

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

** This Act reflects only the amendments made until October 31, 2011*

ACT ON PROHIBITION OF AGE DISCRIMINATION IN EMPLOYMENT AND AGED EMPLOYMENT PROMOTION

Act No. 4487, Dec. 31, 1991

Amended by Act No. 4733, Jan. 7, 1994
Act No. 5454, Dec. 13, 1997
Act No. 5474, Dec. 24, 1997
Act No. 5882, Feb. 8, 1999
Act No. 6849, Dec. 30, 2002
Act No. 8116, Dec. 28, 2006
Act No. 8372, Apr. 11, 2007
Act No. 8472, May 17, 2007
Wholly Amended by Act No. 8962, Mar. 21, 2008
Act No. 9792, Oct. 9, 2009
Act No. 9997, Feb. 4, 2010
Act No. 10339, Jun. 4, 2010

CHAPTER I

General Provisions

Article 1 (Purpose)

The purpose of this Act is to contribute to the employment security of the aged and to the development of the national economy by prohibiting discrimination in employment on the grounds of age without reasonable causes and supporting and promoting the employment of the aged so that they can have jobs suitable for their abilities.

<This Article Wholly Amended by Act No. 8962, Mar. 21, 2008>

Article 2 (Definition)

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

1. "The aged" means a person whose age is equal to or above the age prescribed by the Presidential Decree after taking into account the composition of the population and workers;
2. "The semi-aged" means a person whose age is equal to or above the age prescribed by the Presidential Decree but who are not the aged;
3. "Employer" means a person who carries on a business employing workers;
4. "Worker" means a worker referred to in Article 2 (1) 1

- of the Labor Standards Act; and
5. "Standard employment rate" means the rate of aged people that an employer is required to employ on the basis of the number of workers usually employed in the workplace in order to promote the employment of the aged, which is prescribed by the Presidential Decree by type of business in consideration of the current status, employment state, etc., of the aged.
- <This Article Wholly Amended by Act No. 8962, Mar. 21, 2008>*

Article 3 (Government's obligations)

The government shall establish and implement policies to prohibit age discrimination with the aim of eliminating age discrimination in employment, raise awareness of employers and the general public about the employment of the aged, and implement necessary policies, such as establishing and implementing measures to promote the employment of the aged, providing vocational skills development training, etc., in a effective and comprehensive manner in order to pursue employment promotion and job security for the aged.

<This Article Wholly Amended by Act No. 8962, Mar. 21, 2008>

Article 4 (Employer's Obligations)

An employer shall make efforts to eliminate age discrimination in employment, to provide the aged with employment opportunities suitable for their abilities by developing and improving their vocational skills and improving work facilities and work, and to increase the employment of the aged by extending retirement ages.

<This Article Wholly Amended by Act No. 8962, Mar. 21, 2008>

Article 4-2 Deleted. *<Act No. 8962, Mar. 21, 2008>*

Article 4-3 (Establishment of Basic Plans for Promoting Employment of the Aged)

- (1) The Minister of Employment and Labor shall establish a basic plan for promoting the employment of the aged (hereinafter referred to as "basic plan") in consultation with the head of a relevant central agency every five years. *<Amended by Act No. 10339, Jun. 4, 2010>*
- (2) The basic plan shall include the following matters:
1. Current state of and outlook for the aged;
 2. Vocational skills development of the aged;
 3. Methods of improving the possibility of employing the aged, such as job placement, reemployment, outplacement services, etc.,;

4. Other major policies concerning employment promotion for the aged.

(3) When the Minister of Employment and Labor establishes a basic plan, he/she shall submit the plan for deliberation to the Employment Policy Council (hereinafter referred to as "the Employment Policy Council") under Article 10 of the Framework Act on Employment Policy. *<Amended by Act No. 9792, Oct. 9, 2009 and Act No. 10339, Jun. 4, 2010>*

(4) The Minister of Employment and Labor, if it is deemed necessary, may ask the head of relevant administrative or public authorities to submit materials necessary for establishing a basic plan. *<Amended by Act No. 10339, Jun. 4, 2010>*

<This Article Wholly Amended by Act No. 8962, Mar. 21, 2008>

Article 4-4 (Prohibition of Age Discrimination in Recruitment, Employment, etc.)

(1) An employer shall not discriminate against a worker and a person who intends to be a worker on the grounds of age without any reasonable cause in the following areas:

1. Recruitment and employment;
2. Provision of wages, and other money and valuables, and welfare benefits;
3. Education and training;
4. Assignment, transfer or promotion;
5. Retirement or dismissal

(2) In the application of paragraph (1), any results unfavorable to a certain age group, which are caused by applying standards other than age without a reasonable cause, is deemed age discrimination.

