

Whistleblower Protection Act

(Act No. 122 of June 18, 2004)

(Purpose)

Article 1 The purpose of this Act is to protect whistleblowers by to providing for nullity, etc. of dismissal of whistleblowers. on the grounds of whistleblowing and the measures that a business operator and Administrative Organ should all take concerning whistleblowing, and to promote compliance with the laws and regulations concerning the protection of life, body, property, and other interests of citizens, and thereby to contribute to the stabilization of the general welfare of the life of the citizens and to the sound socioeconomic development.

(Definitions)

Article 2 (1) The term "whistleblowing" as used in this Act means whistleblowing made by a worker (which means a worker as provided for in Article 9 of the Labor Standards Act (Act No. 49 of 1947); the same applies hereinafter), without a purpose of acquiring a wrongful gain, causing damage to others, or any other wrongful purpose, about a reportable fact that has occurred, or is about to occur, concerning a recipient of labor services (which means any of the following business operators (which means a corporation or other organizations and an individual who engages in business); the same applies hereinafter), or any person such as an officer, employee or agent of the recipient of labor services, if the worker is engaged in the business of the recipient of labor services, to the recipient of labor services or the person designated by the recipient of labor services in advance (hereinafter referred to as "recipient of labor services, etc."), to an administrative organ with the authority to impose a disposition (which means an order, revocation, and other acts involving the exercise of public authority; the same applies hereinafter) or make a recommendation, etc. (which means a recommendation and other acts which are not dispositions; the same applies hereinafter) regarding the reportable fact, or to any person to whom reporting the reportable fact is recognized as being necessary in order to prevent the occurrence thereof or the spread of damage caused thereby (including persons who have been or are likely be damaged by the reportable fact, but excluding persons who are likely to cause harm to the right, competitive position , or other legitimate interests of the recipient of labor services; the same applies in item (iii) of the following Article).

(i) a business operator that employs the worker (excluding business operators

specified in the following items);

- (ii) in the case the worker is a dispatched worker (referring to a dispatched worker as provided for in Article 2, item (ii) of the Act on Securing the Proper Operation of Worker Dispatch Business and Improvement of Working Conditions for Dispatched Workers (Act No. 88 of 1985; referred to as "Worker Dispatching Act" in Article 4)), the business operator which receives that dispatched worker's services of worker dispatch (referring to the worker dispatch provided for in Article 2, item (i) of the "Worker Dispatching Act"; the same applies in Article 5, paragraph (2)); or
 - (iii) the other business operator, when a business operator listed in the preceding two items engages in business based on a contract for work agreement or any other agreement with another business operator, and where the worker engages in that business.
- (2) The term "whistleblower" as used in this Act means a worker who has conducted whistleblowing.
- (3) The term "reportable fact" as used in this Act means any of the following facts:
- (i) the fact of criminal act that constitutes the crimes provided for in laws (including the orders based on such laws; the same applies to the following item) listed in the appended table, concerning the protection of interests such as the protection of individuals' lives and bodies, the protection of interest of the consumers, the conservation of the environment, the protection of fair competition, and the protection of citizen's lives, bodies, property and other interests; or
 - (ii) the fact, in the case where a violation of a disposition pursuant to the Act listed in the appendix constitutes the fact provided for in the preceding item, which is the ground of the relevant disposition (including the fact, in the case where the relevant ground is the fact which is the violation of a different disposition or not complying with recommendation, etc. pursuant to the Act listed in the appendix, which is the ground of the relevant different disposition or recommendations, etc.).
- (4) The term "administrative organ" as used in this Act means any of the following organs:
- (i) Cabinet Office, the Imperial Household Agency, organs provided for in Article 49, paragraph (1) or (2) of the Act for Establishment of the Cabinet Office (Act No. 89 of 1999), organs provided for in Article 3, paragraph (2) of the National Government Organization Act (Act No. 120 of 1948), organs under the jurisdiction of the Cabinet which were established pursuant to laws, organs established within one of these organs, or the personnel of the above mentioned organs who are authorized by laws to independently exercise such authority; and,

(ii) organs (excluding assemblies) of local government.

