

# Labor Standards Act (Tentative translation)

(Act No. 49 of April 7, 1947)

## Chapter I General Provisions

### (Principles for Working Conditions)

Article 1 (1) Working conditions must be conditions meeting the needs that are to be met in order for a worker to live a life worthy of a human being.

(2) The standards for working conditions fixed by this Act serve as minimum standards; a party to a labor relationship must not cause working conditions to deteriorate using these standards as the grounds for doing so, but instead must endeavor to improve them.

### (Deciding Working Conditions)

Article 2 (1) The worker and the employer are to decide working conditions as equals.

(2) Workers and employers must abide by collective agreements, rules of employment, and labor contracts, and each worker or employer must discharge their duties faithfully.

### (Equal Treatment)

Article 3 An employer must not use a worker's nationality, creed, or social status as a basis for differential treatment with respect to wages, working hours, or other working conditions.

### (The Principle of Equal Wages for Men and Women)

Article 4 An employer must not use the fact that a worker is a woman as a basis for differential treatment in comparison to men with respect to wages.

### (Prohibition of Forced Labor)

Article 5 An employer must not force a worker to work against their will through the use of physical violence, intimidation, confinement, or any other means that unjustly restricts that worker's mental or physical freedom.

### (Elimination of Exploitation by Intermediaries)

Article 6 Other than as permitted by law, it is prohibited for any person to profit from intervening in the employment of others in the course of trade.

### (Guarantee of the Exercise of Civil Rights)

Article 7 An employer must not refuse a worker's request for time needed to exercise the right to vote or any other civil right or to perform a public duty during working hours; provided, however, that the employer may change the time requested by the worker as long as the change does not hinder the exercise of that right or the performance of that public duty.

Article 8 Deleted

(Definitions)

Article 9 The term "worker" as used in this Act means a person who is employed at a business or office (hereinafter referred to as a "business") and to whom wages are paid, regardless of the type of occupation.

Article 10 In this Act, the employer is the person in control of the business, the person responsible for managing the business, or any other person acting on behalf of the person in control of the business in matters concerning that business' workers.

Article 11 In this Act, wage means wages, salary, allowances, bonuses, and anything else that the employer pays to the worker as remuneration for labor, regardless of what it is called.

Article 12 (1) In this Act, the average wage means the amount of money calculated when the total amount of wages over the 3-month period preceding the day on which grounds for calculation of the average wage came into existence is divided by the total number of days during that period; provided, however, that the average wage must not fall below the amount calculated in any of the following ways:

- (i) 60 percent of the amount of money calculated when the total amount of wages is divided by the number of days worked during the relevant period, if wages are calculated on the basis of days or hours worked, or are determined in accordance with a piece rate or other such system under a service contract;
  - (ii) the aggregate of the amount of money calculated when the total amount of wages determined on the basis of months, weeks, or any other fixed period is divided by the number of days in that period, and the product is added to the amount of money referred to in the preceding item, if a part of the wage is determined on the basis of months, weeks, or any other fixed period.
- (2) If there is a pay period end date, the period referred to in the preceding paragraph starts to be counted from the most recent pay period end date.
- (3) If a period falling under one of the following items is a part of the period provided for in the preceding two paragraphs, the number of days constituting

that period is excluded from the period referred to in the preceding two paragraphs and wages from during that period are excluded from the total amount of wages referred to in the preceding two paragraphs:

- (i) a period during which the worker was absent from work for medical treatment caused by an injury sustained or illness suffered in the course of employment;
  - (ii) a period during which the female worker was absent from work before or after childbirth in accordance with the provisions of Article 65;
  - (iii) a period during which the worker was absent from work for reasons attributable to the employer;
  - (iv) a period during which the worker was on child care leave as prescribed in Article 2, item (i) of the Act on Childcare Leave, Caregiver Leave, and Other Measures for the Welfare of Workers Caring for Children or Other Family Members (Act No. 76 of 1991), or a period during which the worker was on family care leave as prescribed in item (ii) of that Article (including leave for family care as prescribed in Article 61, paragraph (3) of that Act (including as applied mutatis mutandis pursuant to paragraph (6) of that Article); the same applies in Article 39, paragraph (10) of this Act);
  - (v) a probationary period.
- (4) Wages that have been paid on an ad hoc basis, wages that are paid every period of more than 3 months, and wages paid in a form other than currency and not falling within a certain scope are not included in the calculation of the total amount of wages referred to in paragraph (1).
- (5) If wages are paid in a form other than currency, Order of the Ministry of Health, Labour and Welfare prescribes the necessary particulars in connection with the scope of the wages that are to be included in the calculation of the total amount of wages referred to in paragraph (1) and the assessment of their value.
- (6) For a worker who has been hired less than 3 months prior, the period referred to in paragraph (1) means the period after the worker's hiring.
- (7) The average wage for a person hired on a day-to-day basis is fixed by the Minister of Health, Labour and Welfare according to the kind of business or occupation in which that person is engaged.
- (8) If an average wage cannot be calculated in accordance with paragraphs (1) through (6), the average wage is as prescribed by the Minister of Health, Labour and Welfare.

## **Chapter II Labor Contracts**

(Contracts Violating This Act)

Article 13 Any part of a labor contract that prescribes working conditions not

meeting the standards of this Act is void. In such a case, the part of the contract that is void is governed by the standards prescribed in this Act.

(Contract Period; Related Matters)

Article 14 (1) Excluding labor contracts without fixed terms and excepting those in which it is provided that the contract period is the period necessary for the completion of a specific undertaking business, it is prohibited to enter into a labor contract for a period exceeding 3 years (or 5 years, for a labor contract falling under one of the following items):

- (i) a labor contract entered into with a worker who has expert knowledge, skills, or experience (hereinafter referred to as "expertise" in this item and Article 41-2, paragraph (1), item (i)) falling under the standards prescribed by the Minister of Health, Labour and Welfare as being of an advanced level (limited to a worker who is appointed to work activities requiring the prescribed advanced level of expertise).
- (ii) a labor contract entered into with a worker aged 60 years or older (other than a labor contract as set forth in the preceding item).

(2) In order to preemptively prevent disputes from arising between workers and employers when they enter into fixed-term labor contracts and when those labor contracts expire, the Minister of Health, Labour and Welfare may prescribe standards for particulars regarding the notice that employers are to give in connection with the expiration of the period of labor contracts and other necessary particulars.

(3) The relevant government agency may give the necessary advice and guidance concerning the standards referred to in the preceding paragraph to employers entering into fixed-term labor contracts.

(Making the Working Conditions Explicit)

Article 15 (1) When entering into a labor contract, the employer must make the wages, working hours, and other working conditions explicit to the worker. In doing so, the employer must make explicit the particulars of wages and working hours and any other such particulars that Order of the Ministry of Health, Labour and Welfare prescribes in the manner prescribed by Order of the Ministry of Health, Labour and Welfare.

(2) If a working condition that has been made explicit based on the provisions of the preceding paragraph diverges from the fact of the matter, the worker may immediately cancel the labor contract.

(3) In a case as referred to in the preceding paragraph, if a worker who has changed residences for work returns home within 14 days after the date of contract cancellation, the employer must bear the necessary travel expenses.

(Prohibition on Establishing the Compensation for Loss or Damage in Advance)

Article 16 An employer must not form a contract that prescribes a monetary penalty for breach of a labor contract or establishes the amount of compensation for loss or damage in advance.

(Prohibition on Offsetting against Advances)

Article 17 An employer must not offset a worker's wages against money advanced to the worker or against a claim for the return of an advance that is conditioned on the worker's working.

(Compulsory Savings)

Article 18 (1) An employer must not cause a worker to form a savings contract concomitant with the labor contract, and must not form a contract to manage a worker's savings concomitant with the labor contract.

(2) Before an employer seeks to be entrusted by workers with managing their savings, it must conclude a written agreement with the labor union that has been organized by a majority of the workers at that workplace, if there is one, or with a person representing a majority of the workers at that workplace, if there is no such union; and must file this with the relevant government agency.

(3) If an employer will be entrusted by workers with managing their savings, it must establish rules governing the management of savings and take measures to inform the workers of these rules, such as posting them at the workplace.

(4) When an employer is entrusted by a worker with managing that worker's savings, it must set an interest rate if its management of those savings constitutes the acceptance of a deposit. In such a case, if the interest rate is below the rate of interest prescribed by Order of the Ministry of Health, Labour and Welfare in consideration of the rate of interest for deposits accepted by financial institutions, the employer is deemed to have set an interest rate that is based on the rate of interest prescribed by that Order of the Ministry of Health, Labour and Welfare.

(5) If an employer is entrusted by a worker with managing that worker's savings, it must return the savings to the worker on request without delay.

(6) If an employer has violated the provisions of the preceding paragraph and the employer's continued management of the workers' savings is found to be seriously detrimental to the interests of the worker, the relevant government agency may order the employer to suspend its management of those savings, to the extent necessary.

(7) An employer that has been ordered to suspend its management of savings pursuant to the provisions of the preceding paragraph must return the savings associated with the suspended management to the worker without delay.

Article 18-2 Deleted

(Restrictions on the Dismissal of Workers)

Article 19 (1) An employer must not dismiss a worker in a period during which the worker is absent from work for medical treatment due to an injury sustained or illness suffered in the course of employment, nor within 30 days thereafter, and must not dismiss a female worker in a period during which she is absent from work before or after childbirth based on the provisions of Article 65, nor within 30 days thereafter; provided, however, that this does not apply if the employer pays compensation for discontinuation pursuant to Article 81, nor does it apply if business continuance has become impossible due to a natural disaster or any other compelling reason.

(2) In a case as referred to in the second sentence of the proviso to the preceding paragraph, the employer must obtain the approval of the relevant government agency with respect to the reason in question.

(Advance Notice of Dismissal)

Article 20 (1) If an employer wishes to dismiss a worker, the employer must provide at least 30 days' advance notice. An employer not giving 30 days' advance notice must pay the worker the average wage they would earn in working for a period of at least 30 days; provided, however, that this does not apply if business continuance has become impossible due to a natural disaster or any other compelling reason, nor does it apply if the worker is dismissed for reasons attributable to the worker.

(2) The number of days of advance notice set forth in the preceding paragraph may be shortened if the employer pays the worker the average wage they would earn for each day of work by which the advance notice period is shortened.

(3) The provisions of paragraph (2) of the preceding Article apply mutatis mutandis to a case as referred to in the proviso to paragraph (1).

Article 21 The provisions of the preceding Article do not apply to a worker falling under one of the following items; provided, however, that this is not the case with respect to a person falling under item (i) who has been employed consecutively for a period of more than one month, a person falling under either item (ii) or item (iii) who has been employed consecutively for more than the period set forth in the relevant item, nor a person falling under item (iv) who has been employed consecutively for a period of more than 14 days:

- (i) a person hired on a day-to-day basis;
- (ii) a person employed for a fixed period not longer than 2 months;
- (iii) a person employed in seasonal work for a fixed period of not longer than 4 months;

(iv) a person who is in a probationary period.

(Certificate on Separation from Employment)

Article 22 (1) If, on the occasion of separation from employment, a worker requests a certificate stating the period of employment, kind of occupation, position in the business, wages, or reason for separation (including the grounds for dismissal, if dismissal is the reason for separation), the employer must deliver one without delay.

(2) If a worker requests a certificate giving the grounds for dismissal during the period between the day on which the worker is given the advance notice of dismissal referred to in Article 20, paragraph (1) and the day of separation from employment, the employer must deliver this without delay; provided, however, that if, on or after the day that the worker receives advance notice of dismissal, the worker is separated from employment for reasons other than the dismissal in question, the employer is not required to deliver such a certificate on or after the day on which the worker is separated from employment.

(3) The employer must not include in the certificate referred to in the preceding two paragraphs any particular that the worker does not request.

(4) An employer must not conspire with a third party in advance to communicate any information concerning the nationality, creed, social status, or union activities of a worker, nor include any secret message in a certificate as referred to in paragraph (1) or (2), with the intent to impede the employment of a worker.

(Return of Money and Goods)

Article 23 (1) If a worker dies or is separated from employment and the employer is requested to do so by a right holder, the employer must pay the wages and return reserve funds, security deposits, savings, and any other money or goods to which the worker is entitled, regardless of what it may be called, within 7 days.

(2) If there is a dispute over the wages, money, or goods referred to in the preceding paragraph, the employer must pay or return any undisputed portion of this within the period set forth in the preceding paragraph.

### **Chapter III Wages**

(Payment of Wages)

Article 24 (1) An employer must pay the full amount of wages in currency directly to the worker; provided, however, that an employer may pay other than in currency if so provided for by laws and regulations or collective agreement or if it does so for the wages prescribed by Order of the Ministry of

Health, Labour and Welfare by a reliable method for the payment of wages that is prescribed by Order of the Ministry of Health, Labour and Welfare; and it may pay wages from which a partial deduction has been made if so provided for by laws and regulations or if it has a written agreement with the labor union that has been organized by a majority of the workers at that workplace, if there is one, or with a person representing a majority of the workers at that workplace, if there is no such union.

(2) Wages must be paid at least once a month on a fixed date; provided, however, that this does not apply to wages paid on an ad hoc basis, bonuses, and any other wages prescribed by Order of the Ministry of Health, Labour and Welfare equivalent thereto (referred to as "special wages" in Article 89).

(Emergency Payments)

Article 25 If a worker requests the payment of wages to cover the expenses of childbirth, an illness or injury, or any other emergency prescribed by Order of the Ministry of Health, Labour and Welfare, the employer must pay wages for the work in which the worker has already been engaged prior to the normal date of payment.

(Allowance for Absence from Work)

Article 26 In the event of an absence from work for reasons attributable to the employer, the employer must pay the worker an allowance equal to at least 60 percent of their average wage during that period of absence from work.

(Guaranteed Payment at Piece Rates)

Article 27 An employer must guarantee a fixed amount of wages proportionate to working hours for workers employed based on a piece rate or other such system under a service contract.

(Minimum Wage)

Article 28 Minimum standards for wages are as prescribed in the Minimum Wages Act (Act No. 137 of 1959).