<This Article Newly Inserted by Act No. 8962, Mar. 21, 2008>

Article 4-5 (Exception to Prohibition of Discrimination)

Any of the following cases shall not be considered as age discrimination under Article 4-4:

1. Where a certain age limit is inevitably required in consideration of the characteristic of the duties;
2. Where wages, and other money and valuables, and welfare benefits are reasonably differentiated according to length of service;
3. Where a retirement age is set under labor contracts, work rules, collective agreements, etc. pursuant to this Act or other Acts;
4. Where support measures are taken to maintain and promote the employment of a certain age group pursuant to this Act or other Acts.

<This Article Newly Inserted by Act No. 8962, Mar. 21, 2008>

Article 4-6 (Notification of Petition and Recommendation)

(1) A person who has been discriminated against on the grounds of age due to the violation of any prohibition of age discrimination under Article 4-4 (hereinafter referred to as a "victim") may file a petition to the National Human Rights Commission pursuant to Article 30 of the National Human Rights Commission Act.

(2) If the National Human Rights Commission judges that there is age discrimination after investigating a petition filed under paragraph (1), and recommends the employer, or the head of the relevant authorities, organization or supervisory authorities to take remedial measures, etc., it shall also notify the Minister of Employment and Labor of the details of such recommendation. *<Amended by Act No. 10339, Jun. 4, 2010>*

<This Article Newly Inserted by Act No. 8962, Mar. 21, 2008>

Article 4-7 (Corrective Order)

(1) If an employer who has been recommended to take remedial measures, etc., by the National Human Rights Commission under Article 4-6 (2) fails to comply with such recommendation without any justifiable reasons, and is deemed to inflict serious harm by falling under any of the following subparagraphs, the Minister of Employment and Labor may issue a corrective order by virtue of his/her authority or at the request of the victim: *<Amended by Act No. 10339, Jun. 4, 2010>*

1. Failure to comply with recommendations for an act of age discrimination involving many victims;
2. Failure to comply with recommendations for repeated acts of age discrimination;
3. Intentional failure to comply with recommendations, which is aimed at giving disadvantages to the victim;
4. Other cases prescribed by the Ordinance of the Ministry of Employment and Labor where a corrective order is needed in view of the contents, amount, etc. of the harm

(2) A corrective order under paragraph (1) shall include the following matters:

1. Stoppage of acts of age discrimination;
2. Restitution for harm;
3. Measures to prevent further recurrence of age discrimination;
4. Other measures prescribed by the Ordinance of the Ministry of Employment and Labor as required to redress age discrimination *<Amended by Act No. 10339, Jun. 4, 2010>*

(3) If a corrective order under paragraph (1) is issued at the request of a victim, such corrective order shall be issued within three months from the date when the request is received.

(4) If the Minister of Employment and Labor issues a corrective order pursuant to paragraph (1), he/she shall give a written statement specifying the following matters to the employer and victim respectively: *<Amended by Act No. 10339, Jun. 4, 2010>*

1. Reasons for the corrective order;
2. Details of the corrective order;
3. Deadline for redress;
4. Procedure for filing an appeal against the corrective order

(5) Procedures for a corrective order under paragraph (1) and other necessary matters shall be prescribed by the Presidential Decree.

<This Article Newly Inserted by Act No. 8962, Mar. 21, 2008>

Article 4-8 (Request, Etc. for Status Report on Compliance with Corrective Order)

(1) The Minister of Employment and Labor may request an employer who has committed an act of age discrimination to submit a status report on compliance with a corrective order under Article 4-7. *<Amended by Act No. 10339, Jun. 4, 2010>*

(2) If an employer who has committed an act of age discrimination fails to comply with a corrective order, the victim may report it to the Minister of Employment and Labor. *<Amended by Act No. 10339, Jun. 4, 2010>*

<This Article Newly Inserted by Act No. 8962, Mar. 21, 2008>

Article 4-9 (Prohibition of Dismissal and Other Unfavorable Treatment)

An employer shall not give a worker unfavorable treatment, such as dismissal, transfer and disciplinary action, on the ground that the worker has filed a petition, lawsuit or report, or provided information, response or testimony in regard of an act of age discrimination prohibited by this Act.

