ACT ON THE PROTECTION OF FIXED-TERM AND PART-TIME EMPLOYEES

Act No. 8074, Dec. 21, 2006
Amended by Act No. 8372, Apr. 11, 2007
Act No. 10339, jun. 4, 2010
Act No. 11273, Feb. 1, 2012
Act No. 11667, Mar. 22, 2013
Act No. 12469, Mar. 18, 2014
Act No. 15848, Oct. 16, 2018
Act No. 17326, May 26, 2020
Act No. 18177, May 18, 2021

CHAPTER I GENERAL PROVISIONS

Article 1 (Purpose)
The purpose of this Act is to promote the sound development of the labor market by redressing undue discrimination against fixed-term and part-time employees and improving their working conditions.

Article 2 (Definitions)
The definitions of the terms used in this Act are as follows: <Amended on Apr. 11, 2007; Mar. 22, 2013; May 26, 2020>

1. The term "fixed-term employee" means an employee who has signed an employment contract whose period is fixed (hereinafter referred to as "fixed-term employment contract");
2. The term "part-time employee" means a part-time employee defined in Article 2 of the Labor Standards Act;
3. The term "discriminatory treatment" means unfavorable treatment in terms of any of the following matters without any justifiable grounds:
   (a) Wages under Article 2 (1) 5 of the Labor Standard Act;
   (b) Incentive pay on a regular basis such as regular bonuses and holiday bonuses;
   (c) Performance based bonuses;
(d) Other matters concerning working conditions and welfares.

**Article 3 (Scope of Application)**

(1) This Act shall apply to all business or workplaces regularly employing at least five employees: Provided, That this Act shall not apply to business or workplaces which employ only relatives living together with their employer, nor to servants hired for domestic work.

(2) With respect to business or workplaces regularly employing up to four employees, part of the provisions of this Act may apply, as prescribed by Presidential Decree. <Amended on May 26, 2020>

(3) With respect to State and local government agencies, this Act shall apply regardless of the number of employees they regularly employ. <Amended on May 26, 2020>

**CHAPTER II FIXED-TERM EMPLOYEES**

**Article 4 (Employment of Fixed-Term Employees)**

(1) Any employer may hire a fixed-term employee for a period not exceeding two years (where his or her fixed-term employment contract is repetitively renewed, the total period of his or her continuous employment shall not exceed two years): Provided, That where a fixed-term employee falls under any of the following subparagraphs, any employer may hire such employee for more than two years: <Amended on May 26, 2020>

1. Where the period required to complete a project or particular task is specified;
2. Where a fixed-term employee is needed to fill a vacancy arising from an employee's temporary suspension from duty or dispatch until the relevant employee returns to work;
3. Where the period required for an employee to complete his or her schoolwork or vocational training is specified;
4. Where an employer enters into an employment contract with a senior citizen as defined in subparagraph 1 of Article 2 of the Employment Promotion for the Aged Act;
5. Where the job requires professional knowledge and skills or is offered as part of the Government's welfare or unemployment measures, as prescribed by Presidential Decree;
6. Where any reasonable ground exists equivalent to those mentioned in subparagraphs 1 through 5, as prescribed by Presidential Decree.

(2) Where any employer hires a fixed-term employee for more than two years although those grounds under the proviso of paragraph (1) do not exist or cease to exist, such fixed-term employee shall be deemed an employee subject to non-fixed term employment contract.

**Article 5 (Conversion to Employees on Non-Fixed Term Contract)**

If any employer intends to enter into a non-fixed term employment contract, he or she shall endeavor to preferentially hire fixed-term employees engaged in the same or similar kinds of work at the relevant
CHAPTER III PART-TIME EMPLOYEES

Article 6 (Restrictions on Overtime Work of Part-Time Employees)
(1) If an employer intends to have a part-time employee provide his or her services in excess of the contractual work hours prescribed in Article 2 of the Labor Standards Act, he or she shall obtain the consent of the relevant employee. In such cases, the number of overtime hours shall not exceed 12 hours a week. <Amended on Apr. 11, 2007; May 26, 2020>
(2) Any part-time employee may refuse to work overtime if the employer orders the overtime work without obtaining his or her consent under paragraph (1).
(3) Any employer shall pay 50/100 or more of the average wage for overtime work under paragraph (1) in addition to ordinary wages. <Newly Inserted on Mar. 18, 2014>