Articles 29 through 31 Deleted

## **Chapter IV Working Hours, Breaks, Days Off, and Annual Paid Leave**

(Working Hours)

Article 32 (1) An employer must not have workers work more than 40 hours per week, excluding break periods.

(2) An employer must not have workers work more than 8 hours per day for each

day of the week, excluding break periods.

Article 32-2 (1) Notwithstanding the provisions of the preceding Article, if an employer has established, in a written agreement with the labor union that has been organized by a majority of the workers at the workplace, if there is one, or with a person representing a majority of the workers at that workplace, if there is no such union, or pursuant to rules of employment or the equivalent thereof, that the average weekly working hours over the course of a fixed period of not more than one month will not exceed the working hours referred to in paragraph (1) of the preceding Article, the employer, as established, may have a worker work in excess of the working hours set forth in paragraph (1) of the preceding Article in a specified week or weeks and may have a worker work in excess of the working hours set forth in paragraph (2) of the preceding Article on a specified day or days.

(2) An employer must notify the relevant government agency of the agreement set forth in the preceding paragraph, pursuant to the provisions of Order of the Ministry of Health, Labour and Welfare.

Article 32-3 (1) Notwithstanding the provisions of Article 32, if an employer has provided for the following particulars in a written agreement with the labor union that has been organized by a majority of the workers at that workplace, if there is one, or with a person representing a majority of the workers at that workplace, if there is no such union, the employer may have a worker whose start and end times are left up to that worker pursuant to rules of employment or the equivalent, work in excess of the working hours set forth in paragraph (1) of that Article in one week and may have that worker work in excess of the working hours set forth in paragraph (2) of that Article in one day, within a scope that does not cause the weekly average working hours during the period that has been established in that agreement as the settlement period referred to in item (ii) of this Article to exceed the working hours set forth in paragraph (1) of that Article:

- (i) the scope of workers whom the employer may have work for the working hours under the provisions of this paragraph;
- (ii) the settlement period (this means the period during which the employer may have a worker work within a scope that does not cause the weekly average working hours to exceed the working hours referred to in Article 32, paragraph (1), and is limited to being not more than 3 months in length; the same applies hereinafter in this Article and the following Article);
- (iii) the total working hours in the settlement period;
- (iv) other particulars prescribed by Order of the Ministry of Health, Labour and Welfare.

- (2) To apply the provisions of the preceding paragraph if the settlement period exceeds one month in length, in the parts of that paragraph other than the items, the phrase "to exceed the working hours set forth in paragraph (1) of that Article" is deemed to be replaced with "to exceed the working hours set forth in paragraph (1) of that Article, and does not cause the weekly average working hours in each of the one-month periods into which that settlement period has been divided beginning on the first day of the settlement period (including the last of the periods into which it has been divided, even if it is shorter than one month; the same applies hereinafter in this paragraph) to exceed 50 hours"; and the phrase "paragraph (1) of that Article" is deemed to be replaced with "paragraph (1) of Article 32".
- (3) To apply the provisions of paragraph (1) if an employer has a worker whose number of prescribed weekly working days is five days, work pursuant to the provisions of that paragraph, in the parts of that paragraph other than the items, (including as applied following a deemed replacement of terms pursuant to the preceding paragraph), the phrase "the working hours set forth in paragraph (1) of that Article" is deemed to be replaced with "the working hours set forth in paragraph (1) of that Article (or, if the employer, in a written agreement with the labor union that has been organized by a majority of the workers at that workplace, if there is one, or with a person representing a majority of the workers at that workplace, if there is no such union, has established that the number of working hours is limited to the number of hours arrived at when the number of prescribed working days during the settlement period is multiplied by the number of working hours referred to in Article 32, paragraph (2), the number of hours arrived at when the number so calculated is divided by the quotient arrived at when the number of days in the settlement period is divided by seven)", and the phrase "paragraph (1) of that Article" is deemed to be replaced with " paragraph (1) of that Article".
- (4) The provisions of paragraph (2) of the preceding Article apply mutatis mutandis to an agreement establishing the particulars set forth in the items of paragraph (1); provided, however, that this does not apply if the settlement period is one month or shorter in length.

Article 32-3-2 If the period during which an employer, pursuant to the provisions of paragraph (1) of the preceding Article, has had a worker work falls within, but is shorter than, a settlement period that exceeds one month in length, and during that period, the employer has had a worker work an average of more than 40 hours per week, the employer must pay that worker premium wages for time worked in excess of the 40-hour-per-week average (other than time by which the employer has extended working hours or the time that the employer has had the worker work on a day off, pursuant to the

provisions of Article 33 or Article 36, paragraph (1)) as provided for in Article 37.

Article 32-4 (1) Notwithstanding the provisions of Article 32, if the employer has provided for the following particulars in a written agreement with the labor union that has been organized by a majority of the workers at that workplace, if there is one, or with a person representing a majority of the workers at that workplace, if there is no such union, the employer may have a worker work in excess of the working hours set forth in paragraph (1) of that Article in a specified week or weeks and may have a worker work in excess of the working hours set forth in paragraph (2) of that Article on a specified day or days, in accordance with that written agreement (including what has been prescribed as under the provisions of the following paragraph, if applicable), within a scope that does not cause the weekly average working hours for the period established in that agreement as the applicable period referred to in item (ii) of this Article to exceed 40 hours:

(i) the scope of workers whom the employer may have work for the working hours under the provisions of this Article;

(ii) the applicable period (this means the period during which the employer may have a worker work within a scope that does not cause the weekly average working hours to exceed 40 hours, and is limited to one that exceeds 1 month and is no longer than 1 year in length; hereinafter the same applies in this Article and the following Article);

(iii) specified periods (meaning periods falling during the applicable period when work is particularly busy; the same applies to paragraph (3));

(iv) working days in the applicable period and working hours for each of those working days (or, if it has been decided to divide the applicable period into sub-periods of one month or longer, the working days in whichever of the sub-periods arising from the division includes the first day of the applicable period (hereinafter in this Article referred to as the "initial sub-period"), the working hours on each of those working days, and the number of working days and total working hours in each sub-period excluding the initial sub-period);

(v) other particulars prescribed by Order of the Ministry of Health, Labour and Welfare.

(2) If, in the written agreement set forth in the preceding paragraph, the employer has divided the applicable period as provided for in item (iv) of that paragraph, and established the number of working days and total working hours for each sub-period excluding the initial sub-period, the employer, no later than 30 days before the first day of each sub-period, with the consent of the labor union that has been organized by a majority of the workers at that

workplace, if there is one, or of a person representing a majority of the workers at that workplace, if there is no such union, and pursuant to the provisions of Order of the Ministry of Health, Labour and Welfare, must establish the working days in that sub-period within a scope that does not exceed the established number of working days and must establish the working hours for each working day within a scope that does not exceed the established total working hours.

- (3) After hearing the opinion of the Labor Policy Council, the Minister of Health, Labour and Welfare, by Order of the Ministry of Health, Labour and Welfare, may establish a limit to the number of working days in an applicable period, a limit to the daily and weekly working hours in an applicable period, or a limit to the number of consecutive days within an applicable period (other than periods established as a specified period in a written agreement as referred to in paragraph (1)) or within a period that a written agreement referred to in that paragraph has established as a specified period, during which the employer may have a worker work.
- (4) The provisions of Article 32-2, paragraph (2) apply mutatis mutandis to an agreement referred to in paragraph (1) of this Article.

Article 32-4-2 If the period during which an employer, pursuant to the provisions of the preceding Article, has had a worker work falls within, but is shorter than, the applicable period, and during that period, the employer has had that worker work an average of more than 40 hours per week, the employer must pay the worker premium wages for time worked in excess of the 40-hour-per-week average (other than time by which the employer has extended working hours or the time that the employer has had the worker work on a day off, pursuant to the provisions of Article 33 or Article 36, paragraph (1)) as provided for in Article 37.

Article 32-5 (1) Notwithstanding the provisions of Article 32, paragraph (2), if there is a written agreement with the labor union that has been organized by a majority of the workers at that workplace, if there is one, or with a person representing a majority of the workers at that workplace, if there is no such union, an employer may have a worker work for up to ten hours per day if that worker is employed in a business prescribed by Order of the Ministry of Health, Labour and Welfare in which there is frequently substantial fluctuation in daily business, in which, since this is anticipated, it is found to be difficult to fix daily working hours through rules of employment or their equivalent, and in which the number of regular employees is below the number prescribed by Order of the Ministry of the Health, Labour and Welfare.

- (2) If an employer has a worker work pursuant to the provisions of the preceding

paragraph, the employer must notify the worker in advance of the hours it will have the worker work on each day of the week, pursuant to the provisions of Order of the Ministry of Health, Labour and Welfare.

- (3) The provisions of Article 32-2, paragraph (2) apply mutatis mutandis to an agreement as referred to in paragraph (1) of this Article.

(Off-Hours Work and Work on Days Off in Cases of Temporary Need Due to a Disaster or Other Event)

Article 33 (1) If there is a temporary need to do so due to a disaster or other unavoidable event, an employer may extend the working hours referred to in Articles 32 through 32-5 or Article 40, or may have a worker work on a day off referred to in Article 35, with the permission of the relevant government agency to the extent that is needed; provided, however, that if the urgency of the circumstances does not give the employer time to obtain the permission of the relevant government agency, it must file a notification with the relevant government agency without delay after the fact.

- (2) If a notification under the proviso to the preceding paragraph has been filed and the relevant government agency finds the extension of working hours or work on a day off to be inappropriate, it may order the employer to provide the worker thereafter with breaks or days off equivalent to the extra time that the worker was made to work.
- (3) Notwithstanding the provisions of paragraph (1), if there is a temporary need to do so for the purposes of public service, an employer may extend the working hours referred to in Articles 32 through 32-5 or Article 40 for national public officers and local public officers engaged in the business of public agencies (other than the business set forth in Appended Table 1), or may have them work on the days off referred to in Article 35.

(Breaks)

Article 34 (1) An employer must provide a worker with at least 45 minutes of break periods during working hours if working hours exceed 6 hours, and at least one hour of break periods during working hours if working hours exceed 8 hours.

- (2) An employer must provide all workers with the break periods referred to in the preceding paragraph at the same time; provided, however, that this does not apply if the employer has concluded a written agreement with the labor union that has been organized by a majority of the workers at that workplace, if there is one, or with a person representing a majority of the workers at that workplace, if there is no such union.
- (3) An employer must permit a worker to use the break periods referred to in paragraph (1) freely.

(Days Off)

Article 35 (1) An employer must provide a worker with at least one day off per week.

(2) The provisions of the preceding paragraph do not apply to an employer that provides a worker with 4 days off or more over the course of a four-week period.

(Off-Hours Work and Work on Days Off)

Article 36 (1) Notwithstanding the provisions on working hours in Articles 32 through 32-5 and Article 40 (hereinafter in this Article referred to as "working hours") and the provisions on days off in the preceding Article (hereinafter in this Article referred to as "days off"), if an employer has concluded a written agreement with the labor union that has been organized by a majority of the workers at that workplace, if there is one, or with a person representing a majority of the workers at that workplace, if there is no such union, and has filed a notification of this agreement with the relevant government agency pursuant to the provisions of Order of the Ministry of Health, Labour and Welfare, the employer may extend the working hours or have a worker work on a day off, in accordance with the provisions of that agreement.

(2) The following particulars are to be provided for in the agreement referred to in the preceding paragraph:

(i) the scope of workers whose working hours the employer may extend and whom the employer may have work on a day off, pursuant to the provisions of this Article;

(ii) the applicable period (this means the period during which the employer may extend the working hours or have a worker work on days off pursuant to the provisions of this Article, and is to be limited to one year; the same applies in item (iv) of this paragraph and paragraph (6), item (iii) of this Article);

(iii) the cases in which the employer may extend the working hours or have a worker work on days off;

(iv) the number of hours by which the employer may extend the working hours it has a worker work per day, month, and year during the applicable period; and the number of days off on which the employer may have the workers work during the applicable period;

(v) particulars prescribed by Order of the Ministry of Health, Labour and Welfare as needing to be provided for in the agreement to ensure that the extension of working hours and work on days off are appropriate.

(3) The limit to the number of hours by which the employer may extend the working hours it has a worker work as referred to in item (iv) of the preceding paragraph is a number not exceeding the off-hours maximum, within the scope

of the off-hours work that is ordinarily foreseeable in consideration of the workload at the workplace, trends in off-hours work, and other such circumstances.

- (4) The off-hours maximum referred to in the preceding paragraph is 45 hours per month and 360 hours per year (or 42 hours per month and 320 hours per year, if the employer has a worker work pursuant to the provisions of Article 32-4 after setting a period exceeding three months as the applicable period referred to in Article 32-4, paragraph (1), item (ii)).
- (5) Beyond what is set forth in the items of paragraph (2), the agreement referred to in paragraph (1) may establish the number of hours by which the employer may extend the working hours it has a worker work per month and the number of hours it may have a worker work on days off per month (limited in scope to fewer than 100 hours including the hours prescribed in the agreement in connection with paragraph (2), item (iv)), as well as the number of hours by which the employer may extend the working hours it has a worker work per year (limited in scope to fewer than 720 hours including the hours prescribed in the agreement in connection with that item), if it needs to temporarily have a worker work more than the off-hours maximum referred to in paragraph (3) due to an ordinarily unforeseeable, significant increase in the workload at the workplace. In such a case, the agreement referred to in paragraph (1) must also prescribe the number of months (up to six months per year) in the applicable period referred to in paragraph (2), item (ii) during which the number of hours by which the employer extends the working hours it has a worker work may exceed 45 hours per month (or 42 hours per month, if the employer has a worker work pursuant to the provisions of Article 32-4 after setting a period exceeding three months as the applicable period referred to Article 32-4, paragraph (1), item (ii)).
- (6) Even if the employer extends the working hours it has a worker work or has a worker work on a day off pursuant to an agreement as referred to in paragraph (1), it must ensure that the number of hours set forth in one of the following items meets the requirement prescribed in that item:
  - (i) the number of hours per day by which the employer has extended the working hours it has the worker work doing belowground labor or other operations particularly harmful to the health that Order of the Ministry of Health, Labour and Welfare prescribes: the requirement for this not to exceed two hours;
  - (ii) the number of hours per month by which the employer has extended the working hours it has had the worker work combined with the number of hours per month that it has had the worker work on days off: the requirement for this to be below 100 hours;
  - (iii) the monthly average number of hours by which the employer has extended

the working hours it has had the worker work and the number of hours it has had the worker work on days off in the periods resulting when each of the one-month periods into which the applicable period has been divided, the first of which starts on the first day of the applicable period, is combined with the one-month, two-month, three-month, four-month, and five month periods immediately preceding it: the requirement for this not to exceed 80 hours.