<This Article Newly Inserted by Act No. 8962, Mar. 21, 2008>

CHAPTER II

Government Support for Employment of the Aged

Article 5 (Collection of Job Information)

The Minister of Employment and Labor, the special metropolitan city mayor, a metropolitan city mayor, a provincial governor or the governor of a special self-governing province (hereinafter referred to as "the Minister of Employment and Labor, etc.,") shall collect information on job offers and job seekers for the aged, endeavor to find job offers and job seekers and provide the related information to job seekers, employers and related organizations, in order to promote the employment of the aged. *<Amended by Act No. 9997, Feb. 4, 2010 and Act No. 10339, Jun. 4, 2010>*

<This Article Wholly Amended by Act No. 8962, Mar. 21, 2008>

Article 6 (Vocational Skills Development Training for the Aged)

(1) The Minister of Employment and Labor, etc., shall provide vocational skills development training for the aged under the conditions prescribed by the Presidential Decree in order to promote the employment of the aged and to develop and improve their vocational skills. *<Amended by Act No. 9997, Feb. 4, 2010 and Act No. 10339, Jun. 4, 2010>*

(2) The Minister of Employment and Labor, etc., shall take actions to provide the adaptation training prescribed by the Ordinance of the Ministry of Employment and Labor, which includes safety and health contents, before employment, if it is deemed necessary to ensure that the aged can easily adapt to their working environments. *<Amended by Act No. 9997, Feb. 4, 2010 and Act No. 10339, Jun. 4, 2010>*

(3) The Workers Vocational Skills Development Act shall apply mutatis mutandis to matters concerning vocational skills development training for the aged and the protection of trainees taking such training: Provided that special considerations shall be made given the physical and mental conditions of the aged.

<This Article Wholly Amended by Act No. 8962, Mar. 21, 2008>

Article 7 (Employment Guidance for Employer)

(1) The Minister of Employment and Labor, if it is deemed necessary, shall provide counseling, advice and other necessary support to an employer who employs or intends to employ aged people in regard of technical matters concerning the employment management of the aged, such as employment, assignment, work facilities and working environments, etc. *<Amended by Act No. 10339, Jun. 4, 2010>*

(2) The Minister of Employment and Labor shall provide

information and other materials about the physical and mental conditions, vocational skills, etc., of the aged to an employer who employs or intends to employ aged people. *<Amended by Act No. 10339, Jun. 4, 2010>*

<This Article Wholly Amended by Act No. 8962, Mar. 21, 2008>

Article 8 (Support to Employer in Education and Training for the aged and Improvement of Working Environments)

(1) If an employer provides necessary education and vocational training to promote the employment of the aged, the Minister of Employment and Labor may provide all or part of such expenses. *<Amended by Act No. 10339, Jun. 4, 2010>*

(2) If an employer improves facilities to make them suitable for the employment of the aged, the Minister of Employment and Labor may provide all or part of such expenses. *<Amended by Act No. 10339, Jun. 4, 2010>*

(3) Subsidies under paragraphs (1) and (2) shall be financed from the budget (including the Employment Insurance Fund under the Employment Insurance Act; hereinafter the same shall apply), and matters concerning the payment standards shall be determined by the Minister of Employment and Labor. *<Amended by Act No. 10339, Jun. 4, 2010>*

<This Article Wholly Amended by Act No. 8962, Mar. 21, 2008>

Article 9 (Strengthening of Job Placement Service for the Aged)

(1) The government shall provide appropriate vocational guidance and job placement services, such as job counselling, vocational aptitude test, etc., for the aged, in order to enable the aged to find jobs suited to their abilities.

(2) The government shall endeavor to improve related administrative organizations and facilities for vocational guidance and job placement services for the aged.

(3) The Minister of Employment and Labor, etc., shall designate from among his/her public officials, a vocational guidance officer who is in charge of providing vocational guidance, job placement services, etc. for the aged. *<Amended by Act No. 9997, Feb. 4, 2010 and Act No. 10339, Jun. 4, 2010>*

(4) Matters necessary for the qualifications of a vocational guidance officer, etc., shall be determined by the Minister of Employment and Labor. *<Amended by Act No. 10339, Jun. 4, 2010>*

<This Article Wholly Amended by Act No. 8962, Mar. 21, 2008>

Article 10 (Operation of Employment Information Centre for the Aged)

(1) The Minister of Employment and Labor, etc., may run an

employment information centre for the aged in necessary regions to provide vocational guidance and job placement services for the aged effectively. *<Amended by Act No. 9997, Feb. 4, 2010 and Act No. 10339, Jun. 4, 2010>*

(2) An employment information centre for the aged shall conduct the following activities :

1. Registration of job seekers and job offers, vocational guidance and placement service for the aged;
2. Vocational adaptation training and education for the aged;
3. Technical counselling, education and guidance concerning the extension of retirement ages, improvement of personnel and labor management and working environments;
4. Publicity for employment promotion for the aged;
5. Other activities necessary for employment promotion for the aged.