Article 7 (Conversion to Full-Time Employees)
(1) If an employer intends to hire a full-time employee, he or she shall endeavor to preferentially hire part-time employees engaged in the same or similar kinds of work at the relevant business or workplace. <Amended on May 26, 2020>
(2) If an employee applies for part-time work due to household duties, study or any other reason, the employer shall endeavor to convert the relevant employee to a part-time employee. <Amended on May 26, 2020>

CHAPTER IV PROHIBITION AND CORRECTION OF DISCRIMINATORY TREATMENT

Article 8 (Prohibition of Discriminatory Treatment)
(1) No employer shall give discriminatory treatment to any fixed-term employee on the ground of his or her employment status compared with other employees engaged in the same or similar kinds of work on a non-fixed term employment contract at the relevant business or workplace. <Amended on May 26, 2020>
(2) No employer shall give discriminatory treatment to any part-time employee on the ground of his or her employment status compared with full-time employees engaged in the same or similar kinds of work at the relevant business or workplace. <Amended on May 26, 2020>

Article 9 (Application for Correction of Discriminatory Treatment)
(1) Any fixed-term or part-time employee who has received discriminatory treatment may file a request for its correction with the Labor Relations Commission under Article 1 of the Labor Relations Commission Act (hereinafter referred to as the "Labor Relations Commission"): Provided, That this shall
not apply where six months have passed since such discriminatory treatment occurred (in cases of continuous discriminatory treatment, since such treatment ended). <Amended on Feb. 1, 2012; May 26, 2020>

(2) If a fixed-term or part-time employee files a request for correction under paragraph (1), he or she shall clearly state details of the relevant discriminatory treatment.

(3) Necessary matters concerning the procedures for and methods of the filing of a request for correction prescribed in paragraphs (1) and (2) shall separately be determined by the National Labor Relations Commission under Article 2 (1) of the Labor Relations Commission Act (hereinafter referred to as the "National Labor Relations Commission").

(4) With regard to disputes arising in connection with Article 8 and paragraphs (1) through (3) of this Article, the burden of proof shall be upon employers. <Amended on May 26, 2020>

**Article 10 (Investigation and Inquiry)**

(1) Each Labor Relations Commission that has received a request for correction under Article 9 shall conduct, without delay, necessary investigations and inquiries into the parties concerned.

(2) When any Labor Relations Commission conducts an inquiry pursuant to paragraph (1), it may have a witness attend the inquiry upon request of the parties concerned or ex officio, to ask necessary questions.

(3) In conducting an inquiry pursuant to paragraphs (1) and (2), each Labor Relations Commission shall give sufficient opportunities for the parties concerned to present evidence and cross-examine witnesses. <Amended on May 26, 2020>

(4) Necessary matters concerning the methods and procedures for investigations and inquiries prescribed in paragraphs (1) through (3) shall be determined separately by the National Labor Relations Commission. <Amended on May 26, 2020>

(5) Any Labor Relations Commission may have expert members to conduct professional surveys or research on the business of correcting discrimination. In such cases, necessary matters concerning the number, qualification requirements, remunerations, etc. of such expert members shall be prescribed by Presidential Decree.

**Article 11 (Mediation and Arbitration)**

(1) Any Labor Relations Commission may commence mediation procedures upon request of both or either of the parties concerned or ex officio, during the course of an inquiry under Article 10 and may conduct arbitration if the parties concerned agree to follow an arbitration award rendered by the Labor Relations Commission and file for arbitration with the Commission.