- (7) The Minister of Health, Labour and Welfare, in order to ensure that the extension of working hours and work on days off are appropriate, may establish guidelines on the things regarding which care is to be taken regarding the extension of working hours and work on days off prescribed in agreements as referred to in paragraph (1), premium wage rates associated with the extension of working hours, and other such necessary particulars, in consideration of the health and welfare of workers, trends in off-hours work, and other such circumstances.
- (8) The employer and the labor union or person representing a majority of workers entering into an agreement as referred to in paragraph (1), in providing for the extension of working hours and work on days off in that agreement, must ensure that the content of the agreement conforms to the guidelines set forth in the preceding paragraph.
- (9) The relevant government agency may provide the employer and the labor union or person representing a majority of workers entering into an agreement as referred to in paragraph (1) with the necessary advice and guidance concerning the guidelines referred to in paragraph (7).
- (10) When providing the advice and guidance referred to in the preceding paragraph, the relevant government agency must make special considerations so as to ensure workers' health.
- (11) The provisions of paragraphs (3) through (5) and paragraph (6) (but only the parts related to items (ii) and (iii)) do not apply to any work involved in the research and development of a new technology, product, or service.

(Premium Wages for Off-Hours Work, Work on Days Off, and Night Work)

Article 37 (1) If an employer extends the working hours or has a worker work on a day off pursuant to the provisions of Article 33 or paragraph (1) of the preceding Article, it must pay premium wages for work during those hours or on those days at a rate of at least the rate prescribed by Cabinet Order within the range of not less than 25 percent and not more than 50 percent over the normal wage per working hour or working day; provided, however, that if the number of hours by which employer has extended the working hours it has an employee work exceeds 60 hours in one month, the employer must pay premium wages for work during hours in excess of those 60 hours at a rate not

less than 50 percent over the normal wage per working hour.

- (2) The Cabinet Order set forth in the preceding paragraph is to be established in consideration of the welfare of workers, the trends in off-hours work and work on days off, and other such circumstances.
- (3) If, in a written agreement with the labor union that has been organized by a majority of the workers at that workplace, if there is one, or with a person representing a majority of the workers at that workplace, if there is no such union, an employer has established that, instead of paying the worker premium wages, it will grant a worker to whom premium wages are to be paid pursuant to the provisions of the proviso of paragraph (1) leave during which the normal wage per working hour will be paid (this excludes paid leave under the provisions of Article 39) pursuant to the provisions of Order of the Ministry of Health, Labour and Welfare, and such a worker takes that leave, the employer is not required to pay premium wages under the provisions of the proviso to that paragraph for work performed during the hours prescribed by Order of the Ministry of Health, Labour and Welfare as hours corresponding to the leave the worker has taken for that work in excess of the hours prescribed in the proviso to that paragraph.
- (4) If an employer has a worker work between 10 p.m. and 5 a.m. (or between 11 p.m. and 6 a.m. in the areas or during the times of year that the Minister of Health, Labour and Welfare prescribes, if the minister finds this to be necessary), the employer must pay premium wages for work during those hours at a rate not less than 25 percent over the normal wage per working hour.
- (5) Family allowances, commutation allowances, and other wages prescribed by Order of the Ministry of Health, Labour and Welfare are not included in the calculation of the wage that forms the basis for the premium wages referred to in paragraph (1) and the preceding paragraph.

#### (Calculation of Hours Worked)

- Article 38 (1) To apply the provisions on working hours, hours worked are aggregated, even if the hours worked were at different workplaces.
- (2) For belowground labor, working hours are deemed to be from the time of entry into the mouth of the mine until exit from the mouth of the mine, including break periods; provided, however, that in such a case, the provisions of Article 34, paragraphs (2) and (3) regarding breaks do not apply.

Article 38-2 (1) If a worker engages in work outside of the workplace during all or part of their working hours and it is difficult to calculate working hours, the number of hours worked is deemed to be the prescribed working hours; provided, however, that if it would normally be necessary to work in excess of the prescribed working hours in order to carry out that work, the worker is

deemed to have worked for the number of hours that, pursuant to the provisions of Order of the Ministry of Health, Labour and Welfare, it is decided would normally be necessary to carry out that work.

- (2) In a case as referred to in the proviso of the preceding paragraph, if the employer has concluded a written agreement concerning the work in question with the labor union that has been organized by a majority of the workers at that workplace, if there is one, or with a person representing a majority of the workers at that workplace, if there is no such union, the number of hours specified in that agreement is used as the number of hours that would normally be necessary to carry out the work referred to in the proviso to that paragraph.
- (3) An employer must file the agreement set forth in the preceding paragraph with the relevant government agency pursuant to the provisions of Order of the Ministry of Health, Labour and Welfare.

Article 38-3 (1) If an employer has provided for the following particulars in a written agreement with the labor union that has been organized by a majority of the workers at that workplace, if there is one, or with a person representing a majority of the workers at that workplace, if there is no such union, and the employer assigns a worker to the work set forth in item (i), that worker is deemed to have worked the hours set forth in item (ii), pursuant to the provisions of Order of the Ministry of Health, Labour and Welfare:

- (i) work to which it is decided a worker will be assigned that is prescribed by Order of the Ministry of Health, Labour and Welfare as work that it is difficult for the employer to give concrete directions for regarding things such as decisions about how the work is to be carried out and the allocation of time to that work, since, owing to the nature of the work, the way in which it is carried out needs to be left largely to the discretion of the worker who is engaged in it (hereinafter in this Article "covered work");
- (ii) the hours that will be assessed as the working hours of a worker engaged in covered work;
- (iii) that the employer will not give concrete directions to a worker engaged in covered work regarding things such as decisions on how the covered work is carried out and the allocation of time to that covered work;
- (iv) that, pursuant to the provisions of the agreement, the employer will take measures to ensure the workers' health and welfare that are in keeping with the working hours of workers engaged in covered work;
- (v) that, pursuant to the provisions of that agreement, the employer will take measures to process complaints from workers engaged in covered work;
- (vi) particulars prescribed by Order of the Ministry of Health, Labour and Welfare, beyond what is set forth in the preceding items.

- (2) The provisions of paragraph (3) of the preceding Article apply mutatis mutandis to an agreement as referred to in the preceding paragraph.

Article 38-4 (1) If, at a workplace where a committee has been established whose purpose is to examine and deliberate on wages, working hours, and other particulars of working conditions at the workplace concerned, and to state its opinions regarding these particulars to the person in control of the business (but only a committee that has the employer and representatives of workers at the workplace as its members), that committee adopts a resolution by a majority of four-fifths or more of its members regarding the following particulars and the employer notifies the relevant government agency of that resolution pursuant to the provisions of Order of the Ministry of Health, Labour and Welfare; and if the employer has a worker falling under the scope of workers set forth in item (ii) carry out the work set forth in item (i) at that workplace, the worker is deemed to have worked the hours set forth in item (iii) pursuant to the provisions of Order of the Ministry of Health, Labour and Welfare:

- (i) work in the planning, drafting, researching, and analyzing of particulars involved in business operations, for which the employer will not give concrete directions regarding things such as decisions about how that work is carried out and the allocation of time to that work, since the nature of the work is such that, in order for it to be carried out properly, the way in which it is carried out needs to be left largely to the discretion of the worker (hereinafter referred to as "covered work" in this Article);
- (ii) the scope of workers who have the knowledge, experience, and other attributes required to carry out the covered work properly, and who will be deemed to have worked the hours prescribed by the resolution when they have been engaged in that covered work;
- (iii) the hours that will be assessed as the working hours of a worker engaged in covered work who falls within the scope of workers set forth in the preceding item;
- (iv) that, as prescribed in that resolution, the employer will take measures to ensure the health and welfare of workers engaged in covered work who fall within the scope of workers set forth in item (ii), that are in line with those workers' working hours;
- (v) that, as prescribed in that resolution, the employer will take measures to process complaints from workers engaged in covered work who fall within the scope of workers set forth in item (ii);
- (vi) that, when having a worker who falls within the scope of workers set forth in item (ii) perform covered work as prescribed in this paragraph, the employer must obtain the worker's consent to deem that worker to have

- worked the hours set forth in item (iii), and that it must not dismiss a worker who does consent to this or subject such a worker to other disadvantageous treatment;
- (vii) the particulars that Order of the Ministry of Health, Labour and Welfare prescribes, beyond what is set forth in the preceding items.
- (2) The committee referred to in the preceding paragraph must be one that conforms to the following items:
- (i) one half of the members of that committee have been appointed for a set term of office pursuant to the provisions of Order of the Ministry of Health, Labour and Welfare by the labor union that has been organized by a majority of the workers at that workplace, if there is one, or by a person representing a majority of the workers at that workplace, if there is no such union;
- (ii) minutes of the meetings of that committee are prepared and maintained pursuant to the provisions of Order of the Ministry of Health, Labour and Welfare, and are made known to the workers at the relevant workplace;
- (iii) the requirements prescribed by Order of the Ministry of Health, Labour and Welfare, beyond what is set forth in the preceding two items.
- (3) In order to ensure appropriate working conditions for workers engaged in covered work, and after hearing the opinion of the Labor Policy Council, the Minister of Health, Labour and Welfare is to set and announce guidelines regarding the particulars set forth in each item of paragraph (1) and other particulars decided upon by the committee referred to in that paragraph.
- (4) Pursuant to the provisions of Order of the Ministry of Health, Labour and Welfare, an employer that has filed a notification under paragraph (1) must regularly report on the state of implementation of the measures provided for in item (iv) of that paragraph to the relevant government agency.
- (5) To apply the provisions of Article 32-2, paragraph (1), Article 32-3, paragraph (1), Article 32-4, paragraphs (1) through (3), Article 32-5, paragraph (1), the proviso to Article 34, paragraph (2), Article 36, Article 37, paragraph (3), Article 38-2, paragraph (2), paragraph (1) of the preceding Article, and paragraphs (4) and (6) of the following Article, and the proviso to paragraph (9) of the following Article, if the committee referred to in paragraph (1) makes a decision by a majority of four-fifths or more of the members regarding a particular as provided in Article 32-2, paragraph (1), Article 32-3, paragraph (1), Article 32-4, paragraph (1) and paragraph (2), Article 32-5, paragraph (1), the proviso to Article 34, paragraph (2), Article 36, paragraph (1), paragraph (2) and paragraph (5), Article 37, paragraph (3), Article 38-2, paragraph (2), paragraph (1) of the preceding Article, and paragraph (4) and paragraph (6) of the following Article, and the proviso to paragraph (9) of the following Article, the phrase "in a written agreement with the labor union that has been organized by a majority of the workers at that workplace, if there is one, or

with a person representing a majority of the workers at that workplace, if there is no such union" in Article 32-2, paragraph (1) is deemed to be replaced with "in a written agreement with the labor union that has been organized by a majority of the workers at that workplace, if there is one, or with a person representing a majority of the workers at that workplace, if there is no such union, or pursuant to a resolution of the committee referred to in Article 38-4, paragraph (1) (hereinafter referred to as a 'resolution', except in Article 106, paragraph (1))"; the term "written agreement" in Article 32-3, paragraph (1), Article 32-4, paragraphs (1) through (3), Article 32-5, paragraph (1), the proviso to Article 34, paragraph (2), Article 36, paragraph (2) and paragraphs (5) through (7), Article 37, paragraph (3), Article 38-2, paragraph (2), paragraph (1) of the preceding Article, and paragraph (4) and paragraph (6) of the following Article, and the proviso to paragraph (7) of the following Article is deemed to be replaced with "written agreement or resolution"; the phrase "with the consent of the labor union that has been organized by a majority of the workers at that workplace, if there is one, or of a person representing a majority of the workers at that workplace, if there is no such union" in Article 32-4, paragraph (2) is deemed to be replaced with "with the consent of the labor union that has been organized by a majority of the workers at that workplace, if there is one, or of a person representing a majority of the workers at that workplace, if there is no such union, or based on a resolution"; the phrases "has filed a notification of this agreement" and "in accordance with the provisions of that agreement" in Article 36, paragraph (1) are deemed to be replaced respectively with "has filed a notification of this agreement or resolution" and "in accordance with the provisions of that agreement or resolution"; the phrases "or the person representing a majority of the workers entering into an agreement as referred to in paragraph (1)" and "that agreement" in Article 36, paragraph (8) are deemed to be replaced respectively with "or the person representing a majority of the workers entering into an agreement as referred to in paragraph (1), or the committee members making the resolution referred to in that paragraph" and "that agreement or resolution"; and the phrase "or the person representing a majority of the workers entering into an agreement as referred to in paragraph (1)" in Article 36, paragraph (9) is deemed to be replaced with "or the person representing a majority of the workers entering into an agreement as referred to in paragraph (1), or the committee members making the resolution referred to in that paragraph".

(Annual Paid Leave)

Article 39 (1) An employer must grant paid leave of 10 consecutive or nonconsecutive working days to a worker who has been employed continuously for 6 months from the day of their hiring and who has reported to work on at

least 80 percent of the total working days.

- (2) At yearly intervals defined by the number of years of continuous employment that are counted starting from the day on which a worker's continuous employment passes the six-month mark counting from the hire date (hereinafter referred to as the "six-month mark"), an employer must grant a worker whom it has employed continuously for at least one year and six months the paid leave that is calculated when the number of working days that the right-hand column of the following table sets forth for the category that the left-hand column of that table sets forth for a worker's number of years of continuous employment as counted from the six-month mark, is added to the number of days referred to in the preceding paragraph; provided, however, that for one of the one-year sub-periods into which the period of continuous employment is divided beginning at the six-month mark (including any period of less than one year constituting the last of those sub-periods), if the number of days that a worker has reported for work accounts for less than 80 percent of the total working days in the sub-period that includes the day before the first day of the sub-period in question, the employer is not required to grant the worker paid leave for the one year following the first day of that sub-period.