<This Article Wholly Amended by Act No. 8962, Mar. 21, 2008>

Article 11 (Designation of Talent Bank for the Aged)

(1) The Minister of Employment and Labor may designate as a talent bank for the aged any organization or institution equipped with professional workforces and facilities necessary for vocational guidance and job placement services or vocational skills development training, etc., for the aged, from among the following organizations or institutions: *<Amended by Act No. 9997, Feb. 4, 2010 and Act No. 10339, Jun. 4, 2010>*

1. Non-profit corporations or public organizations engaging in free job placement services under Article 18 of the Employment Security Act;
2. Institutions eligible to be entrusted with vocational skills development training under Article 16 of the Workers Vocational Skills Development Act

(2) The scope of the activities of a talent bank for the aged which falls under both subparagraphs 1 and 2 of paragraph (1) shall include all of the following activities, that of a talent bank for the aged which falls under subparagraph 1 of paragraph (1) alone shall only include the activities described in subparagraphs 1, 2 and 4, and that of a talent bank for the aged which falls under subparagraph 2 of paragraph (1) alone shall only include the activities described in subparagraphs 3 and 4 : *<Amended by Act No. 9997, Feb. 4, 2010 and Act No. 10339, Jun. 4, 2010>*

1. Registration of job offers and job seekers, vocational guidance and placement services for the aged;
2. Vocational counselling for the aged seeking jobs and

reemployment counselling for retirees;

3. Vocational skills development training for the aged;
4. Other activities determined by the Minister of Employment and Labor as deemed necessary for promoting the employment of the aged.

(3) The Minister of Employment and Labor may provide a talent bank for the aged with information on job seekers and job offers and local labor demand and supply, and other materials, which have been collected by the administrative authorities responsible for employment security. *<Amended by Act No. 10339, Jun. 4, 2010>*

(4) The Minister of Employment and Labor may provide a talent bank for the aged with all or part of its expenses within the limits of budget. *<Amended by Act No. 10339, Jun. 4, 2010>*

(5) Necessary matters concerning the criteria and procedures for the designation of a talent bank for the aged under paragraph (1) shall be prescribed by the Presidential Decree.

<This Article Wholly Amended by Act No. 8962, Mar. 21, 2008>

Article 11-2 (Designation of Employment Service Center for Middle-aged Professionals)

(1) The Minister of Employment and Labor may designate an employment service center for middle-aged professionals (hereinafter referred to as "employment service center for middle-aged professionals") which provides professional assistance, such as vocational guidance, job placement services, etc., to aged people who have retired and are prescribed by the Ordinance of the Ministry of Employment and Labor in consideration of their career, etc., (hereinafter referred to as "middle-aged professionals"). *<Amended by Act No. 10339, Jun. 4, 2010>*

(2) An employment service center for middle-aged professionals shall be designated, from among non-profit corporations or public organizations which provide free job placement services under Article 18 of the Employment Security Act, and are equipped with necessary professional workforces and facilities.

(3) An employment service center for middle-aged professionals shall conduct the following activities:

1. Registration of job offers and seekers, vocational counselling and job placement for middle-aged professionals;
2. Assistance to middle-aged professionals in management consulting, volunteer work, etc. for small and medium enterprises;
3. Other necessary activities prescribed by the Presidential Decree as necessary for the employment of middle-aged

professionals

(4) Article 11 (3) through (5) applicable to talent banks for the aged shall apply mutatis mutandis to employment service centers for middle-aged professionals. In this case, "talent bank for the aged" shall be read as "employment service center for middle-aged professionals."

