by the Chairperson of the Labor Relations Commission from among four to six members of the Labor Relations Commission who represent public interest and have not been excluded by the trade union or by the employer, after completion of rounds of selection by exclusion. However, in cases where the parties concerned agree to recommend those who are not the members of the Labor Relations Commission concerned, those non-members shall be designated.
<Amended by Act No. 8158, Dec. 30, 2006>

Article 73 (Chairperson of Special Mediation Committee)

(1) There shall be a chairperson in the Special Mediation Committee.

(2) The Chairperson shall be elected by mutual voting among the members of the Special Mediation Committee who are the members of the Labor Relations Commission representing public interest. If the Special Mediation Committee is composed solely of only members not from the Labor Relations Commission, then the Chairperson shall be elected by mutual voting among the members. However, in cases where there is only one member representing public interest in the Special Mediation Committee, that member shall be the Chairperson.

Article 74 Deleted. <Act No. 8158, Dec. 30, 2006>

Article 75 Deleted. <Act No. 8158, Dec. 30, 2006>

SECTION 5

Emergency Adjustment

Article 76 (Decision of Emergency Adjustment)

(1) The Minister of Employment and Labor may make a decision to conduct an emergency adjustment when a labor

dispute is related to public services, of the vast extent, or of specific character; and there is a danger of impairing the national economy or the daily lives of the general public.

<Amended by Act No. 10339, Jun. 4, 2010>

(2) The Minister of Employment and Labor shall consult with the Chairperson of the National Labor Relations Commission prior to making a decision for an emergency adjustment.

<Amended by Act No. 10339, Jun. 4, 2010>

(3) When the Minister of Employment and Labor decides to conduct the emergency adjustment under paragraphs (1) and (2), he shall publicize, without any delay, his decision along with reasons and shall simultaneously notify the decision to each of the parties concerned as well as the National Labor Relations Commission. *<Amended by Act No. 10339, Jun. 4, 2010>*

Article 77 (Suspension of Industrial Action during Emergency Adjustment)

The parties concerned shall suspend any industrial action immediately when the decision of emergency adjustment is publicized in accordance with paragraph (3) of Article 76, and shall not resume industrial action within thirty days of the date of publication of the decision.

Article 78 (Mediation by National Labor Relations Commission)

The National Labor Relations Commission shall commence, without delay, the procedure of mediation, when it has been notified in accordance with paragraph (3) of Article 76.

Article 79 (National Labor Relations Commission's Right to Refer Disputes to Arbitration)

(1) The Chairperson of the National Labor Relations Commission shall, in consultation with its members representing public interest, determine whether the case shall be referred to arbitration, if the mediation provided in Article 78 is not likely to be concluded.

(2) The decision under paragraph (1) shall be made within fifteen days of the date of receipt of the notification made in accordance with paragraph (3) of Article 76.

Article 80 (Arbitration by National Labor Relations Commission)

The National Labor Relations Commission shall conduct, without delay, an arbitration if one or both of the parties concerned have made a request for arbitration, or if it has made a decision to refer the case to arbitration in accordance with Article 79.

CHAPTER VI

Unfair Labor Practices

Article 81 (Unfair Labor Practices)

No employer shall commit an act which falls under any of the following subparagraphs (hereinafter referred to as "unfair labor practices"): *<Amended by Act No. 8158, Dec. 30, 2006>*

1. Dismissal of or discrimination against a worker on the grounds that the worker has joined or intended to join a trade union, intended to establish a trade union, or performed a lawful act for the operation of a trade union;
2. Making it a condition of employment that the worker abstain from joining or withdraw from a trade union, or join a particular trade union. However, in cases where a trade union represents more than two-thirds of workers employed in the same business, the conclusion of a collective agreement under which a person is employed on condition that he/she becomes a member of the trade union shall be allowed as an exception. In such cases, the employer shall not put the worker in any disadvantageous position in terms of status, on the ground that the worker has been expelled from the trade union, or has withdrawn from the trade union to organize a new trade union or to join another trade union;
3. Refusal or delay of concluding a collective agreement or conducting collective bargaining, without justifiable reasons, with the representative of a trade union or a person who has been authorized by a trade union;
4. Domination of or interference with the formation or operation of a trade union by workers and wage payment for full-time officials of a trade union or financial support for the operation of a trade union. However, the employers may allow the workers to carry out the activities referred to in Article 24 (4) during the working hours, may provide subsidies for the welfare of the workers, or for the prevention and relief of financial difficulties and other disasters, and may provide union office in minimum size; *<Amended by Act No. 9930, Jan. 1, 2010>*
5. Dismissal of or discrimination against a worker on the grounds that the worker has taken part in lawful collective activities, has reported the violation of the provisions of

this Article by the employer to the Labor Relations Commission, or has testified about such violations or presented evidences to administrative authorities.