Number of years of continuous service employment from the six-months mark completion day	Working days
One year	One working day
Two years	Two working days
Three years	Four working days
Four years	Six working days
Five years	Eight working days
Six years or more	Ten working days

- (3) Notwithstanding the provisions of the preceding two paragraphs, the number of days of paid leave for a worker as set forth in the following items (excluding one whose prescribed weekly working hours are more than the hours fixed by Order of the Ministry of Health, Labour and Welfare) is fixed by Order of the Ministry of Health, Labour and Welfare based on the number of days of paid leave specified in the preceding two paragraphs in consideration of the ratio of the number of days prescribed by Order of the Ministry of Health, Labour and Welfare as the prescribed working days in a week for a worker with a standard employment status (referred to as "the prescribed weekly working days of a worker with a standard employment status" in item (i)) to either the number of prescribed weekly working days for the worker concerned or the average number of prescribed working days per week for the worker concerned:
- (i) a worker for whom the number of prescribed weekly working days is not

- more than the number of days prescribed by Order of the Ministry of Health, Labour and Welfare as constituting a number that is considerably lower than the number of prescribed weekly working days of a worker with a standard employment status;
- (ii) a worker whose number of prescribed working days is calculated on the basis of units of time other than weeks, and whose number of prescribed annual working days is not more than the number of days prescribed by Order of the Ministry of Health, Labour and Welfare in consideration of the number of prescribed annual working days of a worker whose number of prescribed weekly working days is the number arrived at when one day is added to the number prescribed by Order of the Ministry of Health, Labour and Welfare referred to in the preceding item and of other circumstances.
- (4) Notwithstanding the provisions of the preceding three paragraphs, if an employer has provided for the following particulars in a written agreement with the labor union that has been organized by a majority of the workers at that workplace, if there is one, or with a person representing a majority of the workers at that workplace, if there is no such union, and a worker who falls within the scope of workers set forth in item (i) requests paid leave by the hour, the employer, pursuant to the provisions of that agreement, may grant the worker paid leave by the hour for the number of days of paid leave under the provisions of the preceding three paragraphs that are set forth in item (ii):
- (i) the scope of workers to whom it is decided paid leave by the hour may be granted;
  - (ii) the number of days of paid leave that it is decided may be granted by the hour (limited to not more than five days);
  - (iii) other particulars prescribed by Order of the Ministry of Health, Labour and Welfare.
- (5) An employer must grant paid leave under the provisions of each of the preceding paragraphs at the worker's requested timing; provided, however, that if granting the leave at the requested timing would interfere with the normal operation of the business, the employer may grant leave at a different timing instead.
- (6) Notwithstanding the provisions of the preceding paragraph, if an employer, in a written agreement with the labor union that has been organized by a majority of the workers at that workplace, if there is one, or with a person representing a majority of the workers at that workplace, if there is no such union, has provided for the timing at which it provides the paid leave under the provisions of paragraphs (1) through (3), the employer may provide the part of a worker's paid leave under the provisions of those paragraphs that exceeds 5 days based on that agreement.
- (7) For each worker, an employer must grant five days of the paid leave under

the provisions of paragraphs (1) through (3) (but only the paid leave associated with workers to whom the employer must grant 10 working days or more of paid leave pursuant to those provisions; hereinafter the same applies in this paragraph and the following paragraph) within one year of the base date (meaning the first day of each of the one-year sub-periods into which the period of continuous employment is divided beginning at the six-month mark (including any period of less than one year constituting the last of those sub-periods)) at the timing the employer sets; provided, however, if an employer decides to grant the paid leave under the provisions of paragraphs (1) through (3) before the base date with which it is associated, it must grant that leave at the timing it sets for each worker pursuant to the provisions of Order of the Ministry of Health, Labour and Welfare.

(8) Notwithstanding the provisions of the preceding paragraph, if an employer has granted a worker the paid leave under paragraphs (1) through (3) pursuant to the provisions of paragraph (5) or (6), it is not required to grant leave at the timing it sets for however many of the days of paid leave it has granted pursuant to those provisions (or five days, if the number of days of paid leave so granted exceeds five days).

(9) For a period of paid leave under the provisions of paragraphs (1) through (3) an employer must pay the average wage or the amount of wages that the worker would normally be paid for working the prescribed working hours pursuant to the rules of employment or anything equivalent thereto; and for the hours of paid leave under the provisions of paragraph (4), an employer must pay wages in the amount calculated pursuant to the provisions of Order of the Ministry of Health, Labour and Welfare based on the average wage or the amount of wages that the worker would normally be paid for working the prescribed working hours pursuant to the rules of employment or anything equivalent thereto; provided, however, that if there is a written agreement with the labor union that has been organized by a majority of the workers at that workplace, if there is one, or with a person representing a majority of the workers at that workplace, if there is no such union, which provides that the employer will pay an amount of money equivalent to one thirtieth of the monthly amount of standard remuneration provided for in paragraph (1) of Article 40 of the Health Insurance Law (Act No. 70 of 1922) for that period (with amounts of less than five yen rounded down to the nearest ten yen and amounts of at least five but less than ten yen rounded up to the nearest ten yen) or that the employer will pay an amount of money calculated pursuant to the provisions of Order of the Ministry of Health, Labour and Welfare based on the aforementioned amount for those hours, the payment of wages is governed by that agreement.

(10) To apply the provisions of paragraphs (1) and (2), a worker is deemed to

have reported for work in a period during which the worker was absent from work due to medical treatment for an injury sustained or illness suffered in the course of employment, in a period during which the worker was on child care leave as prescribed in Article 2, item (i) of the Act on Childcare Leave, Caregiver Leave, and Other Measures for the Welfare of Workers Caring for Children or Other Family Members or was on family care leave as prescribed in item (ii) of that Article, or in a period during which the female worker was absent from work before or after childbirth in accordance with the provisions of Article 65.

(Special Provisions on Working Hours and Breaks)

Article 40 (1) Order of the Ministry of Health, Labour and Welfare may establish separate provisions on the working hours referred to in Articles 32 through 32-5 and on the breaks referred to in Article 34, for a business other than that as set forth in items (i) through (iii), item (vi) and item (vii) of Appended Table 1, for which this needs to be done in order to avoid a public inconvenience or for which there is any other special need to do so, to the extent to which the need to do so is unavoidable.

(2) The separate provisions set forth in the preceding paragraph must conform closely to the standards set forth in this Act and must not harm the health or welfare of workers.

(Workers Exempt from the Application of Provisions on Working Hours, Breaks, and Days Off)

Article 41 The provisions prescribed in this Chapter, Chapter VI, and Chapter VI-2 concerning working hours, breaks and days off do not apply to a worker falling under one of the following items:

- (i) one engaged in business as set forth in item (vi) (excluding forestry) or item (vii) of Appended Table 1;
- (ii) one in a position of supervision or management or handling confidential processes, regardless of the type of business;
- (iii) one engaged in monitoring or in intermittent labor, for which the employer has obtained permission from the relevant government agency.

Article 41-2 (1) If, at a workplace where a committee has been established whose purpose is to examine and deliberate on wages, working hours, and other particulars of working conditions at the workplace concerned, and to state its opinions regarding these particulars to the person in control of the business (but only a committee that has the employer and representatives of workers at the workplace as its members), that committee adopts a resolution by a majority of four-fifths or more of its members concerning the following

particulars, and the employer notifies the relevant government agency of that resolution pursuant to the provisions of Order of the Ministry of Health, Labour and Welfare; and if the employer has a worker falling under the scope of workers set forth in item (ii) (hereinafter referred to as a "covered worker" in this paragraph) carry out the work set forth in item (i) at that workplace after obtaining the consent of the covered worker in writing or through another such means that is provided for by Order of the Ministry of Health, Labour and Welfare, the provisions prescribed in this Chapter concerning the working hours, breaks, days off and premium wages for work at night time do not apply to the covered worker; provided, however, that this does not apply if the employer does not take one of the measures provided for in items (iii) through (v):

- (i) work that requires an advanced level of expertise; that Order of the Ministry of Health, Labour and Welfare prescribes as work which, due to its nature, is found not to ordinarily show a high correlation between time spent on the work and the result therefrom; and that the employer decides to have a worker carry out (hereinafter referred to as the "covered work" in this paragraph);
- (ii) the scope of workers to whom all of the following apply during the period in which they are working pursuant to the provisions of this paragraph, and whom the employer seeks to have carry out the covered work:
  - (a) that the duties are clearly defined based on an agreement that the worker and the employer have reached in writing or by another such means that Order of the Ministry of Health, Labour and Welfare prescribes;
  - (b) that the amount of wages per year, as calculated based on the amount of wages that are expected to be paid by the employer based on the labor contract, will be at least the amount prescribed by Order of the Ministry of Health, Labour and Welfare as a level that is considerably higher than triple the standardized annual average salary (meaning the average salary per worker that is calculated pursuant to the provisions of Order of the Ministry of Health, Labour and Welfare based on salaries paid on a monthly basis as provided in the Monthly Labor Survey compiled by the Ministry of Health, Labour and Welfare);
- (iii) that, as prescribed in that resolution, the employer will take measures (but only by a means prescribed by Order of the Ministry of Health, Labour and Welfare) to assess the total amount of time that a covered worker engaged in covered work has worked both at the workplace (excluding the time outside of working hours prescribed by Order of the Ministry of Health, Labour and Welfare that the committee referred to in this paragraph has resolved to exclude, if applicable) and outside the workplace, in order to undertake health management for that covered worker (hereinafter referred to as the

- "working hours subject to health management" in item (v), (b) and (d) and item (vi));
- (iv) that, as prescribed in the resolution, the rules of employment, or anything similar thereto, the employer will grant a covered worker engaged in covered work at least 104 days off over the course of one year's time and at least four days off over the course of four weeks' time;
  - (v) that, as prescribed in the resolution, the rules of employment, or anything similar thereto, the employer will take one of the following measures for a covered worker engaged in covered work:
    - (a) ensuring that each worker has a continuous rest period of at least the length of time prescribed by Order of the Ministry of Health, Labour and Welfare during the time from the beginning of work until 24 hours later, and limiting the number of times per month the employer has each worker work between the hours prescribed in Article 37, paragraph (4) to not more than the number of times prescribed by Order of the Ministry of Health, Labour and Welfare;
    - (b) keeping the working hours subject to health management per month and per three-month period within a scope that does not exceed the number of hours prescribed by Order of the Ministry of Health, Labour and Welfare;
    - (c) granting that worker a continuous two-week period of days off at least once per year (or a continuous one-week period of days off at least twice per year, if the worker so requests) (excluding any days during that period for which the employer has granted the worker the paid leave under the provisions of Article 39, if applicable).
    - (d) implementing medical checkups (but only checkups that include the items prescribed by Order of the Ministry of Health, Labour and Welfare) for a worker for whom the status of the working hours subject to health management or something else falls under the requirements prescribed by Order of the Ministry of Health, Labour and Welfare, in consideration of maintaining the worker's health.
  - (vi) the employer will take the measures to ensure the health and welfare of a covered worker engaged in covered work that are in keeping with the status of that worker's working hours subject to health management, and that the resolution prescribes, from among the measures prescribed by Order of the Ministry of Health, Labour and Welfare, including the granting of paid leave (other than the paid leave under the provisions of Article 39) and the implementation of medical checkups for covered workers;
  - (vii) procedures related to a covered worker's revocation of the consent under the provisions of this paragraph;
  - (viii) that, as prescribed in that resolution, the employer will take measures to process complaints from covered workers who are engaged in the covered

- work;
- (ix) that the employer must not dismiss a covered worker who does not give the consent under the provisions of this paragraph or subject such a worker to other disadvantageous treatment;
  - (x) the particulars that Order of the Ministry of Health, Labour and Welfare prescribes, beyond what is set forth in the preceding items.
- (2) Having filed a notification under the provisions of the preceding paragraph, an employer must report the implementation status of the measures prescribed in items (iv) through (vi) of the preceding paragraph, pursuant to the provisions of Order of the Ministry of Health, Labour and Welfare.
- (3) The provisions of Article 38-4, paragraph (2), paragraph (3), and paragraph (5) apply mutatis mutandis to a committee as set forth in paragraph (1).
- (4) The committee members adopting a resolution as referred to in paragraph (1) must ensure that the content of the resolution conforms to the guidelines referred to in Article 38-4, paragraph (3), as applied mutatis mutandis pursuant to the preceding paragraph.
- (5) The relevant government agency may provide the necessary advice and guidance to the committee members adopting the resolution as referred to in paragraph (1) concerning the guidelines referred to in Article 38-4, paragraph (3), as applied mutatis mutandis pursuant to paragraph (3).

## **Chapter V Safety and Health**

Article 42 The safety and health of workers is as provided for in the Industrial Safety and Health Act (Act No. 57 of 1972).

Articles 43 through 55 Deleted

## **Chapter VI Minors**

(Minimum Age)

Article 56 (1) An employer must not employ a child until the end of the first 31st of March that falls on or after the day on which the child reaches 15 years of age.

(2) Notwithstanding the provisions of the preceding paragraph, outside of school hours, an employer may employ a child of at least 13 years of age in an occupation involved in a business other a business as set forth in items (i) through (v) of Appended Table 1 which involves light labor that is not injurious to the child's health and welfare, with the permission of the relevant government agency. The same applies to a child under 13 years of age employed in the production of motion pictures and theatrical performances.

(Certificates for Minors)

Article 57 (1) An employer must keep at the workplace family register certificates certifying the ages of children under 18 years of age.

(2) For a child employed pursuant to paragraph (2) of the preceding Article, an employer must keep at the workplace a certificate issued by the head of that child's school certifying that the employment does not hinder the child's attendance at school, or written consent from the person who has parental authority for, or is the legal guardian of, the child.

(Labor Contracts with Minors)

Article 58 (1) It is prohibited for a person with parental authority over a minor or the legal guardian of a minor to enter into a labor contract in place of that minor.

(2) A person with parental authority over a minor, the legal guardian of a minor, or the relevant government agency may cancel a labor contract prospectively if they consider it disadvantageous to the minor.

