

Act on Special Measures Concerning Fixed-term Employees with Expert Knowledge and Skills

(Act No. 137 of November 28, 2014)

(Purpose)

Article 1 The purpose of this Act is, in view of the importance of maintaining, improving and utilizing the abilities of fixed-term employees with expert knowledge and skills for effectively exercising the abilities of such employees, and for realizing a dynamic society, to provide special measures for managing the employment of fixed-term workers which matches their qualities, such as enabling Fixed-term Employees with expert knowledge and skills to maintain and improve their abilities, and to prescribe special provisions of the Labor Contracts Act (Act No. 128 of 2007), thereby contributing to the sound development of the national economy.

(Definitions)

- Article 2 (1) In this Act, the term "Expert Knowledge and Skills" refers to expert knowledge, skills or experience of an advanced level and coming under the standards prescribed by the Minister of Health, Labour and Welfare.
- (2) In this Act, the term "Fixed-term Employee" refers to an employee who has entered into a labor contract which has a fixed-term (hereinafter referred to as a "Fixed-term Labor Contract") with the employer.
- (3) In this Act, the term "Specified Fixed-term Employee" refers to a Fixed-term Employee who falls under either of the following items:
- (i) a Fixed-term Employee with Expert Knowledge and Skills (limited to those for which the amount obtained by converting the amount of wages expected to be paid from the employer during the contract period of the Fixed-term Labor Contract entered into with the employer into an annual amount of wages is not less than the amount specified by Order of the Ministry of Health, Labour and Welfare), who will be engaged in operations requiring Expert Knowledge and Skills (limited to that which is designed to end within a certain period of time exceeding five years; hereinafter referred to as "Specified Fixed-term Operations") (excluding Fixed-term Employees who fall under the following item); or
 - (ii) a Fixed-term Employee who will be continuously employed by an employer (in cases where the relevant Fixed-term Employee will be continuously employed after reaching the mandatory retirement age by the specially-related employer prescribed in Article 9, paragraph (2) of the Act on Stabilization of Employment of Elderly Persons (Act No. 68 of 1971), the

specially-related employer; the same applies hereinafter) after reaching the mandatory retirement age (limited to 60 years of age or above; the same applies hereinafter).

(Basic Guidelines)

Article 3 (1) The Minister of Health, Labour and Welfare must set and announce basic guidelines for measures conducted by an employer concerning managing the employment of Specified Fixed-term Employees which matches their qualities (hereinafter referred to as "Basic Guidelines").

(2) The particulars to be prescribed in the Basic Guidelines are as follows:

(i) particulars concerning the trends of employment of Specified Fixed-term Employees; and

(ii) particulars concerning the content of measures conducted by an employer concerning managing the employment of Specified Fixed-term Employee which matches their qualities.

(3) When the Minister of Health, Labour and Welfare intends to set the Basic Guidelines or to change them, they must hear the opinions of the Labor Policy Council.

(4) When the Minister of Health, Labour and Welfare has set the Basic Guidelines or has changed them, they must announce this without delay.

(Approval of Type-1 Plans)

Article 4 (1) An employer may, pursuant to the provisions of Order of the Ministry of Health, Labour and Welfare, prepare a plan for measures concerning managing the employment of Type-1 Specified Fixed-term Employees, which matches their qualities (meaning the Specified Fixed-term Employees set forth in Article 2, paragraph (3), item (i); the same applies in item (i) of the following paragraph) that are conducted by the employer (hereinafter referred to as a "Type-1 Plan"), submit it to the Minister of Health, Labour and Welfare and obtain approval to the effect that the Type-1 Plan is appropriate.

(2) The following particulars must be stated in a Type-1 Plan:

(i) the content of the Specified Fixed-term Operations in which the Type-1 Specified Fixed-term Employee (hereinafter referred to as the "Type-1 Specified Fixed-term Employee Covered by the Plan") will be engaged in, as well as the date of commencement and completion thereof;

(ii) content of the measures concerning granting paid leave for a Type-1 Specified Fixed-term Employee Covered by the Plan to receive education and training to voluntarily maintain and improve their abilities which they can exercise in their working life (excluding those granted as annual paid leave pursuant to the provisions of Article 39 of the Labor Standards Act (Act No.

49 of 1947)) and other measures concerning the granting of opportunities to voluntarily maintain and improve other abilities (referred to as "measures for granting paid leave for education and training, etc." in item (iii) of the following paragraph) as well as other measures concerning managing the employment which matches the qualities of a Type-1 Specified Fixed-term Employee Covered by the Plan that is conducted by the employer; and (iii) other matters specified by Order of the Ministry of Health, Labour and Welfare.