Article 82 (Application for Remedy)

(1) A worker or trade union whose rights have been infringed by unfair labor practices may make an application for remedy to the Labor Relations Commission.

(2) Application for remedy under paragraph (1) shall be made within three months from the date when such unfair labor practices have been committed (or from the date of termination in cases where such activities continue).

Article 83 (Investigation, etc.)

(1) The Labor Relations Commission shall, without delay, conduct necessary investigation and inquiry of the parties concerned, upon receipt of an application for remedy in accordance with Article 82.

(2) When conducting the inquiry in accordance with paragraph (1), the Labor Relations Commission may, at the request of the parties or by its own authority, have witnesses appear before the Commission, and conduct examinations on the pertinent matters.

(3) When conducting the inquiry in accordance with paragraph (1), the Labor Relations Commission shall provide sufficient opportunities for the parties concerned to present evidence and to cross-examine witnesses.

(4) The procedures concerning the investigation and inquiry by the Labor Relations Commission under paragraph (1) shall be specified by separate rules promulgated by the National Labor Relations Commission.

Article 84 (Order of Remedy)

(1) The Labor Relations Commission, after completing the inquiry under Article 83 and finding that the employer has committed unfair labor practices, shall issue an order for remedy to the employer. When the Commission determines that unfair labor practice has not been committed, it shall enter a decision to dismiss the application for remedy.

(2) Judgments, orders and decisions under paragraph (1) shall be made in writing, and shall be issued to the pertinent employer and the applicant.

(3) Each of the parties shall comply with the order issued pursuant to paragraph (1).

Article 85 (Finalization of Remedy Order)

(1) Where one of the parties disagrees with any remedy order or dismissal decision by the Regional Labor Relations Commission or by the Special Labor Relations Commission, he/she may make an application for review of such order to the National Labor Relations Commission within ten days of the date of receiving the notice of the order or decision.

(2) The party concerned may bring an administrative suit in accordance with the Administrative Litigation Act against a decision on review made by the National Labor Relations Commission under paragraph (1) within fifteen days of the date of receiving the notice of the decision on review.

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

(4) When dismissal decisions or review decisions have been finalized in accordance with paragraph (3), the parties concerned shall comply with those decisions.

(5) When an employer has initiated an administrative suit in accordance with paragraph (2), the competent court may, at the request of the National Labor Relations Commission, order to enforce the whole or part of the remedy order made by the Central Labor Relations Commission until the judgment of the court is rendered, and may, at the request of the parties or by its own authority, revoke such decision.

Article 86 (Effect of Remedy Order, etc.)

The effect of remedy orders, dismissal decisions or review decisions made by the Labor Relations Commission shall not be suspended by an application for review to the National Labor Relations Commission or by the initiation of an administrative suit in accordance with Article 85.

CHAPTER VII

Supplementary Provisions

Article 87 (Delegation of Authority)

The authority of the Minister of Employment and Labor

under this act may be in part delegated to the heads of local employment and labor offices in accordance with the Presidential Decree. <Amended by Act No. 10339, Jun. 4, 2010>

CHAPTER VIII

Penal Provisions

Article 88 (Penal Provision)

A person who violates the provisions of Article 41(2) shall be punished by imprisonment for up to five years, or by a fine up to fifty million won.

Article 89 (Penal Provision)

A person who falls under any of the following subparagraphs shall be punished by imprisonment for up to three years, or by a fine up to thirty million won: <Amended by Act No. 8158, Dec. 30, 2006>

1. A person who violates the provisions of Article 37 (2), 38 (1), 42 (1), or 42-2 (2);
2. A person who violates remedy orders which were finalized pursuant to Article 85 (3) (including cases where it shall apply mutatis mutandis pursuant to Article 29-4 (4)), or by an administrative court ruling. <Amended by Act No. 9930, Jan. 1, 2010>

Article 90 (Penal Provision)

A person who violates the provisions of Article 44 (2), 69 (4), 77, or 81 shall be punished by imprisonment up to two years, or by a fine up to twenty million won.