(2) Each request for mediation or arbitration under paragraph (1) shall be filed within 14 days from the date of the request for correction of discriminatory treatment under Article 9: Provided, That any request for mediation or arbitration may be filed after such 14 days where the competent Labor Relations Commission approves such request.
(3) Each Labor Relations Commission shall take time to hear the opinions of the parties concerned when conducting mediation or arbitration. <Amended on May 26, 2020>

(4) Each Labor Relations Commission shall present mediatory suggestions or render an arbitration award within 60 days from the date of the commencement of mediation procedures or from the receipt of a request for arbitration unless there is a compelling reason not to do so. <Amended on May 26, 2020>

(5) If both parties concerned accept mediatory suggestions, the competent Labor Relations Commission shall prepare a mediation protocol; and if it renders an arbitration award, it shall prepare a written arbitration award.

(6) A mediation protocol shall be signed and sealed by the parties concerned and all members involved in the mediation, whereas a written arbitration award shall be signed and sealed by all members involved.

(7) A mediation or arbitration award under paragraphs (5) and (6) shall have the same validity as a settlement in litigation under the Civil Procedure Act.

(8) Matters concerning mediation and arbitration methods, preparation of mediation protocols or written arbitration award, etc. under paragraphs (1) through (7) shall be determined by the National Labor Relations Commission. <Amended on May 26, 2020>

Article 12 (Corrective Orders)

(1) Where any Labor Relations Commission determines that the treatment in question is discriminatory after completing an investigation and inquiry under Article 10, it shall issue a corrective order to the employer; and where it determines that the treatment in question is not discriminatory, it shall make a decision to dismiss the request for correction. <Amended on May 26, 2020>

(2) Any determination, corrective order, or decision of dismissal under paragraph (1) shall be made in writing and addressed to the respective parties together with the detailed reasons therefor. In such cases, when issuing a corrective order, the Labor Relations Commission shall explicitly enter details of such corrective order, compliance period, etc. <Amended on May 26, 2020>

Article 13 (Details of Mediation, Arbitration, or Corrective Order)

(1) Details of mediation or arbitration under Article 11 or of a corrective order under Article 12 may include suspending discriminatory actions, improving working conditions (including an order to improve institutions such as employment regulation, collective agreement, etc.), such as wages, and making adequate monetary compensation. <Amended on Mar. 18, 2014>

(2) The monetary compensation under paragraph (1) shall be determined based on the amount of damages sustained by any fixed-term employee or any part-time employees as a result of discriminatory treatment: Provided, That the Labor Relations Commission may order monetary compensation within the scope not exceeding three times the amount of the damages in cases where clear willfulness is recognized in the discriminatory treatment by an employer or the discriminatory treatment occurs repeatedly. <Newly Inserted on Mar. 18, 2014>
**Article 14 (Confirmation of Corrective Order)**

(1) Any party who is dissatisfied with a corrective order or decision of dismissal rendered by any Regional Labor Relations Commission may request the National Labor Relations Commission to retry the case within 10 days after he or she is notified of such corrective order or decision of dismissal. *Amended on May 26, 2020*

(2) Any party who is dissatisfied with a decision on a retrial made by the National Labor Relations Commission pursuant to paragraph (1) may file an administrative lawsuit within 15 days after he or she is notified of such decision on retrial. *Amended on May 26, 2020*

(3) Where no request for retrial is made within the period prescribed in paragraph (1) or no administrative lawsuit is filed within the period prescribed in paragraph (2), the relevant corrective order, decision of dismissal, or decision on retrial shall become final and conclusive.

**Article 15 (Request for Submission of Compliance Report on Corrective Order)**

(1) With regard to any confirmed corrective order, the Minister of Employment and Labor may require the relevant employer to submit a compliance report. *Amended on Jun. 4, 2010*

(2) Any employee who has filed a request for correction may report his or her employer's failure to comply with a confirmed corrective order to the Minister of Employment and Labor. *Amended on Jun. 4, 2010*

**Article 15-2 (Minister of Employment and Labor's Request for Correction of Discriminatory Treatment)**

(1) Where any employer gives discriminatory treatment in violation of Article 8, the Minister of Employment and Labor may request the correction thereof.