(Nullity of Dismissal)

Article 3 If a whistleblower is dismissed by the business operator provided for in paragraph (1), item (i) of the preceding Article on the basis of whistleblowing provided for in each of the following items in the respective cases, the dismissal is to be void:

(i) if a reportable fact is considered to have occurred, or is about to occur:

whistleblowing disclosure to the recipient of labor services, etc.;

(ii) if there are reasonable grounds to believe that the reportable fact has occurred, or is about to occur: whistleblowing disclosure to an administrative organ with the authority to impose dispositions or recommendations; or

(iii) if there are reasonable grounds to believe that the reportable fact has occurred, or is about to occur and when any of the following applies: whistleblowing disclosure to any person to whom such whistleblowing disclosure is considered necessary to prevent the occurrence of the reportable fact or the spread of damage caused by the reportable fact:

(a) in the case the whistleblower has reasonable grounds to believe that he/she will receive dismissal or other disadvantageous treatment if they conduct whistleblowing as provided for in the preceding two items;

(b) in the case the whistleblower has reasonable grounds to believe that the evidence pertaining to the reportable fact might be concealed, counterfeited, or altered if they conduct whistleblowing as provided for in item (i);

(c) in the case the whistleblower was requested by the recipient of labor services, without any just cause, not conduct the whistleblowing provided for in the preceding two items;

(d) in the case the whistleblower does not receive notice from the relevant recipient of labor services, etc., about the commencement of an investigation on the reportable fact within twenty days from the day of the whistleblowing provided for in item (i) made in writing (including a record made by an electronic method, a magnetic method, or any other method not recognizable to human senses.; the same applies to Article 9), or the relevant recipient of labor services, etc. does not investigate without any just cause; or

(e) in the case the whistleblower has reasonable grounds to believe that some damage to the life or body of an individual is caused or about to be caused.

(Nullity of the Termination of a Worker Dispatch Contract)

Article 4 If the whistleblower is a dispatched worker working under the direction of the business operator as provided for in Article 2, paragraph (1), item (ii), the termination of the worker dispatch contract (referring to a worker

dispatch contract provided for in Article 26, paragraph (1) of the Dispatched Worker Act) on the basis of the whistleblowing provided for in the items of the preceding Article is to be void.

(Prohibition of Disadvantageous Treatment)

Article 5 (1) Beyond what is provided in Article 3, the business operator provided for in Article 2, paragraph (1), item (i) must not conduct any disadvantageous treatment such as demotion or a salary cut to a whistleblower who is or was its employee on the basis of such whistleblowing as provided for in the items of Article 3.

(2) Beyond what is provided in the preceding Article, the business operator as provided for in Article 2, paragraph (1), item (ii) must not conduct any disadvantageous treatment, such as requesting the business operator dispatching the whistleblower to replace their with another dispatched worker, regarding a whistleblower who is a dispatched worker working under the direction of the business operator on the basis of such whistleblowing as provided for in the items of Article 3.

(Provisions on Construction)

Article 6 (1) The provisions of the preceding three Articles do not preclude the application of the provisions of other laws and regulations (referring to laws as well as orders based on laws; the same applies to Article 10, paragraph (1)) that prohibit a dismissal or any other disadvantageous treatment of a worker or a dispatched worker on the basis of the fact that the worker has conducted whistleblowing pertaining to the reportable fact.

(2) The provisions of Article 3 do not preclude the application of the provisions of Article 18-2 of the Labor Standards Act.