<This Article Wholly Amended by Act No. 8962, Mar. 21, 2008>

Article 11-3 (Cancellation of Designation, etc. of Talent Bank for the Aged and Employment Service Center for Middle-aged Professionals)

(1) If an organization designated as a talent bank for the aged or an employment service center for middle-aged professionals falls under any of the following subparagraphs, the Minister of Employment and Labor may cancel the designation under the conditions prescribed by the Ordinance of the Ministry of Employment and Labor: *<Amended by Act No. 9997, Feb. 4, 2010 and Act No. 10339, Jun. 4, 2010>*

1. Where its free job placement services is discontinued;
2. Where business suspension is imposed pursuant to Article 36 of the Employment Security Act;
3. Where the approval and designation of the vocational skills development training facility is cancelled or business suspension is imposed on the vocational skills development training facility under Article 27 or 31 of the Workers Vocational Skills Development Act;
4. Where the designated vocational skills development training facility is closed down under Article 28 (3) of the Workers Vocational Skills Development Act;
5. Where permission to establish the vocational skills development training corporation is cancelled under Article 32 of the Workers Vocational Skills Development Act;
6. Where it has such reasons as poor business performance, etc., determined by the Minister of Employment and Labor.

(2) If an organization designated as a talent bank for the aged or an employment service center for middle-aged professionals intends to close or shut down its business, the organization shall report this to the Minister of Employment and Labor under the conditions prescribed by the Ordinance of the Ministry of Employment and Labor. *<Amended by Act No. 10339, Jun. 4, 2010>*

<This Article Wholly Amended by Act No. 8962, Mar. 21, 2008>

Article 11-4 (Businesses to Promote Employment for the Aged)

(1) The Minister of Employment and Labor may carry on the businesses described in any of the following subparagraphs for employment promotion for the aged: *<Amended by Act No. 10339, Jun. 4, 2010>*

1. Creating social service jobs suitable for the aged;
2. Assisting the aged in starting up self-employed business;
3. Supporting a job fair targeting the aged;
4. Conducting surveys and research necessary for the establishment of policies to promote and stabilize the employment of the aged and for the improvement of relevant systems;
5. Educating the employees of relevant institutions, such as talent banks for the aged, employment service centers for middle-aged professionals, etc. or nurturing necessary workforces;
6. Designating and implementing a period for the employment of the aged;
7. Selecting and supporting companies excellent in the employment of the aged;
8. Other necessary businesses for promoting the employment of the aged.

(2) Necessary matters concerning the implementation of the businesses prescribed in each subparagraph of paragraph (1) shall be prescribed by the Presidential Decree.

<This Article Wholly Amended by Act No. 8962, Mar. 21, 2008>

CHAPTER III

Employment Promotion and Security for the Aged

Article 12 (Employer's Obligation to Endeavor to Employ the Aged)

An employer who employs not less than the number of workers prescribed by the Presidential Decree shall strive to employ the aged not less than the standard employment rate.

<This Article Wholly Amended by Act No. 8962, Mar. 21, 2008>

Article 13 (Submission of Status Report on Employment of the Aged by Employers)

(1) The employer prescribed in Article 12 shall submit a status report on the employment of the aged to the Minister of

Employment and Labor every year under the conditions prescribed by the Ordinance of the Ministry of Employment and Labor. *<Amended by Act No. 10339, Jun. 4, 2010>*

(2) If the employer referred to in Article 12 usually employs the aged less than the standard employment rate, the Minister of Employment and Labor may recommend the employer to implement necessary measures, etc., to promote and stabilize the employment of the aged. *<Amended by Act No. 9997, Feb. 4, 2010 and Act No. 10339, Jun. 4, 2010>*

(3) The Minister of Employment and Labor may provide counseling, advice and other necessary cooperation and support to an employer who implements measures, etc., following a recommendation under paragraph (2). *<Amended by Act No. 9997, Feb. 4, 2010 and Act No. 10339, Jun. 4, 2010>*

(4) Deleted. *<Act No. 9997, Feb. 4, 2010>*

<This Article Wholly Amended by Act No. 8962, Mar. 21, 2008>

Article 14 (Tax Credit, etc. for Employment Promotion for the Aged)

(1) If an employer additionally employs aged people in excess of the standard employment rate under Article 12, his/her taxes shall be reduced or exempted under the conditions prescribed by the Restriction of Special Taxation Act.

(2) The Minister of Employment and Labor may provide employment subsidies with the limit of the budget pursuant to the following subparagraphs: *<Amended by Act No. 10339, Jun. 4, 2010>*

1. An employment subsidy paid for a certain period to an employer who newly employs an aged person or employs a large number of aged people, or an employer who takes necessary measures for the employment security of the aged;
2. In case an employer implements a system in which wages are reduced on the basis of a certain age, point of time of service or amount of wages on condition that the employment is guaranteed up to or beyond a certain age after obtaining the consent of the representative of workers, an employment subsidy paid to workers subject to this system. In this case, the "representative of workers" means, if there is a trade union consisting of a majority of workers, the representative of the trade union, and if there is no such trade union, the person who represents a majority of workers;
3. An employment subsidy paid to an employer who receives

a diagnosis by a professional institution with regard to the reform of a wage system, the redesign of jobs (referring to the development and design of jobs suitable for the aged or the semi-aged), etc. for the purpose of employment security and promotion, etc. for the aged and the semi-aged.

