

# Act on Ensuring Wage Payment

(Act No. 34 of May 27, 1976)

## Chapter I General Provisions

(Purpose)

Article 1 The purpose of this Act is to take preservative measures for savings, protective measures for workers who are unlikely to receive their wages due to significant difficulties in business activities, and other measures to secure the payment of wages, in order to ensure the proper payment of wages in cases where business management becomes unstable due to fluctuations in the economy, changes in industry structure, or any other circumstances, and in cases where workers separate from employment, thereby contributing to securing the livelihood of workers.

(Definitions)

Article 2 (1) The term "wage" as used in this Act means wages as prescribed in Article 11 of the Labor Standards Act (Act No. 49 of 1947).

(2) The term "worker" as used in this Act means workers as prescribed in Article 9 of the Labor Standards Act (excluding those employed by a business or offices which only employ relatives living together and household employees).

## Chapter II Preservative Measures for Savings and Wages

(Preservative Measures for Savings)

Article 3 In the event that an employer (excluding the national government and local governments; the same applies hereinafter) manages the savings of workers entrusted to the employer, if the management of savings covers the acceptance of deposits from the workers, the employer must, with regard to the amount of deposit accepted (meaning the amount of deposits accepted by such employer; hereinafter the same applies in this Article) as of March 31 of each year, take measures for preserving savings for one year as of this day (meaning measures to secure a refund of the amount of deposit accepted from each of the workers as of the day specified by Order of the Ministry of Health, Labour and Welfare, such as the concluding of a contract under which a financial institution, such as a bank, guarantees the obligation to refund that amount of accepted deposits), except in cases specified by Order of the Ministry of Health, Labour and Welfare.

(Order Pertaining to Preservative Measures for Savings)

Article 4 In cases where an employer fails to take measures for preserving savings in violation of the provisions of the preceding Article, the director of a labor standards office may order the employer to rectify this failure by designating a time limit as provided for by Order of the Ministry of Health, Labour and Welfare.

(Preservative Measures for Retirement Allowances)

Article 5 In cases where an employer (excluding those specified by Order of the Ministry of Health, Labour and Welfare, such as those who have concluded a mutual aid contract for retirement allowance prescribed in paragraph (3) of Article 2 of the Small and Medium Sized Enterprise Retirement Allowance Cooperative Act (Act No. 160 of 1959)) has made it clear that the employer will provide retirement allowance to workers in a labor contract, in a collective agreement, in the rules of employment, or other equivalent, the employer must endeavor to take measures equivalent to the measures specified by Order of the Ministry of Health, Labour and Welfare as set forth in Article 3 with regard to the amount specified by Order of the Ministry of Health, Labour and Welfare as the amount to be allocated for the payment of the retirement allowance.

(Interest on Delayed Payment of Wages for Workers Separated from Employment)

Article 6 (1) In cases where an employer fails to pay all or part of the wages (excluding retirement allowance hereinafter the same applies in this Article) of a worker by the worker's date of separation from employment (for wages whose payment date comes after the date of separation from employment, such payment date; hereinafter the same applies in this Article), the employer must pay the worker interest on the delayed payment at the rate specified by Cabinet Order up to an annual rate of 14.6 percent of the amount of the unpaid wages due after the date of separation from employment for the number of days from the day following the relevant worker's date of separation from employment until the actual payment date.

(2) In cases where payment of wages is delayed by any of the unavoidable circumstances specified by Order of the Ministry of Health, Labour and Welfare, such as natural disasters, the provisions of the preceding paragraph do not apply to the period during which such circumstances exist.

### **Chapter III Payment of Unpaid Wages on Behalf of Employers as a Government Service**

(Payment of Unpaid Wages on Behalf of Employers)

Article 7 In the event that an employer covered by industrial accident compensation insurance (for businesses subject to the provisions of Article 8 of the Act on the Collection, etc. of Insurance Premiums of Labor Insurance (Act No. 84 of 1969), meaning businesses in cases where the provisions thereof do not apply; hereinafter the same applies in this Article) (limited to employers who have been conducting such business for not less than the period specified by Order of the Ministry of Health, Labour and Welfare) receives a ruling on the commencement of bankruptcy proceedings or otherwise falls under any of the cases specified by Cabinet Order, if there are any unpaid Wages (meaning wages still unpaid after the payment date; hereinafter the same applies in this Article and the following Article) of workers engaged in such business who retired within the period specified by Cabinet Order, the government is to pay debts pertaining to the unpaid wages within the scope specified by Cabinet Order on behalf of the employer at the request of the workers (for those specified by Order of the Ministry of Health, Labour and Welfare, limited to those who have received confirmation from the director of a labor standards office with regard to matters such as the amount of unpaid wages as provided for by Order of the Ministry of Health, Labour and Welfare), notwithstanding the provisions of the provision of paragraph (1) and paragraph (2) of Article 474 of the Civil Code (Act No. 89 of 1896).

(Refunds)

- Article 8 (1) In cases where a person has received the payment of debts pertaining to unpaid wages by an act of deception or other wrongful acts pursuant to the provisions of the preceding Article, the government may order the person to refund all or part of the received payment and to pay an amount not more than that received by an act of deception or other wrongful acts.
- (2) In the case referred to in the preceding paragraph, if the payment of such debts pertaining to unpaid wages is attributable to a false report or proof by the employer, the government may order the employer to pay the amount ordered to be refunded or paid pursuant to the provisions of the same paragraph jointly and severally with the person who received the payment of debts pertaining to unpaid wages.
- (3) The provisions of Articles 27 and 41 of the Act on the Collection, etc. of Insurance Premiums of Labor Insurance apply mutatis mutandis to amounts ordered to be refunded or paid pursuant to the provisions of the preceding two paragraphs.
- (4) Within the limit necessary for the performance of affairs pertaining to the refund or payment of amounts ordered to be refunded or paid pursuant to the provisions of paragraph (1) or (2), the government may order those persons who fall under the provisions of paragraph (1) (including those considered to fall

under the provisions thereof) or employers to submit a report or document on matters such as the amount of unpaid wages and the payment status of wages as provided for by Order of the Ministry of Health, Labour and Welfare.