(3) The Minister of Health, Labour and Welfare is to give the abovementioned approval when an application for the approval prescribed in paragraph (1) has been filed, if they find that the Type-1 Plan conforms to all of the following items:

(i) the Specified Fixed-term Operations prescribed in item (i) of the preceding paragraph are operations requiring the Expert Knowledge and Skills that come under the standards prescribed by the Minister of Health, Labour and Welfare as prescribed in Article 2, paragraph (1);

(ii) the matters set forth in items (ii) and (iii) of the preceding paragraph are appropriate in light of the Basic Guidelines; and

(iii) beyond what is provided for in the preceding items, the content of the measures of granting paid leave for education and training, etc. and other measures concerning managing the employment conducted by the employer are effective and appropriate as those suited to the Type-1 Specified Fixed-term Employee Covered by the Plan.

(Changes to Type-1 Plans)

Article 5 (1) An employer subject to the approval prescribed in paragraph (1) of the preceding Article (hereinafter referred to as a "Type-1 Approved Employer") must obtain approval from the Minister of Health, Labour and Welfare when they intend to change the Type-1 Plan subject to the approval prescribed in the same paragraph.

(2) The Minister of Health, Labour and Welfare may, when they find that the Type-1 Plan subject to the approval prescribed in paragraph (1) of the preceding Article (when an approval of change has been given pursuant to the provisions of the preceding paragraph, the changed plan; hereinafter referred to as the "Type-1 Approved Plan") no longer conforms to any of the items of paragraph (3) of the same Article, rescind the approval.

(3) The provisions of paragraph (3) of the preceding Article apply mutatis mutandis to the approval prescribed in paragraph (1).

(Approval of Type-2 Plans)

Article 6 (1) An employer may, pursuant to the provisions of Order of the

Ministry of Health, Labour and Welfare, prepare a plan for the measures concerning managing the employment suited to the characteristics of Type-2 Specified Fixed-term Employees (meaning the Specified Fixed-term Employees set forth in Article 2, paragraph (3), item (ii); the same applies in item (i) of the following paragraph) that is conducted by the employer (hereinafter referred to as a "Type-2 Plan"), submit it to the Minister of Health, Labour and Welfare and obtain approval to the effect that the Type-2 Plan is appropriate.

(2) The following particulars must be stated in Type-2 Plan:

(i) content of considerations paid in relation to the assignment, duties and working environment of Type-2 Specified Fixed-term Employees (hereinafter referred to as the "Type-2 Specified Fixed-term Employee Covered by the Plan") and other measures concerning managing the employment suited to the characteristics of the Type-2 Specified Fixed-term Employee Covered by the Plan that is conducted by the employer; and

(ii) other particulars specified by Order of the Ministry of Health, Labour and Welfare.

(3) The Minister of Health, Labour and Welfare is to give such approval when an application for the approval prescribed in paragraph (1) has been filed, if they find that the Type-2 Plan conforms to all of the following items:

(i) the particulars set forth in the items of the preceding paragraph are appropriate in light of the Basic Guidelines; and

(ii) beyond what is provided for in the preceding item, the content of considerations in relation to the assignment, duties and working environment and other measures concerning managing the employment conducted by the employer as set forth in item (i) of the preceding paragraph are effective and appropriate as measures concerning managing the employment suited to the characteristics of the Type-2 Specified Fixed-term Employee Covered by the Plan.

(Changes to Type-2 Plans)

Article 7 (1) An employer subject to the approval prescribed in paragraph (1) of the preceding Article (hereinafter referred to as a "Type-2 Approved Employer") must obtain approval from the Minister of Health, Labour and Welfare when they intend to change a Type-2 Plan subject to the approval prescribed in the same paragraph.

(2) The Minister of Health, Labour and Welfare may, when they find that a Type-2 Plan subject to the approval prescribed in paragraph (1) of the preceding Article (when approval of change has been given under the provisions of the preceding paragraph, the changed plan; hereinafter referred to as the "Type-2 Approved Plan") no longer conforms to any of the items of paragraph (3) of the same Article, rescind the approval.

(3) The provisions of paragraph (3) of the preceding Article apply mutatis mutandis to the approval prescribed in paragraph (1).