Article 91 (Penal Provision)

A person who violates the provisions of Articles 38 (2), 41 (1), 42 (2), 43 (1), (2) and (4), 45 (2), 46 (1) or 63 shall be punished by imprisonment of up to one year or a fine not exceeding ten million won. <Wholly amended by Act No. 8158, Dec. 30, 2006>

Article 92 (Penal Provision)

A person who falls under any of the following subparagraphs shall be punished by a fine up to ten million won:

1. A person who violates Article 24 (5); <Newly Inserted by Act No. 9930, Jan. 1, 2010>
2. A person who violates matters falling under any of the following items among the contents of a collective agreement concluded pursuant to Article 31(1):
 - A. Matters concerning wages, welfare costs, and severance pay
 - B. Matters concerning working hours and recess hours, holidays and leave
 - C. Matters concerning the reasons and the major procedures concerning disciplinary actions and dismissal
 - D. Matters concerning safety and health and assistance in industrial accident
 - E. Matters concerning provision of facilities and accommodations, and participation in meetings during working hours
 - F. Matters concerning industrial action
<Amended by Act No. 6456, Mar. 28, 2001>
3. A person who fails to comply with the contents of the mediated agreement under Article 61(1), or the arbitration ruling under Article 68(1).

Article 93 (Penal Provision)

A person who falls under any of the following subparagraphs shall be punished by a fine up to five million won:

1. A person who violates the provisions of Article 7(3);
2. A person who violates orders under the provisions of Article 21 (1), (2), or 31 (3).

Article 94 (Joint Penal Provision)

When the representative of a corporation or an organization, or an agent, a worker or any other hired person of a corporation, an organization or an individual has committed an act in violation of Articles 88 through 93 in connection with the business of the corporation, organization or individual, a fine prescribed in each of the pertinent Articles shall be imposed on the corporation, organization or individual, as well as on the offender.

Article 95 (Fine for Negligence)

A person who violates a court order under Article 85(5) shall be punished by a fine for negligence up to five million won (in cases where the order is a performance order, an amount computed by multiplying a rate of less than half a million won per day by the number of days during which the order has not been complied).

Article 96 (Fine for Negligence)

(1) A person who falls under any of the following subparagraphs shall be punished by a fine for negligence up to five million won:

1. A person who fails to place or keep documents in accordance with Article 14;
2. A person who fails to report or make a fraudulent report under Article 27;
3. A person who fails to make a report under Article 46(2).

(2) A person who fails to make a report or notification under Articles 13, 28(2), or 31(2) shall be punished by a fine for negligence up to three million won.

(3) The administrative authorities shall impose and collect fines for offense under paragraphs (1) and (2) in accordance with the Presidential Decree.

(4) A person who is not satisfied with the imposition of a fine for negligence under paragraph (3) may file complaints to the administrative authorities within thirty days of the date of notice of fine for negligence.

(5) When a person subject to a fine for negligence under paragraph (3) files complaints in accordance with paragraph (4), the administrative authorities shall give, without delay, notice of such a complaint to a competent court. The court so notified shall adjudicate on the fine for negligence in accordance with the Summary Proceedings Act.

(6) When the complaint has not been made and the fine for negligence has not been paid within the period stipulated in paragraph (4), the fine for negligence shall be collected according to the process for the recovery of the national taxes in arrears.

Addenda <Act No. 5310, Mar. 13, 1997>

Article 1 (Enforcement Date)

This Act shall take effect on the date of its promulgation.

Article 2 (Deadline of Application)

The provisions of subparagraph 1 of Article 71 (2) regarding inner-city bus services, and the provisions of subparagraph 4 of Article 71 (2) regarding banking services (except the Bank of Korea which is subject to the Act on the Bank of Korea) shall be effective until December 31st, 2000.

Article 3 (Transitional Measures concerning Trade Union)

After this Act takes effect, trade unions which have been

given a certificate of formation in accordance with the former provisions shall be deemed to have been formed in accordance with this Act.

Article 4 (Transitional Measures concerning Dismissed Workers)

After this Act takes effect, workers who was claiming against the effect of dismissal shall not be construed as a non-worker, notwithstanding the provision of “d” of subparagraph 4 of Article 2.