Article 59 A minor may claim their wages for themselves. It is prohibited for a person with parental authority over a minor or the legal guardian of a minor to collect the minor's wages in place of the minor.

(Working Hours and Days Off)

Article 60 (1) The provisions of Articles 32-2 through 32-5, Article 36, Article 40, and Article 41-2 do not apply to persons under 18 years of age.

(2) To apply the provisions of Article 32 to children employed pursuant to Article 56, paragraph (2), the phrase "40 hours per week" in Article 32, paragraph (1) is deemed to be replaced with "40 hours per week including school hours", and the phrase "8 hours per day" in Article 32, paragraph (2) is deemed to be replaced with "7 hours per day including school hours".

(3) Notwithstanding the provisions of Article 32, a person aged 15 or over but under the age of 18 may be employed in accordance with the following provisions until they reach the age of 18 (other than during the period until the first 31st of March falling on or after the day the person reaches 15 years of age):

(i) if the total number of working hours in a week will not exceed the number of working hours referred to in Article 32, paragraph (1) and the number of working hours for any one day of the week will be reduced to 4 hours or less, the working hours for other days of the week may be extended to 10 hours;

(ii) an employer may have the worker work in accordance with the provisions of Article 32-2 or Article 32-4 and Article 32-4-2 within the scope of not more

than 8 hours per day, and also within the scope not exceeding that which is prescribed by Order of the Ministry of Health, Labour and Welfare within the scope of 48 hours per week.

(Night Work)

- Article 61 (1) An employer must not have a person under 18 years of age work between the hours of 10 p.m. and 5 a.m.; provided, however, that this does not apply to males aged 16 years or more who are employed under a shift-work system.
- (2) On finding it to be necessary to do so, the Minister of Health, Labour and Welfare may make the hours referred to in the preceding paragraph the hours of 11 p.m. and 6 a.m., in limited areas or for limited periods.
- (3) In a business in which the employer has workers work under a shift-work system, the employer may have a worker work until 10:30 p.m., notwithstanding the provisions of paragraph (1); or may have a worker work from 5:30 a.m., notwithstanding the provisions of the preceding paragraph, with the permission of the relevant government agency.
- (4) The provisions of the preceding three paragraphs do not apply if the employer extends working hours or has a worker work on days off pursuant to the provisions of paragraph (1) of Article 33, nor do they apply to businesses as set forth in Appended Table 1, item (vi), item (vii) or item (xiii) or to telephone exchange operations.
- (5) For children employed pursuant to the provisions of Article 56, paragraph (2), the hours referred to in paragraph (1) are the hours of 8 p.m. and 5 a.m., and the hours referred to in paragraph (2) are the hours of 9 p.m. and 6 a.m.

(Restrictions on Engagement in Dangerous and Hazardous Operations)

- Article 62 (1) An employer must not allow a person under 18 years of age to clean, oil, inspect, or repair a dangerous part of a machine or power transmission device while it is in operation; to put on or take off the driving belts or ropes of a machine or power transmission device while it is in operation; to operate a crane; or to engage in any other dangerous operations prescribed by Order of the Ministry of Health, Labour and Welfare; and must not allow such a person to engage in operations involving the handling of heavy objects as prescribed by Order of the Ministry of Health, Labour and Welfare.
- (2) An employer must not have a person under 18 years of age engage in operations involving the handling of a poison, deleterious substance, or other injurious substance or an explosive, combustible, or inflammable substance; operations in a place where dust or powder is dispersed or where harmful gas or radiation is generated, or in a place of high temperatures or pressure; or any other operation in a place that is hazardous to safety, health, or welfare.

(3) Order of the Ministry of Health, Labour and Welfare prescribes the scope of the operations provided for in the preceding paragraph.

(Prohibition on Belowground Labor)

Article 63 An employer must not have a person under 18 years of age work underground.

(Traveling Expenses for Returning Home)

Article 64 If a worker under 18 years of age returns home within 14 days after dismissal, the employer must bear the necessary travel expenses; provided, however, that this does not apply if a worker under 18 years of age has been dismissed for grounds attributable to that worker and the employer has had those grounds certified by the relevant government agency.

## **Chapter VI-2 Expectant and Postpartum Mothers; Women of Childbearing Age**

(Limitations on Belowground Operations)

Article 64-2 An employer must not assign a woman as set forth in one of the following items to the operations provided for in that item:

- (i) a pregnant woman or a woman who is not yet one year postpartum and who notifies the employer that she will not engage in belowground operations: all belowground operations;
- (ii) a woman of 18 years of age or more other than one as set forth in the preceding item: manual belowground excavation and other belowground operations prescribed by Order of the Ministry of Health, Labour and Welfare as operations injurious to women.

(Limitations on Dangerous and Hazardous Operations)

Article 64-3 (1) An employer must not assign a pregnant woman or a woman who is not yet one year postpartum (hereinafter referred to as an "expectant or postpartum mother") to operations involving the handling of heavy objects, operations in places where harmful gas is generated, or other operations that are hazardous to things such as pregnancy, childbirth, and nursing.

(2) By Order of the Ministry of Health, Labour and Welfare, the provisions of the preceding paragraph may be applied mutatis mutandis to women other than expectant or and postpartum mothers, for operations provided for in that paragraph that are hazardous to female functions related to pregnancy and childbirth.

(3) Order of the Ministry of Health, Labour and Welfare prescribes the scope of operations provided for in the preceding two paragraphs and the scope of

persons who must not be assigned to those operations pursuant thereto.

(Before and After Childbirth)

Article 65 (1) If a woman who is due to give birth within 6 weeks (or within 14 weeks, in the case of multiple fetuses) requests leave from work, the employer must not make her work.

(2) An employer must not have a woman who is not yet 8 weeks postpartum work; provided, however, that this does not prevent an employer from having a woman who is at least 6 weeks postpartum work, if she requests to, in operations that a doctor has approved as having no adverse effect on her.

(3) If a pregnant woman so requests, an employer must transfer her to other light operations.

Article 66 (1) Notwithstanding the provisions of Article 32-2, paragraph (1), Article 32-4, paragraph (1), and Article 32-5, paragraph (1), if an expectant or postpartum mother so requests, the employer must not make her work in excess of the working hours referred to in Article 32, paragraph (1) per week or in excess of the working hours referred to in paragraph (2) of that Article per day.

(2) Notwithstanding the provisions of Article 33, paragraph (1) and paragraph (3), and Article 36, paragraph (1), if an expectant or postpartum mother so requests, the employer must not make her work off-hours or on days off.

(3) If an expectant or postpartum mother so requests, the employer must not make her work at night.

(Time for Child Care)

Article 67 (1) A woman raising an infant born less than one year prior may request to have at least 30 minutes of time twice a day to care for the infant, in addition to the break periods referred to in Article 34.

(2) An employer must not make a woman work during the child care time referred to in the preceding paragraph.

(Measures for Women Who Find It Extremely Difficult to Work on Days of Their Menstrual Periods)

Article 68 If a woman who finds it to be extremely difficult to work on a day of her menstrual period requests leave, the employer must not make her work on a day of her menstrual period.

## **Chapter VII Training of Skilled Laborers**

(Elimination of Harmful Practices in Apprenticeships)

Article 69 (1) An employer must not exploit an apprentice, student, trainee, or other worker, regardless of appellation, on the grounds that the person is seeking to acquire a skill.

(2) An employer must not employ a worker who is seeking to acquire a skill, in domestic work or other work having no relation to acquisition of a skill.

(Special Provisions Regarding Vocational Training)

Article 70 If it is necessary for a worker receiving vocational training which has received recognition as provided for in Article 24, paragraph (1) of the Vocational Ability Development and Promotion Law (Act No. 64 of 1969) (including as applied mutatis mutandis under Article 27-2, paragraph (2) of that Act), the provisions of Article 14, paragraph (1) concerning the contract period, the provisions of Articles 62 concerning restrictions on dangerous and hazardous operations for minors, the provisions of Article 64-3 concerning restrictions on dangerous and hazardous operations for expectant and postpartum mothers and others, the provisions of Article 63 concerning the ban on belowground labor by minors, and the provisions of Article 64-2 concerning limitations on belowground work by expectant and postpartum mothers may be otherwise provided for by Order of the Ministry of Health, Labour and Welfare to the extent that this is necessary; provided, however, that with respect to the ban on belowground labor by minors referred to in Article 63, this does not apply to persons under 16 years of age.

Article 71 Any Order of the Ministry of Health, Labour and Welfare issued pursuant to the provisions of the preceding Article does not apply to workers other than those employed by an employer who has obtained permission from the relevant government agency for employment of workers in conformity with that Order of the Ministry of Health, Labour and Welfare.

Article 72 To apply the provisions of Article 39 to minors who are subject to the application of Order of the Ministry of Health, Labour and Welfare under the provisions of Article 70, the phrase "10 working days" in Article 39, paragraph (1) is deemed to be replaced with "12 working days", and the phrase "10 working days" in the "6 years or more" column of the table in paragraph (2) of that Article is deemed to be replaced with "8 working days".

Article 73 If an employer that has received permission pursuant to provisions of Article 71 violates an Order of the Ministry of Health, Labour and Welfare issued pursuant to provisions of Article 70, the relevant government agency may rescind that permission.

Article 74 Deleted

### **Chapter VIII Accident Compensation**

(Medical Compensation)

Article 75 (1) If a worker sustains an injury or suffers illness in the course of employment, the employer must furnish the necessary medical treatment at its expense, or must bear the expenses of any necessary medical treatment.

(2) Order of the Ministry of Health, Labour and Welfare prescribes the scope of illnesses suffered in the course of employment and of medical treatment under the provisions of the preceding paragraph.

(Compensation for Absence from Work)

Article 76 (1) If a worker does not receive wages because the worker is unable to work due to medical treatment under the provisions of the preceding Article, the employer must pay compensation for that absence from work at the rate of 60 percent of the worker's average wage.

(2) If the per capita average monthly amount of ordinary wages in each of the periods of January through March, April through June, July through September, and October through December (any such period is referred to hereinafter as a "quarter") that would be paid to workers at the same workplace who are engaged in the same type of work as the worker receiving compensation for an absence from work pursuant to the preceding paragraph if they worked the prescribed working hours (or, for a workplace where fewer than 100 workers are ordinarily employed, that quarter's average monthly amount, per worker, for salaries paid on a monthly basis in the industry to which that workplace belongs, as provided in the Monthly Labor Survey compiled by the Ministry of Health, Labour and Welfare; hereinafter whichever amount applies is referred to as the average salary) exceeds 120 percent of the average salary during the quarter that includes the day on which the worker in question sustained the injury or suffered illness in the course of employment, or falls below 80 percent of that amount, the employer must adjust the amount of compensation for absence from work which is payable to the worker in question pursuant to the preceding paragraph in accordance with that rate of increase or decrease two quarters after the quarter in which the increase or decrease occurred; and the employer must provide the adjusted amount of compensation for absence from work from the first month of the quarter that includes the day on which it makes that adjustment. The same applies to adjustments to a previously adjusted amount of compensation for absence from work.

(3) Order of the Ministry of Health, Labour and Welfare prescribes the means of

making adjustments when it is difficult to do so pursuant to the provisions of the preceding paragraph and provides for other necessary matters regarding adjustments under the provisions of that paragraph.

(Compensation for Disabilities)

Article 77 If worker who has sustained an injury or has suffered illness in the course of employment has a physical disability after recovery, the employer must pay compensation for the disability in the amount arrived at when the average wage is multiplied by the number of days set forth in Appended Table 2 for the degree of disability.

(Exceptions to Compensation for Absence from Work and to Compensation for Disabilities)

Article 78 If a worker sustains an injury or suffers illness in the course of employment due to the gross negligence on the part of the worker, and the employer has had that negligence acknowledged by the relevant government agency, the employer is not obligated to pay compensation to the worker for absence from work or disabilities.

(Compensation for Bereaved Family)

Article 79 If a worker has died in the course of employment, the employer must pay compensation to the bereaved family equivalent to 1,000 days at the average wage.

(Funeral Expenses)

Article 80 If a worker has died in the course of employment, the employer must pay an amount equivalent to 60 days at the average wage as funeral expenses to the person managing the funeral rites.

(Compensation for Discontinuation)

Article 81 If a worker receiving compensation pursuant to the provisions of Article 75 fails to recover from the injury or illness within 3 years from the date of commencement of medical treatment, the employer may pay compensation for discontinuation of that medical compensation, equivalent to 1,200 days at the average wage; thereafter, the employer does not need to pay compensation under the provisions of this Act.

(Payment of Compensation in Installments)

Article 82 If an employer demonstrates the ability to pay and obtains the consent of the person entitled to compensation, in lieu of the compensation under Article 77 or Article 79, the employer may pay compensation every year

for six years, in the amount arrived at when the average wage is multiplied by the number of days set forth in Appended Table 3.

(Right to Receive Compensation)

Article 83 (1) The right to receive compensation is not changed by the worker's separation from employment.

(2) The right to receive compensation must not be transferred or seized.

(This Act's Relationship to Other Laws)

Article 84 (1) If payments equivalent to accident compensation under this Act are to be made under the Industrial Accident Compensation Insurance Act (Act No. 50 of 1947) or under any other law or regulation designated by Order of the Ministry of Health, Labour and Welfare for something that constitutes a grounds for accident compensation provided for in this Act, the employer is exempt from the responsibility of providing compensation under this Act.

(2) If an employer has provided compensation under this Act, it is exempt from the responsibility for damages under the Civil Code based on the same grounds, up to the amount of that compensation.

(Administrative Review and Arbitration)

Article 85 (1) Persons who object to an acknowledgment regarding an injury, illness, or death in the course of employment; to the means of medical treatment; to the determination of the amount of compensation; or to something that concerns the implementation of compensation, may file a petition with the relevant government agency for an administrative review or for case arbitration.

(2) On finding it to be necessary, the relevant government agency may undertake an administrative review or arbitrate a case on its own authority.

(3) If a civil action has been filed regarding a case for which a person has filed a petition for administrative review or arbitration pursuant to paragraph (1), or regarding a case for which the relevant government agency has commenced an administrative review or arbitration pursuant to the preceding paragraph, the relevant government agency does not conduct an administrative review or arbitration for the case in question.