(Relationship with the Industrial Accident Compensation Insurance Act)

Article 9 The service provided in this Chapter is conducted as the service set forth in item (iii) of paragraph (1) of Article 29 of the Industrial Accident Compensation Insurance Act (Act No. 50 of 1947).

#### **Chapter IV Miscellaneous Provisions**

(Directors of Labor Standards Offices and Labor Standards Inspectors)

Article 10 Directors of labor standards offices and labor standards inspectors take charge of affairs related to the enforcement of this Act as provided for by Order of the Ministry of Health, Labour and Welfare.

Article 11 Labor standards inspectors perform the duties of judicial police personnel under the Code of Criminal Procedure (Act No. 131 of 1948) with regard to offenses of violating the provisions of this Act.

(Reports)

Article 12 Except as otherwise provided for by this Act, when finding it necessary for the enforcement of this Act, the directors of prefectural labor bureaus, directors of labor standards offices, or labor standards inspectors may order the relevant persons, such as employers and workers, to report the necessary matters or make an appearance as provided for by Order of the Ministry of Health, Labour and Welfare.

(Provision of Materials)

Article 12-2 (1) Directors of prefectural labor bureaus, directors of labor standards offices, or labor standards inspectors may request the relevant administrative organs or public or private organizations to submit materials and give any other necessary cooperation in connection with the enforcement of this Act.

(2) The relevant administrative organs or public or private organizations requested to cooperate pursuant to the provisions of the preceding paragraph must meet requests to the fullest extent possible.

(On-Site Inspections)

Article 13 (1) Labor standards inspectors may enter workplaces to question the relevant persons or inspect items, such as books and documents, when it is

found necessary for the enforcement of this Act.

- (2) The directors of labor standards offices may have their officials enter the workplaces of the employers set forth in Article 7 to question the relevant persons or inspect items, such as account books and documents, when it is found necessary for the confirmation set forth in the same Article.
- (3) In the cases referred to in the preceding two paragraphs, the labor standards inspectors and officials set forth in the preceding paragraph must carry and present to the relevant persons their identification.
- (4) The authority to conduct on-site inspections pursuant to the provisions of paragraphs (1) and (2) must not be construed as being granted for criminal investigation purposes.

(Reports by Workers)

Article 14 (1) A worker may report any violation by the employer of the provisions of this Act or orders given based on it to the Director of a Prefectural Labor Bureau, the director of a labor standards office, or a labor standards inspector and request that appropriate measures are taken for rectification.

- (2) An employer must not dismiss or otherwise treat disadvantageously workers on the basis of a report referred to in the preceding paragraph.

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

Article 15 In addition to what is provided for in this Act, the procedures for the request set forth in Article 7 and other matters necessary for the enforcement of this Act are prescribed by Order of the Ministry of Health, Labour and Welfare.

(Special Provisions for Mariners)

Article 16 With regard to mariners subject to the Mariners Act (Act No. 100 of 1947), all matters under the authority of directors of prefectural labor bureaus or directors of labor standards offices, or labor standards inspectors prescribed in this Act are to be performed by directors of district transport bureaus (including the director of the transport supervision department) or officers in charge of the labor affairs of mariners, and the term "Order of the Ministry of Health, Labour and Welfare" in this Act (excluding the provisions of Article 7, paragraph (4) of Article 8, and the preceding Article) is deemed to be replaced with "Order of the Ministry of Land, Infrastructure, Transport and Tourism;" the terms "those specified by Order of the Ministry of Health, Labour and Welfare" and "as provided for by Order of the Ministry of Health, Labour and Welfare" in Article 7 are deemed to be replaced with "those specified by Order of the Ministry of Health, Labour and Welfare and Order of the Ministry of

Land, Infrastructure, Transport and Tourism" and "as provided for by Order of the Ministry of Health, Labour and Welfare and Order of the Ministry of Land, Infrastructure, Transport and Tourism", respectively; and the term "Order of the Ministry of Health, Labour and Welfare" in the preceding Article is deemed to be replaced with "Order of the Ministry of Land, Infrastructure, Transport and Tourism (or Order of the Ministry of Health, Labour and Welfare for the matters prescribed in the preceding Chapter)."

## **Chapter V Penal Provisions**

Article 17 An employer who violates the provisions of paragraph (2) of Article 14 is punished by imprisonment with work for not more than six months or a fine of not more than 100,000 yen.

Article 18 An employer who violates an order issued pursuant to the provisions of Article 4 is punished by a fine of not more than 300,000 yen.

Article 19 A person who falls under any of the following items is punished by a fine of not more than 100,000 yen:

- (i) a person who fails to submit a report or submits a false report, or fails to submit a document or submits a false document, pursuant to the provisions of paragraph (4) of Article 8;
- (ii) a person who fails to give a report or gives a false report, or fails to make an appearance, pursuant to the provisions of Article 12;
- (iii) a person who refuses, prevents, or evades entry or an inspection, or fails to give an answer or gives a false answer to a question, pursuant to the provisions of paragraph (1) or (2) of Article 13.

Article 20 If the representative of a juridical person, or an agent, employee, or other Worker of a corporation or individual, commits any of the violations set forth in Articles 17 through the preceding Article with regard to the business of the corporation or individual, not only the offender but also the corporation or individual is punished by the fine prescribed in the respective Articles.