Article 5 Deleted. <Act No. 9930, Jan. 1, 2010>

Article 6 (Special Case of Application concerning Full-Time Officials of Trade Union)

(1) Deleted. <Act No. 9930, Jan. 1, 2010>

(2) A trade union and an employer shall make an effort to gradually reduce wage payment for full-time union officials based on the consultation between labor and management. In such cases, the reduced portion shall be used for the financial self-support of unions. <Amended by Act No. 6456, Mar. 28, 2001>

Article 7 (Transitional Measures as to Effect of Collective Agreement)

After this Act takes effect, the collective agreement concluded by the former provisions shall be deemed to have been concluded by this Act.

Article 8 (Transitional Measures concerning Adjustment of Industrial Disputes)

(1) After this Act takes effect, private mediation or arbitration which has been filed in accordance with the former provisions shall be deemed as an application for private mediation or arbitration by this Act.

(2) After this Act takes effect, mediation or arbitration filed to the Labor Relations Commission in accordance with the former provisions shall be deemed as an application for mediation or arbitration by this Act. In such cases, mediation period shall be calculated in accordance with the former provisions, notwithstanding the provisions of Article 54.

(3) After this Act takes effect, industrial disputes which were settled by mediation in accordance with the former provisions shall be deemed to have been through mediation procedures in applying Article 45.

Article 9 (Transitional Measures concerning Business of Trade Union, etc.)

(1) After this Act takes effect, reports, applications and requests which have been made to the Minister of Employment and Labor, administrative authorities, or Labor Relations Commissions by workers, trade unions and employers in accordance with the former provisions shall be deemed to have been made by this Act. <Amended by Act No. 10339, Jun. 4, 2010>

(2) After this Act takes effect, requests made to the Labor Relations Commission by the Minister of Employment and Labor or administrative authorities shall be deemed to have been made by this Act. <Amended by Act No. 10339, Jun. 4, 2010>

(3) After this Act takes effect, orders, designations and decisions made by the Minister of Employment and Labor or administrative authorities shall be deemed to have been made by this Act. <Amended by Act No. 10339, Jun. 4, 2010>

Article 10 (Transitional Measures concerning Penal Provisions)

Application of penal provisions to the actions prior to the enforcement of this Act shall be subject to the previous provisions.

Article 11 (Relations with Other Enactments)

After this Act takes effect, any citations in other enactments from the Trade Union and Labor Relations Adjustment Act, or its provisions shall be construed as citing this Act or corresponding provisions of this Act in cases where there are corresponding provisions in this Act.

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

(1) (Enforcement Date)

This Act shall enter into force on the date of its promulgation: Provided that the amended provision of Article 13 shall enter into force six months after its promulgation.

(2) (Revision of Other Acts)

“2001” in paragraph 2 of the Addenda of the Act of the Establishment, Operation, etc., of Trade Unions for Teachers amended by Act no. 5727 shall be changed to “2006”.

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

Article 1 (Enforcement Date)

This Act shall take effect on July 1, 2007, except that the amended provisions of Articles 42-2 through 42-6, 43 (3) and (4), subparagraph 3 of Article 62, Articles 71, 74 and 75 and

subparagraph 1 of Article 89 (applying only to restrictions on industrial action in essential services to be maintained) shall take effect on January 1, 2008; the amended provisions of subparagraph 2 of Article 81 shall take effect on July 1, 2011; and the amended provisions of Article 5 (1) and (3) and Article 6 (1) of the Addenda of the Trade Union and Labor Relations Adjustment Act amended by Act No. 5310 (including the revised provisions of the Trade Union and Labor Relations Adjustment Act amended by Act No. 6545) shall take effect on January 1, 2007. <Amended by Act No. 9930, Jan. 1, 2010>

Article 2 (Preparations for Introduction of System of Essential Services to Be Maintained)

The parties in labor relations or the Labor Relations Commission may prepare necessary matters described in the following paragraphs to introduce the system of essential services to be maintained before the enforcement of this Act:

1. Conclusion of an agreement on essential services to be maintained;
2. Decision under Article 42-4 (2).

Article 3 (Transitional Measures concerning Change in Authority)

(1) The act of issuing certificates or orders and other acts (applying only to cases involving trade unions other than unit trade unions spanning not less than two areas among Sis/Guns/Gus) done by the Special City Mayor, Metropolitan City Mayors and Provincial Governors pursuant to the previous provisions at the time of the enforcement of this Act shall be deemed as the ones done by Governors of Special Self-Governing Provinces and heads of Sis/Guns/Gus pursuant to this Act.