(3) Matters concerning the standards for payment of the employment subsidies under paragraph (2) shall be prescribed by the Presidential Decree.

<This Article Wholly Amended by Act No. 8962, Mar. 21, 2008>

Article 15 (Selection, etc. of Priority Occupations)

(1) The Minister of Employment and Labor shall select occupations (hereinafter referred to as "priority occupations") suitable for employment of the aged and the semi-aged after deliberation by the Employment Policy Council, and announce the selected priority occupations. *<Amended by Act No. 10339, Jun. 4, 2010>*

(2) The Minister of Employment and Labor shall conduct surveys and research on matters necessary for promoting the employment of the aged and the semi-aged, such as the development of priority occupations, etc., and compile and distribute relevant data. *<Amended by Act No. 10339, Jun. 4, 2010>*

<This Article Wholly Amended by Act No. 8962, Mar. 21, 2008>

Article 16 (Employment in Priority Occupations)

(1) The head of the State, a local government, or of an institution designated as a public institution under Article 4 of the Act on the Management of Public Institutions shall employ preferentially the aged and the semi-aged in the priority occupations of the institutions under the conditions as prescribed by the Presidential Decree. *<Amended by Act No. 9997, Feb. 4, 2010>*

(2) Employers other than those prescribed in paragraph (1) shall strive to employ preferentially the aged and the semi-aged in the priority occupations.

<This Article Wholly Amended by Act No. 8962, Mar. 21, 2008>

Article 17 (Request for Expansion of Employment, etc.)

(1) The Minister of Employment and Labor may request an employer who shows poor performance in employing preferentially the aged and the semi-aged under Article 16 to present the reason, and request an employer whose reason is not justifiable (including those who do not present the reason) to

increase the employment of the aged and the semi-aged.
<Amended by Act No. 10339, Jun. 4, 2010>

(2) The Minister of Employment and Labor may request an employer who fails to comply with a recommendation under Article 13 (2) to present the reason, and request an employer whose reason is not justifiable (including those who do not present the reason) to increase the employment of the aged and the semi-aged. <Amended by Act No. 9997, Feb. 4, 2010 and Act No. 10339, Jun. 4, 2010>

<This Article Wholly Amended by Act No. 8962, Mar. 21, 2008>

Article 18 (Public Announcement of Details and Suspension of Placement Service)

For a person who has failed to comply with a request for an increase in employment under Article 17 without any justifiable reason, the Minister of Employment and Labor may publicly announce the said details or suspend employment services, such as vocational guidance and placement services, etc., which are provided by the administrative authorities involved in employment security. <Amended by Act No. 10339, Jun. 4, 2010>

<This Article Wholly Amended by Act No. 8962, Mar. 21, 2008>

CHAPTER IV

Retirement Age

Article 19 (Retirement Age)

When an employer sets a retirement age, he/she shall endeavor to set it at 60 years of age or above.

<This Article Wholly Amended by Act No. 8962, Mar. 21, 2008>

Article 20 (Submission, etc., of Status Report on Implementation of Retirement Age System)

(1) An employer who employs not less than the number of workers prescribed by the Presidential Decree shall submit a status report on the implementation of the retirement age system to the Minister of Employment and Labor every year under the conditions prescribed by the Ordinance of the Ministry of Employment and Labor. <Amended by Act No. 10339, Jun. 4, 2010>

(2) If the employer referred to in paragraph (1) sets the retirement age remarkably low, the Minister of Employment and Labor may recommend the employer to extend the retirement

age. *<Amended by Act No. 9997, Feb. 4, 2010 and Act No. 10339, Jun. 4, 2010>*

(3) Deleted. *<Act No. 9997, Feb. 4, 2010>*

(4) If an employer fails to comply with a recommendation under paragraph (2) without any justifiable reason, the details of the failure may be made public. *<Amended by Act No. 9997, Feb. 4, 2010>*

<This Article Wholly Amended by Act No. 8962, Mar. 21, 2008>

Article 21 (Reemployment of Retirees)

(1) If a person who has reached retirement age wishes to be reemployed in the same workplace, the employer shall strive to reemploy him/her in an occupation that suits his/her ability to perform duties.