(4) On finding it to be necessary to do so for an administrative review or arbitration, the relevant government agency may have a physician make a diagnosis or perform an examination.

(5) As it relates to the renewal of the period of prescription, a petition for administrative review or arbitration under paragraph (1) or the commencement of an administrative review or arbitration under paragraph (2) is deemed to be a demand for a juridical determination.

Article 86 (1) A person who is dissatisfied with the results of an administrative review or arbitration under the provisions of the preceding Article may petition for an administrative review or arbitration by an industrial accident compensation insurance examiner.

(2) The provisions of paragraph (3) of the preceding Article apply mutatis mutandis when a person has filed a petition for administrative review or arbitration pursuant to the provisions of the preceding paragraph.

(Exceptions for Contracts for Work)

Article 87 (1) If a business as prescribed by Order of the Ministry of Health, Labour and Welfare is carried out based on multiple levels of contracts for work, the main contractor is deemed to be the employer with respect to accident compensation.

(2) In a case as referred to in the preceding paragraph, if the main contractor has by written contract had a subcontractor assume responsibility for the compensation, the subcontractor also constitutes an employer; provided, however, that the main contractor must not have two or more subcontractors assume responsibility for compensation with respect to the same business.

(3) In a case as referred to in the preceding paragraph, if the main contractor has received a request for compensation, it may request that a demand for compensation first be made to the subcontractor that has assumed responsibility for compensation; provided, however, that this does not apply if the subcontractor has become subject to an order commencing bankruptcy procedures or has disappeared.

(Details of Compensation)

Article 88 Order of the Ministry of Health, Labour and Welfare prescribes the details of compensation other than those set forth in this Chapter.

## **Chapter IX Rules of Employment**

(Duty to Draw Up and File Rules of Employment)

Article 89 An employer that continuously employs 10 or more workers must draw up rules of employment covering the following particulars and must file those rules of employment with the relevant government agency. The same applies if the employer has altered any of the following particulars:

(i) the particulars of the times at which work begins and ends, break periods, days off, and leave; and the particulars of shifts, if it has workers work in two or more shifts;

(ii) the particulars of the means of determining, calculating, and paying wages

- (other than special wages; hereinafter in this item the same applies); the timing of the closing of accounts for wages and for payment of wages; and increases in wages;
- (iii) the particulars of separation from employment (including grounds for dismissal);
  - (iii)-2 if the rules of employment provide for a retirement allowance or severance pay, the particulars of the scope of workers to whom those provisions apply; the means of determining, calculating, and paying that retirement allowance or severance pay; and the timing for paying that retirement allowance or severance pay;
  - (iv) if the rules of employment provide for special wages (other than a retirement allowance or severance pay) or a minimum wage, the particulars of these;
  - (v) if the rules of employment include provisions that cause a worker to bear the cost of food, supplies for work, or other such expenses, the particulars of this;
  - (vi) if the rules of employment include provisions on safety and health, the particulars of these;
  - (vii) if the rules of employment include provisions on vocational training, the particulars of this;
  - (viii) if the rules of employment include provisions on accident compensation and support for non-work-related injury or illness, the particulars of these;
  - (ix) if the rules of employment provide for commendations or sanctions, the particulars of their types and degrees;
  - (x) if the rules of employment include provisions that are applicable to all workers at the workplace beyond what is set forth in the preceding items, the particulars of this.

(Procedures for Drawing Up Rules of Employment)

- Article 90 (1) In drawing up or changing the rules of employment, the employer must ask the opinion of the labor union that has been organized by a majority of the workers at that workplace, if there is one, or of a person representing a majority of the workers at that workplace, if there is no such union.
- (2) In filing the rules of employment pursuant to the provisions of the preceding Article, the employer must attach a document setting forth the opinion referred to in the preceding paragraph.

(Restrictions on Provisions for Sanctions)

- Article 91 If the rules of employment provide for a pay cut as a sanction against a worker, the amount of the pay cut must not exceed half of one day's average wage per occasion, and the total amount of pay cuts must not exceed 10 percent

of the total wages for a single pay period.

(Relationship of the Rules of Employment to Laws and Regulations and to Collective Agreements)

- Article 92 (1) The rules of employment must not violate any laws and regulations or any collective agreement applicable to the workplace concerned.
- (2) The relevant government agency may order the revision of any rules of employment that conflict with laws and regulations or with a collective agreement.

(Relationship of the Rules of Employment to Labor Contracts)

Article 93 The relationship between labor contracts and rules of employment is as provided in Article 12 of the Labor Contract Act (Act No. 128 of 2007).

## **Chapter X Communal Housing**

(Autonomy of Life in Communal Housing)

- Article 94 (1) An employer must not infringe upon the freedom in private life of a worker living in the communal housing associated with its business.
- (2) An employer must not interfere in the selection of communal housing leaders, room monitors, and other leaders necessary for the autonomy of life in communal housing.

(Order in Life in Communal Housing)

- Article 95 (1) An employer that has a worker live in communal housing associated with its business must draw up house rules regarding the following particulars and must file a notification of those rules with the relevant government agency. The same applies if the employer alters these rules:
- (i) particulars related to getting up, going to bed, going out, and staying out overnight;
  - (ii) particulars related to regular events;
  - (iii) particulars related to meals;
  - (iv) particulars related to safety and health;
  - (v) particulars related to the management of buildings and facilities.
- (2) An employer must obtain the consent of a person representing a majority of the workers living in the communal housing concerning the drawing up or alteration of provisions concerning the particulars referred to in items (i) through (iv) of the preceding paragraph.
- (3) In filing the house rules pursuant to the provisions of paragraph (1), the employer must attach a document evidencing the consent referred to in the preceding paragraph.

- (4) The employer and the workers who live in the communal housing must observe the house rules.

(Communal Housing Facilities and Safety and Health)

Article 96 (1) With respect to communal housing associated with a business, the employer must take the necessary measures to provide ventilation, lighting, illumination, heating, damp-proofing, cleanliness, evacuation, maximum accommodation, and sleeping facilities, and other measures necessary to maintain the health and moral order of the workers and to keep them alive.

- (2) Order of the Ministry of Health, Labour and Welfare prescribes the standards for measures to be taken by an employer pursuant to the preceding paragraph.

(Administrative Measures for Supervision)

Article 96-2 (1) If an employer seeks to establish, move, or alter communal housing associated with a business that continuously employs 10 or more workers or communal housing associated with a business that is dangerous or hazardous to one's health and that Order of the Ministry of Health, Labour and Welfare prescribes, the employer must file with the relevant government agency plans that it has established in accordance with the standards for danger and hazard prevention and related actions that are prescribed by the Order of the Ministry of Health, Labour and Welfare issued pursuant to the provisions of the preceding Article, no later than 14 days prior to the start of the construction of that communal housing.

- (2) The relevant government agency may suspend the start of construction or order the alteration of plans on finding it to be necessary to do so for the safety and health of the workers.

Article 96-3 (1) If communal housing associated with a business employing a worker is in violation of the standards established for safety and health, the relevant government agency may order the employer to suspend the use of all or part of the communal housing or to alter all or part of the communal housing, and may issue orders on other necessary matters to the employer.

- (2) In a case as referred to in the preceding paragraph, the relevant government agency may order the workers to do as necessary in connection with the matters on which it has issued orders to the employer.

## **Chapter XI Inspection Organizations**

(Staff Members of Inspection Organizations)

Article 97 (1) Labor standards inspectors and other necessary staff members prescribed by Order of the Ministry of Health, Labour and Welfare may be

appointed in the Labor Standards Management Bureau (meaning the department established within the Ministry of Health, Labour and Welfare with administrative responsibility for functions that involve labor conditions and the protection of workers; the same applies hereinafter), prefectural labor offices, and labor standards inspection offices.

- (2) The Director-General of the Labor Standards Management Bureau (hereinafter referred to as the "Director-General of the Labor Standards Management Bureau"), the directors of prefectural labor offices, and the directors of labor standards inspection offices are appointed from among labor standards inspectors.
- (3) Cabinet Order prescribes particulars relating to the qualifications and appointment and dismissal of labor standards inspectors.
- (4) A Labor Standards Inspector Dismissal Council may be established in the Ministry of Health, Labour and Welfare, pursuant to Cabinet Order.
- (5) The consent of the Labor Standards Inspector Council is required for the dismissal of a labor standards inspector.
- (6) Beyond what is provided in the preceding two paragraphs, Cabinet Order prescribes the necessary particulars relating to the structure and operation of the Labor Standards Inspector Dismissal Council.

#### Article 98 Deleted

(Authority of the Director-General of the Labor Standards Management Bureau)

- Article 99 (1) The Director-General of the Labor Standards Management Bureau, under the direction and supervision of the Minister of Health, Labour and Welfare, directs and supervises the directors of the prefectural labor offices; administers particulars connected with the establishment, amendment, or repeal of laws and regulations concerning labor standards, particulars connected with the appointment, dismissal, and training of labor standards inspectors, particulars connected with the establishment and adjustment of regulations concerning inspection methods, particulars of the preparation of an annual report on inspections, particulars connected with the Labor Policy Council and Labor Standards Inspector Dismissal Investigative Council (limited to the particulars connected with the Labor Policy Council that are related to working conditions and the protection of workers), and other particulars connected with to the enforcement of this Act; and directs and supervises staff members who belong to the Bureau.
- (2) The directors of the prefectural labor offices, under the direction and supervision of the Director-General of the Labor Standards Management Bureau, direct and supervise the directors of the labor standards inspection

offices within their jurisdiction; administer the particulars of the adjustment of inspection methods and other particulars connected with the enforcement of this Act; and direct and supervise staff members who belong to their offices.

- (3) The directors of the labor standards inspection offices, under the direction and supervision of the director of the Prefectural Labor Office, administer inspections, examinations, approvals, acknowledgments, investigations, arbitration, and other particulars connected with the implementation of this Act, and direct and supervise staff members who belong to their offices.
- (4) The Director-General of the Labor Standards Management Bureau and the directors of prefectural labor offices may themselves exercise the powers of subordinate government agencies or may have labor standards inspectors belonging to their offices exercise those powers.

(Authority of the Director-General of the Women's Management Bureau)

Article 100 (1) The Director-General of the Ministry of Health, Labour and Welfare's Women's Management Bureau (meaning the director of an internal bureau established within the Ministry of Health, Labour and Welfare that is responsible for functions connected with labor issues associated with the unique characteristics of female workers; the same applies hereinafter), under the direction and supervision of the Minister of Health, Labour and Welfare, administers particulars relating to the establishment, amendment, repeal and interpretation of special provisions in this Act relating to women, and advises the Director-General of the Labor Standards Management Bureau and the directors of the government agencies subordinate to that Bureau and assists in the direction and supervision of those subordinate government agencies by the Director-General of the Labor Standards Management Bureau in connection with particulars concerning the enforcement of those provisions.

- (2) The Director-General of the Women's Management Bureau may view documents related to inspections and other things that the Labor Standards Management Bureau, the government agencies subordinate to that Bureau, or officials of those agencies have undertaken in matters relating to women, personally; or may have the Women's Management Bureau's officials designated by the Director-General view those documents.
- (3) The provisions of Articles 101 and 105 apply mutatis mutandis to investigations that the Director-General of the Women's Management Bureau or the designated officials belonging to that Bureau carry out in connection with the enforcement of special provisions of this Act relating to women.

(Authority of Labor Standards Inspectors)

Article 101 (1) Labor standards inspectors are authorized to inspect workplaces, communal housing, and other associated buildings; to demand the production

of books and records; and to question employers and workers.

(2) In a case as referred to in the preceding paragraph, a labor standards inspector must carry identification.

Article 102 Labor standards inspectors carry out the duties of judicial police officers under the Code of Criminal Procedure regarding criminal violations of this Act.

Article 103 If communal housing associated with a business that employs workers violates the standards that have been established for safety and health and there is imminent danger to workers, a labor standards inspector may immediately exercise the powers of the relevant government agency under the provisions of Article 96-3.

(Report to Inspection Organizations)

Article 104 (1) If there are factual circumstances that violate this Act or an Order issued pursuant to this Act at a workplace, a worker may report those factual circumstances to the relevant government agency or to a labor standards inspector.

(2) An employer must not dismiss a worker or subject a worker to other disadvantageous treatment due to the worker having made a report as referred to in the preceding paragraph.

(Reports)

Article 104-2 (1) If an relevant government agency finds it to be necessary to do so in order to enforce this Act, it may have an employer or a worker submit a report on the necessary matters or may order an employer or a worker to appear pursuant to the provisions of Order of the Ministry of Health, Labour and Welfare.

(2) If a labor standards inspector finds it to be necessary to do so in order to enforce this Act, the inspector may have an employer or a worker report the necessary particulars or order an employer or a worker to appear before the inspector.

(Duties of Labor Standards Inspectors)

Article 105 A labor standards inspector must not reveal confidential information learned in the course of duty. The same applies even after a labor standards inspector has left that position.

## **Chapter XII Miscellaneous Provisions**

(The State's Duty to Provide Assistance)

Article 105-2 The Minister of Health, Labour and Welfare and the directors of the prefectural labor offices must provide workers and employers with materials and other necessary assistance in order to achieve the purpose of this Act.

(Duty to Make Known Laws and Regulations)

Article 106 (1) An employer must make known to workers the substance of this Act and any Order issued based on this Act, the rules of employment, any agreement as referred to in Article 18, paragraph (2), the proviso to Article 24, paragraph (1), Article 32-2, paragraph (1), Article 32-3, paragraph (1), Article 32-4, paragraph (1), Article 32-5, paragraph (1), the proviso to Article 34, paragraph (2), Article 36, paragraph (1), Article 37, paragraph (3), Article 38-2, paragraph (2), Article 38-3, paragraph (1), Article 39, paragraph (4) and paragraph (6), and the proviso to Article 39, paragraph (9), and any resolution as provided in Article 38-4, paragraph (1), Article 38-4, paragraph (5)

(including as applied mutatis mutandis pursuant to Article 41-2, paragraph (3)), and Article 41-2, paragraph (1), by displaying or posting them at all times in a conspicuous location or locations in the workplace, by distributing written copies, or by any other such means that is prescribed by Order of the Ministry of Health, Labour and Welfare.

