

Whistleblower Protection Act

(Act No. 122 of June 18, 2004)

(Purpose)

Article 1 The Purpose of this Act is to protect Whistleblowers to provide for nullity, etc. of dismissal of Whistleblower. on the grounds of Whistleblowing and the measures that the business operator and Administrative Organ shall take concerning Whistleblowing, and to promote compliance with the laws and regulations concerning the protection of life, body, property, and other interests of citizen, and thereby to contribute to the stabilization of the general welfare of the life of the citizens and to the sound development of socioeconomy.

(Definitions)

Article 2 (1) The term "Whistleblowing" as used in this Act shall mean whistleblowing made by a worker (which shall mean worker as provided for in Article 9 of the Labor Standards Act (Act No. 49 of 1947); the same shall apply hereinafter), without a purpose of obtaining an wrongful gain, a purpose of causing damages to others, or any other wrongful purpose, about Reportable Fact that has been occurred, is being occurred or is about to be occurred by "Business Operator" (which shall mean any of the following business operators (which shall mean juridical person, other organization and individual who operates a business)), or such persons as officer, employee or agent in the workplace where the worker is occupied in performing the Business Operator's business activities, to the said Business Operator or the person designated by the said Business Operator in advance (hereinafter referred to as "Business Operator, etc."), to an Administrative Organ with the authority to impose disposition (which shall mean an order, rescission, and other acts involving the exercise of public authority; the same shall apply hereinafter) or recommendation, etc. (which shall mean a recommendation and other acts which are not disposition; the same shall apply hereinafter) upon the said Reportable Fact, or to any person who are recognized to be necessary to do whistleblowing to the said Reportable Fact in order to prevent the occurrence thereof or the spread of damage caused thereby (including person who suffers or might suffer damage from the said Reportable Fact, but excluding any person who might cause damages to the competitive position or any other legitimate interests of the Business Operator; the same shall apply in Item (iii) of the following Article.).

(i) Business Operator which employs the said worker itself (except Business Operator in the following Item);

- (ii) In the case the said worker is a dispatched worker (which means Dispatched worker as provided for in Item (ii) of Article 2 of the Act on Securing the Proper Operation of Worker Dispatch Business and Improvement of Working Conditions for Dispatched Workers (Act No. 88 of 1985. Referred to in Article 4 as "Worker Dispatching Act")), Business Operator which accepts the service of worker dispatching (which means worker dispatch provided for in Item (i) of the Article 2 of the said Act; the same shall apply in paragraph 2 of Article 5); or
 - (iii) Business operator of which the said worker is in pursuance of the business in the case the business operator listed in the preceding two Items engages in work based on a contract for work or any other agreement concluded with said business operator.
- (2) The term "Whistleblower" as used in this Act shall mean a worker who has done whistleblowing.
- (3) The term "Reportable Fact" as used in this Act shall mean any of the following facts:
- (i) Fact of criminal act provided for in the Acts (including the orders based on those Acts; the same shall apply to the following Item) listed in the appendix, concerning the protection of interests such as the protection of individuals' lives and bodies, the protection of interest of the consumers, the conservation of the environment, the protection of fair competition, and the protection of citizen's lives, bodies, property and other interests; or
 - (ii) Fact, in the case where a violation of a disposition pursuant to the Act listed in the appendix constitutes the fact provided for in the preceding Item, which is the ground of the said disposition (including the fact, in the case where the said ground is the fact which is the violation of other disposition or not complying with recommendation, etc. pursuant to the Act listed in the appendix, which is the ground of the said other disposition or recommendation, etc.).
- (4) The term "Administrative Organ" as used in this act shall mean any of the following organs:
- (i) Cabinet Office, the Imperial Household Agency, organs provided for in Article 49, paragraph 1 or 2 of the Act for Establishment of the Cabinet Office (Act No. 89 of 1999), organs provided for in Article 3, paragraph 2 of the National Government Organization Act (Act No. 120 of 1948), organs under the jurisdiction of the Cabinet which were established pursuant to laws, organs established within one of these organs, or the personnel of the above mentioned organs who are authorized by laws to independently exercise such authority; and,
 - (ii) Organs (excluding assemblies) of local public entities.

(Nullity of Dismissal)

Article 3 In the case a Whistleblower is dismissed by the business operator provided for in Item (i) of Paragraph 1 of the preceding Article on the basis of Whistleblowing provided for in each of the following Items in the respective case, the dismissal shall be void:

- (i) In the case a Reportable Fact is considered to have occurred, occur or be about to occur: Whistleblowing to the said the Business Operator, etc.;
- (ii) In the case there are reasonable grounds to believe that the Reportable Fact has occurred, occurs or is about to occur: Whistleblowing to an Administrative Organ with the authority to impose Disposition or Recommendation, etc.; or
- (iii) In the case there are reasonable grounds to believe that the Reportable Fact has occurred, occurs or is about to occur and when any of the following applies: Whistleblowing to any person to whom such Whistleblowing is considered necessary to prevent the occurrence of the Reportable Fact or the spread of damage caused by the Reportable Fact:
 - (a) In the case the Whistleblower has reasonable grounds to believe that he/she will receive dismissal or other disadvantageous treatment if he/she does whistleblowing as provided for in the preceding two Items;
 - (b) In the case the Whistleblower has reasonable grounds to believe that the evidence pertaining to the Reportable fact might be concealed, counterfeited, or altered if he/she does whistleblowing as provided for in Item (i);
 - (c) In the case the Whistleblower was requested by the Business Operator, without any justifiable reason, not to blow a whistle provided for in the preceding two Items;
 - (d) In the case the Whistleblower does not receive notice from the said Business Operator, etc., about the commencement of an investigation on the Reportable fact within twenty days from the day of the Whistleblowing provided for in Item (i) made in writing (including a record made by an electronic method, a magnetic method, or any other method not recognizable to human senses.; the same shall apply to Article 9), or the said Business operator, etc. does not investigate without any justifiable reason; or
 - (e) In the case the Whistleblower has a justifiable reason to believe that some damage to the life or body of an individual is caused or about to be caused.