(2) Where any employer fails to comply with a request for correction under paragraph (1), the Minister of Employment and Labor shall notify the Labor Relations Commission of the details of the discriminatory treatment at issue. In such cases, the Minister of Employment and Labor shall notify the relevant employer and employee of such fact. *Amended on May 26, 2020*

(3) Where the Labor Relations Commission is notified of such fact by the Minister of Employment and Labor in accordance with paragraph (2), it shall, without delay, examine whether the discriminatory treatment at issue was actually given. In such cases, the Labor Relations Commission shall provide the relevant employer and employee with an opportunity to present their opinions.

(4) Articles 9 (4) and 11 through 15 shall apply mutatis mutandis to the Labor Relations Commission's examination under paragraph (3) and other correction procedures. In such cases, the "date of the request for correction of discriminatory treatment" shall be construed as the "date of the receipt of notification"; "decision of dismissal" as "decision of no discriminatory treatment"; "parties concerned" as "relevant employer or employee"; and "employee who has filed a request for correction" as "relevant employee".
(5) Matters relating to the Labor Relations Commission's examination, etc. under paragraphs (3) and (4) shall be determined by the National Labor Relations Commission.

Article 15-3 (Extension of Confirmed Corrective Orders)

(1) The Minister of Employment and Labor may investigate discriminatory treatment of fixed-term or part-time employees for the business or in the workplace of the employer who is in duty to perform the confirmed corrective order under Article 14 (including the cases applied mutatis mutandis under Article 15-2 (4)), other than the employees who are under the umbrella of the relevant corrective order, and request correction when discriminatory treatment is found.

(2) Article 15-2 (2) through (5) shall apply mutatis mutandis where any employer fails to comply with the request for correction under paragraph (1). <Amended on May 26, 2020>

CHAPTER V SUPPLEMENTARY PROVISIONS

Article 16 (Prohibition of Unfavorable Treatment)

No employer shall dismiss nor give any other unfavorable treatment to a fixed-term or part-time employee on the ground that he or she has conducted any of the following acts: <Amended on May 26, 2020>

1. Refusing the employer's request for overtime work pursuant to Article 6 (2);
2. Filing a request for correction of discriminatory treatment pursuant to Article 9, attending and making a statement at any Labor Relations Commission pursuant to Article 10, or filing any request for retrial, or bringing an administrative lawsuit pursuant to Article 14;
3. Reporting a failure to comply with a corrective order pursuant to Article 15 (2);
4. Giving notification pursuant to Article 18.

Article 17 (Written Statement of Working Conditions)

When any employer enters into an employment contract with a fixed-term or part-time employee, it shall clearly state, in writing, each of the following matters: Provided, That subparagraph 6 shall apply only to part-time employees: <Amended on May 26, 2020>

1. Matters concerning the contract period;
2. Matters concerning work hours and recess;
3. Matters concerning components, methods of calculation, and payment of wages;
4. Matters concerning holidays and leave;
5. Matters concerning the place of work and duties to perform;
6. Work days and working hours for each work day.

Article 18 (Notification to Regulatory Authorities)
Where any violation of this Act or an order issued under this Act occurs at business or workplace, any of its employees may notify the Minister of Employment and Labor or a labor inspector of such violation. <Amended on Jun. 4, 2010; May 26, 2020>

**Article 19 (Delegation of Authority)**

@Part of the authority held by the Minister of Employment and Labor under this Act may be delegated to the head of a regional employment and labor office, as prescribed by Presidential Decree. <Amended on Jun. 4, 2010; May 26, 2020>

**Article 20 (Efforts by State to Promote Employment)**

The State and local governments shall endeavor to take necessary measures to promote the employment of fixed-term and part-time employees on a preferential basis, such as providing employment information, vocational guidance, job placement services, and workplace skill development services.

**CHAPTER VI PENALTY PROVISIONS**

**Article 21 (Penalty Provisions)**

Any person who gives unfavorable treatment to an employee in violation of Article 16 shall be punished by imprisonment with labor for not more than two years or by a fine not exceeding ten million won.

**Article 22 (Penalty Provisions)**

Any person who causes a part-time employee to work overtime in violation of Article 6 (1) shall be punished by a fine not exceeding ten million won.