(2) The act of making a report or an application and other acts (applying only to cases involving trade unions other than unit trade unions spanning not less than two areas among Sis/Guns/Gus) done by the Special City Mayor, Metropolitan City Mayors and Provincial Governors pursuant to the previous provisions at the time of the enforcement of this Act shall be deemed as the ones done by Governors of Special Self-Governing Provinces and heads of Sis/Guns/Gus pursuant to this Act.

Article 4 (Transitional Measures concerning Mediation For Essential Public Services)

The mediation case for essential public services, which is filed with the Labor Relations Commission before the amended

provisions of subparagraph 3 of Article 62, Articles 71, 74 and 75 take effect pursuant to the proviso of Article 1 of the Addenda, shall be subject to the previous provisions.

Article 5 (Transitional Measures concerning Penal Provisions)

The application of penal provisions to acts committed before the enforcement of this Act shall be subject to the previous provisions, except that this shall not apply in case of applying penal provisions to acts committed in violation of the order given pursuant to Article 42 (3).

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

Article 1 (Enforcement Date)

This Act shall take effect on the date of its promulgation.

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

Article 1 (Enforcement Date)

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

Article 2 (Transitional Measures concerning Setting of Initial Maximum Time-off Limit)

(1) The Time-off System Deliberation Committee shall deliberate and decide on the maximum time-off limit enforced for the first time after the enforcement of this Act no later than April 30, 2010.

(2) If the Time-off System Deliberation Committee fails to complete its deliberation and decision by the deadline referred to in paragraph (1), the public interest members alone may make a deliberation and decision after hearing opinions from the National Assembly notwithstanding Article 24-2 (5).

Article 3 (Transitional Measures concerning Collective Agreement)

A collective agreement effective on the enforcement date of this Act shall be considered to have been signed in accordance with this Act: Provided that if all or part of the collective agreement violates Article 24 as a result of the enforcement of

this Act, the collective agreement shall be considered to remain effective until the expiry date prescribed at the time of its signing in spite of the entry into force of this Act.

Article 4 (Transitional Measures concerning Trade Unions in Middle of Bargaining)

A trade union in the middle of the bargaining process on the enforcement date of this Act shall be considered as the bargaining representative union under this Act.

Article 5 (Transitional Measures concerning Agreement on Minimum Services to Be Maintained or Decision by Labor Relations Commission on Levels of Minimum Services to Be Maintained and Provided, etc.)

An agreement on minimum services to be maintained or a decision by the Labor Relations Commission on the levels of minimum services to be maintained and provided, etc., which is effective on the enforcement date of this Act, shall be considered to have been made in accordance with this Act.

Article 6 (Transitional Measures concerning Where Two Trade Unions or More Exist in One Business or Workplace)

If in a business or workplace there were two trade unions or more which had been established or joined by workers regardless of type of organization as of December 31, 2009, the amended provisions of Article 29 (2), (3) and (4), Articles 29-2 through 29-5, the latter part of Article 41 (1) and subparagraph 2 of Article 89 shall apply to such a business or workplace from July 1, 2012.

Article 7 (Transitional Measures concerning Establishment of Trade Unions)

(1) If a trade union has been organized in a business or workplace, another trade union covering the same members as the trade union's shall not be established until June 30, 2011 notwithstanding Article 5.

(2) If a trade union to be established violates paragraph (1), the administrative authorities shall turn down a report of its establishment.

Article 8 (Special Application concerning Full-time Union Officials)

Article 24 (2) and subparagraph 4 of Article 81 (limited to the provision on the payment of wages to full-time union officials) shall not apply until June 30, 2010.

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

Article 1 (Enforcement Date)

This Act shall enter into force one month after its promulgation.
(Proviso omitted)

Articles 2 and 3 Omitted.

Article 4 (Revision of Other Acts)

(1) and (38) Omitted.

(39) Parts of the Trade Union and Labor Relations Adjustment Act shall be revised as follows:

“Minister of Labor” in parts other than each subparagraph of Article 10 (1), Article 12 (1) and Article 24-2 (2) shall be changed to “Minister of Employment and Labor”.

“Ministry of Labor” in Article 24-2 (1) shall be changed to “Ministry of Employment and Labor”.

“Minister of Labor” in Article 76 (1) through (3) and Article 87 shall be changed to “Minister of Employment and Labor”.

“Local labor offices” in Article 87 shall be changed to “Local employment and labor offices”.

(40) through (82) Omitted.

Article 5 Omitted.

Addendum <Act No. 12630, May 20, 2014>

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