(Nullity of the Cancellation of a Worker Dispatch Contract)

Article 4 In the case the Whistleblower is a dispatched worker working under the direction of the business operator as provided for in Item (ii) of Paragraph 1 of Article 2, the cancellation of the worker dispatch contract (which means a

worker dispatch contract provided for in Paragraph 1 of Article 26 of the Dispatched Worker Act) on the basis of Whistleblowing provided for in the Items of the preceding Article shall be void.

(Prohibition of Disadvantageous Treatment)

Article 5 (1) In addition to Article 3, the business operator provided for in Item (i) of Paragraph 1 of Article 2 shall not give any disadvantageous treatment such as demotion, a salary cut or other treatment to Whistleblower who is or was its employee on the basis of such Whistleblowing as provided for in the Items of Article 3.

(2) In addition to such disadvantageous treatment as provided for in the preceding Article, such business operator as provided for in Item (ii) of Paragraph 1 of Article 2 shall not give any disadvantageous treatment, such as asking the business operator dispatching the Whistleblower to replace him/her with another dispatched worker, to Whistleblower who is a dispatched worker working under the direction of the business operator on the basis of such Whistleblowing as provided for in the Items of Article 3.

(Provision on Construction)

Article 6 (1) The provisions of the preceding three Articles shall not preclude the application of the provisions of other laws and regulations (which shall mean Acts and orders based on Acts; the same shall apply to Paragraph 1 of Article 10) that prohibit a dismissal or any other disadvantageous treatment of worker or dispatched worker on the basis of the fact that the worker has blown a whistle pertaining to the Reportable Fact.

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

(Treatment of National Public Employees in the Regular Service)

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

Defense Forces Act, and Local Public Officers Act (Act No. 261 of 1950). In this case, the appointer of National Public Officers in the Regular Service, etc., and any other business operator provided for in Item (i) of Paragraph 1 of Article 2 shall apply the provisions of these Acts in order to prevent dismissal or any other disadvantageous treatment of any National Public Officers in the Regular Service, etc., on the bases of the Whistleblowing as provided for in the Items of Article 3.

(Respect of Justifiable Interests, etc., of Others)

Article 8 Any worker who is to do whistleblowing as provided for in the Items of Article 3 shall make efforts not to damage the justifiable interests of others and the public interests.

(Notice of Remedial measure, etc.)

Article 9 Any business operator which receives Whistleblowing made in writing as provided for in Item (i) of Article 3 from a Whistleblower shall make efforts to notify the Whistleblower, without delay, that the business operator has taken measures to stop the Reportable Fact or other necessary measure to rectify or that the business operator has not discovered the Reportable Fact pertaining to the said Whistleblowing.

(Measures That Should Be Taken By the Administrative Agency)

Article 10 (1) Any Administrative Organ which receives Whistleblowing as provided for in Item (ii) of Article 3 from a Whistleblower shall conduct the necessary investigations, and if such investigations confirm the existence of the Reportable Fact, the Administrative Organ shall take appropriate measures such as the measures required by laws and regulations.

(2) In the case the Whistleblowing provided for in the preceding Paragraph is about criminal act as provided for in Item (i) of Paragraph 3 of Article 2, provisions of the Code of Criminal Procedure (Act No. 131 of 1948) shall apply to the criminal investigation and prosecution, notwithstanding the provision of the preceding Paragraph.

(Information)

Article 11 When an Administrative Organ receives Whistleblowing provided for in Paragraph 1 of the preceding Article, if the Administrative Organ is not authorized to impose a disposition or a recommendation, etc. about the Reportable Fact pertaining to said Whistleblowing, the said Administrative Organ shall inform the said Whistleblower to Administrative Organ which has the authority to impose a disposition or a recommendation, etc. about the Reportable Fact pertaining to said Whistleblowing.

Supplementary Provisions

(Effective Date)

Article 1 This Act shall come into force as from the day provided for in a cabinet order, which shall be set within two years from the day of promulgation, and apply to Whistleblowing made on and after the effective date.

(Review)

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

Appended Table (Re: Article 2)

- (i) Penal Code (Act No. 45 of 1907)
- (ii) Food Sanitation Act (Act No. 233 of 1947)
- (iii) Securities Trade Act (Act No. 25 of 1948)
- (iv) Act Concerning Standardization and Proper Labeling on Quality of Agricultural and Forestry Products (Act No. 175 of 1950)
- (v) Air Pollution Control Act (Act No. 97 of 1968)
- (vi) Waste Disposal and Cleaning Act (Act No. 137 of 1970)
- (vii) Act on the Protection of Personal Information (Act No. 57 of 2003)
- (viii) Any Acts other than those provided for in the preceding Items that are provided for in a cabinet order as Acts concerning the protection of interests such as the protection of individuals' lives and bodies, the protection of interest of the consumers, the conservation of the environment, the protection of fair competition, and the protection of citizen's lives, bodies, property and other interests.