(Special Provisions of the Labor Contracts Act)

Article 8 (1) With respect to the application of the provisions of Article 18, paragraph (1) of the Labor Contracts Act in relation to a Fixed-term Labor Contract entered into between a Type-1 Approved Employer and a Type-1 Specified Fixed-term Employee Covered by the Plan and employed by the Type-1 Approved Employer, the term "five years" in the same paragraph is replaced with "the period from the date of commencement until the date of completion of the Specified Fixed-term Operations prescribed in Article 2, paragraph (3), item (i) of the Act on Special Measures Concerning Fixed-term Employees with Expert Knowledge and Skills (Act No. 137 of 2014) stated in the Type-1 Approved Plan prescribed in Article 5, paragraph (2) of the same Act (if such period exceeds 10 years, 10 years)."

(2) With respect to the application of the provisions of Article 18, paragraph (1) of the Labor Contracts Act in relation to the Fixed-term Labor Contract entered into between a Type-2 Approved Employer and Type-2 Specified Fixed-term Employee Covered by the Plan employed by the Type-2 Approved Employer, the period during which the Type-2 Specified Fixed-term Employee Covered by the Plan is continuously employed by the Type-2 Approved Employer after reaching the mandatory retirement age is not included in the total contact term prescribed in the same paragraph.

(Assistance)

Article 9 The State is to endeavor to give necessary aid and other assistance to a Type-1 Approved Employer that takes measures concerning managing the employment suited to the characteristics of the Type-1 Specified Fixed-term Employee Covered by the Plan in relation to the Type-1 Approved Plan.

(Guidance and Advice)

Article 10 The Minister of Health, Labour and Welfare is to give guidance and advice to Type-1 Approved Employers or Type-2 Approved Employers necessary for the appropriate implementation of measures for a Type-1 Approved Plan or Type-2 Approved Plan.

(Collection of Reports)

Article 11 The Minister of Health, Labour and Welfare may have a Type-1 Approved Employer or Type-2 Approved Employer report on the status of implementation of the matters set forth in Article 4, paragraph (2), item (ii) or (iii) stated in the Type-1 Approved Plan or the matters set forth in the items of

Article 6, paragraph (2) stated in the Type-2 Approved Plan.

(Exclusion from Application)

Article 12 (1) This Act does not apply to national government employees and local government employees as well as mariners covered by the Mariners Act (Act No. 100 of 1947).

(2) This Act does not apply to businesses in which only relatives who are living together are employed.

(Delegation of Authority)

Article 13 (1) Part of the authority of the Minister of Health, Labour and Welfare prescribed in this Act may be delegated to Directors of Prefectural Labour Bureaus pursuant to the provisions of Order of the Ministry of Health, Labour and Welfare.

(2) The authority delegated to the Directors of Prefectural Labour Bureaus pursuant to the provisions of the preceding paragraph may be delegated to the Chief of the Labour Standards Inspection Office pursuant to the provisions of Order of the Ministry of Health, Labour and Welfare.

(Delegation to the Order of the Ministry of Health, Labour and Welfare)

Article 14 Beyond what is provided for in this Act, procedures for the implementation of this Act and other matters necessary for the enforcement of this Act are specified by Order of the Ministry of Health, Labour and Welfare.

Supplementary Provisions [Extract]

(Effective Date)

Article 1 This Act comes into effect as of April 1, 2015; provided, however, that the provisions of the following Article and Article 6 of the Supplementary Provisions come into effect as of the date of promulgation.

(Preparation Prior to Enforcement)

Article 2 (1) The Minister of Health, Labour and Welfare may set the Basic Guidelines in accordance with the provisions of Article 3, paragraphs (1) through (3) even prior to the enforcement of this Act.

(2) When the Minister of Health, Labour and Welfare has set the Basic Guidelines pursuant to the provisions of the preceding paragraph, they must announce it without delay.

(3) The Basic Guidelines set pursuant to the provisions of paragraph (1) are deemed as the Basic Guidelines set pursuant to the provisions of Article 3, paragraphs (1) through (3) on the date of enforcement (hereinafter referred to

as the "Effective Date") of this Act.

(Transitional Measures)

Article 3 Prior laws continue to govern applications for entering into a labor contract without a fixed term prescribed in Article 18, paragraph (1) of the Labor Contracts Act filed with respect to a Specified Fixed-term Employee whose total contact term prescribed in the same paragraph will exceed five years prior to the Effective Date.

(Delegation to Cabinet Order)

Article 6 Beyond what is provided for in these Supplementary Provisions, transitional measures necessary for the enforcement of this Act are specified by Cabinet Order.