**Article 23 (Joint Penalty Provisions)**

If an agent or employee of, or any other person employed by, an employer commits any violations falling under Article 21 or 22 in conducting the business affairs of the employer, the employer shall be punished by a fine prescribed in that Article in addition to punishing the violators accordingly: Provided, That the same shall not apply where such employer has not been negligent in giving due attention and supervision concerning the relevant business affairs to prevent such violation. <Amended on May 18, 2021>

**Article 24 (Administrative Fines)**

(1) Any person who fails to comply with a corrective order confirmed final under Article 14 (including cases applied mutatis mutandis under Articles 15-2 (4) and 15-3 (2)) without good cause shall be subject to an administrative fine not exceeding 100 million won. <Amended on Feb. 1, 2012; Mar. 18, 2014; May 26, 2020>
(2) Any person who falls under any of the following subparagraphs shall be subject to an administrative fine not exceeding five million won:  

1. Any person who fails to comply with a request of the Minister of Employment and Labor to submit a compliance report without good cause, in violation of Article 15 (1) (including cases applied mutatis mutandis under Articles 15-2 (4) and 15-3 (2));

2. Any person who fails to clearly state, in writing, working conditions in violation of Article 17.

(3) Administrative fines under paragraphs (1) and (2) shall be imposed and collected by the Minister of Employment and Labor, as prescribed by Presidential Decree.  

(4) Deleted.  

(5) Deleted.  

(6) Deleted.  

ADDENDA <Act No. 8074, Dec. 21, 2006>

(1) (Enforcement Date) This Act shall enter into force on July 1, 2007: Provided, That the provisions of Article 10 (5) shall enter into force on January 1, 2007, and the enforcement dates of the provisions of Articles 8, 9, 10 (1) through (4), 11 through 15, subparagraphs 2 and 3 of Article 16, and Article 24 (1) and (2) 1 shall be, according to the types of business or workplace (referring to the business or workplace of an employer; hereinafter the same shall apply), as follows:

1. Business or workplaces regularly employing not less than 300 employees: July 1, 2007;


3. Business or workplaces regularly employing not less than 100 but less than 300 employees: July 1, 2008;

4. Business or workplaces regularly employing less than 100 employees: July 1, 2009.

(2) (Applicability concerning Period of Employment Contract) The provisions of Article 4 shall apply with respect to the conclusion or renewal of an employment contract or the extension of an existing employment contract, which is made on or after the date this Act enters into force.

(3) Omitted.
ADDENDA <Act No. 8372, Apr. 11, 2007>

Article 1 (Enforcement Date)
This Act shall enter into force on the date of its promulgation. (Proviso Omitted.)

Articles 2 through 17 Omitted.

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

Article 1 (Enforcement Date)
This Act shall enter into force one month after the date of its promulgation. (Proviso Omitted.)

Articles 2 through 5 Omitted.

ADDENDA <Act No. 11273, Feb. 1, 2012>

Article 1 (Enforcement Date)
This Act shall enter into force six months after the date of its promulgation.

Article 2 (Applicability concerning Applications for Correction of Discriminatory Treatment)
The amended provisions of Article 9 (1) shall apply beginning with the first application for correction of discriminatory treatment filed after the date this Act enters into force.

ADDENDUM <Act No. 11667, Mar. 22, 2013>

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

ADDENDA <Act No. 12469, Mar. 18, 2014>

Article 1 (Enforcement Date)
This Act shall enter into force six months after the date of its promulgation.

Article 2 (Applicability concerning Overtime Work)
The amended provisions of Article 6 (3) shall apply beginning with the first case of overtime work after this Act enters into force.

Article 3 (Applicability concerning Order of Monetary Compensation)
The amended provisions of Article 13 (2) shall apply beginning with the first case of discriminatory treatment after this Act enters into force.

ADDENDUM <Act No. 15848, Oct. 16, 2018>
This Act shall enter into force on the date of its promulgation.

ADDENDUM <Act No. 17326, May 26, 2020>
This Act shall enter into force on the date of its promulgation. (Proviso Omitted.)

ADDENDUM <Act No. 18177, May 18, 2021>
This Act shall enter into force on the date of its promulgation.

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