(2) In reemploying an aged retiree, the employer may exclude his/her previous service period from producing the continuous service period needed to calculate the retirement pay under Article 34 of the Labor Standards Act and the number of days of annual paid leave under Article 60 of the same Act and determine wages differently from the previous ones under agreement between the parties concerned.

<This Article Wholly Amended by Act No. 8962, Mar. 21, 2008>

Article 21-2 (Support for Reemployment of Retirees)

The Minister of Employment and Labor may provide necessary support, such as providing subsidies, etc. to an employer who reemploys retirees pursuant to Article 21 or takes other necessary measures to ensure employment security for retirees. *<Amended by Act No. 10339, Jun. 4, 2010>*

<This Article Wholly Amended by Act No. 8962, Mar. 21, 2008>

Article 21-3 (Support for Job-seeking Activities by Retirees, etc.)

(1) An employer shall make efforts to support job-seeking activities carried out by an aged worker who is going to leave his/her job due to reasons, such as retirement after reaching the retirement age, etc.

(2) The Minister of Employment and Labor may provide necessary support, such as paying labor costs, subsidies, etc., to an employer who faithfully implement the support measure under paragraph (1). *<Amended by Act No. 10339, Jun. 4, 2010>*

<This Article Newly Inserted by Act No. 9997, Feb. 4, 2010>

Article 22 (Support for Extension of Retirement Age)

The Minister of Employment and Labor shall provide counseling, advice and other necessary cooperation and support in

regard of the personnel affairs, wages, etc., of the enterprise following the extension of the retirement age. *<Amended by Act No. 10339, Jun. 4, 2010>*

<This Article Wholly Amended by Act No. 8962, Mar. 21, 2008>

CHAPTER V

Supplementary Provisions

Article 23 (Report and Inspection)

(1) If the Minister of Employment and Labor deems it necessary for promoting the employment of the aged, he/she may request an employer, a talent bank for the aged or an employment service center for middle-aged professionals to report on matters necessary for the implementation of this Act. *<Amended by Act No. 10339, Jun. 4, 2010>*

(2) If the Minister of Employment and Labor deems it necessary, he/she may have a relevant public official to enter a workplace, a talent bank for the aged, an employment service center for middle-aged professionals or other facilities, and inspect their business situation, books and other articles. *<Amended by Act No. 10339, Jun. 4, 2010>*

(3) If the Minister of Employment and Labor intends to carry out an inspection under paragraph (2), he/she shall notify in advance the employer, etc. of necessary matters for the inspection, including the date, contents, etc. of the inspection: Provided that this shall not apply if it is urgent, or deemed that the purpose thereof may be defeated if advance notification is made. *<Amended by Act No. 10339, Jun. 4, 2010>*

(4) A relevant public official who conducts an inspection under paragraph (2) shall carry a certificate indicating his/her authority, and present it to the interested persons.

(5) The Minister of Employment and Labor, if an inspection has been done under paragraph (2), shall notify the employer, etc. of the result in writing. *<Amended by Act No. 10339, Jun. 4, 2010>*

<This Article Wholly Amended by Act No. 8962, Mar. 21, 2008>

Article 23-2 (Delegation of Authority)

The authority of the Minister of Employment and Labor as prescribed by this Act may be delegated partially to the heads of

local employment and labor offices or local governments under the conditions as prescribed by the Presidential Decree. *<Amended by Act No. 10339, Jun. 4, 2010>*

<This Article Wholly Amended by Act No. 8962, Mar. 21, 2008>

Article 23-3 (Penal Provisions)

(1) An employer who gives a worker unfavorable treatment, such as dismissal, transfer, disciplinary action, etc., in violation of Article 4-9 shall be punished by imprisonment for not more than two years or by a fine not exceeding ten million won.

(2) An employer who discriminates against workers on the ground of age in recruitment and employment without a justifiable reason in violation of Article 4-4 (1) 1 shall be punished by a fine not exceeding five million won.

<This Article Newly Inserted by Act No. 8962, Mar. 21, 2008>

Article 23-4 (Joint Penal Provisions)

(1) If the representative, an agent, a servant, or any other employee of a juristic person has committed the offence referred to in Article 23-3 in relation to the business of the juristic person, in addition to punishing the offender, the juristic person shall be fined in accordance with the respective provisions: Provided that, this shall not apply unless the juristic person has neglected to give considerable attention and supervision to the business concerned to prevent such offence.