(2) An employer must make known to workers living in communal housing the provisions of this Act and any Order issued pursuant to this Act relating to communal housing and house rules, by displaying or posting them in a conspicuous location or locations in the communal housing, or by other such means.

(Roster of Workers)

Article 107 (1) An employer must prepare a roster of workers for each workplace and enter the name, date of birth, personal history, and other particulars prescribed by Order of the Ministry of Health, Labour and Welfare in the roster for each worker (other than persons hired on a day-to-day basis).

(2) If a particular that is required to be entered in a roster pursuant to the provisions of the preceding paragraph changes, the employer must make a correction without delay.

(Wage Ledger)

Article 108 An employer must prepare a wage ledger for each workplace and must enter the facts upon which wage calculations are based, the amount of wages, and other matters as prescribed by Order of the Ministry of Health, Labour and Welfare without delay each time wage payments are made.

(Preservation of Records)

Article 109 An employer must preserve the rosters of workers, wage ledgers, and important documents concerning hiring, dismissal, accident compensation, wages, and other matters of labor relations for a period of five years.

Article 110 Deleted

(Free Certification)

Article 111 A worker or a person seeking to become a worker may request a certificate of the family register thereof free of charge from the person responsible for family registers or a deputy thereof. The same applies if an employer requests a certificate of the family register of a worker and a person seeking to become a worker.

(Application to the State and Public Organizations)

Article 112 This Act and orders issued based on this Act are to apply to the state, prefectures, municipalities, and other equivalent bodies.

(Establishment of Orders)

Article 113 Any Order issued pursuant to this Act is established after a hearing of opinions of the representatives of workers, representatives of employers, and representatives of the public interest regarding the draft of the Order at a public hearing.

(Payment of Additional Monies)

Article 114 At the request of a worker, the court may order an employer who has violated the provisions of Articles 20, 26 or 37, or an employer who has not paid wages under the provisions of Article 39, paragraph (9), to pay, in addition to the unpaid portion of the amount that the employer was required to pay under those provisions, additional monies in the same amount; provided, however, that this request must be made within five years from the date of the violation.

(Prescription)

Article 115 Claims for wages under the provisions of this Act are extinguished by prescription if not made within five years from the time when they become exercisable; and claims for accident compensation and other claims (excluding claims for wages) under the provisions of this Act are extinguished by prescription if not made within two years from the time when they become exercisable.

(Transitional Measures)

Article 115-2 When, pursuant to this Act, an Order is established, amended, or repealed, the necessary transitional measures (including transitional measures on penal provisions) may be prescribed by that Order, within limits reasonably judged to be necessary in connection with its establishment, amendment, or repeal.

(Exclusion from Application)

Article 116 (1) With the exception of the provisions of Articles 1 through 11, paragraph (2) below, Articles 117 through 119, and Article 121, this Act does not apply to the mariners provided for in Article 1, paragraph (1) of the Mariners Law (Act No. 100 of 1947).

(2) This Act does not apply to a business that employs only cohabiting relatives, nor to domestic workers.

### **Chapter XIII Penal Provisions**

Article 117 A person violating the provisions of Article 5 is subject to imprisonment with work for not less than one year and not more than 10 years, or to a fine of not less than 200,000 yen and not more than 3,000,000 yen.

Article 118 (1) A person violating the provisions of Article 6, Article 56, Article 63, or Article 64-2 is subject to imprisonment with work for not more than one year or to a fine of not more than 500,000 yen.

(2) A person violating an Order of the Ministry of Health, Labour and Welfare issued pursuant to the provisions of Article 70 (but limited to those parts of that Order that are related to Article 63 or Article 64-2) is also treated in accordance with the preceding paragraph.

Article 119 A person falling under one of the following items is subject to imprisonment with work for not more than 6 months or to a fine of not more than 300,000 yen:

- (i) a person violating the provisions of Article 3, Article 4, Article 7, Article 16, Article 17, Article 18, paragraph (1), Article 19, Article 20, Article 22, paragraph (4), Article 32, Article 34, Article 35, Article 36, paragraph (6), Article 37, Article 39 (excluding paragraph (7)), Article 61, Article 62, Articles 64-3 through 67, Article 72, Articles 75 through 77, Article 79, Article 80, Article 94, paragraph (2), Article 96, or Article 104, paragraph (2);
- (ii) a person violating an Order under the provisions of Article 33, paragraph (2), Article 96-2, paragraph (2), or Article 96-3, paragraph (1);

- (iii) a person violating an Order of the Minister of Health, Labour and Welfare issued pursuant to the provisions of Article 40;
- (iv) a person violating an Order of the Ministry of Health, Labour and Welfare issued pursuant to the provisions of Article 70 (but limited to those parts of that Order that are related to the provisions of Article 62 or Article 64-3).

Article 120 A person falling under one of the following items is subject to a fine of not more than 300,000 yen:

- (i) a person violating the provisions of Article 14, Article 15, paragraph (1) or (3), Article 18, paragraph (7), Article 22, paragraphs (1) through (3), Articles 23 through 27, Article 32-2, paragraph (2) (including as applied mutatis mutandis pursuant to Article 32-3, paragraph (4), Article 32-4, paragraph (4) and Article 32-5, paragraph (3)), Article 32-5, paragraph (2), the proviso to Article 33, paragraph (1), Article 38-2, paragraph (3) (including as applied mutatis mutandis pursuant to Article 38-3, paragraph (2)), Article 39, paragraph (7), Articles 57 through 59, Article 64, Article 68, Article 89, Article 90, paragraph (1), Article 91, Article 95, paragraph (1) or (2), Article 96-2, paragraph (1), Article 105 (including as applied mutatis mutandis pursuant to Article 100, paragraph (3)), or Articles 106 through 109;
- (ii) a person violating an Order of the Ministry of Health, Labour and Welfare issued pursuant to the provisions of Article 70 (but limited to the parts of that Order that are related to the provisions of Article 14);
- (iii) a person violating an Order under the provisions of Article 92, paragraph (2), or Article 96-3, paragraph (2);
- (iv) a person who has refused, impeded, or evaded an inspection by a labor standards inspector or by the Director-General of the Women's Management Bureau or an official of that Bureau designated by the Director-General based on the provisions of Article 101 (including as applied mutatis mutandis pursuant to Article 100, paragraph (3)); has not replied or has made false statements in response to questioning by them; has not submitted books and records to them; or has submitted books and records containing false entries to them;
- (v) a person who has not given the report, has given a false report, or has not appeared as under the provisions of Article 104-2.

Article 121 (1) If a person violating this Act is an agent, employee, or other staff member who was acting on behalf of the person in control of the business in connection with a particular that concerns a worker at that business, the fine under the relevant Article is also assessed against the person in control of the business; provided, however, that this does not apply if the person in control of the business has taken the necessary measures to prevent the violation (if the

person in control of the business is a juridical person, the representative thereof is deemed to be the person in control of the business; and if the person in control of the business is a minor or an adult ward without the same legal capacity to act as an adult in connection with that business, the statutory representative thereof is deemed person in control of the business (if the statutory representative is a juridical person, the representative thereof). The same applies hereinafter in this Article).

- (2) If a person in control of the business learns of a plan for a violation but does not take the necessary measures to prevent it, knows of a violation but does not take the necessary measures to rectify it, or induces the violation, the person in control of the business is also punished as a violator.

### **Supplementary Provisions [Extract]**

Article 122 The effective date of this Act is specified by Imperial Ordinance.

Article 123 The Factory Act, Act on the Minimum Age of Industrial Workers, Workers' Compensation Act, Shop Act, Act on the Prohibition of Manufacturing Yellow Phosphorus Matches, and Act No. 87 of 1939 are hereby repealed.

Article 129 Accident Compensation for a worker's injury, illness, or death in the course of employment that has occurred prior to the enforcement of this Act continues to be subject to the provisions of the former Act concerning support.

Article 131 (1) To apply the provisions of Article 32, paragraph (1) (excluding as applied following a deemed replacement of terms pursuant to Article 60, paragraph (2)) to businesses not larger than the scale specified by an order or businesses of the business types specified by an order, the term "40 hours" in Article 32, paragraph (1) is deemed to be replaced with "hours specified by an order within the range exceeding 40 hours but not more than 44 hours" until March 31, 1997.

(2) The order set forth in Article 32, paragraph (1), as applied following a deemed replacement of terms pursuant to the provisions of the preceding paragraph, is established in consideration of workers' welfare, trends in working hours, and other circumstances.

(3) If an order set forth in Article 32, paragraph (1), as applied following the deemed replacement of terms pursuant to the provisions of paragraph (1), is established or amended, transitional measures (including transitional measures for penal provisions) to the effect that the rules prior to the establishment or amendment of the order continue to govern businesses not larger than a certain scale or of certain business types only for a certain period

may be prescribed by that order.

- (4) The Minister of Labor must hear the opinions of the Central Labor Standards Council prior to planning the establishment or amendment of the order set forth in Article 32, paragraph (1), as applied following a deemed replacement of terms pursuant to the provisions of paragraph (1).

Article 132 (1) To apply the provisions of Article 32-4, paragraph (1) to a business as prescribed in paragraph (1) of the preceding Article while the provisions of that paragraph apply, the wording in the parts of paragraph (1) of Article 32-4 other than the items is deemed to be replaced with

"Notwithstanding the provisions of Article 32, if the employer has established the following particulars and the average working hours per week for the period determined as the applicable period set forth in item (ii) are within 40 hours (or within the number of hours specified by an order within the range exceeding 40 hours but not more than 42 hours for businesses not larger than the scale specified by an order) and premium wages are paid for hours worked (excluding hours subject to the provisions of Article 37, paragraph (1)) in excess of the working hours in accordance with the provisions of that Article, pursuant to a written agreement with the labor union that has been organized by a majority of the workers at that workplace, if there is one, or with a person representing a majority of the workers at that workplace, if there is no such union, the employer may have a worker work in excess of the working hours set forth in Article 32, paragraph (1) in a specified week or weeks, and have a worker work in excess of the working hours set forth in paragraph (2) of that Article on a specified day or days in accordance with that written agreement (including what has been prescribed as under the provisions of the following paragraph, if applicable), within a scope that does not cause the weekly average working hours for the period established in that agreement as the applicable period referred to in item (ii) to exceed the working hours set forth in paragraph (1) of that Article. In such a case, if the employer has a worker work in excess of 40 hours (or hours specified by an order set forth in the first sentence for businesses not larger than the scale specified by an order set forth in the first sentence) as the average working hours per week for the above period, the employer must pay the worker premium wages for the hours worked in excess (excluding hours subject to the provisions of Article 37, paragraph (1)) in accordance with the provisions of Article 37.", and the wording "40 hours" in item (ii) of that paragraph is deemed to be replaced with "the working hours set forth in Article 32, paragraph (1)".

- (2) To apply the provisions of Article 32-5, paragraph (1) to a business as prescribed in paragraph (1) of the preceding Article while the provisions of that paragraph apply, in Article 32-5, paragraph (1), the phrase "if there is a

written agreement with the labor union that has been organized by a majority of the workers at that workplace, if there is one, or with a person representing a majority of the workers at that workplace" is deemed to be replaced with " if the employer has established that the working hours per week are within 40 hours (or hours specified by an order within the range exceeding 40 hours but not more than 42 hours for businesses not larger than the scale specified by an order) and premium wages are paid for hours worked (excluding hours subject to the provisions of paragraph (1) of Article 37) in excess of those working hours in accordance with the provisions of that Article, in a written agreement with the labor union that has been organized by a majority of the workers at that workplace, if there is one, or with a person representing a majority of the workers at that workplace, if there is no such union", and the phrase "per day if that worker is employed in a business prescribed by Order of the Ministry of Health, Labour and Welfare in which there is frequently substantial fluctuation in daily business, in which, since this is anticipated, it is found to be difficult to fix daily working hours through rules of employment or their equivalent, and in which the number of regular employees is below the number prescribed by Order of the Ministry of the Health, Labour and Welfare" is deemed to be replaced with "per day within the working hours set forth in paragraph (1) of that Article per week if that worker is employed in a business prescribed by Order of the Ministry of Health, Labour and Welfare in which there is frequently substantial fluctuation in daily business, in which, since this is anticipated, it is found to be difficult to fix daily working hours through rules of employment or their equivalent, and in which the number of regular employees is below the number prescribed by Order of the Ministry of the Health, Labour and Welfare. In such a case, if the employer has a worker work in excess of 40 hours (or hours specified by an order set forth in the first sentence for businesses not larger than the scale specified by an order set forth in the first sentence) per week, the employer must pay the worker premium wages for the hours worked in excess (excluding hours subject to the provisions of Article 37, paragraph (1)) in accordance with the provisions of Article 37".

- (3) The provisions of paragraph (4) of the preceding Article apply mutatis mutandis to the orders set forth in Article 32-4, paragraph (1) and Article 32-5, paragraph (1) (limited to the part subject to deemed replacement pursuant to the provisions of paragraph (2)), as applied following a deemed replacement of their terms pursuant to the provisions of the preceding two paragraphs.

Article 133 Considering that the provisions of Article 64-2, paragraph (1) and paragraph (2) prior to its amendment under Article 4 of the Act on the Revision of Acts Related to the Ministry of Labour for Securing, Etc. of Equal Opportunity and Treatment between Men and Women in Employment (Act No.

92 of 1997) ceased to apply on April 1, 1999 to women of 18 years of age or over who did not fall under the category of persons provided by the order prescribed in Article 64-2, paragraph (4) prior to that amendment, and also taking into the consideration the impact which significant changes in the vocational life of the women in question who constitute workers taking care of their children or other family members (those women are limited to those prescribed by Order of the Ministry of Health, Labour and Welfare; hereinafter referred to as "specified workers " in this Article) will bring on their family life, when the Minister of Health, Labour and Welfare establishes the standards set forth in Article 36, paragraph (2) of this Act, the Minister is to establish the standards for the specified workers (limited to those who notify their employers of their intention to shorten their off-hours work) separately from the standards for those other than specified workers, with respect to the limits on the extension of working hours set forth in the agreement in Article 36, paragraph (1) of this Act, and set them so that the working hour extension limit is shorter than that of the standards for those other than specified workers, for the period prescribed by Order of the Ministry of Health, Labour and Welfare. In such a case, the standard for limits on the extension of working hours per year must be set at one that does not exceed 150 hours.