(Treatment of Regular Service National Public Employees)

Article 7 Notwithstanding the provisions of Article 3 through Article 5, the prohibition of dismissal or any other disadvantageous treatment of national public employees in the regular service, court officers to whom the Act on Temporary Measures concerning Court Officers (Act No. 299 of 1951) is applicable, Diet officers to whom the Diet Officers Act (Act No. 85 of 1947) is applicable, self-defense forces personnel specified in Article 2, paragraph (5) of the Self-Defense Forces Act (Act No. 165 of 1954), and local public employees in the regular service (hereinafter referred to as "regular service national public employees, etc." in this Article) on the basis of whistleblowing provided for in the items of Article 3 is governed by the provisions of the National Public Service Act (Act No. 120 of 1947, including the cases where it is applied mutatis mutandis pursuant to the Act on Temporary Measures concerning

Court Officers), Diet Officers Act, Self-Defense Forces Act, and Local Public Employees Act (Act No. 261 of 1950). In this case, the appointer of Regular Service National Public Employees, etc., and any other business operator provided for in Article 2, paragraph (1), item (i) must apply the provisions of these laws in order to prevent dismissal or any other disadvantageous treatment of any regular service national public employees, etc., on the basis of the whistleblowing as provided for in the items specified in Article 3.

(Respect of Legitimate Interests of Others)

Article 8 Any worker who conducts whistleblowing as provided for in the items of Article 3 must make efforts not to damage the legitimate interests of others and the public interest.

(Notice of Rectification Measures)

Article 9 Any business operator which receives a whistleblowing disclosure in writing as provided for in Article 3, item (i) from a whistleblower must make efforts to notify the whistleblower, without delay, that the business operator has taken measures to stop the reportable fact or other necessary rectifying measures or that there is no reportable fact pertaining to the relevant whistleblowing.

(Measures That Should Be Taken By the Administrative Agency)

Article 10 (1) Any administrative organ which receives a whistleblowing disclosure as provided for in Article 3, item (ii) from a whistleblower must conduct the necessary investigations, and if such investigations confirm the existence of the reportable fact, the administrative organ must take appropriate measures such as the measures required by laws and regulations.
(2) If the whistleblowing provided for in the preceding paragraph concerns a fact that constitutes a criminal act as provided for in Article 2, paragraph (3), item (i), then notwithstanding the provisions of the preceding paragraph, the provisions of the Code of Criminal Procedure (Act No. 131 of 1948) govern the criminal investigation and prosecution.

(Information)

Article 11 If a whistleblowing disclosure provided for in paragraph (1) of the preceding Article is erroneously made to an administrative organ that has no authority to impose a disposition or a recommendation, etc. about the reportable fact pertaining to such whistleblowing disclosure, then relevant administrative organ must inform the whistleblower of the administrative organ which has the authority to impose a disposition or a recommendation, etc. about the reportable fact pertaining to such whistleblowing disclosure.

Supplementary Provisions

(Effective Date)

Article 1 This Act comes into effect as from the day specified by Cabinet Order, within a period not exceeding two years from the day of promulgation, and applies to whistleblowing conducted on and after the effective date.

(Review)

Article 2 Approximately five years after this Act comes into force, the government is to examine the state of enforcement of this Act and is to take necessary measures based upon those results.

Appended Table (Re: Article 2)

(i) Penal Code (Act No. 45 of 1907)

(ii) Food Sanitation Act (Act No. 233 of 1947)

(iii) Financial Instruments and Exchange Act (Act No. 25 of 1948)

(iv) Act on Japanese Agricultural Standards (Act No. 175 of 1950)

(v) Air Pollution Control Act (Act No. 97 of 1968)

(vi) Waste Disposal and Cleaning Act (Act No. 137 of 1970)

(vii) Act on the Protection of Personal Information (Act No. 57 of 2003)

(viii) any laws other than those provided for in the preceding items that are provided for in a cabinet order as laws concerning the protection of interests such as the protection of individuals' lives and bodies, the protection of interest of consumers, the conservation of the environment, the protection of fair competition, and the protection of citizen's lives, bodies, property and other interests.