(2) If an agent, a servant, or any other employee of an individual has committed the offence referred to in Article 23-3 in relation to the business of the individual, in addition to punishing the offender, the individual shall be fined in accordance with the respective provisions: Provided that, this shall not apply unless the individual has neglected to give considerable attention and supervision to the business concerned to prevent such offence.

<This Article Newly Inserted by Act No. 8962, Mar. 21, 2008>

Article 24 (Fine for Negligence)

(1) A person who fails to comply with a corrective order under Article 4-7 without a justifiable reason shall be punished by a fine for negligence not exceeding 30 million won.

(2) A person who falls under any of the following subparagraphs shall be punished by a fine for negligence not exceeding 5 million won : *<Amended by Act No. 9997, Feb. 4, 2010 and Act No. 10339, Jun. 4, 2010>*

1. A person who fails to follow the Minister of Employment and Labor's request to submit a status report without a justifiable reason under Article 4-8 (1);

2. A person who fails to submit a status report on the employment of the aged under Article 13 (1);
3. A person who fails to submit a status report on the implementation of a retirement age system under Article 20 (1);
4. A person who fails to make a report, or who makes a false report under Article 23 (1);
5. A person who refuses, obstructs or evades the entrance or inspection under Article 23 (2).

(3) The fine for negligence referred to in paragraph (1) shall be imposed and collected by the Minister of Employment and Labor under the conditions as prescribed by the Presidential Decree. *<Amended by Act No. 10339, Jun. 4, 2010>*

(4) Deleted. *<Act No. 9997, Feb. 4, 2010>*

(5) Deleted. *<Act No. 9997, Feb. 4, 2010>*

(6) Deleted. *<Act No. 9997, Feb. 4, 2010>*

<This Article Wholly Amended by Act No. 8962, Mar. 21, 2008>

Addenda *<Act No. 9792, Oct. 9, 2009 ; Revision of the Framework Act on Employment Policy>*

Article 1 (Enforcement Date)

This Act shall enter into force on January 1, 2010.

Article 2 (Revision of Other Acts)

(1) through (3) Omitted.

(4) Parts of the Act on Prohibition of Age Discrimination in Employment and Aged Employment Promotion shall be revised as follows :

“Article 6 of the Framework Act on Employment Policy” in Article 4-3 (3) shall be changed to “Article 10 of the Framework Act on Employment Policy”.

(5) through (8) Omitted.

Article 3 Omitted.

Addenda *<Act No. 9997, Feb. 4, 2010>*

Article 1 (Enforcement Date)

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

Article 2 (Transitional Measures)

The imposition of a fine for negligence before the entry into force of this Act shall be governed by the previous provisions.

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

Article 1 (Enforcement Date)

This Act shall enter into force one month after its promulgation.

Articles 2 and 3 Omitted.

Article 4 (Revision of Other Acts)

(1) through (12) Omitted.

(13) Parts of the Act on Prohibition of Age Discrimination in Employment and Aged Employment Promotion shall be revised as follows :

"Minister of Labor" in Article 4-3 (1), (3) and (4), Article 4-6 (2), parts other than each subparagraph of Article 4-7 (1) and (4), Article 4-8 (1) and (2), Article 5, Article 7 (1) and (2), Article 8 (1) through (3), Article 9 (4), parts other than each subparagraph of Article 11 (1), subparagraph 4 of Article 11 (2), Article 11 (3) and (4), Article 11-2 (1), parts other than each subparagraph of Article 11-3 (1), subparagraph 6 of Article 11-3 (1), Article 11-3 (2), parts other than each subparagraph of Article 11-4 (1), Article 13 (1) through (3), parts other than each subparagraph of Article 14 (2), Article 15 (1) and (2), Article 17 (1) and (2), Article 18, Article 20 (1) and (2), Article 21-2, Article 21-3 (2), Article 22, Article 23 (1), (2), (3) and (5), Article 23-2, Article 24 (2) 1 and Article 24 (3) shall be changed to "Minister of Employment and Labor".

"Ordinance of the Ministry of Labor" in Article 4-7 (1) 4 and (2) 4, Article 6 (2), Article 11-2 (1), parts other than each subparagraph of Article 11-3 (1), Article 11-3 (2), Article 13 (1) and Article 20 (1) shall be changed to "Ordinance of the Ministry of Employment and Labor".

"Minister of Labor, etc." in Article 5, Article 6 (1) and (2), Article 9 (3) and Article 10 (1) shall be changed to "Minister of Employment and Labor, etc."

"Local labor office" in Article 23-2 shall be changed to "local employment and labor office".

(14) through (82) Omitted.

Article 5 Omitted.