Article 134 To apply the provisions of Article 39 to a business that continuously employs not more than 300 workers, the term "10 working days" in paragraph (1) of that Article is deemed to be replaced with "six working days" until March 31, 1991, and the term "10 working days" in that paragraph is deemed to be replaced with "eight working days" from April 1, 1991 until March 31, 1994.

Article 135 (1) To apply the provisions of Article 39 to a worker whom an employer has continuously employed for four to eight years after the six-month mark, if the day following that on which the worker reaches one of those years of continuous employment after the six-month mark falls during the period from April 1, 1999 to March 31, 2000, for each category of the number of years of continuous employment from the six-month mark set forth in the left-hand column of the following table, the phrase in the table referred to in Article 39, paragraph (2) that is set forth in the middle column of the following table is deemed to be replaced with the phrase set forth in the right-hand column of the following table until March 31, 2000.

Four years	Six working days	Five working days
Five years	Eight working days	Six working days
Six years	Ten working days	Seven working days
Seven years	Ten working days	Eight working days

Eight years	Ten working days	Nine working days
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(2) To apply the provisions of Article 39 to a worker whom an employer has continuously employed for five to seven years after the six-month mark, if the day following that on which the worker reaches one of those years of continuous employment after the six-month mark falls during the period from April 1, 2000 to March 31, 2001, for each category of the number of years of continuous employment from the six-month mark set forth in the left-hand column of the following table, the phrase in the table referred to in paragraph (2) of Article 39 that is set forth in the middle column of the following table is deemed to be replaced with the phrase set forth in the right-hand column of the following table during the period from April 1, 2000 to March 31, 2001.

Five years	Eight working days	Seven working days
Six years	Ten working days	Eight working days
Seven years	Ten working days	Nine working days

(3) The provisions of the preceding two paragraphs do not apply to the minors prescribed in Article 72.

Article 136 An employer must strive not to reduce the wages of a worker who has taken paid leave under the provisions of paragraphs (1) through (4) of Article 39 or subject such a worker to other disadvantageous treatment.

Article 137 Notwithstanding the provisions of Article 628 of the Civil Code, until the measures provided for in Article 3 of the Supplementary Provisions of the Act on the Partial Revision of the Labor Standards Act (Act No. 104 of 2003) are taken, beginning on the day that falls one year after the first day of the term of the labor contract, a worker who has entered into a fixed-term labor contract (but only one with a term of over one year; contracts in which it is provided that the contract period is the period necessary for the completion of a specific undertaking business are excluded) (other than a worker as prescribed in the items of paragraph (1) of Article 14), may separate from employment at any time by giving notice of this to the employer.

Article 138 Deleted

Article 139 (1) To apply the provisions of Article 36 to a business for constructing structures (limited to projects for recovery and reconstruction after a disaster) and other related business prescribed by Order of the Ministry of Health, Labour and Welfare, the phrases "the number of hours by which the

employer may extend the working hours it has a worker work per month and the number of hours it may have a worker work on days off per month (limited in scope to fewer than 100 hours including the hours prescribed in the agreement in connection with paragraph (2), item (iv))" and "that item" in Article 36, paragraph (5) are deemed to be respectively replaced with "the number of hours by which the employer may extend the working hours it has a worker work per month and the number of hours it may have a worker work on days off per month" and "paragraph (2), item (iv)"; and the provisions of Article 36, paragraph (6) (limited to the parts that concern items (ii) and (iii)) do not apply, until otherwise provided for by law.

(2) Notwithstanding the provisions of the preceding paragraph, as concerns a business for constructing structures or any other business prescribed by Order of the Ministry of Health, Labour and Welfare as being related thereto, the phrase "month, and" in Article 36, paragraph (2), item (iv) is deemed to be replaced with "period as prescribed by the employer and the labor union or a person representing a majority of the workers in the agreement as set forth in the preceding paragraph, of more than one day but not more than three months, and", and the provisions of Article 36, paragraphs (iii) through (v) and paragraph (vi) (limited to the parts that concern items (ii) and (iii)) do not apply, until March 31st, 2024 (or, if an agreement as set forth in Article 36, paragraph (1) establishes a period that includes the aforementioned date and the date that immediately follows it, until one year passes from the start date of that period).

Article 140 (1) To apply the provisions of Article 36 to the services of vehicle transportation businesses serving general passengers (meaning vehicle transportation businesses serving general passengers as defined in Article 3, item (i), (c) of the Road Transportation Act (Act No. 183 of 1951)), the services of motor truck transportation business (the motor truck transportation business as defined in Article 2, paragraph (1) of the Motor Truck Transportation Business Act (Act No. 83 of 1989)), and other services that involve vehicle operation as prescribed by Order of the Ministry of Health, Labour and Welfare, the phrase "(limited in scope to fewer than 100 hours including the hours prescribed in the agreement in connection with paragraph (2), item (iv)), as well as the number of hours by which the employer may extend the working hours it has a worker work per year (limited in scope to fewer than 720 hours including the hours prescribed in the agreement in connection with that item), If it needs to temporarily have a worker work more than the off-hours maximum referred to in paragraph (3) due to an ordinarily unforeseeable, significant increase in the workload at the workplace. In such a case, the agreement referred to in paragraph (1) must also prescribe the

number of months (up to six months per year) in the applicable period referred to in paragraph (2), item (ii) during which the number of hours by which the employer extends the working hours it has a worker work may exceed 45 hours per month (or 42 hours per month, if the employer has a worker work pursuant to the provisions of Article 32-4 after setting a period exceeding three months as the applicable period referred to in Article 32-4, paragraph (1), item (ii))" in Article 36, paragraph (5) is deemed to be replaced with "and the number of hours by which the employer may extend the working hours it has a worker work per year (limited in scope to not more than 960 hours including the hours prescribed in the agreement concerning paragraph (2), item (iv))", and the provisions of Article 36, paragraph (6) (limited to the parts that concern items (ii) and (iii)) do not apply, until otherwise provided for by law.

- (2) Notwithstanding the provisions of the preceding paragraph, as concerns services as prescribed in the preceding paragraph, the phrase "month, and" in Article 36, paragraph (2), item (iv) is deemed to be replaced with "period established by the employer and the labor union or a person representing a majority of the workers in the agreement as set forth in the preceding paragraph, of more than one day but not more than three months, and", and the provisions of Article 36, paragraphs (iii) through (v) and paragraph (vi) (limited to the parts that concern items (ii) and (iii)) do not apply, until March 31st, 2024 (or, if an agreement as set forth in Article 36, paragraph (1) establishes a period that includes the aforementioned date and the date that immediately follows it, until one year passes from the start date of that period).

Article 141 (1) To apply the provisions of Article 36 to medical practitioners engaged in medical practice (limited to the medical practitioners that are necessary for ensuring the medical care delivery system as prescribed by Order of the Ministry of Health, Labour and Welfare), the phrase "the number of hours by which the employer may extend the working hours it has a worker work per day, month, and year during the applicable period" in Article 36, paragraph (2), item (iv) is deemed to be replaced with "the number of hours by which the employer may extend the working hours it has a worker work during the applicable period" and the phrase "the off-hours maximum" in Article 36, paragraph (3) is deemed to be replaced with "the off-hours maximum and the hours that are prescribed by Order of the Ministry of Health, Labour and Welfare in consideration of the health and welfare of the workers", and the provisions of Article 36, paragraphs (5) and (6) (limited to the portions that concern items (ii) and (iii)) do not apply, until otherwise provided for by law.

- (2) In a case as referred to in the preceding paragraph, the agreement referred to in Article 36, paragraph (1) may establish the number of hours by which the employer may extend the working hours it has a worker work in excess of the

- hours established in the agreement concerning Article 36, paragraph (2), item (iv) (including the number of hours established in the agreement concerning Article 36, paragraph (2), item (iv), and limited in scope to not more than the number of hours and the number of months prescribed in Article 36, paragraph (5) and the number of hours prescribed by Order of the Ministry of Health, Labour and Welfare in consideration of the health and welfare of the workers) if the employer needs to temporarily have a worker work more than the hours prescribed by Order of the Ministry of Health, Labour and Welfare referred to in Article 36, paragraph (3) as applied following a deemed replacement of terms pursuant to the provisions of the preceding paragraph due to an ordinarily unforeseeable, significant increase in the workload at the workplace, as well as any other matters prescribed by Order of the Ministry of Health, Labour and Welfare, in addition to the items of paragraph (2) of Article 36.
- (3) In a case as referred to in paragraph (1), even if the employer extends the working hours it has a worker work or has a worker work on a day off pursuant to the agreement as prescribed in Article 36, paragraph (1), it must not have that worker work beyond the hours prescribed by Order of the Ministry of Health, Labour and Welfare in consideration of the requirements provided for in Article 36, paragraph (6) and workers' health and welfare.
- (4) Notwithstanding the provisions of the preceding three paragraphs, as concerns a medical practitioner engaged in medical practice, "month, and" in Article 36, paragraph (2), item (iv) is deemed to be replaced with "period as prescribed by the employer and the labor union or a person representing a majority of the workers in the agreement as set forth in the preceding paragraph, of more than one day but not more than three months, and", and the provisions of Article 36, paragraphs (iii) through (v) and paragraph (vi) (limited to the parts that concern items (ii) and (iii)) do not apply, until March 31st, 2024 (or, if an agreement as set forth in Article 36, paragraph (1) establishes a period that includes the aforementioned date and the date that immediately follows it, until one year passes from the start date of that period).
- (5) A person violating the provisions of paragraph (3) is subject to imprisonment with work of not more than 6 months or to a fine of not more than 300,000 yen.

Article 142 To apply the provisions of Article 36 to sugar manufacturing businesses in Kagoshima Prefecture and Okinawa Prefecture, the phrase "the number of hours by which the employer may extend the working hours it has a worker work per month and the number of hours it may have a worker work on days off per month (limited in scope to fewer than 100 hours including the hours prescribed in the agreement in connection with paragraph (2), item (iv))" and "that item" in Article 36, paragraph (5) are deemed to be respectively replaced with " the number of hours by which the employer may extend the

working hours it has a worker work per month and the number of hours it may have a worker work on days off per month" and "paragraph (2), item (iv)", and the provisions of Article 36, paragraph (6) (limited to the parts that concern items (ii) and (iii)) do not apply, until March 31st, 2024 (or, if an agreement as referred to in Article 36, paragraph (1) establishes a period that includes the aforementioned date and the date that immediately follows it, until one year passes from the start date of that period).

Article 143 (1) To apply the provisions of Article 109, the term "five years" in that Article is deemed to be replaced with "three years", until otherwise provided for by law.

(2) To apply the provisions of Article 114, the term "five years" in the proviso to that Article is deemed to be replaced with "three years", until otherwise provided for by law.

(3) To apply the provisions of Article 115, the phrase "Claims for wages under the provisions of this Act are extinguished by prescription if not made within five years from the time when they become exercisable" in that Article is deemed to be replaced with "claims for retirement allowances or severance pay under the provisions of this Act are extinguished by prescription if not made within five years from the time when they become exercisable; and claims for wages (excluding retirement allowances or severance pay) under the provisions of this Act are extinguished by prescription if not made within three years from the time when they become exercisable", until otherwise provided for by law.

Appended Table 1 (Re: Art. 33, Art. 40, Art. 41, Art. 56, and Art. 61)

(i) a business that manufactures, converts, processes, repairs, washes, sorts, packs, decorates, finishes, tailors for sale, destroys, or dismantles objects, or alters materials (including a business that generates, changes, or transmits electricity, gas, or other power sources, and a water supply business)

(ii) a mining, quarrying, or other soil- or mineral-collection business

(iii) a civil engineering business or a business that builds or otherwise constructs, remodels, preserves, repairs, changes, destroys, or dismantles structures, or prepares therefor

(iv) a business that transports passengers or freight by road, railway, tram, cableway, ship, or aircraft

(v) a business that handles freight at, on, or in docks, ships, quays, wharfs, stations, or warehouses

(vi) a business that cultivates or reclaims land, or plants, grows, harvests, or cuts plants, or any other agricultural or forestry business

(vii) a business that breeds animals, or harvests or cultivates aquatic animals or plants, or any other such livestock, sericulture, or fishery business

- (viii) a business that sells, supplies, retains, or leases goods, or a business involving hairdressing
- (ix) a financial, insurance, intermediation, brokering, money-collecting, guiding, or advertising business
- (x) a business that makes or shows motion pictures, a business involved in theatrical productions, or any other business involving entertainment
- (xi) a mail, correspondence delivery, or telecommunications business
- (xii) a business involving education, research, or surveys
- (xiii) a business that treats or nurses sick or infirm people, or any other business involving health and hygiene
- (xiv) a hotel or restaurant business, a business involving an eating and drinking establishment, a business in the service industry, or a business involving an amusement center
- (xv) an incineration, cleaning, or slaughterhouse business

Appended Table 2 Table of Physical Disability Grades and Accident Compensation (Re: Art. 77)

Grade	Accident compensation
Grade 1	1,340 days
Grade 2	1,190 days
Grade 3	1,050 days
Grade 4	920 days
Grade 5	790 days
Grade 6	670 days
Grade 7	560 days
Grade 8	450 days
Grade 9	350 days
Grade 10	270 days
Grade 11	200 days
Grade 12	140 days
Grade 13	90 days
Grade 14	50 days

Appended Table 3 Table of Payment of Compensation Installments (Re: Art. 82)

Category	Grade	Accident compensation
	Compensation for disabilities	Grade 1
Grade 2		213 days
Grade 3		188 days
Grade 4		164 days
Grade 5		142 days
Grade 6		120 days
Grade 7		100 days
Grade 8		80 days
Grade 9		63 days
Grade 10		48 days

	Grade 11	36 days
	Grade 12	25 days
	Grade 13	16 days
	Grade 14	9 days
Compensation for bereaved families		180 days